



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

May 19, 2015

Joint Committee on Finance

Paper #302

Reporting Requirements of Grant and Loan Recipients (Wisconsin Economic Development Corporation/ Forward Wisconsin Development Authority)

[LFB 2015-17 Budget Summary: Page 167, #6]

CURRENT LAW

The Wisconsin Economic Development Corporation's (WEDC's) Board must require all of the following for each program it develops and implements:

a. That each recipient of an economic development grant or loan of at least \$100,000 submit, within 120 days after the end of the recipient's fiscal year in which any grant or loan funds were expended, a schedule of expenditures of the grant or loan funds, including expenditures of any matching cash or in-kind match, signed by the director or principal officer of the recipient to attest to the accuracy of the schedule of expenditures. The recipient must engage an independent certified public accountant (CPA) to perform procedures, approved by WEDC and consistent with applicable professional standards of the American Institute of CPAs, to determine whether the grant or loan funds and any matching cash or in-kind match were expended in accordance with the grant or loan contract. The Board must also require the recipient of such a grant or loan to make available for inspection the documents supporting the schedule of expenditures. The Board must include these requirements in the contract with the grant or loan recipients.

b. If a recipient of a grant or loan under the program submits false or misleading information or fails to comply with the terms of a contract entered into with WEDC without providing satisfactory explanation for the noncompliance, all of the following are to occur: (1) recoupment of payments made to the recipient; (2) withholding of future payments to the recipient; and (3) a financial penalty is to be imposed on the recipient.

GOVERNOR

The budget bill introduced by the Governor would merge WEDC with the Wisconsin Housing and Economic Development Authority to create the Forward Wisconsin Development Authority (FWDA), effective January 1, 2016. However, on May 8, 2015, the Governor announced that he was requesting that provisions associated with the proposed merger be removed from the budget bill. The remainder of this paper describes changes as they would apply to WEDC's grant and loan reporting requirements, instead of FWDA's.

Under the budget bill, WEDC would have to require all of the following for each economic development program it develops and implements:

a. That each recipient of a grant or loan must submit, within 120 days after the end of the recipient's fiscal year in which any grant or loan funds were expended, or at a different time as provided in policies and procedures approved by WEDC's Board, an attestation signed by the director or principal officer of the recipient. The attestation would have to verify that the grant or loan funds and any matching cash or in-kind match were expended in accordance with the grant or loan contract.

b. That each recipient of a grant or loan under the program of at least \$500,000 engage an independent CPA to perform procedures, approved by WEDC and consistent with applicable professional standards of the American Institute of CPAs, to determine whether the grant or loan funds and any matching cash or in-kind match were expended in accordance with the grant or loan contract.

c. That each recipient make available for inspection the documents supporting the attestation submitted to the Corporation.

d. That contracts with grant and loan recipients include the requirements listed above.

e. That WEDC, if a recipient of a grant or loan under the program submits false or misleading information or fails to comply with the terms of a contract entered into with the Corporation, without providing satisfactory explanation for the noncompliance, do all of the following: (1) recoup payments made to the recipient; (2) withhold future payments to be made to the recipient; and (3) impose a financial penalty on the recipient. This is the same as item "b" that was described under WEDC's current law provisions.

These provisions would not apply to a state department, an independent agency, an authority, or the University of Wisconsin System. These provisions would replace WEDC's current law provisions and would first apply to grant and loan contracts entered into on January 1, 2016, or on the day following publication of the bill, whichever is later.

DISCUSSION POINTS

1. The budget bill would increase from \$100,000 to \$500,000 the threshold for when a grant or loan recipient must engage a CPA to determine whether the funds were expended in

accordance with the grant or loan contract. WEDC has stated that the current threshold can be costly for persons receiving awards of less than \$500,000 as compared to the benefit received by the recipient. According to WEDC, the typical cost of obtaining a schedule of expenditures from a CPA is \$5,000, which would represent 5% of a \$100,000 grant or loan award.

2. In 2013-14, WEDC entered into 36 loan contracts for \$18.9 million in new loans and entered into 138 grant contracts for \$17.2 million in grant awards for economic development purposes. Of these: (a) 91 grants and three loans were for less than \$100,000; (b) 40 grants and 24 loans were for at least \$100,000 but less than \$500,000; and (c) seven grants and nine loans were for \$500,000 or more. In total, if the threshold at which a grant or loan recipient must engage a CPA had been \$500,000, as proposed under the bill, only seven grant and nine loan contracts would have had to engage a CPA in 2013-14, as compared to 47 grant contracts and 33 loan contracts under the current law threshold of \$100,000.

3. Under the bill, a recipient of any award amount would be statutorily required to make available for inspection the documents supporting the grant or loan funds that were expended in accordance with the grant or loan contract. Under current law, only recipients of awards of at least \$100,000 are statutorily required to make their supporting documents available to WEDC. According to WEDC, it is already practice for loan or grant recipients to make their books available for the Corporation's inspection, regardless of the contracted award size. This change would codify in statute WEDC's current policy.

