



STATE OF WISCONSIN

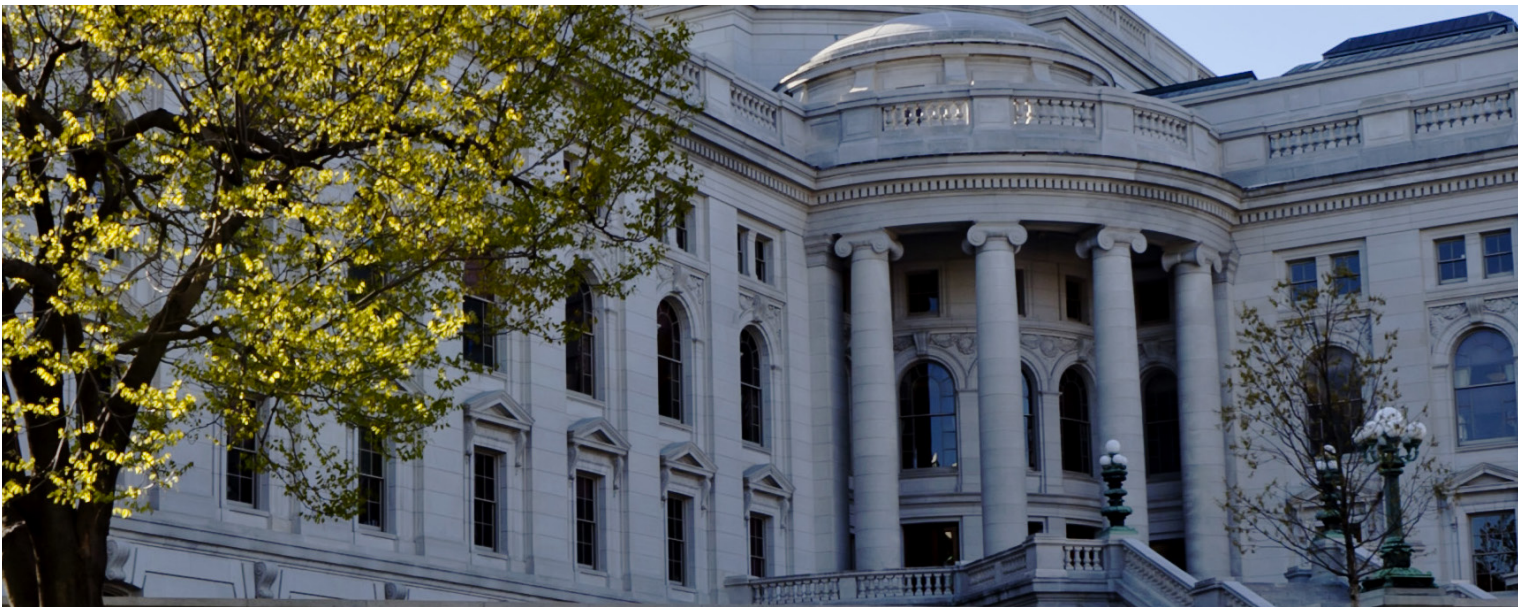
Legislative Audit Bureau

NONPARTISAN • INDEPENDENT • ACCURATE

Report 22-24
December 2022

Electronics and Information Technology Manufacturing Zone Program

Wisconsin Economic Development Corporation



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Electronics and Information Technology Manufacturing Zone Program

Wisconsin Economic Development Corporation



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Legislative Audit Bureau

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Reports Issued by the Legislative Audit Bureau in Fulfillment of the Requirement under s. 13.94 (1) (u), Wis. Stats.

Response

From WEDC's Chief Executive Officer



STATE OF WISCONSIN

Legislative Audit Bureau

Joe Chrisman
State Auditor

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December 16, 2022

Senator Robert Cowles, Co-chairperson
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Cowles:

As required by s. 13.94 (1) (u), Wis. Stats., we evaluated the Wisconsin Economic Development Corporation's (WEDC's) process for verifying information submitted by recipients of Electronics and Information Technology Manufacturing Zone program tax credits, as well as whether WEDC adhered to statutory and contractual requirements when it verified the amount of program tax credits to award these recipients. This is the last of five statutorily required annual evaluations of these issues.

In April 2021, WEDC executed an amended \$80.0 million contract with four corporations that are collectively referred to as "Foxconn" to create jobs and make capital investments over the six-year period from January 2020 through December 2025. Foxconn may be annually awarded program tax credits for creating jobs and for making capital investments from 2020 through 2024. In addition, Foxconn may be awarded performance tax credits if it creates more than 1,163 jobs filled by eligible employees in 2024 and 2025.

In report 21-21, we found that WEDC's written procedures for calculating performance tax credits differed from provisions in the April 2021 contract. Therefore, we recommended that WEDC modify its written procedures to specify that it will award performance tax credits in accordance with this contract. In our current audit, we found that WEDC had modified its policies as we recommended.

The April 2021 contract specifies that WEDC could award up to \$8.6 million in program tax credits to Foxconn for creating jobs and making capital investments in 2021. In November 2022, WEDC awarded all \$8.6 million in available program tax credits to Foxconn. We found that WEDC adhered to statutory and contractual requirements, as well as its written procedures, when it verified the program tax credits it awarded to Foxconn.

We appreciate the courtesy and cooperation extended to us by WEDC. A response from WEDC's chief executive officer follows the appendix.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joe Chrisman'.

Joe Chrisman
State Auditor

JC/DS/ss

Electronics and Information Technology Manufacturing Zone Program

2017 Wisconsin Act 58, which was enacted in September 2017, created the Electronics and Information Technology Manufacturing Zone program. The Wisconsin Economic Development Corporation (WEDC) administers this program. Statutes allow WEDC to designate not more than one electronics and information technology manufacturing zone that shall remain in effect for no more than 15 years. Statutes stipulate that WEDC may award no more than \$2.85 billion in tax credits under the program, including \$1.5 billion for creating jobs and \$1.35 billion for making capital investments. These tax credits are refundable, meaning that if a recipient's tax credits exceed its Wisconsin income tax liability, a recipient receives a payment from the Department of Revenue (DOR).

In November 2017, WEDC executed a \$2.85 billion 15-year contract with Foxconn.

In November 2017, WEDC executed a \$2.85 billion contract with three corporations that agreed to build a facility to fabricate thin-film transistor liquid-crystal displays, which are used in electronic appliances such as televisions and computer monitors. If these three corporations, which are collectively referred to as "Foxconn," had created contractually specified jobs and made contractually specified capital investments, WEDC would have awarded them up to \$2.85 billion in program tax credits over the 15-year contract period and would have informed DOR that they were eligible to claim these tax credits.

In April 2021, WEDC executed an amended \$80.0 million six-year contract with Foxconn.

In April 2021, WEDC executed an amended and restated \$80.0 million contract with the original three corporations and a fourth corporation, which agreed to locate and operate a technology and manufacturing ecosystem in the existing electronics and information technology manufacturing zone. If these four corporations, which are also collectively referred to as "Foxconn," create contractually specified jobs and make contractually specified capital investments, WEDC will

award them up to \$80.0 million in program tax credits over the six-year contract period from January 2020 through December 2025 and will inform DOR that they are eligible to claim these tax credits.

Beginning in 2018, statutes require the Legislative Audit Bureau to annually evaluate for five years:

- WEDC's process for verifying information that was submitted by recipients of program tax credits and that indicates the extent to which these recipients created contractually specified jobs and made contractually specified capital investments; and
- whether WEDC adhered to statutory and contractual requirements when it verified the amount of program tax credits to award recipients as a result of their efforts to create jobs and make capital investments.

The appendix lists each report that we completed to fulfill our statutory requirement to annually evaluate certain aspects of WEDC's management of the program. This is our final statutorily required report.

On November 13, 2022, WEDC awarded all \$8.6 million in available program tax credits to Foxconn for creating jobs and making capital investments in 2021. Our current report evaluates whether WEDC adhered to statutory and contractual requirements, as well as its written procedures, when it verified these program tax credits that it awarded in November 2022.

To conduct our evaluation, we interviewed WEDC's staff, examined WEDC's April 2021 contract with Foxconn and analyzed the written procedures that WEDC established to verify information submitted by recipients of program tax credits. We also analyzed information that WEDC considered when it awarded program tax credits to Foxconn for creating jobs and making capital investments in 2021.

Contractual Provisions

Under the April 2021 contract, Foxconn may be annually awarded program tax credits for creating jobs and making capital investments from January 2020 through December 2024.

Under the April 2021 contract, Foxconn may be annually awarded program tax credits for creating jobs and making capital investments from January 2020 through December 2024. The contract establishes minimum numbers of jobs that Foxconn must create in order to be awarded program tax credits for a given year. For example, the contract requires Foxconn to have 747 jobs filled by eligible employees as of December 31, 2021, in order to be awarded any program tax credits for 2021.

The April 2021 contract specifies that Foxconn may be awarded up to \$19.7 million in performance tax credits. Foxconn can be awarded up to \$9.85 million if it has created more than 1,163 jobs filled by eligible employees in 2024. For each such job filled by an eligible employee,

Foxconn will be awarded \$33,848. Thus, Foxconn will be awarded all \$9.85 million if it creates 1,454 jobs filled by eligible employees in 2024. Foxconn can be awarded up to the same amount, plus any unawarded performance tax credits from 2024, if it has created more than 1,163 jobs filled by eligible employees in 2025. The contract specifies that these performance tax credits may be awarded because WEDC had previously verified that Foxconn made more than \$200.0 million in capital investments in 2018 and 2019 but was awarded no program tax credits under the original contract for these capital investments.

WEDC may award Foxconn \$20.3 million for creating jobs, \$40.0 million for making capital investments, and \$19.7 million in performance tax credits.

Table 1 shows the contractually specified amounts of program tax credits that WEDC may award Foxconn, including \$20.3 million for creating jobs, \$40.0 million for making capital investments, and \$19.7 million in performance tax credits. After Foxconn creates jobs or makes capital investments in a given year, WEDC determines the amount of program tax credits, if any, to award in subsequent years. If WEDC does not award all available tax credits in a given year, any unawarded tax credits for making capital investments may carry forward and be awarded in future years, but unawarded tax credits for creating jobs do not carry forward. If WEDC awards all available tax credits for capital investments in a given year and determines that Foxconn would have earned additional such tax credits if they had been available, these excess tax credits carry forward and may be awarded in future years, subject to the \$40.0 million contractually specified maximum amount of program tax credits that Foxconn can earn for making capital investments.

Table 1

Amounts of Program Tax Credits WEDC May Award Foxconn
Under the April 2021 Contract

Calendar Year	Minimum Number of Jobs ¹	Tax Credits (in millions)			
		Job Creation	Capital Investment ²	Performance	Total
2020	481	\$ 2.2	\$26.9	—	\$29.1
2021	747	3.5	4.8	—	8.3
2022	918	4.1	2.2	—	6.3
2023	1,042	5.0	3.7	—	8.7
2024	1,163	5.5	2.3	\$ 9.9	17.7
2025	1,163	—	—	9.9	9.9
Total		\$20.3	\$40.0	\$19.7	\$80.0

¹ Foxconn must create a minimum number of jobs in order to be awarded program tax credits for a given year.

² If Foxconn creates a minimum number of jobs, unawarded or excess capital investment tax credits may be awarded in future years.

WEDC's Process for Verifying Information

WEDC's written procedures for verifying information submitted by recipients of program tax credits complied with statutes and the April 2021 contract with Foxconn.

We evaluated WEDC's process for verifying information that was submitted by the recipients of program tax credits and that indicates the extent to which these recipients created contractually specified jobs and made contractually specified capital investments. To do so, we evaluated WEDC's written procedures for verifying such information. We found that these procedures complied with statutes and the April 2021 contract.

In report 21-21, we found that WEDC's written procedures for calculating performance tax credits differed from provisions in the April 2021 contract. If WEDC had adhered to these procedures, it potentially could have awarded Foxconn either more or fewer performance tax credits than contractually specified. Therefore, we recommended that WEDC modify its written procedures to specify that it will award performance tax credits in accordance with the contract.

In our current evaluation, we found that WEDC modified its written procedures as we had recommended. The written procedures now specify that WEDC will award performance tax credits in accordance with the April 2021 contract.

Program Tax Credits

The April 2021 contract required Foxconn to report to WEDC by April 1, 2022, on the jobs it created and the capital investments it made in 2021. The contract also required Foxconn to hire and pay for a nationally recognized certified public accountant (CPA) firm to perform an attestation of the job creation and capital investment information that Foxconn reports to WEDC in a given year. This CPA firm was required to report to WEDC on the results of this attestation by June 1, 2022. WEDC uses Foxconn's information and the CPA firm's report to determine the amounts of program tax credits to award.

Foxconn and the CPA firm each reported the contractually specified information to WEDC in a timely manner in 2022. Using this information, WEDC determined that Foxconn had created 768 jobs filled by eligible employees on December 31, 2021. Because WEDC determined that Foxconn had created at least 747 jobs, Foxconn was contractually eligible to be awarded up to \$8.6 million in program tax credits in 2021. This amount includes \$0.2 million in unawarded tax credits that were carried forward from the prior year.

WEDC awarded Foxconn all \$8.6 million in available program tax credits for creating jobs and making capital investments in 2021.

As shown in Table 2, WEDC awarded Foxconn all \$8.6 million in available program tax credits for creating jobs and making capital investments in 2021. WEDC awarded Foxconn \$3.5 million for creating jobs and \$5.1 million for making capital investments. Because Foxconn made additional capital investments beyond the amount necessary for it to be awarded all available program tax credits in 2021, \$2.7 million in excess program tax credits will carry forward and may be awarded in future years.

Table 2

**Amounts of Program Tax Credits That WEDC Awarded to Foxconn for Creating Jobs
and Making Capital Investments in 2021**^{1,2}
Under the April 2021 Contract

	Tax Credits (in millions)		
	Available to Award	Actually Awarded	Carried Forward ³
Job Creation	\$ 3.5	\$3.5	—
Capital Investment	5.1 ⁴	5.1	\$2.7
Total	\$8.6	\$8.6	\$2.7

¹ Foxconn needed to create at least 747 jobs in order to be awarded program tax credits for 2021.

² WEDC awarded the program tax credits to Foxconn in November 2022.

³ Excess capital investment tax credits may be awarded in future years.

⁴ Includes \$0.2 million in unawarded tax credits that were carried forward from the prior year.

Job Creation

Statutes and the April 2021 contract require WEDC to award Foxconn program tax credits for creating jobs filled by employees paid at least \$30,000 annually and offered retirement, health, and other benefits equivalent to such benefits offered to employees required to work at least 2,080 hours annually. WEDC must award Foxconn program tax credits at a rate of 17.0 percent of the wages of such employees, but it cannot award program tax credits for any wages exceeding \$100,000 per employee.

Statutes and the April 2021 contract require WEDC to award Foxconn program tax credits for the wages paid to employees for services performed in Wisconsin. Section 238.396 (3s) (c), Wis. Stats., stipulates that WEDC may not certify Foxconn to claim program tax credits for services performed outside of Wisconsin. In addition, s. 71.28 (3wm) (b), Wis. Stats., requires WEDC to award program tax credits for a tax credit recipient's zone payroll, which is statutorily defined to be the wages paid to employees for services performed in Wisconsin.

To calculate the amount of program tax credits to award, WEDC reviewed Foxconn's 2021 payroll information and the CPA firm's report. In its calculations, WEDC included \$36.7 million in wages that Foxconn paid in 2021.

