

Report To

The Mississippi Legislature



A Review of the Mississippi Department of Human Services' Administration of Project LEAP, a JOBS Educational Component

November 16, 1995

The Mississippi Department of Human Services administers Project LEAP (Learn, Earn, and Prosper), a satellite teaching program, as its primary statewide educational component of the federal JOBS program for selected AFDC recipients.

The Department of Human Services has not complied with federal regulations requiring coordination of LEAP with other basic education programs. The department has underutilized the LEAP program, as demonstrated by the low class attendance rate during the most recent period for which data was available (February 1995 through April 1995). Also, the department did not accurately estimate costs of LEAP services, violated federal regulations regarding timing and nature of LEAP/JOBS expenditures, and over-obligated JOBS funds.

The former Executive Director entered into a contractual relationship with a LEAP contractor immediately following his resignation from the department, an action which could create the appearance of impropriety.

The PEER Committee

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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.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues which may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

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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 Review of the Mississippi Department of Human Services'
Administration of Project LEAP, a JOBS
Educational Component**

November 16, 1995

**The PEER Committee
Mississippi Legislature**

The Mississippi Legislature

Joint Committee on Performance Evaluation and Expenditure Review

PEER Committee

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November 16, 1995

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At its meeting of November 16, 1995, the PEER Committee authorized release of the report entitled **A Review of the Mississippi Department of Human Services' Administration of Project LEAP, a JOBS Educational Component.**



Representative Alyce Clarke, Chairman

**This report does not recommend increased
funding or additional staff.**

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A Review of the Mississippi Department of Human Services' Administration of Project LEAP, a JOBS Educational Component

November 16, 1995

Executive Summary

Introduction

Through a program called JOBS (Job Opportunity and Basic Skills), the federal Family Support Act of 1988 required the states to have in operation by October 1, 1992, a statewide program of education, training, and work experience for certain Aid to Families with Dependent Children (AFDC) recipients. In Mississippi, the Department of Human Services (MDHS) is responsible for identifying the specific services and programs in each of these areas that have the greatest potential for meeting the state's needs. Project Learn, Earn, and Prosper (LEAP) a satellite teaching program developed by the University of Mississippi, has become the primary vehicle MDHS uses to offer literacy and GED training to JOBS participants.

Recently various legislators, state employees, and private citizens have raised questions regarding the efficiency with which the Mississippi Department of Human Services has managed its limited JOBS resources, especially the resources devoted to the education of AFDC recipients who lack a high school diploma or the equivalent. The PEER Committee reviewed the Department of Human Services' administration of Project LEAP, with the review covering the period September 30, 1992, through April 1995, but concentrating on federal fiscal year 1995 operations.

Overview

Late in September 1992, when faced with the federally imposed October 1, 1992, implementation deadline for statewide JOBS services, MDHS contacted the University of Mississippi to develop an operational program by October 1 to avoid loss of over \$4 million in federal funds. MDHS subsequently contracted with the university for Project LEAP, literally developed overnight to comply with the deadline and obligate these funds. While the Uni-

versity of Mississippi has fulfilled its contractual responsibilities regarding administration of Project LEAP as a JOBS educational component, MDHS's involvement in LEAP has generated problems in program and financial management.

MDHS failed to comply with federal regulations requiring coordination between LEAP and other adult basic education programs resulting in the location of LEAP sites where other adult education programs have available slots for participants. In the spring of 1995, MDHS granted an additional \$20,000 of JOBS funds to renovate a LEAP facility in West, Mississippi, above amounts provided to support other LEAP sites.

For the period February 1995 through April 1995, LEAP participants, on average statewide, attended classes 59% of the time rather than the minimum 75% of the required twenty hours per week.

Regarding financial management, MDHS's non-compliance with federal regulations has resulted in the federal government's disallowance of approximately \$2 million in program expenditures. MDHS overcommitted JOBS funds by \$3.5 million for fiscal year 1995, 26% of which are LEAP-related expenditures. MDHS's and LEAP's efforts to sell the LEAP program to other public entities, combined with the failure to calculate LEAP costs accurately, have required approximately \$144,000 in extra support from JOBS funds.

While reviewing JOBS/LEAP program management, PEER determined that the former MDHS Executive Director, whose decisions during his MDHS tenure had benefited a LEAP contractor, entered into a contractual relationship with that contractor immediately following his resignation as Executive Director. His actions relative to the contractual arrangement create the appearance of impropriety and could constitute a violation of state ethics laws.

Findings

Program Management

MDHS's failure to comply with federal regulations requiring coordination between LEAP and other adult basic education programs results in location of LEAP sites where other adult education programs have available slots for participants. (See page 14.)

Project LEAP is only one of several adult literacy programs in Mississippi providing such services. The state's other primary adult education programs are Adult Basic Education (ABE), under the supervision of the State Board for Community and Junior Colleges, and classes provided by Job Training Partnership Act (JTPA) funds. Federal regulations require certain levels of cooperation between JOBS and these other adult education programs to provide comprehensive, quality services to welfare recipients in the most effective and efficient manner.

Despite federal regulations outlining the minimum requirements for use of established educational services and a statewide JOBS plan stating coordination as an objective, MDHS management has failed to act in accordance with these regulations/objectives. MDHS did not use pre-established programs such as ABE and JTPA to minimize the cost of Project LEAP, and in fact established LEAP sites in counties where participant slots were available in existing educational programs.

In the spring of 1995, MDHS granted an additional \$20,000 of JOBS funds to renovate a LEAP facility in West, Mississippi, displacing JOBS funds that could have been used to provide direct services to participants. (See page 17.)

Due to concerted efforts by community leaders of West, MDHS and LEAP staff decided to locate a LEAP "Super Site" adjoining the public library, which was being equipped and renovated with funds provided by the Mississippi Library Commission and other sources. MDHS agreed to contribute an additional \$20,000 of JOBS funds to assist in the renovation to accommodate LEAP's needs. While the West site is exceptional and a well-designed facility, the \$20,000 supplement represents an investment above and beyond the routine investment for a LEAP site, and displaced JOBS funds which could have been used to provide direct services to other JOBS-related participants.

For the period February 1995 through April 1995, LEAP participants, on average, attended classes 59% of the time rather than the minimum 75% of the required twenty hours per week. (See page 18.)

Federal regulations require participants in JOBS educational programs, such as LEAP, to be in attendance at least fifteen of twenty scheduled classroom hours each week, i.e., 75% of the scheduled class time. For the period February 1995 through April 1995, the most recent period for which data was available, LEAP's average enrollment of 1,160 participants had an average daily attendance of only 59%.

The JOBS program's overall mission as defined by the federal government is to provide AFDC welfare recipients with the skills necessary to obtain welfare independence. If recipients assigned to LEAP do not attend LEAP classes, they receive no benefits from the JOBS program and are less likely to become welfare-independent. It is MDHS's responsibility to follow up on those participants in a timely manner and either verify a plausible reason for non-attendance or sanction that individual.

Financial Management

MDHS has not accurately estimated the costs of LEAP services, has violated federal regulations regarding timing and nature of LEAP/JOBS expenditures, and has over-obligated JOBS funds. (See page 19.)

The University of Mississippi has marketed components of the LEAP program to private organizations and public agencies. However, in at least two instances, LEAP did not calculate costs of services sold and subsequently undercharged for these services by \$144,000. Instead of generating revenue to offset expenses of the JOBS program, LEAP has actually undercharged for its services. As a result, JOBS funds have been used to support LEAP services to non-JOBS clients.

Also, LEAP did not bill in a timely manner for some of its services, nor did it handle program income received from one program sale in accordance with federal requirements.

For federal fiscal year 1992, the federal government disallowed \$1,991,056 in expenditures because MDHS/LEAP did not spend federal grant money during the proper period and this amount was therefore paid from MDHS's state general funds. If a

JOBS program such as Project LEAP fails to follow program guidelines regarding the expenditure of federal grant funds, the program jeopardizes its federal funding. Disallowance of expenditures by the U. S. Department of Health and Human Services could leave a state liable for such expenditures and the program could be forced to reduce or eliminate services or benefits to the program's participants.

MDHS has over-obligated JOBS funds by \$3.5 million for fiscal year 1995, 26% of which are LEAP-related expenditures. The impact of this action was the closure of twelve of the sixty-two LEAP sites, displacing twenty-four teachers and aides and eliminating three hundred educational slots for JOBS clients.

Ethics Issue

After terminating his employment as MDHS Executive Director, Gregg Phillips immediately contracted with Synesis, a subcontractor of the LEAP program, which creates the appearance of impropriety and could constitute a violation of state ethics laws. (See page 26.)

Gregg Phillips, former Executive Director for the Department of Human Services, signed a contract modification in 1993 which added two mobile learning labs to the LEAP program. Centec Learning entered into a contract with University of Mississippi to convert two vehicles into these mobile learning labs, while also maintaining and operating them for the term of the contract.

On April 26, 1995, Gregg Phillips resigned his position as Executive Director of MDHS and on the same day entered into a contract with Synesis Corporation, of which Centec is a division. Contract terms called for Mr. Phillips to be paid \$84,000 per year to make industry contacts and market Synesis products and services.

Mr. Phillips's actions create the appearance of impropriety, facilitating an erosion of the public trust.

Recommendations

1. MDHS should develop and implement a plan coordinating its JOBS educational needs with existing state/federally funded adult basic educational services. In selecting LEAP sites, MDHS should document any lack of existing services and justify the need for placement of

LEAP or any other JOBS-funded educational programs, before JOBS funds are expended in the area.

2. MDHS should perform an internal review of its case management process to determine the reason for low attendance in the JOBS-funded educational program. MDHS should make a written report of this review available to the House and Senate Public Health and Welfare committees prior to the general bill introduction deadline for the 1996 regular legislative session.
3. Prior to selling additional LEAP services, the University of Mississippi should develop a cost allocation process that will reflect the JOBS funds investments made in LEAP. This process should be used to establish LEAP service charges to ensure JOBS funds do not subsidize the sale of LEAP educational services to public entities or private organizations who do not specifically serve JOBS clients. Once income is generated from those sales, the University of Mississippi should apply the income as instructed by federal OMB Circular 110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations."
4. MDHS/JOBS should discontinue using the carryover method, the use of previous year federal grant funds for the current year, or if used, MDHS should ensure expenditures are liquidated and reported to the federal government within the federally allotted period.
5. MDHS should determine the amount of its JOBS funding and obligations prior to the JOBS program year and manage those funds in a manner that will not necessitate funding cuts during the service delivery year.
6. The Executive Director of the PEER Committee shall immediately refer copies of this report to the Executive Director of the Ethics Commission and the Attorney General for an investigation of Mr. Gregg Phillips's contractual relationship with a LEAP subcontractor for determination of violation of state ethics laws. If the Ethics Commission and the Attorney General do not determine this to be a violation based on strict adherence to the law, the Legislature should consider making terms of the ethics law more specific to address contracts executed by an executive officer who does not report to a board or commission.

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A Review of the Mississippi Department of Human Services' Administration of Project LEAP, a JOBS Educational Component

Introduction

In recent years the costs and benefits of public assistance programs have been the subject of considerable public debate. The landmark attempt by the federal government to implement welfare reform was the Family Support Act of 1988. Through a program called Job Opportunity and Basic Skills (JOBS), the Family Support Act required the states, by October 1, 1992, to have in operation a statewide program of education, training, and work experience for certain Aid to Families with Dependent Children (AFDC) recipients. JOBS participants were to have available to them an individually tailored package of ancillary benefits such as child care and transportation to help make the program viable.

While the law broadly requires the availability of education, training, and work experience programs, individual states have considerable latitude in identifying the specific services and programs in each of these areas that have the greatest potential for their individual needs. In Mississippi, the Mississippi Department of Human Services has this responsibility. While the potential for this program appears good, current federal funding for JOBS supports a rather modest participation rate of twenty percent of the eligible AFDC population. This places a practical burden on the states to use the JOBS money wisely to insure that the maximum possible number of needy families with children obtain either the education, training, or employment they need to help avoid long-term welfare dependence.

