Oversight Division

Committee On Legislative Research

PROGRAM EVALUATION

Department of Transportation
Contracts with Employees and
Commission Members

Program Evaluation
Department of Transportation
Contracts with Employees and Commission Members

Prepared for the Committee on Legislative Research
by the Oversight Division

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Committee on Legislative Research Oversight Subcommittee

THE COMMITTEE ON LEGISLATIVE RESEARCH, Oversight Division, is an agency of the Missouri General Assembly as established in Chapter 23 of the Revised Statutes of Missouri. The programs and activities of the State of Missouri cost approximately $19 billion annually. Each year the General Assembly enacts laws which add to, delete or change these programs. To meet the demands for more responsive and cost effective state government, legislators need to receive information regarding the status of the programs which they have created and the expenditure of funds which they have authorized. The work of the Oversight Division provides the General Assembly with a means to evaluate state agencies and state programs.

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COMMITTEE ON LEGISLATIVE RESEARCH
STATE OF MISSOURI
STATE CAPITOL
JEFFERSON CITY, MISSOURI 65101

May 07, 2003

Members of the General Assembly:

The Joint Committee on Legislative Research adopted a resolution in May, 2002, directing the Oversight Division to perform a program evaluation of the Department of Transportation Contracts with Employees and Commission Members to determine and evaluate program performance in accordance with program objectives, responsibilities, and duties as set forth by statute or regulation.

The accompanying report includes Oversight's comments on internal controls, compliance with legal requirements, management practices, program performance and related areas. We hope this information is helpful and can be used in a constructive manner for the betterment of the state program to which it relates.

Respectfully,

Catherine L. Hanaway

Representative Catherine Hanaway
Chairman

EXECUTIVE SUMMARY

The Department of Transportation (MoDOT) is governed by the Missouri Highways and Transportation Commission (MHTC). MoDOT is responsible for the major transportation alternatives available to Missourians. The MHTC has the statutory authority to purchase, lease, or otherwise acquire any tools, machinery, supplies, material, and labor needed for the construction, maintenance, and work incidental to the Highway System.

In carrying out its statutory authority, MoDOT contracts with former or current employees and MHTC members for goods and services. These goods and services include, but are not limited to, rehiring retired employees as part-time or contract employees, conducting business with entities owned or affiliated with current or former employees and current or former MHTC members, and the relocation of MoDOT employees.

Oversight noted MoDOT did not complete the required documentation for all retirees hired as contract employees. During the review period, there were 21 MoDOT retirees hired as contract employees. Pursuant to MoDOT policy, MoDOT is required to complete a checklist for these individuals. Oversight noted 17 instances where the checklist was not completed. MoDOT policy also requires a contract for consulting or contractor services be entered into between MoDOT and the retiree. Oversight noted four instances where there was no contract. In addition, there were three instances where the invoices for contracted services were dated before the contract was signed. Oversight believes MoDOT should complete and retain all required documentation for retirees hired as contract employees. Oversight also believes MoDOT should maintain signed contracts for all retirees hired as contract employees before any consultant or contractor services are performed.

Oversight noted MoDOT contracted with and conducted business with entities that are affiliated with or owned by MHTC members, resulting in the appearance of a conflict of interest and a violation of statute. Oversight believes MoDOT and the MHTC should follow state statutes regarding transactions involving MHTC members and MoDOT employees.

MoDOT's relocation policy allows reimbursement for items not allowed by the Office of Administration, including a "gross-up" to offset future tax liabilities the relocated employees may incur. In addition, MoDOT has no limit on the amount an employee is reimbursed for relocation. Oversight reviewed the relocation expenses MoDOT paid for fiscal years 2000 through 2002. The total relocation expenses paid during this period were $2,134,700. Oversight noted MoDOT would have saved $742,900 by eliminating the "gross-up." Also, by setting a cap on relocation expenses of ten percent of the employee's annual salary, MoDOT would have saved approximately $1.5 million for fiscal years 2000 through 2002. Oversight believes MoDOT should revise its relocation policy allowing reimbursement for only those items allowed by the Office of Administration. Oversight also believes MoDOT should set a cap or limit on the amount paid for employee relocations.

Oversight found MoDOT to be slow in responding to Oversight requests for information due to MoDOT's internal procedures for dealing with the evaluators. MoDOT's slow response time impeded Oversight's evaluation. Oversight believes MoDOT should develop policies and procedures to provide accurate information to Oversight staff in a timely manner, as required by statute.

