#318

Report To

The Mississippi Legislature

A Performance Audit of the Mississippi Department of Transportation's Privatization of the Business Logo Sign Program

December 1, 1994

The Mississippi Department of Transportation (MDOT) chose to privatize the business logo sign program without sufficient management and financial analysis to determine whether the proposal eventually accepted was in the best interest of the state or sign customers. The department also did not follow the advice of legal counsel in establishing the contract with Mississippi Logos, Inc. (MLI).

In issuing requests for proposals, MDOT did not require potential bidders to compete on cost, evaluating only qualitative factors. Thus sign customers will expend approximately $177 per mainline sign per year more than necessary ($2.4 million over ten years) than if MDOT had operated a break-even, self-supporting program at the contractor's September 1994 level of sales.

Whereas Kentucky, which has a privatized logo sign program comparable to Mississippi's, will receive at least $4,900,000 in state revenues over ten years, Mississippi will receive a fixed sum of $1,500,000. Should MDOT terminate its contract with MLI without cause prior to expiration, the state would have to pay nearly $2,000,000 because of an unfavorable buyout clause.

The PEER Committee

PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A standing joint committee, the PEER Committee is composed of five members of the House of Representatives appointed by the Speaker and five members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of three Representatives and three Senators voting in the affirmative.

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The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

A Performance Audit of the Mississippi Department of Transportation's Privatization of the Business Logo Sign Program

December 1, 1994

The PEER Committee

Mississippi Legislature

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Joint Committee on Performance Evaluation and Expenditure Review

PEER Committee

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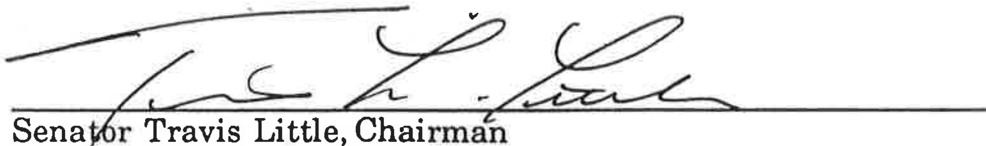
At its meeting of December 1, 1994, the PEER Committee authorized release of the report entitled **A Performance Audit of the Mississippi Department of Transportation's Privatization of the Business Logo Sign Program.**



Senator Travis Little, Chairman

This report does not recommend increased funding or additional staff.

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A Performance Audit of the Mississippi Department of Transportation's Privatization of the Business Logo Sign Program

December 1, 1994

Executive Summary

Overview

In 1983, the Mississippi Department of Transportation (MDOT) established a business logo sign program in response to the federal Highway Beautification Act. Nine years later, MDOT began to consider privatizing the department's logo sign program in order to expand the logo capacity per sign; overlay the existing inventory of signs with reflective blue sheeting; and to respond to complaints from business advertisers.

In 1993 the department issued a request for proposals which included only qualitative components. Two contractors responded, and MDOT evaluated their proposals without consideration of how inexpensively the contractors could perform the services. On October 1, 1993, MDOT awarded a ten-year contract with two additional five-year options to Mississippi Logos, Inc., (MLI) for administration and control of the business sign logo program.

During its development of the request for proposals, MDOT included a provision that the private contractor receiving the bid increase the annual fee for a mainline logo sign from $200 to $500. This $300 increase was an arbitrary decision by MDOT which was not based on complete cost data and was $177 more than necessary to make the program self-supporting and responsive to business.

MDOT's contract with MLI does not place the logo sign program in a position to be operated either (a) in the best interest of the business community while maintaining the lowest possible cost to the state, as stated above; or, (b) to generate maximum possible revenues. If MDOT had bid out its program in a similar fashion to Kentucky, Mississippi could be receiving higher annual revenues. Assuming MDOT's current level of sales of business logo signs and Kentucky's income formula, MDOT could be receiving revenues of approximately $522,000 annually. MDOT's ten-year revenues could total $5,220,000, in comparison to the $1,500,000 which MDOT will actually receive under the current contract.

Finally, instead of obtaining the lowest possible buyout provision through private sector competition during contract selection, MDOT established an arrangement which will require the department to make a cash outlay of nearly $2 million should it terminate the contract prior to expiration.

Recommendations

1. The Transportation Commission should formally adopt a process for department personnel to use in making decisions relative to the privatization of department programs and/or services. The process should require MDOT personnel to:

    - identify programs and services which are good privatization candidates through a systematic and documented evaluation process;
    - determine whether a competitive private sector market with sufficient service providers exists for privatizing such programs and services;
    - accomplish and document a comprehensive management study to define the most efficient organization (MEO) for the programs and services;
    - conduct a cost/benefit analysis to develop and document a total state cost estimate for performing the MEO;
    - solicit bids from the private sector through the use of a contract bid or proposal process whose basic specifications for the Request for Proposal (RFP) are the MEO operation and organization; and,
    - allow the department to compete with the private sector in the competitive bid process for the right to provide the program or service.

See PEER's November 30, 1992, report **The Privatization Potential of Mississippi's State Programs and Services** for further details regarding the privatization process.

2. MDOT management should perform a long-term financial and operational analysis of its business sign logo contract with Mississippi Logos, Inc., to determine whether it is in the department's best interest to:

   - continue the contract as written; or,

   - terminate the current contract, improve contract requirements as discussed in this report, and rebid the contract.

3. When contracting out programs or services, MDOT personnel should comply fully with the department's Standard Operating Procedure (SOP) No. ADM-24-01-00-000. In complying with the SOP, department personnel should consider both the cost competition and qualitative components of contracting.

4. For the business logo sign contract and all other privatization contracts, department personnel should adhere to the policy memorandum the Executive Director issued on April 6, 1994, to require legal counsel to review all RFPs and contracts before execution. MDOT should also amend its standard operating procedures to include the policy outlined in the memorandum.

5. When contracting out non-routine services, MDOT should require a review by financial personnel to determine economic impact and feasibility of the RFP and contract document. The department should use principles of financial analysis, capital budgeting, and net present value to determine the most financially feasible course of action.

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A Performance Audit of the Mississippi Department of Transportation's Privatization of the Business Logo Sign Program

Introduction

Authority

In accordance with MISS. CODE ANN. Section 5-3-57 (1972), the PEER Committee reviewed the Mississippi Department of Transportation's (MDOT) decision to privatize the management and operation of its business logo sign program.

In its November 30, 1992, report entitled **The Privatization Potential of Mississippi's State Programs and Services**, the Joint Committee defined *privatization* as the provision of traditional governmental programs and services through the private sector. The report further states that privatization introduces competition between the state and the private sector which, in some instances, could reduce the costs of programs or services, or increase efficiency and/or effectiveness of these programs and services at the existing cost level through delegation, divestment, or deregulation.

Scope and Purpose

PEER limited the scope of its review to MDOT's actions relative to operation of the logo sign program and to an analysis of the impact of privatization of the program on both the interests of the state and its business community. Specifically, PEER sought to determine:

- MDOT's reasons for privatizing the program;
- the steps in MDOT's decision-making process;
- the reasons behind the fee increase for mainline sign logos after privatization (fees increased from $200 per year to $500 per year); and,
- how other states handle their logo sign programs.

