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Missouri State Auditor

Lewis and Clark Discovery Initiative

July 2010

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Office of the
Missouri State Auditor
Susan Montee, JD, CPA

July 2010

YELLOW SHEET

The following findings were included in our audit report on the Lewis and Clark Discovery Initiative.

The Lewis and Clark Discovery Initiative (LCDI) was a program to fund capital improvement projects at various state higher education institutions with funds from the Missouri Higher Education Loan Authority (MOHELA). Senate Bill 389, passed during the 2007 legislative session, provided for the MOHELA to transfer a total of $350 million to the Lewis and Clark Discovery (LCD) Fund over a 6-year period. Subsequent appropriation bills totaling $350 million allocated $335 million between various projects and initiatives related to higher education institutions, and $15 million for the Missouri Technology Corporation (MTC).

The Missouri Department of Higher Education (MDHE) was established to carry out the goals and administrative responsibilities for the state system of higher education, but it had little input into the selection of projects for the LCDI. As a result, some projects were selected for LCDI funding by the General Assembly that were not considered priorities by the MDHE or the individual higher education institutions, and some projects that were considered priorities were not included in the initiative. While 3 MDHE recommended projects were not included, 19 other projects that had not been recommended by the MDHE were included in the initiative. In addition, when projects were prioritized in February 2009 due to funding shortages, the MDHE was asked to recommend critical factors to consider, but was not directly involved in the funding decisions.

The Office of Administration (OA) did not prioritize the projects selected for the LCDI or ensure adequate funding was available to complete projects that were started. As a result, as of April 2010, $2.3 million has been expended on 10 projects that were started but then suspended before completion. The Missouri Higher Education Loan Authority missed or reduced its quarterly payments beginning in March 2008. However, the OA did not initially communicate a possible funding shortage to the higher education institutions and continued to make reimbursements to those institutions with the limited funds remaining in the LCD Fund. In addition, the River Campus project at Southeast Missouri State University (SEMO) was completed using university bond proceeds prior to the LCDI appropriation from the General Assembly. Since the project was already completed, SEMO was reimbursed its entire $17.2 million LCDI allocation for this project during fiscal years 2008 and 2009, while other institutions were forced to halt projects due to the funding shortage.

In January 2008, the MTC imposed a 7 percent administrative fee (totaling $1.05 million) without adequately documenting its rationale for how the 7 percent fee was determined, or preparing a budget detailing anticipated administrative costs. In addition to the fee, the

MTC received over $250,000 in interest earnings on LCDI funds as of June 30, 2009. The Department of Economic Development also paid administrative expenses totaling approximately $363,000 for the 2 years ended June 30, 2009, to further subsidize the MTC.

As of December 31, 2009, the MTC paid $42,348 for outside audit-related legal advice, including reviewing documents prior to releasing those documents to our office to conduct our audit. The majority of the documents requested by our office were open public records pursuant to state law, and legal expenses for reviewing these documents do not appear to be necessary expenses charged to the LCDI funds.

As of June 30, 2009, the MTC had spent approximately $3.2 million of the $15 million it received in LCDI funding. If the OA had funded the MTC on an as-needed basis, additional interest would have been earned and available in the state's LCD Fund for other LCDI projects. In addition, the OA and General Assembly could have considered reallocating unused MTC funds as LCDI funding shortfalls continued and MDHE projects were prioritized in February 2009.

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LEWIS AND CLARK DISCOVERY INITIATIVE

TABLE OF CONTENTS

STATE AUDITOR'S REPORT

SUSAN MONTEE, JD, CPA
Missouri State Auditor

Honorable Jeremiah W. (Jay) Nixon, Governor
and
Kelvin L. Simmons, Commissioner
Office of Administration
and
David R. Russell, Ph.D., Interim Commissioner
Missouri Department of Higher Education
and
Jason Hall, Executive Director
Missouri Technology Cooperation

We have audited the Lewis and Clark Discovery Initiative. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2009 and 2008. The objectives of our audit were to:

1. Evaluate internal controls over significant management and financial functions related to the initiative.

2. Evaluate compliance with certain legal provisions related to the initiative.

3. Evaluate the economy and efficiency of certain management practices and operations related to the initiative, including certain revenues and expenditures.

Our methodology included reviewing minutes of meetings, written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the agencies/entities involved in the initiative, as well as certain external parties; and reviewing monitoring procedures at selected state institutions of higher education.

We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We also tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. However, providing an opinion on the effectiveness of internal controls was not an objective of our audit and accordingly, we do not express such an opinion.

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We obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not express such an opinion. Abuse, which refers to behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary given the facts and circumstances, does not necessarily involve noncompliance with legal provisions. Because the determination of abuse is subjective, our audit is not required to provide reasonable assurance of detecting abuse.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying History, Organization, and Statistical Information is presented for informational purposes. This information was obtained from management personnel of the agencies/entities involved in the initiative and was not subjected to the procedures applied in our audit of the Lewis and Clark Discovery Initiative.

The accompanying Management Advisory Report presents our findings arising from our audit of the Lewis and Clark Discovery Initiative.

Susan Montee

Susan Montee, JD, CPA
State Auditor

The following auditors participated in the preparation of this report:

Director of Audits:	John Luetkemeyer, CPA
Audit Manager:	Susan J. Beeler, CPA, CIA
In-Charge Auditor:	Michael Reeves, MPA
Audit Staff:	Amy Ames

BACKGROUND INFORMATION

LEWIS AND CLARK DISCOVERY INITIATIVE
BACKGROUND

The Lewis and Clark Discovery Initiative (LCDI) was initially announced by former Governor Blunt in January 2006 as a program to fund capital improvement projects at various state higher education institutions with funds from the Missouri Higher Education Loan Authority (MOHELA). Senate Bill 389[1] provided for the MOHELA to transfer a total of $350 million to the state's Lewis and Clark Discovery Fund over a 6-year period. The initial payment of $230 million was to be transferred no later than September 15, 2007. Subsequent quarterly payments of $5 million each were to be transferred to the state beginning December 31, 2007, and ending September 30, 2013. Any investment earnings by the state on these funds could reduce the MOHELA's next quarterly transfer by the amount of the investment earnings. The legislation allowed the MOHELA to delay payments if making the quarterly payments would hurt the economic viability of the MOHELA or its ability to provide services in its ordinary course of business. However, the state may impose a penalty on the MOHELA for non-payment by reducing the MOHELA's tax-exempt bond allocation by the percentage the LCDI transfers have been reduced.

Subsequent appropriation bills[2] allocated the anticipated $350 million revenue stream between various projects and initiatives. These appropriations included $305 million for capital improvement projects at state colleges and universities, $6 million for maintenance and repair costs at state community colleges, an additional $2 million for each state community college with no specific project requirements ($24 million in total), and $15 million for the Missouri Technology Corporation (MTC) to be used to attract and retain high technology companies and commercialize existing research conducted in Missouri. See Appendix A for a detailed list of the projects included in the LCDI.

