



December 6, 2023

Senator Eric Wimberger  
Room 104 South  
Wisconsin State Capitol  
Madison, WI 53707

Representative Robert Wittke  
Room 18 West  
Wisconsin State Capitol  
Madison, WI 53707

TRANSMITTED VIA ELECTRONIC MAIL

Dear Senator Wimberger and Representative Wittke,

The Legislative Audit Bureau's (LAB) report 23-11 recommended that the Wisconsin Economic Development Corporation (WEDC) report to the Joint Legislative Audit Committee (JLAC) by December 6, 2023 on WEDC's efforts to implement each of LAB's recommendations.

LAB issued its report on August 30, 2023. WEDC's Audit and Budget Committee met on September 12 and November 14, 2023, to review the report and WEDC's responses to the recommendation therein. WEDC's Board of Directors reviewed and approved the enclosed responses and submission to JLAC on November 28, 2023.

We appreciate the opportunity to respond to LAB's Report 23-11. Enclosed are WEDC's responses to the recommendations. Continuous improvement is incorporated into all areas of WEDC's operations, and LAB's recommendations provide valuable feedback to inform our efforts. It is WEDC's goal to resolve the recommendations with actionable solutions, and to avoid repeat findings in future audits.

As WEDC presented at JLAC's hearing on the audit, the tools and constraints around job creation embedded in WEDC's originating statutes do not fit the needs of today's economy, businesses or communities. WEDC is simultaneously working with its legislative Board members on effective changes to the statutes while also modifying internal processes and practices. We continue to believe that a legislative solution is the best path for modernizing the tools.

Finally, robust evaluation is a key to ensuring informed and effective programmatic change. For one of the largest programs, WEDC has engaged a third-party evaluator to review the metrics and impacts of the Business Development Tax Credit program. In addition, we are implementing a process whereby programs are regularly evaluated to ensure program impact and effectiveness.

If you require any additional information, please contact me.

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 & CEO

**LOOK FORWARD** ➤



### LAB Audit 23-11 Recommendations and WEDC Responses

LAB Recommendation #	Page #	LAB Recommendation (23-11)	WEDC Response
1	7	<p>We recommend the Wisconsin Economic Development Corporation work with its governing board to:</p> <ul style="list-style-type: none"> <li>• Comply with its policies and post on its website minutes of board meetings;</li> <li>• Modify its policies so that they require board meeting materials to be posted on its website before meetings occur, and it should comply with the modified policies; and</li> <li>• Report to the Joint Legislative Audit Committee by December 6, 2023, on its efforts to comply with these recommendations.</li> </ul>	<p>WEDC has updated its website to include meeting agendas and minutes going back for a three-year period. WEDC has updated its practices to ensure that agendas and minutes are timely posted. Agendas and minutes older than three years are retained internally and can be requested via an open records request.</p> <p>WEDC’s Board of Directors met on November 28<sup>th</sup> and considered the recommendation that meeting materials be posted on the website in advance of meetings. The Board of Directors voted that WEDC should continue following its existing procedures to post meeting agendas and minutes on its website.</p>
2	22	<p>We recommend the Wisconsin Economic Development Corporation:</p> <ul style="list-style-type: none"> <li>• Beginning on July 1, 2023, and every six months thereafter, determine the remaining balance of past-due repayments for all loans 90 days or more past due;</li> <li>• Determine the remaining balance for all of these loans that were amended to defer repayments, written off, or forgiven from July 2023 through December 2023, and then during each six-month period thereafter;</li> <li>• 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;</li> <li>• Determine the payment delinquency rate and the principal delinquency rate on the first and last day of each six-month period; and</li> <li>• Report this information to the Joint Legislative Audit committee by February 1, 2024, for the six-month period from July 2023 through December 2023, and then report this information every six months thereafter.</li> </ul>	<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 with this information every six months.</p> <p>Additionally, since July 2013, staff have provided the WEDC Board of Directors with a Quarterly Credit &amp; Risk Report. In addition to a historical trends analysis, this report includes the following information:</p> <p>Past due loans,  Performance-based loans forgiven,  Charged-off loans,  Tax Credit Revocations,  Overdue Performance Reports,  Overdue Schedule of Expenditures,  New Awards Originated, and  Amendments.</p>