The Oversight Division did not audit departmental financial statements and accordingly, does not express an opinion on them.

Mickey Wilson, CPA
Director

Chapter One - Introduction

Purpose

The General Assembly has provided by law that the Committee on Legislative Research may have access to and obtain information concerning the needs, organization, functioning, efficiency and financial status of any department of state government or of any institution that is supported in whole or in part by revenues of the state of Missouri. The General Assembly has further provided by law for the organization of an Oversight Division of the Committee on Legislative Research and, upon adoption of a resolution by the General Assembly or by the Committee on Legislative Research, for the Oversight Division to make investigations into legislative and governmental institutions of this state to aid the General Assembly.

The Joint Committee on Legislative Research directed the Oversight Division to perform a program evaluation of the Department of Transportation's contracts with former and current employees and Missouri Highways and Transportation Commission members and rental and lease agreements between the Department and current and former employees and commission members, for the purpose of providing information to the General Assembly regarding proposed legislation and appropriation bills.

Background

The Missouri Department of Transportation (MoDOT or Department) is governed by the Missouri Highways and Transportation Commission, a bipartisan, six-member commission. The members of the commission serve staggered six-year terms.

As of June 2002, MoDOT employed approximately 6,100 employees. MoDOT has an estimated $145 million invested in buildings and an estimated $208 million invested in its equipment. MoDOT operates under a decentralized organization with headquarters in Jefferson City. The General Headquarters office provides staff assistance and functional control for the various departmental tasks in 10 geographical districts. Each district is under the direction of a district engineer. The total state highway system mileage, by district is as follows:

District	Total Mileage per District	% Mileage per District
District 1	3,119	10%
District 2	3,744	12%
District 3	3,324	10%
District 4	2,453	8%
District 5	3,613	11%
District 6	1,459	5%
District 7	3,347	10%
District 8	3,666	11%
District 9	3,738	12%
District 10	3,871	12%
Total Mileage	**32,335**	**100%**

MoDOT is responsible for five major transportation alternatives available to Missourians – highways, aviation, waterways, transit, and railroads. Those responsibilities include the total operation of the approximately 32,000 mile highway system, including bridges, highway location, design, construction, and maintenance. Also, MoDOT has the responsibility for the administration of state/federal programs and available funds. MoDOT's principal sources of state revenue are motor vehicle fuel taxes, licenses and fees, and part of one-half of the motor vehicle sales tax. A small amount of revenue comes from incidental sources such as fees from the sale of blueprints and maps. In addition, legislation was passed, effective May 30, 2000, authorizing MoDOT to issue $2.25 billion in bond financing to accelerate highway improvements. As of June 30, 2002, MoDOT had the following bonds outstanding:

Bond Issue Name	Dollars Outstanding
State Road Bonds Series A 2000	$243,390,000
State Road Bonds Series A 2001	$200,000,000
State Road Bonds Series A 2002	$203,000,000
Total	**$646,390,000**

MoDOT's annual appropriation was $1.5 billion for fiscal year 2001. This consisted of $379 million (25%) Highways Fund and $1.1 billion (75%) State Road Fund. The fiscal year 2002 annual appropriation was $1.8 billion. This consisted of $376 million (21%) Highways Fund and $1.4 billion (79%) State Road Fund. Less than 1% of the total appropriations was from the General Revenue Fund.

The Missouri Highways and Transportation Commission (MHTC or Commission) has the statutory power and authority to purchase, lease, or otherwise acquire any tools, machinery, supplies, material, and labor needed for the construction, maintenance, and work incidental to the highway system. The MHTC also has the statutory power and authority to pay for engineering, preparation of plans and specifications, cost of advertising, engineering supervision and inspection, and all expenses and contingencies in connection with the construction and maintenance of the state highway system (Section 227.030, RSMo). This exempts MoDOT from Chapter 34, RSMo requirements regarding the purchase of products and services, with the exception of data processing, telecommunications, and printing services, removing the authority from the Office of Administration, Division of Purchasing and Materials Management. Although the Division of Purchasing and Materials Management has no authority over MoDOT, it provides assistance upon request.

