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January 8, 2014

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Wisconsin Economic Development Corporation: Request for Fiscal Year 2014-15 Funding -- Agenda Item V

REQUEST

On October 28, 2013, the Wisconsin Economic Development Corporation (WEDC) requested transfer of fiscal year 2014-15 funding in the Joint Committee on Finance (JFC) GPR and SEG supplemental appropriations to the WEDC operations and programs, economic development fund programs, and brownfield site assessment grants appropriations. In its request, WEDC indicates that it would use a July 1, 2013, excess unassigned fund balance of $18.4 million to fund increased marketing expenses, and to offset a portion of fiscal year 2014-15 operating expenses. More specifically, the Corporation indicates that it would use a portion of the excess unassigned fund balance to fund increased marketing expenses in fiscal years 2013-14 and 2014-15, and, as a result, it would not request transfer of $3,750,000 GPR annually that was placed in the JFC supplemental appropriation for this purpose. In addition, WEDC would apply the remaining $10,900,000 of the excess unassigned fund balance to the Corporation's 2014-15 operating expenses, and that the amount of GPR transferred from the JFC supplemental appropriation to the WEDC operations and programs GPR appropriation could be reduced by this amount. Although the WEDC request does not identify specific amounts, the net effect of the request would appear to be to transfer the following: [a] $24,374,700 GPR from the JFC supplemental appropriation under s. 20.865 (4) (a) to the WEDC GPR operations and programs appropriation under s. 20.192 (1) (a); [b] transfer $19,276,000 SEG from the JFC supplemental appropriation under s. 20.865 (4) (u) to the WEDC economic development fund programs appropriation under s. 20.192 (1) (r); and [c] transfer $1,000,000 SEG from the JFC supplemental appropriation to the WEDC brownfield site assessment grants program under s. 20.192 (1) (s).

ANALYSIS

The Wisconsin Economic Development Corporation (WEDC) was created to replace the Department of Commerce as the state's lead agency in promoting economic development. Under 2011 Wisconsin Act 7, WEDC was created as a public body corporate and politic, with a governing Board of Directors. Under the provisions of 2011 Wisconsin Act 32 (the 2011-13 biennial budget), Commerce was eliminated and statutory responsibility for creating and administering economic development programs, providing certain related technical assistance, and administering existing programs and several tax credits was transferred to WEDC. Unlike most statutory state authorities, WEDC receives most of its funding from annual state appropriations provided to the Corporation. Under 2013 Wisconsin Act 20 (the 2013-15 biennial budget), WEDC is provided $35,274,400 GPR and $20,276,300 SEG in 2013-14. The SEG funding includes $1,000,000 annually for brownfield site assessment grants from the environmental management account of the environmental fund.

2011 Wisconsin Act 7 included a provision that requires the Legislative Audit Bureau (LAB) to conduct, biennially, a financial audit of WEDC and a program evaluation audit of WEDC's economic development programs, beginning in 2013. In May 2013, the LAB completed an audit (Report 13-7) in which the Bureau made recommendations to improve WEDC's administration of its economic development programs, its financial and personnel management, and the governance of its operations. In response to the Audit, the Joint Committee on Finance adopted a number of provisions that were included in 2013 Wisconsin Act 20, that are intended to improve WEDC operations.

Specifically, Act 20 includes the following provisions:

a. A total of $35,274,700 GPR and $20,276,000 SEG in 2014-15 was transferred from WEDC to the Joint Committee on Finance's GPR and SEG supplemental appropriations. WEDC is required submit a report to the Joint Committee on Finance that includes information indicating that the Corporation is complying with the recommendations of the LAB included in the May, 2013, audit of WEDC, and the chief executive officer of WEDC is required to appear before the Committee at the second quarterly meeting in fiscal year 2013-14 under s. 13.10 of the statutes (December, 2013). The Committee may release the funding based on the CEO's testimony, and the information included in the report if it determines WEDC is complying with the audit recommendations.

b. WEDC may not establish a nonprofit organization unless the CEO of WEDC submits a request to the Joint Committee on Finance for approval, detailing the specific provisions of any proposal to create any nonprofit foundation or corporation, and to appear at the Committee meeting where the request is considered.

c. Beginning in 2014, the WEDC Board is required to have an annual independent audit conducted of the Corporation's financial statements for the previous fiscal year, and to submit the audit report to the Joint Legislative Audit Committee, and the Chief Clerk of each house of the Legislature, for distribution to the Legislature.

d. All employees of WEDC are subject to state ethics laws, and required to file an annual statement of economic interest.

e. The WEDC Board is required to adopt procurement policies and procedures that specify all of the following: (1) when the Corporation is required to publicly solicit proposals from multiple vendors of goods or services; (2) how WEDC is to evaluate proposals from multiple vendors; and (3) how the Corporation is to assess any potential conflicts of interest a vendor may have if the vendor sells goods or services to WEDC.

f. The annual report submitted to the Joint Legislative Audit Committee and the Legislature must include: (1) an accounting of the location, by municipality, of each job created or retained in the state in the previous fiscal year as a result of the program; (2) an accounting of the industry classification, by municipality, of each job created or retained as a result of the program; (3) the amount of tax benefits allocated and verified under the program; and (4) the recipients of tax benefits allocated and verified under the program.