<p>3</p>	<p>24</p>	<p>We recommend the Wisconsin Economic Development Corporation:</p> <ul style="list-style-type: none"> <li>• Modify its Enterprise Zone program written procedures to require it to award program tax credits only for the wages paid to employees for service performed in an enterprise zone, as is statutorily required;</li> <li>• Require all recipients of Enterprise Zone program tax credits to provide information on the amount of wages paid to employees for services performed in enterprise zones, and</li> <li>• Report to the Joint Legislative Audit Committee by December 6, 2023, on its efforts to implement these recommendations.</li> </ul>	<p>As noted in our hearing before JLAC on November 8<sup>th</sup>, WEDC requests the assistance of the legislature in modifying the statutory language regarding Enterprise Zone tax credits. We have had conversations with legislators on prospective changes and anticipate that the changes to the statute will be incorporated into the currently-pending AB 627 and SB 585.</p> <p>The Enterprise Zone statute identified that job tax credits are based on wages paid to full-time employees for services that are performed within an enterprise zone. WEDC is optimistic about progress for updating the statute, as strict adherence to this requirement necessarily means that WEDC must require the employer recipient of the credits to constantly track their employees’ location at any time they are doing work.</p> <p>If legislative change is not successful, we will modify our written procedures and reporting requirements of our recipients to require that, for each employee reported, the recipient business tells us whether and how much of the time each employee worked outside of the enterprise zone. This will be audited as part of our third-party verification process, which all enterprise zones are subject to. During the audit, the recipient business will need to provide documentation substantiating each employees’ whereabouts during the year so our third-party auditor can validate whether and how much of the employee’s time was spent working outside of the zone.</p>
<p>4</p>	<p>27</p>	<p>We recommend the Wisconsin Economic Development Corporation:</p> <ul style="list-style-type: none"> <li>• Require five recipients to repay a total of \$50,000 in Main Street Bounceback grants that were awarded contrary to U.S. Treasury guidance, and then return the repaid funds to DOA;</li> <li>• Ensure its program policies comply with all federal requirements;</li> <li>• Ensure its program policies are clear, particularly when it provides funds to third-parties that are responsible for awarding these funds to entities; and</li> <li>• Report to the Joint Legislative Audit Committee by December 6, 2023, on its efforts to implement these recommendations.</li> </ul>	<p>After conducting additional diligence, WEDC has determined that only one of the five identified MSBB awards requires repayment.</p> <p><u>Three business that indicated having 500 employees or more:</u></p> <p>WEDC, in consultation with DOA, has determined that three grant awards at issue were properly awarded in compliance with the U.S. Treasury Department’s final rule governing the State and Local Fiscal Recovery Fund (SLFRF), and therefore it is not necessary to require those grantees to repay their awards.</p> <p>The LAB’s finding and recommendation on this issue is based on the assumption that Treasury prohibits states from using SLFRF funds to provide assistance to businesses with more than 500 employees. That assumption is incorrect. Treasury’s final rule governing SLFRF permits states to use their SLFRF awards to address “negative economic impacts” of the COVID-19 pandemic, including by providing economic assistance to businesses regardless of their size.</p> <p>The LAB’s finding here appears to be the result of how DOA categorized the Main Street Bounceback Program for purposes of Treasury reporting. In its Treasury report, DOA categorized Main Street Bounce Back using a code that indicated the program was focused on the rehabilitation of vacant properties. Because that code</p>

			<p>falls under the “small business assistance” heading, and Treasury defines small businesses as those having fewer than 500 employees, LAB applied the 500 employee limitation to the program.</p> <p>The overwhelming majority of businesses that received Main Street Bounceback grants were small businesses under the Treasury definition. DOA has contacted Treasury to seek feedback with respect to how Treasury would like this type of program categorized – either using the more specific rehab of vacant properties category, or a more general category for state programs that respond to negative economic impacts that won’t carry the small business limitation. Regardless of the reporting category used by DOA, the issuance of these grants to the five businesses was eligible under the Treasury’s final rule.</p> <p>WEDC understands that DOA will make any necessary updates to the categorization in its next Treasury report and, further that this type of recategorization is permissible.</p> <p>Therefore, requiring the grantees to repay the State is not necessary.</p> <p><u>The University of Wisconsin (UW) System was awarded two grants totaling \$20,000:</u> LAB found that, even though U.S. Treasury guidance permitted ARPA funds to be used only by small businesses to rehabilitate commercial spaces, and WEDC’s policies prohibited government entities from being awarded grants, two government entities received MSBB grants.</p> <p>WEDC has further reviewed the two grants identified by LAB and has determined that one was made to a governmental entity and WEDC is seeking repayment, and the other was not to governmental entities but to a nonprofit 501(c)(3).</p> <p>WEDC will continue to ensure that program guidelines and procedures are clear and comply with federal requirements.</p>
5	29	<p>We recommend the Wisconsin Economic Development Corporation:</p> <ul style="list-style-type: none"> <li>• Take action regarding three awards for which its consultant was unable to verify all performance information for 2020;</li> <li>• Modify its written procedures to ensure issues identified through the annual verification process are promptly addressed; and</li> <li>• Report to the Joint Legislative Audit Committee by December 6, 2023, on its efforts to implement these recommendations.</li> </ul>	<p>WEDC has transitioned the management of the third-party annual verification process to its Servicing team and has modified the processes to include the following two steps to ensure award verifications are promptly addressed in the future:</p> <ol style="list-style-type: none"> <li>1. The third-party auditor provides a direct weekly email with updates on status of each award under review; and</li> <li>2. WEDC staff create an outstanding “compliance item” within our award management system that will alert staff that the award is under review through the third-party audit.</li> </ol> <p>The three awards in question have been followed-up on by WEDC staff and our third-party auditor. Of those three, two have been resolved without issue and the</p>

