

MEMORANDUM



Date: November 22, 2022

From: Maria Lauck, Chairperson

To: Mr. John Meyers
Mr. Chris Comella
Ms. Lisa Omen

Mr. James Otterstein
Mr. Mike Williams

RE: Executive Committee Meeting Notice
Friday, December 2, 2022

The Southwest Wisconsin Workforce Development Board Executive Committee will convene on Friday, December 2, 2022, from 11:30 a.m. to 12:00 p.m. via video conference. Access information is below and also included in the agenda

Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 256 958 853 59

Passcode: ZgHcvu

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All Executive Committee members are urged to attend the meeting. Other board members are welcome to attend.

If you are unable to attend the meeting, please contact Katie Gerhards at k.gerhards@swwdb.org or (608) 314-3300, Ext. 230 no later than two days prior to the meeting date.

Upon advance request, reasonable accommodations will be made for persons with disabilities. If special accommodations are needed, please contact Katie Gerhards at k.gerhards@swwdb.org or (608) 314-3300 at least two days prior to the meeting.

SWWDB is an equal opportunity employer and service provider.

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Executive Committee

Friday, December 2, 2022

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The Southwest Wisconsin Workforce Development Board (SWWDB) Executive Committee will convene in open session and, at the conclusion of routine business, will adjourn to closed session pursuant to Wis. Stats. 19.85 (1) (c) for the purpose of considering employment, promotion, compensation or performance evaluation data of any public employee over which the committee has jurisdiction or exercises responsibility and 19.85(1) (e) for deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. The committee will reconvene in open session at the conclusion of the closed session. Any action which might result from the closed session will be taken upon reconvening in open session, scheduled for action in open session at the next regular meeting, or scheduled for action at a special meeting called on notice.

Agenda

1. Call to Order

2. Approval of Meeting Minutes

Minutes of the April 8, 2022 , ([Enclosure 1](#)) and August 30, 2022 ([Enclosure 2](#)) Executive Committee meetings are presented for review and discussion.

Approval of the minutes from the April 8, 2022 and August 30, 2022 meetings is requested.

3. 2023 Health Insurance Renewal

SWWDB administration has received and will discuss 2023 employee health renewal options.

Action is requested to approve to approve the 2023 employee health insurance option(s).

4. Other Business

5. Adjournment

Executive Committee Meeting

Friday, April 8, 2022

Meeting Minutes

The Executive Committee of the Southwest Wisconsin Workforce Development Board met on Friday, April 8, 2022, via GoToMeeting. Attendance was as follows:

Members Present:	Ms. Maria Lauck, Chairperson Mr. Christopher Comella	Mr. James Otterstein Mr. Mike Williams
Members Absent:	Mr. Art Carter	Ms. Lisa Omen
Staff Present:	Ms. Katie Gerhards Ms. Rhonda Suda	Ms. Danielle Thousand

1. **Call to Order**

Ms. Lauck called the meeting to order at 10:03 a.m.

2. **2021 401(k) Error**

Ms. Suda explained that during the December 9, 2020, full Board meeting, SWWDB administration presented a modification to SWWDB's 401(k) Retirement Plan for review and approval. The plan would be changed effective January 1, 2021 to include the following features:

- Offer a Roth contribution option;
- Allow eligible rollover contributions/transfers into the plan to be done as of date of hire; and
- Allow employees to enroll in the plan with no employer contribution until the employee has achieved standard eligibility (at least 1,000 hours of service, one year of service, and January or July entry date).

The modification was approved and the plan documents were updated by Blue Chip, SWWDB's third party program administrator of the 401(k) plan. SWWDB administration did not realize that the plan documents were drafted to mean that the immediate plan participation would be offered to all SWWDB employees regardless of the number of hours per week that the employee was scheduled to or did work.

Ms. Thousand stated that with some leased employees, their hours per week are so small that they would not be able to meet the 1,000 hours of service requirement in order for SWWDB to contribute. It was not SWWDB administration's intent to exclude anyone who would otherwise qualify. SWWDB administered the plan during 2021 under the intent of how it was believed SWWDB asked for the plan to be changed.

The error was discovered during the review of the 2021 plan documents Form 5500, the report that gets filed with the IRS. By not offering the 401(k) fringe benefit to everyone, SWWDB is in violation of the plan. SWWDB was provided two (2) options to resolve the situation.

1. **Make the Employees Whole / Corrective Action:** SWWDB would make a fully vested contribution to the plan equal to 50% of the average rate of deferrals for all employees for each year of omission. The contribution would be adjusted for earnings based on the plan's rate of return for the period in question. If anyone being corrected is eligible for match (unlikely given the situation) they would get the match they would have received had they deferred the average rate of deferral.

2. **Amend the Plan Documents:** SWWDB can amend the plan document to add an exclusion for those not regularly scheduled to work 1,000 hours per year. There are potentially two routes here: amend now or retroactively amend back to the effective date of January 1, 2021. With this option, it would be indicated that the original intent of what SWWDB believed had been requested for the change in the plan would be written as the plan. There is a clear risk that under audit the IRS would not accept the amendment and would require corrections anyway likely with penalty and interest charged.

Ms. Suda and Ms. Thousand indicated that Option 1 may be the best option as there is less overall risk in the future and it protects both SWWDB and the employees the best. The cost is estimated to be between \$3,000 and \$4,030 in payments ~~to~~ on behalf of the impacted employees. The cost would come out of SWWDB's corporate reserves.