Recently various legislators, state employees, and private citizens have raised questions regarding the efficiency with which the Mississippi Department of Human Services has managed its limited JOBS resources, especially the resources devoted to the education of AFDC recipients who lack a high school diploma or the equivalent. MDHS has chosen to meet the educational needs of a majority of its eligible JOBS participants through a program called Learn, Earn, and Prosper (LEAP). Developed by the University of Mississippi on behalf of MDHS, Project LEAP, a satellite teaching program, has become the primary vehicle MDHS uses to offer literacy and GED training to JOBS participants. MDHS now depends almost exclusively on LEAP to achieve federally mandated participation rates for education eligible JOBS participants. The state is required to meet these participation rates to avoid the loss of federal funding.

Authority

The PEER Committee conducted this review of the Department of Human Services' administration of Project LEAP pursuant to MISS. CODE ANN. § 5-3-57 (1972).

Scope and Purpose

In response to concerns regarding the effectiveness of MDHS's administration of the LEAP educational program, the PEER Committee sought to review administration of the LEAP program, meeting the following objectives:

- Provide a description of the structure, function, and responsibilities of the LEAP program;
- Provide a description of the relationship of LEAP to other state literacy and GED educational programs; and,
- Evaluate MDHS's administration of the LEAP program, including analyses of program management and financial management.

The review covers the period September 30, 1992, through April 1995, but concentrates on federal fiscal year 1995 operations.

Method

In conducting the review, PEER:

- reviewed state statutes, federal regulations, and administrative contracts entered into by MDHS for the operation of JOBS programs as they pertain to the administration of the LEAP educational program;
- interviewed personnel of the Department of Human Services (JOBS Division, Budgets & Accounting, Office of Monitoring, Human Resources, and Executive level personnel), University of Mississippi (LEAP, Department of Resource Development, Contracts and Grants Department), State Personnel Board, and Board for Community and Junior Colleges; Job Training Partnership Act (JTPA) personnel; site teachers; federal Office of Inspector General auditors; U. S. Department of Health and Human Services personnel; Legislative Budget Office personnel; state legislators; and concerned citizens;

- reviewed financial, administrative, and operational information provided by the Department of Human Services, LEAP, U. S. Department of Health and Human Services, State Personnel Board, State Board for Community and Junior Colleges, JTPA, legislators, and concerned citizens;
- inspected LEAP production facilities, Central Mississippi Correctional Facility, and LEAP sites; and,
- conferred with the U. S. Office of Inspector General regarding its audit of LEAP and MDHS.

Overview

Late in September 1992, when faced with the federally imposed October 1, 1992, implementation deadline for statewide JOBS services, MDHS contacted the University of Mississippi to develop an operational program by October 1 to avoid loss of over \$4 million in federal funds. MDHS subsequently contracted with the university for Project LEAP, literally developed overnight to comply with the deadline and obligate these funds. While the University of Mississippi has fulfilled its contractual responsibilities regarding administration of Project LEAP as a JOBS educational component, MDHS's involvement in LEAP has generated problems in program and financial management.

MDHS failed to comply with federal regulations requiring coordination between LEAP and other adult basic education programs resulting in the location of LEAP sites where other adult education programs have available slots for participants. In the spring of 1995, MDHS granted an additional \$20,000 of JOBS funds to renovate a LEAP facility in West, Mississippi, above amounts provided to support other LEAP sites.

For the period February 1995 through April 1995, LEAP participants, on average statewide, attended classes 59% of the time rather than the minimum 75% of the required twenty hours per week.

Regarding financial management, MDHS's noncompliance with federal regulations has resulted in the federal government's disallowance of approximately \$2 million in program expenditures. MDHS overcommitted JOBS funds by \$3.5 million for fiscal year 1995, 26% of which are LEAP-related expenditures. MDHS's and LEAP's efforts to sell the LEAP program to other public entities, combined with the failure to calculate LEAP costs accurately, have required approximately \$144,000 in extra support from JOBS funds.

While reviewing JOBS/LEAP program management, PEER determined that the former MDHS Executive Director, whose decisions

during his MDHS tenure had benefited a LEAP contractor, entered into a contractual relationship with that contractor immediately following his resignation as Executive Director. His actions relative to the contractual arrangement create the appearance of impropriety and could constitute a violation of state ethics laws.

Background

The JOBS Program

Purpose and Scope of the JOBS Program

The Family Support Act of 1988 (P.L. 100-485) established the Job Opportunity and Basic Skills (JOBS) program to assist recipients of Aid to Families with Dependent Children (AFDC). The purpose of JOBS is to help assure that needy families with children obtain the education, training, and employment they need to avoid long-term welfare dependency. The educational component of JOBS devotes resources to providing educational opportunities to AFDC recipients who lack a high school diploma or the equivalent.

The JOBS program is administered at the federal level by the Assistant Secretary for Children and Families of the U. S. Department of Health and Human Services. Specific educational, training, and employment programs are administered at the state level by the Mississippi Department of Human Services (MDHS). MDHS may offer JOBS services and activities directly, or through arrangements or contracts with Job Training Partnership Act (JTPA) administrative entities, state and local educational agencies, and other public agencies or private organizations. The state must offer educational activities statewide, including high school equivalent education, basic literacy level education, and education for individuals with limited English proficiency, while the state has the option of providing at least two of the following programs: job search, on-the-job training, work supplemental programs, or community work experience programs.

Federal Participation Requirements

In order to maintain present funding rates, the federal government requires Mississippi to maintain a participation rate of twenty percent of non-exempt AFDC recipients (i.e., JOBS-eligible only). Within this JOBS-eligible group, exemptions are granted based on specific federal guidelines (e.g., illness, incapacitation, advanced age, parents with a child under three years of age). A state can count those non-exempt AFDC recipients who are granted exemptions toward the participation rate if the participants meet all participation requirements. If the state obtains these participation percentages, the federal government will match each dollar of state contribution with approximately four dollars for program cost. If these percentages are not met, the rate falls to a dollar-for-dollar match. The JOBS guidelines also presently dictate that fifty-five percent of JOBS funds be spent on a target group of AFDC participants, which for Mississippi are participants with an education of eighth grade or lower.

Qualified JOBS participants are to be enrolled in a twenty-hour-per-week educational program where they must attend at least seventy-five percent of the scheduled instructional time. If a participant fails to meet this minimum participation requirement, the state may sanction the individual. The sanctioning process begins with notification of the individual that the state intends to take away AFDC benefits ten days from the date of the notice and that the sanction will continue until such time as the participant complies with JOBS participation requirements. Participants may appeal the proposed sanction to an MDHS referee within ten days and seek to have the sanction lifted.

Program Funding

The JOBS program is funded through federal, state and local funds. Federal funds for the Title IV-F JOBS program are a capped entitlement, which means these funds are set by the federal government with no additional funds available for that year. Title IV-A funds, used to support JOBS with child care and transportation, are an open entitlement, which means as long as the state can provide matching funds, the federal government will provide unlimited funding. State funds are appropriated through the legislative process each year and are matched with federal funds at the federally established percentage. Details of FY 1995 JOBS program funding, allotments, and operations are shown on Exhibit 1, page 7.

Mississippi Department of Human Services' Educational Program Project Learn, Earn, and Prosper (LEAP)

Program Development

JOBS provides funding for the state level JOBS program throughout the program year, while MDHS has responsibility for expending those funds at the state level in a manner that provides quality services to needy JOBS clients. In order to receive a \$4 to \$1 match in federal funds, states were required by federal regulations to meet minimum JOBS participation standards for fiscal years 1990 through 1995 for the AFDC caseload. This requirement was seven percent for the two-year federal test program that ended September 30, 1992, at which time the program was to be implemented statewide. The requirements increased to fifteen percent in federal FY 1994 and to twenty percent in federal FY 1995. Late in September 1992, when faced with the federally imposed October 1, 1992, implementation deadline for statewide services, Ms. Ruth Ann Williams, the MDHS JOBS program director at that time, contacted the University of Mississippi to develop an operational program by October 1 to avoid loss of over \$4 million in federal funds. University of Mississippi's Department of Resource Development staff developed LEAP to comply with the federal

Exhibit 1

JOBS Program Revenues and Expenditures For Fiscal Year 1995

	<u>Amount</u>	<u>Totals</u>
<i>Revenues</i>		
Federal Title IV-F JOBS Funds	\$12,385,128	
Federal Title IV-F JOBS Carryover	808,240	
Federal Title IV-A Child Care Funds	6,206,205	
JAWS Interest Payment (Federal)	89,692	
State General Funds Appropriation	8,615,182	
Local Contributions	616,363	
Total Revenues		\$28,720,810
 <i>Operations (FY 1995 Budget Projection)</i>		
Salaries	\$767,544	
Travel	183,499	
Contractual Services	2,997,762	
Commodities	58,200	
Equipment	368,395	
<i>Contractor Obligations</i>		
Administration	1,312,367	
Case Management	7,398,316	
Supportive Services	4,169,191	
Child Care	8,199,491	
Vocational Training (ADAPT)	397,383	
Educational Training (LEAP)	6,425,136	
Total Obligated Expenditures		<u>\$32,277,284</u>
 <i>Revenues Over (Under) Obligated Expenditures</i>		 <u>(\$3,556,474)</u>

SOURCE: PEER analysis of MDHS funding information.

regulations. LEAP applies computer-assisted learning and interactive satellite instruction to achieve academic objectives.

Program Function

Project LEAP performs as a local service provider for the MDHS JOBS program on a statewide basis, with sixty-two sites in fifty-two of the state's eighty-two counties as of April 1995. (See Exhibit 2, page 9, for a map showing locations of the sixty-two sites.) University of Mississippi utilizes television to transmit live and taped television studio presentations from the University of Mississippi campus in Oxford, Mississippi, to the statewide sites. For fiscal year 1995 the LEAP staff is comprised of 152 individuals with a combined personnel cost of \$2,621,608, including fringes. (See Exhibit 3, page 10, for a LEAP organization chart.) These positions are distributed as follows:

Description	Number
Administrative Personnel	9
Curriculum Personnel	7
Site Service Personnel	<u>12</u>
Total Administrative	28
Teachers	62
Aides	<u>62</u>
Total LEAP	152

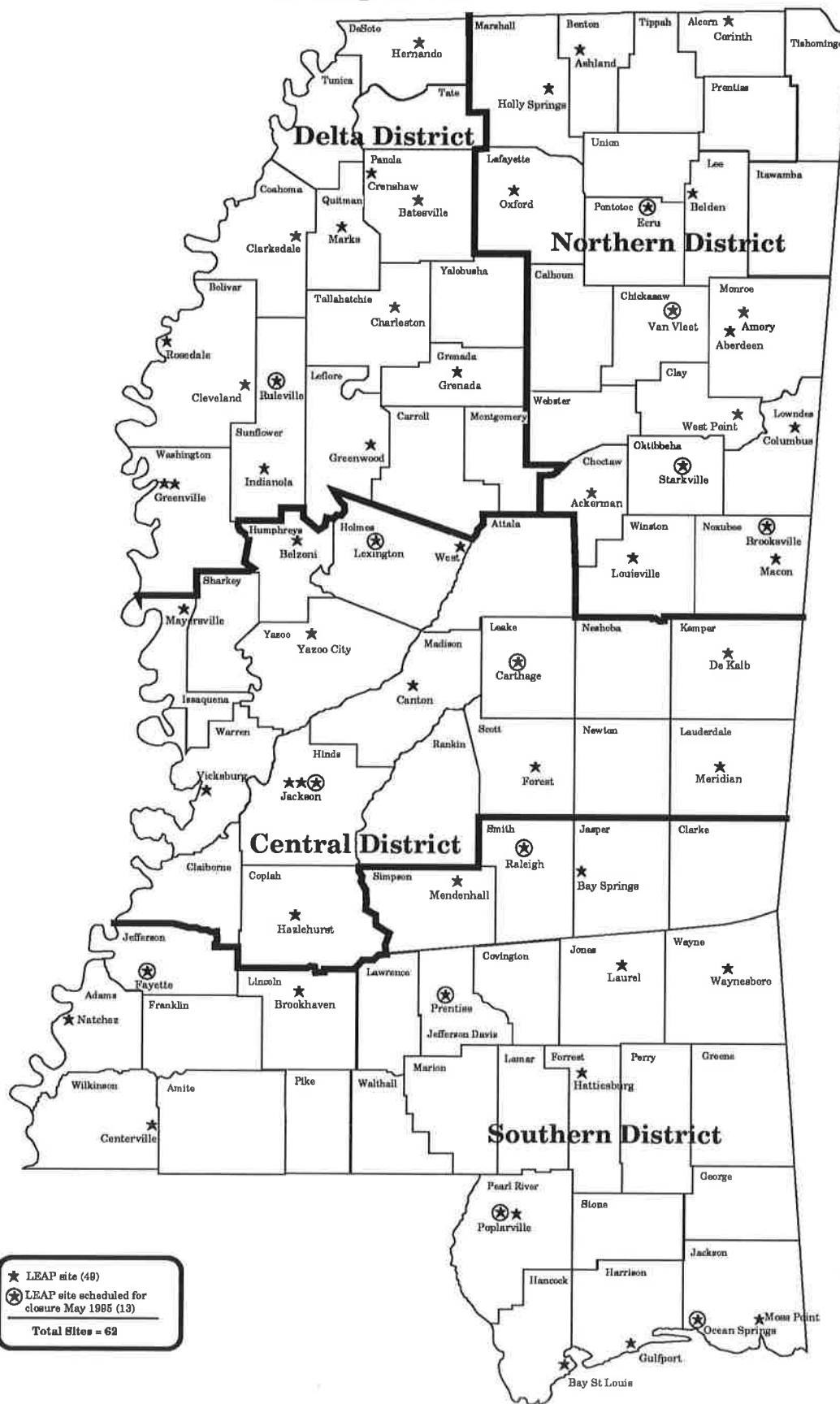
Each site has a part-time certified teacher and a teacher's aide who are employees of the University of Mississippi. The staff uses print material specifically designed for adults to support and supplement video broadcasts from the University of Mississippi studio. Additionally, each site has a telephone that students use to call the University of Mississippi televised teacher on a toll-free number to participate in the class presentation. LEAP currently is the only educational alternative program offered directly by MDHS. The department has stated that Project LEAP provides the unique benefits of:

- *statewide coverage in its rural areas;*
- *a twenty-hour-per-week classroom program which monitors attendance;*
- *a consistent quality of instruction statewide; and*
- *a non-threatening learning environment compared to the traditional classroom in which the participant may have originally failed.*

MDHS has no other educational service contracts for JOBS clients for FY 1995, relying primarily on LEAP to provide those services. In previous

Exhibit 2

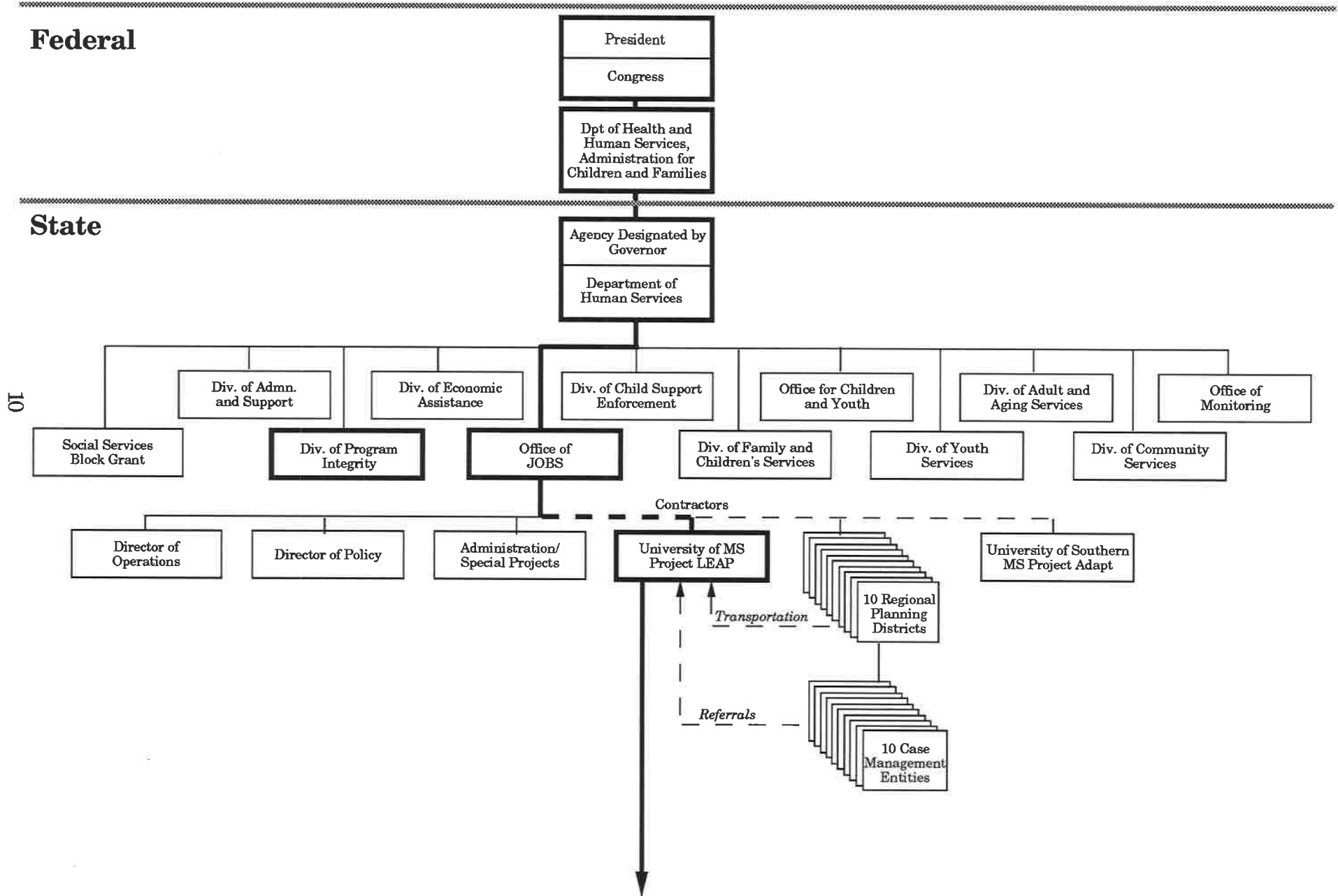
**1994-95 LEAP Sites
As of April 1995**



SOURCE: "Project LEAP 1994-95 Site Contracts" provided by LEAP personnel.

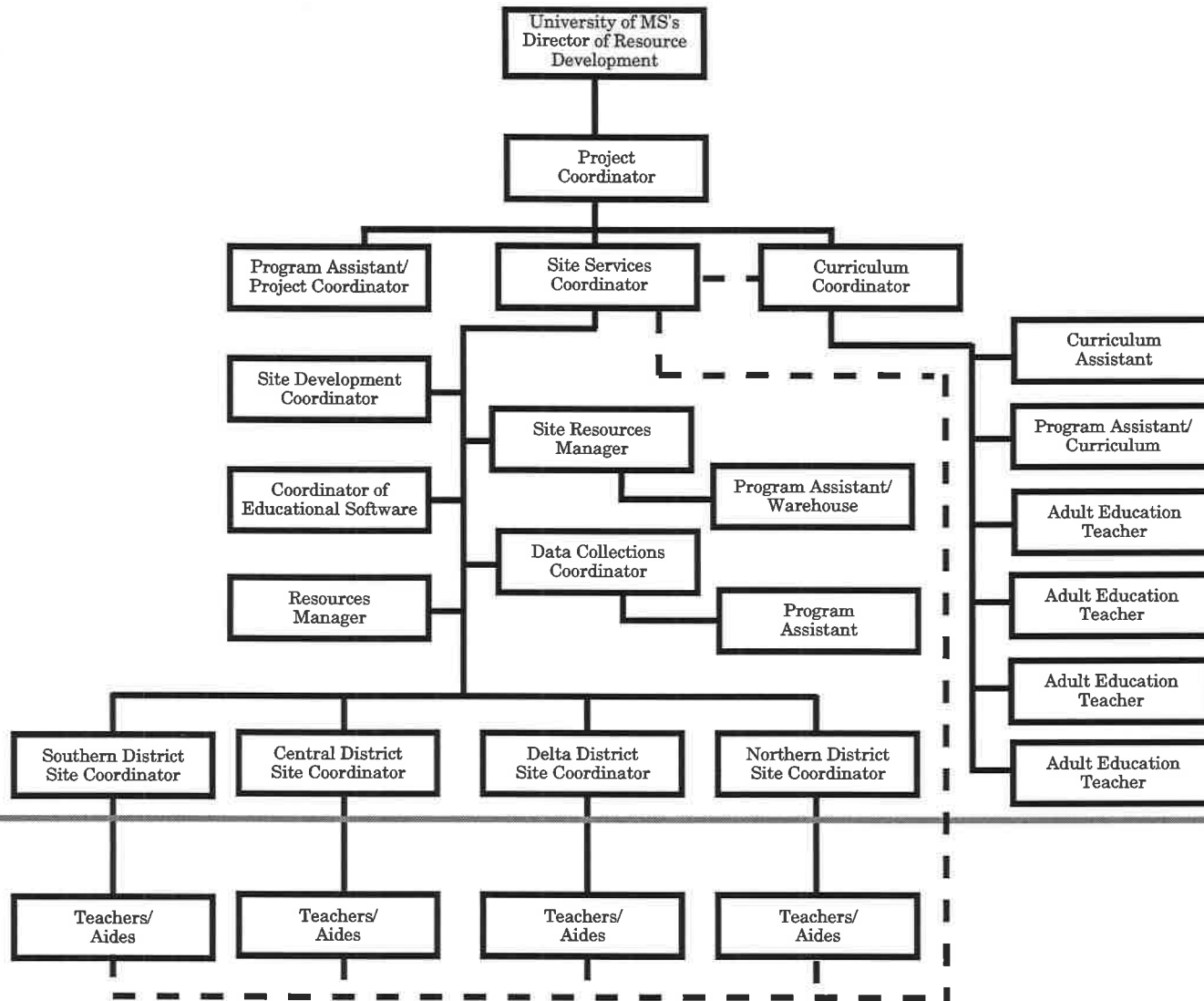
Exhibit 3

Mississippi's Learn, Earn and Prosper (LEAP) Organization Chart (As of April 1995)



LEAP Oxford

II



years MDHS had contracts with the State Board for Community and Junior Colleges (“traditional” adult literacy programs) and the State Department of Education (Job Training Partnership Act funded programs). Although contracts no longer exist between MDHS and these agencies, MDHS still refers a limited number of JOBS clients to these programs. Although JOBS clients use these programs on a limited basis, no reimbursement is provided to the community and junior colleges or JTPA programs through JOBS or any other MDHS funding sources.

Funding

For the three years the LEAP program has been funded for the JOBS program, \$20,218,526 has been contractually obligated from MDHS’s budget to support the program directly. This amount does not include child care and transportation supplied to LEAP participants while attending LEAP classes. These services are supplied through other MDHS contracts. The following is a breakdown of the funding by year and funding source:

<u>Year</u>	<u>Federal</u>	<u>State</u>	<u>University of Mississippi</u>	<u>Total</u>
1993	\$4,149,566	\$770,711	\$1,088,948	\$6,009,225
1994	6,042,826	1,385,532	355,807	7,784,165
1995	<u>5,027,437</u>	<u>951,615</u>	<u>446,084</u>	<u>6,425,136</u>
Totals	\$15,219,829	\$3,107,858	\$1,890,839	\$20,218,526

Details of FY 1995 LEAP program funding, allotments, and operations are shown on Exhibit 4, page 13.

Exhibit 4

LEAP Revenues and Expenditures For Fiscal Year 1995

	<u>Amount</u>	<u>Totals</u>
<i>Revenues</i>		
Federal Title IV-F JOBS Funds	\$5,027,437	
State MDHS JOBS Funds	951,615	
UM Federal Indirect Cost Match	446,084	
	<u> </u>	<u>\$6,425,136</u>
 <i>Operations</i>		
Salaries	\$2,116,787	
Fringes	504,821	
Commodities	210,400	
Travel	102,000	
Contractual Services	1,439,364	
Equipment	75,000	
Indirect Cost Federal	1,530,680	
Indirect Cost UM	446,084	
	<u> </u>	<u>\$6,425,136</u>

SOURCE: PEER analysis of LEAP funding information

Findings

It is imperative that the Mississippi Department of Human Services manage its limited JOBS resources, especially those devoted to the education of AFDC recipients who lack a high school diploma or the equivalent, in the most efficient manner possible. MDHS, through its contract with the University of Mississippi, has funded the Learn, Earn, and Prosper (LEAP) program to educate AFDC recipients with educational needs. While the University of Mississippi has fulfilled its contractual responsibilities regarding administration of Project LEAP as a JOBS educational component, MDHS's involvement in LEAP has generated problems with regard to program and financial management.

