



SOUTH CAROLINA GENERAL ASSEMBLY

Legislative Audit Council

LAC

December 2024

A REVIEW OF THE OFFICE OF ECONOMIC ENGAGEMENT OF THE UNIVERSITY OF SOUTH CAROLINA AND ITS AFFILIATION WITH THE USC/COLUMBIA TECHNOLOGY INCUBATOR AND THE SOUTH CAROLINA RESEARCH FOUNDATION



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Introduction and Background

Audit Objectives

Members of the General Assembly requested that we audit the economic and business development activity of the University of South Carolina's Office of Innovation, Partnerships, and Economic Engagement, hereinafter identified as the Office of Economic Engagement, and its relationship with two affiliated organizations:

USC/COLUMBIA TECHNOLOGY INCUBATOR
SOUTH CAROLINA RESEARCH FOUNDATION

We conducted survey work that included interviews with University staff and interested parties and reviews of multiple reports and other documentation. We also consulted with the primary requestor before developing the following objectives which guided our audit:

- Determine if the administrative and project management practices of the Office of Economic Engagement (OEE) comply with University of South Carolina (USC) policies, state and federal law and regulations, and conform with best practices.
- Determine how the Office of Economic Engagement's approach to collaborating with external partners affects economic growth, student learning, and student employment opportunities and conforms with best practices.
- Determine whether the controls exercised by the University of South Carolina in its relationships with the South Carolina Research Foundation (SCRF) and the USC/Columbia Technology Incubator (Incubator) are effective in minimizing the risk of waste, fraud, and abuse and conform with best practices.

Scope and Methodology

The period of our review was generally FY 17-18 through FY 22-23, with consideration of earlier or more recent periods when relevant. To conduct this audit, we used a variety of information sources, including:

- Interviews with University of South Carolina (USC) staff, other state agency staff, staff from other universities, interested parties, current and former Incubator staff, Incubator board members, Incubator tenants, current and former SCRF staff, and external partners involved with the University through the efforts of OEE.
- USC policies and procedures.
- Bylaws and Articles of Incorporation for the Incubator and SCRF.
- Human resource documents, including recruitment and hiring information, employee contracts, training records, performance appraisal data, leave records, and payroll data.
- OEE budgets and expenditure reports.
- Audited financial statements, internal financial reports, and general ledger files of the Incubator.
- OEE IdeaLabs and Incubator tenant lease agreements.
- Horizon I Research Facility and Incubator floorplans.
- Federal and state grant documents and records of grant expenditures.
- On-site inspections of facilities, photographic evidence, and environmental testing.
- E-mail correspondence.
- IRS Form 990 filings and financial reports for SCRF and the Incubator.
- Annual financial reports submitted to the S.C. Secretary of State by the Incubator.
- Contracts, agreements, and memoranda of understanding or agreement.
- Best practices literature.
- USC internal audit reports.
- SCRF financial audit reports and annual financial statements.
- Procurement documents and voucher payments.
- OEE purchasing card (P-card) receipts and records of travel expenses.
- Incubator checking account statements.
- USC's patent and licensing data.
- Federal and state statutes, regulations, and court decisions.
- Public safety inspection and incident reports.
- Websites and social media pages.

Criteria used to measure performance primarily included state law, University policies, and best practices. We also researched any ongoing legal proceedings regarding our audit's topic and found none. We conducted this performance audit in accordance with generally accepted government auditing standards. Those generally accepted government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

During an audit we occasionally uncover findings, the responsibility for which resides, not just with the audited agency, but may extend to other agencies as well. Such was the case in this audit. During our audit of the Office of Economic Engagement, we audited grants management practices for those grants with which OEE was associated. We directed recommendations to the University of South Carolina; but we also identified and are, therefore, reporting problems in grant monitoring by the S.C. Department of Commerce (DOC) and the S.C. Department of Administration. As described later in this report, DOC has been a source of grant funding for OEE; and the Department of Administration was responsible for monitoring OEE's implementation of the Governor's Emergency Education Relief (GEER) grant. Therefore, in addition to recommendations directed to the University of South Carolina, we also directed recommendations to those two agencies, for which they are solely responsible.

S.C. Code §2-15-50(b)(2) requires us to review the effectiveness of an agency to determine if it should be continued, revised, or eliminated. We did not conclude from this audit that the Office of Economic Engagement (OEE) should be eliminated; however, our audit includes recommendations for improvement.

Background

Established in 2013, OEE is a unit within the University of South Carolina whose mission is:

To be the single convergence point for industry, researchers, entrepreneurs, and government officials looking to engage with USC...cultivate innovative technologies, champion entrepreneurship and build partnerships to drive economic and workforce development in South Carolina.

OEE works with all of the University's branch campuses in support of partnerships between industry and the University. The following functions are housed within OEE: business development; technology commercialization; Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR); industry relations; OEE marketing; IdeaLabs, office and laboratory space available for lease; and the APEX Accelerator, a federal program often housed in universities and nonprofit organizations designed to assist businesses in competing for federal contracts.

OEE links business and industry partners interested in, among other things, working with faculty researchers and students to design solutions for real-world uses; sponsoring graduate-level research; and providing industrial grade hardware, software, or mentors to work with research teams.

OEE is located on the USC-Columbia campus. During 2021 and 2022, it also had offices in Greenville and Charleston for the Procurement Technical Assistance Center (PTAC), a federal grant-funded program managed by OEE. In 2022, the grantor changed the program name from PTAC to APEX Accelerator.

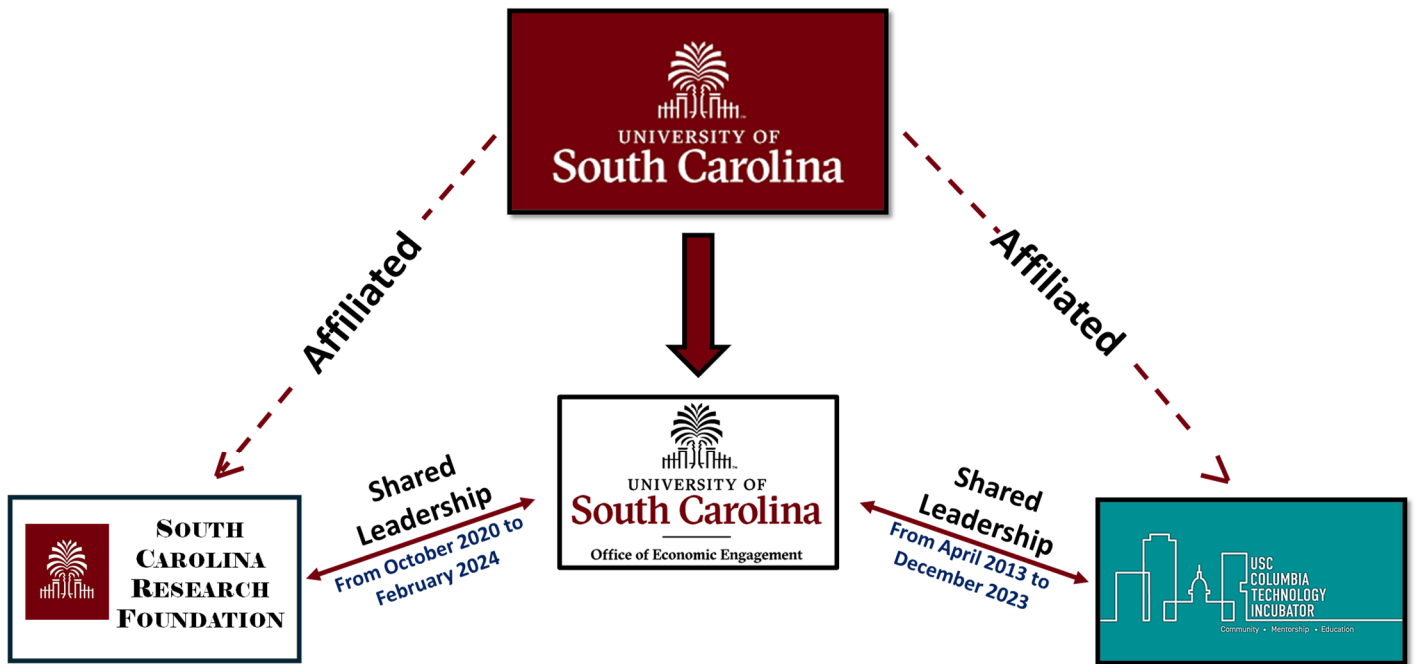
From FY 17-18 through FY 22-23, OEE had an annual average of 19 employees, whether full-time or part-time, and operated on an annual budget of approximately \$2 million. OEE operating revenue comes from such sources as the University's general fund, indirect cost revenues, and technology licensing royalties. Full-time equivalent (FTE) employees account for, on average, 50% of the OEE workforce. Until 2023, the OEE executive director reported directly to the University president. In 2023, that line of report changed, and the executive director began reporting to the vice president for research. In 2024, during our audit, the person who had been the executive director at the start of our audit retired.

We were asked to review the economic and business development activities of OEE and two affiliated organizations, the South Carolina Research Foundation (SCRF) and the USC/Columbia Technology Incubator (Incubator). Formed in 1991, SCRF is a 501(c)(3) nonprofit, organized to support university-based research. SCRF primarily works as a pass-through organization where it benefits sponsors requiring a specific tax designation and allows USC faculty to work on research with these sponsors. SCRF collects funds from the sponsoring agencies/foundations and reimburses/deposits such funds into USC according to individual grant documentation. SCRF gets some indirect cost revenue on federal grants. SCRF financial documents show total assets declined from \$158,824,216 in FY 17-18 to \$3,090,852 in FY 22-23. Total liabilities declined from \$15,689,515 during that same period. The value of net assets during this period averaged approximately \$284,774.

SCRF had an agreement with the City of Columbia to house the Incubator, although during our audit, the City gave notice that it was cancelling the lease agreement. A business incubator supports entrepreneurs with physical space and consultative services to help them translate their ideas into profitable business ventures and enhance their business success. A university-based business incubator provides additional assistance to tenant firms, including access to labs and computing facilities, student workers, and faculty.

The Incubator originated in 1998 and was originally overseen by the University of South Carolina's College of Engineering and Information Technology. Between 1998 and 2000, oversight of the Incubator was transferred to the South Carolina Research Institute (SCRI, also known as SCRF). In June 2002, the University and SCRI executed a services agreement that required the University to provide office space for the Incubator and enabled SCRI to accept an equity position related to intellectual property rights assigned by USC to SCRI. SCRI would also share a portion of the net income. SCRI handled administrative functions for the Incubator, including negotiation of leases and collection of rent from tenant member companies. In 2012, SCRI (also known as SCRF) ceased to provide administrative functions or be associated with the Incubator. In 2006, the Incubator began receiving non-recurring state appropriations until the funding provision in the FY 10-11 appropriations bill was vetoed. In 2011, the Incubator filed as a nonprofit corporation and continues to function as a nonprofit today. See Chart 1.1 for a depiction of OEE's relationship with SCRI/SCRF and the Incubator.

Chart 1.1 Relationship Between OEE, SCRF, and Incubator



Source: LAC Analysis

Grant Management Practices

Overview of Office of Economic Engagement's Grant Management

We reviewed the University of South Carolina's (USC's) grant process and the grant management practices of Office of Economic Engagement (OEE) and found:

- From May 2019 through November 2023, USC wrote off \$73,224 in grant expenses from five grants due to mismanagement by OEE.
- S.C. Department of Commerce (DOC) terminated a \$47,000 grant with OEE in October 2023 because OEE failed to start work on the related project.
- OEE appointed the same employee as the sole principal investigator (PI) on 91% of its grant proposals submitted during 2018 through 2023.
- Despite being awarded 23 grants totaling just over \$10.6 million from 2018 through 2023, OEE had no full-time employees dedicated to grant management.

USC's Grant Process

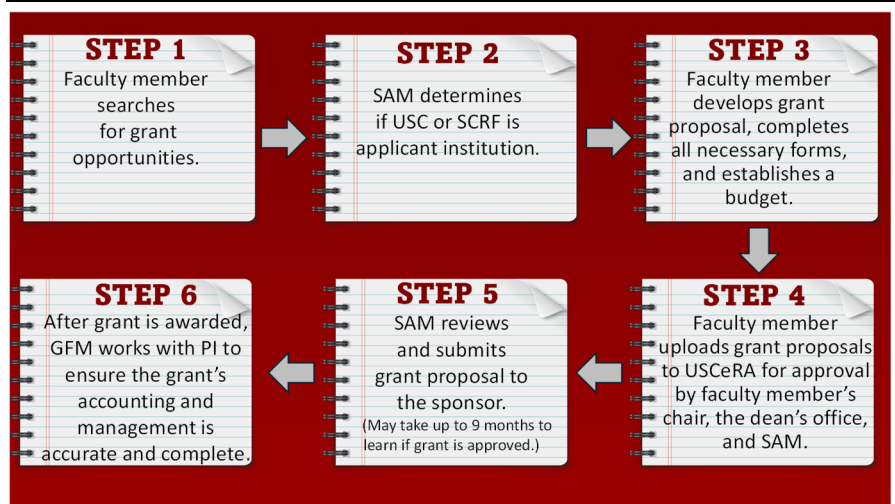
USC's Office of Sponsored Awards Management (SAM) handles the pre-award phase of the grant process by assisting USC faculty with reviewing and facilitating the submission of all grant proposals. USC's Office of Grants and Funds Managements (GFM) manages the post-award phase of the grant process by working directly with PIs on grants to ensure the invoices and charges comply with the federal uniform guidance or the specific terms of the grant award. Unless a grant specifies otherwise, USC's indirect cost rate for a grant is 49.5%.

To apply for a grant, a faculty member logs into the University of South Carolina Electronic Research Administration (USCeRA) system and completes a proposal and award processing form. Next, the faculty member uploads the grant proposal along with any additional documentation to USCeRA, which then routes the grant proposal to the following parties for internal approval: the faculty member's department chair, the dean's office, and lastly, SAM.

SAM administrators are designated as USC's authorized organizational representatives. As such, these individuals are the only persons who can review and submit grant proposals to sponsors on behalf of the University. After receiving all internal approvals, SAM submits the faculty member's grant proposal to the sponsor. It can take up to nine months to find out if a grant has been approved or denied by the sponsor.

If a grant is awarded, GFM assigns a project identification number to the grant, and this number is used by the University to track all the grant expenditures. GFM works with the PI on the grant to ensure the accounting and management of the grant is accurate and complete. The PI is the person designated by the sponsor with the overall responsibility of the grant award. GFM monitors all grant expenses, prepares and submits all grant invoices, prepares all financial reporting, and provides financial status for sponsors. Chart 2.1 illustrates the steps in the grant process at USC.

Chart 2.1: USC's Grant Process



Source: LAC Analysis of Data from USC

Overview of OEE's Grants

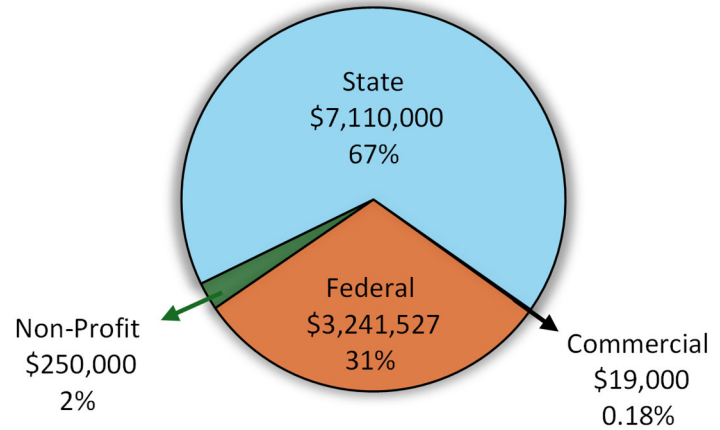
USC provided us with spreadsheets of all grant proposals OEE submitted to SAM from 2018 through 2023. We analyzed data on all OEE grant proposals submitted to SAM during this time frame and found:

- OEE was awarded over two-thirds (70%) of the grant proposals it submitted during this period, which totaled \$10,620,527 in grant funding.
- OEE was awarded twice as many grants by federal agencies (10) than state agencies (5), but the amount of grant funding received from state agencies (\$7.1 million) was more than double the amount received from the federal agencies (\$3.2 million) during this period.
- Almost half (11) of OEE's awarded grants during this period were for two programs OEE annually applied for and received for multiple years.
- OEE listed the same employee as the sole PI on 91% (30 of 33) of the grant proposals submitted during this period.

From 2018 through 2023, OEE submitted 33 grant proposals to SAM to submit to sponsors. As of April 1, 2024, 23 (70%) of OEE's grant proposals were approved by sponsors, and the amount of these grants totaled \$10,620,527. Of the ten grant proposals which were not approved as of April 1, 2024, five (15%) were declined by the sponsor, two (6%) were terminated by the sponsor, two (6%) were returned to the lead PI for more information, and one (3%) was withdrawn by OEE.

Of the 23 grants awarded to OEE, 10 grants were from the federal government, 6 were from a nonprofit organization, 5 were from state agencies, and 2 were from commercial sponsors. OEE was awarded more than double the amount of grant funds from state agencies (\$7,110,000) than from federal agencies (\$3,241,527). Chart 2.2 shows the funding source of OEE's awarded grants from 2018 through 2023, as of April 1, 2024.

Chart 2.2: Funding Source of OEE’s Grant Awards, 2018–2023 (as of April 1, 2024)



Note: Some percentages have been rounded to eliminate decimal points.

Source: LAC Analysis of USC Grant Data

As of April 1, 2024, OEE was awarded just over \$10.6 million in grant funding from six sponsoring agencies for grant proposals submitted during 2018 through 2023. Chart 2.3 depicts the number of grants awarded to OEE during 2018 through 2023 by sponsor, as of April 1, 2024.

Chart 2.3: OEE’s Grant Awards by Sponsor, 2018–2023 (as of April 1, 2024)

SPONSOR	FUNDS AWARDED	NUMBER OF GRANTS
U.S. Department of Defense (USDOD)	\$1,668,453	3
U.S. Department of Commerce (USDOC)	\$1,573,074	7
S.C. Governor’s Office*	\$6,000,000	1
S.C. Department of Commerce (DOC)*	\$1,110,000	4
South Carolina Research Authority (SCRA)	\$250,000	6
Michelin	\$19,000	2
TOTAL	\$10,620,527	23

*State agencies

Source: LAC Analysis of USC Grant Data

OEE's largest grant during this period was from the Governor's Office, and the grant was for \$6 million to establish Apple® computer labs statewide using Governor's Emergency Education Relief (GEER) funds awarded by the U.S. Department of Education to provide educational emergency assistance during the COVID-19 pandemic (for information on the GEER grant, refer to *Governor's Emergency Education Relief Grant*).

From 2018 through 2023, almost half (11) of the grants awarded to OEE—approximately 26% (over \$2.8 million) of OEE's grant funds during this period—were for two grant-funded programs OEE applied for annually and was awarded for multiple years. From 2018 through 2023, the U.S. Department of Commerce's (USDOC's) Small Business Administration (SBA) awarded OEE five Federal and State Technology (FAST) grants, and each grant was for \$125,000 except for the FAST grant awarded in 2023—which was \$124,984. The FAST program provides funding to organizations to execute state or regional programs that increase the number of Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) awards to women, socially/economically disadvantaged individuals, and small businesses in underrepresented areas.

From 2021 through 2023, OEE received approximately \$2.2 million from the U.S. Department of Defense (USDOD) and DOC to manage the Procurement Technical Assistance Centers (PTAC) program (in 2023, SC PTAC was changed to the S.C. APEX Accelerator). PTAC serves as a resource for North Carolina and South Carolina businesses to obtain government contracting assistance. The program also trains entrepreneurs to transact business with the Federal Emergency Management Agency (FEMA), the U.S. Army, USDOD, and the State of South Carolina.

Of OEE's 33 grant proposals submitted, the same OEE employee is listed as the lead PI on 30 of the grant proposals. The same OEE employee is listed as a co-PI on two other grant proposals. Appointing only one person to manage nearly all the grants in an office may overburden the designated employee and may lead to mistakes in grant management.

OEE's Grant Management

In reviewing OEE's management of grants, we found:

- From January 2015 through November 2023, USC wrote off a total of \$73,224 in expenses on five grants partly due to OEE leadership not paying attention to details of the grants. A write-off expense is an expense that the grant sponsor will not reimburse because either the expense is not allowed, or the expense exceeds the grant's budget. As such, USC covered the cost of this negligence.
- In October 2023, DOC terminated a \$47,000 grant with OEE because the office failed to begin work on the project.

We reviewed the nine grant proposals OEE submitted in 2023 and found several errors. For example, in OEE's FAST grant proposal submitted for FY 23-24, we discovered multiple inconsistencies and mathematical errors. In one instance, the grant proposal stated \$38,400 of grant funding was to be used for an OEE employee's salary and that "this is based on an annual salary of \$80,000 at 50% utilization." Mathematically, 50% of \$80,000 is \$40,000—not \$38,400. In another instance, the proposal stated an employee's salary for the grant period was \$44,850 and that "this is based on an annual salary of \$172,500 at 10% utilization." Ten percent of \$172,500 is \$17,250—not \$44,850. We presented these inconsistencies and mathematical errors to an employee in GFM, and the employee stated these kinds of mistakes are common with OEE, and GFM winds up trying to fix these mistakes after the fact.

OEE Does Not Have A Full-Time Grant Administrator

Despite being awarded approximately \$10.6 million in grant funding from 2018 through 2023, OEE did not have any full-time staff dedicated to processing grant expenditures during this time. OEE used the grant administrators at USC's College of Engineering and Computing (CEC) to assist with OEE's grant management. An OEE employee used his dual appointment as an adjunct faculty member in CEC to apply for grants on OEE's behalf but listed CEC as the awardee college. This arrangement funneled all of OEE's grant funds through CEC and allowed CEC grant administrators to assist OEE with grant accounting and financial reports. This grant structure created problems and confusion with OEE's budget (for more information, refer to *A Review of the Office of Economic Engagement Projected and Actual Budgets for FY 17-18 -FY 22-23*).

We were unable to ascertain why OEE did not hire its own full-time grant administrator(s) during this period, especially since OEE could have easily covered the cost of a grant administrator by allocating a percentage of each grant award to pay for the grant administrator's salary and fringe benefits.

Recommendations

1. The University of South Carolina should monitor the Office of Economic Engagement's grant management practices to ensure that grant documents are properly executed, project deliverables and financial documents comply with grant requirements, and deliverables and reimbursement documents are submitted in a timely manner.
2. The University of South Carolina should hire a grant administrator for the Office of Economic Engagement unless an analysis by the University proves it is not economically advantageous for the University to make such a hire.

Governor's Emergency Education Relief Grant

We reviewed the Office of Economic Engagement's (OEE's) management of the Governor's Emergency Education Relief (GEER) grant used to establish Apple computer labs statewide from March 30, 2021 through January 28, 2023. We found that OEE:

- Used over \$1.7 million in grant funds for questionable transactions.
- Failed to comply with federal grant regulations when using funds to remodel and renovate the USC/Columbia Technology Incubator (Incubator) building.
- Failed to consider counties with a large population of residents without reliable broadband capability before deciding on the locations for the computer labs.
- Failed to provide the public with accurate information about the computer labs on OEE's website.

The S.C. Department of Administration (SCDOA) did not sufficiently monitor USC's activities under this grant.

Overview of GEER Funds Being Used for Computer Labs

The U.S. Department of Education (USDE) awarded \$48,467,924 in GEER funds to the Governor’s Office to provide local educational agencies, institutions of higher education, and other education-related entities with emergency assistance in response to the COVID-19 pandemic. On March 11, 2021, OEE submitted a grant proposal to the Governor’s Office for the GEER grant, and, on March 30, 2021, the Governor’s Office awarded \$6 million in GEER funds as a grant to USC to establish eight Apple computer labs statewide. Per a memorandum of agreement (MOA) between the Governor’s Office and the University, USC was to collaborate with Benedict College to create a main hub in the Bull Street district in Columbia, S.C. and was to create seven other computer labs at USC’s regional campuses in locations to be determined by the University. Funds under the GEER grant had to be properly obligated by September 30, 2022, and liquidated by January 28, 2023. Any unobligated funds had to be returned to USDE.