MoDOT's general services unit is responsible for the procurement of all equipment, materials, supplies, parts, and furniture for the operations of MoDOT. MoDOT purchasing is governed by specific sections of Chapter 34 RSMo (for data processing, telecommunications, and printing) and by 7 CSR 10-11. MoDOT's Procurement Field Manual contains the policies and procedures to be followed for any procurement function for MoDOT. There is no requirement for competitive bidding when making purchases under $3,000. However, the guideline states that it is best, whenever possible, to obtain at least three prices from competing vendors. MoDOT requires purchases of $3,000 and over to be completed through the competitive bidding processes. MoDOT departmental procedures prohibit splitting purchases to avoid bidding procedures.

Objectives

The program evaluation of MoDOT included the inspection of records for the purpose of providing information to the General Assembly for their consideration in proposing legislation and reviewing appropriation bills. The objectives of the Oversight Division's evaluation of MoDOT included reviewing:

- Whether MoDOT follows policies and procedures for contracts for goods and services with former or current employees and MHTC members.
- Whether MoDOT follows policies and procedures for leasing property and equipment owned by past or present employees or MHTC member affiliated entities.
- Whether MoDOT past or present employees or MHTC members received preferential treatment with respect to right-of-way acquisitions.
- The benefit received from former MoDOT employees who have been rehired on a part-time or contract basis.
- Whether MoDOT's employee relocation policy is comparable to the relocation policies of the Office of Administration and other state agencies.
- Whether MoDOT is in compliance with the various state laws and regulations concerning the procurement of goods and services.

Scope/Methodology

The scope of the evaluation included the time period from July 1, 1992 to June 30, 2002. The scope was not limited to specific fiscal years, although for most analysis, data from fiscal years 2000 through 2002 was utilized.

The methodology used by the Oversight Division for the evaluation included reviewing statutes, rules and regulations, organizational charts, and Highways and Transportation Commission meeting minutes; examining financial records; and testing samples of transactions to the extent necessary to fulfill review objectives.

Chapter Two - Comments

Employment of Retired MoDOT Employees

The Department of Transportation (MoDOT or Department) is authorized to hire retired MoDOT employees who are receiving retirement benefits from the Highway and Transportation Employees' and Highway Patrol Retirement System. These retirees can be hired as contract employees or as temporary part-time employees. During the review period, there were 21 MoDOT retirees hired on contract and 120 MoDOT retirees hired as temporary part-time employees. Oversight noted the following in the employment of retired MoDOT employees.

Comment #1

MoDOT did not complete a "Checklist for Retaining a Consultant or Contractor when the Individual is a MoDOT Retiree" for all retirees hired as a contract employee.

MoDOT's Personnel Policy on Employment of Retirees states that retirees may be contracted to provide consulting or contractor services for projects of a defined scope and limited duration. For the retirees hired as contract employees, MoDOT is required to complete a Checklist for Retaining a Consultant or Contractor when the Individual is a MoDOT Retiree. For any notation of "yes" on the checklist, General Headquarters and district offices must agree that the individual will be utilized as an independent consultant or contractor as opposed to an employee of the Department.

MoDOT provided Oversight with a completed checklist for four of the 21 retirees hired on contract. No completed checklist was provided for 17 of the 21 retirees hired on contract. Each of the four provided checklists contained responses which required headquarters and district office followup, such as:

- Does the individual only provide services to MoDOT and not offer services to the general public as part of a trade or business?

- Is the worker required to comply with instructions about when, where and how the work is to be done?
- Is the work performed at the department, or at specific places designated by the department?
- Does the worker perform services exclusively for the department rather than working for a number of companies at the same time?

MoDOT did not provide documentation that the required followup had been completed for any of the four completed checklists.

Oversight recommends for each retiree hired on contract, MoDOT complete and retain a Checklist for Retaining a Consultant or Contractor when the Individual is a MoDOT Retiree. Oversight also recommends MoDOT conduct all required followup to support that the individual is used as an independent consultant or contractor, as required by MoDOT policy.

Comment #2

MoDOT did not have contracts for all retired employees hired on contract.

MoDOT's Personnel Policy states a contract for consulting or contractor services must be entered into between the retiree and the Department. Contract proposals are to be reviewed by Human Resources at MoDOT's General Headquarters and approved by a member of the Department Director's staff or other designated party. This must be done prior to retaining consultant or contractor services of a retiree.

MoDOT provided Oversight with a signed contract for 17 of the 21 retirees hired on contract. No signed contract was provided for four of the 21 retirees hired on contract. MoDOT did provide a letter or description indicating the services provided for two retirees, but provided no contract. Based on Oversight's review of the information provided, there were three retirees hired on contract where the invoices for contracted services were dated before the contract was signed. The total amount of the services performed without a contract was $11,486. Therefore,

retirees hired on contract were performing and being compensated for consultant or contractor services with no contract to perform these services.

Oversight recommends MoDOT have and maintain signed contracts for all retirees hired on contract. Oversight also recommends MoDOT not allow the retirees hired on contract to perform any consultant or contractor services until a contract is entered into between the retiree and the Department.

Relocation Expenses

Comment #3

MoDOT's relocation policy allows reimbursement for items not allowed by the Office of Administration.

MoDOT has an established policy for reimbursing expenses incurred by employees who are relocated. In addition to those expenses allowed by the Office of Administration (OA), MoDOT's policy allows reimbursement for items not allowed by OA. These items include reimbursement for expenses associated with closing the employee's home, lump sum payments to cover incidental expenses, reimbursement assistance due to increased mortgage interest rates, realtor fees in disposition of old residences, loan origination fees, closing costs, dual housing expenses, bridge loan interest, and increased taxes due as a result of a reimbursed expenses (grossed-up to offset future tax liability).

MoDOT's relocation policy does not set a limit or cap on the amount of relocation costs the Department will pay. In contrast, OA's relocation policy limits relocation expenses to ten percent of the employee's annual salary, plus temporary lodging for up to thirty calendar days.

MoDOT's relocation policy states that each employee is provided an annual summary of their reimbursements by the Department. Contradictory to MoDOT's policy, Oversight was told that MoDOT does not maintain or track the total expenses for each transfer. In order to analyze relocation data, Oversight was instructed to compile the amount MoDOT paid to each employee for relocation from

the lists of taxable moving expenses, gross-up amounts, and nontaxable moving expenses by move number. The move number had to be cross-referenced to an Employee Moving Expense File to determine which employee received payment for the expenses.

Oversight's review revealed one instance where an individual was assigned two consecutive move numbers. MoDOT's payment records indicated the relocation expenses were charged to one move number and the gross-up was charged to the second move number.

Oversight's compilation and analysis of the relocation expenses MoDOT paid for fiscal years 2000 through 2002 revealed that MoDOT's total employee relocation expenses paid during this time period were $2,134,700. Of the total relocation expenses paid, $742,900 were for "gross-up" amounts and $23,000 were lump sum payments to engineering "new hires."

MoDOT paid relocation expenses in excess of ten percent of the annual salary in 93 out of the 134 relocations reviewed, or approximately $1.5 million for fiscal years 2000 through 2002. Of the 93 relocations where MoDOT paid in excess of ten percent of the annual salary, MoDOT paid over fifty percent of the employee's annual salary in twenty-seven relocations, or approximately $245,000 during the same time period. By setting a cap on relocation expenses of ten percent of the employee's annual salary, MoDOT would have saved approximately $1.5 million for fiscal years 2000 through 2002.

Oversight recommends MoDOT track the total expenses, including gross-up, paid for each employee relocation. Oversight also recommends MoDOT establish procedures to ensure tighter control over the posting of relocation expenses.

Oversight recommends MoDOT revise its relocation policy to allow reimbursement for only those items allowed by the Office of Administration. This would result in significant

savings to MoDOT. By eliminating the lump sum payments to newly hired engineers and the gross-up amount, MoDOT would have saved $765,900 in fiscal years 2000 through 2002.

Oversight recommends MoDOT set a cap or limit on the amount MoDOT will pay for each employee relocation. This would have resulted in a savings in sixty-nine percent of the relocations reviewed.

Potential Conflicts of Interest with Missouri Highways and Transportation Commission Members

Comment #4

The MHTC Agenda Item Checklist was not completed and maintained by the Commission.

Oversight's review of MoDOT project files revealed a copy of a MHTC Agenda Item Checklist. The MHTC Agenda Item Checklist is designed to be used to identify items on the Commission meeting agenda which may have the appearance of or an actual conflict of interest involving a member of the Commission. The MHTC Agenda Item Checklist must be completed for all MHTC agenda items, except employee grievances and routine monthly reports. The completed form is to be sent to the Commission staff two weeks prior to the MHTC meeting.

One item on the form questions whether there is the appearance of or an actual conflict of interest involving a member of the Commission. If there is the appearance of or an actual conflict of interest, the details of the conflict of interest are to be provided. These checklists are to receive several levels of review, comment, and concurrence.

Oversight was not able to review items which were identified as having the appearance of or an actual conflict of interest involving a member of the commission because neither MoDOT nor the MHTC staff maintains these checklists. Likewise, Oversight was not able to determine whether items having the appearance of or an actual conflict of interest involving a member of the commission were identified as such before the MHTC meeting.

Oversight recommends that MoDOT or the MHTC require the MHTC Agenda Item Checklist to be completed, properly reviewed, and maintained by the Commission staff.

Contracts with Missouri Highways and Transportation Commission Members

Comment #5

MHTC Member Disclosure reports were not filed with the MHTC and Missouri Ethics Commission when required.

Oversight reviewed the MHTC Member Disclosure Reports filed with the MHTC for fiscal year 1999 through fiscal year 2002 and those filed with the Missouri Ethics Commission for fiscal year 1995 through fiscal year 2002. Commission members file a separate disclosure report with the MHTC and the Missouri Ethics Commission. The disclosure report filed with the Missouri Ethics Commission requires the disclosure of ownership of all real property located in Missouri, other than personal residence, having a fair market value of $10,000 or more; the MHTC Member Disclosure Report requires disclosure all real estate located in Missouri in which the Commission member has any ownership, leasehold, or other interest.

Oversight's review revealed two instances where the commission member did not file a Commission Member Disclosure Report with the MHTC when the Commission member was first appointed. Oversight's review also revealed nine instances where the required disclosure reports were not filed with the Missouri Ethics Commission.

The MHTC staff is required, by MHTC policy, to maintain a log of all disclosures by commission members. Oversight found this log had not been maintained, as required by policy. In a memo accompanying the disclosure log, the MHTC staff stated that the log had been revised and updated to reflect the disclosure reports to date, to satisfy Oversight's request to review the log.

Oversight recommends the MHTC require Commission members to file all required disclosure reports. Oversight also recommends the MHTC staff maintain a log of all disclosures by commission members, as required by policy.

Comment #6

MoDOT has contracted with an MHTC member affiliated entity which resulted in the appearance of a conflict of interest.

Oversight compared the affiliated entities listed on the disclosure reports filed by MHTC members with the list of vendors for fiscal years 1993 through 2002. Oversight selected a sample of vendors and reviewed actual invoices for these vendors.

Oversight's review revealed a MHTC member abstained from voting on the approval of a contract to develop, produce, and place a series of three radio advertisements to educate and inform the public about construction in St. Charles and St. Louis counties. On the Missouri Ethics Commission Personal Financial Disclosure Statements for 1997 through 2001, the MHTC member disclosed that he or she received income of $1,000 per year or more from the contractor.

A review of vendor payments revealed that the contractor received payments totaling $360,000 from fiscal years 1997 through 2002. The Commission member served from January 1, 1996 through October 16, 2001.

Although the commission member abstained from voting on the contract, the member was in a position to influence the decision made by the Commission. There appears to be a conflict of interest since the commission member received income from the contractor and was a commission member during the contract period. The appearance of a conflict of interest is reinforced because MoDOT did not contract with the contractor in any fiscal year in which the commission member did not serve.

Comment #7

MoDOT has conducted business with MHTC member affiliated entities in a manner that appears to be a conflict of interest.

Pursuant to Section 105.454, RSMo, no appointed officials of the state, serving in an executive or administrative capacity, shall perform any service for any agency of the state in excess of $500 per transaction or $1,500 per annum.

Oversight reviewed payments made to entities listed on Missouri Ethics Commission Personal Financial Disclosure Statements filed by MHTC members identified as the Commission member receiving income of $1,000 or more.

Oversight's review revealed payments to a restaurant owned by a Commission member were $3,200 in fiscal year 1997, $2,900 in fiscal year 1998, and $3,000 in fiscal year 1999. The Commission member's term commenced December 1, 1997.

In addition, Oversight's review revealed two invoices from the Commission member restaurant that appear to be split to meet the total per transaction requirement. Consecutively numbered invoices were submitted in the amounts of $206.28 and $308.65. The total amount of the two invoices is $514.93. This amount exceeds the $500 per individual transaction requirement. These invoices were consecutively dated. The date on each invoice was handwritten. It seems unlikely the same individual would receive consecutively dated invoices on two different days. These invoices have the appearance of a purchase being split to meet the $500 per individual transaction requirement.

Oversight's review revealed payments of $7,600 in fiscal year 1997, $7,500 in fiscal year 1998, and $6,100 in fiscal year 1999 made to a corporation which a third MHTC member listed as a corporation for which he or she served in the capacity of a director, officer, or receiver on the Commission member's Missouri Ethics Commission Personal Financial Disclosure Statements. This Commission member's term commenced December 1, 1997.

Since these Commission members were in a position to influence decisions made by the MHTC, there appears to be a conflict of interest on the above transactions.

Oversight recommends MoDOT and the MHTC follow Section 105.454, RSMo for all transactions involving Commission members and employees.

Leased Real Property and Equipment

Oversight reviewed the real property MoDOT leases for office space and storage area. The real property appears to have been leased at a reasonable market rate.

Comment #8

MoDOT provided inaccurate leased equipment data.

In addition to real property, MoDOT leases and rents equipment. Leased equipment primarily consisted of mowers MoDOT leases for the mowing season. Oversight reviewed records of the equipment leased and rented in District 5. Oversight's review of the mower leases revealed the vendor information, quantity leased, lease rate, and payment information provided to Oversight from MoDOT Headquarters was not accurate for the 2000 mowing season. However, District 5 personnel were able to provide Oversight with accurate information.

Oversight recommends MoDOT insure contract information is accurate and up to date.

Land Acquisitions from Employees and Commission Members

Oversight reviewed right-of-way land acquisitions from former and current employees or Commission members. From July 1, 1997 through June 30, 2001, there were five land acquisitions from Commission members and fifteen land acquisitions from employees. Oversight reviewed the abstract/title insurance information for these right-of-way land acquisitions. In each instance reviewed, it appears a significant amount of time transpired between when the employee or Commission member acquired the property

and when MoDOT purchased the property from the employee or Commission member.

Obstacles in Performing the Evaluation

Comment #9

Slow responses impeded the evaluation.

MoDOT required Oversight to submit all requests for information in writing to MoDOT's staff. In addition, all information compiled for Oversight was to go through upper management before it was submitted to Oversight. Some of the staff were new to MoDOT and the State of Missouri and, among other things, were not familiar with MoDOT's systems or the Statewide Accounting Management System (SAM II). For example, Oversight was told by MoDOT staff that their objective was to manage and control the scope of the evaluation. MoDOT staff delayed providing Oversight with information while they sought clarification. Oversight was required to ask followup questions through one staff person rather than of the actual preparer of the information. In most instances, Oversight had no knowledge of the actual preparer of the information.

Pursuant to Section 23.170, RSMo, "The staff of any agency . . . shall fully cooperate with the staff of the Oversight Division and shall provide all necessary information and assistance for such an audit."

In addition, MoDOT was slow in providing Oversight with requested information. In some instances, Oversight received the information three weeks after it had been requested. MoDOT staff told Oversight that MoDOT was reluctant to give requested information to Oversight because MoDOT did not want Oversight to release anything to the press that would hurt the August 2002 election, which contained a proposition to increase sales tax and increase motor fuel tax to fund highway and transportation repairs and improvements. MoDOT's slow response impeded Oversight's evaluation.

Oversight requested MoDOT provide current pay rates for employees. MoDOT responded that pay rates are available from the Official Manual of the State of Missouri, as that is the most comprehensive source. Oversight informed MoDOT the pay rates in the Official Manual are as of July 1, 2001. Since the evaluation period ended June 30, 2002, Oversight requested current pay information.

Oversight recommends MoDOT develop policies and procedures for the purpose of providing information needed to respond to requests from the legislature. Oversight also recommends MoDOT comply with requests and provide information in a timely manner, as required by Section 23.170, RSMo.

Comment #10

MoDOT published inaccurate information that is available to the public.

Oversight provided MoDOT with a draft of the background information to be included in the evaluation report. MoDOT questioned the information contained in this background information, such as the value MoDOT has invested in buildings and equipment and the percent of total road mileage contained within each district. Oversight compiled the background information from information contained in the 2001 – 2002 Official Manual of the State of Missouri, MoDOT's Fiscal Year 2002 Legislative Budget Request, and MoDOT's website. The Missouri taxpayers and the General Assembly use these information sources to make informed decisions on transportation matters. MoDOT officials informed Oversight that the information, including the Legislative Budget Request, published by MoDOT divisions does not contain accurate information. The lack of accurate information may contribute to positions that do not reflect correct positions in addressing the concerns of MoDOT.

Oversight recommends MoDOT develop policies and procedures to ensure the accuracy of information available to the public and to the legislators.