Program Management

MDHS's failure to comply with federal regulations requiring coordination between LEAP and other adult basic education programs results in location of LEAP sites where other adult education programs have available slots for participants.

Although it was initiated by MDHS as a provider of adult literacy services for JOBS clients, Project LEAP is only one of several adult literacy programs in Mississippi providing such services. In addition to LEAP, the state's other primary adult education programs are Adult Basic Education (ABE), under the supervision of the State Board for Community and Junior Colleges, and Job Training Partnership Act (JTPA) 8% funds, designated by the Governor to be under the control of the State Department of Education.

Federal regulations require certain levels of cooperation between JOBS and other adult education programs. The purpose of program coordination is to provide comprehensive, quality services to meet the needs of welfare recipients in the most effective and efficient manner. Such coordination is to assure that costs for services for which welfare recipients have been eligible are not shifted to the JOBS program. In developing the federal Family Support Act of 1988, Congress intended that the JOBS program bring together and make use of existing resources:

In developing the JOBS plan and carrying out the JOBS program, including the supportive services provisions, the State IV-A agency must consult and coordinate with other providers, . . .to identify existing resources to prevent duplication of services, assure that other program services are available to enable participants to achieve self-sufficiency, and assure that costs for these other services for which welfare recipients have been eligible are not incurred by the JOBS program. . . . (45 CFR § 250.12)

Another federal regulation states that:

The JOBS program should be coordinated with providers such as Job Training Partnership Act (JTPA) agencies, the Employment Service, vocational education, adult basic education, Head Start and preschool programs under chapter I of the Education, Consolidation and Improvement Act of 1981, school and nonprofit child care programs, public housing agencies, and other human development programs. (54 Fed. Reg. 42,158 [1989])

Federal regulations also require that providers such as LEAP, under contract with the state agency, certify that the services being provided with JOBS funds are not services that would have been available to AFDC recipients under a program providing general services to the community. The essential test is that JOBS funding not be used to supplant services that the state would otherwise provide through other arrangements and sources of funds. If other programs are insufficient, then JOBS funds may be used to fund additional activities and services that are necessary for JOBS participants, but only if AFDC recipients continue to receive their proportionate share of the other program's funds. Therefore MDHS's development of its own educational program should be secondary, while efforts to use existing programs such as JTPA and ABE should be primary.

Despite federal regulations outlining the minimum requirements for use of established educational services and a statewide JOBS plan stating coordination as an objective, MDHS management has failed to act in accordance with these regulations/objectives. MDHS did not use pre-established programs, such as ABE and JTPA, to minimize the cost of Project LEAP, and in fact established LEAP sites in counties where participant slots were available in existing educational programs. As illustrated in Exhibit 5 on page 16, during FY 1995, LEAP located sixteen sites in areas where ABE or JTPA had available educational slots, thereby creating a duplication of services.

Negotiating for available ABE or JTPA slots in each area of the state would have been less convenient to MDHS than establishing a program such as LEAP through one statewide contractor. However, MDHS could have served more AFDC recipients at the same funding levels by coordinating its efforts with existing programs in compliance with federal regulations.

Exhibit 5

**LEAP Enrollment vs. ABE/JTPA Slots
in Selected Counties**

<u>County</u>	<u>LEAP Sites</u>	<u>LEAP Enrollment*</u>	<u>Available ABE/JTPA Slots**</u>
Coahoma	1	35	65
Forrest	1	24	230
Jones	1	12	525
Hinds	3	85	1288
Lauderdale	1	34	275
Lincoln	2	27	124
Lowndes	1	26	238
Oktibbeha	1	11	146
Pearl River	2	17	170
Warren	1	25	83
Washington	2	49	132

* LEAP enrollment for the week of April 14, 1995

** As of June 1995.

SOURCE: Board for Community and Junior Colleges; JTPA and LEAP files.

Exhibit 6

LEAP, ABE, and JTPA: Average Cost Per Client Served Based on Total Cost of the Program and Total Clients Served, FY Ending June 30, 1995*

	<u>LEAP**</u>	<u>ABE</u>	<u>JTPA</u>
Federal and state funds allocated	\$6,392,190	\$4,085,559	\$1,023,239
Total clients served	3,619	18,409	830
Average cost per client	\$1,766	\$222	\$1,233

*LEAP is a twenty-hour-per-week educational program. PEER did not review ABE and JTPA programs, which in some cases are not twenty-hour-per-week programs.

**LEAP budget amount shown is for federal fiscal year 1995.

SOURCE: Board for Community and Junior Colleges; JTPA and LEAP files.

Not only were ABE and JTPA slots available, comparison of average cost per client (based on information provided by ABE and JTPA) shows that both ABE and JTPA slots were less expensive than LEAP slots. (See Exhibit 6, page 16, for 1995 budget amounts, total clients served, and average cost per client served for each of these programs.)

In the spring of 1995, MDHS granted an additional \$20,000 of JOBS funds to renovate a LEAP facility in West, Mississippi, displacing JOBS funds that could have been used to provide direct services to participants.

In the spring of 1995, MDHS and LEAP staff decided to establish the program's first "Super Site," or double class site, in West, Mississippi. Participants for the new "Super Site" were transferred from LEAP sites located in Kosciusko (Attala County) and Lexington (Holmes County), which were closed.

In establishing sites for classroom instruction, MDHS and LEAP staff routinely locate a building (or portion of a building) to lease in an "as is" condition. New site set-up costs normally amount to approximately \$11,600, consisting of \$1,800 for equipment, such as satellite receiver, television, and video cassette recorder; \$6,000 for annual site rental; \$400 for teaching supplies; and, \$3,400 for teaching books and materials.

Due to concerted efforts by community leaders of West, MDHS and LEAP staff decided to locate the LEAP "Super Site" adjoining the public library, which was being equipped and renovated with funds provided by the Mississippi Library Commission and other sources. MDHS agreed to grant an additional \$20,000 of JOBS funds to assist in the renovation of the library to accommodate LEAP's needs. The \$20,000 supplement represents an investment of funds above and beyond the routine investment for a LEAP site.

While for most sites LEAP has provided the minimum required furniture and equipment (copier, desks, tables, and video equipment) and less than ideal environments (inadequate space and storage, poor climate control and building conditions), LEAP has supplemented local and other funding to create an exceptional and well-designed facility at West. Although MDHS did not violate any federal or state regulations by making a \$20,000 contribution to the West site, MDHS has the responsibility of using JOBS funds in the most efficient and effective manner possible. Many Mississippians are eligible for AFDC assistance and are thus required to participate in the JOBS program, but not enough JOBS funds exist to serve every AFDC recipient in the state. Therefore, MDHS's additional grant for the renovation of the West site displaced JOBS funds which could have been used to provide direct services to other JOBS-related participants.

For the period February 1995 through April 1995, LEAP participants, on average, attended classes 59% of the time rather than the minimum 75% of the required twenty hours per week.

In order to maintain present funding rates, the federal government requires Mississippi to maintain a participation rate of twenty percent of non-exempt AFDC recipients (i.e., JOBS-eligible only). Within this JOBS-eligible group, exemptions are granted based on specific federal guidelines (e.g., illness, incapacitation, advanced age, parents with a child under three years of age). A state can count those non-exempt AFDC recipients who are granted exemptions toward the participation rate if the participants meet all participation requirements. Federal regulations require participants in JOBS educational programs, such as LEAP, to be in attendance at least fifteen of twenty scheduled classroom hours each week, i.e., 75% of the scheduled class time. If LEAP participants were complying with this requirement, LEAP's average daily attendance would be at least 75% of enrollment. For the period February 1995 through April 1995, the most recent period for which data was available, LEAP's average enrollment of 1,160 participants had an average daily attendance of only 59%.

LEAP site personnel assert that participant attendance is less than the required level primarily because case managers and MDHS do not effectively monitor attendance and sanction non-attending JOBS participants. Federal regulations require MDHS to discontinue providing public assistance benefits to participants who do not attend required educational classes. LEAP site personnel state that some participants know how to "use the system" by attending classes only frequently enough to avoid formal sanctions.

The JOBS program's overall mission as defined by the federal government is to provide AFDC welfare recipients with the skills necessary to obtain welfare independence. If recipients assigned to LEAP do not attend LEAP classes, they receive no benefits from the JOBS program and are less likely to become welfare-independent. It is MDHS's responsibility to follow up on those participants in a timely manner and either verify a plausible reason for the non-attendance or sanction the individual.

Financial Management

Because poor financial management of the LEAP program could inhibit the state's ability to meet participation rates and therefore cause the loss of millions of dollars in federal funding, PEER reviewed MDHS's financial management and oversight relative to LEAP.

MDHS has not accurately estimated the costs of LEAP services, has violated federal regulations regarding timing and nature of LEAP/JOBS expenditures, and has over-obligated JOBS funds.

Because of their belief that LEAP provides a unique program that has market value to JOBS and certain non-JOBS clients, whether public agencies or private organizations, representatives of the U. S. Department of Health and Human Services encouraged the University of Mississippi and MDHS to market LEAP services. Successful marketing of LEAP would, in effect, reduce the cost of generating services to JOBS clients and make LEAP self-supporting.

The University of Mississippi has marketed components of the LEAP program to private organizations and public agencies. These organizations and agencies include Mississippi Department of Corrections, Mississippi public schools, U. S. Department of Health and Human Services (nutrition training), USDA, the federal prison system, and private entities such as Wal-Mart, USF&G, and Whirlpool. University of Mississippi began these efforts soon after the inception of the LEAP program on September 30, 1992, although it saw little success until 1994.

Estimation of Costs

- *LEAP did not calculate costs of services sold to the Mississippi Department of Corrections and eleven public schools and subsequently undercharged for these services by \$144,000.*

In early 1994, the University of Mississippi entered the following contractual agreements to sell LEAP services:

- On February 9, 1994, the University of Mississippi entered into an agreement with the Mississippi Department of Corrections (MDOC) to utilize LEAP to provide adult education services to inmates at the Central Mississippi Correctional Facility. The performance period of the agreement was March 15, 1994, to June 31, 1994, for FY 1994 and from July 1, 1994, to June 30, 1995, for FY 1995, at \$200 per slot, or a total contractual amount of \$50,200. The MDHS JOBS program director established the amount MDOC was to be charged for LEAP, even though MDHS was not a party to this agreement.
- In March 1994, the University of Mississippi also sold its services to eleven Mississippi high schools through a program LEAP markets called Satellite Network Alternative Programming (SNAP). LEAP charged each high school \$100, a program total of \$1,100. The \$100 per school provided access to the satellite transmission, with individual schools providing their own equipment to receive the broadcast.

Rather than determining cost-related amounts to charge MDOC and SNAP subscribers, LEAP managers arbitrarily established amounts to charge for services, not basing these charges on actual costs. LEAP managers did not use a cost accounting method that would have allowed the determination of a unit cost rate designed to recoup JOBS funds used to develop the LEAP program. LEAP should not have sold any services until such a system was operational and the unit rate approved by the U. S. Department of Health and Human Services Administration for Children and Families.

PEER estimates that providing LEAP services to MDOC cost approximately \$165,000, which is 229 percent more than the \$50,200 that LEAP actually charged MDOC. Auditors from the U. S. Department of Health and Human Services Office of Inspector General also recently concluded that amounts charged to SNAP did not cover the costs necessary to provide services. The federal auditors estimated that providing these services cost LEAP approximately \$30,000, an amount that is twenty-seven times greater than the \$1,100 that LEAP charged the high schools for SNAP services.

Instead of generating revenue to offset expenses of the JOBS program, LEAP has actually undercharged for its services. As a result, JOBS funds have been used to support LEAP services to non-JOBS clients.

