

Robert P. Astorino  
County Executive

Department of Social Services

Kevin M. McGuire  
Commissioner

**58912**

**DATE:** September 12, 2017

**TO:** Board of Acquisition and Contract

**FROM:** Kevin McGuire, Commissioner  
Department of Social Services

**SUBJECT:** Authority for the County of Westchester to amend an agreement with Westhab, Inc. (“Westhab”), as previously amended, for the provision of a Re-Entry Employment Program for individuals who have had and/or are involved with the criminal justice system for the period from February 1, 2015 and continuing through June 30, 2016 for an amount not-to-exceed \$175,000 to be paid pursuant to an approved budget, by retroactively extending the term of the Agreement from July 1, 2016 through December 31, 2017 for an additional amount not-to-exceed \$87,500.

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Pursuant to an RFP issued by the Westchester County Department of Social Services (the “Department”) on November 24, 2014 and a Resolution approved on June 18, 2015, your Honorable Board authorized the County of Westchester (the “County”), acting by and through the Department’s Office of Workforce Investment (the “Department”) on behalf of the Westchester Putnam Local Workforce Development Board (the “WDB”), to enter into an agreement with Westhab, Inc. (“Westhab”) pursuant to which Westhab would provide a Re-entry Employment Program for individuals who have had and/or are involved with the criminal justice system and residing in Westchester County (the “Program”), for a term commencing on February 1, 2015 and continuing through January 31, 2016 for an amount not-to-exceed \$175,000 to be paid pursuant to an approved budget (the “Agreement”), with the County reserving an option to renew the Agreement for up to two (2) additional one (1) year periods. The Agreement was subsequently executed.

Due to a reduction in WIOA funding, the WDB Program Committee (the “Committee”), which is responsible for oversight of the WIOA budget, voted on May 2, 2016 for 1.5 million dollars in budget cuts for the 2016 program year. As a result of these budget cuts, the Committee passed a plan to reduce the number of customers who would receive employment training services. This included customers receiving Program

services. As such, upon the expiration of the initial term of the Agreement, the WDB decided not to exercise the first renewal option but instead to amend the Agreement to enter into a no-cost extension thereof for an additional five (5) month period to spend down the remaining WIOA funds still available. Accordingly, by resolution approved on June 9, 2016, your Honorable Board authorized the County to amend the Agreement to enter into a no-cost extension thereof for a term commencing on February 1, 2016 and continuing through June 30, 2016 (the "First Amendment"). The First Amendment was subsequently executed.

Shortly thereafter, on June 24, 2016, the WDB received notice that its proposal was selected for funding under the Linking to Employment Activities Pre-Release (LEAP) Grant with an effective date of July 1, 2016. We believed that since the target population for the LEAP Grant were WIOA Re-entry customers, that the Program could be restored utilizing the LEAP Grant funds without a loss of services for the participants. During this same time period, we received word that we were also awarded an H1-B TechHire Partnership Grant. With these two new funding sources in place, we were able to restore many of the services that were reduced or eliminated as a result of the budget cuts, including services under the Re-entry Program. However, due to an administrative oversight, the availability of the additional grant funding was overlooked and a resolution to authorize a further extension was never submitted to your Honorable Board for approval. Moreover, because the Department already chose to amend the Agreement to enter into a no-cost five (5) month extension instead of exercising the first renewal option thereunder, it forfeited its right to exercise the option since the option was extinguished upon the execution of the First Amendment. Nevertheless, Westhab continued to provide Program services from July 1, 2016 onward for which it has not yet been paid.

The Department will shortly be issuing a new RFP for these services going forward. However, in the interim, the Department seeks to retroactively extend the term of the Agreement for the period retroactive to July 1, 2016 and continuing through December 31, 2017 so that it can pay Westhab for services rendered (the "Second Amendment"). In consideration for providing such services under the Second Amendment, the County will pay Westhab an additional amount not-to-exceed \$87,500, thereby increasing the total aggregate not-to-exceed amount under the Agreement, as hereby amended, from an amount not-to-exceed \$175,000 to an amount not-to-exceed \$262,500. It should be noted that the services will be extended through December 31, 2017 to give the Department sufficient time to issue a new RFP and maintain continuity of services.

Ordinarily under such circumstances, the Federal common grant rules require that a new procurement be conducted. However, since Westhab has already performed most of the services required under the Second Amendment, and since the Department, in good faith, is in the process of issuing a new RFP for services to be rendered going forward, the Department believes this constitutes an exigent circumstance and seeks to invoke the exigency exemption under the Federal common grant rules (45 CFR 92.36 (d) (4) (i)(B)) as justification for extending the Agreement.

The Agreement will serve a public purpose by assisting individuals with a tie to the criminal justice system to re-enter the workforce.

The goals and objectives of the Agreement are to enable individuals with ties to the criminal justice system obtain employment and start their path toward self-sufficiency. The goals and objectives of the Agreement are in the best interests of the County in terms of fiscal responsibility because this program will assist participants in becoming self-sufficient. The goals and objectives of the Agreement will be tracked and monitored by the WDB and One Stop staff.

Except as specifically amended hereby, all other terms and conditions of the Agreement shall remain in full force and effect.

Accordingly, I respectfully recommend adoption of the Resolution attached herewith.

KMM/DB/SNL/jpg  
Attachment

## RESOLUTION

Upon a communication from the Commissioner of the Department of Social Services, be it hereby

**RESOLVED**, that the County of Westchester (the "County"), acting by and through its Department of Social Services/Office of Workforce Investment (the "Department") on behalf of the Westchester Putnam Workforce Development Board (the "WDB"), is hereby authorized to amend an agreement with Westhab, Inc., as previously amended, for the provision of a Re-Entry Employment Program for individuals who have had and/or are involved with the criminal justice system for a term commencing on February 1, 2015 and continuing through June 30, 2016 for an amount not-to-exceed \$175,000 (the "Agreement"), by retroactively extending the term of the Agreement for the period retroactive to July 1, 2016 and continuing through December 31, 2017 for an additional amount not-to-exceed \$87,500, thereby increasing the total aggregate not-to-exceed amount thereunder from an amount not-to-exceed \$175,000 to an amount not-to-exceed \$262,500; and

**RESOLVED**, that except as specifically amended hereby, all other terms and conditions of the Agreement shall remain in full force and effect; and be it further

**RESOLVED**, that the County Executive, or his duly authorized designee, is hereby authorized to execute such documents and take such actions as may be necessary and appropriate to effectuate the purposes hereof.

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
275	22	402R	7338	T402	43,750
275	22	403R	7338	T403	43,750

Budget Funding Year(s):2016-17  
(Must match resolution)

Start Date: N/A

End Date: 12/31/2017

Funding Source

\$87,500  
(must match resolution)

Tax Dollars:

State Aid:

Federal Aid: 100%

Other: