

## JOINT AGREEMENT

### WORKFORCE DEVELOPMENT BOARD/LOCAL ELECTED OFFICIALS

#### FOX VALLEY WORKFORCE DEVELOPMENT AREA

THIS AGREEMENT, made and entered into by and between the Fox Valley Workforce Development Board of Directors (FVWDB), a body created in accordance with and pursuant to a Local Elected Officials Consortium Agreement, by and between the Wisconsin counties of Calumet, Fond du Lac, Green Lake, Outagamie, Waupaca, Waushara and Winnebago (hereinafter referred to as the "LEO") and Fox Valley Workforce Development Board (hereinafter referred to as the "FVWDB") within the Fox Valley Workforce Development Area (FVWDA).

#### WITNESSETH:

WHEREAS, the LEO is the legal representative of the Consortium formed under Section 116(a)(4)(A) of Public Law 105-220 (hereinafter referred to as "the Act"); and

WHEREAS, the LEO is the appointing authority for the FVWDB under Section 117(c)(1) of Act; and

WHEREAS, it is the responsibility of the FVWDB to provide policy guidance for, and exercise oversight with respect to activities under the Act in this FVWDA in partnership with the LEO; and

WHEREAS, the LEO and the FVWDB are required to enter into operational agreements under Section 117(d) of said Act;

NOW THEREFORE, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, the LEO and the FVWDB do agree as follows:

#### **I. Development of the Workforce Investment Act Plan:**

A. The FVWDB, in coordination with the FVWDB administrator, shall develop a proposed Workforce Investment Act Plan ((hereinafter referred to as "the Plan") and budget. The proposed Plan and budget shall be submitted to the LEO for review and approval no later than fifteen (15) days prior to the date the plan must be submitted to the Governor.

B. Staff Role: The Plan shall be developed with staff assistance from the Administrative Entity pursuant to a contract with the FVWDB and the LEO.

C. Public Comment: The LEO and the FVWDB shall make the plan available for public comment and present the plan in open public hearing prior to final approval by the LEO and FVWDB and submission to the Governor. Public comment shall be reviewed and summarized for inclusion in the plan. Written justification shall be provided if the plan is not altered to conform to public comments pursuant to Section 106.11, Wisconsin Statutes.

D. Approval of the Plan and Submission to the Governor: The FVWDB and the LEO shall concur on the Plan prior to its submission to the Governor. Approval shall be as provided for in Section VI(M) of this agreement. Upon approval by both bodies, the Plan shall be submitted jointly to the Governor.

E. Modification of the Job Training Plan:

1. Modification of the Plan shall require joint approval of the FVWDB and the LEO in accordance with Section VI (M) of this agreement. Either body may request modification of the Plan. Such requests shall be forwarded from the requesting body to the chairperson of the other body in keeping with Section VII(A) of this agreement.

2. Any proposed modification of the Plan is to be submitted to the FVWDB and the LEO, respectively, no later than 15 days prior to the proposed effective date of the modification for review and approval. In the event of non-concurrence by the FVWDB and the LEO, the provisions of Section VI(J) of this agreement may be invoked.

**II. Selection of the Grant Recipient and Administrative Entity:** In accordance with Section 117(c)(3)(A) of the Act, the FVWDB and the LEO agree that:

- A. Fox Valley Workforce Development Board, Inc. shall function as the Administrative Entity responsible for carrying out the goals and objectives set forth in the Plan, for the duration of this agreement.
- B. Fox Valley Workforce Development Board, Inc., shall function as the Grant Recipient of funds under the Act.

**III. Duties of the Administrative Entity as Grant Recipient/Administrative Entity:**

- A. The Administrative Entity shall administer and operate programs in accordance with the Plan.
- B. The Administrative Entity shall be responsible for all receipts and disbursements relating to the Plan.
- C. The Administrative Entity shall review all contracts for purposes of verifying that Workforce Investment Act Funds are expended in accordance with the Workforce Investment Act and the Plan. The Administrative Entity shall utilize reasonable audits, desk reviews, legal services and other inquiries to effectuate the goals of this paragraph.
- D. The Administrative Entity shall provide the FVWDB and LEO an evaluation of every contract receiving funds under the Plan. Said evaluation shall include, but is not limited to, a review of the expenditures made under.
  - the contracts entered into pursuant to the Plan and an assessment of such contracts in meeting their proposed goals.
- E. The Administrative Entity shall implement the Plan by entering into contracts with providers of services. Said contracts shall set forth the duties incumbent of the service provider, the goals of each project undertaken by the provider and financial terms of the contract. All contracts shall be approved by the FVWDB and LEO prior to their execution.

- F. The Administrative Entity shall allocate the funds due the Fox Valley Workforce Development Area for provision of services under the Workforce Investment Act. The Administrative Entity shall, in making of such allocations, conform to the terms and conditions of the Plan. Further, the Administrative Entity shall only allocate funds to those service provider contractors authorized by the FVWDB and LEO. The Administrator of the Administrative Entity shall sign all such approved contracts on behalf of the administrative entity/grant recipient. The Administrative Entity shall not recommend the awarding of any funds to any contractor in which the Administrative Entity has a financial interest, either direct or indirect, unless said interest is disclosed in writing to the FVWDB and LEO and both the FVWDB and LEO consent to such allocations.
- G. The Administrative Entity shall monitor the activities of all contractors and their subcontractors to assure that funds are expended legally, properly and efficiently. The Administrative Entity shall take all reasonable actions to prevent, halt and deter misuse of any funds allocated under the Plan.
- H. The Administrative Entity will provide assistance in formulating the terms of the Plan and any modifications or update to said Plan. Such duties include, but are not limited to, education of LEO and FVWDB of the substantive requirements of the Plan, advising LEO and FVWDB of options for the Plan, conducting research and marshaling information necessary to direct the Plan's goals toward identified needs within the Fox Valley Workforce Development Area, preparing drafts, final versions and copies of the Plan to the FVWDB and LEO, and making necessary contacts with the Department of Workforce Development Division of Employment and Training (DWD/DET) to secure approval of the Plan.
- I. The Administrative Entity shall maintain accounts, books, records and inventory controls sufficient to allow compliance and financial audits of its services under this or any other contract between the parties hereto.
- J. At the termination of all contracts funded under the Plan, the Administrative Entity to the extent reimbursed shall conduct close-out activities to determine whether the contractors' operations were in accordance with the terms and goals of the Workforce Investment Act.
- K. The Administrative Entity shall obtain prior to the execution of this Agreement and maintain in force, without lapse during the term of this Agreement, errors and omissions, bonding and general liability insurance policies. The LEO and the FVWDB shall be named as additional insureds in the general liability and errors and omissions policies. Minimum limits of liability on the errors and omissions policy shall be \$300,000 per occurrence, \$300,000 aggregate. Minimum limits on the general liability policy shall be \$500,000 combined personal injury and property damage per occurrence and \$500,000 aggregate.
- L. The Administrative Entity shall draft a grievance procedure in compliance with Section 144 of the Workforce Investment Act to be approved by the FVWDB and LEO prior to its implementation.

**IV. Selection of a Workforce Development Area Administrator:** For the purpose of selecting an administrator for the Fox Valley Workforce Development Area, an Ad Hoc Hiring/Oversight Committee shall be appointed as follows:

- A. The LEO shall appoint 3 members to the Ad Hoc Hiring/Oversight Committee.

- B. The FVWDB shall appoint 3 members to the Ad Hoc Hiring/Oversight Committee.
- C. The LEO may utilize the Human Resources Department of a member County to assist the Ad Hoc Hiring/Oversight Committee in coordinating the hiring process.
- D. Ad Hoc Hiring/Oversight Committee shall, with the assistance of the designated Human Resources Department (if so utilized), solicit and/or advertise for applications, review the applications, interview applicants and give a recommendation to the LEO and the FVWDB. The Ad Hoc Hiring/Oversight Committee shall base its recommendation upon a majority vote of the members of the committee.
- E. The LEO and the FVWDB must then independently ratify the recommendation of the Ad Hoc Hiring/Oversight Committee.
- F. The Ad Hoc Hiring/Oversight Committee shall have the authority to provide oversight, implement disciplinary measures or terminate the administrator on an at will basis. Termination shall require a majority vote of the members of the Ad Hoc Hiring/Oversight Committee.

**V. Oversight:**

- A. The FVWDB is authorized to provide oversight, including review, monitoring and evaluation of the programs conducted under the Plan in accordance with procedures established by the council. To carry out its functions under the Act, the FVWDB:
  - 1. Shall prepare and approve a proposed budget for programs and administration. The FVWDB shall submit the proposed budget to the LEO for review at least 15 days prior to the commencement of the budget year. Adoption of the budget shall be in accordance with Section VI(M). Amendments to the budget, outside of the annual budget meeting, must be presented to the LEO for consideration and shall require approval by a two-thirds majority of the members present from the LEO.
  - 2. May hire staff, if the proposed staff position(s) is included in the adopted budget.
  - 3. May incorporate, with the approval of both the FVWDB and the LEO.
  - 4. May solicit and accept contributions and funds from other public and private sources.
- B. The exercise of powers and duties under Section V(A)(1-4) of this agreement shall be in keeping with agreements established under Section III above and is subject to review by the LEO. The LEO may request invocation of Section VI(J) of this agreement to resolve any disagreements over the exercise of said powers.
- C. The LEO reserves the right to oversee the general progress and conduct of the Plan. To that end, the FVWDB agrees to submit to such audits as the LEO may from time to time require. The LEO agrees that such audits shall only be instituted as necessary to carry out its responsibilities to insure the appropriate utilization of funds under the Act.
- D. The FVWDB agrees to provide quarterly reports to the LEO indicating progress toward the completion of goals and objectives of the Plan. Such reports shall be due within 30 days of

the end of the preceding quarter. The FVWDB further agrees to submit such reports as may be outlined in any subsequent agreements pursuant to Section III above.

## **VI. Operating Procedures:**

- A. By-Laws: The FVWDB and the LEO may establish By-Laws and/or operating procedures, for their respective organizations, which are consistent with the provisions of this or any other bilateral agreement between the affected parties. In the event that any such By-Laws or procedures shall be found to be in conflict with the provisions of this or any other bilateral agreements, the provisions of said agreements shall prevail.
- B. FVWDB Membership Criteria: Members of the FVWDB are appointed to represent sectors of the service delivery area as outlined in Section 102 of the Act and the initial plan of appointment approved by the LEO. All members of the FVWDB shall reside and be employed within the Fox Valley Workforce Development Area. Any change in residence, employment or other status which affects the representative status of a FVWDB member shall be forwarded to the Chairperson of the LEO within 30 days of said change. Changes in status which render a FVWDB member no longer representative of the sector from which originally appointed shall result in the LEO declaring said position vacant.
- C. Alternates: In the course of the FVWDB's operation, alternate FVWDB members shall not be appointed or designated.
- D. Size of the FVWDB: The FVWDB, as originally constituted, consisted of 24 members representing sectors indicated in the Consortium Agreement for the Fox Valley Workforce Development Area. Under Section 102 of the Act, the FVWDB may determine its own size following its being certified and convened. The FVWDB agrees that it will not exercise its right to alter its size without the consent of the LEO.
- E. Cause for Removal: Any member(s) of the FVWDB may be removed there from by the LEO for cause, including the following:
  - 1. Those causes specified in Section 17.16(2), Wisconsin Statutes.
  - 2. Failure of a FVWDB member to fulfill in timely and proper manner his or her obligations under this agreement, or if the FVWDB member shall violate any of the covenants or stipulations of this agreement. However, nothing herein shall be construed to permit removal of any FVWDB member for failure to concur in any proposed agreement with the LEO.
  - 3. For conviction of any federal or state felony.
  - 4. For absence from three FVWDB meetings in any one year period without just cause. The FVWDB Secretary shall inform the LEO Chairperson of the FVWDB attendance records after each FVWDB meeting.
  - 5. For changes in status that affect representation as outlined in Section VI(B) of this agreement.

- F. Filling of Vacancies: Vacancies in the FVWDB shall be filled by appointment by the LEO in accordance with the Act and the Consortium Agreement and By-Laws in effect at the time of the vacancy.
- G. Conflict of Interest:
1. Members of the FVWDB or LEO must maintain the public trust for use of the federal and state funds for the purpose of carrying out program requirements including the responsibility to maintain the reputation and integrity of the program.
  2. The FVWDB will establish written policies in its By-Laws, to adhere to conflict of interest policies established by the state.
  3. No member of the FVWDB, advisory council or board, or committee thereof nor the LEO shall cast a vote on the provision of services by that member (or any organization of which that member is an owner, manager, employee, or agent) or vote on any matter which would provide direct financial benefit to that member or any organization of which that member is an owner, manager, employee, or agent. The FVWDB advisory council or board may require members to leave the room during discussion and voting on issues with which they have a conflict of interest. This requirement in and of itself does not preclude FVWDB members or their businesses from participating in training contracts.
  4. The FVWDB will have on file a disclosure form which is signed by each FVWDB member and staff, a representative for the Administrative Entity and each grantee. The disclosure statement must include but not be limited to the organizational and fiduciary affiliations of the individual or the individual's immediate family which may present a potential conflict of interest for that individual.
- H. Maintenance of Effort: To insure maintenance of effort no contracts for grants to service providers shall be in violation of the maintenance of effort requirements of federal law or regulations or rules of the DWD/DET.
- I. Grievance Procedures: Section 144 (a) of the Act requires such administrative entity, contractor and grantee under the Act to establish and maintain a grievance procedure for resolution of grievances and complaints about its programs and activities from participants, subgrantees, subcontractors and other interested persons. A grievance panel, consisting of two disinterested members of the FVWDB selected by the FVWDB Chairperson, and the Chairperson of the LEO (or his designee) shall hear all SDA-level grievances filed within this SDA.
- J. Liaison Committee: A Liaison committee consisting of two members of the LEO appointed by the LEO Chairperson and two members of the WDB appointed by the Chairperson of the FVWDB shall be convened upon the joint call of the Chairpersons of the LEO and FVWDB to resolve conflicts of issues of mutual concern. Said Chairpersons shall jointly appoint one of the appointees as chairperson and issue the charge to the committee. The findings of the Committee shall be binding on the FVWDB and the LEO. The disagreement between the two bodies shall be resolved according to the Liaison Committee's recommendations. Upon issuance of its report, the committee shall be dissolved.

K. Indemnification:

1. The FVWDB and LEO recognize the need to protect all members of the FVWDB and LEO against loss, liability or damages that may result from their joint and separate actions in performing responsibilities under the Act. The LEO and FVWDB agree that adequate insurance shall be provided.

2. The Administrative Entity/Grant Recipient shall obtain errors and omissions insurance, bonding and general liability insurance. The LEO and FVWDB members shall be named as additional insureds on the general liability policy and errors and omission insurance.

3. The FVWDB agrees during the term of this agreement to indemnify and save harmless the LEO, its successors and assigns, from and against any and every claim, demand, suit, payment, damage, loss, costs and expense that the LEO, its successors and assigns, may hereafter suffer, incur, be put to, pay or lay out by reason of the FVWDB performing its obligations, under this agreement provided, however, that the provisions of this section shall not apply to claims, demands, suits, payments, damages, losses, costs and expenses caused by or resulting from the sole negligence of the LEO, its successors or assigns, or by any agency, board, officer, employee, agent assign or representative of a county contained in the Fox Valley Workforce Development Area.

L. Efficiency: The FVWDB and the LEO shall commence, carry on and complete their obligations under this agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this agreement and all applicable laws.

M. Voting:

1. All approvals under this agreement shall require approval of a majority of the members present at a meeting of such said bodies, unless a vote of greater than a simple majority is called for in the By-Laws of the respective body.

2. Votes on matters which require concurrence of the FVWDB and the LEO shall be by roll call and recorded in the minutes of the respective bodies.

3. At no time shall the FVWDB or the LEO vote as a single unit.

4. Absentee voting is not allowed by either the FVWDB or the LEO.

N. Quorum: At minimum, a majority of the current membership of the FVWDB and the LEO is required to be in attendance to constitute a quorum for purposes of conducting business by each of the respective bodies.

**VII. General Administrative Provisions:**

A. Delivery of Notices and Reports: Notices and reports required by this agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, or "sent" time if electronic communication or fax is utilized, addressed to a party's address to notify the other party in writing within a reasonable time:

1. To the LEO addressed to the current secretary of the Local Elected Officials Board of Commissioners.

2. To the FVWDB addressed to the current administrator of the Fox Valley Workforce Development Board.

**B. Open Meetings Required:** The provisions of Subchapter V of Chapter 19, Wisconsin Statutes, regarding open meetings of governmental bodies shall apply to all meetings and proceedings of the FVWDB and the LEO, including those of its formally constituted subunits. The provisions of 19.96, Wisconsin Statutes, specifically shall apply. Telephone conferences and video conferences are permitted with all in attendance identified.

1. The FVWDB and the LEO shall maintain copies of records of their activities in all major areas, including all meeting agendas and minutes, contracts, fiscal and management documentation.
2. The administrative entity shall be the custodian of the public records of the FVWDB and of the LEO, or
3. An official of the county represented by the Chairperson of the LEO Consortium shall be designated by the Chairperson as the custodian of the public records of the LEO. In the event that any succeeding LEO Chairperson is from another county, the LEO records shall be transferred to that county in the custody of the official thereof designated by the then current Chairperson.
4. The designated records custodian shall comply with the public records request in accordance with the requirements set forth in Wisconsin Statute 19.35. In case of doubt, authorization for release of any public records of the FVWDB or the LEO shall be authorized by the Chairpersons of the respective bodies. The FVWDB and the LEO shall each adopt policies under the Public Records Law for the duplication and distribution of copies of public records and the charges therefor.
5. The LEO and the FVWDB shall have complete access to the Workforce Investment Act records of both bodies, except for records of closed sessions of the FVWDB or LEO pursuant to Wisconsin State Statutes 19.85, and this agreement wherein persons not members of the respective bodies may be excluded.
6. The FVWDB and the LEO shall send copies of all agendas and minutes thereof to the members of both bodies at all times.

**C. Nondiscrimination:** During the term of this agreement, the FVWDB, the LEO, the Administrative Entity and Grant Recipient agree not to discriminate against any person, whether a recipient of services (actual or potential), an employee, or an applicant for employment on the basis of factors prohibited by federal or state law, including Section 167 of the Act and Section 111.31, Wisconsin Statutes. The aforementioned agree to post in conspicuous places, available to all employees and applicants for employment and all recipients of services, actual or potential, notices setting forth the provisions of this agreement as they relate to nondiscrimination. The aforementioned shall, in all solicitations, for employment placed on their behalf, state that the aforementioned are "Equal opportunity Employers".

**D. Term of the Agreement:** The term of this agreement shall commence on the date of the execution of this Agreement and shall continue through June 30, 2013. This agreement shall



automatically renew annually on July 1 unless either party hereto gives written notice to the other sixty (60) days prior to the annual date of renewal stating that said party wishes to renegotiate all or any part of this agreement.

E. Amendment of Agreement:

1. Either party may propose amendments to this agreement at any time. Requests for amendment shall be authorized in accordance with the By-Laws of the body initiating the request. No proposed amendment may be considered by the body unless a written copy has been sent to the members of the body at least 10 days prior to consideration. An amendment to amendment(s) so proposed shall be in order.

2. Proposed amendments approved in accord with the above shall be mailed to the other party (in accord with VI(A) above) and shall be acted upon by that party no less than 10 days nor more than 30 days following receipt. No proposed amendment may be acted upon unless the text thereof has been sent to the member of the body at least 10 days prior to consideration.

3. The other party must respond with a written notice of concurrence or non-concurrence, or; a written request to negotiate under Section VI(J) above; within 10 days of consideration of the amendment.

4. No proposed amendment shall take effect until the nominating party has concurred with the amendment pursuant to Section VI(M) of this agreement and has responded with a written notice of concurrence.

F. Assignment or Transfer: FVWDB shall not assign or transfer any interest or obligation in this agreement whether by assignment or novation, without prior written consent, except that the LEO does hereby consent to the assignment of this agreement to FVWDB's corporate successor which shall be bound in all respects as is the FVWDB.

G. Wisconsin Law Controlling: It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin Law shall be controlling to the extent that there is no superseding federal law applicable.

H. Construction: Should any part, clause, paragraphs or sentence of this agreement be construed by a court of competent jurisdiction to be in violation of any federal or state law, rule or regulation, the remainder of the agreement shall remain in full force and effect unless amended in accord with the article.

I. Signatory Powers: The Chairperson of the FVWDB and the LEO Chairperson, or in their absence or disability, the Vice Chairperson of the FVWDB and the Vice-Chairperson of the LEO shall be the signatories for the FVWDB and the LEO respectively when authorized to execute any document on behalf of said bodies by formal action thereof. The signatures shall be duly attested by the Secretary or Clerk of the respective body.

J. Entire Agreement: The entire agreement of the parties is contained herein and this agreement supersedes any and all prior oral agreements and negotiations between the parties relating to the subject matter thereof.

### **VIII. Liability:**

To the extent permitted by law, liability which arises pursuant to this Agreement shall be apportioned as follows:

- A. Workforce programs in the Fox Valley Workforce Development Area shall be administered prudently to minimize liability;
- B. Contracts for service delivery shall require indemnification by the contractor in the event that contractor errors or omissions result in disallowed costs or other liability;
- C. The FVWDB shall maintain adequate insurance as described in the Joint Agreement;
- D. FVWDB corporate funds and assets shall be used to pay any remaining liability the Board is responsible for creating.
- E. The Consortium is liable for any misuse of the grant funds allocated to the local area under sections 128 and 133 of the Workforce Investment Act.
- F. In the case of any misuse of grant funds allocated to the local area, the Consortium agrees to assume liability as follows (Section 667.705(c)): Liability will be determined based upon the particular facts of the situation as to the responsibility of individual Consortium members for the particular funds.
- G. Finally, after every possible method to reduce liability is exhausted, any remaining liability shall be apportioned between the seven counties in proportion to their respective percentage of the workforce allocation in the year the disallowed cost or other liability occurred. For example, if \$10,000 in liability remained and a given county received an allocation of 10% of the workforce funding in the year the \$10,000 was expended, that county would be liable for \$1000.

### **IX. Ratification of Agreement:**

- A. This agreement shall require the approval of the FVWDB and the LEO by a majority vote of the members present at a meeting of each body, authorizing the execution of the agreement.
- B. Each signatory certifies that he/she has the legal authority of the governing body of the parties thereto to enter into this agreement, and the parties jointly and separately accept the responsibility for the operation of the program under the Act.

IN WITNESS WHEREOF, the duly authorized signatories for the LEO and the FVWDB have executed this agreement as of the day and date set forth below.

Dated and effective this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**FOR THE LOCAL ELECTED OFFICIALS (LEO) CONSORTIUM OF THE FOX VALLEY  
WORKFORCE DEVELOPMENT AREA**

By: \_\_\_\_\_  
Bill Barribeau, Chairperson

**FOR THE FOX VALLEY WORKFORCE DEVELOPMENT BOARD (FVWDB) OF THE FOX  
VALLEY WORKFORCE DEVELOPMENT AREA**

By: \_\_\_\_\_  
Brad Grant, Chairperson