- *LEAP did not bill in a timely manner for services sold to MDOC nor handle program income received from SNAP in accordance with federal requirements.*

While the sale of LEAP services to MDOC and SNAP generated income, LEAP managers did not handle the billing and accounting of the income properly. LEAP did not bill for services rendered in March 1994 to MDOC in the amount of \$50,200 until March 1995. LEAP received payment from MDOC in May 1995. When LEAP sold services to SNAP and subsequently received income, LEAP should have followed federal guidelines stipulated in OMB Circular A-110 which require program income to either be:

- added to funds committed to the project by the federal awarding agency and recipient and used to further eligible project or program objectives;
- used to finance the non-federal share of the project or program; or,
- deducted from the total project or program allowable cost in determining the net allowable costs on which the federal share of costs is based.

LEAP did not handle the funds received from the SNAP sale in accordance with these regulations in a timely manner.

Disallowance of Expenditures

If a JOBS program such as Project LEAP fails to follow program guidelines regarding the expenditure of federal grant funds, the program jeopardizes its federal funding. Disallowance of expenditures by the U. S. Department of Health and Human Services could leave a state liable for such expenditures and the program could be forced to reduce or eliminate services or benefits to the program's participants.

- *The federal government disallowed \$1,991,056 in expenditures because MDHS/LEAP did not spend federal grant money during the proper period and this amount was therefore paid from MDHS's state general funds.*

The federal government reimburses states through grants based on allowable cost spent on federally supported programs. Allowable cost is cost that is spent directly or in support of programs when this cost is filed with the federal government in compliance with its regulations. The state has one year to spend and file expenditures with the federal government for these expenditures to be considered for reimbursement. Sometime prior to March 1994, the Administration for Children and Families notified MDHS that it had not properly filed expenditure reports for fiscal year 1992. This included \$1,991,056 in federal financial participation funds that would not be eligible for reimbursement to the state based on this error. These expenditures were attributed to project LEAP (3/4) and planning and development districts (1/4) while providing services to JOBS clients. Details of the correspondence between MDHS and the federal government are shown in Exhibit 7, page 22.

Because the funds had already been expended by the MDHS contractors prior to the filing requirements, MDHS reimbursed its expenditures in hopes of obtaining the federal funds. Since U. S. Health and Human Services disallowed the funds, MDHS paid the \$1,991,056 from its 1994 state-appropriated general funds to cover the expenditures.

MDHS provided cash disbursements to LEAP and the planning and development districts after September 30, 1993, for the 1992 grant, thereby violating the Federal Regulations, Sub Part H - funding 45 CFR 250.70 (d), referred to as "The Common Rule." This rule directs:

A state must liquidate all obligations incurred under the Title IV-F grant awards not later than one year after the end of the fiscal year for which the funds were awarded and obligated. The federal share of unliquidated obligations will be returned to the federal government.

Exhibit 7

Timetable of MDHS and U.S. Department of Health and Human Services Correspondence for Disallowance of \$1,991,056 for Grant Year 1992

- Prior to
March 1994** U. S. Department of Health and Human Services contacts MDHS by phone and tells MDHS that \$1,991,056 dollars in federal funds will not be eligible for reimbursement because of errors by MDHS.
- March 9, 1994** MDHS contacts the Regional Administrator for Administration for Children and Families communicating its disagreement with the decision.
- July 19, 1994** The Administration for Children and Families Regional Administrator communicates to MDHS that University of Mississippi's unreported cost would be allowable if such cost was liquidated by September 30, 1993. The planning and development districts' unreported cost would not be allowed from the 1992 grant funds but could be used from 1994 grant funds. (This is because planning and development districts are not considered a state agency.) The Regional Administrator provides detailed actions that should be taken by MDHS to allow the LEAP cost. MDHS takes no action on the Administrator's recommendation.
- November 2, 1994** MDHS appeals the Administration for Children and Family's decision to the Assistant Secretary, Administration for Children and Families.
- February 1, 1995** The Assistant Secretary affirms the Regional Administrator's decision to disallow the \$1,991,056.

SOURCE: Prepared by PEER from MDHS correspondence.

In this case, the 1992 obligations should have been liquidated by September 30, 1993, and reported to U. S. Health and Human Services for that period. MDHS obligated 1992 Title IV-F federal JOBS funds the last day of the federal fiscal year, September 30, 1992, to create LEAP to provide educational services to JOBS clients in the following federal fiscal year, with the planning and development districts to provide child care, transportation, and case management services. This process is called *carryover* and MDHS continues to use it. Example:

	<u>Carryover Method</u>	<u>Standard Method</u>
Title IV-F Grant Source	1992	1993
Service Period	Oct. 1, 1992-Sept. 30, 1993	Oct. 1, 1992-Sept. 30, 1993
Liquidated Obligation Date	Sept. 30, 1993	Sept. 30, 1994

MDHS and its contractors had to liquidate all obligations associated with the 1992 grant no later than September 30, 1993, and report this to the federal government. Without the carryover method, MDHS would have an additional year to liquidate and file such expenditures.

Failure to abide by the federal regulation caused MDHS to expend an additional \$1,991,056 in state funds to pay expenditures for the sub-grantees to provide services for the JOBS clients for the 1993 fiscal year. The funding amounts for the 1993 contracts changed to the following expenditures for LEAP (\$1.5 million) with an additional \$500,000 paid by the state for the planning and development districts' expenditures:

LEAP Funding Portion*

	<u>Original</u>	<u>Final</u>	<u>Difference</u>
Federal	\$4,149,566 (69%)	\$2,627,465 (43%)	(\$1,522,101)
Other	61,600 (1%)	61,600 (1%)	0
State	<u>1,798,059 (30%)</u>	<u>3,320,160 (56%)</u>	<u>1,522,101</u>
Total	\$6,009,225 (100%)	\$6,009,225 (100%)	0

* Does not include planning and development district cost.

Based on this adjustment in funding, the state paid substantially more for the LEAP program than originally anticipated.

The last week of March 1995, MDHS sent staff to the University of Mississippi to verify costs related to the LEAP program as recommended by U. S. Health and Human Services in its July 19, 1994, correspondence. During that review, MDHS determined \$1,055,712 of the \$1,522,101 LEAP cost was liquidated within the guidelines specified by the federal regulations, leaving \$466,389 non-allowable expenditures to be paid from state funds. The planning and development district cost was applied to the 1994 grant, also recommended by U. S. Health and Human Services.

Although this action has been taken by MDHS, at the time of this report it has not been accepted by the U. S. Health and Human Services.

Over-obligation of Funds

Because the JOBS and LEAP programs operate through the state Department of Human Services, they must receive and expend funds through the appropriations process on the basis of fiscal years. Agencies must rely on state law to determine legal compliance requirements. State law directs that no obligations or indebtedness shall be incurred during an allotment period in excess of the amount in the agency appropriation bill (MISS. CODE ANN. Section 27-104-25). An agency or program must know exactly its obligations or financial commitments in order to prevent such over-obligation of funds.

- *MDHS has over-obligated JOBS funds by \$3.5 million for fiscal year 1995, 26% of which are LEAP-related expenditures.*

The JOBS program receives its funds from federal, state, and local sources. Once these funds are established for a given fiscal year, MDHS provides services to JOBS clients based on those funds. For fiscal year 1995 MDHS operations and contractors obligated expenditures exceeded total available JOBS funding by \$3.5 million. These services include educational activities, job skills training, job readiness activities, job development, job placement, and supportive services for child care and transportation. MDHS performs few of these services directly, but instead chooses contractors to deliver services. Exhibit 1, page 7, includes details of JOBS funds and expenditure obligations.

While federal regulations do not specifically address over-obligation of expenditures, MDHS's state appropriation bill for fiscal year 1995 (House Bill 1760, 1994 Regular Session) does. Specifically:

Of the funds appropriated under the provisions of Sections 1 and 2, not more than the amounts set forth below shall be expended for the respective major objects or purpose of expenditures:

The 1995 appropriation bill enabled MDHS to expend \$8,615,182 in state and \$23,069,993 in federal funds, for a total of \$31,685,175. However MDHS only received \$19,488,265 in federal funds for an actual available funds amount of \$28,719,810. At the beginning of fiscal year 1995, MDHS had obligated \$32,277,284, a difference of \$3.5 million.

The federal Administration for Children and Families has taken the position that MDHS does not know exactly its obligations or financial commitments. One possible cause of this situation is that the current

MDHS budget process relies on budget figures that are two to three years old to obtain funding for the current year. Contracts are entered into based on previous year contracts, instead of comparing to the total available budget. Many of the current year expenditures had not been recorded by MDHS's Accounting and Budget division, even though contracts had been executed with these parties with eight months of the state fiscal year and five months of the federal fiscal year already elapsed.

Although the JOBS program fiscal year began October 1, 1994, on May 3, 1995, Ricky Berry, the Acting JOBS Director, communicated to LEAP that the program must be cut drastically. The JOBS Director's explanation was:

Due to the size of the over-obligation of Federal JOBS funds, I must initiate measures at this time to ensure that the State of Mississippi does not exceed its allocation. Effective immediately the spending authority for the contract with the University Mississippi to operate Project LEAP must be reduced by fifteen percent (15%). A budget modification must be submitted to the Office of JOBS. . .

The final impact of this action was the closure of twelve of the sixty-two LEAP sites, displacing twenty-four teachers and aides and eliminating three hundred educational slots for JOBS clients. While MDHS's budget adjustment is halfway through the program year, MDHS had access to the amounts that over-obligated the JOBS program prior to the fiscal year, therefore enabling MDHS to avoid this situation.

MDHS obligated funds not available to the JOBS program. Much of these funds are contractual in nature and require payment by MDHS regardless of available funding because contractual language to the contrary was not noted in the agreements with the contractors. MDHS could be placed in a situation of expending state general funds to cover shortcomings in federal funds, as was the case with the approximate \$2 million federal funds disallowance addressed in the earlier finding. While it is unclear whether the MDHS contractors must cut their budgets at MDHS's request, all seem to be complying with their mandates.

Ethics Issue

While reviewing JOBS/LEAP program management, PEER determined that the former MDHS Executive Director, whose decisions during his MDHS tenure had benefited a LEAP contractor, entered into a contractual relationship with that contractor immediately following his resignation as Executive Director. His actions relative to the contractual arrangement create the appearance of impropriety and could violate state ethics laws.

After terminating his employment as MDHS Executive Director, Gregg Phillips immediately contracted with Synesis, a subcontractor of the LEAP program, which creates the appearance of impropriety and could constitute a violation of state ethics laws.

Gregg Phillips was appointed Acting Executive Director for the Mississippi Department of Human Services February 8, 1993. His duties in this position included the approval of agency sub grantee contracts for services rendered to the JOBS program. His signature was required on all contract signature sheets, including those for Project LEAP. These contracts include descriptions of the services along with details of funding sources and budgets for expenditures for the year.

Although the initial LEAP contract for fiscal year 1993 had been approved September 30, 1992, Mr. Phillips, as MDHS's Acting Director, modified the contract on February 17, 1993. The Modification Signature Sheet added two mobile learning labs to the LEAP program. Centec Learning entered into a contract with University of Mississippi on February 17, 1993, to convert two vehicles into these mobile learning labs, while also maintaining and operating them for the term of the contract. The objective of this agreement was to integrate computer-assisted learning technology in high-need areas for LEAP. The goal was to determine the viability of combining this instructional tool with satellite and traditional techniques. These labs include interactive videodisk instructional programs, along with a broad platform of teaching tools.

This modification to the LEAP agreement constituted Centec's initial involvement with the LEAP program. MDHS and LEAP contracted with Centec even though the company itself acknowledged that it was "a small growing company that did not have the capital base to fund any form of extended rental." LEAP agreed to pay \$46,000 per month for the first seven months of Centec's contract, which covered all of the company's equipment cost for the duration of the contract, regardless of how long such services would be required. PEER concluded that LEAP paid full value, or purchased, the equipment at the beginning of this agreement instead of treating it as an equipment rental. For the period February 17, 1993, through September 30, 1995, the agreement states that LEAP will pay Centec \$577,698 in direct costs to support the two mobile learning labs. The University of Mississippi contributed an additional \$300,000 in indirect costs for a combined total of approximately \$878,000. Eighty-five percent of this cost was paid in the first year of the mobile learning lab operation.

On April 26, 1995, Gregg Phillips resigned his position as Executive Director of MDHS and on the same day entered into a contract with Synesis Corporation, of which Centec is a division. Mr. Phillips's contract calls for him to perform marketing, market development, and product sales tasks as they relate to Synesis. According to Synesis, Mr. Phillips is to:

. . . provide guidance in the proper use of our products for the welfare recipient as well as his assistance in making industry contacts.

Synesis sought his services because of his "knowledge of the welfare industry." Contract terms called for Mr. Phillips to be paid \$84,000 per year (\$7,000 per month), not including business expenses. He was to receive additional compensation for all sales of Centec courseware and services. This agreement is binding upon both parties until September 30, 1995, and may be renewed prior to August 1, 1995.

By its own acknowledgment, Centec was a small company that did not have the financial resources to enter the welfare reform market in the manner it did without some form of outside assistance. Gregg Phillips, representing MDHS, provided Centec such an opportunity, by virtue of the \$878,000 in direct and indirect costs paid by LEAP and University of Mississippi to the company. Furthermore, the \$350,000 paid over the first seven months of the contract covered the total cost of Centec's equipment, regardless of the duration of the contract. The magnitude of this contract moved Centec beyond the realm of a small player in the field of welfare reform. The \$878,000 constituted a substantial contract when compared to the net worth of the company at the end of 1992 which was approximately \$2.8 million.

Section 25-4-101 describes elective and public office and employment as a public trust that should not be violated. Section 25-4-101 narrowly defines the boundaries of acceptable behavior on the part of public servants by stating the following:

Therefore, public servants shall endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of this trust and which will not reflect unfavorably upon the state and local governments.

When Gregg Phillips, as Executive Director of MDHS, made the decision to sign the contract with Centec, he laid the groundwork for increasing Centec's visibility in the field of welfare reform. As a contractor with Centec, he now markets products and services made possible by his decision to modify the 1993 LEAP contract. Thus, Mr. Phillips will perform a service for compensation after the termination of his employment that relates to a decision he made while serving as Acting Executive Director of the Department of Human Services.

Mr. Phillips's actions appear to violate the spirit and intent of § 25-4-101. His actions constitute a possible violation of the public trust, and must be viewed with suspicion. At the very least, Mr. Phillips's behavior creates an appearance of impropriety, facilitating an erosion of the public trust such as is described in § 25-4-101.

Recommendations

1. MDHS should develop and implement a plan coordinating its JOBS educational needs with existing state/federally funded adult basic educational services. In selecting LEAP sites, MDHS should document any lack of existing services and justify the need for placement of LEAP or any other JOBS-funded educational programs, before JOBS funds are expended in the area.
2. MDHS should perform an internal review of its case management process to determine the reason for low attendance in the JOBS-funded educational program. MDHS should make a written report of this review available to the House and Senate Public Health and Welfare committees prior to the general bill introduction deadline for the 1996 regular legislative session.
3. Prior to selling additional LEAP services, the University of Mississippi should develop a cost allocation process that will reflect the JOBS funds investments made in LEAP. This process should be used to establish LEAP service charges to ensure JOBS funds do not subsidize the sale of LEAP educational services to public entities or private organizations who do not specifically serve JOBS clients. Once income is generated from those sales, the University of Mississippi should apply the income as instructed by federal OMB Circular 110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations."
4. MDHS/JOBS should discontinue using the carryover method, the use of previous year federal grant funds for the current year, or if used, MDHS should ensure expenditures are liquidated and reported to the federal government within the federally allotted period.
5. MDHS should determine the amount of its JOBS funding and obligations prior to the JOBS program year and manage those funds in a manner that will not necessitate funding cuts during the service delivery year.
6. The Executive Director of the PEER Committee shall immediately refer copies of this report to the Executive Director of the Ethics Commission and the Attorney General for an investigation of Mr. Gregg Phillips's contractual relationship with a LEAP subcontractor for determination of violation of state ethics laws. If the Ethics Commission and the Attorney General do not determine this to be a violation based on strict adherence to the law, the Legislature should consider making terms of the ethics law more specific to address contracts executed by an executive officer who does not report to a board or commission.

Agency Response



**STATE OF MISSISSIPPI
DEPARTMENT OF HUMAN SERVICES**

Donald R. Taylor
Executive Director

August 8, 1995

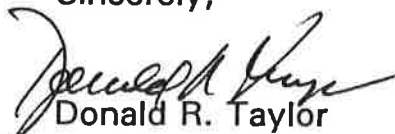
Mr. Mitchell Adcock
P.E.E.R
Post Office Box 1204
Jackson, Mississippi 39215-1204

Dear Mr. Adcock:

Enclosed you will find the Mississippi Department of Human Services' response to the Draft PEER Report along with exhibits.

If we can be of further assistance, please do not hesitate to let us know.

Sincerely,


Donald R. Taylor
Executive Director



DRT:td

Enclosures

This is to acknowledge receipt of Mississippi Department of Human Services' response.

Bonita Harris - Sutton
Name

8/8/95
Date

**MDHS EXECUTIVE SUMMARY
DRAFT PEER REPORT
AUGUST 8, 1995**

The Mississippi Department of Human Services received a letter of engagement from the Legislative Performance Evaluation and Expenditure Review (PEER) Committee on February 1, 1995 regarding an inquiry of the LEAP Program which is administered by the University of Mississippi. During the entrance conference on February 10, 1995, MDHS and University staff requested from PEER staff that an exit conference be granted prior to the release of any report issued. On July 25, 1995, PEER staff notified MDHS that the draft report was completed and an exit conference could be scheduled. This exit conference was held at the PEER office on July 31, 1995.

Upon arrival MDHS was astonished when notified that not only could it not obtain a copy of the draft to prepare its response, but also that it had only seven days to issue this response. A response to a draft report that took seven months to prepare and one that PEER's senior management has had since May 1, 1995 to review. It is of utmost concern that MDHS have sufficient time to prepare an adequate response. It is the position of MDHS that such short notice for response, added to the inability to obtain a copy to work from, creates an unfair situation that is difficult at best and unfair at worst.

MDHS and University staff noted numerous errors and omissions in the draft report during review and pointed out these during the exit conference. It is the understanding of MDHS and University staff that the final report will be submitted to the PEER Committee the week of August 7, 1995. MDHS is concerned that PEER's staff will not have adequate time to evaluate the

response or confirm the areas found by the agency to be in error. In light of the numerous errors contained in the draft report, inadequate review time casts doubt that an accurate and objective report can be issued in the August 1995 meeting. MDHS respectfully requests that PEER staff reschedule presentation of the final report for the September 1995 meeting, thus giving ample time for staff review of the data contained in the response.

The Mississippi Department of Human Services, through its Division of JOBS, administers the Job Opportunity and Basic Skills Program as required in the Family Support Act of 1988. Mississippi elected to operate the program on a statewide basis and has done so since October 1, 1992 through various contractual agreements for the provision of case management, support services and other components with planning and development districts, universities, community colleges, local school districts, municipalities, private businesses and other state agencies. Faced with the challenge of providing stable services to a client population, the majority of whom live in the most rural parts of Mississippi, MDHS contracted with the University of Mississippi to develop and administer a satellite delivered literacy program.

Although new to Mississippi, distance learning and the technology to provide such a service is not new. Contract negotiations between the University of Mississippi and the Department of Human Services were in fact conducted at the last minute to take advantage of funds that would have otherwise expired. The years of expertise held at the time by the Teleproductions Resource Center of the

University enabled the state to take advantage of existing technology thus enabling MDHS to take advantage of all available federal funds.

The application of this existing technology in such a manner has generated much interest from outside parties. With the encouragement and knowledge of the United States Department of Health and Human Services (DHHS) officials, MDHS has successfully marketed the LEAP program nationwide. To date the program has executed contracts representing program income of nearly \$800,000. The JOBS program incurs no additional expenses through these sales and the income derived offsets the cost of LEAP, thus enabling JOBS funds to be focused on enhancing services to its clients. MDHS sought and received an approved rate scale for the sale of LEAP.

Mississippi Code 43-49-9 Section 1 (10) mandates that:

The department, in cooperation with the University of Mississippi, the Governor's Office of Literacy and the Mississippi Cable Television Association, shall expand Project LEAP (Learn, Earn and Prosper), the goal of which is to provide JOBS program participants with an education that will result in employment through satellite and tape delivered instruction at sites throughout the state.

The Mississippi Department of Human Services is in compliance with this statute.

The final waiver terms and conditions for Mississippi's New Direction welfare reform initiative require as part of the conditions for receiving the waivers that food stamp

recipients prior to entering the WorkFirst Program:

..receive enhanced nutrition education, including money management information. This nutrition education will be incorporated in the JOBS Life Skills Component and will be provided via Project LEAP, the State's interactive satellite instructional program.

The Mississippi Department of Human Services is in compliance with this provision of the final terms and conditions.

MDHS has complied with federal regulations requiring coordination between LEAP and other basic education programs and has never received a sanction of noncompliance from the federal government. In fact, MDHS coordinated with local, state and private entities to create its first "Super Site" in West, Mississippi. The \$20,000 grant for renovations has a six month recoupment from the savings of sites consolidated into this one. This program has successfully met the requirements of the JOBS program and enabled Mississippi to reach the participation rate required by federal regulations. Documentation shows that this program strives the hardest to serve the adult learner in the state and does so with meritorious results. It is because of the unique learner needs that the JOBS program is not able to utilize in every case existing adult learning programs. MDHS has utilized non-LEAP programs to the extent that this enrollment makes up over 50% of the JOBS adult learner caseload. It is the policy of MDHS to utilize all existing programs that meet the needs of the client. However, when existing programs fail to meet that test LEAP has proven to be a

viable alternative.

Attendance for this program is outstanding. The 59% attendance figure cited in the report is nearly three times the national average for adult learners. Non-LEAP attendance for JOBS clients in adult learning programs is also outstanding at approximately 61%. This exemplary record of attendance is attributable to two factors. First and foremost is the dedication and desire to learn that these clients possess. Second is the system of monitoring and corrective action implemented by MDHS and LEAP staff. Of those attending LEAP during the sample period cited in this report, 56% were satisfactorily attending as compared to 61% of NON-LEAP programs. MDHS implemented an automated system of case management (JAWS) that tracks attendance and cross references this data with the payment of supportive services, thus ensuring payments are only made based on attendance.

MDHS contends that the over-obligation cited and the method used to calculate this figure is incorrect. MDHS agrees with the PEER report that the Office of JOBS was over-obligated, but not at the magnitude of PEER's Report. The total amount of the over-obligation was approximately \$1.9 million. Funds were obligated to avoid loss of the potential carryover funds, and the Agency had not received the total amount of Fiscal Year 1995 grant award for the JOBS program. MDHS was not aware of the prior year carryover amount until after the close-out packages were submitted sixty days after the end of the contract. MDHS has taken the necessary steps to correct this problem. The absence of accepted accounting procedures in PEER's method of calculation casts doubt in the conclusions of this report.

MDHS welcomes any inquiry into practices believed to be in violation of state ethics laws, but requests that any statements regarding such instances be restricted to just that and not premature statements represented in this report as fact. Until such time a ruling from the Ethics Commission is received, MDHS respectfully requests all such statements represented as fact be removed from this report.

The report issued did not reflect a full and complete understanding of the policies and procedures of the JOBS program. There is concern on the part of MDHS of such absence of program knowledge. This absence of knowledge is clearly exhibited in the findings cited. This absence fosters doubt as to the accuracy and objectivity of this report. It is the position of MDHS that a report issued with such disregard to detail is biased in nature.

MDHS's failure to comply with federal regulations requiring coordination between LEAP and other adult basic education programs results in location of LEAP sites where other adult education programs have available slots for participants.

The Mississippi Department of Human Services has complied with federal regulations requiring coordination between LEAP and other adult basic education programs. This is evidenced by the fact that after three years of program operation, the state has received no sanctions for non-compliance from Health and Human Services. And further evidenced by the fact that 50.14% of JOBS clients are in non-LEAP, non-post secondary education components. These components include JTPA 8%, ABE, and other educational programs. The enrollment of JOBS clients in any component is based on the Employability Development Plan which is based on assessment of the client by the case manager. These case managers, the majority of whom are licensed social workers, make the component placement.