g. The WEDC Board of Directors must require, in the contract with each recipient of a grant or loan of $100,000 or more, from a WEDC economic development program, the recipient to submit to WEDC a schedule of expenditures of the grant or loan funds signed by the director or principal officer of the recipient that attests to the accuracy of the schedule of expenditures. The Board must require the recipient to prepare a schedule of any grant or loan expenditures, including any cash or in-kind match, within 120 days after the end of the fiscal year in which the final grant or loan expenditures were made. In addition, the recipient is required to engage a certified public accountant to perform appropriate, agreed-upon procedures to determine whether the recipient expended the grant or loan funds in accordance with the grant or loan contract. The agreed-upon procedures have to be performed in accordance with applicable professional standards of the American Institute of Certified Public Accountants. Recipients would be required to make the schedule of grant or loan expenditures available for inspection.

h. WEDC is to provide the following reports to the Joint Legislative Audit Committee: (1) by October 1, 2013, the status of the Corporation's efforts to comply with; (a) creating all required economic development program rules; (b) stipulating contractually that all recipients of grants and loans of $100,000 or more must provide WEDC with a verified financial statement describing how the funds were spent and ensuring that recipients submit the verified financial statements; (c) developing at least one expected result for each of the goals of all economic development programs that it administers; (d) ensuring that recipients of economic development grants and loans submit the contractually required progress reports; (e) annually verifying the performance information reported by the recipients of a sample of grants and loans; and (f) ensuring the annual economic development report presents clear, accurate, and complete information on each program's results; and, (2) by October 1, 2013, the status of all outstanding economic development loans for which it was responsible from January, 2013, through September, 2013, including the number and outstanding balance of loans it amended, the number and outstanding balance of loans it forgave, the number and outstanding balance of loans it referred to the Department of Justice for collection proceedings, and the number and outstanding balance of loans it wrote off.

As introduced by the Governor, the 2013-15 biennial budget (2013 Assembly Bill 40) would have provided $3,750,000 GPR in 2013-14 and $7,150,000 GPR in 2014-15 primarily for increased marketing activities. The provision was modified by the Joint Committee on Finance during its budget deliberations. Under the provisions of Act 20, $3,750,000 GPR that was provided for WEDC marketing activities in fiscal years 2013-14 and 2014-15 was transferred to the Joint Committee on Finance's supplemental GPR appropriation. WEDC was required to submit a plan in 2013-14, for Committee approval, specifying the extent to which marketing expenses may be funded with existing funds, rather than requiring additional GPR funding. Under 2013 Act 20, a total of $118.6 million is either appropriated directly to WEDC or placed in the Joint Committee on Finance supplemental appropriations as shown in the following table.

TABLE 1

Economic Development Corporation Related Appropriations

	WEDC		Jt. Finance Supplemental	
	FY 14	FY 15	FY 14	FY 15
GPR	$35,274,400	$0	$3,750,000	$39,024,700
SEG	20,276,300	0	0	20,276,000
Total	$55,550,700	$0	$3,750,000	$59,300,700

Compliance with Audit Recommendations

On October 1, 2013, WEDC submitted a compliance plan to the Joint Legislative Audit Committee that included a summary of accountability measures WEDC has undertaken in response to the Corporation's internal assessment, and recommendations made by "external reviewers." Included in the plan are the measures WEDC has taken to address the specific recommendations made by LAB in the May 2013 audit. The LAB recommendations and WEDC measures taken in response and included in the compliance report are summarized in the following sections.

The May, 2013, LAB audit made a number of recommendations concerning WEDC administration of financial assistance and tax credit programs, compliance with accountability requirements and program results measures, financial and personnel management, and corporate governance.

Financial Assistance Programs. The LAB audit found that WEDC had not developed sufficient policies for all of its grant and loan programs, did not always assess the eligibility of grant and loan recipients, and did not always comply with contract oversight statutes. LAB made the following recommendations to improve administration of WEDC grant and loan programs:

a. Establish sufficient policies to administer the Corporation's grant and loan programs effectively.

WEDC is in the process of implementing a number of corporate policies, including GOV ADM 126 - Program Guidelines Approval and Revision, that establishes a comprehensive process for developing, reviewing, and approving program guidelines for operation of WEDC's programs, including grant and loan programs, to comply with statutory provisions. WEDC also has adopted corporate policy (GOV ADM 121 - Awards Administration) that establishes underwriting guidelines, approval processes, and requirements for administering corporate awards programs, including grants, loans, and tax credits. [It should be noted that WEDC staff have developed a series of policies to address various audit recommendations and legislative requirements. While WEDC staff are currently utilizing these policies, they must still be reviewed by a committee of the Board, and ultimately adopted (as drafted or as modified) by the WEDC Board. The Board has adopted two of these policies (ADM 100 and 121) in addition, the Board has provisionally adopted all corporate policies for the period during which staff testing and Board policy committee review are being performed.]

b. Award grants and loans only to eligible recipients, for eligible projects, and for amounts allowed by program policies.

GOV ADM 126 is also being implemented for developing, reviewing, and approving corporation programs to help ensure statutory compliance and fiscal responsibility. Under the policy, each program guideline is reviewed by the Office of Public Policy, the Vice President of Credit & Risk, the Chief Financial Officer (CFO) or Controller, and the Legal and Compliance Team, and approved by the division Vice President, and the Corporation's Chief Executive officer (CEO). Also, as noted, GOV ADM 121 establishes the Corporation's awards administration policy. WEDC created underwriting checklists and a program staff review of certain awards, used in underwriting each award, that identify the statutory and policy requirements for each program. Finally, a Legal and Compliance Team has been established that includes Staff Counsel, a compliance staff focused on program development, and a Risk Manager. The Risk Manager governs deployment of the Internal Audit Policy (L&C 109 - Internal Audit Policy) Under L&C 109, regular internal audits will be conducted to ensure policy requirements are being followed.

c. Manage and oversee grant and loan contracts appropriately, including by complying with statutes by contractually requiring all recipients of grants and loans of at least $100,000 to submit verified financial statements, by ensuring its contracts contain all provisions required by program policies, and requiring award recipients to submit documentation indicating that they incurred contractually authorized costs.