The MOHELA made the initial $230 million transfer on September 14, 2007, a $5 million payment ($2.9 million transfer plus $2.1 million in accrued interest) on December 31, 2007, and two partial payments of $927,338 and $100,000 on June 30, 2008, and September, 25 2008, respectively. However, a total of $265 million should have been transferred as of June 30, 2009, leaving a shortfall of approximately $21 million at the fiscal year end, with an additional $85 million in quarterly payments scheduled through September 30, 2013. The following table shows the transfers from the MOHELA and accrued interest through June 30, 2009:

[1] Senate Bill No. 389, First Regular Session, 94th General Assembly (2007)
[2] House Bill No. 17, First Regular Session, 94th General Assembly (2007), and House Bill No. 2019, Second Regular Session, 94th General Assembly (2008)

Scheduled Payment Date	Total Due	Transfer Made	Accrued Interest Applied	Total Payment	Shortfall Amount
September 2007	$ 230,000,000	230,000,000	0	230,000,000	0
December 2007	5,000,000	2,898,622	2,101,378	5,000,000	0
March 2008	5,000,000	0	2,532,093	2,532,093	(2,467,907)
June 2008	5,000,000	927,338	1,540,569	2,467,907	(2,532,093)
September 2008	5,000,000	100,000	1,387,253	1,487,253	(3,512,747)
December 2008	5,000,000	0	1,144,442	1,144,442	(3,855,558)
March 2009	5,000,000	0	631,734	631,734	(4,368,266)
June 2009	5,000,000	0	580,419	580,419	(4,419,581)
Total	$ 265,000,000	233,925,960	9,917,888	243,843,848	(21,156,152)

It is unclear when, or if, the MOHELA will resume making additional payments. Section 173.385.2, RSMo, states ". . . the distribution of the entire three hundred fifty million dollars of assets by the authority to the Lewis and Clark discovery fund shall be completed no later than September 30, 2013, unless otherwise approved by the authority and the commissioner of the office of administration." As of September 2009, no alternative disbursement date had been approved.

In October 2007, after the MOHELA's initial transfer to the state, all institutions that had already received LCDI appropriations (the Ellis Fischel Cancer Center at the University of Missouri and the Pharmacy and Nursing Building at the University of Missouri-Kansas City were not appropriated LCDI monies until later in fiscal year 2008) were notified by the Office of Administration (OA) to proceed with the projects and that project costs would be reimbursed according to the reimbursement schedule designed to match planned MOHELA payments.

In January 2009, Governor Nixon suspended funding for LCDI projects due to lack of continued fund transfers by the MOHELA and requested the OA prioritize the distribution of available LCDI funding. In February 2009, the Governor announced a funding plan in which individual projects were funded, partially funded, or suspended. For a list of the projects, see Appendix A.

After the suspension of projects, the General Assembly passed legislation[3] during the 2009 legislative session in an attempt to fund the remainder of the projects with American Recovery and Reinvestment Act of 2009 (ARRA) funds. However, due to budget constraints within state government, Governor Nixon vetoed or suspended the funding that was allocated to the LCDI projects. Therefore, no state funding had been allocated to the suspended or unfunded portions of the LCDI projects as of December 2009.

[3] House Bill No. 22, First Regular Session, 95th General Assembly

MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

1. Project Selection and Funding Plan

The Missouri Department of Higher Education (MDHE) coordinates capital improvement funding requests of public higher education institutions in the state, but had little involvement with the LCDI project selection, or the February 2009 project prioritization. In addition, the Office of Administration (OA) did not ensure necessary funding was available before authorizing institutions to proceed with LCDI projects.

A. The MDHE was not involved in the project selection for the LCDI, nor was it included in the February 2009 project prioritization.

1) While the MDHE was established to carry out the goals and administrative responsibilities for the state system of higher education, it had little input into the selection of projects for the LCDI. As a result, some projects were selected for LCDI funding by the General Assembly that were not considered priorities by the MDHE or the individual higher education institutions, and some projects that were considered priorities were not included in the initiative.

The MDHE receives capital improvement funding requests from the various higher education institutions in the state. MDHE personnel prioritize these requests and, as part of the annual budget process, the department submits to the General Assembly a list of higher education capital improvement projects recommended for state funding. While most projects on the MDHE fiscal year 2008 listing received appropriations through the LCDI, three projects (totaling $195.6 million in MDHE recommended funding) were not included in the initiative. These projects included approximately $58.1 million for Schrenk Hall at the Missouri University of Science and Technology (formerly the University of Missouri-Rolla), approximately $87.5 million for a Health Sciences Research Center at the University of Missouri-Columbia, and $50 million for Miller Nichols Library and Academic Commons at the University of Missouri-Kansas City. In addition, seven projects[4] received a total of $60.5 million less funding than the MDHE recommended and two

[4] Jason Hall at Lincoln University, Heavy Equipment Technology Facility at Linn State Technical College, Health Sciences Building at Missouri Southern State University, Agenstein Science and Math Facility at Missouri Western State University, Pershing Building at Truman State University, Morrow and Garrison Buildings at the University of Central Missouri, and Benton and Stadler Halls in the University of Missouri System.

projects[5] received funding totaling $17.2 million more than the MDHE recommended (see Appendix A).

While 3 MDHE recommended projects were not included, 19 other projects that had not been recommended by the MDHE were included in the initiative. Of these, 3 projects (Pharmacy and Nursing Building at the University of Missouri-Kansas City, the Mechanical Engineering Building at the Missouri University of Science and Technology, and Ellis Fischel Cancer Center at the University of Missouri-Columbia), were on the respective universities' priority capital improvement listings, but the remaining 16 projects[6] (totaling approximately $36.7 million) were not designated as priority projects on the respective universities' listings. These 19 projects accounted for approximately $97 million (32 percent) of the $305 million in LCDI appropriations for specific capital improvement projects at higher education institutions. We contacted officials at the three applicable higher education institutions[7] that manage the 16 projects, and while these officials stated they were contacted by legislators to discuss possible projects, two officials stated they did not know why these projects were eventually selected by the General Assembly.

Sixteen projects, totaling $36.7 million, were not considered high priority projects by the MDHE or the applicable institutions, but were chosen for the LCDI, while three projects considered by the MDHE to be statewide priorities were not included in the initiative. Although the anticipated LCDI revenues would not have been enough to fund all MDHE priority projects at the recommended levels, it is possible at least 1 of the 3 unfunded priority projects could have been funded if some of the 16 lower priority projects had not received appropriations.

2) The MDHE was asked to recommend critical factors to consider, but was not directly involved in the funding decisions when projects were prioritized in February 2009.

Due to LCDI funding shortages, the OA contacted institutions receiving LCDI funding to determine the status of each project, including the amount of outstanding expenses. The OA also determined the amount of remaining LCDI monies available. The various projects were reviewed to determine those projects that could be postponed at minimal costs and

[5] Early Childhood and Parent Education Center at Harris-Stowe State University and Center for Plant Biologics at Northwest Missouri State University.

[6] Business Incubator at Missouri State University; Dental Hygiene Clinic, Business Incubator, and Autism Center at Southeast Missouri State University; and Plant Science Research Facility, Greenley Learning and Discovery Park, Plant Science Greenhouse, Education and Outreach Center, Meeting and Educational Facility, Agroforestry Research Center, Learning Discovery Center, Headquarters Building and Meeting Room, Meeting and Educational Facility, Swine Confinement Buildings and Biomedical Swine Research Facility, Swine Research Isolation Facility, and Equipment Replacement for School of Dentistry in the University of Missouri System.

[7] University of Missouri System, Missouri State University, and Southeast Missouri State University.

those that were already in the construction phase. Additional consideration was given to Governor Nixon's priorities (such as health care professionals and agriculture research). The projects were prioritized by the OA and a report listing the recommended projects was provided to the Governor.

On February 13, 2009, project funding totaling approximately $107.8 million was reduced for 3 projects[8], and suspended for 11 projects[9]. One of the suspended projects, (Benton and Stadler Halls at the University of Missouri-St. Louis (UMSL)) had been considered a priority capital improvement project by the MDHE since at least 1998. However, since the project was still in the engineering phase in February 2009, its funding was suspended. Project costs of $441,000 were subsequently incurred and remained unpaid as of June 30, 2009. However, interest earned since the February 2009 prioritization allowed additional fiscal year 2009 payments totaling $946,000 for the UMSL project and other institutions' projects.

To ensure limited funding is allocated to the highest priority capital improvement projects, established procedures should be followed whereby institutions indentify priorities and submit those to the MDHE to establish priorities on a statewide basis.

B. The OA did not prioritize the projects selected for the LCDI or ensure adequate funding was available to complete projects that were started. As a result, as of April 2010, $2.3 million has been expended on 10 projects that were started but then suspended before completion.

After receiving the initial fund transfer of $230 million from the MOHELA in October 2007, the OA notified each institution to proceed with appropriated LCDI projects. The higher education institutions with specific projects funded through the LCDI were paid on a reimbursement basis, similar to other capital improvement appropriations. Projects under $5 million were allowed to be reimbursed immediately. Projects over $5 million were to receive up to 70 percent of their total project appropriations in state fiscal year 2008 and up to 10 percent in each of the following three years. However one larger project, the River Campus project at Southeast Missouri State University (SEMO), was completed prior to the LCDI funding becoming available but then was reimbursed during fiscal years 2008 and 2009. Since SEMO had already paid for this project (financed by a revenue bond issuance), as soon as the funds were available, it was

[8] Phase I - Facilities Reutilization Plan at Missouri State University, Pershing Building at Truman State University, and Plant Science Research Facility in the University of Missouri System.

[9] Business Incubator at Southeast Missouri State University; and Greenley Learning and Discovery Park, Plant Science Greenhouse, Education and Outreach Center, Meeting and Educational Facility, Agroforestry Research Center, Headquarters Building and Meeting Room, Meeting and Educational Facility, Swine Research Isolation Facility, Ellis Fischel Cancer Center, and Benton and Stadler Halls in the University of Missouri System.

reimbursed 96 percent of the $17.2 million LCDI appropriation[10], while other institutions were forced to halt projects due to the funding shortage.

The MOHELA missed or reduced its quarterly payments beginning in March 2008. However, the OA did not initially communicate a possible funding shortage to the higher education institutions and continued to make reimbursements to those institutions with the limited funds remaining in the Lewis and Clark Discovery Fund.

In February 2009, Governor Nixon suspended or reduced funding for 14 projects until additional funding became available. Of these 14 projects, 11 had already begun but were still in the design phase. The institutions plan to use these designs if additional funding is secured for the projects unless the plans become obsolete by that time.

To ensure necessary funding will be available for the most needed projects, the OA should prioritize projects to proceed as the funding becomes available.

WE RECOMMEND:

A. The MDHE, General Assembly, Governor's Office, and OA, work closely with the institutions to ensure the most beneficial capital improvement projects for the state system of higher education are funded in the future.

B.1. The OA, in the future, ensure funding is available before capital improvement projects are authorized to proceed.

2. The General Assembly refrain from appropriating funds for projects already completed.

AUDITEE'S RESPONSE

The MDHE provided the following response:

A. In response to the first finding, which points out that the MDHE was not involved in the project selection, I thank you for bringing visibility to this issue. The CBHE prioritizes capital projects based on criteria designed to ensure that future projects are aligned with statewide strategic plans for higher education, and the board looks forward to working with the General Assembly on future initiatives that provide significant funding to address statewide capital needs.

In response to the second finding, which indicates that the MDHE was not directly involved in funding decisions when projects were prioritized in February 2009, please note that the prioritization was based on a number of considerations. Those

[10] The remainder was reimbursed in the fiscal year 2009.

considerations included a list of critical factors identified by the CBHE at its February 2009 meeting.

The Governor's Office provided the following response:

A. *The current administration was not involved with this project until it took office in the middle of January 2009. At that time, many of the issues raised in the audit were well under way. Projects had been approved and were progressing even though MOHELA had started missing payments in March 2008.*

At the time of taking office, the current administration immediately began a review of these projects and realized the need to take immediate action to prevent the continued expenditure of funds. Many projects across the state had begun the engineering phase and/or were already under construction. Unlike the start of the process, the Missouri Department of Higher Education was asked by the current administration to recommend critical factors that should be considered in evaluating what projects should move forward with only limited funds remaining.

The Office of Administration determined with every school an immediate status of the project. The Office of Administration recommended all projects that were more advanced in the construction process continue to avoid the school from having a facility it could not use.

The current administration recognized the challenges presented it and took immediate action.

The OA provided the following responses:

A. *The finding is that the MDHE was not sufficiently or at all involved in the selection of the LCDI projects. In fact, the procedure for appropriating the LCDI projects was little different from past procedures for appropriating capital improvement projects for higher education. The MDHE has never had the authority to determine which projects are appropriated and in what amount; rather, their recommendations are simply that – recommendations which the legislature can accept or reject. It is the responsibility of the legislature, not an executive branch department, to appropriate funds for capital improvement projects. In determining which LCDI projects to fund and at what level, the legislature used their normal sources of information – the MDHE, the higher education institutions, elected officials, lobbyists, other constituents, and prior funding commitments. Prior funding commitments were of particular importance in the selection of the LCDI projects because the last time higher education institutions received significant capital funding prior to LCDI was in FY 01 when most of those projects were ultimately withheld due to funding shortfalls. The audit criticizes the inclusion of the UMKC Pharmacy and Nursing Building and the MS&T Mechanical Engineering building in the LCDI initiative because these projects were not recommended by MDHE in FY 08. Both of these projects, though, had received appropriations in FY 01 that were* *ultimately withheld and many legislators felt that it was important to honor these past funding commitments before funding new projects.*

The finding also states that MDHE was not directly or at all included in the February 2009 prioritization of LCDI projects. It is the constitutional (Article IV, Section 27) responsibility of the Governor, not MDHE, to withhold appropriations when funds are insufficient. While MDHE was asked for input, it was not their responsibility to make budgetary withholding decisions or administer the fund.

In addition, the audit findings suggest that the UMSL Benton and Stadler Halls project should have been funded in the February 2009 prioritization and would have been if MDHE had been more involved in the process. This assumes: 1) that MDHE would have advocated for the funding of the $28.5 million Benton and Stadler project which had incurred only the most minimal of planning expenses rather than advocate for the completion of a number of other, smaller projects which were significantly underway; and 2) that the Benton and Stadler project should have been funded over other projects already under construction simply because it had been a MDHE priority for a number of years. OA does not agree that it would have been more appropriate to fund the Benton and Stadler project and leave unfinished shells of several other projects nor does OA believe that MDHE would have advocated for this.

The final sentence of finding A (page 10 second paragraph) reads that established procedures should be followed whereby institutions identify priorities and submit those to the MDHE to establish priorities on a statewide basis. This is already in place – institutions submit their capital priorities to MDHE which then recommends a prioritized list of capital projects to the Governor and legislature as part of their annual budget submission.

B. *The finding is that OA didn't prioritize the LCDI projects or ensure adequate funding was available to complete the projects before they were started. OA had no indication from MOHELA that they would be unable to make the scheduled payments into the LCDI fund and the initial $230 million payment was made as scheduled. Given this and the fact that the appropriation authority for the LCDI projects was in a two year bill while the last scheduled MOHELA transfer was to occur on September 30, 2013, OA had no reason to delay work on the capital projects. Higher Education capital projects have historically been funded from a number of sources (General Revenue, Lottery Funds, Bingo Funds, and bond proceeds). These capital appropriations are made by the legislature with the belief and understanding that the funds will be available over the course of the capital projects. It has not been the policy of the state to delay appropriated capital improvement projects until the balance of the appropriations has accrued into a separate sinking fund.*

The audit states that OA did not prioritize the LCDI projects; however, OA developed a project reimbursement schedule designed to ensure that outflows from the LCDI Fund would match inflows into the fund from the quarterly MOHELA transfers.

The audit criticizes the reimbursement of the SEMO River Campus project, which received 96% of its funds in FY 08 and the remaining 4% in FY 09. SEMO operated under the same reimbursement schedule as all of the other institutions. Institutions with multiple projects were allowed to move available funds between projects to best suit their cash flow and construction needs. SEMO put off construction of their Incubator project in order to apply the Incubator allocations toward the River Campus.

AUDITOR'S COMMENT

A. Our report is not meant to suggest the UMSL Benton and Stadler Halls should have been funded in the February 2009 prioritization. As the OA response correctly indicates, there were not enough LCDI funds available at that point to fund the project. However, if the project had been established as a higher priority project at the beginning of the LCDI, that project could have been funded before other lower priority projects.

B. The certainty of the MOHELA payments appeared to be in question from the beginning of the LCDI as evidenced by the fact that the legislation addressed the possibly of short falls in this revenue source. Given the fact that this funding was somewhat in question, plans should have been in place to deal with possible funding shortfalls.

2. Administrative Fees

The MTC imposed a 7 percent administrative fee on LCDI monies received; however, the MTC did not have sufficient documentation to show how this administrative fee (totaling $1.05 million) was determined or whether the amount of the fee was reasonable and necessary. In addition to the administrative fee, the MTC has collected over $250,000 in interest from the LCDI funds as of June 30, 2009, and the Department of Economic Development (DED) paid approximately $363,000 in administrative expenses to support the MTC during the 2 years ended June 30, 2009. The MTC incurred expenses for legal advice relating to documents requested for audit purposes. Also, interest earnings of the Lewis and Clark Discovery (LCD) Fund and greater flexibility to address funding LCDI shortfalls would have been realized if the OA had funded the MTC on an as-needed basis.

A. The LCDI legislation[11] provided $15 million to the MTC to be used to attract and retain high technology companies and commercialize existing research conducted in Missouri. The OA disbursed the following from the LCD Fund to the MTC:

Date of Disbursement		Amount
November 1, 2007	$	8,512,500
January 16, 2008		2,162,500
April 17, 2008		2,162,500
June 18, 2008		2,162,500
Total	$	15,000,000

[11] House Bill No. 17, First Regular Session, 94th General Assembly (2007).

In January 2008, the MTC imposed a 7 percent administrative fee without adequately documenting its rationale for how the 7 percent fee was determined, or preparing a budget detailing anticipated administrative costs. The only documentation the MTC could provide was an email from the MTC to a national nonprofit organization specializing in the technology-based economic development (TBED) industry requesting information about what other states charged for administrative expenses related to programs similar to the LCDI. The response indicated the administrative percentages for the other states' organizations ranged from 6 percent to 24 percent for the entire organizations and the rates were not specific to expenses involved in administering and overseeing TBED grants. Although the LCDI legislation does not provide for an administrative fee to be imposed by the MTC, the OA and the MTC contend the MTC enabling legislation grants broad powers and legally allows for the imposition of an administrative fee.

In addition to the fee, the MTC received over $250,000 in interest earnings as of June 30, 2009, from LCDI funds that, according to MTC personnel, are used for various MTC administrative expenses. Also, the DED paid administrative expenses totaling approximately $363,000 for the 2 years ended June 30, 2009, to further subsidize the MTC. The DED pays the MTC Executive Director's salary and benefits and various other expenses, and provides office space to the MTC.

The MTC maintains the 7 percent fee was only an "accounting reserve" and the fee would be reevaluated to determine if it is an accurate portrayal of administrative costs. However, as of April 2010, this fee has not been reevaluated by the MTC. From July 1, 2007, through June 30, 2009, the MTC spent only $422,000 (32 percent) of the $1.3 million administrative reserve generated by the administrative fee and related interest earnings. At that rate of expenditure, the administrative reserve would last another 6 years without considering additional interest earnings.

The MTC should ensure the administrative expenses are reasonable and necessary so the maximum amount of LCDI funds are used to attract and retain high technology companies and commercialize existing research conducted in Missouri. In addition, considering the interest received on the funds and administrative expenses charged to the LCDI projects, it does not appear necessary for the DED to subsidize MTC operations.

B. Approximately $315,000 (75 percent) of administrative reserve expenses during the 2 years ended June 30, 2009, related to outside legal fees. According to MTC officials, the majority of these fees were for drawing up contracts, but also included $21,320 for legal advice, including reviewing documents (such as open meeting minutes, contracts, requests for proposals (RFPs), and accounting records) prior to releasing those documents to our office to conduct our audit. The majority of the documents requested by our office were open public records pursuant to Chapter 610, RSMo, and legal expenses for reviewing these documents do not appear to be necessary expenses charged to the LCDI funds. As of December 31, 2009, these fees totaled $42,348. The MTC should ensure only necessary expenses are charged to LCDI funds.

C. As of June 30, 2009, the MTC had spent approximately $2.8 million in direct LCDI expenses and $422,000 in administrative reserve expenses. If the OA had funded the MTC on an as-needed basis, additional interest would have been earned and available in the state's LCD Fund for other LCDI projects. In addition, the OA and General Assembly could have considered reallocating unused MTC funds as LCDI funding shortfalls continued and MDHE projects were prioritized in February 2009.

WE RECOMMEND:

A. The MTC review the continued need for the amount of administrative funds reserved, reimburse the DED for state subsidies received, and utilize any remaining excess reserve amounts for direct program expenses.

B. The MTC refrain from incurring any unnecessary legal costs related to the program.

C. The OA fund the MTC on an as-needed basis in the future.

AUDITEE'S RESPONSE

The OA provided the following response:

C. OA must iterate that OA simply processes the MTC payments as it does for all appropriations to all departments. It is unclear how OA has the authority to fund the MTC on an as-needed basis in the future and which appropriation the funding would be derived. Of course, OA would comply with any future statutory funding allocation approved by the General Assembly if funding is available.

The MTC provided the following response:

These comments are provided jointly by the Executive Director and members of the Audit and Finance Committee of Missouri Technology Corporation's ("MTC") Board of Directors. All comments relate to Section 2, Administrative Fees of the Lewis & Clark Discovery Initiative ("LCDI") audit report.

Overview

MTC is disappointed with the LCDI audit process and the resulting audit report. This audit, which has been a great burden on MTC's three-person staff, has dragged on for more than a year, predating even the current Executive Director. This audit largely overlaps with the *ongoing annual statutory MTC audit (for which MTC must pay the State Auditor) of essentially the* same *LCDI programs and related expenditures.*[12] *In the end, the outcome of the LCDI audit has been (1) a series of positions and conclusions on legal matters, now largely withdrawn, that were wrong as a matter of law (and corrected only after* two *appeals by MTC that were apparently elevated to the State Auditor herself); and (2) a handful of relatively insignificant factual conclusions that are not only incorrect but are refuted by facts stated in the LCDI audit report itself.*

The final LCDI audit report includes changes from several earlier drafts, but MTC continues to take issue with certain factual statements, conclusions, and recommendations that remain or that were newly introduced in the most recent draft. In the face of a global economic downturn, however, the need for MTC's small staff (and largely volunteer Board) to focus on the core mission of creating high-tech, high-paying jobs for Missourians has never been greater. MTC simply cannot spend 100% of its time on audit matters, so MTC seeks to bring this seemingly endless process of "whack a mole" to an end by submitting this formal response.

The report as revised now makes it abundantly clear that implementing State Auditor Montee's suggestions and recommendations would undermine MTC's ability to launch programs that create high-tech, high-paying jobs by removing or reducing its funding and its decision-making authority. This result would be directly contrary to the Missouri General Assembly's purpose and intent embodied in the statutes creating MTC and granting its powers, and appropriation of LCDI funds for use by MTC. The report effectively ignores the General Assembly's unambiguous appropriation to MTC of $15 million for specific programs and the power to expend those funds for administrative and oversight costs. Moreover, the report contains no criticism of MTC's administrative costs (or any other expenditures) that could possibly justify this position. In fact, at the March 29, 2010 meeting between MTC staff and the State Auditor's staff about first draft of the LCDI audit report, the Auditor's staff admitted that it had done no research or analysis to compare the operation of technology-based economic development programs in Missouri to those in any other state. The only specific complaint in the entire report concerning administrative cost (after more than a year of audit work, including more than four months after the November 2009 exit interview taken to prepare an initial draft report) involves the amount of payments made to outside legal counsel for assistance in responding to this LCDI audit and the overlapping annual audit.

The discussion below objects to three conclusions stated or implied in the "Administrative Fees" section of the LCDI audit report: (1) that MTC does not have the legal authority to use a portion of appropriated state funds or interest on those funds to pay administrative expenses;[13] *(2) that the process by which MTC allocated appropriated funds to a reserve for administrative expenses was flawed; and (3) that MTC incurred unnecessary legal costs.*

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[12] *Both the LCDI and MTC statutory audits were announced during the first quarter of 2009, but the statutory audit fieldwork did not begin until roughly nine months after it was announced.*

[13] *This position was a surprise when it appeared in the draft report. During the formal exit interview in early November 2009, the State Auditor's staff opined that MTC did not maintain sufficient documentation to support the specific amount of funds its Board unanimously voted to hold in reserve in an effort to insure proper administration and oversight in the launch of the 15 new technology-based economic development programs named in the LCDI appropriation. No question about the legal authority for MTC to create the reserve was even discussed at the meeting.*

AUDITOR'S COMMENT

The MTC's unwillingness to provide information and confrontational attitude contributed, to a large extent, to the lengthy audit process. It is not unusual for audit findings to undergo changes during the draft report review process, especially in cases where the auditee is unwilling to provide timely and complete information.

The MTC's contention that the SAO stated or implied the MTC did not have the legal authority to pay administrative expenses is not, and never has been, our position. This represents an example of the MTC manipulating our position and is indicative of the confrontational attitude encountered during the audit.

Authority to allocate appropriated funds

The report no longer directly questions whether MTC has the authority to use LCDI funds to pay administrative expenses. The report now states: "Although the LCDI legislation does not provide for an administrative fee to be imposed by the MTC, the Office of Administration (OA) and the MTC contend the MTC's enabling legislation grants broad powers and legally allows for the imposition of an administrative fee." April 29 Draft Audit Report ("Administrative Fees," Part A). For the record, and because the State Auditor does not appear to be entirely convinced of the correctness of the position of the OA and MTC, we reiterate why MTC firmly believes that it has that authority.

The legislature established MTC as a not-for-profit corporation to promote the Missouri economy through science and technology. Sections 348.251.2 & 348.256(1), RSMo. Section 348.256 requires that MTC's articles of incorporation and bylaws must provide that:

> *(3) The corporation may receive money from any source, may borrow money, may enter into contracts, and may expend money for any activities appropriate to its purpose;*
>
> *(4)The corporation may appoint staff and do all other things necessary or incidental to carrying out the functions listed in section 348.261.*

Section 348.261 is the "Powers" section of the enabling statutes, which lists 13 areas in which MTC may accomplish its purpose of promoting science and technology. Even without a specific line item in the appropriation for administrative expenses, these enabling statutes, taken together, clearly authorize MTC to incur administrative expenses for activities appropriate to its purpose or necessary or incidental to carrying out its functions.[14] *In fact, until MTC staff pointed out the MTC enabling statutory language to the State Auditor's staff at a March 29, 2010 meeting, the State Auditor expressly acknowledged in the LCDI audit report that "a limited amount of administrative expenses are* necessary *to administer the LCDI projects." (emphasis*

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[14] *The Missouri State Auditor previously audited another economic development organization (albeit one that is not even an actual corporation under law like MTC), the Missouri Development Finance Board ("MDFB"), and did not question the legality of an actual fee that entity imposes on projects. In reaching that conclusion, the Missouri State Auditor specifically considered the MDFB enabling statute. Susan Montee, Missouri State Auditor,* *Missouri Development Finance Board*, *Report No. 2007-12 (Mar. 2007).*

added). The State Auditor's written acknowledgment, of course, tracked the precise language of the MTC enabling statute, but was curiously deleted after MTC staff pointed out this issue. This earlier draft suggested that the State Auditor and the MTC were in agreement as to not only why a reserve fund had to be established, but also the legal basis for doing so.

Moreover, MTC took additional precautions with respect to the specific appropriation at issue. First, MTC entered into a formal legal contract with the Missouri Department of Economic Development before receipt of the LCDI funds, and this contract requires MTC to comply with Missouri law in the use of the funds. Second, the MTC undertook efforts to confirm that the expectations of the Missouri General Assembly were consistent with MTC's statutory authority. The designee of the Speaker of the House on the MTC Board, former Rep. Wayne Cooper (R-Camdenton), stated in the June 13, 2007 MTC minutes (which were furnished in the audit) that there was "no question" the legislature expected MTC to use a portion of the LCDI funding to set up and administer the 15 new LCDI programs.

Despite its grudging but implicit acknowledgement that there is a statutory basis for MTC's authority to fund administrative expenses, the April 29 draft report still contains the recommendation that the Office of Administration ("OA") fund MTC "on an as-needed basis in the future." April 29, 2010 Draft Report ("We Recommend," Item C). This recommendation ignores the clearly stated legislative intent of the LCDI appropriation and the statutes granting MTC the authority to manage its own affairs, as explained above. If implemented, this recommendation would take away powers specifically granted to MTC in the legislation creating it and incorporated in its articles of incorporation and bylaws. It would require MTC to return unused funds to the OA and then to apply to the OA for disbursements of those funds to pay administrative expenses ***and*** *to make program payments. Presumably, this arrangement would require the OA to dole out MTC's LCDI funding to pay both administrative and program expenses only if it judged those expenses to be "needed."*

As the draft report urges, MTC would be required to submit proposals to receive its own appropriated funds, or at least what remained of those funds after money had been taken from MTC and reallocated to other LCDI programs. If implemented, this recommendation would effectively strip MTC not only of the authority to decide how to expend its funds but also of the funds themselves. This is clear from another comment in the April 29 draft report: "If the OA had funded the MTC on an as-needed basis, additional interest would have been earned and available in the state's LCD Fund for other LCDI projects. In addition, the OA and General Assembly could have considered reallocating unused MTC funds as LCDI funding shortfalls continued and MDHE projects were prioritized in February 2009." April 29, 2010 Draft Audit Report, "Administrative Fees," Part C). Not only is this recommendation inconsistent with the legislative language and intent, it lacks any justification in the report. This issue is addressed in the following two parts of this response.

AUDITOR'S COMMENT

The MTC's contention that the SAO did not question the legality of a fee imposed by the Missouri Development Finance Board (MDFB) is not only off-point and nonresponsive, but incorrect. The MDFB is authorized by state law to assess or charge fees as the board determines to be reasonable to generate operating funds necessary to carry out its purposes.

The process of allocating funds to pay administrative expenses

The April 29 draft states that MTC "did not have sufficient documentation to show how this administrative fee (totaling $1.05 million) was determined." Draft Audit Report ("Administrative Fees," first paragraph). This statement is identical to one that appeared in the March 31 draft. The report now acknowledges, however, that this so-called fee (which is 7% of the total $15 million appropriation of LCDI funds for MTC as of June 30, 2009) is an accounting reserve based on information regarding administrative expenses of similar organizations and that it is not the actual amount of administrative expenses incurred, which could be more or less than $1.05 million when all the LCDI funds are paid to recipients.

The MTC Board unanimously approved the 7% reserve level in an open meeting that is reported in MTC's public minutes. The former MTC Executive Director obtained information from a national non-profit organization specializing in technology-based economic development. This organization indicated that economic entities comparable to MTC in other states spent between 6% and 24% of their funds on administration. The 7% reserve level established by the MTC Board was near the low end of the range provided to MTC. All of this information was provided during the audit and in response to previous drafts of the report, but the draft report still implies that this survey was inadequate, despite acknowledging that the administrative "fee" is only an accounting reserve for future expenses and that any excess which remains in the reserve would be available to spend on MTC's LCDI programs. April 29, 2010 Draft Report ("Administrative Fees," Paragraph A).

Moreover, rather than just questioning the documentation for the 7% estimate, the draft report now contends that the estimate was too high and that, combined with interest earned on unexpended funds and DED support, it has resulted in an excess amount in the administrative reserve. The conclusion in the report is that "it does not appear necessary for the DED to subsidize MTC operations" (primarily in the form of office space and the Executive Director's salary).[15] *April 29, 2010 Draft Report ("Administrative Fees," Paragraph A). Accordingly, the draft report recommends that: "The MTC review the continued need for the amount of administrative funds reserved, reimburse the DED for state subsidies received, and utilize any remaining excess reserve amounts for direct program expenses."* Id. *("We Recommend," Item C). As pointed out above, the State Auditor's staff admitted that it undertook no research or analysis to compare the LCDI programs to those in other states to determine whether the reserve is too high. It is questionable whether reimbursement of the DED would be consistent with the legislative intent in creating MTC; but, in any event, the factual premise for this recommendation is incorrect.*

The contention that the 7% reserve for cost of administration and program oversight is too high is not supported by the relevant facts recited in the audit report. There may very well be a

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[15] The DED staff person who provides support to MTC as the Executive Director, of course, also supports DED and the State of Missouri more broadly on non-LCDI projects that require expertise in high-technology, capital formation, and other areas.

*surplus remaining in the administrative reserve as the last of the program disbursements are being made, but it is too soon to draw that conclusion. As evidence of the claimed excess in the reserve, the draft report notes that, as of June 30, 2009, MTC had spent "**only** $422,000" (emphasis added) or 32% out of a total available of $1.3 million (consisting of $1.050 million from the 7% allocation and $250,000 of interest earned on LCDI funds held by MTC). The report then complains that the administrative reserve would last six years at the this same rate of expenditure. April 29, 2010 Draft Report ("Administrative Fees," Paragraph A). This analysis of the amount of administrative expenditures over time does not provide an assessment of the reasonableness of the 7% figure as the amount of the reserve. The correct analysis, and one that provides a very different perspective on the issue, would be a comparison of relative rates of expenditure—a comparison of the percentage of the administrative reserve spent with the percentage of LCDI program funds distributed to program recipients as of the same point in time.*

First, it is important to note that the $422,000 of administrative expenses actually represents 40% of the 7% administrative reserve (i.e., *excluding accumulated interest). This is the correct percentage in an analysis of the reasonableness of the original 7% estimate. In addition, as the report notes, during the same time period in which MTC spent $422,000 on administrative expenses, it "spent approximately $2.8 million in direct LCDI expenses." April 29, 2010 Draft Report ("Administrative Fees," Paragraph C). This $2.8 million represents only about 20% of the total of $13.950 million allocated to program payments (after deduction of the 7% administrative reserve). Thus, the State Auditor's own figures show that, as of the audit cut-off date, MTC in fact was spending the administrative reserve faster than it was paying LCDI funds to recipients (even with the benefit of the DED "subsidy"). At the same relative rate of expenditure, MTC would run out of administrative reserve funds before all the LCDI funds were paid to recipients; and MTC would have to rely on other sources such as interest or additional support from the OA to pay administrative expenses.*

Of course, the administrative expenses tend to be front-loaded, especially the legal fees for setting up the corporate governance structures, developing and implementing evaluation and approval procedures, and initiating and structuring the deals associated with each of the programs. In addition, the rate of expenditure of the administrative reserve, relative to the expenditure for direct payments, is likely to slow over time. However, there was no way to make that determination with any certainty from information available for the audit, and there is no indication in the audit report of any attempt to perform such an analysis. MTC is not currently in a position to reimburse the DED for administrative support, as the audit report recommends. In any event, it is questionable whether MTC would be required to do so under statute or under its contract with DED covering this very program. Even if it were, however, any payment to the DED would only reduce the amount of LCDI funds that would otherwise be disbursed to MTC's LCDI program recipients.

AUDITOR'S COMMENT

The MTC's "survey" consisted solely of an email to one non-profit organization. In addition, the MTC's former Executive Director clearly indicated in the email that the 7 percent figure was based on a scientific wild guess. The organization's response also stated the percentages included **all** administrative expenses for the organization, which would not be comparable to the MTC since the MTC received additional administrative subsidies from the DED.

The necessity for legal expenses

The draft audit does not question the necessity or amount of any actual administrative cost other than $21,320 of legal expenses charged by outside counsel in an "Audit Matters" file, which represents work in response to the LCDI audit and the regular annual audit required by statute. If anything, the statement that administrative expenses amounted in total to "only $422,000" and the conclusion those expenses were running behind original estimates indicates a recognition that MTC has been frugal regarding such expenses. Specifically, the report notes that approximately 75% of the amount of administrative costs actually incurred through June 30, 2009 ($315,000 out of a total of $422,000) was for outside legal fees. It does not question the reasonableness or necessity of these fees, except for the one $21,320 Audit Matters item, but it does state, inaccurately*, that, "[a]ccording to MTC officials, the majority of the fees were for drawing up contracts." April 29, 2010 Draft Report ("Administrative Fees," Paragraph B). On April 16, 2010, MTC informed the State Auditor's staff that this statement oversimplifies the nature of the legal work done to launch MTC programs and to operate MTC as a corporation, which has corporate legal obligations. MTC noted in particular that this work involved a much broader range of tasks than drafting contracts, including advice on governance, compliance, employment, intellectual property, and lending matters, among others.*

The report only questions the necessity of the Audit Matters item (amounting to $21,320 through June 30, 2009), which it characterizes as being "for legal advice, including reviewing documents (such as open meeting minutes, contracts, requests for proposals (RFPs), and accounting records) prior to releasing those documents to our office to conduct our audit." April 29, 2010 Draft Report ("Administrative Fees," Paragraph B). The conclusion that the fees "do not appear to be necessary expenses charged to the LCDI funds" is mistaken. It is based on an observation that the majority of the documents were open public records. Id. *It ignores our prior comments in response to this same conclusion in the March 31 draft. As MTC explained in the April 16 response, outside counsel not only reviewed the audit requests and MTC's proposed responses for attorney-client privilege, work product, Missouri Sunshine Law issues, and other relevant concerns, but they also reviewed those requests and MTC's proposed responses for accuracy and completeness, suggesting additional documents that should be included where that was appropriate. Moreover, outside counsel also spent considerable time addressing legal issues raised by the auditors—such as various procurement, contracting, and governance issues. The draft report also notes that the total fees in this audit matters file had increased to $42,348 by December 31, 2009, but it did not acknowledge that much of that additional cost was incurred in connection with a second audit, the annual statutory audit of MTC.*[16] *The statutory MTC audit work did not begin until the fourth quarter of 2009 even though it was announced around the same time as the LCDI audit in the first quarter of 2009.*

The audit report recommends that "[t]he MTC refrain from incurring any unnecessary legal costs related to the program." April 29, 2010 Draft Report ("Administrative Fees," "We

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[16] *MTC has separately raised its concerns about the duplicative nature of these two audits which encompass largely overlapping time periods and appropriations.*

Recommend," Item B). MTC, of course, will endeavor to do that, but any suggestion in this recommendation that MTC has incurred unnecessary legal expenses to date is unfounded and misleading.

AUDITOR'S COMMENT

According to the MTC's records, the entire $42,348 in legal fees related to the LCDI audit.

Conclusion

Finally, Missouri law requires the State Auditor's staff to follow procedures set forth in the Government Auditing Standards book published by the Comptroller General of the United States. Section 29.235, RSMo. That manual, commonly known as the "Yellow Book," indicates that it is appropriate for audit staff to report conclusions and findings developed by using actual criteria, conditions, effects, and causes. Among other things, the Yellow Book requires that, as an ethical matter, this work be done with "intellectual honesty" and that audit staff obtain "sufficient, appropriate evidence to provide a reasonable basis for their conclusions and findings." Standards 2.10, 7.55. The Yellow Book forbids relying upon evidence that "carries an unacceptably high risk that it could lead to an incorrect or improper conclusion." Standard 7.70(b).

This audit experience has been one of addressing a constantly moving target. Although there are some improvements in the April 29 draft, MTC still has the outstanding concerns about how this audit complies with the Yellow Book standards mandated by Missouri law. As described above, it still includes allegations and insinuations that are misleading, inconsistent with Missouri laws, and that are unable to account for critical facts MTC provided during the audit and in response to the March 31 draft.

Launching high-tech programs that create new businesses and high-paying jobs has proven surprisingly challenging in Missouri, while states such as Kansas, Ohio, Texas, and others pursue aggressive, large-scale programs similar to those created by the LCDI funds. Even after MTC's LCDI programs were authorized and funded by the Missouri General Assembly, MTC and other visionaries who support the high-tech economy in Missouri have encountered attempts to stymie their work, particularly in the life science area, through the obfuscation of fact and law. The LCDI audit report bears an unfortunate, even if unintentional, resemblance to this past, the result of which can only benefit Missouri's competitors in the race to secure high-tech economic development and the associated high-paying jobs for Missourians.

AUDITOR'S COMMENT

The MTC's allegation regarding the SAO's failure to comply with government auditing standards lacks credibility. The MTC staff lacks expertise relating to government auditing standards and has no knowledge of the specific audit procedures utilized during our audit. Our office has an extensive quality control system in place to ensure compliance with auditing standards. The SAO regularly submits to an external peer review to ensure compliance with those standards. The most recent peer review report can be viewed at http://www.auditor.mo.gov/auditinfo/peerreviewreport.pdf, and concluded our system of quality control was suitably designed and complied with to provide reasonable assurance of conforming with government auditing standards.

HISTORY, ORGANIZATION, AND STATISTICAL INFORMATION

LEWIS AND CLARK DISCOVERY INITIATIVE
HISTORY, ORGANIZATION, AND STATISTICAL INFORMATION

The following entities and state agencies had involvement in the Lewis and Clark Discovery Initiative (LCDI):

Missouri Higher Education Loan Authority (MOHELA)

The MOHELA was created by the General Assembly of the state of Missouri in 1981. The MOHELA was established as a "public instrumentality and body corporate," and according to the authorizing legislation, was created "in order to assure that all eligible postsecondary education students have access to student loans that are guaranteed or insured, or both." The MOHELA issues bonds (taxable and tax-exempt) to finance the purchase of student loans. Tax-exempt bonds are used to purchase loans of Missouri residents or students of Missouri schools and result in lower interest rates for borrowers. Loans have been sold by the MOHELA to finance the transfers to the state to fund the LCDI.

Missouri Department of Higher Education (MDHE)

The MDHE was established in 1974 to carry out the goals and administrative responsibilities for the state system of higher education and is overseen by the Coordinating Board for Higher Education (CBHE). For the LCDI, the MDHE receives capital improvement reimbursement request forms from the institutions. It verifies the forms are signed by the university presidents and ensures that funds are available for the institutions before submitting the forms to the OA for payment.

Office of Administration (OA)

The OA is the state's service and administrative control agency and is responsible for tracking and disbursing the funds for the LCDI. Created by the General Assembly in 1973, it combines and coordinates the central management functions of state government. It receives the reimbursement request forms from the MDHE, verifies the funds are available for the institutions, and approves payments to the institutions.

Missouri Technology Corporation

The Missouri Technology Corporation (MTC) was established in 1994 by Section 348.251, RSMo, and is a private not-for-profit corporation. The purposes of the MTC are to contribute to the strengthening of the economy of the state through development of science and technology; to promote the modernization of Missouri businesses by supporting the transfer of science, technology, and quality improvement methods to the workplace; and to enhance the productivity and modernization of Missouri businesses by providing leadership in the establishment of methods of technology application, technology commercialization, and technology development. The Department of Economic Development (DED) houses the MTC and pays various office and salary expenses. Under the LCDI, the MTC (through the DED) was provided $15 million to attract and retain high technology companies and commercialize existing research conducted in Missouri. The MTC contracts with various subrecipients to achieve these goals. Appendix B provides a listing of all MTC subrecipients receiving LCDI funding and the funding provided to each as of June 30, 2009.

