



TOBACCO SETTLEMENT PERMANENT TRUST ACCOUNT ADMINISTRATION ADVISORY COMMITTEE MEETING

Thursday, October 13, 2016

Minutes

The Tobacco Settlement Permanent Trust Account Administration Advisory Committee (AAC) met on Thursday, October 13, 2016, at 2:00 p.m.

AAC Members Present – in person or via conference call (cc):

Betsy Briscoe (cc), Keri Disney–Story (cc), Jonny Hipp (cc), Carolyn Konecny, Honorable Darryl Primo and Eduardo Olivarez

Texas Department of State Health Services (DSHS) Staff Members Present:

Elaine McHard, Manager, Funds Coordination; Joy Counce, Program Specialist, Funds Coordination; Mack Harrison, Lawyer, Governmental Law Unit; Heather Cohen, Budget Analyst, Accounting Section

Additional Participants Present – in person or via conference call (cc):

Courtney DeBower, Texas EMS Trauma & Acute Care Foundation and Donald Lee, Texas Conference of Urban Counties (cc)

Opening of Meeting and Roll Call

Ms. McHard introduced herself as the Manager of the Funds Coordination and Management Branch, which is responsible for overseeing the Tobacco Settlement Distribution Program on behalf of the Texas Department of State Health Services. Ms. McHard identified other staff members present and noted the meeting was being held in accordance with the Open Meetings Act, and meeting minutes would be taken as well as digitally recorded and a summary provided to all AAC members and stakeholders.

Roll call was taken by Ms. McHard. It was noted that the Honorable Jerry Bearden, Honorable Woodrow Gossom, Honorable David Bird, King Hillier and Michael Nunez were not present during roll call. A quorum of eight members was not present for voting purposes.

Administration Advisory Committee Member Updates/Introduction of New Members

Mr. Hipp welcomed all members to the meeting. There were no new members to introduce during the meeting.

Adoption of November 5, 2015 Meeting Minutes

The Honorable Jerry Bearden, Honorable Woodrow Gossom, Honorable David Bird, King Hillier and Michael Nunez were not present for the meeting to approve the adoption of the November 5, 2015, meeting minutes.

A quorum of eight members was not present for voting purposes; therefore, the minutes will be voted on during the next committee meeting.

2016 Tobacco Settlement Distribution

Ms. McHard outlined the timeline for the 2016 distribution as follows: Expenditure statements were sent to all eligible political subdivisions on December 31, 2015, with instructions to return completed statements by March 31, 2016. The DSHS certified to the Comptroller's office the percentage of the annual distribution to be paid to each eligible political subdivision on April 11, 2016, and the Comptroller's office distributed tobacco settlement proceeds on April 15, 2016. All 2016 audits were conducted and completed by DSHS between May and August, 2016.

A total of 303 political subdivisions were eligible for tobacco settlement proceeds, which were comprised of 142 hospital districts, 160 counties, and 1 city. Of these, 298 received tobacco settlement proceed payments, 3 chose not to submit expenditures (Armstrong County, Grapeland Hospital District, and Texoma Hospital District), and 2 reported zero expenditures (King and Loving counties).

The net 2016 annual distribution amount was \$46,761,489, with the largest distribution going to Harris Health System at \$9,401,851.56 and the smallest distribution going to Bosque County at \$4.80. Ms. McHard referred members to the itemized list provided in their meeting packets.

Ms. McHard reviewed a memorandum from the Tobacco Settlement Permanent Trust Account Investment Advisory Committee dated April 7, 2016, that was delivered to all political subdivisions with their 2016 distributions. Chairman Stuart Ford noted the return on the Tobacco Trust did not allow for a match of last year's distribution due to a result of particularly poor market conditions in 2015. The rules governing distributions from the tobacco trust limited the 2016 distribution to \$48.6 million. In the interest of maintaining stable, predictable annual distributions, the IAC recommended that all political subdivisions budget to receive in 2017 no more than the amount received in the 2016 distribution.

Review of 2016 Audits

Ms. McHard provided the committee with the results of the 2016 expenditure statement audits. Twenty-seven (27) political subdivisions were selected for audit based on 2015 expenditures exceeding 2014 expenditures by \$500,000 or more and not being audited in the previous year. The audit found that 11 political subdivisions were overpaid and those impacted are in agreement with the audit results. These funds will be recouped during the 2017 distribution. Ms. McHard referred members to the 2016 Tobacco Settlement Distribution Audit Findings and 2016 Audit Recoupment Summary handouts located in their meeting packets for further detail regarding audits.

Mr. Eduardo Olivarez pointed out the increase in audit recoupments this year as a result of the audit

findings. Ms. McHard cited the results of the recoupments from Crockett County, Fort Bend County, and Williamson County, which reflected the largest amount of recoupments. The audit recoupments continue to remain near one (1) percent of the distribution.

No other questions or comments were posed by the committee regarding 2016 audits.

Review of Program Rules – 25 Texas Administrative Code

Ms. McHard provided an introduction of the rule review process, which is held every four years by DSHS to update language and offer clarification to enhance the understanding of the program rules for Distribution of Tobacco Settlement Proceeds to Political Subdivisions (Chapter 102). Rule amendments are needed due to the continued responsibilities for implementing Health and Safety Code, §12.131–§12.139 and the responsibilities of the agency under the Agreement Regarding Disposition of Tobacco Settlement Proceeds that was originally filed on July 24, 1998 in the United States District Court Eastern District of Texas. Ms. McHard then turned the meeting over to Mr. Hipp for review and discussion.

The Executive Commissioner of the Health and Human Services Commission (commission), on behalf of the DSHS, adopted an amendment to §102.3 without changes to the proposed text as published in the June 17, 2016, issue of the Texas Register (41 Tex. Reg. 4382) and, therefore, the rule will not be republished.

Annual Meeting Schedule

Ms. McHard reminded staff the Investment Advisory Committee meeting would be held the following day, October 14th, 2016. An agenda and map was included in member packets.

Ms. McHard also noted there were no new members required to complete open records and open meetings training.

Ms. McHard asked members to review their contact information included within the meeting packet and notify DSHS if there are any corrections or edits required.

The next annual meeting will be held at the DSHS main office in Austin, Texas.

Adjourn

Mr. Hipp asked for a motion to adjourn the meeting. A motion was made by Mr. Olivarez and committee members concurred to adjourn at approximately 3:20 p.m.