As noted, a Legal & Compliance Team has been created and an internal audit policy is being adopted (L&C 109). In addition, WEDC has allocated staff to oversee collection and management of verified financial statements and schedules of expenditures. WEDC also is implementing a corporate policy that establishes Corporate actions to be taken when a recipient is noncompliant with reporting requirements (C&R 103 - Performance Reporting Noncompliance).

<u>Tax Credit Programs.</u> LAB found that WEDC did not consistently comply with statutory requirements related to establishing program rules, reviewing applications for eligibility, entering into contracts that stipulated terms for providing tax credits, and verifying completion of

contractually required projects. The WEDC audit included the following recommendations to improve administration of tax credit programs:

a. Establish all statutorily required policies for WEDC tax credit programs, as well as sufficient additional policies to administer those programs.

The WEDC fiscal year 2014 Operations Plan, which was approved by the Board, contains statutorily required policies for WEDC programs, including tax credit programs. GOV ADM 126 will establish corporation policy for developing, reviewing, and approving WEDC program guidelines, including tax credit programs. Also, GOV ADM 121 would establish corporate underwriting guidelines, approval processes, and administrative requirements, including tax credit programs.

b. Allocate tax credits only to eligible recipients, for eligible projects, and for amounts allowed by program policies.

GOV ADM 126 is establishing a corporate policy for implementing WEDC program guidelines, including tax credits. GOV ADM 121 establishes WEDC awards administration policy for tax credits and other awards with underwriting guidelines, approval processes, and administration requirements. Also WEDC created an underwriting checklists for statutory and policy requirements. Finally, a Legal and Compliance Team and Internal Audit Policy (L&C 109) have been established to help ensure policy requirements are followed, including those applying to tax credits.

c. Manage and oversee tax credit contracts appropriately, including by ensuring that WEDC contracts contain all provisions required by program policies, and by allocating tax credits only for projects that have not yet occurred.

WEDC is adopting GOV ADM 126 for implementing program guidelines, including those applying to tax credits, and GOV ADM 121 Awards Administration Policy includes tax credit program underwriting guidelines, approval processes, and administration requirements. Underwriting checklists identify statutory and policy requirements. The operations plan established program guidelines. Finally, a Legal & Compliance Team and Internal Audit Policy were created for WEDC programs, including tax credits. Under the Internal Audit Policy, regular audits are performed to ensure program requirements are followed.

<u>Accountability and Program Results.</u> The audit found that the WEDC governing board did not comply with all statutory requirements, and that it could report more clearly on the number of jobs created and retained as a result of the financial awards made through the programs. The audit included the following recommendations to ensure accountability and compliance with statutory program results measurements:

a. Developing at least one expected result related to each of the goals of all economic development programs administered by the Corporation.

The WEDC fiscal year 2014 Budget and Operations Plan, which was approved by the WEDC Board on July 23, 2013, establishes program guidelines for each of the Corporation's programs. Included in the guidelines for each program is at least one program goal and an expected outcome/deliverable for each goal. In addition, GOV ADM 126 would establish a comprehensive process for implementing program guidelines for each WEDC program.

b. Ensuring that each award recipient submits contractually required progress reports.

WEDC is adopting a comprehensive policy (C&R - 103) that establishes a process for tracking whether award recipients have submitted required performance reports and for the required follow-up actions when reports are not submitted on time. In addition, the Corporation created and filled a Business Analyst position that oversees implementation of the policy to ensure timely and accurate performance reporting.

c. Annually verifying the performance information reported by the recipients of a sample of grants and loans.

The WEDC Business Analyst and the Vice President of Credit & Risk is to ensure that WEDC data is consistently maintained and annually verified on performance reports. As noted, the Corporation developed a comprehensive Internal Audit Policy (L&C 109) that requires regular reviews and audits of performance reports to ensure accuracy and compliance with statutory requirements. A Risk Manager position was created and filled, and is charged with implementing the policy to ensure accurate information is reported. Finally, the Contracts Committee of the WEDC Board was created, in part, to review and verify samples of information provided by awards recipients to ensure compliance with statutory requirements. This responsibility is included in the Contracts Committee Charter.

d. Ensuring that the annual economic development program report presents clear, accurate, and complete information on each program's results, including separate numbers of actual jobs created and actual jobs retained in the prior fiscal year.

WEDC created an internal Act 125 Steering Committee to improve the annual economic development program report to ensure the report includes clear, accurate, and complete information on each program, and separate numbers for actual jobs created and actual jobs retained. The Business Analyst and Vice President of Credit & Risk are to provide support to ensure WEDC data is consistently maintained.

<u>Financial Management.</u> In its audit, the LAB found that WEDC did not consistently monitor expenditures in fiscal year 2011-12, and did not have sufficient purchasing policies. LAB made a number of recommendations to improve accountability for how the Corporation spends state funds and to improve transparency in WEDC's purchasing activities. Specifically, LAB recommended that WEDC do the following to improve the Corporation's financial management practices.

a. Monitor expenditures of its divisions and economic development programs.