Mr. Williams asked who wrote the modified plan. Ms. Suda answered that Blue Chip wrote the document that SWWDB signed. Ms. Suda apologized for the mistake and that it should have been reviewed closer.

Ms. Lauck said that Option 1 is less risky and asked if the checks employees receive will be taxable. Ms. Thousand said yes, only if upon distribution out of the plan the employees choose for a distribution rather than rollover. Those employees will have a 401(k) account opened with ~~Blue Chip~~ Empower. SWWDB administration will issue the payment and Blue Chip will take care of the rest.

Ms. Lauck also asked if SWWDB should let the leasing agencies know about this situation. Ms. Suda responded yes – an email will be sent.

Mr. Comella agrees that Option 1 would be best. After this process is said and done, this fringe benefit could be a marketing pro when it comes to hiring new staff.

Ms. Suda stated that this was an unintentional error and SWWDB administration will be more cautious when making changes to SWWDB's 401(k) plan in the future.

Ms. Lauck asked for confirmation that the amount to be paid will not affect programs, but will come entirely from SWWDB's corporate account. She also asked if it is safe to take the funds from corporate. It is situations like this why SWWDB has a comfortable corporate reserve. Ms. Thousand confirmed that SWWDB is very comfortable making the payment right away.

Mr. Otterstein said that based on discussion had, Option 1 is the best option to resolve the issue.

Motion made by Mr. Otterstein, seconded by Mr. Williams, to approve Option 1 – Make the Employees Whole/Corrective Action by SWWDB making a fully vested contribution to the Plan equal to 50% of the average rate of deferrals for all employees for each year of omission. **Motion carried unanimously.**

3. **Approval of Meeting Minutes**

The minutes of the September 22, 2021, and November 5, 2021, Executive Committee Meetings were presented to members for review and discussion. There was no discussion.

Motion made by Mr. Comella, seconded by Mr. Williams, to approve the September 22, 2021 and November 5, 2021 meeting minutes. **Motion carried unanimously.**

4. **Other Business**

ENCLOSURE 1

Ms. Suda provided committee members with an update on the reauthorization of the Workforce Innovation and Opportunity Act (WIOA). It is being considered in the House of Representatives. In the coming months, SWWDB's Local Plan will need to be modified and program negotiations will be underway. If the timing is right, such items will be discussed at the next Board meeting. If not, the Executive Committee will convene.

5. Adjournment

Motion made by Mr. Otterstein, seconded by Mr. Williams, to adjourn the meeting at 10:27 a.m. **Motion carried unanimously.**

Executive Committee Meeting

Tuesday, August 30, 2022

Meeting Minutes

The Executive Committee of the Southwest Wisconsin Workforce Development Board met on Tuesday, August 30 2022, via GoToMeeting. Attendance was as follows:

Members Present:	Ms. Maria Lauck, Chairperson	Ms. Lisa Omen
	Mr. Christopher Comella	Mr. James Otterstein
	Mr. John Meyers	Mr. Mike Williams

Members Absent:

Staff Present:	Ms. Katie Gerhards	Ms. Danielle Thousand
	Ms. Rhonda Suda	

1. Call to Order

Ms. Lauck called the meeting to order at 11:02 a.m.

2. Adjourn to Closed Session

Motion made by Mr. Otterstein, seconded by Ms. Omen, to adjourn to closed session at 11:03 a.m.

3. Reconvene to Open Session

The SWWDB Executive Committee reconvened to open session at 12:22 p.m.

Motion made by Mr. Meyers, seconded by Mr. Comella, to approve the closed session action. Ms. Lauck abstained. **Motion carried unanimously.**

4. Training and Support Service Limits

SWWDB's Payment Authorization System (PAS) was down during the ransomware attack. PAS is the system used to track client limits and payments. While it was down, Case Managers did not know if a client went over their limits while being provided services.

SWWDB administration is seeking Executive Committee approval to waive client supportive limits during the ransomware recovery period. SWWDB administration acknowledges that some participants may have gone over their limits. Ms. Suda indicated that those participants went over their limits by \$90.00 to \$100.00 approximately. Not all participants went over their limits.

Motion made by Mr. Otterstein, seconded by Mr. Comella, to approve waiving participant payment limits during the ransomware recovery period. **Motion carried unanimously.**

5. Discussion: Ransomware Attack

On June 28, SWWDB fell victim to a ransomware attack. SWWDB administration immediately began working with SWWDB's attorneys and notifying funding sources. Currently, the only item left to be restored is Sharepoint. It has not been determined that any data breach occurred.

Mr. Comella asked if SWWDB's cyber security is up-to-date. Ms. Suda said yes. SWWDB has had cyber security for a long time and is renewed annually. It is unknown how the hackers accessed the network, but a network user either accessed a website they should not have or clicked on a phishing link and provided

their security credentials. Files were deleted, but not copied. The network was able to be restored from the backups that are done every night.

Ms. Lauck asked if all network users understand what happened. Ms. Suda said yes. It was discussed frequently and at staff meetings. SWWDB administration continues to talk to the attorneys and other agencies. Additionally, the Department of Justice (DOJ) wants to look at the affected servers.

If there are any other questions about the ransomware attack, please contact Ms. Suda.

6. Adjournment

Before adjourning, Mr. Comella indicated that on August 8, Inclusa, a non-profit, published a press release stating Humana is to purchase Inclusa. If it goes through, it will be final in October. At that time, Inclusa will no longer be a non-profit, but will be a for-profit for Humana.

Motion made by Mr. Comella, seconded by Mr. Meyers, to adjourn the meeting at 12:30 p.m. **Motion carried unanimously.**