APPENDIX

Missouri
Department
of Transportation

MoDOT

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January 17, 2003

Mr. Mickey Wilson, CPA
Acting Director
State of Missouri
Joint Committee on Legislative Research Oversight Division
Room 132 State Capitol Building
Jefferson City, MO 65101

Dear Mickey:

The Missouri Department of Transportation provides the following responses to the Oversight Division's Comments Program Evaluation "Department of Transportation Contracts with Employees and Commission Members".

COMMENT #1

RECOMMENDATION (a): Oversight recommends for each retiree hired on contract, MoDOT complete and retain a Checklist for Retaining a Consultant or Contractor when the Individual is a MoDOT Retiree.

RECOMMENDATION (b): Oversight also recommends MoDOT conduct all required follow-up to support that the individual is used as an independent consultant or contractor, as required by MoDOT policy.

RESPONSE: MoDOT agrees with this recommendation and will re-educate all district and headquarters management teams of the requirement to have the checklist completed before hiring a retiree as a consultant/contractor. Although the checklist was not completed on many of the retirees hired as consultants during the timeframe of the audit (June 2000 and earlier), we are comfortable they were not used as regular employees to perform normal duties, which is the purpose of the checklist. In reviewing the consultant work of these particular retirees, in nearly all cases they were used to provide testimony as expert witnesses in various court proceedings. This expert witness function is not a routine responsibility for an employee.

COMMENT #2

RECOMMENDATION (a): Oversight recommends MoDOT have and maintain signed contracts for all retirees hired on contract.

RECOMMENDATION (b): Oversight also recommends MoDOT not allow the retirees hired on contract to perform any consultant or contractor services until a contract is entered into between the retiree and the Department.

RESPONSE: MoDOT agrees with both points of this recommendation. We will re-educate management teams of the requirements to have and maintain signed contracts and to not allow any contracted retiree to work before each contract is signed by both parties.

COMMENT #3

RECOMMENDATION (a): Oversight recommends MoDOT track the total expenses, including gross-up, paid for each employee relocation.

RESPONSE: The Department recognizes the information related to employee relocations is not accumulated in one file. To determine total relocation expenses, including gross-up, data must be accumulated from various sources. MoDOT will evaluate the current process and provide the information in a more user-friendly format for future requests.

RECOMMENDATION (b): Oversight also recommends MoDOT establish procedures to ensure tighter control over the posting of relocation expenses.

RESPONSE: MoDOT will establish more detailed procedures to verify relocation expenses are properly reflected on employee payroll records.

RECOMMENDATION (c): Oversight recommends MoDOT revise its relocation policy to allow reimbursement for only those items allowed by the Office of Administration.
RECOMMENDATION (d): Oversight recommends MoDOT set a cap or limit on the amount MoDOT will pay for each employee relocation.

RESPONSE: MoDOT continues to support our current policy. MoDOT moves employees to provide the traveling public with the proper talent in the location requiring this talent. When an employee relocates they incur substantial expenses. In an effort to encourage employees to relocate and serve the public, it is the department's policy to reimburse the actual cost incurred including any additional tax burden related to the move. MoDOT feels the current move policy is necessary to support the department's operational needs and the needs of the public. However, MoDOT continues to find ways to maximize the return on its expenditures and to insure moving expense reimbursements are cost effective. The most direct method to manage these costs is to reduce the number of relocations. The number of relocations has decreased from 57 in FY2000, to 41 in FY2001, to 14 in FY2002.

COMMENT #4

RECOMMENDATION: Oversight recommends that MoDOT or the MHTC require the MHTC Agenda Item Checklist to be completed, properly reviewed, and maintained by the Commission staff. (The MHTC Agenda Item Checklist is designed to identify items on the Commission meeting agenda which may have the appearance of or an actual conflict of interest involving a member of the Commission.)

RESPONSE: The MHTC Agenda Checklist is designed to ensure all staff have reviewed the issue being proposed as a Commission meeting agenda item. In addition, the form is used (1) to ensure related contracts, if any, have been properly executed and (2) to highlight potential conflicts of interest of Commission members.

Information pertaining to potential conflicts of interest is assembled in a format to inform all staff of identified potential conflicts for the agenda. This report is distributed to the Commission members as advisory information so they can verify whether there is a perceived or actual conflict meriting their recusing themselves from discussion on the subject agenda item and/or abstaining from voting thereon.

This report is retained for future reference. The Department will continue to retain this report. The Department does not see any benefit to be gained from also retaining the Agenda Item Checklist.