WEDC developed a disbursement policy (FIN 102 - Disbursement Policy) designed to ensure that: (1) purchases are made in compliance with WEDC's procurement policy; (2) expenditures and disbursements are properly recorded in the accounting system; (3) disbursements are processed accurately and in a timely manner, and; (4) WEDC is in compliance with all applicable state and federal regulations. The corporation also developed an internal controls policy (FIN 105 - Financial Controls Policy) to ensure achievement of objectives relating to operations, reporting and compliance. The WEDC finance team monitors expenses through monthly reviews, and works with each division to reconcile account balances, and inform the division of those balances.

b. Establish an annual budget that accurately specifies the amount of funds available to each of its divisions and economic development programs.

At the July 23, 2013, WEDC Board meeting, the Board approved a comprehensive budget for fiscal year 2014 that allocates funds by both division and program. In addition, the Corporation provides the Board with quarterly reports of updated financials for review, including actual spending and forecasted spending compared to budgeted amounts. The Board is also presented with budget amendments that transfer funds between divisions or programs for Board approval.

c. Finalize its financial accounts in a timely manner.

As noted, WEDC developed a financial controls policy (FIN 105) which establishes a process for implementing internal controls for WEDC systems. In addition, the Corporation developed a policy (FIN 107 - Journal Entries) for producing financial statements in conformity with Generally Accepted Accounting Principles (GAAP), Financial Accounting Standards (FASB) and federal and state regulations. The WEDC Chief Financial Officer has instituted controls for data entry, and conducts a monthly reconciliation and review of activities to help ensure that financial transactions are posted properly and timely.

d. Provide annual audited financial statements for inclusion in the State of Wisconsin's Comprehensive Annual Financial Report.

The WEDC Chief Financial Officer and Controller both have experience in preparing governmental financial statements. The Corporation indicates that this staffing and the regular reconciliation of accounts will ensure timely completion of financial statements so that they can be incorporated in the State of Wisconsin Comprehensive Annual Fiscal Report (CAFR).

e. Develop procurement policies that specify situations in which proposals should be solicited from multiple vendors, how those proposals are to be evaluated, and how vendors' potential conflicts of interest are to be assessed. (This recommendation is also a specific requirement included in the Act 20 provisions.)

WEDC has developed a procurement policy (GOV ADM 101 - Procurement) that governs the method for selecting suppliers of goods and services that are paid from WEDC's accounts. In *general, the policy requires the Corporation to develop solicitations with clear specifications that encourage bidding by multiple vendors. Specific methods are prescribed based on the value of goods and services to be purchased including: (1) best judgment purchasing which recommends but doesn't require multiple vendors for purchases less than $10,000; (2) simplified bidding, which requires at least three quotes from vendors for purchases between $10,000 and $99,999; and (3) formal solicitation issued as requests for proposals or requests for qualifications for purchases of $100,000 or more. Exceptions are allowed for certain cases such as sole sources or emergencies. In general, the award must be made to a vendor that meets all requirements for the goods or services to be purchased, and that also provides the best value to WEDC. All potential vendors must disclose in writing any potential conflict(s) of interest. If a potential conflict of interest is not disclosed the vendor's contract may be voided and any amounts paid under the contract may be recovered by WEDC. WEDC employees are subject to the State of Wisconsin Ethics Code. In addition, the Corporation has developed a policy (L&C 105 - Conflict of Interest) that provides guidelines for disclosure of dualities, and potential or actual conflicts of interest. L&C 105 applies to contributions, vendor agreements, WEDC sponsored economic development events, Board member and employee contracts for state funds, and employee acceptance of gifts, tickets to athletic events, and transportation, food and lodging. The policy also requires all vendor contracts for goods or services to include a conflict of interest provision.*

f. Limit the number of staff who have purchasing cards, close the accounts of unused or seldom used purchasing cards, and develop purchasing card policies that; (1) specify how credit limits and single-purchase limits will be established for all purchasing cards; (2) specify the types of purchasing card transactions that are allowable; (3) require staff to explicitly document the business-related purpose for each purchase made with a purchasing card; and, (4) prohibit staff from paying state and local sales tax on purchasing card transactions in Wisconsin.

WEDC developed a corporate policy (FIN 100 - Corporate Credit Cards) related to the issuance and use of WEDC corporate credit cards. Under the policy, a corporate credit card may be issued to an employee if it is necessary for the employee to carry out the duties of his or her job. Criteria used to determine if a credit card may be necessary include: (1) required, frequent in-state travel in which eligible expenses are incurred; (2) required national/international travel; and (3) frequent required purchases of goods and services for the Corporation not easily procured through other means. Credit cards can only be used for official WEDC business, and cannot be used for personal transactions or cash advances. An employee's manager must submit a request to the Controller's Office for review and approval. Each credit card that is approved has a monthly limit, and limits in excess of $5,000 must be approved by the CFO. Credit card expenditures must be reconciled with accounts payable, and all receipts must be submitted to the finance department within 15 business days of the card statement date. As part of the reconciliation process, transactional evidence (preferably receipts) must be submitted monthly to support all charges on the card. All employee expenditures must be approved by the employee's manager within 30 days of the statement date. Cardholder purchases will be subject to monthly audits by WEDC finance staff. Improper or unauthorized use of WEDC-issued credit cards may result in the cardholder being held liable for expenses, cancellation of the card and/or revocation of card privileges, or disciplinary action. WEDC has also developed Corporate policy (HR 400 - Travel and Expense Reimbursement) that establishes specific guidelines for eligible travel costs and expense *reimbursements based on Internal Revenue Service guidelines for eligible deductible employee business expenses. The policy specifies reimbursable expenses, requires documentation, such as receipts, to support the expenses, and also specifies ineligible expenses, such as meals when not in travel status and all purchases of alcohol. WEDC indicates that it has trained management and staff extensively on both of the policies to address the LAB concerns about credit cards. Finally, WEDC has revoked authority to use credit cards for 17 staff members that are deemed to have insufficient need for a card.*

Personnel Management. The audit found that WEDC's full governing board has not always been informed about certain personnel policies and practices, including the amounts and types of compensation and fringe benefits provided to WEDC staff. LAB recommended that the WEDC Board assess the following related to corporate personnel management:

a. The personnel administration and procedure manual and determine whether any modifications are needed.

WEDC created, and the Board approved, the Policy Committee of the WEDC Board that will formally review all of WEDC's internal systems policies, including personnel policies. After its review, the Committee may direct the Corporation to make changes to the policy, or refer the policies to the Board for review and approval. In addition, the Compensation and Benefits Committee reviews and advises the Board on WEDC employee compensation and benefits, and other human resource matters, and reports and makes recommendations to the Board.

b. The October, 2011, salary ranges, and determine whether any modifications are needed, and determine how the salary ranges should be used to guide future salary increases.

The Compensation & Benefits Committee reviewed salary ranges with WEDC's human resources consultant, MRA, in October, 2011. In the spring of 2012, MRA completed an updated review of all staff positions at WEDC that compared position descriptions to the latest available market data for comparable positions, and recommended pay ranges for all WEDC positions. The Compensation & Benefits Committee reviewed the recommended changes at the December 19, 2012, Committee meeting, and used the recommended ranges when the CEO's salary was established. The specific salary ranges were included in the Corporation's Compensation and Performance Award Strategy, and were reviewed and approved by the Board on July 23, 2013. As noted, salary ranges are to be based on objective market salaries for similar positions. Ten ranges are established for groups of positions, including executive positions. For example one range is established for the following positions: Customer Experience Specialist, Electronic Channel Marketing Specialist; Marketing Production Specialist; and Human Resources Generalist. As a general rule, the average base pay for each range is targeted to the midpoint of the range. Guidelines are established for determining where in each range an employee's salary should be set.

c. The merit strategy and determine whether additional criteria need to be considered before staff are provided with bonuses.

The Compensation & Benefits Committee reviewed the Corporation's Merit Awards

Program at its June 27, 2013, meeting, as part of the Committee's review of the Performance Award Strategy. Based the recommendations of the Committee, the WEDC Board approved the Strategy, with certain changes, The Strategy includes guidelines to assist managers in determining merit pay. Under the Strategy, merit pay is to be based on employee achievements above and beyond performance expectation and that are within the parameters of the Merit Award Guidance Structure. There are three levels of merit awards: organizational, division, and individual, and the structure lists factors to consider for each level. Organization awards are based on successful completion of an annual organizational goal. Division awards are based on successful completion of a division goal. Individual awards are based on extraordinary achievement (successful completion of a special project), exhibiting certain leadership characteristics, or other extraordinary contributions. Merit pay is based on annual reviews or documentation of a special achievement. In addition, recognition awards of a nominal amount (gift cards of up to $50) may be awarded for a short term accomplishment or special effort.

d. The policy for reimbursing staff for purchasing iPhones, determine whether any modifications are needed, and require WEDC to document the policy in the employee handbook and personnel administration and procedure manual.

The WEDC iPhone policy is included in the Corporation's system policies (IT 300 - Mobile Device Management). The policy establishes rules for the proper use of mobile devices. Under the policy, only personal devices that meet WEDC standards are allowed to be used. The information technology department is required to obtain a signed agreement from the employee to follow WEDC mobile device security policy, and all mobile devices accessing WEDC systems must be enrolled in the WEDC Mobile Device Management System, and adhere to the security standards incorporated into the system. The policy also establishes other rules for privately owned iPhones including rules related to accessing WEDC phone and email accounts, loss and replacement, reimbursement for data charges and over charges, and taxes and fees associated with the use of WEDC data on personal devices. Employees with mobile devices are also subject to the Corporation's Acceptable Use policy (IT 100 - Acceptable Use). Under this policy, WEDC systems information, and information created, sent, received, accessed or stored using the systems is considered the property of the Corporation. Activities involving the use of WEDC systems are not considered personal or private. The policy also specifies user responsibilities and inappropriate usage.

Governance. LAB found that WEDC's policies pertaining to staff acceptance of gifts were incomplete, and that the Corporation and Board had not always complied with statutory reporting requirements. LAB recommended the following to improve Corporate governance:

a. WEDC develop policies for tracking and handling gifts received by its staff and include the policies in the personnel administration and procedure manual.

WEDC developed a policy (L&C 100 - Acceptance of Items of Value) that identifies the Corporation's policies governing acceptance of gifts by employees. In general, WEDC employees may not accept gifts, including gift certificates, airline tickets, hotel stays, or other items of value. Under the state ethics laws, there are circumstances in which it may be acceptable for WEDC *employees to accept gifts including when it is for the benefit of the Corporation, during a foreign trip to promote trade, or when hosting individuals or conferences to promote economic development, when it clearly benefits the state. Such gifts must be included in the annual report filed with the Government Accountability Board by WEDC employees. Each WEDC division or department, including the Executive Office, is required to designate a staff member to be responsible for tracking items of value (both cash and in-kind) and reporting to the WEDC Legal & Compliance Team, which compiles this information for all WEDC employees. The WEDC Compliance officer reports this information to the Government Accountability Board, and use it for internal audits or risk assessments.*

b. The WEDC Board ensure that all statutorily required reports to the Legislature and the State of Wisconsin Investment Board are submitted on time and contain the statutorily required information.

