



North Carolina Department of Commerce

Pat McCrory, Governor

Sharon Allred Decker, Secretary

A. John Hoomani, General Counsel

January 24, 2014

E-Mail: Art.Pope@osbm.nc.gov

VIA E-MAIL ONLY

Mr. Art Pope
State Budget Director
Office of State Budget and Management
20320 Mail Service Center
Raleigh, NC 27699-0320

Re: Third Amended Proposal for Establishment of Public-Private Partnership

Mr. Pope:

I am writing to follow-up on our recent conversations regarding the second draft proposal the Department of Commerce submitted to you on December 20, 2013. As you know, since that submission, the Department has been making great strides in moving forward with this transition, including the hiring of an Interim CEO. Richard A. Lindenmuth was hired on a Personal Services Contract with the Department on January 6, 2014, in order to proceed with the reorganization authorized by Session Law 2013-360, s. 15.7A. Mr. Lindenmuth's duties include the following:

1. Serving as Interim-CEO for the new non-profit corporation;
2. Developing targets for restructuring the Business Development, Marketing, Small Business and Entrepreneurship, International Trade, and Travel & Tourism divisions to align them with current and future market realities;
3. Working with the Department to construct a plan for developing the structure of the organization for the future; and
4. Developing programs and processes as required to build a strong organization.

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As we previously discussed, we anticipated that once a CEO was in place the proposed plan would be revised. To that end, based upon discussions with Mr. Lindenmuth, we are revising the plan to reorganize the Department to establish a public-private partnership.

First, two (2) additional filled positions have been removed from the transfer – one (1) from Business Development and one (1) from Small Business and Entrepreneurship. In addition, six (6) vacant positions in Small Business and Entrepreneurship that are supported by federal funds have been removed. As a result, it is anticipated that positions totaling approximately \$4,709,442.53 in salary and benefits (59 FTE's, including 58 currently filled and 1 vacancy) could be part of the reorganization of the Department.

We have also updated Attachment 3 to the original draft, which detailed the maximum possible severance wages that were involved with the associated positions, to reflect these changes. We anticipate that the total amount of severance wages that will actually be paid will be significantly less than this total.

Next, in our previous submission we anticipated that the transition from the public side to the private side would take place in two phases, with two of the divisions transferring to the public-private partnership by the end of the second quarter of the 2014 calendar year, and the remaining three divisions transferring to the new public-private partnership during the third and fourth quarters of 2014. However, based upon conversations with Mr. Lindenmuth, we are slowing down the transition process.

We now do not anticipate transferring over any of five divisions in total until the next fiscal year (3rd quarter of the 2014 calendar year). At this time, Mr. Lindenmuth has identified key leaders from the affected divisions to serve as a transition team. This transition team will work together to create a business plan, build an organizational structure for the new public-private partnership, establish budgets for the various divisions, establish benefit plans for employees (including medical insurance, retirement plans, etc.), and other new business startup matters. Once this work is done, we will share it with your office, as well as with the leadership of the N.C. General Assembly, so that we can all work together through this important process. One of our primary goals is to ensure a seamless transition so that the important services provided by our employees are not interrupted. We believe this new approach goes a long way towards achieving that goal.

One of the major tasks that this new transition team is undertaking is to identify the potential savings in public funds that can be realized by transitioning some of the core functions of the Department to the new public-private partnership. The chart below details the anticipated savings that can be realized:

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	CURRENT EXPENSES	TOTAL REDUCTION	TOTAL EXPENSES WITH REDUCTION
Personnel Expenses	\$4,709,442.53	\$550,000.00	\$4,238,498.28
International Offices	\$2,517,920.00	\$200,000.00	\$2,317,920.00
Other Expenses	\$11,208,408.00	\$280,000.00	\$10,928,408.00
Total Expenditures	\$18,435,770.53	\$1,030,000.00	\$17,484,826.28

As you can see, with a little more than a ten percent (10%) reduction in personnel expenses, the savings are significant, with a minimum of \$550,000.00 in savings. In addition, three of the divisions (Business Development, International Trade and Travel & Tourism) have various international offices and contracts across the globe. At this time, we are estimating that at least \$200,000.00 in cost efficiency savings can be realized. And finally, we have identified at least \$280,000.00 in savings for other expenses, which include such things as computer equipment, telephone services, advertising, etc. In sum, the total anticipated savings at this time is \$1,030,000.00, although we will use every effort to identify other efficiencies while still maintaining a high level of service.

As a result of the decision to not transfer over any of divisions in total until the next fiscal year, the costs of reorganizing the positions during this fiscal year should not exceed the cost-savings resulting from the establishment of the public-private partnership. The anticipated expenses will be professional expenses, obtaining benefit plans for new employees, obtaining new office space, establishing telephone and computer services at the new offices, etc.

In addition, as we move forward with the establishment of the new public-private partnership, we are continuing to use the provisions of Senate Bill 127 as a guide. For instance, the By-Laws that have been prepared for the new non-profit include the following provisions:

1. Composition of the Board of Directors is consistent with the 17 member board established in Section 1.1 of Senate Bill 127;
2. A provision requiring the new public-private partnership to adhere to the requirements of the N.C. Public Records laws (Chapter 132 of the N.C. General Statutes); and

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3. A provision requiring the new public-private partnership to adhere to the requirements of the N.C. Open Meetings laws (Chapter 143, Article 33C of the N.C. General Statutes).

I hope that this letter finds you well, and appreciate your attention to this matter. We look forward to continuing to work through this process with your input and guidance.

Best regards,



A. John Hoomani

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