



STATE OF WISCONSIN

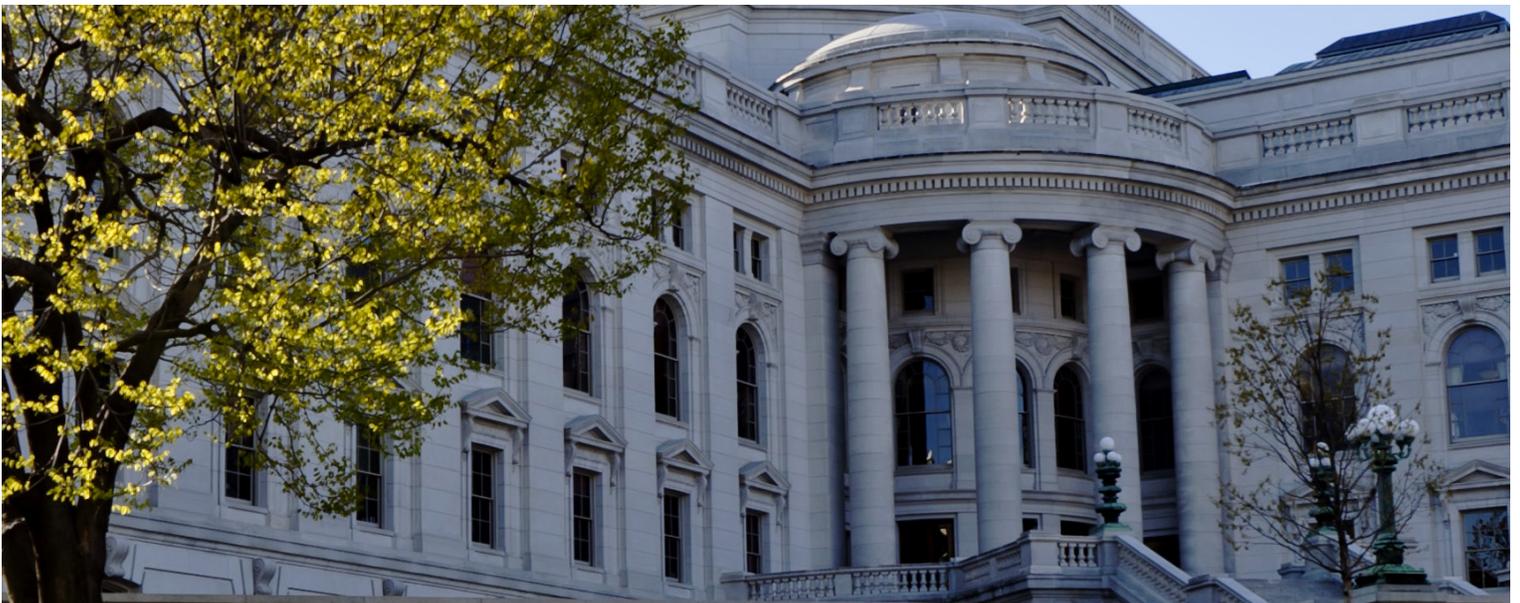
Legislative Audit Bureau

NONPARTISAN • INDEPENDENT • ACCURATE

Report 22-2
January 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

State Auditor
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Response

From WEDC's Chief Executive Officer



STATE OF WISCONSIN

Legislative Audit Bureau

Joe Chrisman
State Auditor

22 East Mifflin Street, Suite 500
Madison, Wisconsin 53703

Main: (608) 266-2818
Hotline: 1-877-FRAUD-17

www.legis.wisconsin.gov/lab
AskLAB@legis.wisconsin.gov

January 26, 2022

Senator Robert Cowles and
Representative Samantha Kerkman, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Cowles and Representative Kerkman:

As required by s. 13.94 (1) (u), Wis. Stats., we evaluated whether the Wisconsin Economic Development Corporation (WEDC) adhered to statutory and contractual requirements when it verified the amount of Electronics and Information Technology Manufacturing Zone program tax credits to award to recipients as a result of their efforts to create jobs and make capital investments. In report 21-21, we evaluated WEDC's process for verifying the information submitted by recipients of program tax credits and recommended that WEDC modify its written procedures for awarding program tax credits.

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, it may be awarded performance tax credits if it creates more than 1,163 jobs filled by eligible employees in 2024 and 2025.

The contract specifies that WEDC could award up to \$29.1 million in program tax credits to Foxconn for creating jobs and making capital investments in 2020. In late-December 2021, WEDC awarded \$28.8 million in 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 \$28.8 million in program tax credits that it awarded to Foxconn.

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

Respectfully submitted,

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," 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.

On December 14, 2021, we released report 21-21, which evaluated WEDC’s process for verifying information submitted by recipients of program tax credits. At the time of our fieldwork in completing report 21-21, WEDC had not yet awarded any program tax credits to Foxconn for creating jobs and making capital investments. On December 22, 2021, WEDC awarded \$28.8 million in program tax credits to Foxconn for creating jobs and making capital investments in 2020. Our current report evaluates whether WEDC adhered to statutory and contractual requirements when it verified these program tax credits that it awarded in late-December 2021.

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 in April 2021 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 2020.

Program Tax Credits

Under the April 2021 contract, Foxconn may be annually awarded program tax credits for creating jobs and for 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 for 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, Foxconn needed to create at least 481 jobs filled by eligible employees at the end of 2020 in order to be awarded any program tax credits for 2020. 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 tax credits available in a given year for capital investments, the unawarded tax credits carry forward and may be awarded in future years. However, unawarded tax credits for job creation do not carry forward.

The April 2021 contract required Foxconn to report to WEDC by July 1, 2021, on the jobs it created and the capital investments it made in 2020. The contract also requires 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 September 1, 2021.