WEDC created a reporting calendar that informs staff and the Legal & Compliance Team of required reports prior to the due date. The Corporation also created a Reporting Steering Committee comprised of members from the WEDC Office of Public Policy, and Credit & Risk, Legal & Compliance, and Marketing teams. A Legal & Compliance Team member on the Steering Committee has been designated as WEDC's reporting specialist and is responsible for ensuring all reports contain statutorily required information and are submitted on time.

c. The WEDC Board report to the Joint Legislative Audit Committee by July 15, 2013, on its plan to create a nonprofit foundation.

WEDC requested, and received an extension of the report date, to allow the WEDC Board to review report materials at the Board's July 23, 2013, meeting. The report was submitted to the Joint Legislative Audit Committee on July 25, 2013.

d. The WEDC Board report to the Joint Legislative Audit Committee by October 1 2013, on the status of all outstanding economic development loans for which it was responsible from January, 2013, through September, 2013, including the number and outstanding balance of loans it amended, the number and outstanding balance of loans it forgave, the number and outstanding balance of loans it referred to the Department of Justice for collection proceedings, and the number and outstanding balance of loans it wrote off. (This is also a provision included in Act 20.)

WEDC submitted this report as required.

e. The WEDC Board report to the Joint Legislative Audit Committee by October 1, 2013, on the status of efforts to comply with statutes by:

(1) creating all required economic development program rules;

The WEDC Budget and Operations Plan, which was adopted by the Board on July 23, 2013, specifies program guidelines for all Corporation programs, including each program's statutory *and policy requirements.*

(2) stipulating contractually that all recipients of grants and loans of $100,000 or more must provide WEDC with a verified financial statement describing how the funds were spent and ensuring that recipients submit the verified financial statements;

WEDC indicates that it has implemented procedures to require all grants and loans of $100,000 or more to include the verified statement and schedule of expenditures. Under the Corporation's Internal Audit Policy (L&C 109 - Internal Audit Policy), the Risk Manager will conduct regular audits of grants and loans to secure compliance with statutory and policy requirements. In addition, Act 20 modified the statutory provision to require that the contract for each grant or loan of $100,000 require the recipient to submit to WEDC a verified schedule of expenditures, and to engage a certified public accountant to determine whether the recipient expended the grant or loan funds in accordance with the contract.

(3) developing at least one expected result for each of the goals of all economic development programs that it administers;

The WEDC Budget and Operations Plan for fiscal year 2014, which was approved by the WEDC Board on July 23, 2013, includes program guidelines for all WEDC programs. The guidelines for each program includes program goals and at least one expected outcome/deliverable.

(4) ensuring that recipients of economic development grants and loans submit the contractually required progress reports;

WEDC created the Business Analyst position, under the Vice President of Credit & Risk, that is required to monitor and track WEDC's performance reporting, and to implement policies in order to obtain statutorily required information from grant and loan recipients in a timely manner. Also, the Corporation developed a policy (C&R 103 - Performance Reporting Noncompliance) that establishes a process to collect past due performance reports.

(5) annually verifying the performance information reported by the recipients of a sample of grants and loans;

WEDC developed an Internal Audit Policy (L&C 109 - Internal Audit Policy), administered by the Risk Manager and, as needed, the Vice President of Credit & Risk, and the CFO, which establishes an evaluation process for compliance with statutory and policy requirements. The evaluation process includes Contracts Committee review to verify reporting information provided by award recipients. The policy requires use of random sample selection for a particular audit.

(6) ensuring the annual economic development program report presents clear, accurate, and complete information on each program's result.

WEDC created an Internal Reporting Steering Committee for the purpose of ensuring that *the annual economic development report includes the required information in a clear, accurate\, and complete form. The WEDC Board approved the Act 125 report for 2013, at the July 25, 2013 Board meeting.*

The responses to (e)(1) through (6) above were included in the WEDC Compliance Plan submitted to the Joint Legislative Audit Committee on October 1, 2013.

Funding Request

During the 2012-13 fiscal year closing process, WEDC determined that the unassigned fund balance for the Corporation exceeded the maximum target balance amount (25% of revenues) by $18.4 million. WEDC indicates that the excess balance included the carryover of Department of Commerce funding, and also reflected lower than expected demand for Corporation loan programs. On October 25, 2013, the WEDC Board approved a resolution recommending that WEDC use a portion of the excess unassigned fund balance to offset state funds.