The location of any LEAP site is the product of an in-depth annual review process conducted by the LEAP staff. This "bottom up" session includes a review of all non-LEAP educational components that are JOBS approved. The focus of which is to identify all twenty hour, day time programs and the availability of such programs to the JOBS client population in that area. Input from case managers, PDD JOBS directors, and case manager supervisors is included in the decision making process. Also taken into account is the targeted population to which these non-LEAP programs direct their efforts. JTPA, for instance, has a policy of including 25% of its clients served from the economically disadvantaged. JTPA has a screening process as to the literacy level this 25% will make up. Depending on the program year, this may be above or below the 8.9 grade level. The Mississippi Department of Human Services is not part of the selection process for JTPA 8% sites, ABE sites, or any other educational program. Nor is the Mississippi Department of Human Services the policy maker for deciding the targeted group these programs serve. Some of the non-LEAP programs, although twenty hours, are not approved by the federal regulations. For example, those programs that hold class for eight hours and require twelve hours of homework to make up the twenty hour requirement are out of compliance with JOBS regulations. The regulations require a 50/50 split of classroom time and homework time and mandate that homework be supervised. Self-declared homework time is not countable.

Invitations were extended by LEAP and MDHS staff to PEER to sit in on this review process. PEER did not attend and in fact did not respond at all to the invitation. The objectivity of PEER staff's review is questionable when an invitation to personally view the very process cited as a finding is ignored by PEER staff. Enclosed (Exhibits 1-4) as part of MDHS's response is a video recording of the entire two-day "bottom up session". This video recording will document the consideration and coordination

of LEAP/MDHS with other adult educational programs and how the existence, or lack thereof, of such programs are suitable for JOBS clients in the site selection process.

Decisions to utilize or not utilize existing programs are based entirely on what is considered best for the client by the case manager. The literacy level of the majority of JOBS clients is much lower than that of the average unit in JTPA 8%/ABE programs. The average intake level for LEAP is a 4.7 grade level as opposed to a 6.6 level for Mississippi ABE learners. Seventy-eight percent of LEAP students enter the program functioning at or below a grade equivalency of 8.9 in total reading as reported by the TABE. In addition to the lower literacy level, the JOBS client population has learner needs that present a unique challenge to the program. A research study conducted in September, 1994 revealed that 43 percent of LEAP learners had specific learning disabilities so severe that educational progress and successful attainment of the GED could be impeded. Twenty-seven percent of the LEAP learners in this study had a learning disability in the area of basic reading skills, the curriculum area which has the greatest impact on educational achievement. In addition, seven percent of the LEAP learners in this study had an educational achievement profile which placed them at or below the mildly retarded range of intellectual functioning, and significant educational achievement would be questionable. In what is believed to be the first study ever done on this population, University of Mississippi researchers documented that 18% of the AFDC population served by LEAP and available for testing failed two hearing screenings, which could indicate that they have hearing impairments significantly affecting their ability to progress satisfactorily.

The choice to place clients in the LEAP Program has proven to be the most cost effective learning experience when compared to Mississippi ABE programs. Based on the Test of Adult Basic Education (TABE), which is utilized by 68% of programs, according to the U.S. Department of Education, Executive Summary for 1990 on Adult Education Programs, LEAP has produced greater gains.

<u>AREA</u>	<u>MISSISSIPPI ABE PROGRAM*</u>	<u>LEAP</u>
Reading	0 Years 8 Months	1 Year 3 Months
Math	1 Year 1 Month	1 Year 5 Months
Language Arts	(Scores Not Available)	1 Year 6 Months

* Source: State Board of Community Colleges, June 30, 1993.

All of these conditions are contributing factors in the development of curriculum for the LEAP program. Based on this data, it was determined that the focus of LEAP instruction should be directed to the special needs of the JOBS learner. There is no

evidence that the existing ABE and JTPA 8% programs have addressed the special needs of this population by developing and establishing uniform evaluation procedures, curriculum techniques, and instructional materials which are designed to allow the teacher to be the instructional facilitator in a classroom with learners who have a variety of educational levels (non-reader to GED) and unique learning needs.

PEER staff has suggested that JOBS place individuals in non-twenty hour components for education and make up the difference in hours in other activities such as job search. This is not a viable alternative for the majority of JOBS clients for several reasons. To begin with, a non-reader cannot function with any degree of success in job search. The major part of such an activity is reading want ads, preparing resumes', and filling out applications. And secondly, most non-twenty hour programs are held in the evening and the lack of child care at night makes this impossible in most cases. It is the opinion of the Mississippi Department of Human Services that to place clients in evening classes would impose a hardship on the client and the children in the household. The lack of child care for evening placement constitutes a real threat to the safety and well-being of the children involved.

The available slots illustrated in Exhibit 6, page 16 do not take into account how many of these were twenty hour programs, how many met the minimum JOBS regulations, how many were evening classes, how many were accessible to child care for the clients in the area, how many were accessible to the transportation available to the clients being served or how many had programs that served the literacy level of the JOBS clients to be served. There is also not taken into account the degree of stability each of these programs has for funding beyond the year cited. Case management is directed so that a client is not required to be moved around from program to program. Many of the programs cited in Exhibit 6 were not funded for the next year and to place JOBS clients in such a program would create an undue and unnecessary hardship on the client. Another consideration is the additional costs of setting up support services around another location. This involves additional time on the part of the case manager who already has a high caseload. Such an upheaval could mean changing child care providers, additional transportation expenses, and duplicated supplies. In addition to such logistical challenges, the change in curriculum midstream is not conducive to a good learning environment. Stability is one element that is missing in the lives of this client population and any that the state can offer is truly beneficial.

Funding for JTPA 8% programs for the past five years has been reduced eighty percent thus curtailing the stability of such programs for the JOBS population. The number per year has been as follows:

<u>1991-92</u>	<u>1992-93</u>	<u>1993-94</u>	<u>1994-95</u>	<u>1995-96</u>
40	24	17	14	8

As aforementioned, the selection process for these sites is not inclusive of the Mississippi Department of Human Services, nor is the funding level determination. Efforts on the part of the agency to obtain advance notice of site selection and closures have been fruitless. Repeated requests for timely notice from the Department of Education regarding site selections have gone unanswered. The lack of such timely information makes it very difficult on the clients who have to be reassigned and the case managers who have to operate in an emergency mode to reassign these learners. It is in such cases of closure that LEAP sites are in part determined. It would be desirous of the agency to be in a proactive mode in the case of closures rather than an emergency reactive one as the case has been for the last three years.

The comparison of costs between LEAP, ABE, and JTPA in Exhibit 6, at page 16 is biased in nature due to the lack of inclusion of those common costs incurred by each program. In addition to the lack of common cost comparisons, the cost for LEAP is represented by the 1995 federal fiscal year budget and does not reflect modifications to the contract that reduced the program costs. These modifications were furnished to the PEER staff and the use of anything other than the correct amounts for such a comparison foster doubts that this report is based on factually accurate data.

The comparison of cost in this exhibit includes the entire indirect cost of the LEAP contract, even that donated by the University for match. However, the indirect costs of operating ABE and JTPA programs are not included. Many of the ABE and JTPA site contracts do not include charges for the use of classroom space, utilities, and program support such as purchasing, human resources, janitorial, maintenance, etc. In order for a fair comparison to be made, these expenses for ABE and JTPA should be added to the program costs listed. If these costs are not reflected because they are unattainable, then a fair comparison can be made by reducing the indirect cost from the LEAP contract as modified on June 22, 1995. Based on this revision, the cost comparison per client served for FY 1995 would be as follows:

	<u>LEAP</u>	<u>ABE</u>	<u>JTPA</u>
Budget	\$4,447,364	4,085,559	838,378
Total Clients Served	3,619	18,409	803
Average Cost Per Client	\$1,229	\$222	\$1,004

Based on such a comparison, the cost of LEAP is well within the cost range for other twenty hour programs. Taking into consideration the stability and uniform application of curriculum statewide, the additional \$225 cost per client is a bargain for the JOBS Program.

Any comparison of adult education by anything other than instructional hour is invalid and biased in comparison. To compare the costs of LEAP and JTPA's twenty hour a week program to the once-a-week, two or three hour ABE program is biased in scope and application. The only valid comparison is to base the cost on a per instructional hour basis. This method is accepted by educators and has even been the subject of a U.S. Department of Education review. In its April, 1994 National Evaluation of Adult Education Programs, it reported the median cost of adult literacy programs in the nation as being \$4.57 per instructional hour. The average cost of LEAP per instructional hour is \$5.58.

The luxury of determining the costs of LEAP is that all costs are documented in one contract and there is an automated system of tracking attendance. Total costs for ABE and JTPA are not as easily determined because of the undocumented costs attributed to each site contract and the varying layers and multitude of agency administrations the funds are filtered through before reaching the classroom. The absence of such data or any reference thereof questions the objectivity and accuracy of this report.

It should be noted that the budget cited for LEAP was that of the federal fiscal year, yet the total clients served were based on a state fiscal year. This was explained by PEER staff as having been done because ABE and JTPA were on a state fiscal year. There was no correction for the difference in funding or attendance levels for the overlap of state/fiscal years for the LEAP cost calculation. Cost comparisons offered in this response are based on these adjustments. The omission of such detail in PEER's draft report impugns its validity.

In the spring of 1995, MDHS granted an additional \$20,000 of JOBS funds to renovate a LEAP facility in West, Mississippi, displacing JOBS funds that could have been used to provide direct services to participants.

The Mississippi Department of Human Services did not displace JOBS funds that could have been used to provide direct services to participants when it granted \$20,000 towards the renovation of the West site. The cost savings in salaries for teachers, aides, and site rental constitute a 6 month payout for the \$20,000 investment. It is the position of the agency that this money was spent in an efficient and effective manner. PEER staff has been furnished with documentation of the caseload of all counties affected and the average daily attendance of the sites that were closed. If, in fact, those sites had been allowed to remain open, the Mississippi Department of Human Services would have been displacing JOBS funds that could have been used to provide direct services to participants.

PEER has cited as a finding the lack of coordination with other agencies on the part of the Mississippi Department of Human Services in one part of its report and finds against the agency for coordinating with agencies to save money by combining funding sources in another part of the report. It should be noted, as furnished to PEER staff, that the agency participated with the following entities to create the West "Super Site".

- > Mississippi Department of Economic & Community Development
- > State Bond Fund - Mississippi Library Commission
- > Town of West
- > Holmes County Board of Supervisors
- > MP&L Teamwork Mississippi
- > KLH Industries, Inc.
- > GBK, Architects Inc.
- > Raspberry Construction Company
- > Friends of the West Public Library
- > West Historical and Preservation Society

It is the intention of the Mississippi Department of Human Services to continue creating "Super Sites" such as the West facility through coordination with public and private entities, and in doing so, create the best learning experience possible for the clients we serve.

For the period February 1995 through April 1995, LEAP participants, on average, attended classes 59% of the time rather than the minimum 75% of the required twenty hours per week.

The Mississippi Department of Human Services requests that PEER staff complete its study of LEAP attendance as it relates to participation rates. PEER staff, by their own admission in the exit conference, did not verify the existence of weekly attendance reports for LEAP participants, investigate the breakdown of clients between Mandatory and Exempt status, ascertain how many participants were granted good cause for absences according to federal regulations, thus enabling the client to achieve a satisfactory rate of participation or determine the number of clients who were served sanction notices by the case managers and economic assistance eligibility workers. The assertions and assumptions made in this report are based on factually inaccurate interpretations of the federal regulations and JOBS state plan.

This report states: **In order to receive the maximum federal match, states must enroll twenty percent of non-exempt JOBS participants in a JOBS component. This is incorrect and serves as a good example of PEER staff's lack of understanding of the JOBS Program. Participation rates are not limited just to the non-exempt population.**

This report states: **Federal regulations require participants in JOBS educational programs, such as LEAP, to be in attendance at least fifteen of twenty scheduled classroom hours each week...** This, too, is incorrect and is another example of PEER staff's lack of understanding of the program it is reviewing. The JOBS regulations define satisfactory participation as 75% of the client's scheduled hours, not scheduled classroom hours, i.e., a client can be scheduled for four hours of LEAP "Life Coping Skills" and 16 hours of job search activities. This report does not take into consideration the regulations the program is required to follow.