Foxconn and the CPA firm each reported the contractually specified information to WEDC in a timely manner. Using this information, WEDC determined that Foxconn had created 579 jobs filled by eligible employees at the end of 2020. Because Foxconn had created at least 481 jobs, it was contractually eligible to be awarded up to \$29.1 million in program tax credits for creating jobs and making capital investments in 2020.

WEDC awarded Foxconn \$28.8 million of the available \$29.1 million in program tax credits for creating jobs and making capital investments in 2020.

As shown in Table 1, WEDC awarded Foxconn \$28.8 million of the available \$29.1 million in program tax credits for creating jobs and making capital investments in 2020. WEDC awarded Foxconn \$2.2 million for creating jobs and \$26.6 million for making capital investments. The \$0.2 million in unawarded program tax credits for making capital investments will carry forward and may be awarded in future years if Foxconn makes sufficient capital investments in those years.

Table 1

Amounts of Program Tax Credits That WEDC Awarded to Foxconn for Creating Jobs and Making Capital Investments in 2020^{1,2}

Under the April 2021 Contract

	Tax Credits (in millions)		
	Available to Award	Actually Awarded	Carried Forward ³
Job Creation	\$ 2.2	\$ 2.2	—
Capital Investment	26.9	26.6	\$0.2
Total	\$29.1	\$28.8	\$0.2

¹ Foxconn needed to create at least 481 jobs in order to be awarded program tax credits for 2020.

² WEDC awarded the program tax credits to Foxconn in late-December 2021.

³ Unawarded capital investment tax credits carry forward and may be awarded in future years.

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. Statutes and the contract require WEDC to award Foxconn program tax credits at a rate of 17.0 percent of the wages of such employees, but WEDC cannot award program tax credits for any wages exceeding \$100,000 per employee.

Statutes and the contract require WEDC to award program tax credits for the wages paid to employees for services performed in Wisconsin.

Statutes and the contract require WEDC to award 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 statutes define to be the wages paid to employees for services performed in Wisconsin.

WEDC's April 2021 written procedures indicate that WEDC will award program tax credits for only the wages paid to employees for services performed in Wisconsin. The procedures require Foxconn to report the wages paid to each employee for services performed outside of Wisconsin, and they require WEDC to exclude these wages from its calculations of the amount of program tax credits to award. In report 21-21, we found that the written procedures for awarding program tax credits for job creation complied with the contract, and that contractual provisions for awarding program tax credits complied with statutes.

The CPA firm was unable to verify the number of hours that Foxconn's employees had performed services outside of Wisconsin in 2020.

In July 2021, Foxconn reported its 2020 payroll information to WEDC. This payroll information indicated that all reported employees had performed some services in Wisconsin in 2020. The CPA firm reviewed this payroll information and reported to WEDC in August 2021 that it was unable to verify the number of hours that Foxconn's employees had performed services outside of Wisconsin in 2020.

To calculate the amount of program tax credits to award, WEDC reviewed Foxconn's payroll information and the CPA firm's report. In its calculations, WEDC included \$29.7 million in wages that Foxconn paid in 2020. However, WEDC excluded all of the wages that Foxconn paid to 69 employees who had performed services both in Wisconsin and outside of Wisconsin, including \$4.4 million in wages for services performed in Wisconsin. WEDC indicated that it excluded the \$4.4 million in wages because the CPA firm was unable to verify the number of hours that the employees had performed services outside of Wisconsin. Although WEDC excluded these wages, it awarded Foxconn the contractually specified maximum amount of program tax credits for creating jobs because Foxconn had created enough jobs and paid enough wages to employees who performed services only in Wisconsin. WEDC indicated that Foxconn plans to provide additional information

to allow the CPA firm to verify the number of hours that Foxconn's employees perform services outside of Wisconsin in future years.

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 2020. We found that WEDC followed its written procedures when it verified Foxconn's payroll information.

Capital Investments

Statutes and the April 2021 contract allow WEDC to award Foxconn program tax credits for making capital investments from 2020 through 2024 if WEDC determines that Foxconn made significant capital investments in the zone, which is contractually defined to be Foxconn's business facilities within specified geographic boundaries in Racine County. These tax credits are calculated at a rate of 10.0 percent of eligible capital investments made by Foxconn in a given year.

The CPA firm identified concerns with the information Foxconn reported to WEDC in July 2021.

In July 2021, Foxconn reported to WEDC that it had made \$266.7 million in capital investments in 2020. In August 2021, the CPA firm reported to WEDC that it had identified concerns with the information Foxconn reported. The CPA firm was unable to verify five capital investments that Foxconn reported it had made, and the CPA firm determined that another capital investment was ineligible for program tax credits.

To calculate the amount of program tax credits to award, WEDC reviewed Foxconn's capital investment information and the CPA firm's report. WEDC entirely excluded 24 capital investments and portions of 2 other capital investments that Foxconn reported having made, all of which WEDC determined were either ineligible for program tax credits or not maintained in the contractually specified zone. WEDC determined that Foxconn had made \$266.1 million in capital investments that were eligible for program tax credits.

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 2020. We found that WEDC followed its written procedures when it verified Foxconn's capital investment information.

■ ■ ■ ■

Response



January 21, 2022

Mr. Joe 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) verification of tax credits to 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.

WEDC is pleased that LAB's report found that "WEDC adhered to statutory and contractual requirements, as well as its written procedures" in verifying Foxconn's tax credits.

We appreciate the courtesy extended by LAB during this process.

Sincerely,

Melissa L. Hughes
Secretary and CEO

201 W. Washington Avenue
Madison, WI 53703

608.210.6700
855-INWIBIZ
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