



October 29, 2021

Senator Rob Cowles
118 South – State Capitol
Madison, WI 53707

Representative Samantha Kerkman
315 North – State Capitol
Madison, WI 53707

Dear Senator Cowles and Representative Kerkman:

The Legislative Audit Bureau's (LAB) Report 21-7 recommended the Wisconsin Economic Development Corporation (WEDC) submit to the Joint Legislative Audit Committee by October 29, 2021, a report on WEDC's efforts to implement each of LAB's recommendations.

LAB issued its report on April 21, 2021. On September 19, 2021, WEDC's Audit and Budget Committee was convened to review and discuss WEDC's responses to the 8 recommendations from LAB. At that meeting, the committee unanimously approved the attached plan, which was then forwarded to and approved by WEDC's Board of Directors on September 21, 2021.

During both the committee and board discussions on the LAB recommendations regarding administration of tax credits, the members asked that we include in our response the important need to balance the market challenges facing businesses with the prescriptions outlined in the LAB revocation recommendations. The board and committee members recognize the need for strong benchmarks and timely action. At the same time, they embrace the approach that WEDC has taken to create a flexible system that offers businesses the opportunity to work through fluctuations in their business environment.

We appreciate the opportunity to respond to LAB's Report 21-7. Continuous improvement is incorporated into all areas of WEDC's operations, and LAB's recommendations provide valuable feedback to inform our efforts.

If you require any additional information, please feel free to contact me.

Sincerely,

Missy Hughes
Secretary and CEO

cc: Joint Committee on Finance Chairs

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Madison, WI 53703

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LAB Audit 21-7 (April 2021) Recommendations and WEDC Responses

LAB Recommendation #	Page #	LAB Recommendation (21-7)	WEDC Response
Program Administration			
1	17	<p>We recommend the Wisconsin Economic Development Corporation:</p> <p>provide information on how it awarded all funds under each public health emergency-related program through FY 2020-21; and</p> <p>report to the Joint Legislative Audit Committee by October 29, 2021, on its efforts to comply with this recommendation.</p>	<p>WEDC includes information on its public health emergency-related programs in its Annual Report on Economic Development. This report provides a robust look at each award made under WEDC's programs, including the programs developed and implemented in response to the public health emergency. Details of all awards are updated quarterly and publicly available online at wedc.org through an impact map and excel spreadsheets, allowing users to view and sort data in any number of ways.</p>
2	22	<p>We recommend the Wisconsin Economic Development Corporation:</p> <p>beginning on July 1, 2021, and every six months thereafter, determine the remaining balance and the total amount of past-due repayments for all loans 90 days or more past due;</p> <p>determine the remaining balance for all of these loans that were amended to defer repayments, written off, or forgiven from July 2021 through December 2021, and then during each six-month period thereafter;</p> <p>determine the remaining balance for all of these loans that were no longer 90 days or more past due during each six-month period thereafter because the recipients made loan repayments;</p> <p>determine the payment delinquency rate and the principal delinquency rate on the first and last day of each six month period; and</p> <p>report this information to the Joint Legislative Audit Committee by February 3, 2022, for the six-month period from July 2021 through December 2021, and then report this information every six months thereafter.</p>	<p>WEDC will continue to provide this information to JLAC every six months. Since LAB first recommended WEDC submit this report in the 2015 (15-3) report, WEDC has provided JLAC this information every six months.</p> <p>Additionally, since July 2013, staff have provided the WEDC Board of Directors with a Quarterly Credit & Risk Report. In addition to a historical trends analysis, this report includes the following information:</p> <ul style="list-style-type: none"> past due loans, performance-based loans forgiven, charged off loans, tax credit revocations, overdue performance reports, overdue schedules of expenditures, new awards originated, and amendments.
3	25	<p>We recommend the Wisconsin Economic Development Corporation:</p> <p>modify its Enterprise Zone program written procedures to require it to award program tax credits only for the wages paid to employees for services performed in an enterprise zone, as is statutorily required;</p> <p>require all recipients of Enterprise Zone program tax credits to provide information on the wages paid to employees for services performed in an enterprise zone; and</p> <p>report to the Joint Legislative Audit Committee by October 29, 2021, on its efforts to comply with these recommendations.</p>	<p>Under WEDC's current procedures and practice, tax credit are only paid based on wages of employees with a worksite within the enterprise zone. WEDC continues the process of evaluating methods of implementing this recommendation. This process includes the possibility of suggesting legislative revisions, to better meet the realities that businesses face in hiring. Especially in light of the COVID-19 pandemic, many businesses are pivoting to an increasingly remote workforce. WEDC is considering ways to structure tax incentives that will benefit both the businesses and the State of Wisconsin.</p>
4	26	<p>We recommend the Wisconsin Economic Development Corporation:</p> <p>develop written policies that require it to revoke tax credits in a timely manner if a recipient did not meet contractual obligations; and</p> <p>report to the Joint Legislative Audit Committee by October 29, 2021, on its efforts to comply with this recommendation.</p>	<p>WEDC is implementing a plan to closeout ended awards in a timely manner. The closeout is the process whereby WEDC evaluates tax credit awards to determine whether a revocation is necessary.</p> <p>Additionally, WEDC is working collaboratively with the Department of Revenue to identify ways in which to clearly communicate the risks of non-performance and allow early termination of awards which are non-performing, to reduce the accumulation of interest.</p>

