

An aerial photograph of Arlington County, Virginia, featuring a dense urban skyline with modern glass skyscrapers. In the foreground, a line of white cherry blossom trees borders a body of water. The sky is filled with soft, pinkish-purple clouds, suggesting a sunset or sunrise. A large, dark blue diagonal shape is overlaid on the left side of the image, containing the main title.

EXTENSION REQUESTS

Arlington County

June 16, 2021

VEDP | Virginia
Economic
Development
Partnership
VEDP.org

EXTENSION REQUEST OVERVIEW

- The Code of Virginia § 2.2-115. (Commonwealth's Development Opportunity Fund, or COF) provides an option for the locality and Commonwealth to grant up to a 15-month extension of the performance date.
- Further, the Code of Virginia § 2.2-2237.3. (VEDP Division of Incentives) provides that an extension of the performance date may only be granted with the approval of the VEDP Board of Directors (VEDP Board); further, approval of both the VEDP Board and the MEI Project Approval Commission is required to grant any additional extensions.
- VEDP's incentives policy provides that all subsequent extension requests submitted on or after October 25, 2018, require the company to pay a fee equal to five percent of the Commonwealth's part of the grant. This fee will be waived in the event of force majeure and may be waived in other circumstances with the approval of the VEDP Board and the MEI Project Approval Commission.
- There is no fee associated with first extensions.
- All extension requests require the support of the local government.

APPLIED PREDICTIVE TECHNOLOGIES (APT) – ARLINGTON COUNTY

Summary:

- Business analytics provider
- \$1,750,000 COF Grant
- Governor approved: 7/27/2016
- Initial performance date: 6/30/2021
- Extension request date: 5/12/2021

Targets per the Performance Agreement:

- 368 new jobs @ \$148,231 over baseline of 257
- \$6,800,000 capital investment

Actual as of 12/31/2020:

- 114 new jobs (31%) at \$171,393 (verified)
- \$10,758,140 capital investment (158%, verified)

Request:

- Extend performance date by 15 months from 6/30/2021 to 9/30/2022.
- COF Performance Agreements do not authorize extension requests for 5-year performance periods. However, the company may invoke the force majeure clause to request additional consideration due to COVID-19.

Rationale:

- APT provides business analytics software and services to companies looking to test new locations, menus, customers, etc. During the COVID-19 pandemic, the company saw a sharp decline in customer activity due to disruptions in retail and supply chain activities.
- Arlington County is supportive of an extension for APT to approach its employment target. APT plays a key role in Arlington's technology ecosystem and is a catalyst in Northern Virginia's data science industry.
- APT projects they will reach 244 new jobs by mid-2022, which would still require a repayment of approximately \$297,500.
- Should there be no extension, APT would need to repay approximately 69% of the portion of the COF allocated to the employment (\$875,000), or \$603,940.
- APT has met the statutory minimum for job creation and capital investment. The company must maintain the statutory minimum 50 jobs through the performance date to retain any portion of the COF.



REPAYMENTS INITIATED: COF

Hampton Coliseum

June 16, 2021

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REPAYMENT REQUIREMENTS FOR COF UNDERPERFORMANCE

- Per the Code of Virginia § 2.2-115. (Commonwealth's Development Opportunity Fund, or COF), all COF performance agreements “shall provide that if the private investment and new job contractual requirements are not met by the expiration of the date stipulated in the contract, including any extension granted by the political subdivision and the Commonwealth, **the business beneficiary shall be liable** to the political subdivision and the Commonwealth **for repayment of a portion of the funds provided** by the political subdivision under the contract and liable to the Commonwealth for repayment of a portion of the funds provided from the Commonwealth's Development Opportunity Fund.”
- JLARC Recommendation No. 24: "The Virginia Economic Development Partnership (VEDP) board of directors should require VEDP to develop and use standard policies and procedures that clearly explain when and how staff should enforce clawback provisions. Enforcement should be consistent and effective for all companies that do not meet their contractual obligations, including wage requirements. The board should require VEDP staff to **report regularly to the full board on each project that is subject to a clawback and the repayment status for each project that is subject to a clawback.**"

