

Office of the Governor

VIRGINIA FEDERAL ACTION CONTINGENCY TRUST (FACT) FUND

Guidance for Applicants

May 3, 2013

Overview:

Authority for the FACT Fund: The Federal Action Contingency Trust (FACT) Fund and FACT Fund Advisory Commission (“Advisory Commission”) were established by Item 470.K.1.-5., Chapter 2 and Item 469.J.1.-3., Chapter 3, 2012 Acts of Assembly, Special Session I. During the 2013 Session of the General Assembly, the purpose of the FACT Fund was more narrowly defined to be used only to: (1) offset the potential loss of any revenue to the Commonwealth, either directly or indirectly related to any actions of the United States Congress as part of any federal budget reductions and (2) up to \$5,000,000 may be provided to: (A) develop plans and implement strategies to prevent or limit the adverse economic impacts of closure, relocation, or realignment of federal military or security installations or other federal agencies located in Virginia, including actions to evaluate military and command clusters to assess their vulnerability for closure, relocation or realignment, and (B) make remedial efforts to promote renewed economic growth in jurisdictions (localities) adversely effected by closure, relocation, or realignment decisions on the part of the federal government.

Capitalization of the FACT Fund: The FACT Fund was capitalized in the following amounts of General Fund: \$30 million in FY2012 with the possibility of an additional \$20 million appropriation in FY2014 should the Commonwealth have a sufficient revenue surplus in FY2013. Additionally, should the Commonwealth consummate a sale of the Brunswick Correctional Center, any proceeds in excess of \$10 million of the sale of this asset would be transferred to the FACT Fund. Therefore, the maximum amount of funds available through June 30, 2014 could exceed \$50 million if all mentioned events materialize.

Mandatory Expenditures of the FACT Fund: The General Assembly specified four spending items to apply toward the \$30 million in currently existing FACT Fund proceeds. First, as part of Item 470.K.1, Chapter 2, \$7,500,000 was earmarked for FY2013 to address encroachment upon the United States Navy Master Jet Base Oceana pursuant to the 2005 Base Realignment and Closure (“BRAC”) Commission recommendations. As part of Chapter 3, the General Assembly set out \$6,213,496 for FY2014 to address encroachment issues for Oceana. Chapter 3 also specified up to \$3,000,000 to be matched dollar-for-dollar from sources other than state funds, to assist any Virginia locality in which a U.S. Air Force Base is located to mitigate adverse impacts on military operations and employment levels caused by encroachment of incompatible uses, in advance of further actions by the federal BRAC Commission or any similar federal actions.

Discretionary Expenditures of the FACT Fund: During the 2013 Reconvened Session, the Governor requested an amendment to the budget to broaden the purpose of up to \$5,000,000 of the remaining \$13,286,504 in non-specified expenditures set out by the General Assembly. This amendment was approved by the General Assembly on April 3, 2013. This amount is the only amount for which applicants may submit a request for a FACT Fund grant. For eligible purposes of discretionary expenditures, please refer to (2) above under Authority for the Fact Fund.

Advisory Commission: At the Governor’s request in 2012, the General Assembly created an Advisory Commission, composed of General Assembly members, to assist in the review of the FACT Fund requests. The Senate Finance Committee Chairman and House Appropriations Committee Chairman appointed the members of the Advisory Commission. The Advisory Commission is composed of five members from the Senate Finance Committee: Chairman Walter A. Stosch, Senators Janet D. Howell, L. Louise Lucas, Frank W. Wagner and John C. Watkins. The Advisory Commission is also composed of five members of the House Appropriations Committee: Chairman Lacey E. Putney, Delegates R. Steven Landes, S. Chris Jones, L. Scott Lingamfelter and Rosalyn R. Dance.

Eligible Applicants: Localities and State agencies (hereinafter “Applicant Organizations”) that have had or have pending identifiable or measurable negative impacts caused by announced federal budget reductions or sequestration actions. Private entities may be the beneficiary of FACT Fund allocations submitted by local jurisdictions.