WEDC followed its written procedures when it verified Foxconn's payroll information.

We reviewed the information that WEDC provided us on how it verified the amount of program tax credits it awarded Foxconn for creating jobs in 2021. We found that WEDC followed its written procedures when it verified Foxconn's payroll information.

Capital Investments

If WEDC determines that Foxconn made a significant capital investment in the zone, which is contractually defined to be Foxconn's business facilities within specified geographic boundaries in Racine County, statutes and the April 2021 contract allow WEDC to award Foxconn program tax credits for making capital investments from 2020 through 2024. These tax credits are calculated at a rate of 10.0 percent of eligible capital investments made by Foxconn in a given year. The contract indicates that Foxconn will make up to \$672.1 million in capital investments to locate and operate a technology and manufacturing ecosystem in the zone. Under the contract, Foxconn may be awarded all \$40.0 million in program tax credits for capital investment if it makes at least \$400.0 million in capital investments.

In April 2022, Foxconn reported to WEDC that it had made \$77.4 million in capital investments in 2021. To calculate the amount of program tax credits to award, WEDC reviewed Foxconn's capital investment information and the CPA firm's report. WEDC determined that Foxconn had made \$77.4 million in capital investments that were eligible for \$7.7 million in program tax credits. Because the April 2021 contract specified that WEDC could award a maximum of \$5.1 million in program tax credits, including the \$0.2 million in tax credits that had been carried forward, \$2.7 million in excess program tax credits will carry forward and may be awarded in future years.

WEDC followed its written procedures when it verified Foxconn's capital investment information.

We reviewed the information that WEDC provided us on how it verified the amount of program tax credits it awarded Foxconn for making capital investments in 2021. We found that WEDC followed its written procedures when it verified Foxconn's capital investment information.

■ ■ ■ ■

Appendix

Appendix

Reports Issued by the Legislative Audit Bureau in Fulfillment of the Requirement under s. 13.94 (1) (u), Wis. Stats.

Beginning in 2018, statutes require the Bureau to annually evaluate for five years WEDC's management of certain aspects of the Electronics and Information Technology Manufacturing Zone program. All reports issued are listed below.

2022

Report 22-24

2021

Report 22-2

Report 21-21

2020

Report 20-27

2019

Report 19-27

2018

Report 18-18

Response



December 14, 2022

Mr. Joseph Chrisman
State Auditor
Legislative Audit Bureau
22 E. Mifflin Street, Suite 500
Madison, WI 53703

Dear Mr. Chrisman:

Thank you for the opportunity to respond to the Legislative Audit Bureau's (LAB) evaluation of the Wisconsin Economic Development Corporation's (WEDC) process for verifying information submitted by claimants SIO International Wisconsin, Inc., FEWI Development Corporation, AFE, Inc., and FII USA, Inc., (collectively referred to as "Foxconn") under the Electronics and Information Technology Manufacturing Zone (EITMZ) tax credit program.

Enacted in September 2017, Wisconsin Act 58 created the EITMZ and provided statutory guidelines for WEDC's contract with Foxconn. WEDC entered into the first EITMZ contract on November 10, 2017. WEDC entered into an amended and restated contract with Foxconn on April 20, 2021.

Act 58 requires LAB to annually evaluate WEDC's process for verifying information submitted by Foxconn until 2022. This report represents LAB's review of statutory and contractual requirements of tax credit verifications for the EITMZ program. WEDC recognizes that LAB's report reflects that WEDC addressed the recommendation to update its written procedures in LAB's prior 21-21 report.

WEDC is pleased that LAB's report found that "WEDC adhered to statutory and contractual requirements, as well as its written procedures, when it verified the program tax credits it awarded to Foxconn."

We appreciate the courtesy extended by LAB during this process.

Sincerely,

A handwritten signature in black ink, appearing to read "Melissa L. Hughes", with a long horizontal flourish extending to the right.

Melissa L. Hughes
Secretary and CEO

LOOK FORWARD ➤