4. Current law requires an annual report from WEDC grant or loan recipients within 120 days of the end of the recipient's fiscal year that includes the schedule of expenditures during that fiscal year. Under the bill, WEDC would, instead, have to require that each grant or loan recipient required to engage an independent CPA submit the aforementioned attestation to the Corporation within 120 days after the end of the recipient's fiscal year in which any grant or loan funds were expended, or at a different time as provided in policies and procedures approved by the Board.

5. According to WEDC, requiring the annual report within 120 days following the end of a recipient's fiscal year sometimes overlaps with a company's tax season and adds workload for the recipient during a busy time of the year. In addition, if grant and loan awards are spent by the recipient over a period of time that overlaps two fiscal years, the current reporting requirement could require a grant or loan recipient to engage an independent CPA to create two schedules of expenditures, which would add to the recipient's administrative costs associated with the grant or loan award. The budget provision would provide WEDC additional flexibility to amend the timing of the reporting requirement to mitigate additional workload for a company during busier times, or to allow a company that expends a grant or loan over a period of a few months overlapping two fiscal years to file a single report. It is not known at this time what policies and procedures would be adopted by the Board and implemented for when a grant or loan recipient would be required to attest to its annual expenditures under the bill.

6. The bill would no longer require recipients of WEDC grants or loans to submit a schedule of expenditures of the grant or loan funds, which currently must include expenditures of any matching cash or in-kind match, signed by the director or principal officer of the recipient to attest to the accuracy of the schedule of expenditures. The Corporation indicates that a schedule of

expenditures would still be created by an independent CPA on behalf of the recipient in order to attest to the accuracy of the expenditures; however, the recipient would no longer have to submit the schedule to WEDC.

7. According to WEDC, grant and loan recipients currently provide the Corporation with detailed expense information throughout the entire grant and loan award and disbursement process. Grant and loan recipients are contractually obligated to submit expense information in annual reports to WEDC and are required to make the appropriate company financial records available to the Corporation at any time. Because of these policies, WEDC does not consider it necessary to receive a schedule of expenditures at the end of each recipient's fiscal year. WEDC does not anticipate any cost savings for either the recipient or the Corporation from deleting the required annual submission of a schedule of expenditures.

8. The bill would exempt a state department, an independent agency, an authority, or the University of Wisconsin System from meeting WEDC's reporting requirements. According to WEDC, the exemption has been proposed because state-related agencies are already subject to a high level of accounting and auditing practices. The Corporation states that requiring a state-related entity to either engage an independent CPA or to submit a schedule of expenditures is an unnecessary expense because of the current law auditing requirements already in place for state entities.

9. As compared to current law, the bill generally relaxes the reporting requirements for recipients of economic development grants and loans. The Committee could choose to modify the Governor's proposal to restore one or more of the current law requirements.

10. It should be noted that, on May 8, 2015, the Legislative Audit Bureau (LAB) released a financial audit of WEDC and a program evaluation audit of the Corporation's economic development programs. According to the LAB, WEDC did not comply with the statutory requirements under current law described above. In 2013-14, 11 of 25 contracts examined by the LAB for grants or loans of \$100,000 or more that were executed by WEDC did not include a requirement that the recipient provide the statutorily required schedule of expenditures. Instead, the 11 contracts required recipients to provide verified financial statements. The LAB also noted that WEDC generally had not sent past due notice to, or taken any action against, two-thirds of grant and loan recipients who had not timely filed a schedule of expenditures as of December of 2014 (for a total contracted value of \$8.4 million), and the Corporation has not consistently collected statutorily required financial information from grant recipients since WEDC became fully operational in July of 2011. The LAB did not recommend any statutory changes to WEDC's grant reporting requirements. Instead, the LAB recommended that the Board comply with its current statutes by: (a) requiring all recipients of grants and loans of at least \$100,000 to submit schedules of expenditures; and (b) ensuring its staff comply with WEDC's own policies by sending notices in a timely manner to all grant and loan recipients that do not submit contractually required schedules of expenditures on time.

ALTERNATIVES

1. Approve the Governor's recommendation, but specify that the changes apply to WEDC's grant reporting requirements, rather than those of FWDA.
2. Apply the statutory changes recommended by the Governor to WEDC, except for one or more of the following:
 - a. Lower the dollar threshold for when a grant or loan recipient must engage an independent CPA from \$500,000, as proposed under the bill, to the current law threshold of \$100,000.
 - b. Eliminate the Board's ability to adopt policies and procedures allowing a grant or loan recipient to report at a different time other than the current law requirement that the recipient must submit a report no more than 120 days following the end of the recipient's fiscal year in which any grant or loan funds were expended.
 - c. Require a grant or loan recipient who is required to engage an independent CPA to provide a schedule of expenditures, including matching cash or in-kind match, with a copy of the attestation required under bill.
 - d. Delete the exception under the bill that a state department, an independent agency, an authority, or the University of Wisconsin System is not subject to the statutory reporting requirements.
3. Delete provisions.

Prepared by: Sean Moran