

TV Fee Committee Meeting

April 7, 2017 – Grantham Lane Large Conference Room

10:00 – 12:30

Attendees: See attached Sign-In Sheet

Date/Time/Location: April 7, 2017/10:00am – 12:30pm/Grantham Lane Large Conference Room

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Purpose:

- Determine completeness of TV Management Review Report;
- Confirm Revenue Requirements
- Carryover Balance Considerations
- Legislation Revisions

Discussion:

Management Review

- TVFCM have revised report with executive summary.
- Items 5 through 7 were satisfied by the report. However, Items 1 through 4 were not addressed.
- **TVFC wants DAQ to give Phil Samulewicz a deadline of the end of April to revise the report to address Items 1 through 4 and to let him know if clarification is needed, for him to reach out to the TVFC.**
- **Phil Samulewicz needs to take out DeIDOT Engineer info.**
- What is the budget process in other states? What is the budget process within DNREC overall? How is budgeting done for the different sections within DAQ? (admin group, planning, etc.)
- It was agreed that it is too late to hope for this report to result in measures to be enacted right away to factor into this round of negotiations, perhaps the next round of fee negotiations

Rev Requirements Recap

- \$3.2 million revenue requirement.
- **\$2.98 million in expenses for 2015? TVFCM said numbers are slightly different than what's in the 2015 Annual Report. Tony to check.**

TVFCM: How is the Division's budget handled, looking for info on how it is for the other sections within DAQ (2nd time this was brought up)

- Did not factor in 2016 (Oct) raise (1.5%)
- Did not factor in 2 position approval
- Did not factor in anything else? Current fee structure would generate revenue close to requirement (+\$45k)

TVFCM questioned why Expenses went up about \$141k from 2015 to 2016. Then another TVFCM noticed salary bump in certain months. Tony explained the 3 pay period per month happens 2x a year.

TVFCM Question does it include small business ombudsman? DAQ responded "yes".

Carryover Considerations

2016 carryover balance still pending

- Pending encumbrances (2016 & 2017), reflected in balance but not in expenses
 - TVFCM encumbrances, is that amount normal, Joe said yes. TVFCM asked what the University of Delaware contracts were for. Joe indicated that some of it is most likely for modeling. **TVFC would like an explanation of what the encumbrances are for?**
- 2006 reimbursement

- **Bob Zimmerman Action Items:**
 - **TVFCM asked why did the reimbursement hang out there for 10 years, why wasn't addressed earlier, why now? Any other similar situations in the Department?**
- This year's state budget
- **Engineer salary level (DAQ to keep TVFC updated)**
 - TVFCM asked if the extra salary will have the usual TV percentage share (47.6%). Per the slides, the difference appears to be put squarely on TV fund. Joe responded that the percentage doesn't apply because it's all engineers, 20 of the 28 are Engineering and Compliance staff.
 - TVFCM asking if there's a difference between DNREC and DeIDOT (special requirements) that they were able to get the bump in pay to be able to get the staff they needed. DAQ responded "no", they're job descriptions are identical.
 - TVFCM asking if this disparity only applies to engineers, are other positions also impacted, i.e. administrative staff; environmental scientists. DAQ responded no, limited to just engineers.
 - TVFCM asked if there is disparity between us and any other department? DAQ responded it's only DeIDOT.
 - DAQ stressed that this is pending. OMB decides.
 - This salary adjustment would impact carryover until next round of fee negotiations that would factor in the new figure for salary expenses.
 - Projections include 2% cpi
- Program Reinvestment Opportunities
 - TVFC willing to contribute fair share for overall Department upgrades.

Discussion regarding use of TV funds to cover federal grant fund delays:

- TVFCM Question: How often are the TV funds used to cover for grant monies? Joe explained that we actually just had to do that with 105 Grant. The award money was due in October, but we didn't get money until February and that we're in the same situation again. 105 Grant is \$1.6 million.
- TVFCM asking if that amount, \$1.6 million, is what's needed in the carryover to cover?
- Another TVFCM has concerns that in the process of doing that the interest gain is lost.
- DAQ now has concern that the federal grants may be cut, rumor of 20% to 30%. So TV funds could be tapped into more. TVFCM asked what would DAQ do if the cushion wasn't there. Joe replied we'd have to go to the state for more general funds.
- **TVFC would like to see an accounting for the TV fund dipping that occurs over a year.**

Miscellaneous Discussion:

- TVFCM asked if everyone paid their fees for 2016? DAQ responded "no", and that any of those monies collected in 2017 would be reflected as revenue for 2017.
- TVFCM asked if the reimbursement needed voting on, DAQ advised it had already been done. TVFC was extremely upset with this news. They were under the impression it was proposed and they would have some say in the matter.
- **TVFCM would like to see a tracking of how often the fund gets dipped into. If being used as stop-gap, need to know how much it's used to help establish the target carry-over balance.**
- Joe reminded that any actions resulting from Management Review could result in tapping into the carryover balance. TVFCM indicated there was hope that the report would show things that

could be improved or adjusted but right now, there's nothing. Not sure if addressing of Items 1 - 4 could produce something.