Method

During the course of the study, PEER reviewed and analyzed the following documents:

- state law;
- MDOT policies, procedures and minutes;
- MDOT and contractor financial reports, requests for proposal, contracts, and other documents; and,
- requests for proposals in other states with privatized business logo programs.

PEER also interviewed personnel with MDOT; the Kentucky Transportation Cabinet; the Tennessee Department of Transportation; Mississippi Logos, Inc.; Interstate Logos, Inc.; and logo sign contractors in other states.

Overview

In 1983, the Mississippi Department of Transportation established a business logo sign program in response to the federal Highway Beautification Act. Nine years later, MDOT began to consider privatizing the department's logo sign program in order to expand the logo capacity per sign; overlay the existing inventory of signs with reflective blue sheeting; and to respond to complaints from business advertisers.

In 1993 the department issued a request for proposals which included only qualitative components. Two contractors responded, and MDOT evaluated their proposals without consideration of how inexpensively the contractors could perform the services. On October 1, 1993, MDOT awarded a ten-year contract with two additional five-year options to Mississippi Logos, Inc., for administration and control of the business sign logo program.

During its development of the request for proposals, MDOT included a provision that the private contractor receiving the bid increase the annual fee for a mainline logo sign from $200 to $500. This $300 increase was an arbitrary decision by MDOT which was not based on complete cost data and was $177 more than necessary to make the program self-supporting and responsive to business.

If MDOT had bid out its program in a similar fashion to Kentucky, Mississippi could also be receiving higher annual revenues. Assuming MDOT's current level of sales of business logo signs and Kentucky's income formula, MDOT could be receiving revenues of $522,000 annually. MDOT's

ten-year revenues could total $5,220,000, in comparison to the $1,500,000 which MDOT will actually receive under the current contract.

Finally, instead of obtaining the lowest possible buyout provision through private sector competition during contract selection, MDOT established an arrangement which could require the department to make a significant cash outlay should it terminate the contract prior to expiration.

Background

The Federally-Sponsored Business Logo Sign Program

Federal authority for the states to undertake business logo sign programs on the interstate highway system comes from the Highway Beautification Act of 1965 (23 USC 131f). The act passed in response to concerns that drivers would become stranded in remote areas accessed by the newly created interstate highway system. Shortly after passage, several states developed pilot programs to test the effectiveness of logo signing and the first formal programs began in 1972.

By October 1994, forty-two states, including Mississippi, had adopted programs to display logotypes (logos) of businesses on interstate and controlled-access highways to identify various gas, food, lodging, and camping facilities located nearby. (See "Comparison of Logo Sign Programs in Various States," page 19.) In most states, the logo sign program offers the following three types of signs for the classes of businesses just mentioned:

- *mainline signs* located on the interstate in advance of an exit;
- *ramp signs* located on the exit itself designating whether to turn left or right; and,
- *trailblazer signs* used if the motorist has to turn off the primary intersecting road to reach the business destination.

Currently, states must operate their logo signing programs under guidelines set by the Federal Highway Administration.

Mississippi Department of Transportation's Business Logo Sign Program

In 1983, the Mississippi Legislature amended MISS. CODE ANN. Section 65-1-8 (1972) to allow MDOT to implement a motorist services business sign program. The CODE stated that the Mississippi Transportation Commission shall have the following specific powers:

> To provide for the placement, erection and maintenance of motorist services business signs and supports within state highway rights-of-way in accordance with current state and federal laws and regulations governing the placement of traffic control devices on state highways, and to establish and collect reasonable fees from the businesses having information on such signs.

In that same year, MDOT established a logo sign program with the State Traffic Safety Engineer as program manager and operated it under his supervision until September 30, 1993. Initially, MDOT hired private contractors to install the first service signs on certain sections of the interstate system and the controlled access primary system. MDOT did not market the business logo sign program and erected business signs and additional service signs only upon request of the business sector. As a general policy, MDOT personnel considered the business logo sign program to be a "last priority" and constructed and maintained logo signs as an add-on to work requirements of the department's ongoing regulatory, warning, or guide sign programs.

Since fiscal year 1984 and until privatization, MDOT charged $200 for mainline signs, $100 for ramp signs and $50 for trailblazers. MDOT managers originally projected that the department would recover its costs after ten years of program operation. Exhibit 1, page 6, outlines MDOT's direct costs to construct signs and administer the program, as well as revenues received from the sign fees. As illustrated in Exhibit 1, MDOT did not meet its goal of recovering the direct costs of the program over a ten-year period and had experienced a cumulative operating loss at the time the program was privatized.

Privatization of the MDOT Logo Sign Program

In 1992, MDOT began to consider privatizing the department's logo sign program. At that time, MDOT officials gave three primary reasons for their actions. First, the Transportation Commissioners wanted to expand the logo capacity per sign from four to six. Second, many of the signs erected in 1984 and 1985 had nearly reached the end of their ten-year useful lives and needed to be overlaid with new reflective blue sheeting. Finally, MDOT staff had received complaints from business advertisers relative to how the state-operated program was working. (MDOT could not provide PEER with written documentation concerning the specific nature or frequency of such complaints.)

Exhibit 1

Financial History of the MDOT-Operated Logo Sign Program, FY 1984 through FY 1993

	Revenues	*Direct Expenditures	Annual Revenues less Expenditures	Cumulative Revenues less Expenditures
1984	$0	$246,947	(246,947)	($246,947)
1985	161,715	1,692,109	(1,530,394)	(1,777,341)
1986	213,733	113,871	99,862	(1,677,479)
1987	229,450	36,274	193,176	(1,484,303)
1988	238,613	55,308	183,305	(1,300,998)
1989	241,533	35,714	205,819	(1,095,179)
1990	249,567	151,289	98,278	(996,901)
1991	257,233	103,380	153,853	(843,048)
1992	268,317	153,522	114,795	(728,253)
1993	$283,179	$108,264	174,915	(553,338)
Total	$2,143,340	$2,696,678	($553,338)	

Source: MDOT records

Note: *Indirect costs are not included. MDOT did not account for indirect (administrative) costs.

By 1993, MDOT had completed its deliberations and had decided to contract the administration and operation of its logo sign program to the private sector through the department's professional services contracting process. In his letter to PEER, dated December 17, 1993, the MDOT Executive Director outlined MDOT's management philosophy and some of the central issues driving privatization of the logo sign program. He stated:

> . . .It was strictly a business decision to address a number of issues including but not limited to the following:
>
> 1. Complaints and concerns of participating businesses during the ten (10) years the Department administered the program;

2. MDOT can no longer and should not absorb the significant administrative costs associated with the program;

3. The vast majority of the ±85,000 square feet of background signs must be overlaid with new reflective sheeting during 1994 and 1995. This would be a major undertaking for MDOT sign personnel if they had no other responsibilities.

4. As MDOT continues to eliminate PIN numbers to comply with state statute, additional services will have to be privatized or discontinued.

> . . .In closing, MDOT's Business Logo Sign Program was an excellent candidate for privatization because it was a separate entity, a program within itself, which should be self-supporting and there were established firms available to administer such programs. . . .

After making the decision to privatize, the department solicited contractor proposals using a Request for Proposal (RFP) which stated in part:

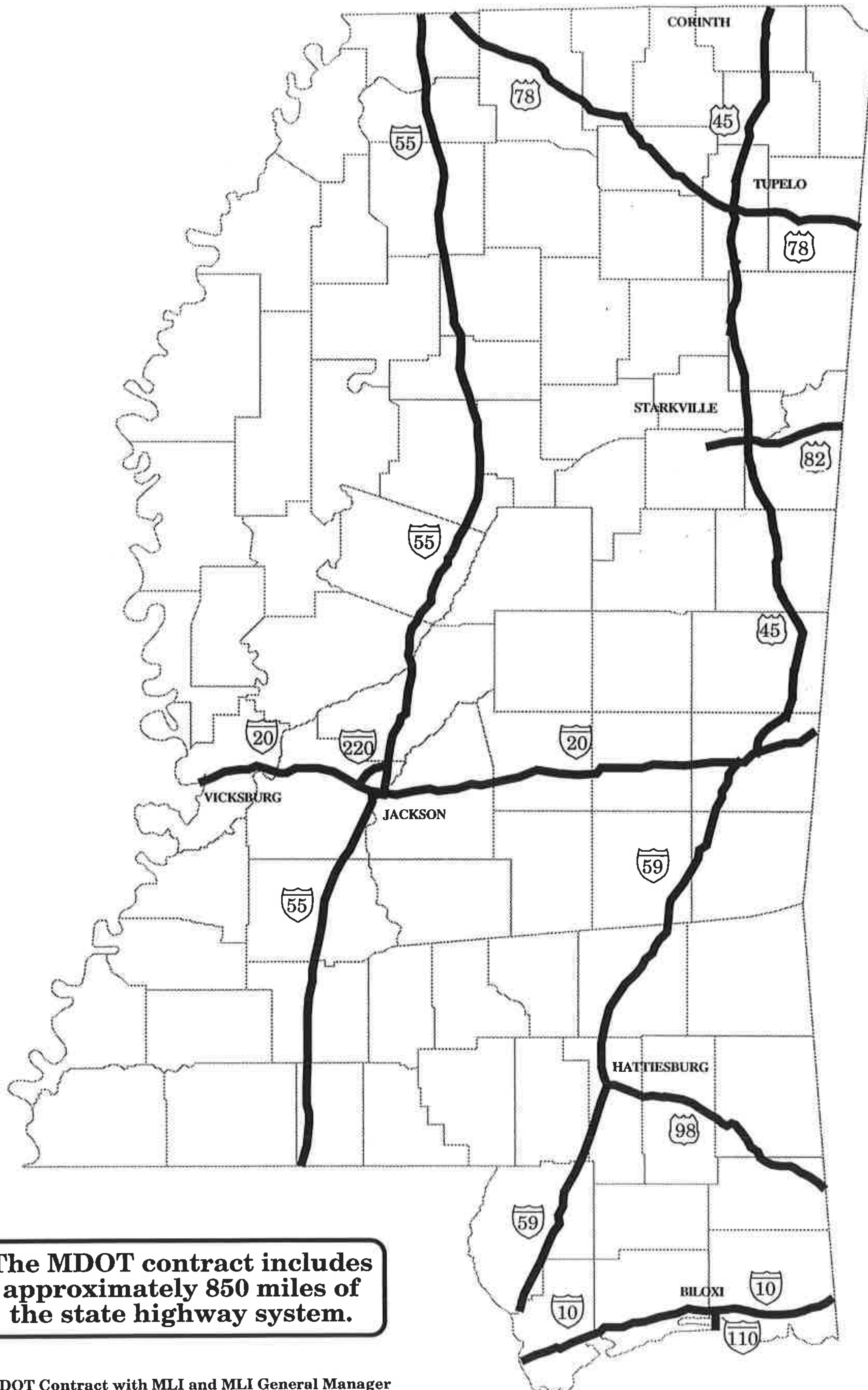
> . . .the successful proposer will be required to assume "Administration, Construction, and Maintenance" responsibilities for the logo sign program currently performed by the MDOT. . .initiate marketing and new construction required as the result of marketing efforts. . .to refurbish existing specific service signs and replace business signs (install) where either is determined to have unsatisfactory retro reflectivity or legibility due to failed retro reflective sheeting, inks, or any other condition that renders them non-performing.

MDOT received responses to the RFP from Mississippi Logos, Inc., (MLI) and Exit Information Corporation. MDOT evaluated the two proposals on qualitative factors alone, with no consideration given to cost.

After evaluating the proposals, MDOT selected and awarded a ten-year contract with two additional five-year option periods to MLI. MLI, which was established as a corporation on April 8, 1993, for the purpose of bidding on and administering the logo sign program in Mississippi, assumed administration and control of the business logo sign program on October 1, 1993. MLI's contract operation includes the use of two sub-contractors to assist in the maintenance and installation work on the approximately 850 miles of the state's highway system covered in the contract. Exhibit 2, page 8, shows the state highways eligible for the Mississippi logo sign program.

Exhibit 2

Eligible State Highways for MDOT Contract Logo Sign Program



The MDOT contract includes approximately 850 miles of the state highway system.

SOURCE: MDOT Contract with MLI and MLI General Manager

The Effects of MDOT's Privatization Process on the Business Logo Sign Program

PEER recognizes that state officials and managers must employ every available management technique to improve both the efficiency and effectiveness of state programs and services and that privatization is one such technique. *However, the decision to privatize must be made on a sound basis for the state to receive the benefits of improved cost efficiency or increased program effectiveness that is promised.*

In the case of the current review, PEER sought to determine the effects of MDOT's privatization process on the business logo sign program by answering a series of questions relating to the privatization decision and to resulting program operation. Each question is followed by a brief answer and a detailed discussion of the factors leading to that answer.

Did MDOT follow the advice of legal counsel and established policy in managing the privatization of the business logo sign program?

MDOT did not follow the advice of its Assistant Attorney General in managing the privatization process. MDOT counsel advised that, if the department chose to treat privatization of the logo sign program as a contract for professional services, it should use a contracting method similar to the one called for in departmental policy ADM-24-01-00-000 regarding consultant selection. By ignoring selective elements of departmental policy, MDOT officials improperly arrived at a selection method which excluded consideration of cost as an important part of the selection process.

