

FOR CONSIDERATION

March 23, 2011

TO: The Directors

FROM: Kenneth Adams

SUBJECT: East Aurora (Erie County) – Windham Professionals Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant)

REQUEST FOR: Findings and Determinations Pursuant to Sections 16-m and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

General Project Plan

I. Project Summary

Grantee: Windham Professionals, Inc.

ESD* Investment: A grant of up to \$280,000 to be used for a portion of the cost of the acquisition and installation of furniture, fixtures and equipment.

* The New York State Urban Development Corporation doing business as the Empire State Development Corporation (“ESD” or the “Corporation”)

Project Location: 300 Gleed Avenue, East Aurora, Erie County

Proposed Project: Building renovations, site preparation and the acquisition and installation of new furniture, fixtures and equipment associated with an expansion project.

ESD Incentive Offer Accepted: September 3, 2009

Project Completion: February 2011

Number of Employees at Project Location:
 Initial employment at time of ESD Incentive Offer: 60
 Current employment level: 125
 Minimum employment on January 1, 2013: 200

Grantee Contact: Ms. Lisa Bostwick, Human Resources Manager
 300 Gleed Avenue
 East Aurora, NY 14052
 Phone: (866) 430-1548 ext 5504
 Fax: (313) 557-5043

Anticipated
 Appropriation
 Source: Empire State Economic Development Fund

ESD Project No.: W663

Project Team: Origination Diego Sirianni
 Project Management Jean Bly
 Affirmative Action Helen Daniels
 Finance Amit Nihalani
 Environmental Rachel Shatz

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>	
Site Preparation	\$ 30,000	
Facility Renovations	20,000	
Furniture, Fixtures & Equipment	700,000	
Training	<u>1,586,000</u>	
Total Project Costs	<u>\$2,336,000</u>	
<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$ 280,000	12%
Company Equity	<u>2,056,000</u>	<u>88%</u>
Total Project Financing	<u>\$2,336,000</u>	<u>100%</u>

III. Project Description

A. Background

Windham Professionals, Inc. (“Windham” or the “Company”), was established in 1982 and is a licensed, full-service national collection agency maintaining strategic collection and sales

offices throughout the country and provides account collections for the educational, commercial, and healthcare industries. Windham offers debt consolidation, rehabilitation, and payment deferment programs for delinquent borrowers as well as skip-tracing, asset/liability searches, credit bureau reporting and litigation services. The Company is authorized to collect in all fifty states as well as the U.S. Virgin Islands, Guam, and Puerto Rico. The Company is headquartered in New Hampshire and has over 780 employees across the United States.

Major customers include Sallie Mae, American Education Services, and over 465 universities and colleges. Major national competitors include I.C. System (St. Paul, MN), Nationwide Credit, Inc. (Kennesaw, GA), and NCO Group, Inc. (Horsham, PA). Local competitors include Iqor (Cheektowaga, NY), Pioneer Credit Recovery (Arcade, Perry & Batavia, NY), and NCO Group, Inc. (Getzville, NY).

In 2009, Windham notified ESD that it had secured a five-year contract with the New York State Higher Education Services Corporation (“HESC”) to conduct collections, administrative resolutions, administrative wage garnishment, quality assurance, compliance, information technology, and client services. To accommodate the HESC contract, the Company needed to increase capacity and was considering expanding operations at an existing facility in East Aurora, NY or Hendersonville, TN. Windham had lease options to accommodate the expansion at both locations. On August 27, 2009, ESD provided Windham an incentive proposal consisting of a \$280,000 capital grant, resulting in the Company’s decision to expand operations in East Aurora. As a result 60 jobs will be retained and 140 new jobs will be created by January 1, 2013. Without ESD assistance to lower costs and make the expansion project competitive, the project would have taken place in Tennessee.

B. The Project

The \$2.336 million project includes site preparation, the construction of the state-of-the art training room, the acquisition and installation of fixtures, furniture and equipment including computers, server equipment, telephones systems, and significant IT resources to comply with stringent security requirements. Existing and new employees will be trained on the HESC loan program to meet broad administrative, quality control, and compliance requirements of the HESC contract. The capital project was completed in February 2011 and the training is ongoing. The Company has already created 65 jobs.