Application Process:

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Application Forms: Each Applicant Organization must submit a FACT Fund grant application. The application will consist of a completed Form FF-2. For local government applicants, they must also certify at the bottom of the Form FF-2 proof of matching funds by the matching fund source and as appropriate the fiscal agent, such as a financial institution. The Form FF-2 and this Guidance document and any amendments or updates thereto will be available on the Secretary of Finance's website: <http://finance.virginia.gov>.

Application Submission: Applicant Organizations must submit the Form FF-2 electronically to the Office of the Secretary of Finance along with any supporting materials no later than 5:00 P.M. of each calendar quarter for consideration the following quarter, i.e. June 30, 2013 deadline for September 30, 2013 review. Each Form FF-2 should cost out and justify one grant request. The grant proposed in each Form FF-2 should be a discrete unit that can be evaluated on its own merit, independently of any other proposals. Under certain circumstances, several strategies or actions may be tightly related and therefore cannot be viewed independently. These strategies may be grouped together in one Form FF-2. Please direct all FACT Fund grant applications and questions regarding grant applications to: John Crooks, Department of Planning and Budget, Commonwealth of Virginia, 1111 East Broad Street, Richmond, VA 23219, telephone: (804) 786-6316 or email: john.crooks@dpb.virginia.gov.

Role of the Executive Department and Advisory Commission: Analysts within the agencies of the Secretariat of Finance will conduct a preliminary analysis of all FACT Fund grant applications to ascertain which application meets the basic purposes of the FACT Fund and to determine the extent to which negative impacts caused by federal fiscal actions might be addressed by the use of a FACT Fund grant. Other state agencies/staff may be utilized for their expertise, as needed, to complete the preliminary assessment. These preliminary assessments will then be forwarded to the Governor's Chief of Staff for review. Upon review, a determination will be made as to which grant applications are appropriate for consideration by the Advisory Commission. The Advisory Commission will be provided a list of all received FACT Fund grant applications, regardless of whether they are approved or denied. On a quarterly basis, or sooner as situations dictate, the Advisory Commission will review FACT Fund grant applications it receives from the Office of the Governor and provide recommendations to the Governor as to whether a request should be granted or denied based on the applicant's proposed use. The final determination on whether to grant any request will rest with the Governor. Notifications to those Applicant Organizations' whose requests are denied will be mailed out on a quarterly basis.

Criteria for Consideration:

The following are general guidelines that must be followed for FACT Fund grant applications to be considered:

ITEM I. General Information

Location: All Applicant Organizations must be located in and operate in the Commonwealth. Any for-profit, private entity benefitting from a FACT Fund grant must pay taxes to the Commonwealth, or with the implementation of a FACT Fund grant would prospectively pay taxes to the Commonwealth. In other words, a local government could use a FACT Fund grant and its matching funds to attract a for-profit private entity to remediate an economic loss from federal agency realignment action(s) so long as the private entity would pay taxes to the Commonwealth after it commences operations within the Commonwealth. A required timeframe for the for-profit, private entity to relocate to and commence operations in the Commonwealth or certain other performance milestones may be stipulated in the grant award.

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Purpose: An eligible Fund grant application must be for a purpose clearly identifiable as to: (i) develop plans and implement strategies to prevent or limit the adverse economic impacts of closure, relocation, or realignment of federal military or security installations or other federal agencies located in Virginia, including actions to evaluate military and command clusters to assess their vulnerability for closure, relocation or realignment, and (ii) make remedial efforts to promote renewed economic growth in jurisdictions (localities) adversely effected by closure, relocation, or realignment decisions on the part of the federal government. Each application must be for operating assistance of a one-time nature and explain what will be accomplished by the requested FACT Fund grant, if approved.

Dollar Amount Categories of Assistance: The total available funds for this application equal the \$5,000,000 in discretionary FACT Fund expenditures. All applications will be evaluated on an individual basis and exceptions to criteria can be made.