- Question for Phil Samulewicz, during today's meeting that i.e. Joe gave information on process improvements but not in the report, why?
- Phil Samulewicz needs to provide the appendices.
- **Did Ali ever update that 67% number for ambient monitoring?** TVFCM saying that, at that number, they feel it should be adjusted so TV pays less.
- It was asked again, does each section within the DAQ have individual budgets? Joe responded the DAQ budget is divided up by funding source, not by the individual DAQ sections. Apparently something brought up by TVFCM...**Tony working on getting numbers relevant to this discussion.**

Legislation Revisions

- Tony indicated that the legislation could be drafted and the math could be figured out and reflected in the legislation once the carryover and subsequent rebate program are determined
- The usual date changes.
- DAQ proposes elimination of categories K & 10 based on DAQ practice of using the estimation option that's in the legislation instead of those two categories.
 - TVFCM asked when would those estimated fees go into effect? DAQ responded when they apply for their TV permit.
 - This sparked discussion on the idea of adding an application fee.
 - TVFCM asked how much time was spent on Data Center? TVFCM said there needs to be a separate fee for just applying to address facilities like the Data Center. TV Fund shouldn't have to cover those costs. Wanted to try to introduce this new proposed application fee program this year.
 - Another TVFCM suggested we not try to introduce that legislation now. Suggested the next round of fee negotiations in three years. TVFCM said no reason to wait 3 years, could introduce said legislation next year.
 - TVFC supports this idea but admits that someone needs to check on any ramifications for this new money.
 - Another TVFCM said maybe add to Regulation 1102 permit fees.
 - Checks & balances on the estimations done in 6097(f). TVFCM thinks a new facility should have a right to appeal what categories DAQ determines they fall in. Also, are they officially notified of category placement using the estimation? Angela Marconi indicated a memo is written that discusses this estimation and this is verbally communicated to the facility (informal). TVFCM would like the draft legislation to address both these items, formal notification of the determination of categories and the right to appeal the determination.
- 6097(g)(1), the usual year changes.
 - TVFCM asked if the \$450k rebate is good. Tony said that will be based on what our carryover ends up being. **Ali plans on looking at the hard number the TVFC provided and will provide feedback on.** (i.e. the \$2.5million target) **TVFCM said if you want more than \$2.5million, they want to know why? NOTE: After discussions regarding the reimbursement taken, the TVFC ultimately decided that the target carryover balance should now be \$2 million.**
- 6097(h) proposed changes:
 - Language to extend the ability to collect fees if the new fee language isn't approved in time. TVFCM wants it to be limited to one year...i.e. 2021. Just clarify that it's only a one

year extension. A TVFCM is concerned about extending. What if the result is a big underage or a big overage. Same TVFCM asked, isn't the purpose of the carryover balance to deal with situations such as these? After discussion, the TVFC suggested no change to this section. DAQ reminded that when TVFC suggested \$2.5 carryover, Ali expressed concern if we fail to pass 3 year legislation and we don't collect fees, it would be a problem, this was the reason the legislation modification was suggested. Leave on hold for now.

- 6097(m) – the Management Review study
 - TVFC agrees, take all references to the Management Review out of the legislation.

Miscellaneous Legislation discussion:

- The “pay as you go”/application fee proposal. Should it be included in TV legislation?
 - TVFCM suggests summarizing what we have to go through to process the Data Centers, talk to other states and see how they structure their “pay as you go” or application fee program. **DAQ create a menu for fees to be charged for different steps in the process?**
 - Talk to DEDO re: their supplementation for drawing new facilities?
 - **Bob Zimmerman:**
 - **What process would be involved**
 - **Identify any legalities**
 - **Into what pool that money would go.**
- Go in with \$3.6 million or wait until Bob Zimmerman gets numbers? TVFCM suggests picking a number and going with it because of the budget situation...would most likely be better to try to get the legislation passed early as opposed to later.

TVFC not happy/very upset that the reimbursement happened without TVFC involvement...last they heard was talk it may go, now it's gone. In the course of the 11 years since the subsidy occurred, why wasn't that IOU accounted for? It's never been reflected in any of the reports, any of the subsequent TV Fee negotiation rounds. No record in the annual reports that this “loan” was hanging out there and was due to the Department. **TVFCM would like to see the evidence of the actual subsidy, reason why this IOU was never accounted for during those 11 years and why now (Bob Zimmerman)?**

TVFC has decided \$2 million is the new target carryover balance.

TVFC very disappointed that Ali and Bob were not here today!

Next Meeting

So that the final TV Management Review report would be done, suggestion was May 12th

In the interim, can distribute first draft of legislation