OEE senior management served as the principal investigator (PI) on the grant. OEE senior management designated an OEE employee as the project manager. The Governor’s Office assigned SCDOA as its representative in managing the GEER grant. USC submitted all records of GEER expenditures to SCDOA for reimbursement, and SCDOA reviewed them to see if the expenses were reasonable for the award.

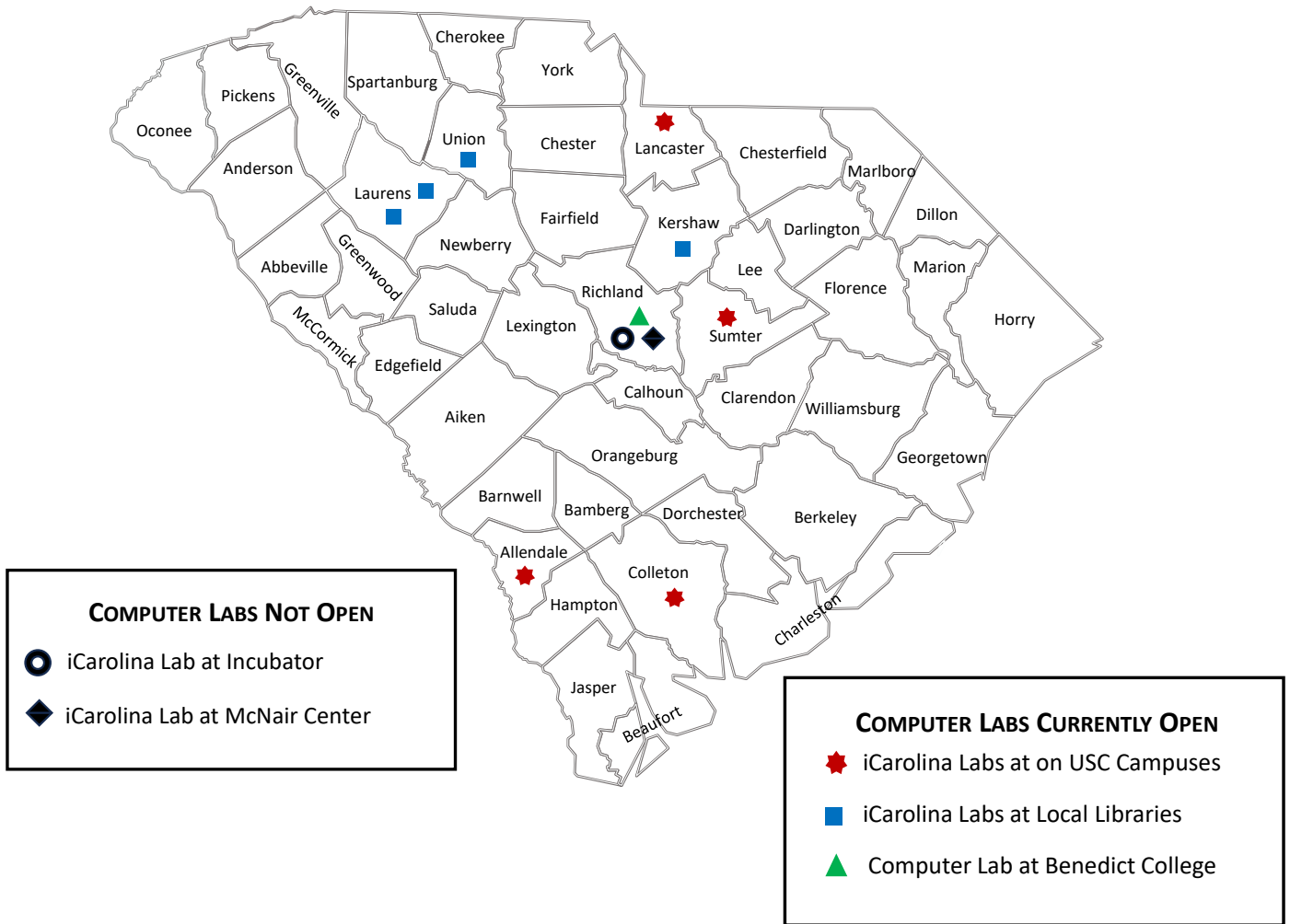
Pursuant to 2 C.F.R. §200.332(d), SCDOA, as the pass-through entity for the GEER funds, must monitor USC’s activities to ensure grant funds are used for authorized purposes and are in compliance with federal statutes, regulations, and the terms and conditions of the MOA. Monitoring responsibilities of a pass-through entity include reviewing the grant subrecipient’s financial and performance reports and following up, and ensuring the subrecipient takes timely and appropriate action on all deficiencies detected through audits, on-site reviews, and written confirmation from the subrecipient. An SCDOA official stated the agency reviewed USC’s disbursement requests, along with attached backup documentation that matched USC’s request, to see if the expenses were reasonable for the award. SCDOA denied USC’s requests for reimbursement for food items because the agency thought that food items “[were] not in the spirit of the project.” The same SCDOA official explained that food expenses were the only expenditures for which SCDOA did not reimburse USC because the other categories for which USC submitted reimbursement seemed to be reasonable for setting up a computer lab.

During preliminary exit, SCDOA provided a letter issued by USDE on March 14, 2023, which stated that USDE “has determined that South Carolina’s awarding of GEER funds and monitoring of subrecipients is consistent with the program requirements.” SCDOA asserts that this letter proves that the agency fulfilled its monitoring obligations under the grant. SCDOA provided no evidence showing USDE’s review process of the GEER grant included a detailed review of grant expenditures and contracts to ensure grant funds are used for authorized purposes and in compliance with federal law. The USDE letter merely acknowledged that SCDOA established an adequate monitoring process; however, based on our detailed audit review of USC’s GEER grant expenditures, we found that SCDOA did not sufficiently monitor USC’s activities under the grant.

According to an OEE official, OEE tried to establish a main computer hub on Bull Street; however, the Bull Street developer quoted an upfit and rental rate that was unsustainable on a long-term basis. Therefore, the Governor’s Office and SCDOA decided the Columbia area could have two computer labs. USC gave \$1 million in GEER funds to Benedict College as a subrecipient of the grant so the college could establish its own on-campus computer lab. OEE subsequently decided to establish two other computer labs in Columbia—a lab in the Incubator building and one at the McNair Center for Aerospace Innovation and Research (McNair Center) on the USC-Columbia campus.

As of the date of publication of this audit, OEE initially secured sites for eleven computer labs, but only nine labs are officially open (refer to Chart 2.4). The nine opened computer labs include four computer labs located on campuses of USC’s Palmetto College (USC-Sumter, USC-Lancaster, USC-Salkehatchie-East, and USC-Salkehatchie-West), four satellite locations set up at local libraries, and a computer lab at Benedict College. The two computer labs which are not open are located at the Incubator building and the McNair Center.

Chart 2.4: Current Status of GEER Computer Labs



Source: LAC Site Visits and Information on USC Websites

On April 14, 2023, OEE senior management submitted a report to the Governor’s Office detailing how USC spent GEER funds. A copy of the report was also given to SCDOA. This report stated that the computer labs at the Incubator building and the McNair Center would open in the summer of 2023. The computer lab in the Incubator building never opened because the City of Columbia (City) terminated the building’s lease effective January 15, 2024. An Incubator officer stated that the Incubator board is currently looking for a new building to rent and plans on establishing a computer lab in the new building. In February 2024, we asked an SCDOA official if he was aware that the computer lab in the Incubator building was not open, and he said he had no record of communication from USC on this.

We conducted an on-site visit to the McNair Center on February 6, 2024, and found the computer lab is a small room. During our site visit, we observed the room had no computers and few tables. USC planned to use the room to conduct classes to teach about Apple’s iPhone® Operating System (iOS). Before establishing the McNair Center lab, USC offered iOS classes virtually. The instructor of these classes explained that the University stopped offering these classes because many participants did not have access to Apple products. Such access was needed to effectively learn what was being taught. According to a USC employee, current plans for the McNair Center lab are unclear because of the change in leadership at OEE.

Over \$1.7 Million in GEER Funds Used for Questionable Transactions

The use of GEER funds must comply with federal cost principles in subpart E of 2 C.F.R. Part 200. As such, every GEER grant expenditure must be necessary and reasonable to carry out the performance of the award. We reviewed all GEER expenditures and found that USC used \$1,714,077 in federal grant funds for questionable transactions that include:

\$635,600	A services agreement and two leases for two computer labs which, as of the publication date of this report, are not open.
\$400,000	Marketing services for the computer labs which were converted to marketing services for OEE in 2023.
\$286,553	Salaries and fringe benefits for eight OEE employees who reported they never worked on the grant.
\$237,500	Membership for quantum computing systems that benefited USC’s College of Engineering and Computing (CEC) and USC’s Department of Information Technology’s (DOIT) Research Computing—not the computer labs.
\$149,835	Research database and expert portal provided by a company—led by a business associate of an OEE official—to which access to the full product remained unavailable as of June 2024.
\$4,589	Apple Watches® for 11 staff members at USC’s Palmetto College.

Leases and a Services Agreement on Computer Labs Not Opened

OEE spent \$190,200 in GEER funds to lease multiple suites in the Incubator building from February 1, 2023 to January 30, 2026, and \$409,400 in GEER funds on a services agreement with the Incubator from December 15, 2022 through February 1, 2026. The services agreement requires the Incubator to manage the computer lab at the Incubator building, hire personnel for the computer lab, market the computer lab, and upfit the rented space and the common areas. However, the computer lab in the Incubator building never opened and, reportedly, will not open until the Incubator can find another building.

The selection by OEE senior management of the building housing the Incubator as one of the sites for the computer labs is questionable because the building has experienced mold, inoperable elevators, broken smoke alarms, and water damage, and there are potholes and loose gravel in the parking lot. Over the years, Incubator tenant member companies have complained about the building having faulty wiring, a rat infestation in some offices, human excrement in the parking lot, and people loitering around the building (for more details, refer to *Physical Plant and Health and Safety Conditions at the USC/Columbia Technology Incubator Facility*). Additionally, the police visited the building multiple times over the years due to criminal activity occurring in or around the building, including one instance in which a person suffering from an overdose was dumped in front of the building.

In March 2024, we verified that the computers and iPads purchased for the computer lab at the Incubator building were safely stored in a locked room. Given the pace at which technology develops and advances, these computers and iPads may grow obsolete before the Incubator secures a new building to relocate the computer lab.

Leadership at OEE and the Incubator were comprised of the same people at the time the University signed the lease and the services agreement with the Incubator (for more information, refer to *USC/Columbia Technology Incubator Staffing*). If these two entities did not have the same people in leadership positions, the University might have determined it was in its best interest to terminate these contracts and to seek another space for the computer lab.

USC signed a three-year lease for \$36,000 with South Carolina Research Authority (SCRA) for a room in the McNair Center from February 1, 2022 through January 31, 2025. The McNair Center lab has been unused since USC decided to stop the online classes being taught in the room.

Marketing Services for Computer Labs Converted to Market OEE

At the request of OEE senior management, in January 2023, USC contracted with a S.C. public relations firm for \$400,000 to promote the computer labs for three years. Before this contract was executed, and once after, an OEE employee collaborated with communication teams at USC and Palmetto College to draft and issue press releases announcing the opening of each computer lab. An OEE official had a friendship with the chairman and former CEO of this public relations firm (for more information on this conflict of interest, refer to *Ethics and Conflicts of Interest Violations*).

We asked OEE for all tangible work products completed by this public relations firm for 2023. We received ten tangible work products but, of the items provided, three were duplicates. We found the public relations firm created the following seven work products in total, not counting the duplicates:

Summer Newsletter 2023

USC, Lexington One Students Demo Latest Robotics Tech in D.C.

University of South Carolina Increasing Broadband Access Across South Carolina Partnership with Apple to Support Underserved Communities

University of South Carolina to Host SC Smart Manufacturing Summit

USC – IBM® Spur Innovative Approach to Manufacturing

USC Officially Opens New iCarolina Learning Lab in Kershaw, S.C.

Marketing Booklet for OEE

We reviewed and analyzed these seven tangible work products and found that only two focused solely on the computer labs. Two others mentioned the computer labs briefly, while the remaining three were on matters that had nothing to do with the computer labs, such as USC-IBM's approach to manufacturing, a Boston Dynamics® robotic dog, and the S.C. Smart Manufacturing Summit Workshop hosted by USC.

One work product is a 25-page booklet which focused on OEE and its accomplishments. Three pages in the booklet mentioned the computer labs. An OEE employee reported that the public relations firm acts as a marketing consultant for OEE and has conducted outreach to various media publications to generate interest in OEE and USC initiatives.

Salary of OEE Employees Who Did Not Work on the Grant

Eight OEE employees were paid with funds from a grant on which they did not work. If GEER funds were unallowably used to pay the salaries and fringe benefits of employees who did not work on the grant, then, according to the U.S. Department of Justice Inspector General, USC could be “debar[red] from receiving future funding, administrative recoveries of funds, civil lawsuits and criminal prosecution— or a combination of all or some of these remedies.”

Federal law states that charges to federal grants for salaries and wages must be based on activities that contribute and directly relate to work on the award. According to USC’s time and effort reporting policy, USC employees must charge their time to grants commensurate with the actual effort expended on all activities they perform. The policy also states the PI is “responsible for reviewing all salary expenses charges [*sic*] to their project(s) to ensure salary charges are accurate and allowable.” Both the employee and the PI must sign a time and effort report which certifies that the final salary amount charged to the grant reasonably reflects the effort expended by the employee for the period being certified.

We sent a questionnaire to all 12 OEE employees who had part of their salaries and fringe benefits charged to the GEER grant and found that 8 employees who responded said that they performed no work whatsoever on any phase of this grant. However, grant expenditures show that \$286,553 in salary and fringe benefits costs were charged to the grant for these eight individuals. For one of these individuals, 60% of the employee’s annual salary, \$72,500, was charged to the grant; the following year, 46% of the salary, approximately \$55,000, was charged to the grant.

We asked USC for the time and effort reports submitted by these eight individuals. USC was unable to provide a time and effort report for one of the eight employees, so we were only able to review seven employees’ reports. We found that all seven OEE employees and the PI signed these reports certifying the OEE employees worked on the GEER grant.

In late January 2023, a USC employee noticed that the time and effort reports submitted by OEE appeared questionable because these reports reflected a high percentage of some employees’ salaries—meaning these employees had little time to work on other projects. The USC employee also thought some of the reports were questionable because a CEC staff member submitted a report, too. As such, USC required OEE to provide justifications for these salary expenses—which they could not. Ultimately, OEE had to revise its claim and pay the difference from operating funds.

Quantum Computing Systems Membership

OEE senior management also approved spending \$237,500 in GEER funds for a membership with the IBM® Quantum Hub at North Carolina State University from September 1, 2022 through May 31, 2024. OEE senior management submitted a justification for the membership to USC’s purchasing department. The justification never mentioned the computer labs, but it did tell the purchasing department to charge the expense to the GEER grant. In the justification, OEE senior management claimed the membership would provide “USC and its partners with over 20 of IBM’s quantum computing systems for commercial use and fundamental research.” During our site visits to the computer labs, we found none of the computers in the labs had access to the IBM Quantum Hub, and, in fact, some lab coordinators were perplexed when we asked them about the IBM Quantum Hub.

Given the level of knowledge needed to understand quantum computing, it seems unlikely the average computer lab patron would even know how to use the IBM Quantum Hub membership. The field of quantum computing requires a broad mastery of science and math. Jobs in quantum computing typically require at least a bachelor’s degree in one of the following areas: mathematics, physics, computer science, computer programming, software development, molecular physics, or chemistry. In fact, USC does not grant access to the quantum computing hub unless the prospective user passes a background check and can establish some association with a class or project using the quantum computing lab.

We found that it is most likely OEE purchased this membership to benefit USC and not the computer labs. DOIT’s High Performance Computing Group used the membership to advance its research. CEC also used the membership to teach quantum computing courses at the University. None of OEE’s press releases about the computer labs mention the IBM Quantum Hub membership. USC’s press release announcing its membership to the IBM Quantum Hub is found on both CEC’s and DOIT’s webpages, but neither mentions the computer labs or the GEER grant.

Contract for a Research Database and an Expert Portal

Approximately \$150,000 in GEER funds went to a company run by a former business associate of an OEE official (for more information on this potential conflict of interest, refer to *Ethics and Conflicts of Interest Violations*).

On April 23, 2023, this company submitted a proposal to USC which claimed patrons of the computer labs would have access to a research database and a searchable portal of USC faculty research expertise. This portal is a continuation of the expert portal commissioned by the S.C. Department of Commerce (DOC).

In May 2020, DOC awarded the Incubator \$433,000 to hire this company to create an expert portal featuring faculty and researchers at USC, Clemson University (Clemson), and the Medical University of South Carolina (MUSC). In May 2023, DOC awarded the Incubator an additional \$76,115 to cover the cost of extending the licensing agreement of the company’s software. DOC financed the creation of the portal with the intent that USC, Clemson, and MUSC would each pay an annual fee to fund the continued licensing and maintenance of the database.

Despite spending over half a million dollars on this expert portal, DOC decided to discontinue it because there was little interest from these universities in using the portal. In fact, according to a DOC employee, leadership at USC’s Office of the Vice President for Research “expressed limited interest in the [expert portal] because of the cost of licensing and maintenance, as well as the lack of interest in the data and functionality the [expert portal] offered.” Nonetheless, OEE senior management used GEER funds to continue the project, but the portal would only focus on experts from USC.

Under the GEER grant, access to the research database and the expert portal was for one year starting April 24, 2023. Lab coordinators did not receive training on the research database until late January 2024, and the computer labs did not gain access to the research database until March or April 2024, depending on the computer lab, because USC had to provide the IP addresses for all the computer labs to the company. On May 22, 2024, the company delivered the expert portal to USC, but, as of June 13, 2024, the expert portal was still unavailable at the computer labs.

USC employees provided us with a demonstration of the research database in late April 2024, and we learned the research database provided access to research publications, clinical trials, patents, and grant information. The research database functions similarly to other free research search engines—such as Google Scholar and Microsoft Academic. A lab coordinator reported that, as of April 2024, only a few lab patrons had used the research database. The University could have used a comparable free service from other providers immediately.

Apple Watches® for Palmetto College Staff

Eleven Apple Watches®—totaling \$4,589 (pre-tax)—were purchased for personnel at Palmetto College using GEER funds. Leadership at Palmetto College stated the watches were purchased for IT directors and computer lab coordinators because “it is important for employees to be knowledgeable of Apple Watches product [*sic*] as it relates to the Apple ecosystem that operates across all Apple products in the labs.” However, we found two of the watches were originally assigned to personnel with job titles other than IT director or lab coordinator.

Palmetto College stated that the watches were not connected to a service plan. We can discern no need for such devices for staff, even if the gadgets are affiliated with the computer labs. If the Apple Watches would have been used for computer lab patrons to learn more about Apple’s products and operating system, then the purchase of these watches would seem reasonable.

Spending Outside of Allowable Time Frame

Many of these contracts—particularly the contracts which benefited USC and business associates of OEE senior management—were executed right before the liquidation deadline for GEER funds on January 28, 2023. On December 8, 2022, the Governor’s Office e-mailed OEE senior management to inform them that \$4,227,132 in GEER funds had not been spent and, if the funds were not liquidated or expended by the liquidation deadline, they would revert to USDE. OEE then executed the following contracts less than two weeks before the liquidation deadline: the lease with the Incubator, the lease with SCRA for the McNair Center lab, the services agreement with the Incubator, the contract with the S.C. public relations firm, and the IBM quantum computing system membership. The company that provided the research database and expert portal submitted its proposal after the liquidation deadline—on April 23, 2023—and the invoice was dated August 31, 2023.

Funds under the GEER grant had to be properly obligated by September 30, 2022, and all properly obligated funds had to be liquidated by January 28, 2023. Any unobligated funds had to be returned to USDE. This means that all orders had to be placed and all contracts had to be executed by September 30, 2022. All financial obligations under the grant had to be settled by January 28, 2023. Any unobligated GEER funds remaining after September 30, 2022 should have been promptly refunded to USDE. Therefore, USC should have returned all GEER grant money used to place orders and execute contracts after September 30, 2022, to USDE.

Failure to Follow Federal Regulations When Using GEER Funds for Construction

As part of the services agreement with the Incubator, OEE senior management spent \$142,650 in GEER funds to upfit the rented space and common areas in the Incubator building. This upfitting included replacing light fixtures, adding a new drop ceiling, reflooring several areas, and installing storage lockers and floor outlets. This project was approved by a licensed architect and completed by a licensed contractor.

GEER funds may be used for construction, including new construction, remodeling and renovation. However, USDE discouraged using GEER funds for construction projects because these projects tend to be time-consuming and must comply with specific federal regulations. Some of these federal regulations require a grantee to do the following before starting a construction project: receive prior written approval from the Governor or USDE, complete an environmental impact assessment, and provide proof that the grantee will have use and possession of the facility for 50 years or the useful life of the facility, whichever is longer.

We asked OEE for documentation showing USC complied with these federal regulations before starting construction on the Incubator building. An OEE official stated the Governor's Office viewed the upfitting at the Incubator building to be "minor or cosmetic changes"; therefore, the Governor's Office did not require USC to obtain pre-approval before starting the upfitting. It seems unlikely the remodeling and renovation at the Incubator building would be considered minor or cosmetic, especially given the fact that the upfitting required the guidance of a licensed contractor. Regardless, these federal regulations do not make an exception for cosmetic remodeling or renovation. Without such an exemption, OEE and the Governor's Office were required to comply with these federal regulations before starting construction on the Incubator building.

If OEE complied with these federal regulations before commencing construction on the Incubator building, then \$142,500 in GEER funds most likely would not have been spent on upfitting a building that can no longer be used as a computer lab. OEE was never going to be able to establish that the University had use and possession of the Incubator building for at least 50 years. The Incubator building was owned by the City of Columbia. The Incubator never signed a lease with the City for the building; rather, the lease for the building was between the City and the South Carolina Research Foundation (for more information on this contract, refer to *Lease Agreement Between the City of Columbia and the South Carolina Research Foundation*).

Computer Labs Not Located in Counties with the Greatest Need for Reliable Broadband Access

We analyzed data on the availability of internet services statewide to determine if OEE senior management strategically placed the computer labs in counties with a large population without reliable broadband access. We found:

No computer labs are in the eight counties with the largest underserved or unserved residential populations:

Aiken	Berkeley	Charleston	Chester
Greenville	Oconee	Orangeburg	Spartanburg

No computer labs are in the six counties with the largest number of underserved or unserved K-12 residents:

Aiken	Berkeley	Greenville
Oconee	Orangeburg	Spartanburg

Only 2% (7,046 residents) of Richland County is deemed underserved or unserved, and yet, OEE placed 3 computer labs in Richland County.

Only 0.5% (190 residents) of Colleton County is deemed underserved or unserved, and yet, OEE placed a computer lab in Colleton County.

The S.C. Office of Regulatory Staff (ORS) creates broadband maps to determine which areas throughout the state are unserved and underserved in broadband capability. Unserved areas are locations that do not have access to an internet connection capable of reliably delivering at least minimum speeds of 25 megabits per second (Mbps) download and 3 Mbps upload. Underserved areas are locations that do not have reliable internet access with speeds capable of 25 to 100 Mbps downloads and 3 to 20 Mbps uploads.

Except for the computer lab planned for Bull Street, the MOA with the Governor’s Office gave USC the discretion to select the locations of the computer labs at USC’s regional campuses. An OEE employee verified OEE senior management had the final say on where the remaining labs would be located, though the Governor’s Office and leadership at Palmetto College were consulted. The Governor’s press release announcing the computer labs indicated that USC’s Palmetto College has campuses “within 15 miles or less of a broadband desert.”

Spartanburg, Greenville, and Aiken are counties that have a large underserved or unserved residential population and K-12 residential population. USC has a campus located in all three counties and could have established computer labs in these counties. More South Carolinians could have benefited from these computer labs if USC placed them in counties with the largest populations with poor broadband capability.

Deficiencies on OEE’s Website about the Computer Labs

We reviewed OEE’s website about the computer labs in January 2024 and found the website had the following deficiencies:

No days or hours of operations for the computer labs were listed.

The computer lab at Clinton Public Library—which opened in January 2023—was not listed.

The address for the computer lab at the Laurens County Library was incorrect.

It is important to include the days and hours of operation for the labs on the website so patrons know when the computer labs will be open. Moreover, it is vital for a website to be updated regularly with accurate information. Failure to do so causes misinformation to be dispersed.

Recommendations

3. The S.C. Department of Administration should monitor future grants awarded to the University of South Carolina more closely to ensure the University is using grants for authorized purposes and in compliance with federal regulations.
4. The University of South Carolina should terminate its lease and services agreement with the USC/Columbia Technology Incubator and find another location for the computer lab.
5. The University of South Carolina should either terminate its lease with the South Carolina Research Authority for the computer lab at the McNair Center for Aerospace Innovation and Research or otherwise use the designated space for the purpose for which the grant was intended.
6. The University of South Carolina should inform the S.C. public relations firm to cease working on projects promoting the Office of Economic Engagement that are paid for with GEER funds and, instead, focus on marketing the computer labs.
7. The University of South Carolina should require employees of the Office of Economic Engagement to submit time logs when working on any future grants to ensure accurate accounting of work being completed.
8. The University of South Carolina should collect all Apple Watches assigned to staff at Palmetto College and either use them in the computer labs or resell them and return the money to the U.S. Department of Education.
9. The University of South Carolina should have the Office of Economic Engagement update its website about the computer labs to accurately list all the computer labs, their locations, and days and hours of operation.

S.C. Department of Commerce Grants Awarded to Office of Economic Engagement, USC/Columbia Technology Incubator, and South Carolina Research Foundation

Grant Progress Not Monitored

We reviewed nine grants, including two renewals, that the S.C. Department of Commerce (DOC) awarded to the Office of Economic Engagement (OEE), the USC/Columbia Technology Incubator (Incubator), and the South Carolina Research Foundation (SCRF) during 2018 through 2022 and found that:

- DOC did not adequately monitor submissions of progress reports for two grants.
- DOC does not conduct post-award audits of grant-funded projects to ensure compliance.
- DOC does not have a provision in its grant agreements for grantees to inform the agency whenever the grantee receives additional funding from a third party for similar work during the grant period.
- OEE received funding from the U.S. Small Business Administration (SBA) for a project with similar deliverables as DOC's 3Phase grant, and DOC was unaware of this fact.

We requested that DOC provide progress reports for nine grants awarded to OEE, the Incubator, and SCRF from 2018 through 2022. We found that DOC provided six quarterly progress reports for the \$1.5 million S.C. Cyber grant which spanned over six years and failed to provide any progress reports from the Incubator for the \$31,250 grant for the S.C. MIT Venture Mentoring Service Network Program.

In February 2016, DOC awarded OEE \$1.5 million for the S.C. Cyber grant. S.C. Cyber was a statewide initiative based at USC and had partners in academic, industrial, and government sectors. Its mission was to develop talent, techniques, and tools to defend infrastructure within the state and across the country. S.C. Cyber created and offered programs for training and workforce development, education, advanced technology development and commercialization, and critical infrastructure protection. The grant agreement required OEE to submit quarterly progress reports from April 2016 through March 31, 2022. We requested DOC provide us with any deliverables from the grant, and DOC could only provide one progress report for the month of September 2021. In July 2024, we asked OEE for the progress reports for the S.C. Cyber grant but were told the office could not find them. It is unknown if these reports exist. During preliminary exit, DOC provided quarterly financial reports from July 1, 2016 through March 31, 2019, an annual report for fiscal year 2018, and five additional quarterly progress reports—which is only one-fourth (6 out of 24) of the quarterly progress reports required.

In January 2020, DOC awarded the Incubator \$31,250 to be a site facilitator for the S.C. MIT Venture Mentoring Service Network Program. Under this program, the Incubator agreed to complete the MIT training programs during 2020, establish a local program manager, and maintain the requirements as an MIT Venture Mentoring site in good standing for at least three years. According to the grant agreement, the Incubator was required to submit annual status reports on the program for three years. We requested copies of these annual reports, but DOC was unable to produce any reports.

In our June 2020 *Review of Incentive Programs Administered by the S.C. Department of Commerce*, we found that counties and companies receiving grants from DOC were not meeting reporting requirements. We recommended that the agency “take a more proactive approach to ensure that companies and counties submit all of the project status reports as required” for economic development grants. We also conducted a follow-up review in August 2024 to determine if DOC had implemented this recommendation and concluded that it had been partially implemented. We determined the agency “has made changes to the reporting deadline for companies but noted that it has made no changes to the way counties submit project status reports, such as implementing automatic notifications when reports need to be submitted.”

In April 2022, DOC hired a new leader for the innovation team, and this person has created a system to help the agency keep track of grant progress reports. Under this new system, DOC e-mails a grant’s principal investigator a Google form with multiple questions about deliverables, metrics, photos, and grant expenditures. The questions also ask the principal investigator about his experience in implementing the grant. For the period audited, we found that DOC did not appear to have a consistent process for monitoring grants. However, the new system alerts DOC when a grantee fails to start working on a grant-funded project. In fact, the agency has terminated two grants because the grantee failed to begin work. One of the terminated grants was a \$47,000 grant awarded to OEE (for more details, refer to *Overview of Office of Economic Engagement’s Grant Management*).

Post-Award Audits Not Conducted

We asked employees at DOC about the agency’s post-award audit process, and we were told DOC does not have a formal audit procedure. We were also told the agency relies on self-reported progress reports submitted by the grantee(s). Post-award audits verify the grant recipient adhered to the grant agreement and that no fraud or malfeasance occurred. Relying solely on self-reported progress reports does not guarantee that a grant will be implemented according to plan.

This was the case with DOC’s 2020 Relentless Challenge Grant awarded to the Incubator. According to the grant proposal, the Incubator would create the Innovation Think Tank and Demonstration Center (ITT) for high-tech startups to conduct high level meetings and demonstrations on the first floor of the building housing IT-oLogy. The proposal indicated there would be a demonstration area with five dedicated demonstration stations with interactive screens where participants would be able to interface with software. All five display stations would consist of a table, TV screen, and TV stand and would cost a total of \$10,000. The proposal also indicated there would be a 55-inch interactive glass system which would cost approximately \$15,000. The interactive glass system would either be in a kiosk in the demonstration area or face Gervais Street, a heavily traveled thoroughfare in Columbia, S.C., where people on the sidewalk could interact with the display. The proposal stated there would be at least one showcase event where the Incubator would promote and provide pitches and demonstrations to the public. On January 2, 2020, DOC awarded the Incubator \$70,000 for the ITT, provided the Incubator spent \$70,000 in matching funds.

In its self-reported final progress report, the Incubator stated it placed the ITT at the South Carolina Research Authority’s (SCRA’s) Innovation Center at the McNair Center for Aerospace Innovation and Research and on the first floor at the Incubator’s own building at Sumter and Laurel Street—not the first floor of the building housing IT-oLogy. The final report states that the ITT hosted a showcase event and created interactive demonstration stations with televisions where participants could demonstrate their business models and that would provide educational and training opportunities for targeted audiences. The interactive glass system was never installed.

According to persons associated with the Incubator, the Incubator never followed through on the 2020 Relentless Challenge Grant, and, at the last minute, spent some of the grant money to host an Incubator tenant member company showcase event. When we asked about the disposition of this grant, we were told there was no dedicated space within the Incubator for a demonstration center, suggesting the self-reported final progress report was inaccurate as to demonstration centers being located at the Incubator building.

We reviewed the 2020 Relentless Challenge Grant expenditures and found the Incubator only spent the \$70,000 provided by DOC and that the Incubator did not provide any documentation showing it spent any matching funds. According to DOC legal staff, the grant agreement required the Incubator to spend \$140,000 on this project, which included \$70,000 in matching funds contributed by the Incubator.

Incubator management provided DOC with copies of tenant member company rent checks to certify the Incubator had \$70,000 in matching funds. However, when we asked an Incubator officer about the status of the matching funds in the grant ledger, we were informed that “many of the matching funds... were paid by USC or OEE and were not in the incubator [*sic*] specific financial records.” No documentation was provided to support this statement.

Similarly Awarded Grants

From February 2018 through March 2021, DOC awarded OEE the 3Phase grant for \$600,000 to help South Carolina-based small businesses or entrepreneurs apply for Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) grants. DOC paid OEE \$200,000 each year from 2018 through 2020 to manage the 3Phase grant. Similarly, starting September 2018, SBA awarded OEE the Federal and State Technology (FAST) grant to provide funding to organizations to execute state or regional programs that increase the number of SBIR/STTR awards granted to women, socially/economically disadvantaged individuals, and small businesses in underrepresented areas. From 2018 through 2023, SBA awarded OEE five FAST grants, and each grant was for \$125,000—except for the FAST grant awarded in 2023, which was \$124,984.

Ultimately, this means OEE received state funds and federal funds to accomplish the same goal—assist small businesses in applying for SBIR/STTR grant funding. Both grants required OEE to submit progress reports listing the small businesses and entrepreneurs OEE assisted in applying for SBIR/STTR awards. We reviewed and analyzed these progress reports for 2020 and found the progress reports were nearly identical—sharing 85% of the same deliverables.

We reviewed the grant agreement for the 3Phase grants and found there was no provision in the contract requiring OEE to inform DOC if the office receives funding from a subsequent source to accomplish the same purpose as the 3Phase grant. Had OEE informed DOC of the FAST grant awards, DOC may have opted to reduce the \$600,000 in state funding it provided to OEE for the 3Phase grant over the three-year period.

This lack of transparency may have resulted in OEE receiving more money than needed. Grant deliverables should be specific to each grant and not be allowed to demonstrate compliance with multiple grants which accomplish the same goal.

Recommendations

10. The S.C. Department of Commerce should withhold additional grant funding if progress reports are not submitted by a principal investigator on time.
11. The S.C. Department of Commerce should conduct post-award audits to ensure that grantees are complying with grant agreements and that there are no instances of fraud or malfeasance.
12. The S.C. Department of Commerce should include language in its grant agreements requiring grantees to inform the agency if the grantee receives subsequent funds from another source to accomplish the same goal as the S.C. Department of Commerce grant.

USC/Columbia Technology Incubator and South Carolina Research Foundation Administrative Practices

Lease Agreement Between the City of Columbia and the South Carolina Research Foundation

Since 2006, the USC/Columbia Technology Incubator has been housed in an office building located at 1225 Laurel Street in Columbia, S.C. We found that the terms for the lease agreement for the building housing the USC/Columbia Technology Incubator (Incubator) were ambiguous and that the lease had been continuing informally on a month-to-month basis since 2013. The ambiguities in the agreement made it somewhat precarious, rendering it prone to litigation. The City of Columbia (City), owner of the building, terminated the lease effective January 15, 2024.

The original lease was written in 2004 for a term of five years and was between the City and the South Carolina Research Foundation (SCRF). Either party had two options to renew the lease for one year upon 60 days' written notice. As the turnover of the building to SCRF did not occur until April 1, 2006, the original term expired on April 1, 2011. The lease required SCRF to limit occupancy to companies or graduates of the Tech Incubator program, Incubator staff, and the USC Tech Transfer office. The lease also allowed SCRF to sublet portions of the building to subtenants. SCRF failed to exercise its option to renew before April 2011, and a lease extension that would continue the lease until April 1, 2013, was drafted. However, we found no fully executed copy of that extension, nor any other lease documents between SCRF and the City. While there has been no services agreement between the Incubator and SCRF since at least 2012, the Incubator has continued to execute leases with tenant member companies and collect rents.

We are not aware of any past or pending legal action on the part of the City, SCRF, the Incubator, and/or the Incubator's tenant member companies arising from any dispute over the execution of the lease agreement. We reviewed South Carolina commercial leasing literature and were unable to find any example that mirrors the arrangement established between the City and SCRF. However, we believe the 2004 lease between the City and SCRF treated the Incubator as a subunit of SCRF. As such, SCRF and the Incubator would be considered one and the same. The fact that the lease agreement limited occupancy of the building to Incubator staff and tenant member companies corroborates this presumption. As the lease agreement envisioned the Incubator as a subunit of SCRF, and since SCRF did not appear to have a problem with the Incubator leasing building space to tenant member companies, there is likely no contract privity issue.

This agreement was not ideal from a legal perspective, however. The original contract should have specified the Incubator itself would act as a sublessor and have clearly outlined the relationship between SCRF and the Incubator. By not clarifying these aspects of the arrangement, the contract was subject to interpretation and thus more open to the risk of litigation.

Recommendation

13. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured, ensure the Incubator has a properly executed lease agreement for any building housing Incubator tenant member companies.

USC/Columbia Technology Incubator Board

We reviewed the activities of the board of directors for the USC/Columbia Technology Incubator (Incubator) and found that the board:

- Failed to comply with the Incubator’s articles of incorporation, the Incubator’s bylaws, state law, and best practices.
- Failed to avoid conflicts of interest among certain board members.
- Failed to respond to problems in Incubator operations and leadership.

The board’s failure to comply with the Incubator bylaws led to:

- Incubator tenant member companies occupying space at the Incubator building beyond the allowable time frame, which research shows is atypical when compared with the regular, time-bound exits associated with a business Incubator.
- Dissolution of the advisory board, resulting in a limited review of the viability of potential entrants, a lack of periodic assessment of tenant member company progress, and failure to limit the occupancy of Incubator tenant member companies to the maximum allowable time frame.
- One board member never attending a board meeting from 2018-2022.

We also found that the board:

- Did not comply with state law as to the allowable length of service for elected board members.
- Did not comply with the requirements of its conflict of interest statement nor related best practices for nonprofit boards, leading to the failure of some board members to complete the required forms and unreported use of Incubator office space for a board member's private company.
- Did not comply with other best practices for nonprofit organizations, resulting in the Incubator's failure to evaluate the performance of the organization's executive director at least once every two years, measure the organization's effectiveness at least once every two years, have a voting member oversee the organization's finances, and formally approve the organization's budget.

Incubator Board Composition and Responsibilities

Article IV, Section 3 of the Incubator's bylaws establishes that the board of directors shall:

- Adopt a program of work each year in consultation with the board's executive director.
- Adopt a budget each year conforming to its program of work and require not less than quarterly financial statements from the executive director.
- Be responsible for determining that the Incubator's staff members carry out their duties in a competent, professional, and non-political manner.
- Be responsible for such other duties as may be incumbent on the board in the discharge of its responsibilities.

Article V of the Incubator's bylaws requires the executive committee of the board to appoint an advisory board comprised of local academia, the venture capital or investment industry, and technology industries. The purpose of the advisory board is to guide the board of directors as to the admission of "high-tech, uniquely innovative, high growth potential tenants" and to "advise semi-annually on each company's continued occupancy in the Incubator's facilities."

Article IV, Section 2 of the Incubator’s bylaws establishes that there are eight designated members of the board of directors and that there are seven members who are nominated and elected by the designated members. As of January 2024, the Incubator’s board of directors consisted of 13 members:

4	Represented municipal or county governments in the Midlands.
1	Represented academia.
2	Represented the legal community.
5	Represented the business community.
1	Represented an investment affiliate supporting technology-based businesses.

Board Not Compliant with Articles of Incorporation and/or Bylaws

We reviewed the Incubator’s articles of incorporation and bylaws—executed in 2011 and 2014, respectively—and found that the board did not comply with all the terms of these instruments.

Allowing Tenant Member Companies to Occupy Space Beyond Time Limit

Both the Incubator’s articles of incorporation and Article III, Section 1 of the Incubator’s bylaws limit occupancy of tenant member companies to a maximum of 36 months, with limited extension exceptions for not more than an additional 12 months. However, 29 of 38 active tenant member companies have stayed beyond the allowable term, with 14 of the 29 having stayed for more than 10 years. This has likely occurred—at least in part—due to the dissolution of the advisory board, an organizational element required by the Incubator’s bylaws. There has been no corresponding revision of the bylaws to accommodate this change, leading to there being a limited review of the viability of prospective Incubator tenant member companies, a lack of periodic assessment of tenant member company progress, and failure to limit the occupancy of Incubator tenant member companies to the maximum allowable time frame.

No Attendance at Incubator Board Meetings

Article XII, Section 1 of the Incubator’s bylaws specifies that board members referred to as “Directors” are “expected to be regular in attendance at the meetings of the Board and each committee on which such Director serves.” We reviewed Incubator board meeting minutes for the years of 2018-2022 and found that one designated board member never attended a single meeting. This did not fulfill the bylaws’ regular meeting attendance requirement.

Vacancies in Designated Member Positions on Board

As noted earlier, Article IV, Section 2 the Incubator’s bylaws establishes that the board be comprised of fifteen members, eight of whom are designated members and seven of whom are elected members. As of January 2024, there were no persons on the Incubator board who were designees of the Secretary of the S.C. Department of Commerce or the President of the University of South Carolina. These two positions are specified in the Incubator bylaws as designated members of the Incubator board.

Board Not Compliant with State Law

We analyzed how long each of the Incubator board’s elected members had served on the board and found that all seven had served longer than five years. This is not in compliance with S.C. Code §33-31-805(a), which limits the term of elected members of nonprofit boards to five years.

Board Not Compliant with Nonprofit Best Practices

The Better Business Bureau’s (BBB’s) nonprofit best practices under its Standards for Charity Accountability require the board of a charity to have a formally approved conflict of interest policy and to regularly monitor the policy to ensure adherence. The Incubator does not appear to have a formal conflict of interest policy, but it does utilize conflict of interest statements that must be signed by the board members. The executive director is considered the secretary of the board and therefore must also comply with these requirements. During our audit, we found that conflict of interest forms were not completed by all board members during 2018 through 2022. We also found that, during some years, certain board members did not disclose all conflicts, such as hiring and paying relatives and using the Incubator’s reduced rental rate office space for a personal business. This is not in keeping with BBB’s best practices for conflicts of interest, nor is it compliant with the Incubator’s conflict of interest statement requirements.

Another of the BBB’s best practices for charitable organizations requires a charity’s board to evaluate the performance of the organization’s executive director at least once every two years. However, there is no requirement in the bylaws for the Incubator board to conduct such an evaluation, nor did we find evidence that the board ever performed such an assessment. Also absent from the Incubator’s bylaws is any requirement for the board to measure the effectiveness of the organization at least once every two years, which is another of the BBB nonprofit best practices designed to ensure accountability of operations. If the Incubator board had such a policy, it might have flagged many of the findings we have identified in our audit and have attempted to correct such issues.

Yet another BBB best practice for charitable organizations is the requirement that a charity's board have a voting member oversee the organization's finances. The Incubator instead contracts with a part-time chief financial officer to oversee its finances, which may not ensure an adequate level of oversight. BBB best practices for charitable organizations also require a charity's board to formally approve the organization's budget. However, an Incubator representative informed us that the Incubator does not prepare an annual budget. It is important for a charitable organization to develop a budget since a budget helps the organization focus on its goals and mission, provides accountability to donors, facilitates transparency with stakeholders, and improves decision making.

Incubator Board Aware of Issues but Failed to Act

We interviewed a group of designated board members, as well as a group of elected board members, and learned that there were a number of things they thought the Incubator did well, including:

Management of finances.

Acquisition of grants for workforce development.

Provision of below-market rate rent.

Provision of technology commercialization opportunities to USC students and faculty.

However, the board members we spoke with identified more things the Incubator did not do well, including:

Having no strategic vision or clear goal and failing to uphold the mission to help build startups.

Having disparate activities.

Losing programming or not having enough planned tenant member company meetups.

Being reduced to a below-market real estate program instead of being "real entrepreneurs."

Having inadequate management.

Failing to encourage startups to attain self-sufficiency beyond the Incubator.

Having bylaws overdue for revision.

Asking external entities to subsidize the cost of maintenance/repairs.

Needing more space and customers.

The majority of board members we interviewed indicated that the board functioned as more of an advisory group than a governing body. According to one board member, the board had, over time, become a "rubber stamp."

Other observations that one or more board members we interviewed shared with us included:

The Incubator has lost some of its connectivity to the University.

The Incubator has a mixed reputation with the local entrepreneurial community.

Board members did not vote on or approve the Incubator’s pursuit of grants, Incubator staff salaries, or whether to terminate the lease of a tenant member company.

Board members did not discuss tenant member company progress, tenure of occupancy, or graduation. It was the decision of a tenant member company to determine whether it moved out of or stayed at the Incubator. There was more emphasis placed on tenant member company graduations prior to the COVID-19 pandemic.

The only way one board member knew who the Incubator tenant member companies were was because the rent roster was shared at board meetings.

Board members believed the purpose of an incubator is to centralize economic engagement; create high-paying jobs; provide space for companies; offer mentoring, advice, and coaching; and enable [USC] professors and students to work together to develop technology and commercialize businesses. However, one board member could not recall a time when students or faculty went to the Incubator, and one board member was not aware that OEE and the Incubator were separate entities.

Board members expressed concern about unilateral decisions being made by Incubator leadership (e.g., an executive director of the Incubator had been let go without the board’s knowledge) and relayed that there was tension with a member of Incubator leadership.

Incubator leadership was not heavily invested in the daily operations of the Incubator.

A more proactive board may have addressed some of these issues.

Recommendation

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14. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as currently legally structured, enter into a memorandum of agreement that provides for the University to ensure that the Incubator board:
- Complies with all terms of the Incubator’s articles of incorporation and bylaws, to include the use of the advisory board to select companies for Incubator entry, evaluate tenant member company progress, and enforce allowable occupancy periods at the Incubator.
 - Complies with all state laws pertaining to nonprofit corporations.
 - Complies with all requirements included in the Incubator’s conflict of interest statement.
 - Adheres to best practices pertaining to boards of nonprofit organizations.
 - Acts appropriately to remedy problems with Incubator leadership and operations in a timely manner.

USC/Columbia Technology Incubator Financial Management Practices

The USC/Columbia Technology Incubator's (Incubator's) financial resources may have been mismanaged. We reviewed copies of the Incubator's general ledger files, bank statements, annual state nonprofit financial reports, Internal Revenue Service (IRS) Form 990 filings, annual audited financial statements, financial overview documents, University of South Carolina (USC) travel documents, and select meal receipts. We also reviewed the Incubator's responses to questions and memoranda of understanding (MOUs) between the University and the Incubator and found the Incubator's financial resources may have been commingled with the Office of Economic Engagement's (OEE's) financial resources. We also found:

- The Incubator does not prepare an annual budget, an omission which undermines best practices for nonprofit organizations.
- The Incubator served as a "fiscal agent" for multiple grants, one of which benefited an Incubator insider, but we are unsure whether Incubator tenant member companies actually benefited from these grants.
- The Incubator has a set of procedures for expenditures, but these procedures do not specify all purchasing practices the Incubator implements, which could lead to expensive purchases for which there is no oversight.
- The Incubator has not complied with nonprofit best practices and IRS guidelines for meal purchases, which has resulted in potential misuse of nonprofit resources and inaccurate state meal reimbursement.
- The Incubator's IRS Form 990 filings have missing information, discrepancies, and non-specific program accomplishments, which may subject the organization to IRS penalties.
- The Incubator is consistently late in filing its annual financial reports with both the S.C. Secretary of State (SOS) and the IRS, behavior which is not a good business practice and may subject the organization to penalties.
- The Incubator does not follow the nonprofit best practice of having a voting member of the board oversee its finances, which may not ensure an adequate level of oversight.

Unclear Memoranda of Understanding

Since 2015, the University, through OEE, has had MOUs with the Incubator that authorize the University and the Incubator to provide/share ideas, resources, and/or personnel time and to collaborate on grant and funding opportunities. Either entity may serve as the prime contractor or subcontractor on specific grants and contracts awarded to the other. The MOUs do not define resources, but these may, by legal definition in Black's Law Dictionary, include money; as such, the financial boundaries between the University and the Incubator are blurry. This open-endedness could potentially enable either party to transfer money or funding to the other without adequate oversight (for an example of potential commingling, refer to *Purchasing Card and South Carolina Business Opportunities Posting Violations*).

Some Financial Figures Taken at Face Value

We were not given unfettered access to the Incubator's financial records. However, we were able to access some of the Incubator's financial records (e.g., some IRS Form 990 filings, SOS annual financial reports, some restaurant receipts, and University travel records) directly or through a third party. The Incubator opted to provide us with copies of other financial records (e.g., general ledger files, financial overview documents, annual audited financial statements, other IRS Form 990 filings, and bank account statements). Therefore, we must accept information we received from Incubator staff at face value. For instance, the general ledger files were generated via QuickBooks®, a program whose audit trail function can be disabled or turned off. Also, the third-party auditor that prepared the Incubator's annual audited financial statements noted it relies on, but offers no opinion as to, the Incubator's internal financial controls.

No Annual Budget Prepared

Incubator staff informed us the organization does not prepare annual budgets but instead relies on sharing expectations and operational results with Incubator board members. Preparation of an annual budget ensures accountability to donors, improves transparency with stakeholders, and improves the organization's overall decision making. An approved annual budget is also required by the Better Business Bureau® (BBB®) as part of its Standards for Charity Accountability. The Incubator's failure to prepare an annual budget does not meet the BBB's nonprofit best practices, nor does it ensure accountability with relation to the organization's financial practices.

Incubator Serving as Fiscal Agent for Grants Benefiting an Insider

Incubator staff indicated that, in recent years, the Incubator has begun serving as a “fiscal agent” for state and federal public grant funds, a role which may not have directly benefited tenant member companies. While for the years of 2019 through 2022, during which the Incubator indicated it spent more than \$2.3 million in programming expenses, 80% of those funds were grants where the Incubator served as the fiscal agent for pass-through funds we are unsure were used specifically for the benefit of Incubator tenant member companies. However, we did find that one of these grants was awarded to a close business affiliate of OEE/Incubator leadership. This grant was for more than \$509,000 in state funds. We asked about competitive bidding for the grant and were informed that the company was “identified as the implementation partner prior to contract execution by [the S.C. Department of Commerce].” The contact person at the S.C. Department of Commerce for this grant was a former Incubator and OEE staff person and, as of 2023, has been employed with the company that received the grant.

Incomplete Expenditure Procedures Document

We asked the Incubator if it had any policies or procedures regarding purchasing and were provided with a document outlining procedures for cash disbursements and accounts payable. We later asked whether multifactor authentication was required when an Incubator credit (or debit) card holder or check writer wanted to make a purchase. We were informed that, “For any charge greater than \$500 by the Operations Manager, there is a verbal approval required prior to purchase.” However, this practice is not outlined in the cash disbursement/accounts payable procedures document. This document also did not specify who is supposed to provide the verbal approval.

We also asked whether the Incubator’s executive director had the authority to make purchases totaling \$500 or more without additional oversight and were informed the executive director has this authority. This practice is also not outlined in the cash disbursement/accounts payable procedures document. Excluding these practices from the Incubator’s purchasing procedures may lead to unnecessary and expensive purchases.

Nonprofit Financial Best Practices and IRS Nonprofit Guidance for Purchase of Meals

Best Practices and IRS Guidance for Purchase of Meals

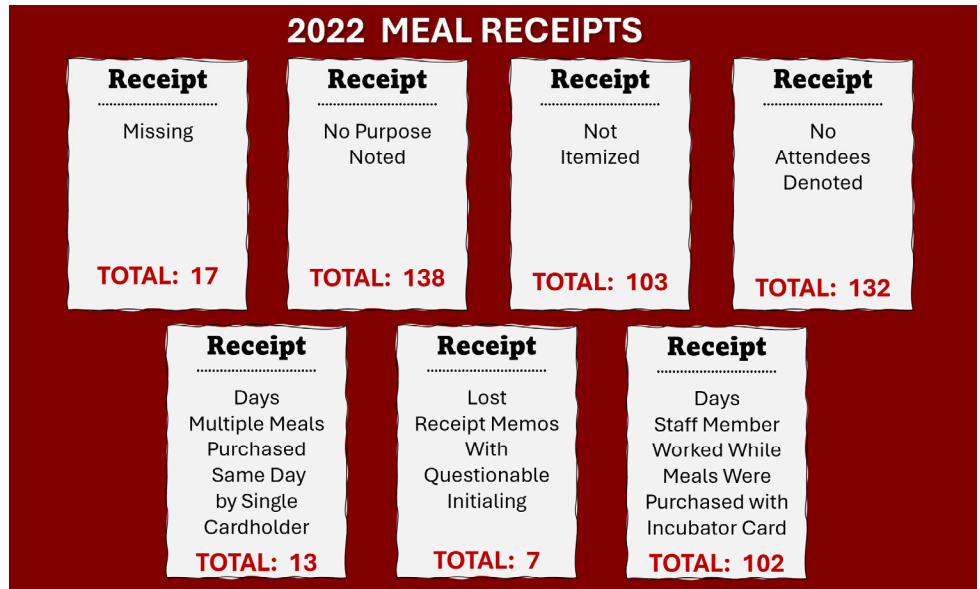
We reviewed best practices for the use of nonprofit debit and credit cards for meals and travel, as the annual meal totals debited to the Incubator's checking account appeared substantial. Best practices, which include recommendations from IRS Publication 463, suggest nonprofits require:

- Itemized bills for all credit and debit card transactions.
- A board member to review transactions and statements for credit and debit card receipts for purchases made by a nonprofit's executive director or president.
- Detailed expense reports and documentary evidence be kept as part of a nonprofit's written records.
- Expense reports that include the business purpose and the people involved.

Meals Analysis, 2018-2023

We analyzed 647 meal purchases made using Incubator debit cards from 2018 through 2023. We also conducted a more in-depth study of meal receipts for the year 2022 and looked at two meal receipts for 2023 since it appeared an Incubator debit card holder used the card for meal purchases while on official University business. Incubator debit cards were authorized for use by the Incubator's executive director and programs/operations managers. Note that the Incubator's most recent executive director was simultaneously an employee of OEE. Through this analysis we found that, between the years of 2018 and 2023, the maximum amount spent in a given year exceeded \$8,700 in 2022, and the maximum number of meal transactions made in a given year was 158 in 2022. Other issues with meal purchases are outlined in Chart 3.1.

Chart 3.1: Issues Identified in 2022 Meal Purchases Made with Incubator Debit Cards



Source: LAC Analysis of Data from Incubator and Data from USC

Non-Compliance with Best Practices and IRS Guidelines for Meal Purchases

In 2022, there were 158 meal-related purchases made using an Incubator debit card. As shown in Chart 3.1, for 2022, 17 (11%) receipts were missing, 103 (65%) receipts were not itemized, 138 (87%) receipts had no documentation on the purpose of the meal purchases, and 132 (84%) receipts had no documentation on the number or names of participants. This lack of documentation does not adhere to best practices for nonprofit organizations with regard to record keeping for financial transactions involving meals and travel and could be considered misuse of nonprofit resources.

A member of Incubator leadership informed us that “receipts are retained and activity reviewed monthly” and that accounts are reconciled monthly. However, there is evidence that Incubator/OEE staff members provided misleading information as to (1) the date two meal-related purchases were made during 2023; (2) the timing of these purchases, such that a “lost lunch receipt” was submitted when the restaurant was not open for lunch; and (3) the number of attendees for one of the purchases. In this instance, an Incubator/OEE staff member who was on official USC business used an Incubator debit card to purchase pre-dinner cocktails and a dinner meal with additional alcohol purchases and subsequently claimed state reimbursement for the meal through the University. This “reimbursement” may have unjustly enriched the meal purchaser. We also found there was no evidence that purchases made by the Incubator’s executive director were reviewed by a board member in accordance with nonprofit best practices.

IRS Form 990 Filings Have Missing Information, Discrepancies, and Non-Specific Program Accomplishments

We reviewed the Incubator’s IRS Form 990 filings for 2012 through 2022 and found the Incubator did not report the existence of the in-kind donation of the building lease in the other expenses category of Part IX in its 2012–2014 IRS Form 990 filings, though it did so for filings in 2015–2022. However, the lease on the building originated in 2004, so we are unsure of the reason for this discrepancy.

We found the Incubator used the same generic verbiage for Part III, Statement of Program Service Accomplishments, Line 4a in each of its 2012–2022 IRS Form 990 filings. IRS Form 990 instructions require all nonprofit organizations to describe their three largest program services as measured by total expenses incurred. Tax professionals recommend nonprofits provide a very specific summary of program accomplishments that includes details on the number of program participants on this line. In none of its IRS Form 990 filings did the Incubator denote the number of program participants nor the names of specific programs offered during a particular calendar year.

The 2015 IRS 990 filing shows the Incubator recorded it paid an individual \$138,750 to manage programs, but this person was actually employed during that time by the University of South Carolina at an annual salary of \$85,000. For 2015, Incubator financial records show it only spent \$52,268 for W-2 staff. We are unsure why the Incubator would have reported it paid the individual in W-2/1099-MISC compensation and whether there was a financial benefit to the organization for having done so. While the Incubator described the purpose of the 2018 and 2021 non-cash contributions in Part IX of its IRS Form 990 filings, it failed to include these descriptions in Part II of Schedule B, which is required. The IRS can assess penalties against nonprofit organizations that submit late filings, incomplete filings, or incorrect filings.

Late State and Federal Financial Filings

In our review of the Incubator’s 2015–2022 Annual SOS Financial Reports for Nonprofits and 2012–2022 IRS Form 990 filings, we found the Incubator consistently filed these documents after the required deadlines, which is not a good business practice and could subject the organization to penalties.

Limited Oversight of Finances

Another BBB best practice for nonprofit organizations is the requirement that a nonprofit board have a voting member oversee the organization’s finances. The Incubator instead uses a part-time chief financial officer to oversee its finances, which may not ensure an adequate level of oversight.

General Revenue and Annual Cost to Run the Facility

The Incubator’s 2019 through 2023 financial overview documents showed it received an average of \$138,750 in local government support and corporate contributions and generated an average of \$256,767 in lease/affiliate revenue annually. Using figures from these same documents, we calculated an average base operating cost to run the building—which includes the cost of goods sold and all other essential operating costs—of \$312,453 annually. Note that we did not include items we considered non-essential (such as meals and travel) or program costs since a number of those were paid using grant funds that passed through the Incubator. While the average annual amount the Incubator receives in lease/affiliate revenue does not cover the base operating cost, the addition of the local government and corporate contributions generally enables the Incubator to cover the cost of operating the building.

Recommendations

15. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured, enter into a memorandum of agreement that expressly prohibits the unjust enrichment of University staff, Incubator staff, and related insiders.
16. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured, enter into a memorandum of agreement that specifies which resources should be shared and how those resources may be used.
17. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured, enter into a memorandum of agreement that requires the Incubator to establish and enforce a comprehensive set of purchasing procedures.
18. If the University of South Carolina continues to allow private, independent organizations such as the USC/Columbia Technology Incubator to use University resources, the University should implement controls to ensure the University accounts for the value of those resources and is reimbursed in full.

USC/Columbia Technology Incubator Staffing

In reviewing the relationship between the Office of Economic Engagement (OEE) and the USC/Columbia Technology Incubator (Incubator), we found inadequate oversight by the University regarding staffing, which may have led to problematic commingling of staffing resources, questionable compensation payments by the Incubator, inconsistencies in compensation by and staffing records of the Incubator, and unclear boundaries for the employment and compensation of interns between OEE and the Incubator. We found:

- Full-time, onsite management of the Incubator by an executive director has morphed into part-time management of the Incubator, which may have contributed to a reduction in the quality of programming.
- The shift in the Incubator from a university-affiliated venture to a nonprofit organization has resulted in the creation of unusual hybrid positions that require full-time university employees to conduct part-time work for a nonprofit organization. This makes it difficult to ensure accountability of the tasks required of the affected employees.
- Full-time, paid work was required or reported for two years for the same employee to direct OEE and the Incubator simultaneously. If the employee actually performed both jobs full-time, it may have affected the employee's effectiveness in directing both organizations.
- Based on the categorization of payments to regular staff members in the Incubator's general ledger files, we could not determine how much each of these staff members was paid in a given year.
- There were inconsistent records regarding staffing and pay of Incubator interns, which suggests inadequate record-keeping practices on part of the Incubator.
- There are unclear boundaries between the Incubator and OEE in terms of the employment and compensation of interns. It appears OEE and the Incubator can move the assignment and pay of interns as is convenient. This may have resulted in commingling of public and private funds.

General Staffing Structure and Changes Over Time

Staffing of the Incubator has evolved over time but has generally included people serving in the following functional roles:

Executive director.
Program logistician.
Program/operations/communications and/or managing director.
Entrepreneur-in-residence.
Associate director.
Part-time chief financial officer.
Finance and operations employee.
Student interns.

The employment capacity and onsite presence of the Incubator’s executive director appear to have changed over time. From 1998 through 2011, before the Incubator became a nonprofit organization, the executive director served onsite in a full-time capacity and had the assistance of a program logistician who eventually became the Incubator’s director of operations. However, the full-time presence of an executive director ceased after the Incubator became a nonprofit organization. We reviewed the IRS Form 990 filings from 2012 through 2022 for the Incubator and learned that, by 2015, the hours required of the executive director were reduced, and a program/operations/communications/managing director began serving at the Incubator in a full-time capacity (Chart 3.2).

Chart 3.2: Change in Hours Per Week Required of Incubator Leadership Per IRS Form 990 Filings

CALENDAR YEAR	HOURS PER WEEK FOR EXECUTIVE DIRECTOR	HOURS PER WEEK FOR PROGRAM / OPERATIONS / COMMUNICATIONS / MANAGING DIRECTOR
2012	40	N/A
2013	40	N/A
2014	40	N/A
2015	1	40
2016	10	40
2017	20	20
2018	20	N/A
2019	20	N/A
2020	20	N/A
2021	20	N/A
2022	10	N/A

Source: LAC Analysis of IRS Form 990 Filings

While after 2017 the Incubator did not report on its IRS Form 990 filings payment of a full-time program director, we know that a person served in this role from approximately June 2016 until January 2023. We are unaware of whether the program director's full-time service was supposed to supplant the need for the executive director's full-time presence at the Incubator. However, the executive director—per the Incubator's bylaws—is responsible to the board of directors for the operation of Incubator programs and has administrative responsibility for the Incubator. During the audit, we were told by members of the Incubator board that the Incubator had lost programs or that the programming used to be “better,” both issues which may be the result of the loss of full-time leadership by an executive director (refer to *USC/Columbia Technology Incubator Board*).

Minimal Onsite Presence Due to Hybrid Roles of Incubator Leaders

The change in weekly service time of the Incubator's executive director may have stemmed from the fact that, in 2013, the Incubator's then-executive director was hired to serve as the executive director of the University's newly formed OEE (where the job location was the university's Osborne Building). OEE required its new executive director to “work in close cooperation with...the USC-Columbia Technology Incubator” but to serve in a full-time position with the University. This created an unusual situation where a full-time state employee (Employee One) was also working on behalf of a nonprofit organization. In 2017, the Incubator's executive director position was assumed by a different individual (Employee Two) who was also employed with OEE. Employee Two's OEE job duties required the person to “manage USC/Columbia Technology Incubator Staff as Executive Director.” This created a second instance where a full-time state employee was working on behalf of a nonprofit organization. Once Employee Two became the executive director of the Incubator, Employee One became the chair of the Incubator's board of directors.

In September 2023, we were informed that the amount of time Employee One contributed to the Incubator was approximately 5-10% of his/her time and that Employee Two contributed approximately 10-15% of his/her time to the Incubator. Assuming both employees worked the University-required 37.5-hour work week they were assigned, this would equate to approximately 1.875–3.75 hours and 3.75–5.625 hours per week that each would have respectively contributed to the Incubator. This amount of time is so miniscule that it does not instill confidence in the adequate oversight of Incubator programs and administration, both of which are requirements of the Incubator's bylaws. The minimal amount of time spent at the Incubator by Employees One and Two was also corroborated by both Incubator tenant member companies and other persons familiar with the Incubator. The nature of these hybrid positions makes it difficult to ensure both of the affected employees are accountable for all of the tasks they are assigned by both OEE and the Incubator.

Full-Time Work at Two Different Locations by Same Employee

As stated above, in 2013, Employee One began serving in dual executive director roles for both OEE and the Incubator. The Incubator's 2013 and 2014 IRS Form 990 filings show that Employee One was paid more than \$120,000 for each of those years to serve as the Incubator's full-time executive director. However, beginning in 2013, Employee One was hired to work full-time for OEE for a salary of \$125,000. Employee One remained the OEE executive director until February 2024. It is unlikely a single employee would simultaneously serve in and be paid for full-time positions at two different organizations and calls into question the effectiveness such employee would have in directing either organization.

Unclear Payments to Staff

The Incubator contracts with a vendor to manage its payroll processing and uses the name of that business to categorize payments to "regular" Incubator staff members (meaning those staff who are not interns or contractors) in the organization's general ledger files. As the names of regular staff members are not included in the operations (salary) lines of the general ledger files, there is no way to verify how much these employees were actually paid during a given year.

Inconsistent Staffing and Pay Records for Interns

During our review of the Incubator's general ledger files for 2018 through 2023, we found that multiple people the Incubator paid as interns were not included in the lists of employees the Incubator provided to us. We also found no evidence in the Incubator's general ledger files that five people included on the Incubator's lists of staff were paid by the Incubator for their services. One person we were told was an Incubator intern and had access to an Incubator debit card was not included in the lists of employees the Incubator provided. Additionally, we found that the Incubator provided salary information for at least one intern that was not consistent with information we found in our review of e-mails between members of Incubator leadership.

Unclear Boundaries Between OEE and Incubator for Employment and Payment of Interns

Through our review of University e-mails, we found there were unclear boundaries between the Incubator and OEE regarding employment and compensation of interns. One such e-mail showed that, at the request of a member of OEE leadership, two OEE interns whose status as students was set to expire—meaning that USC could no longer pay them—had their employment extended through funds provided by the Incubator. We do not know what, if any, Incubator services were provided by these individuals. Another e-mail sent by OEE/Incubator management indicated that Incubator interns are paid “out of USC” even though the Incubator provided other evidence to show that it pays for interns’ work. Collectively, this gives the appearance that OEE and the Incubator can move interns and payment of those interns around as is convenient. This is a questionable business practice, as funds between the public entity (OEE) and the private entity (Incubator) could become commingled.

Recommendations

19. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured, prohibit University employees from working at the Incubator absent a memorandum of agreement that requires full reimbursement of University staff time.
20. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured, prohibit University employees from serving as the executive director and/or deputy director of both a University department or unit and the executive director of a nonprofit business incubator.
21. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured, enter into a memorandum of agreement that prohibits the commingling of University and Incubator funds used to pay the salaries of interns.

USC/Columbia Technology Incubator Tenant Member Companies and Programs/Services

There is evidence of inadequate oversight by staff of the Office of Economic Engagement (OEE) who were working at the USC/Columbia Technology Incubator (Incubator). This lack of oversight has contributed to issues including tenant recruitment, Incubator programming, and tenant graduation.

We reviewed information from the University of South Carolina's (USC's) Central Authentication Service/PeopleSoft® system, University e-mail correspondence, former versions of the Incubator website, tenant member company information provided by Incubator staff, and University human resource documents; surveyed representatives of current and former Incubator tenant member companies; interviewed persons familiar with Incubator operations; and conducted several site visits to the building housing the Incubator facility. We found:

- The Incubator charged USC a significantly higher per-square-foot rental rate for space in the building to house an iCarolina computer lab than the standard rental rate.
- The Incubator has no set policy for adjusting rental rates, resulting in inconsistent square footage rental rates.
- Incubator management reported that, for the period of July 2017 through June 2022, only 14 (16%) of the active tenant member companies graduated (meaning they raised a round of capital, had a board of directors in place, created a steady flow of revenue, and left the building), and more than a third of the tenant member companies simply left.
- Incubator tenant member companies have occupied the Incubator well beyond the maximum 48-month allowable time frame, with some having been occupants for more than a decade. In addition, the Incubator had a tenant member company recruitment rate of 1.4 businesses per year from 2013 through 2023.
- The effectiveness of the Incubator's programs/services is questionable, in that few tenant member companies are graduating, tenant member companies are staying too long, not enough effort is being made to engage Incubator alumni, mentoring opportunities by the Incubator's executive director are few, and record keeping as to events/programs is poor.

- The University has provided inadequate oversight of OEE staff who are responsible for management of the Incubator and Incubator programming, which may have resulted in few mentoring opportunities and/or contributed to the stagnancy of tenant member company occupancy and low graduation rate of tenant member companies.
- The majority of the tenant member companies housed at the Incubator as of October 2023 did not offer technology-based products or services as mandated by the Incubator’s bylaws. While the Incubator indicates on its website that nonprofit organizations are not eligible tenant member companies, there were at least five such tenant member companies as of May 2024.
- The Incubator has not confirmed that all tenant member companies have liability insurance as required by their leases. There is no requirement in the lease agreements for tenant member companies for those companies to participate in programs or services, which may result in companies not being motivated to migrate from the Incubator.

Inconsistencies in Rental Rates, Lack of Rental Rate Adjustment Policy

The per-square-foot rental rate charged to the University for the iCarolina computer lab space at the Incubator was \$20, which was five dollars more than the standard rental rate of \$15 per square foot. USC paid for three years’ worth of rent for the lab in one lump sum installment of \$190,200 in federal grant funds (for more information on the iCarolina computer labs, refer to *Governor’s Emergency Education Relief Grant*). We are unsure why the Incubator would have charged USC a higher per-square-foot rental charge for the iCarolina computer lab spaces.

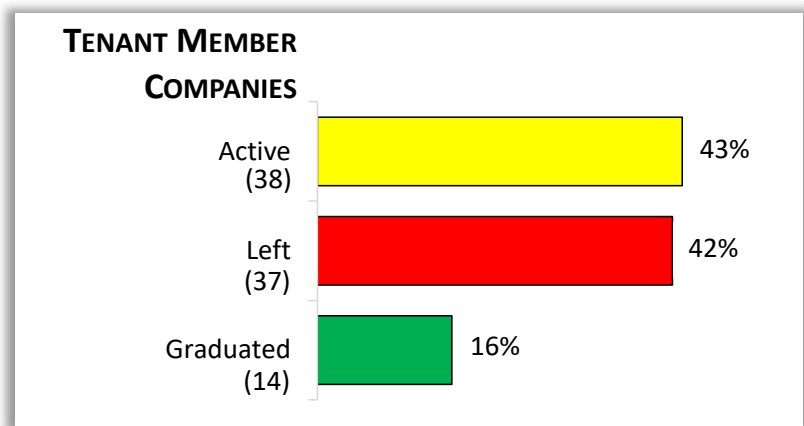
We were also informed by Incubator staff that although there is no policy regarding adjusting rental rates, the Incubator executive director has the sole discretion to set rates that differ from the standard rental rate. From 2013 through 2023, the Incubator allowed eight different tenant member companies to pay a reduced rental rate. One such reduction was made at the request of the City of Columbia, and another reduction was made due to the impact that the COVID-19 pandemic had on one of the tenant member companies. Had other tenant member companies been aware that a reduced rental rate may have been available—especially during the COVID-19 pandemic—more companies would likely have taken advantage of that option. An eligibility policy for payment of a reduced rental rate would ensure consistent application.

Low Graduation Rate

Historically, the Incubator utilized an advisory committee to select startup companies for Incubator admission, and the Incubator assigned tenant member company leases a 36-month target for graduation. When it determined tenants were not making sufficient progress, this committee would terminate those tenants' leases. Upon becoming a nonprofit organization in 2011, the Incubator included in both its bylaws and articles of incorporation a provision limiting a tenant member company's occupancy to a period of 36 months, with limited exceptions for not more than an additional 12 months. The Incubator's bylaws also required the formation of an Incubator "advisory board," whose function was to advise the board of directors as to the admission of startup companies, and to advise periodically on each company's continued occupancy at the Incubator facility. In late 2023, we were informed by Incubator staff that the advisory board had not been in existence for "quite a while."

We analyzed the July 2017 to June 2022 active tenant roster for the Incubator and determined that the Incubator had a total of 89 tenant member companies, of which only 14 (16%) had graduated, while 37 (42%) simply left and 38 (43%) were still active. Chart 3.3 illustrates these statistics.

**Chart 3.3: Status of
July 2017 – June 2022
Incubator Tenant Member
Companies**



Note: Percentages have been rounded to eliminate decimal points.

Source: LAC Analysis of USC/Columbia Technology Incubator Data

Tenant Member Companies Exceeding Allowable Occupancy Time Frame, Low Recruitment Rate

We also analyzed the longevity of tenant member companies listed on the July 2017 to June 2022 Incubator’s active tenant member company roster that were still occupying space at the Incubator as of October 2023, as well as Incubator floorplans and a 2023 local commercial office market report. We found that:

Of the 38 tenant member companies listed on the prior roster who were still active tenants in October 2023, 37% of them had been occupants for more than 10 years.

More than three-fourths of the 38 noted tenant member companies had been occupants of the building for more than three years.

Only 14 companies appeared to join the Incubator at some point between January 2013 and October 2023, which equates to a recruitment rate of 1.4 new businesses per year. From 2019 through 2023, the Incubator only spent an average of \$620 to market its services, and only 44% of the quantifiable rental space in the building housing the Incubator was being rented as of December 2022.

The Incubator, which is considered a Class C level commercial property, offers rental space at a standard rate of \$15.00 per square foot, which is at least \$5.00 less per square foot than the standard Class C commercial rental rate in the Columbia market.

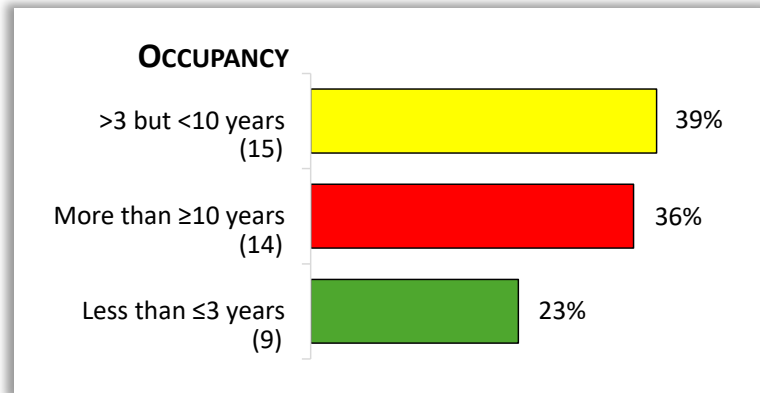
For more information on tenant members companies staying beyond the allowable time frame, refer to *USC/Columbia Technology Incubator Board*.

The Incubator appears to be little more than a below-market rate rental location unable to fulfill its purpose in part due to:

- The failure of the Incubator to utilize an advisory board or committee to review the progress of tenant member companies and to enforce maximum occupancy timeframes.
- A failure to emphasize recruitment.
- Disproportionately low expenditures for marketing the Incubator’s services.

These failures, resulting in less than half of the quantifiable rental space in the Incubator building being rented as of December 2022—coupled with the fact that the Incubator’s standard rental rate is considerably lower than the standard rental rate for like properties in the Columbia area market—have resulted in tenant stagnancy. This does not comply with incubator best practices for the length of time a company typically spends as part of a business incubator, which historically has been two to three years but has, in recent years, been shortened to six months to two years. Chart 3.4 illustrates occupancy statistics for active tenant member companies.

Chart 3.4: Length of Occupancy of Active Tenant Member Companies Still at Incubator in October 2023



Note: Percentages have been rounded to eliminate decimal points.

Source: LAC Analysis of USC/Columbia Technology Incubator Data

Questionable Effectiveness of Incubator Programs/Services

Incubator management provided us with a list of the programs and services the organization provides. Some are solely provided by the Incubator, some are solely provided by other community partners—such as APEX, Small Business Development Centers (SBDC), Service Corps of Retired Executives (SCORE), South Carolina Research Authority (SCRA), and SC Launch—and some are provided by the Incubator and the community partners jointly. The Incubator indicated it solely provides office space, peer support, and an alumni network but works with the community partners to provide mentorship, networking opportunities, business development support, education and training, and access to technology and resources. Programs/services provided solely by the community partners include access to funding, legal and regulatory guidance, administrative services, market research and analysis, access to government programs, and exit strategy planning.

Poor Record Keeping

The low graduation rate and ten-plus year tenure of a number of Incubator tenant member companies bring into question the effectiveness of programs and services the Incubator is providing. While the Incubator claims it offers an alumni network, it admits that it “could do a better job with that.” The Incubator appears to be relying heavily on community partners to provide programs and services for tenant member companies. While having access to such organizations is beneficial, the Incubator itself could be providing some of these same activities if it had a more dedicated leadership presence onsite. A lack of onsite leadership (refer to *USC/Columbia Technology Incubator Staffing*) and relying on other entities to provide the majority of programs/services give the appearance that Incubator management is inadequately focused on activities that would benefit the tenant member companies.

We asked Incubator staff to indicate the types of records it keeps concerning the programs and events it offers. Such records may include syllabi/agendas, participant rosters, and documentation of USC or Incubator staff members’ time spent conducting each program or event. We were informed that the Incubator facilitates much of its programming through third parties and does not always obtain or retain copies of the presentations. While we did receive copies of nine different program presentations, we did not receive any documentation of program or event agendas, rosters, or USC/staff members’ time spent conducting programs or events. This makes it difficult to discern whether the Incubator is providing an adequate or reasonable number of business support activities, which are the most important services of an incubator.

Inadequate Oversight of OEE Staff Managing Incubator and Incubator Programs

We reviewed Employee Performance Management System documents for an OEE staff member whose University job duties required service as the Incubator’s executive director. This position is responsible for management of the Incubator, specifically to:

- Provide mentoring and startup support for company formation, company funding, and product launch.
- Direct strategic planning and management of incubator programs. Follow industry best practices to facilitate incubation from [company] recruitment through program graduation or exit.
- Direct communications and outreach about incubator programs and members.

For every year from 2018 to 2023, the noted OEE employee received a rating of “exceptional” for management of the Incubator. However, we found evidence that there were likely limited opportunities for mentoring of Incubator tenant member companies, the recruitment rate for the Incubator was low, and little money was spent to market the Incubator. To ensure vital Incubator programming is implemented, the University should provide additional oversight of OEE staff who are responsible for directing the Incubator.

**Majority of Incubator
Tenant Member
Companies Not
Technology-Based,
Ineligible Nonprofit
Organizations
Renting Space**

Of the 49 tenants listed on the Incubator’s building roster in October 2023, 65% of them did not offer technology-based products or services. Not only is this in opposition to the name of the facility indicating it is a “technology incubator,” it also is contrary to the Incubator’s bylaws, which require the Incubator to “admit uniquely innovative and high tech [*sic*] companies.”

This implies that the Incubator is less selective of the types of companies that may be accepted as tenants. We also found there were at least five nonprofit businesses operating in the Incubator as of May 2024, though the website for that month clearly states that nonprofit organizations are ineligible Incubator businesses.

**Lease Terms Not Being
Enforced and Leases
Do Not Require Tenant
Member Company
Participation**

Through a review of Incubator leases and our survey of tenant member companies, we found that the Incubator does not always request that tenants show proof of liability insurance, though such insurance is required by Incubator leases. The Incubator’s failure to ask for proof of tenant member companies’ liability insurance policies is not a good business practice and may lead to legal complications should a tenant loss or injury occur. Also, there is nothing in Incubator lease terms that requires tenant member companies to attend or participate in Incubator programming, networking, or seminars. Including such a requirement in the Incubator tenant member company lease terms could improve the Incubator’s development of startups and propel those companies towards graduation.

Tenant Member Company Observations

We requested a roster of tenant member companies who occupied the Incubator at any point between January 2013 and June 2022. We received a list of 89 “active” tenant member companies for July 2017 through June 2022, but accurate contact information was not provided for all parties. We conducted onsite or telephone surveys with 8 of 38 current and 4 of 51 former Incubator tenant member companies. While we acknowledge the response rate was low, we nonetheless believe feedback we received was noteworthy. For our onsite interviews, we visited the Incubator facility on three separate occasions, each during a different time of the day in order to maximize participation. However, each time we visited the facility, we saw few people, and only a few businesses spoke with us each time. This suggests that the Incubator may not be functioning as a true networking space where tenants interact with one another (refer to *Physical Plant and Health and Safety Conditions at the Incubator Facility*).

Both the current and former tenant member companies we surveyed indicated that they learned about the Incubator from a friend or relative, another Incubator tenant member company, a web search, or a referral from USC. Both groups told us they chose to join the Incubator due to the facility’s physical location and/or the low-cost rent.

Among the positive factors Incubator tenant member companies cited were:

Services (e.g., accounting, legal services, counseling, and fundraising).

Provision of conference rooms/private meeting facilities.

Connection to other startups and to USC.

A collaborative environment.

Training classes, networking, and seminars.

Limited public access/entry to the building.

Both current and former Incubator tenant member companies reported some negative observations concerning the Incubator, including the following:

Numerous facility maintenance and safety issues.

Tenant member companies not informed as to available programs/services.

Building condition makes bringing people to facility embarrassing, or tenant member companies avoid bringing people to building.

Programming reduced after COVID-19 pandemic.

Tenant member companies not participants in programs/services.

Recommendations

22. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured, enter into a memorandum of agreement that provides for the University to ensure that the Incubator establishes a rental rate policy.
23. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured, provide more direct oversight of staff responsible for the management of the Incubator, to include, at a minimum, evaluation of programs and services offered and assessment of tenant member company engagement.
24. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured, include in the position descriptions and performance assessment documents for University staff who work at the Incubator specific metrics as to mentoring sessions, startup recruitment, and graduation of tenant member companies.
25. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured, enter into a memorandum of agreement that provides for the University to ensure that tenant member companies admitted to the Incubator are limited to technology-based startups.
26. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured, enter into a memorandum of agreement that provides for the University to ensure that Incubator lease agreements require tenant member companies to participate in some level of Incubator programs and events and confirm tenant member companies carry the mandated liability insurance.

Business Incubator Best Practices

In reviewing the relationship between the Office of Economic Engagement (OEE) and the USC/Columbia Technology Incubator (Incubator), we found that:

- The Incubator fails to meet some best practices criteria of the Better Business Bureau’s Standards for Charity Accountability.
- The Incubator’s structure is an unusual hybrid that reflects elements of both a university-based business incubator and a private business incubator.

This makes it difficult to discern the boundaries between the University and the Incubator, which may negatively affect oversight and accountability.

Assessment of Incubator’s Adherence to Best Practices for Business Incubators

We reviewed best practices for business incubators in terms of what they are designed to do, what they should offer, how long their programs run, how they remain sustainable, and how they evaluate themselves to determine whether the Incubator met these general best practices.

Business Incubator Best Practices

What They Do
<i>1. Enhance economic development – CANNOT BE DETERMINED</i>
The Incubator did not include information on its May 2024 website concerning the cumulative number of companies that have graduated, where those businesses are now, and/or how many jobs the graduate companies have established in the local economy. It also does not routinely complete an annual report but did compile data for half of 2018 for Incubator active tenant member companies only. The Incubator appears to be generating economic development by serving as a hub for several startup companies, but due to data gaps we are unable to determine the full extent to which the Incubator is contributing to local economic growth.
<i>2. Promote growth of businesses focusing on emerging technologies or commercialization of university-type research – DID NOT MEET</i>
We found evidence that only 14 (16%) of the 89 tenant members active at the Incubator between July 2017 and June 2022 graduated, and 65% of the 49 tenant member companies as of October 2023 did not offer technology-based products or services.

What They Should Offer	
3. <i>Office space</i> – MET	
	The Incubator provides office space at a reduced rental rate per square foot.
4. <i>Mentorship by more experienced entrepreneurs/advisors</i> – DID NOT MEET	
	While the Incubator currently has an interim executive director who is described on the Incubator’s website as “a serial entrepreneur,” the most recent executive director—who should have been responsible for providing mentoring to tenant member companies—spent few hours each week at the Incubator, which gives the appearance that this element was not met.
5. <i>Access to capital</i> – MET	
	While we heard from two former tenant member companies that they had access to fundraising, we are unaware of the Incubator providing direct access to capital. The Incubator informed us that it relies on a number of support companies to provide this service, and we found evidence that at least one of those companies provided funding.
6. <i>Regular networking opportunities</i> – CANNOT BE DETERMINED	
	Per the Incubator’s year-end financial reports, expenses for events such as network socials and member showcases have fallen off in recent years. We cannot discern whether the Incubator met this best practice.

Length of Stay	
7. <i>Two to four years for a nonprofit Incubator that is medium growth, self- or debt-funded, focuses on technology, and has an academic institution or corporate body as a parent organization</i> – DID NOT MEET	
	The Incubator’s bylaws and articles of incorporation require the organization to limit occupancy for tenant members to a maximum of 36 months with limited extension exceptions for not more than an additional 12 months. While we were told that the Incubator’s former advisory board would terminate tenant lease agreements for companies not making any progress, it appears that this has not been done in recent years, as we know that 76% of tenants still occupying space at the Incubator as of July 1, 2023, had been occupants for more than three years. We have also been informed by persons familiar with Incubator operations that the Incubator has been reduced to or simply serves as a below-market rate real estate program. By allowing the indefinite stay of tenant member companies, the Incubator has not functioned as a true Incubator and has therefore not met the Incubator best practice for length of tenancy.

How They Remain Sustainable	
8. Implement a structure for financial stability – MET	
	While the 2022 audited financial statement for the Incubator showed a negative cash flow, financial statements for 2018 through 2021 showed that the Incubator was not operating in a deficit. As such, we believe the Incubator has maintained some financial stability in recent years.
9. Retain and adequately compensate management having requisite entrepreneurial skills – DID NOT MEET	
	While the Incubator commenced operations under a full-time executive director who was an experienced entrepreneur, it had, until recently, been operating under a part-time (non-interim) executive director who is not an experienced entrepreneur. As such, the Incubator did not meet this best practice for sustainability.
10. Prioritize assistance to tenants – CANNOT BE DETERMINED	
	While we are aware that the Incubator has previously surveyed its tenant member companies as to the perceived value they receive as members, we have found no evidence that the Incubator has published the results of these survey questions. We know of instances where tenants complained about conditions of the facility or offered to assist in the provision of programming, but Incubator management did not take any action. However, we also know of instances where Incubator staff sufficiently assisted and addressed tenants' concerns. Therefore, we are unable to determine whether the Incubator met this best practice.
11. Lead programming, business development, and marketing – DID NOT MEET	
	While the Incubator indicates it provides programming, business development support, and go-to-market strategies, the low graduation rate and the ten-plus year tenure of a considerable number of Incubator tenants bring into question the effectiveness of Incubator programs and services. As such, we assert that the Incubator has not functioned in a sustainable fashion with regard to this best practice.
12. Prepare a budget – DID NOT MEET	
	The Incubator informed us that it does not prepare annual budgets; as such, it did not meet this best practice for sustainability.
13. Staff the organization with experienced entrepreneurs – DID NOT MEET	
	The Incubator has employed a number of staff to direct programming or act as a managing director for tenant member companies. Staff working in these roles after 2017 did not have entrepreneurial experience. As such, the Incubator did not meet this best practice.

<p>14. <i>Be connected to a parent organization (e.g., university, corporation, or angel group)</i> – CANNOT BE DETERMINED</p>
<p>While the Incubator claimed that it is a “standalone 501(c)(3)” (and a University official similarly claimed that the University is not affiliated with the Incubator), the Incubator has historically had, and continues to have, a significant connection to the University. For instance, the Incubator’s 2013 website indicated the Incubator was “sponsored by USC”; in its 2022 digital booklet, the University noted that a \$200,000 Truist grant was awarded to OEE for workforce development, though the money was actually awarded to the Incubator; and the Incubator’s 2021-2022 strategic plan indicated that “the University of South Carolina provides significant administration, staffing, and management support [to the Incubator].” The contradictory statements given by Incubator and University representatives and overlapping information included in Incubator and University documents make it impossible for us to determine whether the University has served as a parent organization to the Incubator.</p>
<p>15. <i>Be connected to a funding organization (e.g., an institution that provides funds to develop incubators or that helps develop early-stage capital for startups located at incubators)</i> – MET</p>
<p>The Incubator has historically received and continues to receive funding from private donors and local governmental entities. As such, we believe it met this best practice.</p>
<p>16. <i>Be connected to other startup entrepreneurs (e.g., alumni, the community, and students)</i> – MET</p>
<p>We found evidence that the Incubator has, at times, connected tenant member companies with community entrepreneurs. The Incubator also houses two companies run by USC students and offers experiential learning as part of USC student course work with the Darla Moore School of Business. As such, we believe the Incubator met this best practice.</p>
<p>17. <i>Be connected to community resources</i> – MET</p>
<p>According to its staff, the Incubator connects its startups with a number of community resources—such as APEX, SBDC, SCORE, SCRA, and SC Launch—which constitutes a sustainable Incubator best practice.</p>
<p>18. <i>Effectively screen applicants and preselect high-tech businesses</i> – DID NOT MEET</p>
<p>The Incubator previously utilized an advisory board to screen applicants for entry into the facility, but these decisions are now made solely by the Incubator’s executive director or programming director. As the advisory board has been dissolved and the majority of the types of businesses that are member companies are not tech-related, the Incubator has not followed the best practice of screening or preselecting tenants to ensure sustainability.</p>

<p>How They Evaluate Themselves</p>
<p>19. <i>Assess number of jobs created and sustained, sales revenue, number of startups accepted, total investment attracted, number of partners, and number of in-state applications</i> – CANNOT BE DETERMINED</p>
<p>We are unable to determine whether the Incubator has cumulative figures for this data. However, the Incubator previously reported on some of this data, including the cumulative number of jobs created. The last known annual report for the Incubator was for 2019, but the wording of that document makes it impossible to determine whether the data is only relevant to active tenant member companies for 2019 or whether it is cumulative and includes companies that have graduated. As such, we cannot determine the Incubator’s performance as to this best practice.</p>

Other Considerations
20. <i>Support the alumni network</i> – CANNOT BE DETERMINED
We asked Incubator staff whether the organization had engagements with Incubator alumni and were informed (as mentioned earlier) that, “We could do a better job with that.” This does not instill confidence in the Incubator’s support of its alumni network. As such, we cannot determine if the Incubator met this best practice.
21. <i>Solicit startup founder feedback</i> – MET
We found evidence that the Incubator surveyed its tenant member companies, but the last time it did so was in 2018. These surveys included questions on financial and job statistics, as well as questions on the perceived value of the Incubator and its offerings. While it appears the Incubator attempted to collect startup founder feedback, we are unaware of the tenants’ responses to the survey questions and whether the Incubator used the feedback to make improvements to the organization’s services.

The Incubator did not meet 8 of 21 best practices principles for business incubators, which may suggest that the organization has not been functioning as a legitimate business incubator.

Non-Conformance to Typical Business Incubator Models

Types of Business Incubators

We reviewed information published by UBI Global in its *World Rankings 21/22 Report* on the different types of business-related incubators and learned that there are:

- University incubators, which derive their business objectives from and are operated and primarily financed by one or more universities;
- Public incubators, which derive their business objectives from and are operated and primarily financed by one or more public entities;
- Private incubators, which independently develop their business objectives and operate autonomously and finance their own operations; and
- Corporate incubators, which derive their business objectives from and are operated and primarily financed by one or more for-profit corporations.

Researchers estimate that one-third of all business incubators are based at universities.

Incubator Does Not Fit Typical Model of Business Incubator

The Incubator appears to constitute a hybrid model of business incubator that fits elements of both a university-based business incubator model and a private business incubator model (Chart 3.5).

Chart 3.5: USC/Columbia Technology Incubator Is a Hybrid Business Incubator Model

		USC/ COLUMBIA TECHNOLOGY INCUBATOR ATTRIBUTES
UNIVERSITY MODEL	Business Objectives are Determined by University	X
	Operated by University	In Part
	Primarily Financed by University	In Part, Not Primarily
PRIVATE MODEL	Independently Develops Business Objectives	✓
	Operates autonomously	In Part
	Finances Own Operations	In Part

Source: LAC Analysis of UBI Global *World Rankings 21/22 Report* (2nd Edition, May 2023)

This overlap—along with the blurred boundaries between the University and the Incubator due to the presence of memoranda of understanding (MOUs) with the University, numerous examples of the Incubator’s continued functioning as an arm of the University, and the circumstance of having public (OEE) employees working for a private foundation (refer to *USC/Columbia Technology Incubator Staffing*)—makes discernment of the roles, responsibilities, and goals of each entity nearly impossible. This type of hybrid and openended relationship—coupled with the lack of full-time, onsite leadership—reduces oversight and accountability, creates an unclear chain of command, and weakens any internal controls and consistent implementation of established policies. All of these issues increase the possibility of mismanagement.

Recommendations

27. The University of South Carolina should, if it is to continue to lend its name, staff, and prestige to a business incubator, operate and fund such incubator as an official division of the University.
28. The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured, enter into a memorandum of agreement that ensures the Incubator functions as a business incubator and follows best practices, such as staffing the organization with experienced entrepreneurs, effectively screening applicants, and preselecting high-tech businesses.

Overview of South Carolina Research Foundation

In reviewing the relationship between the Office of Economic Engagement (OEE) and the South Carolina Research Foundation (SCRF), we found inadequate oversight by University of South Carolina (USC) staff over its affiliation with the Foundation, which may have led to potential violations of law, failure to conform to legal agreements, and misalignment with best practices.

- SCRF failed to comply with its bylaws, which could constitute grounds for administrative dissolution as a nonprofit organization.
- SCRF allowed an OEE staff member to sign agreements on behalf of the Foundation without proper signatory authority, which could result in legal or financial ramifications.
- SCRF failed to comply with the South Carolina Nonprofit Corporation Act, which could make the Foundation subject to administrative dissolution as a nonprofit organization.
- SCRF failed to reimburse the University for time provided by a USC staff member performing SCRF functions.
- SCRF did not comply with best practices for board meetings, which made it impossible to determine whether a quorum was present. As such, we could not determine whether votes could legally be taken during four board meetings conducted from 2017 through 2020.
- SCRF did not adhere to the Better Business Bureau's nonprofit best practice of evaluating the performance of the organization's executive director at least once every two years.
- SCRF did not follow Internal Revenue Service (IRS) requirements for program service accomplishments in its Form 990 filings for FY 15-16 through FY 22-23, which could subject the Foundation to penalties.
- The wording of the Foundation's bylaws can be interpreted to enable the executive director of SCRF to set and approve his/her own salary, which could result in financial abuse.
- The University's webpages for the SCRF description and SCRF board of directors reflect incorrect information.
- SCRF did not ensure all members of its board of directors completed conflict of interest statements in 2021.

Purpose, Controls, Policies and Procedures, and Financial Information

Purpose

SCRF, a tax-exempt public charity under Internal Revenue Code Section 501(c)(3) and a South Carolina nonprofit corporation, acts as a pass-through organization for the University to accept grants for eligible nonprofits and assists with the transfer and commercialization of intellectual property duly licensed and used by USC faculty, staff, or students. The current SCRF services agreement with the University requires SCRF to “provide support to leverage existing research network contacts, research opportunities and funding to support research for the University's research community to help expand and grow the research network and further move the University as a leader in higher education research.” SCRF claims that it provides “significant flexibility or enhanced ability” for such areas as joint ventures, intellectual property management and commercialization, and research support services.

SCRF and the University have two agreements: an affiliation agreement and a services agreement. The affiliation agreement delineates the roles of the Foundation and the University in an effort to ensure each organization remains independent, with SCRF being the supporting organization and USC being the supported organization. SCRF may serve as the prime contractor for the University for sponsored research agreements and assists with the transfer and commercialization of intellectual property, technology, and materials. The services agreement outlines the duties of SCRF and the University. SCRF must reimburse the University for expenses paid on behalf of the Foundation, and the University must, in turn, contribute to SCRF annually an amount equivalent to the value provided by the Foundation until such time that the Foundation becomes self-supporting. For FY 20-21 through FY 22-23, this amount was \$235,000 annually; for FY 23-24, this amount was \$180,000. SCRF has been in existence since 1991, but it is not currently self-supporting.

Controls

SCRF informed us that it exercises the following internal controls:

- Bank reconciliations, with limited check writing authority.
- Annual financial statements.
- An information system.
- Record retention.
- Entity level controls walkthrough, which includes a requirement for Foundation management and board members to report on conflicts of interest—or lack thereof—annually.
- Financial reporting.
- Grant management walkthrough.

Policies and Procedures

In January 2024, we received a copy of a policy the University had begun drafting concerning the governance of its relationship with foundations and affiliated entities. SCRF is one such affiliated entity. The policy, which was adopted in May 2024, requires an affiliated entity to:

- Maintain tax-exempt status.
- Have governing documents stating the entity operates exclusively for the benefit of or to execute the mission of the University.
- Ensure its governing board is comprised of a majority of non-University representatives.
- Upon dissolution, distribute its assets to the University or another nonprofit, tax-exempt organization that supports the University.
- Provide written notice to the University's board of trustees of any amendments to governing documents, disposition of assets upon dissolution, and appointment of University representatives to positions on the entity's governing board.

The policy also establishes operational procedures for the affiliated entity designed to prevent commingling of data and funds such that the University and the affiliated entity remain separate and distinct; outlines the elements an affiliation agreement should include; and outlines eligibility criteria for service on the board of an affiliated entity. Having this policy in place is important for the University to avoid alter ego liability issues. Alter ego is a legal doctrine whereby a corporate stakeholder can lose its separate, legal identity from the corporation and become liable for the corporation's actions.

Financial Information

Public Funds Held

We were provided with a list of financial assets received or expended by SCRF for grants and contracts for the period of July 2018 through June 2024. SCRF reported it held \$1,066,915 in non-federal public funds, which comprised approximately 4% of the total non-federal revenue received for the period. SCRF also reported that it held \$5,701,207 in federal projects (public) revenue and expenditures for the period.

Financial Statements and Audit Reports

As noted above, SCRF commissions an annual financial statement. In the past, SCRF triggered the federal threshold for single audit reporting, which occurs when a non-federal entity has expended more than \$750,000 in a single year in federal awards. However, SCRF reported that, as of FY 22-23, it was not triggering this threshold, therefore it anticipated no future need for such audit. SCRF did complete single audits during the years of FY 18-19, FY 19-20, and FY 20-21. The FY 18-19 audit found SCRF failed to properly record a number of expenditures within the performance period, and SCRF provided a corrective action plan. An audit for FY 19-20 showed an occurrence of the same issue noted in the FY 18-19 audit report. SCRF subsequently submitted the same corrective action plan for FY 19-20. The FY 20-21 audit report showed no deficiencies on the part of SCRF.

Noncompliance with Bylaws

We reviewed SCRF's bylaws and found there were violations of the following provisions:

Article II, Sections 1 and 2

These sections require the registered office and principal office of SCRF to be identical. The location of the Foundation's registered office is 900 Assembly Street in Columbia, which, as of September 2024, is the location of a CVS store. We were informed by SCRF staff that they use their USC offices to conduct SCRF business; in a practical sense, this means that the principal office is on the USC campus and is thus different from the registered office address. The address of the Foundation's registered office also differs from the last principal office shown on the Foundation's articles of incorporation as amended in 2001. The discrepancy of the registered and principal offices is not compliant with SCRF's bylaws, and, as mentioned in *Noncompliance with South Carolina Nonprofit Corporation Act*, SCRF's failure to update such information constitutes grounds for administrative dissolution by the Secretary of State.

Article V, Section 1

This section states, "There shall be one annual meeting of the Board at such time and place as the Chair may select in his or her discretion." However, the board failed to hold an annual meeting in 2023, and SCRF provided no reason as to why. Failure to hold an annual board meeting may result in a loss of transparency and engagement with donors.

Article VI, Section 1(a) and Article XI, Section 1

These sections require that, unless the Foundation’s board delegates signatory authority to some other officer or agent, the board chair (or the vice chair if the chair is absent) must sign contracts on behalf of the Foundation. During the years of 2021 through 2024, SCRF had an official who was also an employee of OEE but not an officer of the SCRF board.

We found evidence that this person signed documents on behalf of SCRF prior to being affiliated with the Foundation and, in one instance in 2018, was admonished by a University grant official for having done so. While during its annual meeting in 2020, the board unanimously voted to allow this person to sign only intellectual property agreements on behalf of SCRF, we have found no evidence that the person had been granted authority to sign other SCRF documents. There are no subsequent board meeting minutes for the Foundation that indicate there was an official vote to extend the official’s signatory authority.

Appendix A, Article VI

This section of the SCRF bylaws requires each director, principal officer, and member of a committee with board-delegated powers to annually sign a statement affirming the person has received a copy of the Foundation’s conflicts of interest policy, has read and understands the policy, agrees to comply with the policy, and understands the Foundation is a charitable organization that requires it to engage primarily in activities that enable it to accomplish its tax-exempt purposes. We reviewed copies of conflict of interest statements completed by members of the board of directors for 2021 and 2022 and found that one at-large board member did not complete a conflict of interest statement for 2021. This is a violation of the Foundation’s bylaws. Collectively, these instances illustrate the Foundation is not enforcing or following its bylaws.

Noncompliance with South Carolina Nonprofit Corporation Act

SCRF’s registered agent is listed as an individual who is no longer associated with either the Foundation or the University and lives out of state. Failure by a nonprofit organization to notify the Secretary of State that [the corporation’s] registered agent or registered office has been changed constitutes grounds for administrative dissolution by the Secretary of State under S.C. Code §33-31-1420(3). It is also important for a corporation to regularly maintain and update its registered agent in order for the agent to be able to accept notice of litigation paperwork on behalf of the corporation.

Noncompliance with USC Services Agreement

Beginning in 2021, the University began to require an employee of OEE to serve as the secretary for SCRF. According to the 2021 and 2024 services agreements between SCRF and USC, if USC provides personnel to support the operations of SCRF, the Foundation must reimburse USC for the salary and fringe benefit costs associated with the period of time such USC personnel were engaged to provide services. However, SCRF failed to reimburse the University for the OEE employee for SCRF services even though this individual performed these duties from 2021-2023. SCRF did, however, reimburse the University for service time purportedly contributed by SCRF's executive and deputy directors, who were also OEE employees. As the University uses USC staff time, in part, to determine the amount of funding it will provide to SCRF, it is important that the Foundation reimburse the University accordingly.

It should also be noted that the Foundation's bylaws prohibit SCRF officers (which include the secretary) from serving with a salary unless the board specifically fixes a salary. There are no notations in board meeting minutes for 2021 and 2022 (the only years in which meetings were held while the OEE staff person served as the SCRF secretary) to show the secretary's salary was fixed by the board. The bylaws would therefore allow an officer to not be paid, but the services agreement requires any University staff person's time to be reimbursed; therefore, this bylaw, as it pertains to the OEE staff member's duty to serve as secretary of SCRF, could be in conflict with the 2024 services agreement between SCRF and USC.

Noncompliance with Best Practices for Board Meetings

We reviewed SCRF board meeting minutes for 2017 through 2022 and found that the content of the minutes did not meet best practices for board meeting minutes. Best practices require board meeting minutes to include the title of the group that is meeting; the date, time, and venue; the names of those in attendance, the person recording the minutes, and the agenda; and a record of the votes. SCRF's meeting minutes for 2017 through 2020 are missing the venue, the names of board member/persons in attendance, and the name of the person recording the minutes. Without knowing who attended the meetings, it is impossible to tell if the Foundation had a quorum to even hold a meeting and/or vote since—per the SCRF bylaws—if a quorum was not satisfied, the board could not vote on any matters.

No Evidence that SCRF Board Evaluates Executive Director

A best practice under the Better Business Bureau Standards for Charity Accountability requires the board of a nonprofit to evaluate the performance of the organization's executive director at least once every two years. We found no evidence that the SCRF board has adhered to this best practice, as there is no such requirement in the Foundation's bylaws. Failure to follow this best practice may result in inadequate oversight of SCRF leadership.

No Specific Program Service Accomplishments in IRS Form 990 Filings

During our review of FY 15-16 through FY 22-23 IRS Form 990 filings for SCRF, we found SCRF used similar, generic verbiage for Part III, Statement of Program Service Accomplishments, Line 4a in each filing we reviewed. IRS Form 990 instructions require nonprofit organizations to describe their three largest program services as measured by total expenses incurred. Failure to delineate specific annual program service accomplishments is not a good business practice nor compliant with IRS requirements.

Bylaws Allow Executive Director to Set Own Salary

Article VIII, Section 4 of the SCRF bylaws states, "The salaries and benefits of all staff members shall be approved by the Executive Director and shall be reasonable in amount." This could be interpreted to enable the executive director to set and approve his/her own salary, which could result in financial abuse.

Incorrect Information on USC Webpages for SCRF

We reviewed the webpage for SCRF's board of directors in October 2023 and in September 2024. Both versions of the webpage indicate that SCRF is governed by a board of directors comprised of ten external and six internal members. However, the October 2023 webpage listed 12 board members, and the September 2024 webpage listed only 11 members, one of whom has, according to SCRF staff, retired and "needs to be replaced." SCRF staff has conceded the Foundation's board contains "partly stale web information."

Both versions of the webpage also indicate that SCRF was formed in 1997, but SCRF's articles of incorporation indicate the organization was formed in 1991. Additionally, SCRF's About Us webpage, as of September 2024, indicates that SCRF has management responsibility for the Incubator. However, SCRF staff informed us that the Foundation has had no management relationship with the Incubator since 2012. The lack of accurate information on the SCRF board website could lead to misconceptions about the Foundation.

Recommendations

29. The University of South Carolina should, provided it continues its affiliation with the South Carolina Research Foundation and utilizes University staff to conduct Foundation services, ensure the Foundation is following its bylaws and ensure there are no incompatibilities between the provisions of the bylaws and the services agreement with the University.
30. The University of South Carolina should, provided it continues its affiliation with the South Carolina Research Foundation and utilizes University staff to conduct Foundation services, ensure the Foundation is complying with the South Carolina Nonprofit Corporation Act.
31. The University of South Carolina should, provided it continues its affiliation with the South Carolina Research Foundation and utilizes University staff to conduct Foundation services, ensure the Foundation is following best practices for board meetings and nonprofit organizations.
32. The University of South Carolina should, provided it continues its affiliation with the South Carolina Research Foundation and utilizes University staff to conduct Foundation services, ensure the Foundation complies with Internal Revenue Service requirements.
33. The University of South Carolina should, provided it continues its affiliation with the South Carolina Research Foundation, ensure webpages on the University website pertaining to the Foundation reflect accurate and updated information.
34. The University of South Carolina should, provided it continues its affiliation with the South Carolina Research Foundation, ensure all members of the Foundation's board of directors complete conflict of interest statements.

Technology Commercialization and Partnerships

Technology Commercialization

We analyzed patent and licensing data from the University of South Carolina (USC) from FY 17-18 through FY 21-22 and found:

- USC acquired, on average, less than one-fourth of the number of license agreements per year (4 versus 15) than its peer research institutions nationwide.
- USC earned a yearly average of \$82,616 in licensing revenue, just slightly more than 1% of its peer research institutions' yearly average of \$6,036,604.
- USC earned a yearly average of \$38,161 in royalties, just less than 1% of its peer research institutions' yearly royalties of \$4,071,163.
- USC is vulnerable to financial loss if any of its patents were to be infringed.

USC's Office of Economic Engagement (OEE) is responsible for patenting and commercializing inventions discovered via university research. For several years, USC has ranked among the top 100 universities in the world for the number of new patents awarded. Yet, these patents fail to yield as many license and option agreements—and thus revenue—as patents from peer research universities.

USC's Patent and Commercialization Process

The Bayh-Dole Act of 1980, which amended the federal Patent and Trademark Act, revolutionized the technology transfer process of federally funded research by placing the responsibility of commercialization in the hands of a university. Prior to the Bayh-Dole Act, the U.S. government exclusively owned the rights to any inventions discovered using federal research money, but federal agencies were ill-equipped to commercialize these newly discovered technologies. The Bayh-Dole Act gave ownership rights to inventions discovered under federally funded research to universities so long as the universities filed for patent protection and made a good faith effort to commercialize the inventions.

OEE houses the Technology Commercialization Office (TCO), which is the University's technology transfer office. TCO is responsible for securing patents and executing licenses and options for all USC campuses, including USC School of Medicine.

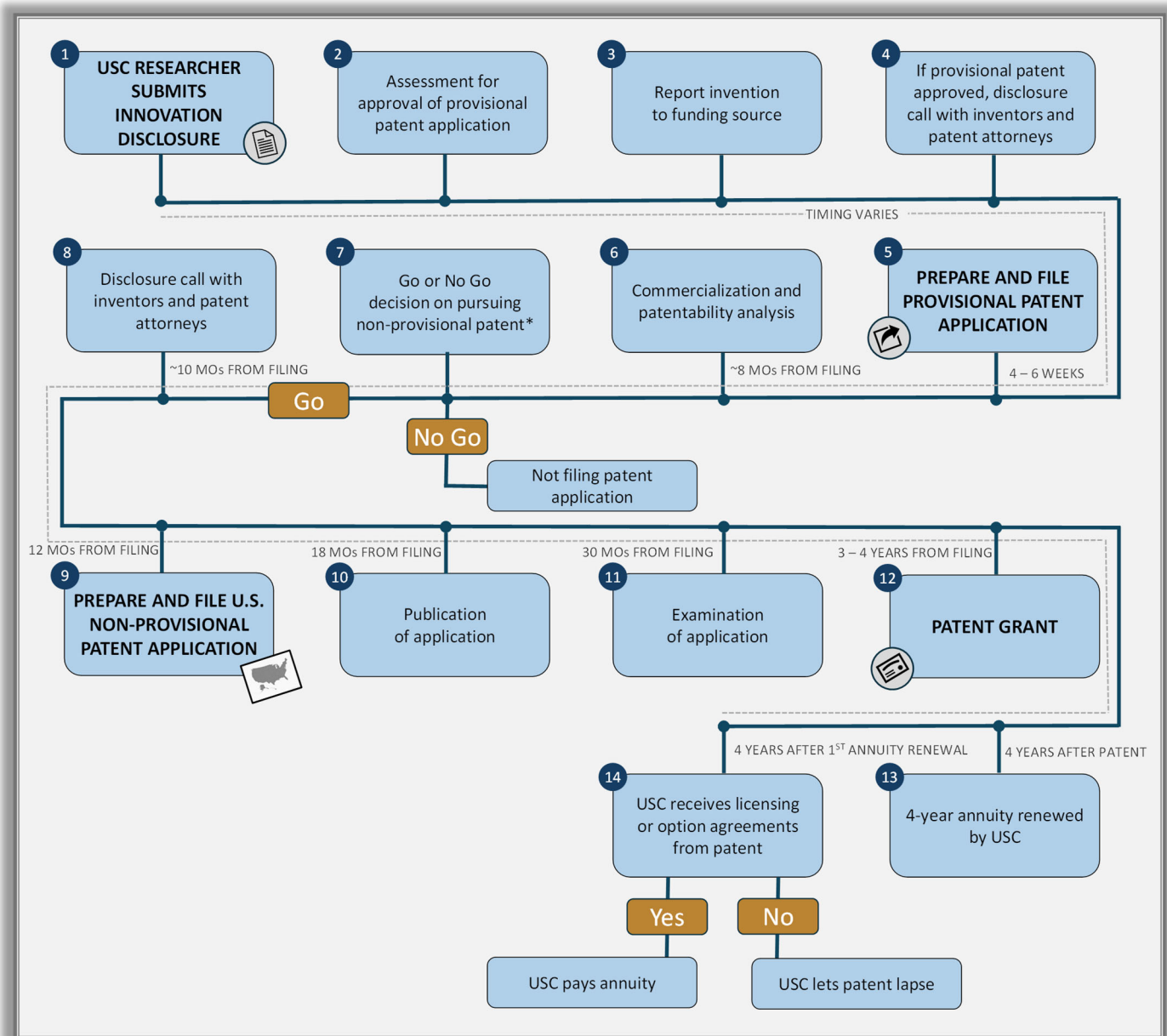
At USC, the patent process begins with an employee or student inventor's submission of an invention disclosure form to TCO. Then, TCO reviews the form for completeness and patentability, and, if needed, will follow up with the inventor(s) to gather additional information. Next, TCO reviews the invention's research funding agreement and, if applicable, reports the invention's discovery to the appropriate federal agency or other funding sponsors. TCO then meets with the inventor(s) to discuss the patent filing process.

TCO hires outside patent attorneys to file a provisional patent application with the U.S. Patent and Trademark Office. A provisional patent is an informal patent which gives the invention a patent-pending status for up to one year. Before the provisional patent expires, TCO evaluates the invention's marketability by conducting market research and contacting companies to enter into a license or option agreement.

Approximately eight to ten months after receiving the provisional patent, TCO reviews the invention's patentability, research status, and marketability to determine whether the University should move forward with the patent process by obtaining a nonprovisional patent, also known as a utility patent. If the decision is to move forward, TCO instructs outside patent attorneys to file a nonprovisional patent application.

A nonprovisional patent lasts for 20 years, if all the maintenance fees are paid. USC pays the maintenance fees for eight years. However, if the patent fails to produce any licenses or options after eight years, then USC will cease paying the maintenance fees—thus, causing the patent to lapse. Refer to Chart 4.1 for USC's patent and commercialization process.

Chart 4.1: USC's Patent and Commercialization Process



*Grant of patent depends on many factors. It is not guaranteed.

Source: LAC Analysis of the TCO Process

AUTM Analysis

AUTM (formerly known as the Association of University Technology Managers) is a nonprofit organization whose mission is to support and advance knowledge or technology transfer worldwide. Every year, several institutions across the country voluntarily submit their patent and licensing statistics to AUTM’s annual licensing activity survey. AUTM’s surveys capture the overall performance of technology transfer offices by requesting various performance measures achieved during the fiscal year. These performance measures include, but are not limited to, the number of patent disclosures and applications, the number of issued patents, the number of patent licenses and options, and the amount of licensing revenue and royalties earned. To see how USC compared with other research institutions, we reviewed and analyzed AUTM’s survey data for FY 17-18 through FY 21-22.

For our analysis, we compared USC to research institutions that would be considered peer institutions based on AUTM’s peer group definition for FY 21-22. AUTM used the National Science Foundation’s Higher Education Research and Development (HERD) report to divide research institutions into peer groups based on research funding. See Chart 4.2 for AUTM’s peer group categorizations using HERD report in FY 21-22.

Chart 4.2: AUTM’s Peer Group Categorizations Using HERD Report, FY 21-22

HERD RANK	TOTAL RESEARCH EXPENDITURES
1	More than \$553,876,000
2	\$264,216,000 to \$553,876,000
3	\$126,477,000 to \$264,216,000
4	\$50,408,000 to \$126,477,000
5	\$25,138,000 to \$50,408,000
6	\$150,000 to \$25,138,000

Source: AUTM 2022 Licensing Activity Survey

In FY 21-22, research expenditures at USC totaled \$229,162,000; therefore, USC had a HERD rank of 3. For FY 17-18 through FY 21-22, USC’s total research expenditures consistently fell between the parameters established for FY 21-22 HERD rank 3. As such, for our analysis, we analyzed research institutions that reported having research expenditures ranging from \$126,477,000 to \$264,216,000 each fiscal year. See Chart 4.3 for the total number of research institutions that spent \$126,477,000 to \$264,216,000 on research during FY 17-18 through FY 21-22.

Chart 4.3: Number of Research Institutions with Research Expenditures Ranging from \$126,477,000 to \$264,216,000, FY 17-18 – FY 21-22

FISCAL YEAR	NUMBER OF RESEARCH INSTITUTIONS
17-18	43
18-19	40
19-20	36
20-21	26
21-22	37

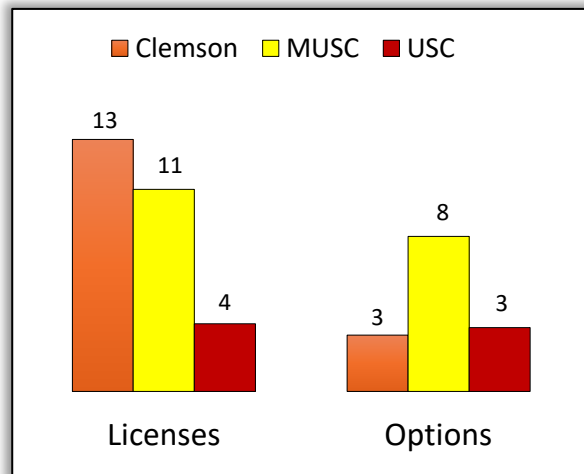
Source: LAC Analysis of Data Presented in AUTM Licensing Activity Surveys, FY 17-18 – FY 21-22

In our analysis of AUTM survey data for FY 17-18 through FY 21-22, we found USC was awarded, on average, approximately 10 more patents a year than its peer institutions (32 versus 22); however, USC’s commercialization statistics were significantly lower than its peer institutions. Specifically, we found:

- USC secured, on average, less than one-fourth of the number of licenses per year (4 versus 15) than its peer institutions and approximately two-thirds the number of options per year (3 versus 5) than its peer institutions.
- USC earned a yearly average of \$82,616 in licensing revenue, just slightly more than 1% of its peer research institutions’ yearly average of \$6,036,604.
- USC earned a yearly average of \$38,161 in royalties, just less than 1% of its peer research institutions’ yearly royalties of \$4,071,163.

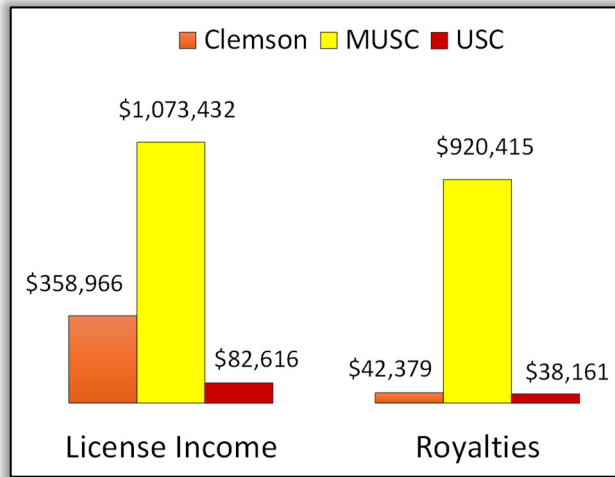
After discovering USC’s commercialization figures were significantly lower than its peer institutions nationwide, we conducted a more localized comparison. We compared USC’s licensing activity survey data from FY 17-18 through FY 21-22 with that of two other South Carolina research institutions—Clemson University (Clemson) and the Medical University of South Carolina (MUSC). We found the same pattern as with the other peer research institutions—USC averaged more patents being issued per year than Clemson and MUSC (32 versus 15 at Clemson and 18 at MUSC), but its commercialization numbers were significantly lower than those of Clemson and MUSC. See Charts 4.4 and 4.5 for the average yearly commercialization numbers for USC, Clemson, and MUSC for FY 17-18 through FY 21-22.

Chart 4.4: Average Yearly Number of Licenses and Options for Three S.C. Research Institutions, FY 17-18 – FY 21-22



Source: LAC Analysis of AUTM Survey Data

Chart 4.5: Average Yearly License Income and Royalty Revenue for Three S.C. Research Institutions, FY 17-18 – FY 21-22



Source: LAC Analysis of AUTM Survey Data

USC’s patents fail to produce as many licenses and options as other research institutions despite the University spending a significant amount of money to acquire patents. It costs USC up to \$20,000 to obtain a U.S. patent. USC’s Office of General Counsel administers the University’s patent budget, which averages \$750,000 a year. TCO hires outside intellectual property attorneys to file patents. In FY 21-22, USC spent \$881,244 in legal fees for patent filings. These fees increased to \$1,036,869 in FY 22-23.

If a USC invention happens to generate licensing revenue, USC seeks to recover all its expenses associated with patenting and marketing that invention before any royalties are given to an inventor. After the University’s expenses are recovered, any remaining revenue is distributed accordingly:

40%	Inventor (in the form of royalties)
24%	TCO
24%	USC and South Carolina Research Foundation (SCRF)
6%	Inventor(s) college
6%	Inventor(s) college department(s)

Strategic Models for Technology Transfer Offices

According to AUTM's *Technology Transfer Practice Manual*TM, 3rd Edition, there are three strategic models for technology transfer offices.

Service Model

Technology transfer offices following the service model manage the university's intellectual property in a manner which maximizes the distribution of knowledge and the satisfaction of the faculty. Followers of the service model measure success by the number of published patents, exposure to new research funding, and the recruitment and retention of faculty. In this model, faculty satisfaction is high, but significant income-earning opportunities are lost because all invention disclosures are treated with equal urgency. Service model technology transfer offices place less emphasis on equity, licensing revenue, startup formation, or local job creation.

Revenue Model

Technology transfer offices that adopt a revenue model focus on profitability. Under the revenue model, a university will not invest in a faculty member's invention if the office does not feel the invention will be a commercial success. Measures of success under a revenue model include licensing revenue, equity, the percentage of legal expenses reimbursed, and new industry-sponsored research partnerships. This model has the potential to generate significant income but generally has a lower level of satisfaction from faculty.

Economic Development Model

Economic development technology transfer offices emphasize improving the local economy by investing in platform technologies which can lead to the development of a startup company or investing in technologies that merge with local companies. Offices that follow the economic development model measure success by tax revenue generated, office and/or laboratory space occupied, community growth experienced, whether the office created local jobs, and the retention of graduated students in those jobs.

No office works purely from a specific model, as most programs are a blended model. TCO identifies as a hybrid of the service model and the economic development model because these models best align with USC's and OEE's missions. TCO licenses to smaller businesses and focuses on being a supportive partner to these smaller businesses "in hopes of helping them along their technology advancement journey with future successes that will benefit USC, the company, and society." A TCO staff member stated that faculty satisfaction is of utmost importance to the office. The staff member explained that high faculty satisfaction leads to attracting world-class faculty to USC, which in turns supports the University's mission of providing outstanding education to students, promoting workforce development in the state, and increasing USC's federal research funding.

While faculty satisfaction is important to a university, USC is investing a substantial amount of money into patenting faculties' and students' inventions which yield negative returns on investment for the University. For example, for every dollar in licensing revenue USC earned in FY 21-22, USC spent \$7.36 in patent attorney fees. Allowing TCO to continue operating under its current model strategy could adversely affect the University's net revenue potential.

Best Practices to Increase Revenue for Technology Transfer Offices

According to research on university patents, most universities fail to yield significant returns on their patents. In fact, in any given year, about seven of eight universities do not generate enough licensing revenue to cover the cost of running their technology transfer offices. Finding potential licensees can be difficult since the commercial potential of university technologies is impossible to predict. We researched the best practices to increase revenue for technology transfer offices and found the following solutions:

- Have enough staff to handle the patent and commercialization process.
- Adopt a deal-based model approach when seeking a provisional patent.
- Allocate funds dedicated to researching and developing university technology beyond the conceptual stage.
- Adopt mechanisms to protect patents from infringement.

Technology transfer offices need enough staff to review and file patent disclosures and applications, while also having enough staff for marketing and executing license and option agreements. According to the 2022 *AUTM Licensing Survey* data, the average number of full-time equivalent (FTE) employees working at the technology transfer office for a HERD 3 rank institution was 3. TCO had only one FTE employee at that time. In April 2024, an OEE employee reported TCO now has two FTE employees.

TCO strives to reach out to 10 to 20 potential licensees per invention. For comparison, the University of Florida (UF) reportedly contacts approximately 100 potential licensees per invention, and UF's technology transfer office reported having seven FTE employees in 2021. Having more staff might have contributed to UF's ability to contact 100 potential licensees. Research shows one reasonably well-trained full-time employee can handle 25 new inventions each year and produce approximately ten license or option agreements. According to 2003 *AUTM Licensing Survey* data, the average revenue per year per license that generates revenue is \$126,000. Therefore, more staff focusing on deals could lead to more revenue.

Another best practice is to adopt a deal-based model. The key to a deal-based model is to negotiate a license or option before spending any money to convert a provisional application to a patent, and make the licensee pay for the cost of patenting. The University of Virginia Patent Foundation (UVPF) uses this model and has high faculty satisfaction. UVPF achieves this by filing a provisional application on every invention which is patentable and has a significant market; if, after nine months, no licensee is found, UVPF stops pursuing the invention for nonprovisional patent status and, often, transfers its provisional patent rights to the inventor.

TCO files for nonprovisional patents despite receiving little to no interest from potential business partners about licensing. The office claims this has multiple benefits, including promoting USC's mission to spread knowledge and attracting potential licensees that want a patent issued before signing any license agreement. However, this model results in USC investing money into patenting inventions which yield little to no commercial success.

One of the biggest challenges for technology transfer offices is that there is little to no funding to research and develop technology beyond its conceptual stage. Companies want to see a prototype and/or data before investing money to secure a license; however, funding is typically no longer available after the initial patent disclosure. To solve this dilemma, universities—such as Wake Forest University (Wake Forest) and the University of California at Los Angeles (UCLA)—have funding specifically dedicated to researching and developing early-stage technologies. In 2003, Wake Forest launched Seed Stages Associates, a for-profit subsidiary of Wake Forest University Health Sciences, which develops product-like prototypes to attract investors. UCLA created a pre-seed fund financed by local and state venture capitalists to accelerate early-stage inventions that needed additional proof of principle or prototyping to establish commercial potential.

For FY 17-18 through FY 22-23, USC did not allocate money to TCO for researching and developing technologies into prototypes. Employees in TCO stated USC would benefit from having a research and development fund for early-stage technologies because it would improve the University's ability to secure more licenses.

Universities can generate revenue by protecting the patents they have already acquired. Patent infringement lawsuits arise when a third party claims a company has infringed upon its patented technology, and these lawsuits can potentially be lucrative to universities. For example, Apple Inc. was ordered to pay the University of Wisconsin-Madison \$234 million in 2015 for infringing on its 1998 patent for a predictor circuit that greatly improved the efficiency of microchips used in iPhones. Experts agree that the greatest obstacle for patent owners is identifying if anyone is infringing on their patents. Nonetheless, patent infringement litigation can cost between three to five million dollars. Universities can purchase intellectual property enforcement insurance—which covers the cost of enforcing legal action against alleged infringers—or they can hire a patent enforcement firm that operates on a 100% contingency basis.

USC does not carry intellectual property enforcement insurance. Other than sending cease-and-desist letters and discussing potentially pursuing infringement with law firms, TCO has not invested much energy into protecting its patents from infringers. An employee at TCO acknowledges pursuing patent infringers is a worthy topic USC leadership should explore.

Recommendations

35. The University of South Carolina should dedicate more full-time equivalent employees to its technology transfer office to focus on contacting more potential licensees and executing license and option agreements.
36. The University of South Carolina should adopt a deal-based model before acquiring nonprovisional patents to prevent the University from investing significant capital into a commercially unsuccessful patent.
37. The University of South Carolina should earmark funds for research and development of prototypes for early-stage university technology so these prototypes can be used to demonstrate the commercial potential to prospective licensees.
38. The University of South Carolina should purchase intellectual property enforcement insurance unless an analysis by the University proves it is not economically advantageous for the University to make such a purchase.

Partnerships

We reviewed the Office of Economic Engagement's (OEE's) approach to establishing relationships with external partners and found OEE:

- Failed to provide a complete and accurate list of partnerships.
- Does not proactively recruit partners, but rather, waits for companies to contact them to arrange a partnership.
- Has no customer relationship management (CRM) tracking system for its existing or prospective external partners.

It is important for OEE to proactively solicit new partnerships while also maintaining contact with existing partnerships. Strong partnerships can stimulate the economy and enhance the reputation of the University as a reliable partner.

Overview of OEE Partnerships

OEE collaborates with federal, state, and local agencies, as well as private industry. Partnerships with OEE may lead to a company or agency sponsoring capstone classes, funding graduate-level research, and/or donating industrial-grade hardware or software. Capstone courses give college students the opportunity to demonstrate expertise in their majors and areas of study. Capstone courses can vary depending on the major but the capstone courses typically last at least a semester and include internships or volunteering.

According to the 2023 OEE marketing booklet, since 2017, over 90% of OEE industry capstone students were hired by their capstone project industry sponsors. Since the office's inception in 2013, OEE has claimed credit for securing \$5 million for aerospace research from Boeing, a \$628 million in-kind product lifecycle management software grant from Siemens, and \$6 million from the Governor's Office to create a partnership with Apple for the statewide iCarolina Learning Lab network.

Businesses benefit from partnering with higher education institutions, such as the University of South Carolina (USC), because these partnerships may help companies recruit talented employees. See Chart 4.6 for data from USC's Career Center, which shows the number of USC graduates employed at six OEE external partners, as of April 29, 2024. OEE's role in securing these graduates' positions is unclear.

Chart 4.6: Number of USC Graduates Employed at Six OEE Partners as of April 29, 2024

OEE PARTNERS	NUMBER OF USC GRADUATES EMPLOYED
Boeing	257
Michelin	233
IBM	206
Apple	99
Siemens	93
BMW	81

Source: LAC Analysis of USC Career Center Data

Within the past five years, OEE has partnered with Prisma Health (Prisma) and Lexington County School District One (Lexington One). In February 2020, OEE partnered with Prisma to help Prisma file for patents and commercialize its technologies. OEE and Prisma hoped the partnership would help attract private and public investment and lead to talent recruitment, enhanced training, and an innovation lab for new healthcare technologies. According to a former OEE employee, approximately 12 inventions resulted from this partnership, with an estimated 4 to 6 of those inventions going through the patenting process. We were told that this partnership ended because Prisma had other priorities.

In 2022, OEE partnered with Lexington One to launch a dual-enrollment Science, Technology, Engineering, and Math (STEM) program which allows academically proficient 11th and 12th graders at Lexington One to simultaneously receive high school credit and college credit for a general engineering course through the USC-Sumter campus. Under this program, high school students are afforded the opportunity to work alongside USC's College of Engineering and Computing (CEC) students to solve existing industry problems for local business partners, including IBM, Siemens, Samsung, and Nephron. The South Carolina Education Lottery fully pays the tuition for the dual-enrollment program, provided the high schoolers enroll in two classes per semester. Lexington One officials say the program is popular and believe other school districts could benefit from this type of dual-enrollment program, assuming the school district has the needed infrastructure, staffing, and funding to do so. Physical proximity to the USC-Columbia campus is a factor since students participate in hands-on instruction side-by-side with USC students at the McNair Center for Aerospace Innovation and Research.

Analysis of OEE's List of External Partners

On April 3, 2024, an OEE manager provided us with a contact list of 84 businesses OEE has engaged with since 2013 to establish partnerships. We reviewed the list and found:

- OEE entered into a partnership agreement or project with half (42 of 84) of the listed businesses.
- Almost one-fifth (8 of 42) of the listed partners are federal, state, or local government agencies or school districts.
- Two of the listed partners are other USC campuses, specifically, Palmetto College and USC-Sumter. Palmetto College is made up of four regional USC campuses (USC-Union, USC-Sumter, USC-Lancaster, and USC-Salkehatchie) that offer associate's degrees.
- Approximately 43% (18 of 42) of the listed partners have sponsored a grant or research project.
- Slightly more than one-fourth (11 of 42) of the listed partners have donated equipment (including robots), software, and hardware.
- The list omitted Amazon Web Services, National Academy of Inventors, Telit, and Truist—companies OEE claimed to have partnered with in its 2023 marketing booklet—and Prisma.

Survey of External Partners

We attempted to survey 20 randomly selected OEE partners listed on the contact list but ultimately contacted 18 after our random selection process resulted in the selection of two government agencies. Five partners participated in our survey, and nine were unresponsive. We were unable to contact four others because OEE provided the wrong contact information.

Among the five partners surveyed were three large companies that were at one point on the Fortune Global 500 List and two smaller companies based in South Carolina. Three partners expressed having a favorable experience with OEE. One partner was neutral about its experience with OEE. Another partner described its experience with OEE negatively. This partner alleged OEE leadership “brushed [the partner] off” after their initial meeting, that leadership “should be more interested in the little startups,” and that leadership “is quick to take credit for stuff.”

The surveyed partner with the negative experience also said, “OEE sits back and waits [for companies] to come to them” instead of reaching out to companies. One other surveyed partner stated that it contacted OEE to form a partnership. The other three surveyed partners did not indicate who first initiated contact.

OEE leadership admits the office does not proactively recruit industry partners; rather, OEE staff wait until industry partners contact them. Multiple OEE employees said the office generates partnerships via word-of-mouth recommendations from existing partners to new partners and networking. It is important for colleges to actively interact and engage with former and current partners.

No Customer Relationship Management (CRM) Tracking System for Industry Partners

We found no evidence that OEE has a central CRM system to track contacts by external parties, including those that do not result in a partnership. Based on the inaccurate and incomplete contact list provided by OEE management, it does not appear OEE has a tracking system from which it can access reliable information on partnerships that have been established. A CRM system could help OEE better track current and potential industry partners.

We interviewed officials from other colleges and universities with offices similar to OEE, and both Drexel University and the University of Notre Dame stated they use management software, Salesforce[®], to track industry contacts. Benefits to having a CRM system include having a centralized customer database, identifying more leads, and retaining existing partners.

Recommendations

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39. The University of South Carolina should expand the dual-enrollment program model with Lexington County School District One to other school districts.
 40. The University of South Carolina’s Office of Economic Engagement should ensure that its contact information on business partners is accurate.
 41. The University of South Carolina’s Office of Economic Engagement should actively recruit new partners and set a mandatory quarterly quota that reflects the employees’ efforts in procuring new partnerships.
 42. The University of South Carolina’s Office of Economic Engagement should contact more startups and small businesses to recruit as partners.

43. The University of South Carolina should require employees of the Office of Economic Engagement to contact existing partnerships on a quarterly basis to increase the chances of continued collaborations.
44. The University of South Carolina's Office of Economic Engagement should track its contacts with prospective partners, regardless of the outcome of those contacts.
45. The University of South Carolina's Office of Economic Engagement should use the information it collects to improve its performance in building partnerships.

Office of Economic Engagement Administrative Practices

A Review of the Office of Economic Engagement Projected and Actual Budgets for FY 17-18 – FY 22-23

We reviewed the Office of Economic Engagement's (OEE's) revenue and expenditure history for FY 17-18 through FY 22-23 and found:

- OEE spent more money than it received from the University each fiscal year.
- OEE had deficits at the end of FY 21-22 and FY 22-23 of **-\$846,647** and **-\$251,382**, respectively.
- OEE failed to use previous year financial data to project the office's budget for the next fiscal year.

We were unable to determine OEE's financial viability because the financial data provided by University of South Carolina (USC) did not include OEE's actual grant funding and expenses. Without this vital information, we were unable to determine whether OEE had sufficient revenue to cover its operating costs during this time frame.

We also found that OEE transferred \$919,973.56 in grant money from USC's College of Engineering and Computing's (CEC's) account into OEE's account on the last day of FY 22-23. Most of these grant funds were already committed or earmarked to satisfy future obligations under the grant. But for this last-minute transfer, OEE's deficit for the end of FY 22-23 would have been over \$1.1 million.

OEE's Revenue for FY 17-18 – FY 22-23

OEE is a support unit at USC; as such, it can roll over its ending balance into the budget for the next fiscal year. This protocol is intended to help support units self-fund long-term projects and prevent support units from unnecessarily expending residual funds at the end of a fiscal year. According to a USC official, at the end of FY 16-17, OEE had a \$4,755,410 surplus, \$2.1 million of which came from a one-time royalty windfall from the sale of intellectual property to Halliburton Energy Services, Inc., in 2010. This balance was rolled over into OEE's beginning balance for FY 17-18.

For FY 17-18 through FY 22-23, OEE's operating revenue consisted of:

- General funds from the University.
- Money from one-time budget activities.
- Earned revenue from activities managed by OEE.
- Funds from grants awarded to OEE.

General fund revenue consists of money from state appropriations, student tuition and fees, indirect cost (IDC) recovery funds, and strategic funds. IDC recovery funds are comprised of federal grant money used to support the University and its research enterprise. Strategic funds, which began as special funding to promote a former USC president’s strategic goals for the University, have become part of OEE’s recurring budget.

From FY 17-18 through FY 19-20, OEE received \$1,415,000 from the University; however, these funds were reduced to \$1,195,966 starting in FY 20-21 to prepare for potential losses from the COVID-19 pandemic. OEE received \$416,000 in strategic funds in FY 20-21, but, the following year, these funds stopped once the former president left the University. USC, however, decided to give OEE strategic funds in FY 22-23 and in the years thereafter because OEE continues to need additional revenue to pay for personnel it hired in FY 20-21.

Periodically during FY 17-18 through FY 22-23, OEE had one-time budget activities reflected in its actuals. These one-time budget activities were corrections or reimbursements for accounting errors, special projects hosted by OEE, or a grant transfer. OEE also earned revenue from leasing IdeaLabs, from collecting royalties from the licensing of University technologies, and from other unrestricted operations from the South Carolina Research Foundation. Chart 5.1 displays the total amount OEE received in general funds from the University, money from one-time budget activities, and earned revenue for FY 17-18 through FY 22-23.

Chart 5.1: OEE’s General Funds from USC, Funds from One-Time Budget Activities, and Earned Revenue, FY 17-18 – FY 22-23

	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
FUNDS FROM USC	\$1,415,000	\$1,415,000	\$1,415,000	\$1,611,996	\$1,195,966	\$1,611,966
ONE-TIME BUDGET ACTIVITIES	*-6	**90,000		***-71,349	#5,000	##923,116
EARNED REVENUE	63,126	102,875	62,701	51,663	37,989	253,483
TOTAL	\$1,478,120	\$1,607,875	\$1,477,701	\$1,592,280	\$1,238,955	\$2,788,565

* Accounting Error

** The Horizon/Innovation Project from the City of Columbia and a USC School of Music Event

*** Budget Corrections and Reimbursement for Workers’ Compensation Overcharges

YMCA’s Martin Luther King, Jr. Walk

Combination of Governor’s Emergency Education Relief (GEER) Grant Transfer and State Bonus

Source: LAC Analysis of USC Records

The budget the University provided to us for OEE did not include the grant funding OEE received during FY 17-18 through FY 22-23. Based on grant data provided by USC's Controller's Office, we calculated that, as of April 1, 2024, OEE had been awarded over \$10.6 million in grant funding from 2018 through 2023. This is concerning because, as of October 23, 2023, OEE used over \$1.8 million from multiple grants to pay several OEE employees' salaries and benefits from FY 18-19 through FY 23-24.

From 2018 through 2022, OEE leadership listed CEC as the awardee college on its grants since OEE did not have any full-time employee dedicated to processing grant expenditures during this period. Under this arrangement, all of OEE's grant money was funneled through CEC so that CEC's grant administrators could assist OEE with its grant management. Consequently, all of OEE's grant funding and expenditures during this time frame appeared in CEC's annual budget—not OEE's budget. Without knowing OEE's grant funding and expenditures, we were unable to determine OEE's financial viability because we could not deduce whether OEE had sufficient revenue to cover its expenses (for more information, refer to *Overview of Office of Economic Engagement Grant Management*.)

OEE's Expenses for FY 17-18 – FY 22-23

For FY 17-18 through FY 22-23, OEE's expenses included employees' salaries and fringe benefits, contract services for outside consultants, membership fees, travel cost, office supplies, and rental of off-campus office space and large office equipment, such as copy machines. Chart 5.2 displays OEE's reported expenses from FY 17-18 through FY 22-23. OEE spent approximately \$101,000 to \$219,000 annually on membership fees, registrations, and sponsorships at the direction of a former USC president. OEE purchased memberships to the S.C. Department of Commerce's Palmetto Partnerships, S.C. Engenuity, Central S.C. Alliance, Charleston Regional Development Alliance, Upstate S.C. Alliance, as well as a sponsorship to the Tri-County Cradle to Career.

Based on the budget data provided by the University, OEE's expenses exceeded the funding provided by the University for FY 17-18 through FY 21-22. OEE's budget hit a deficit by the end of FY 21-22 (-\$849,647) and FY 22-23 (-\$251,382). We are unable to determine if these deficit calculations are accurate because we were never given OEE's grant figures, which we requested.

Chart 5.2: OEE's Expenses, FY 17-18 – FY 22-23

	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
SALARYFRINGE BENEFITS	\$1,760,650	\$1,619,112	\$1,305,561	\$1,736,682	\$1,474,164	\$1,895,459
OUTSIDE CONSULTANTS & MEMBERSHIPS	72,653	329,296	378,400	567,951	412,590	29,297
TRAVEL	37,335	34,415	6,360	5,367	15,404	25,134
OFFICE SUPPLIES	40,012	4,146	25,746	41,367	13,202	12,143
OFFICE SPACE & EQUIPMENT	245,958	212,949	191,939	185,454	181,151	228,266
TOTAL	\$2,156,608	\$2,199,918	\$1,908,006	\$2,536,821	\$2,096,511	\$2,190,299

Source: LAC Analysis of USC Records

OEE Failed to Project Budgetary Needs

OEE’s projected budget was essentially the same for each fiscal year for FY 17-18 through FY 22-23. OEE anticipated its total operating revenue—including grant funds, earned revenue, and funds from USC—would consistently be \$2,152,391 for each fiscal year except for FY 20-21. It does not appear OEE leadership used previous year financial data to plan the office’s budgetary needs. OEE leadership expected OEE’s grant funds to be \$707,421 each fiscal year from FY 17-18 through FY 22-23; however, OEE’s actual budget showed no incoming grant revenue during this time since the office’s grant funding was credited to CEC. See Chart 5.3 for OEE’s projected operating revenue for FY 17-18 through FY 22-23.

Chart 5.3: OEE’s Projected Operating Revenue, FY 17-18 – FY 22-23

	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
GRANT FUNDS	\$707,421	\$707,421	\$707,421	\$707,421	\$707,421	\$707,421
EARNED REVENUE	33,620	33,620	33,620	17,672	33,620	33,620
FUNDS FROM USC	1,411,350	1,411,350	1,411,350	1,411,350	1,411,350	1,411,350
TOTAL	\$2,152,391	\$2,152,391	\$2,152,391	\$2,136,443	\$2,152,391	\$2,152,391

Source: LAC Analysis of USC Records

Except for FY 20-21, OEE estimated its total expenses—which included personnel expenses (meaning employees’ salaries and fringe benefits) and non-personnel expenses—to be \$2,584,052 for FY 19-20 through FY 22-23. Chart 5.4 displays OEE’s projected expenses for FY 17-18 through FY 22-23.

OEE forecasted \$2,004,513 for personnel expenses for FY 19-20 through FY 22-23; however, OEE’s personnel expenses ranged from approximately \$1.3 million to \$1.9 million during this time. Budgeting based on previous years’ financial data is a proactive approach which helps identify trends, patterns, and fluctuations in spending and mitigates the risk of overspending.

Chart 5.4: OEE’s Projected Expenses, FY 17-18 – FY 22-23

	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
PERSONNEL EXPENSES	\$1,630,623	\$1,630,623	\$2,004,513	\$2,004,513	\$2,004,513	\$2,004,513
NON-PERSONNEL EXPENSES	579,540	579,540	579,539	563,591	579,539	579,539
TOTAL	\$2,210,163	\$2,210,163	\$2,584,052	\$2,568,104	\$2,584,052	\$2,584,052

Source: LAC Analysis of USC Records

Last-Minute Transfer of Grant Money

On the last day of FY 22-23, OEE transferred \$919,974 in grant funds from CEC’s account into OEE’s account. An OEE employee explained that these funds were residual grant funds from the Governor’s Emergency Education Relief (GEER) grant (for more information on the GEER grant, refer to *Governor’s Emergency Education Relief Grant*). USC’s policy defines “residual funds” as “the cash or unobligated balances remaining sixty (60) days after the project termination date and after all appropriate expenditures have been charged against the account.” This last-minute transfer effectively reduced OEE’s deficit from \$1,171,356 to \$251,382.