Appendix A

Lewis and Clark Discovery Initiative
Projects and Related Funding
As of June 30, 2009

Institution/Department	Project	CBHE Capital Improvement Recommendation	LCDI Appropriation	Allocation after February 2009 Prioritization	Total Disbursements	Remaining Allocation	Remaining Unfunded
Harris-Stowe State University	Early Childhood and Parent Education Center (4)	$ 11,266,696	15,726,000	15,726,000	12,204,366	3,521,634	0
Lincoln University	Jason Hall (3)	12,722,646	2,974,000	2,974,000	2,420,582	553,418	0
Linn State Technical College	Heavy Equipment Technology Facility (3)	20,008,665	5,000,000	5,000,000	3,987,603	1,012,397	0
Missouri Southern State University	Health Sciences Building (3)	19,892,958	18,976,000	18,976,000	8,465,890	10,510,110	0
Missouri State University	Phase I - Facilities Reutilization Plan (2)	29,704,521	29,704,000	10,475,789	5,809,303	4,666,486	19,228,211
Missouri State University	Business Incubator (5)	0	5,000,000	5,000,000	3,698,316	1,301,684	0
Missouri Western State University	Agenstein Science and Math Facility (3)	31,687,681	30,115,000	30,115,000	9,416,668	20,698,332	0
Northwest Missouri State University	Center for Plant Biologics (4)	11,650,000	24,400,000	24,400,000	17,803,343	6,596,657	0
Southeast Missouri State University	Dental Hygiene Clinic (Sikeston) (5)	0	173,000	173,000	173,000	0	0
Southeast Missouri State University	Business Incubator (1) (5)	0	4,500,000	0	0	0	4,500,000
Southeast Missouri State University	River Campus	17,205,542	17,200,000	17,200,000	17,200,000	0	0
Southeast Missouri State University	Autism Center (5)	0	2,638,000	2,638,000	321,758	2,316,242	0
Truman State University	Pershing Building (2) (3)	24,784,164	21,558,000	11,335,919	1,603,868	9,732,051	10,222,081
University of Central Missouri	Morrow and Garrison Buildings (3)	16,621,905	13,229,000	13,229,000	1,737,940	11,491,060	0
University of Missouri	Plant Science Research Facility (2) (5)	0	5,000,000	2,500,000	800	2,499,200	2,500,000
University of Missouri	Greenley Learning and Discovery Park (1) (5)	0	2,000,000	140,263	140,260	3	1,859,737
University of Missouri	Plant Science Greenhouse (Delta Research Center) (1) (5)	0	2,000,000	273,190	273,188	2	1,726,810
University of Missouri	Education and Outreach Center (Southwest Education and Outreach Center) (1) (5)	0	3,300,000	240,809	240,807	2	3,059,191
University of Missouri	Meeting and Educational Facility (Graves-Chapple Facility) (1) (5)	0	600,000	20,246	20,243	3	579,754
University of Missouri	Agroforestry Research Center (Horticulture and Agroforestry Research Center) (1) (5)	0	3,231,000	232,768	232,766	2	2,998,232
University of Missouri	Learning Discovery Center (Hundley-Whaley Center) (5)	0	350,000	350,000	212,509	137,491	0
University of Missouri	Headquarters Building and Meeting Room (Thompson Farm) (1) (5)	0	725,000	53,744	53,744	0	671,256
University of Missouri	Meeting and Educational Facility (Wurdack Farm) (1) (5)	0	600,000	72,899	72,897	2	527,101
University of Missouri	Swine Confinement Buildings and Biomedical Swine Research Facility (South Farms) (5)	0	2,630,000	2,630,000	244,426	2,385,574	0
University of Missouri	Swine Research Isolation Facility (McCredie, Midwest Clayplan) (1) (5)	0	600,000	0	0	0	600,000
University of Missouri	Ellis Fischel Cancer Center (1) (5)	0	31,182,000	0	0	0	31,182,000
University of Missouri-Kansas City	Equipment Replacement for School of Dentistry (5)	0	3,400,000	3,400,000	3,386,368	13,632	0
University of Missouri-Kansas City	Pharmacy and Nursing Building (5)	0	15,000,000	15,000,000	7,279,064	7,720,936	0
University of Missouri-St. Louis	Benton and Stadler Halls (1) (3)	55,164,000	28,500,000	369,233	369,233	0	28,130,767
University of Missouri-Rolla *	Mechanical Engineering Building (5)	0	15,000,000	15,000,000	15,000,000	0	0
Department of Higher Education	Maintenance and Repair at Community Colleges	n/a	6,000,000	6,000,000	6,000,000	0	0
Department of Higher Education	$2 million disbursement to each Community College	n/a	24,000,000	24,000,000	24,000,000	0	0
Department of Economic Development	Missouri Technology Corporation	n/a	15,000,000	15,000,000	15,000,000	0	0
Total		$ 250,708,778	350,311,000	242,525,860	157,368,942	85,156,918	107,785,140

* This institution is now the Missouri University of Science and Technology

(1) Project suspended by Governor Nixon until additional funds are available (11 projects)
(2) Project partially funded by Governor Nixon until additional funds are available (3 projects)
(3) Project appropriated significantly less than CBHE's recommended amount (7 projects)
(4) Project appropriated more than CBHE's recommended amount (2 projects)
(5) Project not on CBHE's list of priority capital improvement projects (19 projects)

Appendix B

Lewis and Clark Discovery Initiative
Missouri Technology Corporation Projects and Related Funding
As of June 30, 2009

Project Name		Current Commitment	Disbursements	Remaining Commitment Balance to Disburse	Appropriated Amount	Anticipated Total Disbursements	7% Administrative Fees	Anticipated Disbursements Over/(Under) Appropriated Amounts
High Tech Small Business Incentive Program Phase II	$	600,000	334,752	265,248	1,250,000	1,162,500	87,500	0
Intellectual Property Management Fund		56,000	10,000	46,000	1,100,000	1,023,000	77,000	0
Missouri Venture Partners Program (1)		250,000	172,844	77,156	0	2,790,000	210,000	3,000,000
Missouri Open Innovation Network		210,000	90,000	120,000	250,000	232,500	17,500	0
High Tech Marketing Promotion Fund		339,500	175,438	164,062	350,000	325,500	24,500	0
Emerging Firms Mapping Project		35,000	34,999	1	50,000	46,500	3,500	0
St. Louis Information Technology Initiatives		1,000,000	930,000	70,000	1,000,000	930,000	70,000	0
Animal Health Workforce Development Initiative		175,000	162,750	12,250	175,000	162,750	12,250	0
Missouri Power Resource Center		200,000	93,000	107,000	200,000	186,000	14,000	0
Animal Health and Nutrition Center		200,000	152,358	47,642	200,000	186,000	14,000	0
Medical Device Innovation Program		300,000	93,000	207,000	350,000	325,500	24,500	0
Missouri Angel Investor Network (2)		90,000	90,000	0	0	240,000	18,065	258,065
Collaborations and Inter-disciplinary Degree Programs for Masters and PhD Students		250,000	250,000	0	350,000	325,500	24,500	0
AgBiotech Company Recruitment Fund		250,000	250,000	0	3,350,000	3,115,500	234,500	0
AgBio Outreach Program		125,000	0	125,000	125,000	116,250	8,750	0
MTC Entrepreneurial Pipeline Program (1)		0	0	0	1,500,000	0	0	(1,500,000)
Plant and Ag Biotech Seed Capital Co-Investment Fund (1)		0	0	0	1,500,000	0	0	(1,500,000)
Opportunity Fund for Bioenergy Research Center/National Bio and Agro-defense Facility		0	0	0	3,250,000	2,782,500	209,435	(258,065)
Total	$	4,080,500	2,839,142	1,241,358	15,000,000	13,950,000	1,050,000	0

(1) The MTC Entrepreneurial Pipeline Program and Plant and Ag Biotech Seed Capital Co-Investment Fund were combined into the Missouri Venture Partners Program.

(2) The Missouri Angel Investor Network was not listed in the appropriations bill (House Bill No. 17, First Regular Session, 94th General Assembly (2007)). MTC officials consider it part of the MTC Entrepreneurial Pipeline Program listed in the bill.