LAB Recommendation #	Page #	LAB Recommendation (21-7)	WEDC Response
5	28	<p>We recommend the Wisconsin Economic Development Corporation:</p> <p>ensure that its annual verification of performance measure information determines whether award recipients complied with statutes by offering the same retirement, health, and other benefits to employees in jobs for which the recipients were awarded funds as were offered to other full-time employees; and</p> <p>report to the Joint Legislative Audit Committee by October 29, 2021, on its efforts to implement these recommendations.</p>	<p>WEDC added a requirement to its third-party verification testing procedure that the third-party test the awardee attestation to the fact that the awardee offers fringe benefits to full-time employees in jobs for which the awardee was awarded funds as were offered to other full-time employees.</p> <p>The third-party verification testing procedure provides: Individual employees will be selected for review for each project selected for review. Selected employees will be tested for fringe benefit eligibility based on their employment status (full time vs. part time/seasonal). Employees eligible for benefits will be verified for participation in benefit plans by obtaining an opt-out form or invoices/payroll records to confirm participation.</p>
Program Results			
6	39	<p>We recommend the Wisconsin Economic Development Corporation:</p> <p>award job creation tax credits only when recipients create jobs according to contractual provisions;</p> <p>work with the Department of Revenue to implement a method for reclaiming after each contract year some or all previously awarded tax credits if recipients do not retain all jobs for which they had been previously awarded job creation tax credits; and</p> <p>report to the Joint Legislative Audit Committee by October 29, 2021, on its efforts to implement this recommendations.</p>	<p>WEDC continues the consideration of this recommendation. Current tax credit agreements provide that performance on job creation and/or job maintenance requirements are reported annually. In addition businesses may cure deficiencies in job numbers during the course of the agreement. LAB recommends that WEDC not allow for fluctuations in employment during the term of the agreement, without the business facing a revocation. Under active tax credit programs, the requirement that a certain number of jobs be created and that those jobs be maintained by the business are a function of WEDC's program design and is not required by the statutes, which provide tax credits based on increase in wages and not job creation. In the current economy where businesses are struggling to find workers to fill positions, WEDC is considering whether implementing this recommendation would penalize businesses instead of spurring growth.</p>
7	40	<p>We recommend the Wisconsin Economic Development Corporation:</p> <p>annually and comprehensively assess the awards that ended and use this information to consider changes to its program policies and when making decisions about future awards; and</p> <p>report to the Joint Legislative Audit Committee by October 29, 2021, on its efforts to implement this recommendation.</p>	<p>WEDC currently reviews its portfolio of awards on a regular basis. WEDC not only annually reviews and updates its program guidelines and budget and operations plan, but also annually selects programs to undergo an in-depth program evaluation using third-party consultants. WEDC considers multiple factors when working through program development and revision including but not limited to our portfolio of both active and closed awards, best practice research, and where applicable, discussions with our local communities and partners.</p> <p>Continuous improvements are made to our systems. For instance, in this fiscal year, WEDC has worked on creating a better system to characterize awards that have been closed. This year, WEDC is also implementing a plan to closeout ended awards in a timely manner. The closer to an award end that the award is evaluated, the better information WEDC will have in its annual process of revising and updating program guidelines. As WEDCs portfolio management is refined, please expect to see more improvements.</p>

LAB Recommendation #	Page #	LAB Recommendation (21-7)	WEDC Response
8	43	<p>We recommend the Wisconsin Economic Development Corporation:</p> <p>improve the accuracy and completeness of its statutorily required annual economic development program report; and</p> <p>report to the Joint Legislative Audit Committee by October 29, 2021, on its efforts to implement this recommendation.</p>	<p>WEDC implemented LAB's recommendation to only include jobs that meet contractual requirements for earning tax credits in the online data for the annual report on economic development following their report published in May of 2017 (report 17-9) for those programs that were active at the time of that report. WEDC does provide job details on each award on its site for transparency as to each individual award. However, there is no double counting because WEDC always eliminated duplication when aggregating data for analysis and reporting purposes.</p> <p>WEDC moves (but does not remove) information on awards from its program outcomes page. Information on awards that closed a year or more earlier are moved to another page on the site. This is to make it most useful to the public and to keep the focus of the impact map on awards where there is recent activity. All of WEDC's awards that have closed a year or more earlier are included on the archive page of the site, which has been improved this year to be downloadable.</p> <p>Details of all awards are updated quarterly and publicly available online at wedc.org, allowing users to view and sort data in any number of ways. Significant improvements are regularly made to the annual report, including as a result of LAB's recommendations, and we remain committed to providing the highest level of transparency regarding program outcomes.</p>