As noted above, a total of $3,750,000 GPR in 2013-14 and 2014-15 was placed in the JFC supplemental appropriation [s. 20.865 (4) (a)] for potential increased marketing expenses. The Corporation is required to submit a report for Joint Finance approval, specifying the extent to which marketing expenses may be funded with existing funds, rather than requiring additional GPR funding. Also, 2014-15 funding of $35,274,700 GPR was placed in the JFC supplemental GPR appropriation [20.865 (4) (a)] and $20,276,000 SEG was placed in the JFC supplemental SEG appropriation [20.865 (4) (u)]. WEDC is required to submit a report indicating compliance with the recommendations of the May, 2013, LAB audit of WEDC, and the CEO of the Corporation is required to testify at the second quarterly meeting of Joint Finance. The Committee is authorized to release the funding based on the CEO's testimony and the information in the report, if the Committee finds that WEDC is complying with the audit recommendations. WEDC submitted a copy of the compliance plan submitted to the Joint Legislative Audit Committee on October 1, 2013. In the plan, WEDC indicates the actions taken and policies modified or developed that respond to each of the audit recommendations. WEDC has submitted a proposal under which the Corporation would not request the $3,750,000 for marketing placed in the Committee's supplemental appropriation in 2013-14 and 2014-15, and would, instead, use $7,500,000 of the $18,400,000 excess unassigned fund balance to fund increased marketing costs. In addition, in its October 28, 2013, submission to Joint Finance the Corporation proposes using the remaining $10,900,000 of excess unassigned balance funds to offset 2013-15 operations and program costs. As a result, while not specified, the WEDC proposal effectively requests transfer of $24,374,700 GPR and $20,276,000 SEG in 2014-15 from the JFC supplemental appropriations to WEDC. Under this proposal, the $18,400,000 GPR set-aside for WEDC purposes ($3,750,000 in 2013-14 and $14,650,000 in 2014-15) would remain unspent, and lapse, from the JFC supplemental appropriation to the general fund at the end of fiscal year 2014-15, unless appropriated for another purpose by Joint Finance (Alternative 1). Table 2 shows the total funds that would be appropriated to WEDC in 2013-15 under Alternative 1.

TABLE 2

WEDC Appropriations - Alternative 1

	FY 14	FY 15
GPR	$35,274,400	$24,374,700
SEG	20,276,300	20,276,000
Total	$55,550,700	$44,650,700

However, under alternative 1 the 2014-15 base level funding used for the 2015-17 biennial budget would be $24,374,700 GPR, rather than $39,024,700 GPR ($35,274,700 GPR operations and program funding and the $3,750,000 GPR in marketing funding) that was placed in the JFC supplemental appropriation. Act 20 provided WEDC with $35,274,400 GPR, $19,276,300 SEG from the segregated economic development fund, and $1,000,000 SEG for brownfield site assessment grants in fiscal year 2013-14. As an alternative, the Committee could transfer $14,650,000 GPR in 2013-14 (the amount of the excess unassigned fund balance funding that would be used to offset $10,900,000 in operations and programs and $3,750,000 in marketing funding) from the WEDC program and operations appropriation to the Committee's supplemental appropriation. The Committee could then approve, for 2014-15, the transfer of: (a) $39,024,700 GPR ($3,750,000 for increased marketing expenses and $35,274,700 GPR in operations and program funding for 2014-15) from the Committee's GPR supplemental appropriation [20.865 (4) (a)] to the Corporation's GPR operations and programs appropriation [20.192 (1) (a)]; (b) $19,276,000 SEG from the Committee's SEG supplemental appropriation [20.865 (4) (u)] to the WEDC economic development fund programs SEG appropriation [20.192 (1) (r)]; and $1,000,000 SEG from the JFC supplemental SEG appropriation [20.865 (4) (u)] to the WEDC brownfield site assessment grants appropriation [20.192 (1) (s)]. As shown in Table 3, alternative 2 would establish base level GPR funding of $39,024,700 for 2014-15, which would include the additional $3,750,000 GPR for marketing expenses. Alternative 2 would transfer $14,650,000 from WEDC's GPR appropriation to the Joint Committee on Finance supplemental appropriation in 2013-14, in addition to the $3,750,000 GPR that would remain in the Joint Finance supplemental appropriation.

TABLE 3

WEDC Appropriations - Alternative 2

	FY 14	FY 15
GPR	$20,624,400	$39,024,700
SEG	20,276,300	20,276,000
Total	$40,900,700	$59,300,700

As a third option, Alternative 2 could be modified to only approve the transfer of second year GPR operations and program funding of $35,274,700, but not the additional $3,750,000 GPR related to marketing expenses. If needed, WEDC could request 2014-15 marketing funding when it developed a specific expenditure plan, or it could include increased marketing funding in the Corporation's 2015-17 biennial budget request. Under Alternative 3, 2014-15 base level GPR funding for programs and operations would be $35,274,700 as shown in Table 4. This alternative would reduce WEDC GPR expenditures by $14,650,000 in 2013-14. Further $18,400,000 in 2013-14 and $3,750,000 in 2014-15 would reside in the Joint Finance supplemental GPR appropriation.

TABLE 4

WEDC Appropriations - Alternative 3

	FY 14	FY 15
GPR	$20,624,400	$35,274,700
SEG	20,276,300	20,276,000
Total	$40,900,700	$55,550,700

Economic Development Fund Revenue

Prior to 2013 Act 20, the economic development surcharge was imposed on all farm and nonfarm businesses that had more than $4 million in gross receipts. Under Act 20, the economic development surcharge was eliminated for farms, partnerships, and individuals, beginning with tax year 2013. As a result, under current law, the economic development surcharge equals 3% of gross tax liability for corporations (including insurance companies and LLCs taxed as corporations). The minimum economic development surcharge is $25 and the maximum is $9,800. Economic development surcharge payments, including interest and penalties, are deposited into the segregated economic development fund. Economic development fund revenues are appropriated to WEDC and used to fund financial assistance for economic development projects. In addition, annual funding is appropriated to the Department of Revenue for administering the surcharge.