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Company reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Company will demonstrate no material adverse change in its financial condition prior to disbursement.
3. The Company will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Company’s acceptance of ESD’s offer. Equity is defined as cash injected into the project by the Company or by investors, and should be auditable through Company financial statements or Company accounts, if so requested by

ESD. Equity cannot be borrowed money secured by the assets in the project.

4. Prior to disbursement, the Company must employ at least the number of Full-time Permanent Employees set forth as the Baseline Employment in the table below. A Full-time Permanent Employee shall mean (a) a full-time, permanent, private-sector employee on the Grantee's payroll, who has worked at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties; or (b) two part-time, permanent, private-sector employees on Grantee's payroll, who have worked at the Project Location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.
5. Up to \$280,000 will be disbursed to the Grantee in three installments as follows:
 - a) an Initial Disbursement of an amount equal to 40% of the grant (\$112,000) upon facility build-out and furniture, fixtures and equipment project costs totaling \$475,000, and documentation of the employment of at least 110 Full-time Permanent Employees at the Project Location (Employment Increment of 50), assuming that all project approvals have been completed and funds are available;
 - b) a Second Disbursement of an amount equal to 35% of the grant (\$98,000) will be disbursed upon documentation of \$225,000 in additional facility build-out and furniture, fixtures and equipment project costs for an aggregate total of \$700,000 and documentation of the employment of at least 160 Full-time Permanent Employees at the Project Location (Employment Increment of 50), provided Grantee is otherwise in compliance with program requirements;
 - c) a Third Disbursement of an amount equal to 25% of the grant (\$70,000) will be disbursed upon documentation of the employment of at least 200 Full-time Permanent Employees at the Project Location (Employment Increment of 40), provided Grantee is otherwise in compliance with program requirements.

Payment will be made upon presentation to ESDC of an invoice and such other documentation as ESDC may reasonably require. Expenditures must be incurred on or after September 9, 2009 to be considered eligible project costs. All disbursements must be requested by April 1, 2013.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$280,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.
7. In consideration for the making of the Grant, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee Count for the year prior to the reporting date set forth in Column A of the table below is less than eighty-five percent (85%) of the Employment Goal set forth in Column B (an

“Employment Shortfall”), then upon demand by ESD, Grantee shall be obligated to repay to ESD a portion of each disbursement of the Grant, as follows:

The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the Employment Shortfall occurred. The Recapture Amount shall be calculated by aggregating the Recapture Amount for each disbursement of the Grant, which in each instance shall be equal to:

- (i) 100% of the disbursed amount if the Employment Shortfall occurred in the calendar year that the disbursement was made, or in the first full calendar year after the disbursement was made;
- (ii) 80% of the disbursed amount if the Employment Shortfall occurred in the second full calendar year after the disbursement was made;
- (iii) 60% of the disbursed amount if the Employment Shortfall occurred in the third full calendar year after the disbursement was made;
- (iv) 40% of the disbursed amount if the Employment Shortfall occurred in the fourth full calendar year after the disbursement was made;
- (v) 20% of the disbursed amount if the Employment Shortfall occurred in the fifth full calendar year after the disbursement was made.

The Grantee’s number of Full-time Permanent Employees shall be deemed to be the greater of the number as of the last payroll date in the month of December for such year or the average employment for the 12 month period computed by quarter.

Baseline Employment	60
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A	B
Reporting Date	Employment Goals
February 1, 2012	$60+X+Y+Z$
February 1, 2013	$60+X+Y+Z$
February 1, 2014	$60+X+Y+Z$
February 1, 2015	$60+X+Y+Z$

X = Grantee's Employment Increment that will be the basis of the First Disbursement of the Grant as described in section C.5 above (i.e. X=50, and Employment Goals shall equal $[60 + X = 110]$ if the First Disbursement is made, in the year such disbursement is made and for each year thereafter). If the First Disbursement has not yet been made then X=0.

Y = Grantee’s Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section C.5 above (i.e. Y=50, and Employment Goals shall equal $[60 + X + Y = 160]$ if the Second Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Second Disbursement has not yet been made then Y=0.

Z = Grantee’s Employment Increment that will be the basis of the Third Disbursement of the Grant as described in section C.5 above (i.e. Z=40, and Employment Goals shall equal $[60 + X + Y + Z = 200]$ if the Third Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Third Disbursement has not yet been made then Z=0.

IV. Statutory Basis

1. The proposed project would promote the economic health of New York State by facilitating the creation or retention of jobs or would increase activity within a municipality or region of the state or would enhance or help to maintain the economic viability of family farms.

As a result of this project, the Company will maintain its employment level of 60 and create 140 new jobs by January 1, 2013.

2. The proposed project would be unlikely to take place in New York State without the requested assistance.

The Company considered relocating and expanding its operations to an existing facility in Hendersonville, Tennessee. ESD's assistance helped to reduce costs and make the project feasible in New York.

3. The project is reasonably likely to accomplish its stated objectives and the likely benefits of the project exceed costs.

Evaluated over a seven-year period, the following are anticipated project impacts (dollar values are present value):

- Fiscal benefits to NYS government from the project are estimated at \$2,496,902;
- Fiscal cost to NYS government is estimated at \$280,000;
- Project cost to NYS government per direct job is \$2,924;
- Project cost to NYS government per job (direct plus indirect) is estimated at \$2,207;
- Ratio of project fiscal benefits to costs to NYS government is 8.92:1;
- Fiscal benefits to all governments (state and local) are estimated at \$4,251,620;
- Fiscal cost to all governments is \$280,000;
- All government cost per direct job is \$2,924;
- All government cost per total job is \$2,207;
- The fiscal benefit to cost ratio for all governments is 15.18:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$19,451,063, or \$153,298 per job (direct and indirect);
- The economic benefit to cost ratio is 69.47:1;
- Project construction cost is \$50,000 which is expected to generate less than 1 direct job year and less than 1 indirect job year of employment;
- For every permanent direct job generated by this project, an additional 0.33 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is 1 year.

(See Project Summary Benefit-Cost Evaluation attached for detail and definitions.)

4. The requirements of Section 10(g) of the Act are satisfied.

No residential relocation is required because there are no families or individuals residing on the site.

V. Environmental Review

ESDC staff has determined that the project constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required in connection with the requested authorization.

VI. Affirmative Action

ESD's Non-Discrimination and Affirmative Action policy will apply. Windham Professionals, Inc is encouraged to include minorities and women in any job opportunities created by the Project and to solicit and utilize Minority and Women-owned Business Enterprises for any contractual opportunities generated in connection with the Project.

VII. ESD Financial Assistance Subject to Availability of Funds and Additional Approval

The provision of ESD financial assistance is contingent upon the availability of funds and the approval of the State Division of the Budget.

VIII. Additional Submissions to Directors

Resolutions
New York State Map
Project Finance Memorandum
Cost-Benefit Analysis

March 23, 2011

East Aurora (Erie County) – Windham Professionals Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) – Findings and Determinations Pursuant to Sections 16-m and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Windham Professionals Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Sections 16-m and 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that

1. The proposed project would promote the economic health of New York State by facilitating the creation or retention of jobs or would increase activity within a municipality or region of the state or would enhance or help to maintain the economic viability of family farms;
2. The project would be unlikely to take place in New York State without the requested assistance;
3. The project is reasonably likely to accomplish its stated objectives and that the likely benefits of the project exceed costs;
4. There are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer – Designate of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer – Designate of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the President and Chief Executive Officer – Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Windham Professionals a grant for a total amount not to exceed Two Hundred Eighty Thousand Dollars (\$280,000) from the Empire State Economic Development Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer – Designate of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

RESOLVED, that the President and Chief Executive Officer – Designate of the Corporation or his designee(s) be, subsequent to the making of the grant, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the grant as he or she may deem necessary or appropriate in the administration of the grant; and be it further

RESOLVED, that the provision of ESD financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, and (2) receipt of all other necessary approvals; and be it further

RESOLVED, that the President and Chief Executive Officer – Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to effectuate the foregoing resolutions.

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