This report states: **It is MDHS's responsibility to follow up on those participants in a timely manner and either verify a plausible reason for non-attendance or sanction the individual.** This statement is made in reference to reported assertions by LEAP site personnel that case managers and MDHS do not effectively monitor attendance and sanction non-attending JOBS participants. PEER staff did not investigate how many the sample selected were in fact "good caused" or "sanctioned" before issuing this statement. PEER staff did not request any information from MDHS regarding conciliation proceedings for the sample selected. Instead of seeking data to confirm or dispel the assertions made by sources anonymous to MDHS, PEER staff elected to issue this finding without investigation.

In fact, according to attendance records submitted by LEAP site personnel, and entered into JAWS, 56% of those LEAP clients attending class from February through March of 1995 were in fact satisfactorily participating. This compares to 61% of

those clients in non-LEAP components for the same period of time. Of the 44% not satisfactorily participating that were enrolled in LEAP, actions for good cause and sanctions were issued.

As reported in JAWS, 1,432 unduplicated LEAP participants had participation recorded 2,987 times in the months of February, March, and April 1995. Of the 2,987 participation records, 1,669 (56%) records participated at a satisfactory level of 75% of the scheduled hours recorded by JAWS. Thus, 1,318 (44%) records did not participate at a satisfactory level. In the 1,318 records, there were 854 unduplicated LEAP participants.

For the time frame of February through April 1995, there were 419 requests in JAWS for a conciliation with an unsatisfactorily participating LEAP participant which is approximately 49% of the previous mentioned 854 unduplicated LEAP participants.

A conciliation is a formal request for an opportunity to get the case manager and client together to discuss the problem(s) associated with the client's inability to participate. The results of this conciliation can be an agreement between the client and the case manager that the client will participate, a request to Economic Assistance for a good cause, or a request to Economic Assistance for a sanction.

Subsequently, 435 unduplicated LEAP participants would have been counseled by the case manager on an informal basis.

The agency refutes claims by PEER that case managers and MDHS staff do not effectively monitor attendance and sanction non-attending JOBS participants. There is in place, an automated system of cross-referencing attendance records with support service records to ensure clients are given child care and transportation only for days they are in attendance.

MDHS concurs with LEAP site personnel who state that there are participants who know how to "use the system" by attending classes only frequently enough to avoid formal sanctions. To remedy this situation, MDHS has requested and received waivers from HHS and USDA that close that loophole. WorkFirst, the six county pilot initiative, requires all able bodied AFDC recipients, otherwise not exempt, to work for their benefits.

MDHS has not accurately estimated the costs of LEAP services, has violated federal regulations regarding timing and nature of LEAP/JOBS expenditures, and has over- obligated JOBS funds.

The Mississippi Department of Human Services has not violated any federal regulation in the marketing of LEAP services. All efforts to market the program were done so at the encouragement of federal officials. The costs of operation for the program and the market price outside the JOBS Program are two different issues. There have been no sales of LEAP that cost the JOBS Program. All costs attributed to any sale were more than compensated for by the agreement executed between MDHS, the University, and the third party purchaser.

The LEAP program is specifically designed for use by the Mississippi JOBS Program with the needs of the client population served. This population is on average an African-American, female, 31 years old with two children and an education level of 4.7. It is unrealistic to believe that this curriculum design and content will meet the needs of all learners in America. Because of this, market rates for the sale of such services will prevail.

MDHS was encouraged by federal officials to market the LEAP program and did so. There was a lapse of time between the MDOC contract execution and the approved rate from HHS, but federal officials were fully aware of the terms of this agreement. The rate charged MDOC was in fact based on a \$200 per slot fee. The total contract was in fact \$50,200. The rate that was approved by HHS was \$210 per slot, very close to the original rate of \$200 charged MDOC.

To date, MDHS is contracting for the sale of LEAP with the U.S. Department of Agriculture (\$690,000), Mississippi Department of Corrections (\$66,200), Alabama Department of Youth Services (\$12,000), and the Vicksburg Separate School District (\$16,000). Collectively, these contracts represent nearly \$800,000 of program income that will offset the cost of LEAP and enable JOBS to provide enhanced services to the clients it serves.

The agreement with the various school districts for the use of LEAP on a trial basis was again with full knowledge of HHS officials. It was uncertain as to what students would be utilizing the LEAP program. Some students identified as being in alternative programs are from AFDC households and many in fact are teen mothers who are in the JOBS Program.

The estimates of cost presented in this report as being undercharged are based on incorrect data and assumptions on the part of PEER staff. There was no additional cost to the JOBS Program over and above the money received from the contracting parties. MDHS will continue to market the LEAP program at the rates approved by

HHS.

The rate card (Exhibits 5 & 6) for selling LEAP is based on an HHS approved five year plan to recoup the implementation cost of the LEAP program. This income will offset the cost of LEAP, thus enabling the JOBS Program to route these funds for enhanced client services.

- ◆ LEAP did not bill in a timely manner for services sold to MDOC nor handle program income received from SNAP in accordance with federal requirements. ✓

MDHS concurs that the billing and handling of program income was not handled in a timely manner. MDHS and the University have sought and received technical assistance from HHS in the handling of these funds and any future funds generated as program income for the LEAP program.

- ◆ The federal government disallowed \$1,991,056 in expenditures because MDHS/LEAP did not spend federal grant money during the proper period and this amount was therefore paid from MDHS's state general funds. ✓

The state concurs that HHS disallowed expenditures for failure to liquidate obligations by the end of the fiscal year stipulated. However, MDHS has reestablished \$1,055,712 of the \$1,522,101 related to the LEAP contract. Please find enclosed (Exhibit 7) documentation of HHS' approval of these expenditures. It should be noted that the entire disallowance was not attributed to the LEAP contract. MDHS would request that the finding be corrected to include the planning and development district's failure to also comply.

MDHS has implemented a system for funds subject to these provisions and successfully liquidated and closed out all contracts that required such action as of September 30, 1994.

The recoupment of those funds attributed to the failure of the planning and development districts to comply with the sub-grantee manual is under consideration. The MDHS sub-grantee manual states:

Sub-grantees are to comply with the regulations, policies, guidelines and requirements imposed by the federal sponsoring agency and the grantor agency. The common Rule for Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments (Common Rule), OMB Circular A-110 and A-87, which prescribe grant management and recordkeeping requirements, are usually applicable to sub-grantees of federal grant funds administered by MDHS. State statutes and implementing regulations are applicable as well.

- ◆ **MDHS has over-obligated JOBS funds by \$3.5 million for fiscal year 1995, 26% of which are LEAP-related expenditures.**

PEER's financial data shows that the JOBS Program was over-obligated by \$3.5 million in Fiscal Year 1995. MDHS contends that this is inaccurate and that the methodology used was invalid. PEER used the Fiscal Year 1995 appropriation to determine the obligations for the program. The appropriation which was based upon a budget projection developed using Federal Grant Year 1993 information did not represent true obligations for the program. The information provided in the budget was based upon projected carry-over funds and a higher grant amount. MDHS did not receive the actual amount of the Fiscal Year 1995 grant award until July 1995. Preliminary information was received in September 1994 (months after the 1995 state budget was prepared).

There were several areas of inconsistency in the report:

- ◆ The report used revised updated figures for the projected revenue, but did not allow MDHS to revise the expenditure data. The grant award amount was not available at the time of the budget preparation.
- ◆ Revenue was projected for only one grant year to be received in Fiscal Year 1995. MDHS received funds from Title IV-F for three different grant years during Fiscal Year 1995.
- ◆ Contractor obligations represent contracts written October 1994 - September 1995. The period of obligations went beyond State Fiscal Year 1995.
- ◆ Title IV-A is an uncapped entitlement; therefore, revenue will always match expenditures. There might be a timing delay in receiving funds. Notification of Grant Award for Title IV-A is based upon estimates prepared by the Agency and reconciled after the federal quarterly reports are filed.
- ◆ The report listed the total amount of the appropriation for the contractual services (\$2,997,762) and the travel (\$183,499) budgeted line items as obligations. At the time of the investigation in March 1995, MDHS had only entered into contracts totaling \$1.3 million. This information was made available to PEER. The actual travel for Fiscal Year 1995 was only \$7,800.

MDHS agrees with the PEER report that we were over-obligated, but not at the magnitude of PEER's report. The total amount of the over-obligation was approximately \$1.9 million. Funds were obligated to avoid loss of the potential carryover funds, and the Agency had not received the total amount of the Fiscal Year 1995 grant award for the JOBS Program. We were not aware of the prior year carryover amount until after the close-out packages were submitted - which are not

due until 60 days after the contract ends. MDHS has taken the necessary steps to correct this problem.

After terminating his employment as MDHS Executive Director, Gregg Phillips contracted with Synesis, a sub-contractor of the LEAP Program, in violation of state ethics laws.

The University of Mississippi began investigating the use of mobile learning labs and the Centec software products well before the appointment of Gregg Phillips as Executive Director of the Agency. The contract modification was executed by Mr. Phillips after what equated to weeks of evaluation by University staff prior to Mr. Phillips' appointment. A complete review of correspondence in the files of MDHS, the University, or Centec would have revealed this fact (Exhibit 8). It is the understanding of MDHS that such access was made available to PEER staff.

This modification covered a contract with the University of Mississippi and not Centec or Synesis. The contracting procedure followed by the University did not require the approval or input of MDHS. The terms and conditions of the agreement between the University of Mississippi and MDHS is that of an independent contractor, which means that the University of Mississippi was not an officer, partner, or agent of MDHS.

This application of software delivery was based on the agency's existing focus on education for JOBS clients and not the work related focus of welfare reform initiated by Mr. Phillips. At the time of the modification execution and to date, Centec nor Synesis is considered by MDHS or to its knowledge any other agency, as a "player", either small or otherwise, in the "realm" of welfare reform.

The idea presented by PEER that this contract, which constituted approximately \$880,000, was a major factor in the financial status of Centec is unfounded. It is the understanding of MDHS that these two mobile learning labs represented only two of approximately 1,900 operated by Centec. The comparison of this sale to the net worth of the company is completely against any acceptable accounting practices. The amount of "a" sale to net worth means very little without knowing what total sales for the company were. In fact, total sales for the company during the time period this contract was modified were in excess of \$19 million dollars, hardly making the LEAP sale significant in the company's net worth.

MDHS welcomes any inquiry into practices believed to be in violation of state ethics laws, but requests that any statements regarding such instances be restricted to just that, and not premature statements represented in this report as fact. Until such time that a ruling from the Ethics Commission is received, MDHS respectfully requests all such statements represented as fact be removed from this report.

***PEER Comments on the Department of Human Services' Response
to the Committee's Review of Project LEAP***

November 16, 1995

On August 8, 1995, the Mississippi Department of Human Services responded to a draft of the PEER Committee's report of the review of Project LEAP. In that response, MDHS claimed that PEER had made "numerous errors and omissions in the draft report." PEER requested that the department provide documentation supporting any corrections that the Committee should make in the draft.

Subsequently, PEER adjusted the LEAP budget amounts presented in the report to reflect the period for which the University of Mississippi had data for the number of clients served. PEER adjusted Exhibit 6 in the report to reflect the client information supplied by University of Mississippi and included all allowable costs associated with the delivery of services identified by each of the three programs. PEER also clarified statements regarding federal requirements of program participation rates.

However, MDHS provided no documentation to support numerous other assertions in its response, although the Committee provided the department with several weeks to respond, in addition to the opportunities available during the field work of the review. The PEER Committee invited Mr. Don Taylor, Executive Director of MDHS, to appear at its October 1995 committee meeting to provide testimony regarding the department's assertions in its response to the draft report. Again, MDHS provided no documentation that would change findings or explanations within the report. Thus the Committee stands behind the report as presented herein.

The PEER Committee's responsibility is to determine facts about agencies reviewed and report those facts to the Legislature and to the public to help ensure state government accountability. If PEER did not report this information, it would not be fulfilling its responsibility to the Legislature or to the public.

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