MDOT's Legal Counsel Advised Following Departmental Policy for Consultant Contracts

In a letter dated April 13, 1993, the MDOT Executive Director asked legal counsel to review appropriate statutes and "advise as to any problems that [the Department] may encounter in privatizing the logo program." In response to the request, MDOT's Assistant Attorney General wrote an analysis of the issues relevant to this matter. As a part of the analysis, he stated that if MDOT chose to treat privatization of the logo sign program as a contract for professional services, the agency should use a contracting method similar to the one contained in the department's policy regarding consultant selection and administration of consultant contracts (SOP No. ADM-24-01-00-000). Two critical components of that policy require consultants to detail completely their costs to MDOT for providing their particular services. Specifically, the components require consultants to submit cost estimates and a contract cost proposal with their estimates of material cost, direct salary cost, other direct costs, overhead cost, indirect

cost, and profit. The Assistant Attorney General's letter further stated that:

> The Courts of Mississippi do not require that professional services be let on a competitive bidding basis. Alexander v. Mayor and Board of Aldermen of City of Natchez, 68 So. 2d 434 (1953). However, **it would be contrary to public policy to bar any discussion and consideration of the price to be paid** when negotiating a contract for professional services. [PEER emphasis added.]

MDOT personnel claim to have followed the department's policy for consultant selection and administration of consultant contracts. However, when MDOT's Consultant Selection Committee compiled the RFP to privatize the department's business logo sign program, Committee members decided that qualitative components (the way in which contractors could provide services and the experience and expertise of the contractors) were highly important and that the cost to MDOT for contracting out a particular service or program was not important. The Selection Committee reportedly wanted to ensure that cost components did not outweigh quality evaluation components in its efforts to achieve a quality program and enhance service to customers. In making this decision, MDOT failed to follow the advice of counsel and MDOT policy by including only qualitative components in the RFP soliciting bidders for the logo sign program and did not request that contractors include cost components in their proposals. Consequently, MDOT did not evaluate contract proposals to determine how inexpensively the contractors could perform the services.

By selecting the firm with the most expertise, the Consultant Selection Committee reasoned that it could ensure that MDOT's responsibility in monitoring the contract would be the least burdensome possible. However, MDOT's lack of cost competition prevented the department from selecting the firm which could operate the business logo sign program at the least expense to the state and to businesses which lease logo signs.

Although the chairman of MDOT's Consultant Selection Committee stated that quality and cost evaluation components could not be combined in the same selection process, an analysis of MDOT's internal policies and procedures does not support this assertion. MDOT policy (SOP No. ADM-24-01-00-000) states that cost plus fixed fee contracts (reimbursement of contractor's costs plus a fee for profit) can be a part of the consultant selection process. For cost plus fixed fee contracts, the consultant is required to submit as a part of the proposal its applicable historical costs and to bid a "percentage for profit and/or fee." For example, a consultant would list his/her projected costs based on historical figures and then bid on the amount of profits to be retained. The total projected costs and profits would be divided by the projected number of signs leased to derive the actual sign fee to be charged.

MDOT's policy also included a requirement for cost evaluation to be followed during the selection process. The policy states that, during the review of a proposed contract, the committee should:

- be responsible for analyzing the contract. . .as to the correctness and/or reasonableness of. . .direct cost, indirect cost, etc.

  The prospective consultant's contract or agreement cost proposal shall contain a breakdown of the estimate for performing the services to include the costs of material, direct salary, other direct costs, overhead, indirect costs and profit. As a minimum, each cost proposal which exceeds $50,000 shall be subjected to an audit evaluation prior to negotiation which will provide the basic data needed to determine the propriety of the proposed amounts.

- . . .document in the files that the proposed contract has been subjected to technical and cost or price evaluations, as appropriate, and how the results of these evaluations were considered in the contract negotiations.

The absence of cost competition in effect reduced competition among private sector bidders for the logo sign program in Mississippi. The interested contractors who did not bid on MDOT's proposal told PEER that, because there was no cost component in Mississippi's RFP, they believed that MDOT could not evaluate the RFPs objectively. These contractors determined that it would not be wise to invest the cost of responding to an RFP which did not have a cost component and therefore would be evaluated more subjectively than if cost had been included as a criterion for evaluation. Kentucky and Tennessee officials, who included cost components in their contracting process for the logo sign program, received six and eight bids, respectively, compared to two company proposals received by MDOT.

Did MDOT follow the advice of legal counsel in executing the final contract for privatization of the business logo sign program?

MDOT did not initially seek the advice of counsel in executing the contract to privatize the department's business logo sign program. MDOT finalized the contract without having counsel review its contents and provisions. After becoming aware of the contract's existence, representatives of the Attorney General's office expressed concern regarding the length and buy-out provision of MDOT's contract with Mississippi Logos, Inc.

Attorney General's Office Expressed Concern Regarding MDOT's Contract with MLI

MDOT and Mississippi Logos, Inc. (MLI) signed and finalized the contract on September 21, 1993. In December 1993, MDOT's legal staff reviewed the contract after becoming aware of its existence. At that time, the MDOT Legal Counsel communicated to the MDOT Executive Director that there were questions whether the Transportation Commission had statutory authority to enter into the contract as written.

As a result of the legal staff's concerns, the MDOT Executive Director suspended the contractor's operations from December 21, 1993, to January 20, 1994, until the Office of the State Attorney General could perform an in-depth analysis and review of the contract. After reviewing the contract, the Attorney General's Office notified MDOT in a letter dated January 20, 1994, that MDOT could proceed with the contract. The letter stated that MISS. CODE ANN. Section 65-1-8 (1972) was sufficiently broad to authorize the MLI contract. However, the Attorney General's Chief of Staff expressed concerns about the state's financial position under the contract and the length of the contract as follows:

> For future reference, . . .we would like to discuss in an attorney-client setting some suggestions for bettering the state's position regarding the duration of the lease and the "buy-out" provisions. . . .

When MDOT staff prepared the RFP and at the time the department executed the contract in September 1993, MDOT policies did not require that the department's RFPs and contracts be reviewed for legal sufficiency. However, contracts and addenda to contracts, such as the MLI request for proposal, are legal documents which can be upheld in a court of law. Therefore, review of legal documents for legal sufficiency before their execution is good business and public policy and a necessary internal control.

Subsequent to the one-month suspension of the contract operations in January 1994, the MDOT Executive Director recognized the importance of a legal review as an internal control necessary for the organization. In his memorandum dated April 6, 1994, the Executive Director implemented a policy for mandatory legal sufficiency review in the MDOT contract management process, as follows:

> Many of our contracts are repetitive in nature; however, the law is ever changing so that it is necessary that we have them reviewed by the legal department. This includes the invitation for bids, proposals, contract forms and contract bonds, special provisions, notice to bidders, any change orders and agreements that are required to complete a contract as well as the various permits issued by the department. . . .In the future, all contracts will be reviewed by the legal department for legal sufficiency only. The department head will be responsible for the subject matter and/or the scope of the work to be accomplished.

Why did fees for mainline business logo signs increase from $200 per sign to $500?

The increase in cost for mainline signs was not cost-based. MDOT arbitrarily increased the annual fee for a mainline logo sign from $200 to $500 during the request for proposals process. The $300 increase was approximately $177 per sign more than would have been needed for MDOT to operate a self-supporting business logo sign program at MLI's September 1994 level of sales.

During development of the Request for Proposals (RFP) for privatization of the business logo sign program, MDOT staff included a provision that the private contractor receiving the bid could charge an annual fee of $500 for a mainline logo sign. This provision had the effect of increasing the annual fee for a mainline logo sign from $200 to $500. According to MDOT's Executive Director, the department allowed the increase in the mainline fee to make it "directly proportional to the significant increase in the level of service the participating businesses will receive" from the private contractor. The Executive Director further stated that the mainline fee increase would make participating businesses pay the program's administrative costs and make the program more self-supporting. MDOT's increase in the mainline logo sign fee was an arbitrary decision which was not based on complete cost data and was more than the amount necessary to make the program self-supporting and responsive to business.

MDOT Lacked Complete Cost Data for Decisionmaking

During the period that MDOT operated the business sign logo program, the department did not have in place a cost accounting system which captured all costs associated with the program. MDOT staff did not develop such a system because they incorrectly anticipated that the business sign logo program would have a relatively low indirect overhead cost. Available program cost records examined by PEER contained direct costs of the program but did not account for indirect program costs such as salary and benefit costs of personnel who administered the program at the central office and district level and administrative supplies and travel costs. (PEER computed the program's indirect costs for FY 1993 to be approximately $90,248.) Although the MDOT Executive Director contends that the mainline fee increase to $500 was designed to cover administrative costs of the program and make it self-supporting, the department had only incomplete cost data on which to make such a decision. As a result, MDOT made its decision to increase the mainline sign fee without determining:

- the significance and actual amount of indirect program administrative costs;

- the amount of fee increase necessary for the state to recoup maintenance cost to refurbish the existing ten-year old program sign structures under a state-operated program; and,

- the amount of fee increase necessary for the state to employ the required staff for a self-supporting, state-operated program.

<u>MDOT Increased the Mainline Sign Fee More Than Was Necessary</u>

When MDOT began the state-operated logo sign program in FY 1984, the department did not set fees at a level sufficient to recover agency start-up costs (initial costs of installing and maintaining the signs) over estimated useful life of the signs. MDOT management originally projected that the department would recover its costs after ten years of program operation. As illustrated in Exhibit 1, page 6, MDOT did not meet its goal of recovering the costs of the program over a ten-year period. Based on this analysis, even if MDOT had chosen to continue operating the program itself, it needed to increase fees in order to operate a self-supporting program on a break-even basis without the use of public funds. However, a $300 increase was not necessary. MDOT could have increased its $200 mainline sign fee to $323 had the department operated the program in accordance with the following assumptions:

- The business sign program would operate at break-even with no profit.

- Fees charged to the business community would be held to a minimum but would be high enough to allow MDOT to recover its operating costs (and cumulative deficit) over a ten-year period.

- MDOT would incur the expenses necessary to generate sales revenues similar to those generated by the private contractor at September 1994.

As a result of MDOT's arbitrary decision to increase annual mainline logo sign fees from $200 to $500, sign customers will expend approximately $8.3 million for signs leased from a private contractor rather than $5.9 million for signs leased from a state program operated on a break-even basis. Consequently, sign customers could expend approximately $2.4 million more than necessary over ten years, or $177 per sign per year ($500 minus $323) more than if MDOT had operated a self-supporting business logo sign program at MLI's September 1994 level of sales.

MDOT's increase in sign fees for an arbitrary amount not based on complete cost data is reflective of the department's arrangement with MLI. The contract does not place the logo sign program in a position to be operated either (a) in the best interest of the business community while

maintaining the lowest possible cost to the state; or, (b) to generate maximum possible revenues (see subsequent question and discussion, pages 15 through 17).

What is the economic impact of MDOT's decision to privatize its business logo sign program?

MDOT's contracting process did not properly assess the revenue potential of the business logo sign program in order to maximize revenues due the department. As a result, MDOT will receive $1,500,000 in revenues over the next ten years, while Kentucky, a state with a privatized business logo sign program comparable in number of signs to MDOT's, will receive a minimum of $4,900,000 in revenues for the same period. Also, instead of establishing the lowest possible contract buyout provision through private sector competition, MDOT arbitrarily established a provision which could require MDOT to make a significant cash outlay should the department terminate the contract prior to expiration (e.g., $1,833,000 if MDOT had terminated the contract at September 30, 1994).

MDOT Did Not Maximize Program Revenues

Rather than requiring private contractors to bid competitively on an annual payment to MDOT based on the revenue potential of the program, the department's RFP arbitrarily states that the successful bidder would pay MDOT $50,000 annually to reimburse the department for the estimated cost to administer the contract and $100,000 annually to reimburse the department for both the contractor's use of the logo sign structures currently in place and interest on the value of the signs. Over the ten-year life of the contract, MDOT should receive $1,500,000 in revenues.

In establishing the annual payment, MDOT projected the private contractor's revenues and costs so that a $150,000 payment could be made annually with a modest profit realized by the private contractor. However, MDOT made the projection without considering the true revenue potential of the logo program. Subsequent to the signing of the contract, MDOT's private contractor's annualized sales quickly reached a level which would generate a profit higher than estimated by MDOT after the company has absorbed any start-up costs. Due to MDOT's use of a set annual payment of $150,000, additional profits will accrue to the benefit of the private contractor rather than MDOT.

By way of comparison, the state of Kentucky has a privatized business sign logo program similar to MDOT's. Kentucky's logo program has approximately the same number of logo signs as Mississippi's program and charges a $600 annual rental fee for a combination of mainline and ramp logos. (See Exhibit 3, page 16, which illustrates the similarity between Mississippi's and Kentucky's fees.) Unlike Mississippi, Kentucky

Exhibit 3

Annual Sign Fees For States With Privatized Logo Sign Programs

Privatized Program	**Individual Sign Fees ***			**Combined Fees ****	
States	Mainline •	Ramp ••	Trailblazer •••	Mainline & Ramp	Mainline, Ramp, & Trailblazer
Texas	$547.32	$27.61		$574.93	
Kansas	$475.00	$100.00		$575.00	
Kentucky				$600.00	
Mississippi	***$500.00***	***$100.00***	***$50.00***	***$600.00***	***$650.00***
Missouri (1)			$200.00	$750.00	
Ohio			$120.00	$750.00	$870.00
Tennessee				$897.48	
Nevada	$888.00	$144.00		$1,032.00	
Oklahoma	$960.00	$180.00	$180.00	$1,140.00	$1,320.00
Oklahoma Turnpike Authority	$960.00	$180.00	$120.00	$1,140.00	$1,260.00
Nebraska			$120.00	$1,200.00	$1,320.00
Utah	$1,080.00	$180.00	$180.00	$1,260.00	$1,440.00
Wisconsin (2)	$900.00	$360.00		$1,260.00	
Montana	$1,068.00	$246.00	$246.00	$1,314.00	$1,560.00
Indiana	$1,140.00	$180.00		$1,320.00	
Arizona	$1,200.00	$180.00	$120.00	$1,380.00	$1,500.00
Minnesota					$1,080.00

Definitions for Type of Signs:
- • Mainline Signs are placed along the interstate in advance of the exit ramp.
- •• Ramp Signs are mounted on the exit ramp or access road.
- ••• Trailblazer Signs are placed at all turns until the business is visible.

Notes for Fee Categories:
- * The "Individual Sign Fees" section lists the actual fee structure in each state.
- ** The "Combined Fees" section allows comparison of fees between states.

Legend for Unique Fees:
- (1) Missouri assesses the $200 trailblazer fee as a one-time charge only.
- (2) Wisconsin charges only a $480 fee for mainline signs on non-interstate highways.

SOURCE: PEER staff analysis of "Interstate Logos Contract Program Price Analysis," July 1994

required its logo sign proposal respondents to bid on the basis of the highest amount of fees which the contractor would pay Kentucky under the contract terms. Because Kentucky required cost competition among its bidders as well as qualitative competition, the winning contractor of Kentucky's proposal process was a company which agreed to pay Kentucky $1,201 per standing mainline highway sign per year. (Standing signs can hold four to six logos each.) Kentucky will receive approximately $490,000 annually based on the number of standing mainline signs. Over the next ten years, Kentucky will receive approximately $4,900,000 under its contract, assuming sales levels remain constant.

If MDOT had bid out its program in a similar fashion to Kentucky, Mississippi could also be receiving higher annual revenues. Assuming MDOT's current level of sales of business logo signs and Kentucky's income formula, MDOT could be receiving revenues of $522,000 annually. MDOT's ten-year revenues could total $5,220,000, in comparison to the $1,500,000 which MDOT will actually receive under the current contract.

MDOT Established an Unfavorable Buyout Provision

MDOT's contract states that the department will own all of the signs constructed by the private contractor at the end of the ten-year contract period. In order to locate more easily those contractors who would risk entering a contract under these terms, MDOT established a contract buyout provision to determine the amount MDOT would pay the contractor if the department canceled the contract before the end of the ten-year period. Without a buyout provision, a contractor might lose money on the contract by paying for substantial construction in the initial years of a contract without being in the contract long enough to recoup those construction costs.

During the RFP process, MDOT did not require private contractors to compete with one another by bidding on the lowest acceptable buyout amount in the event MDOT terminated the contract for convenience. Instead, MDOT arbitrarily set the buyout provision in the contract as follows: Should MDOT terminate the contract for reasons other than the contractor's failure to fulfill its duties under the contract, the department will compensate the contractor for the cumulative construction cost of logo signs less depreciation, plus 100% of the contractor's most recent year of mainline and ramp sign revenues under the contract. If MDOT had decided to buy out the contractor on September 30, 1994, the department would have been required to pay the private contractor approximately $1,833,000.

Other states have established provisions in their logo program RFPs that do not restrict the state to making a certain buyout payment if the contract terminates. For instance, Montana required that proposal respondents bid on a buyout provision. Other states have required that, if

the state cancels a contract and awards the contract to a third party, the contractor negotiates to sell its assets to the third party. MDOT should have required competitive bidding on its buyout provision in an effort to obtain a provision which would have required a smaller cash outlay by the department than the current provision.

Comparison of Logo Sign Programs in Various States

Forty-two states have implemented logo sign programs for the traveling motorist. Twenty-six states administer and operate their own programs, while sixteen states have contracted with private for-profit companies to operate their programs. Two U.S. contractors manage and operate thirteen of the sixteen privatized programs. Logo Signs of America, Inc., has program contracts in six states, and Interstate Logos, Inc. (ILI), the parent company of MLI, has contracts in seven states, including Missouri, Nebraska, Ohio, Oklahoma, Texas, and Utah, as well as Mississippi. Exhibit 4, page 20, shows a map listing the program management approach for each of the states with a logo sign program and the states with no program.

How do fees charged for a logo sign in Mississippi compare to those charged in other states?

Fees charged for logo signs in Mississippi are among the lowest in those states with privatized logo sign programs.

Among the sixteen states with privatized programs, Kansas, Texas, Kentucky, and Mississippi charge the lowest annual logo sign fees to their business customers. According to an MDOT special projects engineer, Mississippi's contractor can charge less than other states (with all other factors being equal) because a ten-year contract is more favorable to the contractor than the shorter-term contracts of other states. The ten-year contract terms in Mississippi and Kentucky make it possible for the private contractors in those states to amortize their construction costs for the highway signs over a longer period. Therefore, the contractors' revenues in each year can be lower than if the construction costs had to be recovered in a shorter period of time. Twelve of the remaining fourteen privatized state operations have a contract term of five years or less. Exhibit 3, page 16, lists the combined sign fees charged in the sixteen states with privatized programs.

Exhibit 4

State Participation in Business Logo Sign Programs

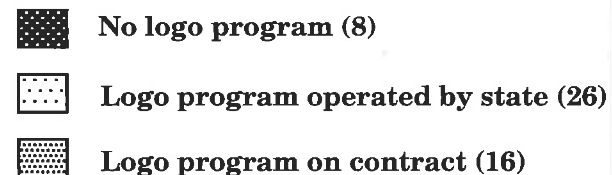
PRIVATE CONTRACTORS

Derse Company: Wisconsin

Interstate Logos: Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Texas, Utah

Logo Signs of America: Arizona, Indiana, Kentucky, Minnesota, Montana, Nevada

Travel Signs Associates: Kansas, Tennessee



SOURCES: "State Participation and Practices in the Use of Specific Service (LOGO) Signs and Tourist Oriented Directional (TOD) Signs," August 1993, U.S. Department of Transportation Federal Highway Administration; October 1994 report issued by Interstate Logos, Inc.

Recommendations

1. The Transportation Commission should formally adopt a process for department personnel to use in making decisions relative to the privatization of department programs and/or services. The process should require MDOT personnel to:

    - identify programs and services which are good privatization candidates through a systematic and documented evaluation process;
    - determine whether a competitive private sector market with sufficient service providers exists for privatizing such programs and services;
    - accomplish and document a comprehensive management study to define the most efficient organization (MEO) for the programs and services;
    - conduct a cost/benefit analysis to develop and document a total state cost estimate for performing the MEO;
    - solicit bids from the private sector through the use of a contract bid or proposal process whose basic specifications for the Request for Proposal (RFP) are the MEO operation and organization; and,
    - allow the department to compete with the private sector in the competitive bid process for the right to provide the program or service.

    See PEER's November 30, 1992, report **The Privatization Potential of Mississippi's State Programs and Services** for further details regarding the privatization process.

2. MDOT management should perform a long-term financial and operational analysis of its business sign logo contract with Mississippi Logos, Inc., to determine whether it is in the department's best interest to:

    - continue the contract as written; or,
    - terminate the current contract, improve contract requirements as discussed in this report, and rebid the contract.

3. When contracting out programs or services, MDOT personnel should comply fully with the department's Standard Operating Procedure (SOP) No. ADM-24-01-00-000. In complying with the SOP, department

personnel should consider both the cost competition and qualitative components of contracting.

4. For the business logo sign contract and all other privatization contracts, department personnel should adhere to the policy memorandum the Executive Director issued on April 6, 1994, to require legal counsel to review all RFPs and contracts before execution. MDOT should also amend its standard operating procedures to include the policy outlined in the memorandum.