			<p>remaining one had questions about the provision of employee benefits, which the company has responded to. Because this was the first year the third-party auditor reviewed the provision of employee benefits, there was some clarification needed on what was asked of the companies. This clarity has been provided and will be incorporated into the audit scope for future years.</p>
6	30	<p>We recommend the Wisconsin Economic Development Corporation:</p> <ul style="list-style-type: none"> <li>• Comply with statutes by modifying its policies to require it to collect repayment from all grant and loan recipients that do not provide a satisfactory explanation for not complying with their contracts;</li> <li>• Require eight recipients to repay \$64,300 identified in its verification efforts of programs supported by supplemental federal funds and return the repaid funds to the Department of Administration; and</li> <li>• Report to the Joint Legislative Audit Committee by December 6, 2023, on its efforts to implement these recommendations.</li> </ul>	<p>With respect to the first recommendation, WEDC agrees with the LAB's recommendation and will ensure that WEDC program staff take the corrective measures required by sec. 238.03(3)(b) when grantees and loan recipients do not provide satisfactory explanations for noncompliance with their contracts. In its report, the LAB identifies three grant recipients involving a total of \$15,000, for which the required corrective measures were not taken. WEDC will be sending out additional communications to those three grantees informing them that if they do not provide the requested information about their expenditures of grant funds, WEDC will seek to recoup those payments.</p> <p>With respect to the second recommendation, WEDC has determined that it is more appropriate to take a different approach than that recommended by LAB. This recommendation relates to five grantees who spent their grant award funds after the December 31, 2020 deadline specified in their grant agreement, but before December 31, 2021 as permitted by the federal CARES Act, which governed the State's use of these funds. Because the grantee's use of the funds was consistent with the program's purpose of keeping small businesses operating during the pandemic, and was consistent with governing federal law, WEDC has elected to formally waive the December 31, 2020 contractual deadline for these grantees. This decision was reached in consultation with the Department of Administration, which has no objection to this approach.</p>
7	42	<p>We recommend the Wisconsin Economic Development Corporation:</p> <ul style="list-style-type: none"> <li>• Develop written policies that require it to revoke tax credits in a timely manner if a recipient did not meet contractual obligations;</li> <li>• Consistently comply with its written policies by revoking tax credits in a timely manner; and</li> <li>• Report to the Joint Legislative Audit Committee by December 6, 2023, on its efforts to implement these recommendations.</li> </ul>	<p>WEDC has updated its servicing procedures to indicate that awards that face revocation are given a notice of revocation as soon as the determination is made. WEDC staff are consistently complying with these procedures.</p>

<p>8</p>	<p>44</p>	<p>We recommend the Wisconsin Economic Development Corporation:</p> <ul style="list-style-type: none"> <li>• Determine more-specific organization-wide goals, annually track its progress toward meeting these goals, and annually assess whether modifications to the goals are necessary;</li> <li>• Annually determine and document in one location how individual programs are expected to help achieve the organization-wide goals;</li> <li>• Annually document the reasons why it provided specific amounts of funding to support individual programs;</li> <li>• Annually and comprehensively assess and document the extent to which each program achieved its anticipated results and helped WEDC to achieve its organization-wide goals;</li> <li>• Use information from this process to make any necessary programmatic modifications; and</li> <li>• Report to the Joint Legislative Audit Committee by December 6, 2023, on its efforts to implement these recommendations.</li> </ul>	<p>WEDC agrees and recognizes that evaluation of programs is critical to determining the best means of deploying its resources. To this end, WEDC is improving internal program evaluation processes and has engaged a third party to evaluate the Business Development Tax Credit Program. Evaluation processes will include, but will not be limited to, establishing criteria for evaluating each program’s success that are quantitative, measurable, and aligned with goals, both for the program and for WEDC’s strategic investment priorities.</p>
<p>9</p>	<p>48</p>	<p>We recommend the Wisconsin Economic Development Corporation:</p> <ul style="list-style-type: none"> <li>• Improve the accuracy of its statutorily required annual economic development program report;</li> <li>• Annually archive the webpages for each program in its annual economic development reports; and</li> <li>• Report to the Joint Legislative Audit Committee by December 6, 2023, on its efforts to implement these recommendations.</li> </ul>	<p>WEDC provides job details on each award on its site for transparency as to each individual award. However, WEDC eliminates duplication when aggregating data for analysis and reporting purposes, to prevent double-counting of jobs. WEDC has efforts underway to make the accurate number of jobs per recipient clearer to the user for the report due October 1, 2024.</p> <p>WEDC currently has processes in place to archive webpages for each program in its annual economic development reports.</p> <p>Details of all awards are updated quarterly and publicly available online at <a href="http://wedc.org">wedc.org</a>, 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 WEDC remains committed to providing the highest level of transparency regarding program outcomes. WEDC and LAB are meeting on December 11<sup>th</sup> to discuss ways to improve the presentation of the Annual Report on Economic Development.</p>