COMMENT #5

RECOMMENDATION: Oversight recommends the MHTC require commission members to file all required disclosure reports. Oversight also recommends the MHTC staff maintain a log of all disclosures by commission members, as required by policy.

RESPONSE: The Commission "Conflict of Interest Policy" was adopted **March 12, 1999**. Oversight referred to two instances where disclosure reports were not properly filed. The first was a commissioner who resigned from the Commission October 14, 1997, prior to implementation of the policy. The second was a commissioner who was appointed December 1, 1997, and who filed his first report within one month following adoption of the policy. The Department will continue to monitor MHTC Disclosure Reporting by members.

Oversight also refers to nine instances where Personal Financial Disclosure Reports were not filed with the Missouri Ethics Commission. One of the nine cited instances was a 2000 report for a commission member who left the Commission May 10, 2000; therefore, the last report he was required to file was for calendar year 1999. The remaining eight instances occurred in 1995 and 1996, prior to implementation of the Commission policy requesting a copy of the Ethics Commission Report be filed with the Commission Secretary. The Ethics Commission retains Personal Financial Disclosure Reports for a five-year period; therefore, it cannot verify information about filings in 1995 and 1996. However, the Ethics Commission does assess fines if the reports are not filed in a timely manner; its' records do not reflect any fines being assessed. MoDOT feels confident MHTC members have filed their Personal Financial Disclosure Reports with the Ethics Commission in a timely manner.

Policies prior to the current March 1999 policy required a log of disclosures by Commission members. The log included information of specific items of potential conflict. The Disclosure Report developed in the March 1999 policy actually provided a more consistent and better way to maintain this information. The current policy, however, continued reference to the log of disclosures. The Department will evaluate if the log of disclosures adds any value to the Disclosure Report. If the log is determined not to add any value, the policy will be revised to eliminate reference to the log.

COMMENTS #6 AND #7

RECOMMENDATION: Oversight recommends MoDOT and the MHTC follow Section 105.454, RSMo for all transactions involving Commission members and employees (to avoid conflict of interest or the appearance of a conflict of interest).

RESPONSE: MoDOT agrees and will continue to assist commission members in complying with existing conflict of interest statutes.

COMMENT #8

RECOMMENDATION: Oversight recommends MoDOT insure contract information is accurate and up to date.

RESPONSE: We concur. MoDOT will develop procedures to ensure contract information is transferred from Functional Units and Districts to the Controller's office.

COMMENT #9

RECOMMENDATION (a): Oversight recommends MoDOT develop policies and procedures for the purpose of providing information needed to respond to requests from the legislature.

RESPONSE: MoDOT recognizes the importance of audits by outside agencies and the benefits derived from recommendations by the outside agencies. The volume of data requests is significant. Management is developing formal procedures related to audit requests. The procedures include identifying a centralized contact, the Controller's office or, in the case of audits by the State Auditor, both the Controller's office and the Inspector General. The purpose is two-fold; first to control the process to ensure the proper information is provided by the appropriate source and second, to streamline the responses. In many instances, the information requested by various groups is the same. By having one central contact, the efforts required to provide responses should be reduced. A central contact also ensures consistency in data provided. Additionally, a central contact provides the Director a means of managing staff work.

RECOMMENDATION (b): Oversight also recommends MoDOT comply with requests and provide information in a timely manner, as required by Section 23.170, RSMo.

RESPONSE: It was not the intent of the Department to delay providing information. The audit time period (10 years) caused some delays in obtaining information. In addition, the Department, like all of State government, was dealing with a change in systems during the audit period. All of the data was not available in the same system. The implementation of SAM II resulted in procedural changes, meaning some previously easily accessible information is no longer as accessible.

COMMENT #10

RECOMMENDATION: Oversight recommends MoDOT develop policies and procedures to ensure the accuracy of information available to the public and to the legislators.

RESPONSE: MoDOT has verified the consistency and accuracy of information published in the 2001 – 2002 Official Manual of the State of Missouri, MoDOT's Fiscal Year Legislative Budget Request, and MoDOT's website. The initial background information provided by Oversight included some generalizations and approximations the Department considers appropriate for the readers of the 2001 – 2002 Official Manual of the State of Missouri and MoDOT's website. The Department requested the background information be changed to provide more detail for the presumed readers of the Oversight Division's Program Evaluation. Additionally, the Department is in the process of identifying departmental contacts for specific requests.

Sincerely,

Jim Deresinski
Controller

Cc: Roberta Broeker
Pat Goff
Mike Golden
Debbie Rickard