5. When contracting out non-routine services, MDOT should require a review by financial personnel to determine economic impact and feasibility of the RFP and contract document. The department should use principles of financial analysis, capital budgeting, and net present value to determine the most financially feasible course of action.

Agency Response

Zack Stewart
Northern District Commissioner

Wayne O. Burkes
Central District Commissioner

Ronnie Shows
Southern District Commissioner

Dr. Robert L. Robinson
Executive Director

James D. Quin
Deputy Executive Director/
Chief Engineer

Mississippi Department of Transportation / P.O. Box 1850 / Jackson, MS 39215-1850 / FAX (601) 359-7110

November 28, 1994

Members of the Joint Legislative Committee on Performance
Evaluation and Expenditure Review
P. O. Box 1204
Jackson, Mississippi 39215-1204

Ladies and Gentlemen:

The Mississippi Department of Transportation (MDOT) appreciates this opportunity to respond to the PEER staff's preliminary report on MDOT's business sign logo program. MDOT has prepared a brief response to each alleged finding and each recommendation.

MDOT Response to PEER Staff Allegations

PEER Staff Allegation

MDOT did not follow the advice of its Assistant Attorney General in managing the privatization process. MDOT counsel advised that, if the department chose to treat privatization of the logo sign program as a contract for professional services, it should use a contracting method similar to the one called for in departmental policy ADM-24-01-00-000 regarding consultant selection. By ignoring selective elements of the departmental policy, MDOT officials improperly arrived at a selection method which excluded consideration of cost as an important part of the selection process.

MDOT Response

MDOT followed the advice of its legal counsel without exception. In a memo to the MDOT executive director dated April 19, 1993, a representative of the Office of the Attorney General made the following specific recommendations:

- "Selection of a management company should be made pursuant to a method similar to that found in S.O.P ADM-24-01-00-000 for consultant selection (underlined for emphasis)."

- "Properly followed and documented, this method should foreclose any legitimate allegations of wrongdoing on the part of public officials and employees."

MDOT's policy for consultant selection (ADM-24-01-00-000) was established in 1983 to comply with Federal Highway Administration requirements for the selection of consultants to meet the department's construction schedule. As such, all components of the policy were not applicable to the selection of a program manager for the business logo sign program. Despite this not being a federal-aid construction project, MDOT followed and documented its compliance with all applicable sections of this departmental policy.

MDOT emphatically denies PEER staff's allegations that department officials ignored the consideration of costs during the department's selection process for management of the business sign logo program. The agency has documented evidence (which was provided to PEER staff) that costs were considered and factored into the proposal process. Furthermore, we reject PEER staff's <u>assumption</u> that, "MDOT's lack of cost competition prevented the department from selecting the firm which could operate the business sign logo program at the least expense to the state and to businesses which lease logo signs." PEER staff's assertion is not based on the facts and in one statement insists that MDOT should maximize profits and in its next statement insists that MDOT should lower sign fees.

PEER Staff Allegation
MDOT did not initially seek the advice of counsel in executing the contract to privatize the department's business logo sign program. MDOT finalized the contract without having counsel review its contents and provisions. After becoming aware of the contract's existence, representatives of the Attorney General's office expressed concern regarding the length and buy-out provision of MDOT's contract with Mississippi Logos, Inc.

MDOT Response
This PEER staff allegation directly contradicts PEER staff's prior allegation stating that MDOT did not follow the advice of legal counsel in managing the privatization process. PEER staff clearly acknowledges in this report that the MDOT executive director requested and was provided with legal advice from the Office of the Attorney General regarding the process of contracting for the business sign logo program. MDOT officials provided PEER staff with copies of correspondence documenting the director's request for advice and the Attorney General's response. The following chronology of events is presented for the PEER Committee's information:

Chronology of MDOT's Contact with Office of the Attorney General Regarding the Logo Program Privatization

March 9, 1993	Privatization of the business sign logo program is discussed at a regular meeting of the Transportation Commission with representatives of the Office of the Attorney General present. The Commission instructs department staff to proceed with plans to privatize the program.

April 13, 1993	MDOT executive director sends memorandum to Assistant Attorney General, James T. Metz, requesting that the legal staff "review laws governing this matter and advise as to any problems that we may encounter in privatizing the logo program."
April 19, 1993	Assistant Attorney General Rickey T. Moore responds to MDOT executive director's April 13 request for legal advice in a memorandum.
June 22, 1993	MDOT staff presents a request for proposals for privatization of the logo sign program to the Transportation Commission for approval at a regular meeting. After a lengthy discussion of the request for proposals, the Commission approves advertising for proposals. A representative of the Office of the Attorney General is present.
September 14, 1993	At its regular meeting, the Transportation Commission authorizes the MDOT executive director to negotiate and sign a contract with Mississippi Logos, Inc., the firm recommended by the MDOT consultant selection committee. A representative of the Office of the Attorney General's office is present.
September 21, 1993	Representatives of MDOT and Mississippi Logos, Inc. sign a contract for management of the department's business sign logo program.
December 21, 1993	At the regular meeting of the Transportation Commission, Assistant Attorney General James T. Metz advises the Commission that he has concerns regarding the contract between MDOT and Mississippi Logos, Inc. The Commission passes a resolution suspending all work by Mississippi Logos, Inc. until further notice.
January 3, 1994	Representatives of MDOT and Mississippi Logos, Inc. meet with the Attorney General and his staff to discuss the contract between MDOT and Mississippi Logos, Inc. The Attorney General advises that the legal staff will study this matter and issue a response. Approximately one week later, Attorney General's Chief of Staff telephones MDOT executive director and advises that the contract between MDOT and Mississippi Logos, Inc. is acceptable and that MDOT can lift the suspension placed on the work of Mississippi Logos, Inc. The executive director insists on a written response before lifting the suspension.

January 20, 1994 — Attorney General's Chief of Staff issues letter to MDOT executive director stating in part, "you may move forward on the agreement," as the law is "sufficiently broad to authorize the Department of Transportation to execute a contract with a private entity to provide for the placement, erection, and maintenance of motorist services business signs, and to establish and collect reasonable fees for such service. That appears to be the design of the subject contract."

PEER Staff Allegation

The increase in cost for mainline signs was not cost based. MDOT arbitrarily increased the annual fee for a mainline logo sign from $200 to $500 during the request for proposals process. The $300 increase was approximately $177 per sign more than would have been needed for MDOT to operate a self-supporting business logo sign program at MLI's September 1994 level of sales.

MDOT Response

MDOT's business sign logo program has cost $553,338 more than it has generated during its first ten years of existence. MDOT increased the annual sign fee based on historical revenues and expenditures of the program, anticipated sign rehabilitation costs, interest on MDOT's sign investment, and a modest ten percent profit (before taxes) for the contractor. In addition, MDOT surveyed other states regarding their respective sign fees. MDOT used a sound analytical process as a basis for increasing the fee charged for logo signs. In fact, PEER staff used a methodology almost identical to MDOT's methodology to develop PEER's sign fee estimate, except that PEER staff used unreasonable assumptions. As such, if PEER staff views MDOT's analytical process as arbitrary then it must also consider its own methodology as arbitrary.