At the end of fiscal year 2012-13, the undesignated fund balance in the economic development fund was $16 million. If current trends continue, including the estimated effect of eliminating the surcharge on farms, partnerships and individuals, annual fund revenues would be an estimated $22.4 million. Based on current estimates of revenues and expenditures, the undesignated year-end fund balance on June 30, 2015, could be approximately $22 million as shown below.

TABLE 5

Economic Development Fund

	Actual 2012-13	Budgeted 2013-14	Budgeted 2014-15
Opening Balance	$9,053,500	$16,040,800	$18,885,800
Revenues			
Economic Development Surcharge	$30,368,500	$22,368,500	$22,368,500
Recycling Fund Transfer*	9,000	0	0
Interest Earnings	6,200	4,600	4,600
Total Annual Revenues	$30,383,700	$22,373,100	$22,373,100
Total Revenues	$39,437,200	$38,413,900	$41,258,900
Expenditures			
WEDC Program Funding	$23,189,200	$19,276,000	$19,276,000
DOR Administrative Funding	207,200	252,100	252,400
Total Expenditures	$23,396,400	$19,528,100	$19,528,400
Closing Balance	$16,040,800	$18,885,800	$21,730,500

*Surcharge revenues transferred from the former Recycling Fund.

As shown, economic development fund revenue of approximately $22.4 million is anticipated each year of the 2013-15 biennium, while any of alternatives 1 through 3 would provide approximately $19.5 million in expenditure authority (including for Department of Revenue surcharge administration). Providing WEDC with an additional $2,500,000 SEG in both years of the biennium would more closely align anticipated annual revenues and authorized expenditures. In addition, an equal amount of GPR could be transferred from the WEDC operations and program appropriation to the Committee's supplemental appropriation in order to maintain overall WEDC funding at the same level. This would maintain the June 30, 2015, economic development fund balance at approximately its current level, in excess of $16 million. However, increasing 2014-15 SEG appropriations beyond this level may cause an ongoing structural imbalance in the fund (appropriations would exceed expected revenues on an annual basis). In order to address the one-time nature of the surplus, additional transfers could be considered in 2013-14 (on a one-time basis, thereby not affecting the structural balance of the fund). Up to an additional $15 million ($17.5 million total) in 2013-14 could be provided from economic development fund SEG with an equal transfer of GPR to the Committee's supplemental appropriation. If the full $15 million were transferred, the June 30, 2015, economic development fund balance could be less than $2 million (approximately 7.5% of anticipated revenues). Given the uncertainty over the effects of the recent tax law changes, a somewhat a larger balance may be prudent, at least until some track record of collections is established. As one example, Alternative 4 would transfer a total of $14,500,000 in 2013-14 and $2,500,000 in 2014-15 from WEDC to the Committees GPR supplemental appropriation and provide an equal amount in the WEDC economic development fund SEG programs appropriation. This would leave the economic development fund with an expected balance of $4.7 million (approximately 20% of currently expected 2014-15 revenues). This alternative, in addition to alternative 2 or 3, would leave WEDC with the same overall 2013-14 appropriation level of approximately of $40.9 million in state funds ($6.1 million GPR and $34.8 million SEG). Including the $18.4 million from the available WEDC balance, this would allow for 2013-14 expenditures of at least $59.3 million from state funds. Further, WEDC could spend up to an additional $6.3 million over the biennium while maintaining its minimum unassigned reserve balance of 15%.

ALTERNATIVES

1. Approve the following 2014-15 transfers consistent with the October 28 WEDC request: (a) $24,374,700 GPR from the Joint Committee on Finance supplemental appropriation to the WEDC operations and programs GPR appropriation; (b) $19,276,000 SEG from the Joint Finance supplemental SEG appropriation to the WEDC economic development fund programs SEG appropriation; and (c) $1,000,000 SEG from the Committee's supplemental SEG appropriation to the WEDC brownfield site assessment grant SEG appropriation.

2. Transfer $14,650,000 in 2013-14 from the WEDC program and operations GPR appropriation to the Joint Finance supplemental appropriation. Further, in 2014-15 transfer: (a) $39,024,700 GPR ($3,750,000 GPR for increased marketing and $35,274,700 GPR in operations and program funding) from the Committee's GPR supplemental appropriation to the Corporation's GPR program and operations appropriation; (b) $19,276,000 SEG from the Committee's SEG supplemental appropriation to the WEDC economic development fund programs SEG appropriation; and (c) $1,000,000 SEG from the Joint Finance supplemental SEG appropriation to the WEDC brownfield site assessment grants SEG appropriation.

3. Transfer $14,650,000 GPR in 2013-14 from the WEDC program and operations appropriation to the Joint Finance supplemental appropriation. Further, in 2014-15 transfer: (a) $35,274,700 GPR from the Committee's GPR supplemental appropriation to the Corporation's GPR program and operations appropriation; (b) $19,276,000 SEG from the Committee's SEG supplemental appropriation to the WEDC economic development fund programs SEG appropriation; and (c) $1,000,000 SEG from the Joint Finance supplemental SEG appropriation to the WEDC brownfield site assessment grants SEG appropriation.

4. In addition to alternative 1, 2, or 3, supplement the WEDC economic development fund programs SEG appropriation by $14,500,000 in 2013-14 and $2,500,000 in 2014-15, and transfer the same amount from the WEDC operations and programs GPR appropriation to the Joint Finance supplemental appropriation (this would be expected to reduce the June 30, 2015, economic development fund balance to approximately $4.7 million).

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