PROGRESS REPORT ON COF PROJECTS SUBJECT TO CLAWBACK

Past due clawback referred to Office of the Attorney General as of June 1, 2021

Company	Locality	Clawback Amount Due (\$)	Notes	Clawback Previously Reported?	Announcement Date	Performance Date
Home Care Industries	Mecklenburg	150,000	Full repayment of \$150,000 grant due 5/1/2013; company closed in January 2013; hard asset created (site preparation) through use of COF grant. The VEDP Board, at its January 17, 2018, meeting, directed the Office of Attorney General to enforce collection of clawback in accordance with § 2.2-2237.3.C.	Yes	10/5/2010	3/31/2014
Lindenburg	Appomattox	1,400,000	Project not proceeding as planned; repayment of \$1,400,000 grant due 3/7/2016; VEDP has been pursuing an injunction to attach foreclosure proceeds by alleging misconduct by the project consultant; VEDP has a pending lawsuit against Lindenburg. The VEDP Board, at its January 17, 2018, meeting, directed the Office of Attorney General to enforce collection of clawback in accordance with § 2.2-2237.3.C.	Yes	11/4/2014	4/30/2018
Tranlin	Chesterfield	4,811,726	Project not proceeding as planned; full repayment of \$5,000,000 grant to be repaid. \$150,000 repaid 10/24/2017; remainder to be repaid in six monthly installments of \$833,561 beginning 12/1/2017, secured by deed of trust on land. Additional \$38,274 repaid 9/19/2019. The VEDP Board, at its January 17, 2018, meeting, directed the Office of Attorney General to enforce collection of clawback in accordance with § 2.2-2237.3.C.	Yes	6/18/2014	12/31/2019
Evatran	Wythe	100,000	Full repayment of \$150,000 to be paid in three installments of \$50,000 each due 12/31/2016, 12/31/2017, and 12/31/2018; 2016 payment received; \$50,000 installments due 12/31/2017 and 12/31/2018. The VEDP Board, at its April 26, 2018, meeting, directed the Office of Attorney General to enforce collection of clawback in accordance with § 2.2-2237.3.C.	Yes	6/29/2010	12/31/2013
Qore	Washington	500,000	Company filed for bankruptcy; full repayment of \$500,000 grant was due 5/14/2017. Qore subsequently purchased by NanoGlobal. The VEDP Board, at its October 25, 2018, meeting, directed the Office of Attorney General to enforce collection of clawback in accordance with § 2.2-2237.3.C.	Yes	6/24/2015	12/31/2018
Axon Ghost Sentinel	Harrisonburg	75,000	Statutory minimum requirements not met; full repayment of \$75,000 grant due 7/25/2019. The VEDP Board, at its October 24, 2019, meeting, directed the Office of Attorney General to enforce collection of clawback in accordance with § 2.2-2237.3.C.	Yes	6/29/2015	10/1/2018
Basket Savings	Arlington	40,000	Statutory minimum requirements not met; full repayment of \$125,000 grant due 9/30/19; \$85,000 held by Arlington received 9/5/19; \$40,000 balance due from Basket by 9/30/19. The VEDP Board, at its October 24, 2019, meeting, directed the Office of Attorney General to enforce collection of clawback in accordance with § 2.2-2237.3.C.	Yes	2/29/2016	6/30/2019
Telos	Loudoun	65,000	Job threshold not fully met; prorated repayment of \$65,000 of \$500,000 grant due 7/9/2019. The VEDP Board, at its October 24, 2019, meeting, directed the Office of Attorney General to enforce collection of clawback in accordance with § 2.2-2237.3.C.	Yes	1/7/2014	3/31/2018
TOTAL		7,141,726				

PROGRESS REPORT ON COF PROJECTS SUBJECT TO CLAWBACK

Clawback past due as of June 1, 2021

Company	Locality	Clawback Amount Due (\$)	Notes	Clawback Previously Reported?	Announcement Date	Performance Date
None						
TOTAL		0				

Clawback requested but not past due as of June 1, 2021

Company	Locality	Clawback Amount Due (\$)	Notes	Clawback Previously Reported?	Announcement Date	Performance Date
Hardide	Henry	75,000	Statutory minimum requirements not met; full repayment of \$150,000 to be paid in two equal installments of \$75,000 due 3/31/2021 (received 3/22/2021) and 6/30/2021.	Yes	1/21/2015	12/31/2020
LifeNet Health	Virginia Beach	241,500	Job threshold not fully met; prorated repayment of \$241,500 of \$700,000 grant due 7/8/2021. Company portion (\$24,500) received 4/22/2021. Balance of clawback held by Virginia Beach (\$217,000) due 7/8/2021.	Yes	8/14/2017	12/31/2020
MicroStrategy	Fairfax County	1,000,000	Statutory minimum requirements not met; full repayment of \$1,000,000 grant due 8/21/2021.	No	8/14/2017	12/31/2020
TOTAL		1,316,500				

PROGRESS REPORT ON COF PROJECTS SUBJECT TO CLAWBACK

Projects subject to clawback closed out since April 9, 2021

Company	Locality	Clawback Amount Due (\$)	Notes	Clawback Previously Reported?	Announcement Date	Performance Date
Jennchem	Russell	6,000	Job threshold not fully met; prorated repayment of \$6,000 of \$100,000 grant received 5/14/2021.	Yes	7/26/2017	9/1/2020
TeleTech	Scott	22,875	Job threshold not fully met; prorated repayment of \$22,875 of \$75,000 grant received 5/24/2021.	Yes	10/21/2015	10/1/2020
TOTAL		28,875				

VEDP still processing closeout with performance dates at least 90 days prior

Company	Locality	Clawback Amount Due (\$)	Notes	Clawback Previously Reported?	Announcement Date	Performance Date
None						
TOTAL						



REPAYMENTS INITIATED: VJIP

Devil's Bathtub – Scott County

June 16, 2021

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PROGRESS REPORT ON VJIP PROJECTS SUBJECT TO CLAWBACK

Past due clawback referred to Office of the Attorney General as of June 1, 2021 - NONE

Clawback past due as of June 1, 2021 - NONE

Clawback requested but not past due as of June 1, 2021 - NONE

Projects subject to clawback closed out since April 21, 2021 - NONE

VEDP still processing closeout with performance dates at least 90 days prior - NONE



UPDATES TO INCENTIVES POLICIES & PROCEDURES

University of Richmond – City of
Richmond and Henrico County

June 16, 2021

BACKGROUND

- On January 28, 2021, the VEDP Board approved updates to the VEDP Incentives Administration Policy and Procedural Guidelines, which aligned the due diligence and incentive approval process for all VEDP-administered incentive programs.
- During the 2021 General Assembly session, several pieces of legislation were passed that will impact VEDP-administered incentives. The guidelines have been updated to reflect these changes.
- Proposed changes fall into two main categories:
 - Incorporate policies for the consideration and verification of teleworking jobs for incentives
 - Update guidelines to reflect shift from federal minimum wage to Virginia Minimum Wage
- Additional changes were made to incorporate existing policies not currently included in the document:
 - Reference Virginia Talent Accelerator Program as part of VEDP's PRACC process
 - Add language outlining the MEI approval process
 - Clarify program requirements for the recently-implemented New Company Incentive Program

KEY PROPOSED CHANGES WILL INCORPORATE POLICIES FOR THE CONSIDERATION AND VERIFICATION OF TELEWORKING JOBS

Current Guidelines

- COF requires 50 jobs and \$5M, which is reduced to 25 jobs and \$2.5M in single-distressed localities, and 15 jobs and \$1.5M in double-distressed localities.
- COF requires \$1:1 match from the locality where the project is locating/expanding.
- VEDP may consider teleworking jobs held by Virginia residents when offering incentives.
- There is an existing waiver of the local match requirement for extraordinary opportunities based on community distress levels.

Additional Guidelines

- COF capital investment requirement may be reduced or waived by the Governor, if 75% of the jobs being created will be teleworking jobs held by Virginia residents, earning at least 120% of the Virginia minimum wage.
- If a capital investment waiver is granted, the local match requirement may be reduced or waived by the Governor as well.