Term of Grant: Each Applicant Organization shall describe the expected duration of the proposal and term of grant. The term of this grant application should be consistent with the expectations of how the Commonwealth's FACT Fund monies and matching fund resources will be expended during the term of this grant proposal. However, the term cannot extend past June 30, 2014 because that is the termination date of the appropriation authorization as of the date of these guidelines. Preferences will be given to those grant proposals that can be completed in a shorter period with a demonstrable impact that benefits the Commonwealth.

Prerequisites for Submitting an Application: Applicant organizations should keep in mind that the discretionary grants made available through the FACT Fund total only \$5,000,000. Applicant Organizations must demonstrate that an appropriate methodology has been used to make a comprehensive evaluation of a specific negative impact. Alternative solutions to requesting FACT Fund grants should have been considered. If a request for FACT Fund monies is made as one element of a solution for a particular negative impact, the Applicant Organization should include a concise summary of the plan that has been developed to meet all the unmet needs of a particular Applicant Organization's negative impact. To submit an application for a FACT Fund grant, the applicant should have concluded that a request for the FACT Fund support is the last resort to assist with their identified need(s) due to such things as time constraints or that the request fulfills an essential element in a multi-element solution to the case under consideration.

ITEM II. Required Analysis and Justification for Grant:

Within each application, the Applicant Organization will need to complete the following Items:

- A. Provide a concise statement defining the negative impact of the pending and announced or actual federal budget reduction action (preferably with data or measures of impact). Include a description of what is to be done to combat the negative impact and a specific timetable to accomplish this stated goal in this application.
- B. Describe in detail all prior and current efforts to find, apply for and request alternative funding solutions to address the negative impact for which the Applicant Organization is applying for a FACT Fund grant. Specifically, list and explain all grants, loans, or other financial assistance applications awarded, pending or denied. If the Applicant Organization has applied for or submitted an application for alternative funding that is pending, please include the expected date of determination by the third party public or private source.
- C. Provide justification for the requested grant dollar amount, and include quantitative information regarding the negative effect on the Applicant Organization to be addressed from the federal action and include the methodology used to calculate the costs of the requested FACT Fund grant.

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- D. Provide a specific plan of action as to: (i) how the money will be spent (itemized budget) and (ii) how long the term of the FACT Fund grant period should be. Include a specific timeline.
- E. Provide a description as to how the Applicant Organization will measure the success of the effort if this FACT Fund grant were to be funded. What public purpose will be served by a FACT Fund grant to the Applicant Organization? How will the FACT Fund grant help the Applicant Organization carry out the purpose of the application in Item I. within Virginia? Who will likely benefit from the grant (describe employees, residents, customers, clients, etc.)?

Ineligible Categories of Assistance:

Applicant Organizations that submit grant applications shall be ineligible if the application does **not**:

- (1) provide unconditionally available matching funds of at least 50% of the requested FACT Fund grant amount; or
- (2) provide sufficient qualitative and quantitative analysis and justification for the application.

ITEM III. Matching Funds: The matching funds requirements stipulate that:

- A. All Applicant Organizations, other than State agencies, must present and verify at least a 50% unconditionally available match for the amount of the FACT Fund grant requested. For example, if the applicant applies for \$100,000, the applicant must supply verification of a minimum of \$50,000 in matching funds. The higher the match percentage to the grant application requested amount, the more favorably the application may be viewed. Please be aware that the required unconditionally available match must be certified to the Secretary of Finance prior to the FACT Fund monies being released. This certification may require certification by the both the matching fund source and/or the fiscal agent for the matching fund source, i.e. financial institution holding the matching funds.
- B. The match must be in cash, cash equivalent (securities which can be converted to cash within 30 days), or in-kind unless the Applicant Organization is a State agency.
- C. The match must be from local or private sources or a combination, thereof. "Local" means funds from local governments, other local entities and federal funds. The match excludes any direct or indirect state funds, including those from an agency, authority, political subdivision or other state-related entity. For example, an Applicant Organization could not claim funds from the Virginia Tobacco Indemnification and Community Revitalization (TICR) Commission as matching funds for purpose of a FACT Fund grant.
- D. The match must be unconditionally available from the date the grant application is approved until the end of the grant period. The match must be verified by the Applicant Organization's fiduciary agent and/or the applicable financial institution. If the match is not readily and unconditionally available by the end of 30 days from the date the FACT Fund grant is approved, the grant will be released to be returned to the FACT Fund grant pool and available to another applicant.
 - a. Monies received and spent prior to the effective date of the FACT Fund grant are not eligible to be counted as a match. Likewise, in-kind matches (such as contributed labor or materials) must be available within the grant period. (Note: If an in-kind match is proposed, the Applicant Organization must specify how the value of the in-kind match is determined and how the in-kind match will be supplied during the grant period.)
 - b. If available funds were used to meet the match requirement for any state grant issued by any previous appropriation act, they may not be used to satisfy the new FACT Fund grant matching requirements, even if

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they are still available. In other words, matching funds cannot be counted twice for FACT Fund and other state grants.

- c. The matching funds must be for the same purpose for which FACT Funds grant is requested. This means that the proposed expenditure of the matching funds must be the same as that for the FACT Fund monies.

ITEM IV. Pass-Throughs: The FACT Fund grant application should be for the Applicant Organization submitting the application. Although a pass-through from an Applicant Organization to another entity not owned or controlled by the submitting Applicant Organization is possible, without provisions for oversight by the Applicant Organization and specific identification of the pass-through entity, such application will not be approved.

ITEM V. Special Considerations for Applicant Organizations:

Each applicant will need to include an actual reference of the federal Office of Management and Budget, the U.S. Department of Defense or other federal agency demonstrating the closure, relocation, or realignment of a federal military or security installation or other federal agency located in the Commonwealth (or the publicly announced intent to do so), which will result in an adverse economic impact. Further, additional conditions may be added to the Applicant Organization's application in connection with approval of such FACT Fund grant application, as necessary.

Application submission: Applications should be submitted on the current edition of the form entitled: "Application to Virginia Federal Action Contingency Trust Fund." Applications require the signature and certification of need from a representative from the Applicant Organization, source of matching funds and fiscal agent.

Management of Received Applications by the Office of the Governor:

- Upon receipt of an application, a unique identifying number will be assigned to the application.
- Before formally acting on a submitted application, a representative of the Governor may request clarification of submitted information or ask for new information.
- Award letters (including denial) will be sent to the Applicant Organization. Close attention should be paid to any stipulations for use of the funds or documentation that funds were used properly.
- Most awards will be sent electronically to the fiduciary agent named in the Applicant Organization's application. However, some awards may be sent by a check sent to the fiduciary agent.
- Notification will be provided to the chairmen of the Senate Finance Committee and House Appropriations Committee within 10 days of the Governor's final decision to award money from the FACT Fund reserve.

ITEM VI. Post-award Responsibilities and Reporting Requirements of Applicant Organizations Receiving Grant Awards:

- Applicant Organizations should maintain an individual case file for each application made.
- The case file should contain documentation concerning the appropriate expenditure of the grant award made.
- If an award has been passed through to another entity for use, it is the responsibility of the Applicant Organization to maintain oversight of the pass-through entity, and in all cases, copies of receipts or other records for items or services that were purchased.
- Case files should be kept for three years from the date of award.
- Applicant Organizations must disclose fully all grant records upon request by the Commonwealth (i.e., state audits).

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- Applicant must supply a progress report or oral presentation upon request of the Commonwealth and deliver a Final Report to the Governor within 30 days of the date that the term of grant expires, which shall include how the grant was expended and the resulting measure. The term of the grant will be included in the approval of the FACT Fund grant application. Any FACT Fund monies not expended by the expiration of the grant term shall be returned to the FACT Fund by June 30, 2014, unless otherwise approved by the Governor.