PEER staff implies that the department could have continued to operate the program on a break-even basis while only charging $323 per sign. PEER staff acknowledged that they had to make certain assumptions to arrive at this estimate. PEER staff's assumptions included the following:

- MDOT's hiring of three new marketing personnel (state employees);
- A forty percent increase in logo sign customers the first year;
- $359,000 less in sign improvements than was actually necessary the first year.
- No reserves for future sign improvements;
- Expenditure of $1,000,000 on sign improvements which would have to come from regular highway construction and maintenance funds.

As stated above, MDOT rejects the PEER staff assumptions and considers them somewhat arbitrary and based on the benefit of hindsight. MDOT would prefer to have the benefit of hindsight when making projections; however, such is not available in our operational environment.

PEER Staff Allegation
MDOT's contracting process did not properly assess the revenue potential of the business logo sign program in order to maximize revenues due the department. As a result, MDOT will receive $1,500,000 in revenues over the next ten years while Kentucky, a state with a privatized business logo sign program comparable in number of signs to MDOT's will receive $4,900,000 in revenues for the same period. Also, instead of establishing the lowest possible contract buyout provision through private sector competition, MDOT arbitrarily established a provision which could require MDOT to make a significant cash outlay should the department terminate the contract prior to expiration (e.g. $1,833,000 if MDOT had terminated the contract at September 30, 1994).

MDOT Response
MDOT is a governmental entity whose primary mission is to provide taxpayers a safe, comprehensive transportation network that is planned, designed, constructed and maintained in a cost efficient manner. It is not our mission nor the intent of the Legislature (in our opinion) that MDOT maximize revenues from proprietary activities such as the logo program. Instead, MDOT's mission is simply to generate revenues sufficient to provide "a quality service to the traveling public." With the current logo program, MDOT has done precisely that. If program revenues are currently above or in the future exceed the amount necessary to provide such services, MDOT will require the logo program contractor to adjust his fees downward.

PEER staff alleges that if MDOT had bid its logo program in a manner similar to Kentucky, the department would be receiving an additional $372,000 in revenues annually. This allegation is based on certain assumptions by PEER staff for which there is no support:

- Markets for logo sign advertising in Mississippi and Kentucky are identical;
- The effectiveness/quality of service being provided by the Kentucky contractor is identical to that in Mississippi; and,
- The condition of Kentucky's logo sign infrastructure was identical to Mississippi's when bids were accepted for management of the logo sign program.

PEER staff also alleges that, "MDOT made the projection (logo program revenue) without considering the true revenue potential of the logo program." PEER staff's

allegation implies that MDOT officials intentionally understated potential revenues of the logo program. While MDOT understands that PEER staff had the benefit of hindsight (MDOT's contractor has increased the number of logo program customers by 42% during its first year.) during its review, PEER staff provides no evidence other than speculation that such an intentional understatement occurred. This implies that MDOT had an ulterior motive--please tell us what this motive is. MDOT officials had no motivation for understating or overstating revenue projections when developing a privatized logo program. The department only seeks to recover its investment in the program while insuring that the traveling public receives good information at a fair price.

PEER staff also speculates that MDOT would have obtained a lower buyout provision in its logo program contract had such provision been competitively bid. As stated earlier, MDOT's primary concern in selecting a logo program contractor was to insure selection of a contractor that could most effectively operate the business sign logo program. Obviously, when parties negotiate a contract they must consider the potential for the unexpected termination of a contract. MDOT did consider this possibility and as such provided (in the contract) for two potential types of contract termination on the part of the department:

1. If the contractor terminates the agreement or otherwise defaults, MDOT assumes ownership of all signs and related rental contract rights managed by the contractor. ***Under this contractual clause, the contractor is not entitled to any compensation from the Department***.

2. If MDOT terminates the agreement with no default on part of the contractor, MDOT will assume ownership of all signs and related rental contract rights. The contractor is entitled to reasonable compensation for sign construction costs and lost revenue. Such compensation is established by a formula included in the contract. *NOTE: MDOT required the contractor to spend in excess of $1 million during the first year for sign construction and rehabilitation. Other states utilize state funds for sign construction and rehabilitation.*

PEER staff alleges that the formula used to determine the potential compensation of the contractor if MDOT defaults on the contract is unfavorable for MDOT. PEER staff states that MDOT should have used a method similar to that of used by the state of Montana. MDOT considered not only the buyout formula used by Montana but also those of the other fifteen states that have privatized logo programs. If MDOT used Montana's buyout formula as of November 1994, the buyout payment to Mississippi Logos, Inc. would be $4,528,459 while MDOT's formula would only require a payment of $1,993,600. Mississippi's method appears superior to that of Montana.

PEER Staff Allegation
Fees charged for logo signs in Mississippi are among the lowest in those states with privatized logo sign programs.

MDOT Response
MDOT concurs with PEER staff's finding. One of MDOT's primary objectives when developing the program was to provide a reasonable fee for logo signs.

MDOT Response to PEER Staff Recommendations

PEER Staff Recommendation
The Transportation Commission should formally adopt a process for department personnel to use in making decisions relative to privatization of department programs and/or services.

MDOT Response
While MDOT is comfortable with its current process for the selection of contractors, the department will take PEER staff's recommendation under consideration.

PEER Staff Recommendation
MDOT management should perform a long-term financial and operational analysis of its business sign logo contract with Mississippi Logos, Inc., to determine whether it is in the department's best interest to continue the contract as written or terminate the current contract, improve contract requirements as discussed in this report, and rebid the contract.

MDOT Response
MDOT's internal auditors are currently reviewing the fees, revenues, and expenditures of the logo sign program to determine if adjustments are necessary. A provision in the contract provides that MDOT may adjust the fees charged for logo signs either up or down. MDOT will make annual audits to insure that its public is served efficiently and at a fair price. We will adjust the fees downward when the facts indicate that such an adjustment is needed.

PEER Staff Recommendation
When contracting out programs or services, MDOT personnel should comply fully with the department's Standard Operating Procedure (S.O.P.) No. ADM-24-01-00-000. In complying with the SOP, department personnel should consider both the cost competition and qualitative components of contracting.

MDOT Response
MDOT will continue to comply with all department policies and procedures applicable to contracting programs and services.

PEER Staff Recommendation
For the business logo sign contract and all other privatization contracts, department personnel should adhere to the policy memorandum the Executive Director, issued on April 6, 1994, to require legal counsel to review all RFP's and contracts before execution. MDOT should also amend its standard operating procedures to include the policy outlined in the memorandum.

MDOT Response
MDOT will continue to comply with all department policies and procedures applicable to contracting programs and services.

PEER Staff Recommendation
When contracting out non-routine services, MDOT should require a review by financial personnel to determine economic impact and feasibility of the RFP and contract document. The department should use principles of financial analysis, capital budgeting, and net present value to determine the most financially feasible course of action.

MDOT Response
MDOT currently uses principles of financial analysis, capital budgeting and net present value when such analysis is warranted.

Sincerely,

Robert L. Robinson
Executive Director

PEER Staff

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John W. Turcotte

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Linda Triplett
Larry Whiting