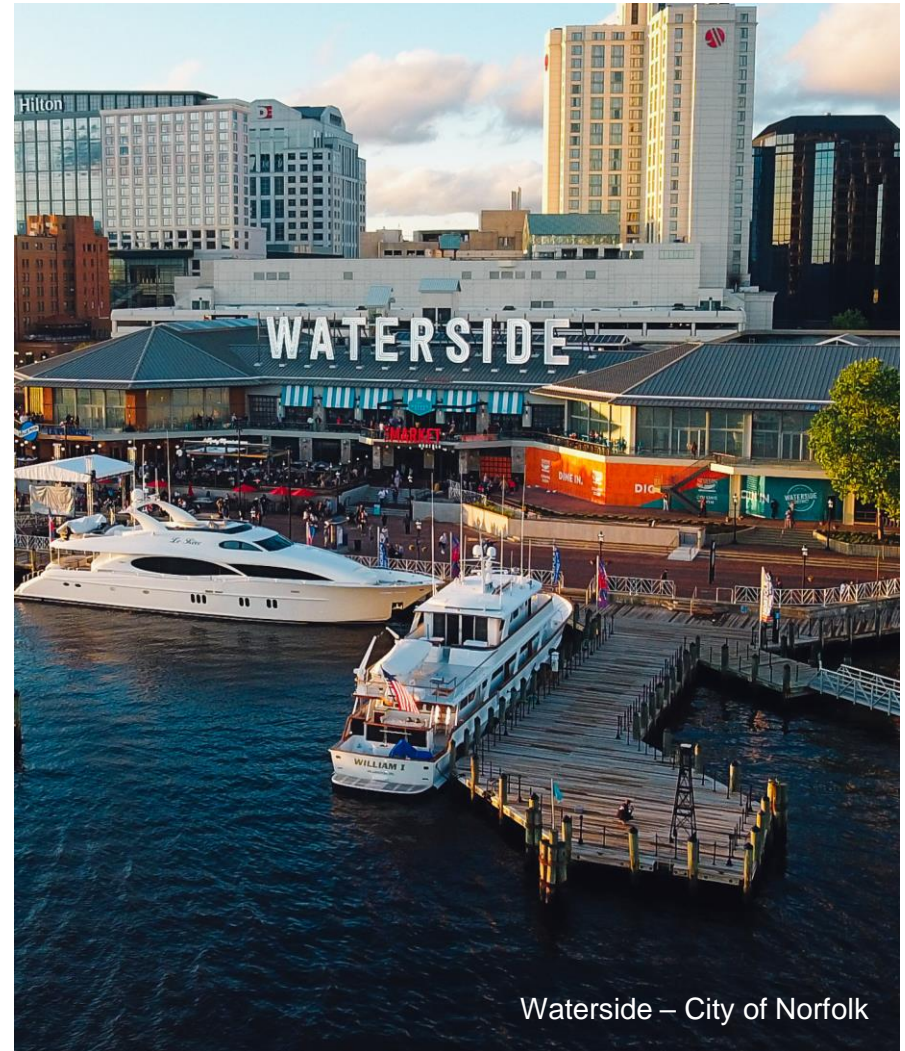
KEY PROPOSED CHANGES WILL UPDATE GUIDELINES TO REFLECT SHIFT FROM FEDERAL MINIMUM WAGE TO VIRGINIA MINIMUM WAGE

Current Guidelines

- VJIP requires that small businesses create at least 5 jobs, and larger businesses create at least 25 jobs, earning at least 135% of the federal minimum wage
 - FMW = \$7.25/hour, 135% FMW = \$9.79/hour

Updated Guidelines

- VJIP will require that small businesses create at least 5 jobs, and larger businesses create at least 25 jobs, earning at least 120% of the Virginia minimum wage
 - \$9.50, 120% = \$11.40/hour (2021)
 - \$11.00, 120% = \$13.20/hour (2022)
 - \$12.00, 120% = \$14.40/hour (2023-24)
 - \$13.50, 120% = \$16.20/hour (2025)
 - \$15.00, 120% = \$18.00/hour (2026)



Waterside – City of Norfolk

OTHER PROPOSED CHANGES WILL INCORPORATE EXISTING POLICIES NOT CURRENTLY INCLUDED IN THE DOCUMENT

Additional Guidelines

- Reference Virginia Talent Accelerator Program as part of VEDP's PRACC process
- Outline the MEI approval process and when MEI approval is required
- Clarify program requirements for the recently-implemented New Company Incentive Program, specifically outlining the requirement to distribute funds to employees



Marine Corps War Memorial –
Arlington County

Questions?