We found that this transfer did not meet the definition of “residual funds” because most of these funds were obligated funds earmarked to pay for specific expenditures and future commitments under the grant, specifically:

\$149,835	A company for a research database and an expert portal
\$166,240	Contractual services to the USC/Columbia Technology Incubator
\$532,500	Commitments to USC’s College of Information and Communications Project, Palmetto College, a South Carolina public relations firm, and the USC/Columbia Technology Incubator

Only \$71,398 of these transfer funds were unobligated.

This transfer appeared in OEE’s actual budget as “Other” in the “Plant & Project Transfers” line—the line in which OEE placed unrestricted funds it receives from the University. One would expect this transfer to be in the grant line since the money came from a grant. Grant funds are restricted funding, which means OEE must spend the money based on the rules and regulations outlined in the grant agreement. Combining the transferred grant money with the Plant & Project Transfers funds may have given the appearance that the transferred funds were unrestricted funds which may have been spent without restriction.

Recommendations

46. The University of South Carolina should include grants awarded to the Office of Economic Engagement in its budget rather than a budget associated with any other University department or college.
47. The University of South Carolina should require the Office of Economic Engagement to use financial data from previous years to project the unit’s budget for the upcoming fiscal year.
48. The University of South Carolina should investigate the last-minute transfer of the Governor’s Emergency Education Relief grant funds to the Office of Economic Engagement in 2023 to offset what otherwise would have been a larger operating deficit than initially reported.

Office of Economic Engagement Staffing

We reviewed human resource management practices at the Office of Economic Engagement (OEE) and found:

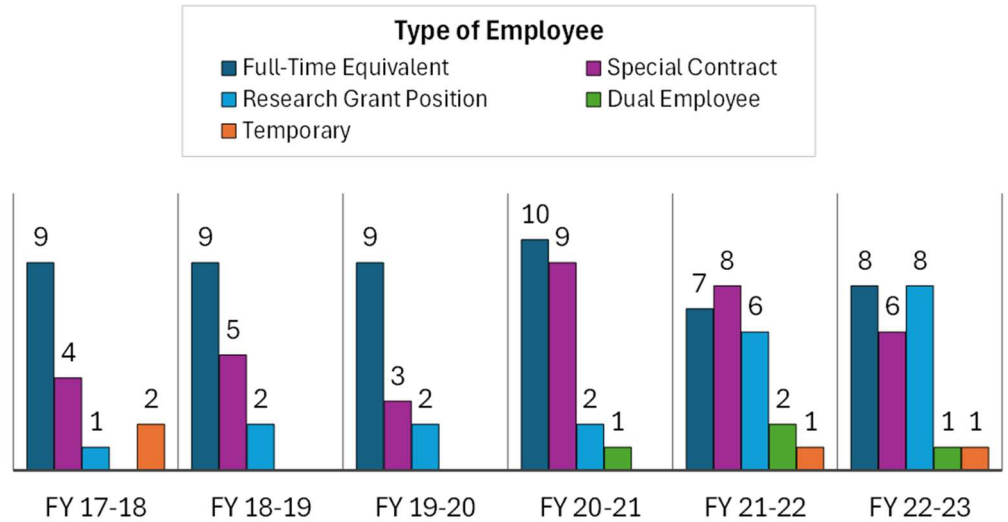
- OEE staffing significantly relied upon “special contract employees.”
- OEE special contract employees were hired as temporary employees but did not experience a 15-day break in service before being rehired, which essentially converted temporary positions to full-time equivalent (FTE) positions.
- Employee performance appraisals were completed inconsistently and often without regard to University policy.
- Many OEE supervisors lacked training on the University’s employee performance management system.

OEE Employee Composition

From FY 17-18 through FY 22-23, OEE had an average of 19 employees per year. There were between 14 and 24 employees per year. The OEE workforce was comprised of FTE employees, temporary staff, special contract employees, research grant positions, dual employees, student employees, and paid interns. OEE relied heavily on FTEs and special contract employees. (See Chart 5.5 for a distribution of OEE’s staff by type, excluding student employees and paid interns.)

While some student employees worked part-time for a year or longer, most were short-term employees. Students also had paid internships within OEE and worked as law clerks and in marketing, public relations, accounting, communications, and technical writing.

Chart 5.5: OEE End of Year Staffing, FY 17-18 – FY 22-23, Excluding Student Employees and Paid Interns



Source: LAC Analysis of USC Data

Special Contract Employees

From 2018 through 2023, OEE used contracts to hire and rehire consultants as temporary employees. These employees were referenced in their contracts, and colloquially within the University, as “special contract employees.” For hiring purposes, USC treats special contract employees as temporary employees.

A “consultant” is “one who gives professional advice or services,” or an “expert.” S.C. Regulations 19-445.2025(A)(1) and (2) require consultants to be procured in accordance with state procurement regulations when a state agency will not have the right of control over the details and means by which the individual accomplishes a specified result. If the state agency can control the details and means used, the services are considered “employee services” (not consulting services) and must be procured in accordance with state personnel policies.

USC policy FINA 3.09 requires outside consultants to be approved through the University’s purchasing department and requires evidence that (1) services to be provided are essential and cannot be provided by existing staff, (2) a selection process was used to secure the most qualified person available, and (3) costs are commensurate with the consultant’s qualifications, usual fees, and the nature of the services rendered.

Approval for services from state employees, however, comes through USC's Division of Human Resources. Hiring special contract employees into temporary positions can leverage a noncompetitive process that is closed to public job seekers and even to other USC employees. Like consultants, OEE special contract employees render professional advice and services to the University, and their contracts read very much like consultant contracts and include a provision for 30 days' written notice to terminate. However, special contract employees differ from consultants, in that their activities are directly supervised by OEE leadership, their weekly hours are set by the University, they are subject to University policies and procedures, they prominently appear in OEE organizational charts and personnel listings, some supervise other OEE employees, and they can enroll in the South Carolina Retirement System for employees of State agencies.

Special contract employees represented 13.6% of the OEE workforce from 2018 through 2023. Approximately 83.3% of these special contract employees during that period remained employed for multiple, consecutive years, some for more than five consecutive years.

Break In Service

While OEE observed the 15-day break in service rule when rehiring temporary employees with whom the University did not have a contract, it did not require such a break in service for special contract employees. The Division of State Human Resources (DSHR) of the S.C. Department of Administration has recommended that a temporary employee, whose services an agency requires for longer than 12 months, should only be rehired after "a *bona fide* [emphasis added] separation from employment and bona fide rehiring." DSHR further recommended that the separation be a minimum of 15 calendar days. The University's offer of temporary employment letter for temporary employees other than special contract employees advises the employee that eligibility for rehire in a temporary capacity does not occur until at least 15 days after separation from the University.

We identified 12 OEE special contract employees who were active between January 1, 2018 and December 31, 2023, and reviewed 38 special employment contracts. Eighty-three percent of the special contract employees received multiple, back-to-back contracts, some for more than five consecutive years. For example, the term of a contract could conclude on Monday, and a new contract for that same employee would begin on Tuesday.

We reviewed the “term” clauses in the 38 special employment contracts and found them to be for at least 12 months. In each case, a succeeding contract was executed before the active contract expired. The “term” clauses also provided that the special employment contracts “may be extended.” Extending the term of a 12-month temporary employee could violate S.C. Code §8-17-320(25) (1996), *Definitions*, and S.C. Regulation 19-700, *Definitions*, which limit temporary employment to one year. We noted that the terms of two individual contracts each exceeded 12 months in violation of S.C. Code §8-17-320 and S.C. Regulation 19-700.

The length of separation and circumstances of rehiring are key in determining whether the rehiring of a temporary employee is bona fide. In *Bell v. S.C. Department of Corrections*, the S.C. Supreme Court held that retaining a temporary employee longer than one year can violate the statutory definition of a “temporary employee” and, in essence, convert the temporary position to an FTE position.

By treating special contract employees who perform consulting services as temporary employees, but not requiring a bona fide separation after one year of employment, the University appears to have by-passed policies and regulations governing the procurement of consultant services.

Employee Performance Evaluations

USC policy and procedures require annual performance evaluations of all FTE employees. Policy, procedures, and USC officials state that performance evaluations are encouraged but not required for non-FTE positions. We reviewed performance evaluation practices within OEE and found that, with the exceptions noted below, FTE employees did receive the required evaluations:

- An OEE employee, who held a leadership position, received only two performance evaluations from January 1, 2018 through December 31, 2023.
- Only once was the performance evaluation of another OEE employee, who also held a leadership position, reviewed by an administrator in that employee’s line of report. By policy, performance evaluations must be reviewed by the employee’s next line supervisor.

Failure to evaluate OEE leaders denies them clear expectations on the goals, objectives, and characteristics associated with their senior leadership positions and areas of responsibility. It also denies the University a written record to justify increases in compensation like raises and bonuses, and documentation of any reason for an adverse personnel action.

Planning Stage Omitted from Evaluation Process

USC Policy HR 1.36 requires a planning stage at the beginning of each rating period to establish expectations and inform the employee of how success will be measured. The University considers the setting of clear expectations to be a “critical piece” of employee success.

The planning stage is to be documented on the same form as the performance evaluation. However, in no performance evaluation did we observe signatures acknowledging a planning stage or any other evidence that a planning stage had occurred. This denied employees the benefit of knowing how they would be rated and denied their supervisors insight from the employee with which to establish job duties, success criteria, and objectives.

Delinquent Performance Evaluation Training for Supervisors

The USC Office of Organizational and Professional Development provides employee performance evaluation training for supervisors as part of a required certificate program called “LEAD Supervisory Essentials.” We were told that training on supervising and providing feedback for student employees has been offered by the USC Career Center since Spring 2023.

We reviewed training records and found that, as of March 7, 2024, only two OEE supervisors had completed the required LEAD Supervisory Essentials program, and OEE leadership had not begun the program. One OEE supervisor had completed a former version (c. 2019) of the student employee supervision training.

Lack of training may contribute to errors we observed in OEE employee performance evaluations, to include:

- Success criteria that did not establish clear, measurable, standards to communicate performance expectations and support objective performance assessment.
- Exceptional performance ratings that were not supported by examples of exemplary accomplishments throughout the rating period, or by performance that considerably and consistently exceeded success criteria, as required by policy.

Recommendations

49. The University of South Carolina should ensure that it complies with University policies and appropriate South Carolina statutes and regulations when hiring consultants.
50. The University of South Carolina, in written policy, should require a bona fide, 15-day break in service before a special contract employee is eligible for rehire in a temporary position.
51. The University of South Carolina should ensure that all phases of the performance appraisal process are implemented according to University policy.
52. The University of South Carolina should ensure that all employees with supervisory responsibilities complete performance evaluation and other supervisory training as required by USC policy and procedures.

Ethics and Conflicts of Interest Violations

During our audit, we encountered examples of questionable ethics and potential violations of the S.C. Ethics Reform Act, S.C. Code §§8-13-100 *et seq.*, and USC's conflicts of interest and commitment policy that were committed by Office of Economic Engagement (OEE) staff. This includes:

- An OEE official used his management position at the USC/Columbia Technology Incubator (Incubator) to hire a company after an investigation by USC's Audit and Advisory Services (AAS) determined that a conflict of interest existed between that company and the University.
- An OEE official appears to have made a questionable hiring decision by hiring a friend's child.
- An OEE official failed to disclose potential conflicts of interest before the University signed contracts that financially benefited personal associates of the OEE official.
- An OEE official submitted incomplete statement of economic interest (SEI) forms to the State Ethics Commission (SEC).
- Four OEE employees failed to report outside employment to the University.

Disregarding USC's Audit and Advisory Services' Investigation

From February 2018 through March 2021, the S.C. Department of Commerce (DOC) awarded OEE the 3Phase grant for \$600,000 to help South Carolina small businesses and entrepreneurs apply for Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) funding. SBIR/STTR funding is seed money provided to small businesses for the goal of developing technology and charting a path towards commercialization. After receiving the grant, OEE hired a company for \$517,500 to serve as a subcontractor for the grant. At the time, an OEE employee was a principal of the subcontracted company. In FY 20-21, OEE used more than \$9,000 from the 3Phase grant to cover a portion of this employee's salary and fringe benefit costs. OEE did not disclose to the University the subcontracted company's connection to the OEE employee during the awarding process.

USC's conflicts of interest and commitment policy BTRU 1.18 states:

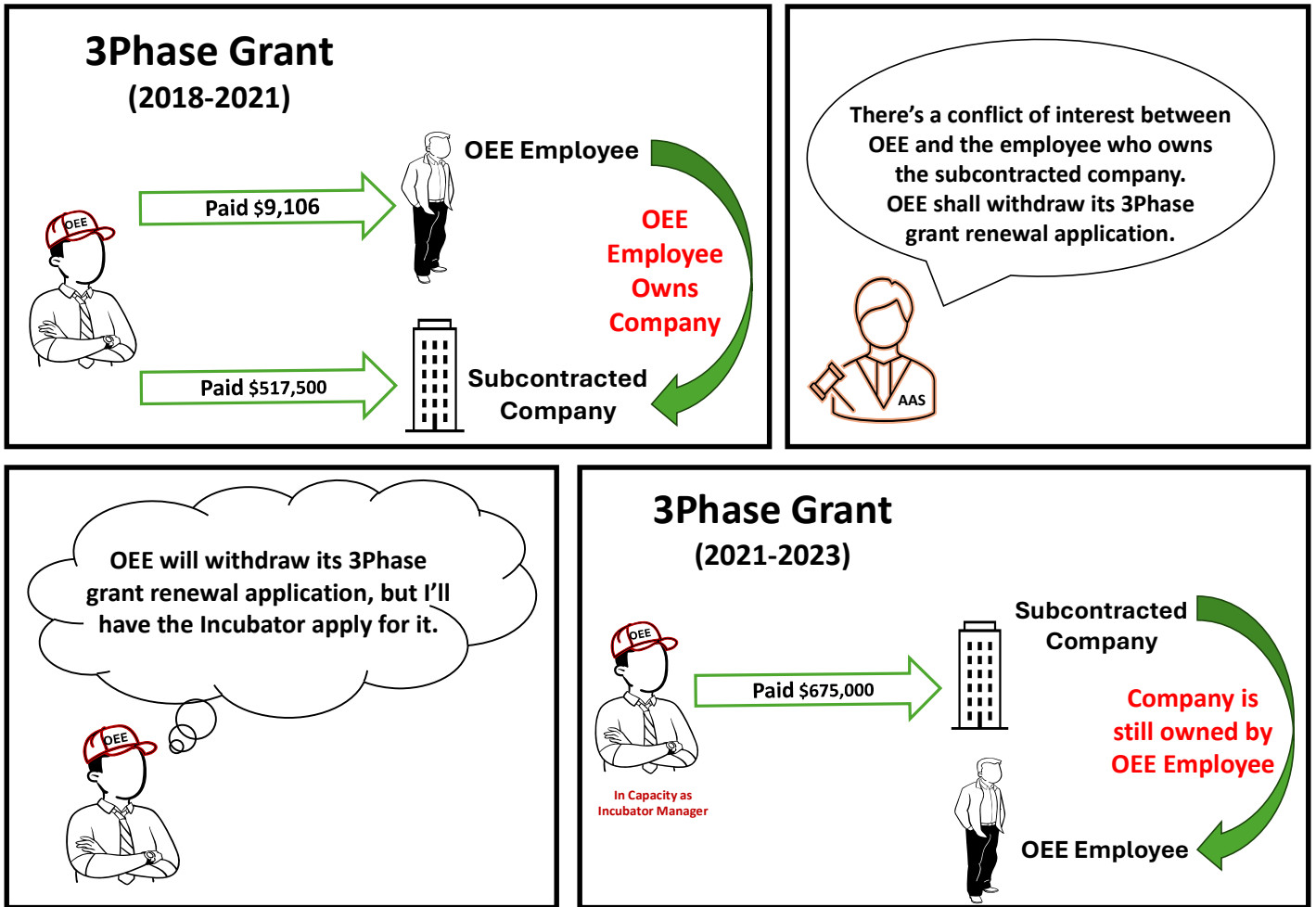
[a] perceived and/or real conflict of interest arises whenever the employee has the *opportunity to influence* University operations or business decisions in ways that could result in a personal financial benefit or economic gain to the employee, a member of an employee's extended family, or individuals with whom the employee has a business or personal relationship.

The policy also states a conflict of commitment arises when "an individual engages in external activities, either paid or unpaid, that may interfere with his/her primary obligation and commitment to the University." The policy mandates that employees must disclose, manage, or eliminate any real or apparent conflicts of interest or conflicts of commitment.

In April 2021, AAS investigated and determined that a conflict of interest existed between OEE and the employee who owns the subcontracted company and that an OEE official failed to disclose this conflict in violation of the USC policy. In response, the OEE official withdrew USC's 3Phase grant renewal application for 2021. However, unbeknownst to AAS, this OEE official—who concurrently served in a management role at the Incubator—signed a contract on behalf of the Incubator such that the Incubator would receive the 3Phase grant instead. From January 1, 2021 through December 31, 2023, DOC awarded the Incubator up to \$720,000 to fulfill the 3Phase grant. This OEE official, now acting in his capacity as Incubator manager, again hired the company previously hired by OEE to serve as a subcontractor for the Incubator, which enabled the Incubator to fulfill the 3Phase grant award. The Incubator executed a contract with the company—signed by the OEE employee—for \$675,000. Throughout this time, that same OEE employee, who was a principal of the subcontracted company and the subject of the AAS investigation, was still employed at OEE. Chart 5.6 depicts events involving the 3Phase grant.

USC's conflicts of interest and commitment policy extends to outside (non-USC) activity if the activity affects or appears to affect the employee's University duties. It is unclear whether the OEE official knew his activities at the Incubator would be subject to USC's conflicts of interest and commitment policy, but, once AAS had concluded its investigation, the OEE official told AAS that he had reviewed and understood the policy.

Chart 5.6: Depiction of 3Phase Grant Transferring from OEE to the Incubator



Source: LAC Interpretation of Events Based on Documentation Received by USC, DOC, and Incubator

Questionable Hiring Decision

An OEE official is friends with the chairman and former chief executive officer (CEO) of a South Carolina public relations firm. In 2020, this OEE official hired the chairman's son as an OEE special contractor and then, in 2023, hired the son as a full-time employee despite the son having less education and experience than another applicant. The OEE official also gave the chairman's son a starting salary which exceeded the maximum salary limit for the job posting. We also learned that, in 2022, the OEE official's son was hired by the chairman's South Carolina public relations firm as an intern and then as a full-time employee of the South Carolina public relations firm in 2023. The hiring of the chairman's son is questionable and may have potentially violated USC's conflicts of interest policy since the OEE official did not disclose to the University that the OEE official has a friendship with the employee's father.

USC Contracts with Persons That Have a Personal Relationship with an OEE Official

We discovered an OEE official may have violated USC's conflicts of interest and commitment policy by failing to disclose his personal relationship with persons closely affiliated with two contracts. One contract was for \$400,000 with the same South Carolina public relations firm referenced earlier. Another contract was for \$149,835 with a company whose manager was a business colleague and friend of the OEE official.

USC's policy BTRU 1.18 states a conflict of interest arises when employees use their position to influence University business decisions in a way that could result in an economic gain to individuals with whom the employee has a business or personal relationship. The policy's definition of personal relationship includes an employee's friend. The disclosure process promotes transparency to eliminate the perception of or an actual conflict of interest.

At the direction of an OEE official, in January 2023, the University signed a \$400,000 contract with a South Carolina public relations firm to provide marketing services for computer labs (refer to *Governor's Emergency Education Relief Grant* for further discussion on these computer labs). Despite having a close association with the chairman and former CEO of this public relations firm, the OEE official never informed the University of this relationship before it signed this contract. This omission may have violated USC policy.

The same OEE official spent approximately \$150,000 in grant funding to contract with a company to provide computer lab patrons access to a research database and an expert portal. The research database provides information on leading areas of research disciplines, researchers, and funding within South Carolina and throughout the world, while the expert portal provides a searchable portal highlighting the research expertise of the University's faculty.

Almost five years prior to this purchase, the manager of the contracted company and the OEE official worked together. The OEE official, in correspondence, referred to the manager of the contracted company as “a former colleague and friend.” The OEE official never informed the University of his relationship with the manager of the contracted company (for more information on USC’s purchase of a research database and an expert portal for computer labs, refer to *Governor’s Emergency Education Relief Grant*).

Statements of Economic Interest (SEI)

Pursuant to South Carolina’s Ethics Reform Act, only one person within OEE is required to file an annual SEI report with the SEC. We reviewed this OEE official’s SEI reports from 2021 through 2023 and found the OEE official may have violated South Carolina’s Ethics Reform Act by failing to disclose the OEE official’s:

- Spouse’s controlling interest in a private consulting company on the annual SEI reports from 2021 through 2023.
- Child’s income earned at the Incubator on the annual SEI reports from 2021 through 2023. This child lived at home with the OEE employee at the time.
- USC income on the 2022 SEI report.

Public employees subject to filing a SEI report must disclose various economic interests, including, but not limited to, the employee’s and the employee’s immediate family’s governmental income and the name of every business or entity in which the employee or the employee’s immediate family has at least a 5% controlling interest. Under the Act, the definition of immediate family includes the employee’s spouse and any child that resides in the employee’s household.

It is important for public employees to submit complete and accurate SEI reports to promote public confidence in public employees and state government.

Failure to Report Outside Employment

The University's conflicts of interest and commitment policy requires select USC employees to complete an annual disclosure form. We reviewed USC's internal annual disclosure forms submitted by OEE employees from 2019 through 2023 and found:

- A second OEE employee did not disclose on his annual disclosure forms from 2021 through 2023 that, since August 2020, he had also been a principal at the subcontracted company referenced earlier. As noted above, the other OEE employee did not disclose his relationship with the subcontracted company and was subsequently investigated and found by AAS to have had a conflict of interest.
- An OEE employee failed to disclose on a 2021 disclosure form that he was working as a managing partner at a business consulting practice.
- An OEE employee failed to disclose on annual disclosure forms from 2020 through 2023 an affiliation with the Incubator—an entity that contracted with the University multiple times. This employee reported his role at the Incubator on the 2018 disclosure form, but USC policy requires employees to continue to disclose all conflicts of interest annually.
- An OEE employee failed to disclose on annual disclosure forms from 2019 through 2021 an affiliation with the Incubator—an entity that contracted with the University multiple times.

We also found that OEE employees had not received adequate training from AAS on the University's conflicts of interest and commitment policy. OEE has not received customized conflict of interest training, USC does not have a formal annual conflict of interest training class that faculty and staff are mandated to attend, and USC does not track attendance or completion of the training.

Failure to disclose potential or actual conflicts of interest undermines public confidence in fidelity of the University's stewardship of public funds and could, under certain circumstances, jeopardize the University's ability to receive grant funding.

Recommendations

53. The University of South Carolina’s Audit and Advisory Services should investigate employees at the Office of Economic Engagement to see if their activities at the USC/Columbia Technology Incubator violated the University’s conflicts of interest and commitment policy.
54. The University of South Carolina should ensure its employees submit complete and accurate statements of economic interest reports to the State Ethics Commission.
55. The University of South Carolina’s Audit and Advisory Services should provide mandatory training to all employees in the Office of Economic Engagement on the University’s conflicts of interest and commitment policy and establish and implement remediation procedures for failure to comply with the policy.

Office of Economic Engagement Travel Reimbursements

The University of South Carolina (USC) has failed to comply with its internal travel policy. We reviewed all paid travel reimbursements submitted by USC’s Office of Economic Engagement (OEE) employees from 2019 through 2023 and found:

- USC reimbursed an OEE employee a total of \$3,960 during this period to attend two galas and four sporting events. The self-reported travel justifications provided by the OEE employee to attend these entertainment events were vague, and one contained errors.
- USC paid \$5,119 in travel reimbursements during this period to an OEE employee who lived out-of-state to attend OEE meetings in Columbia, S.C., the city where OEE is located.

USC’s Travel Policy

The University’s travel policy states that reimbursable travel expenses “should be reasonable and reflect a prudent decision to incur the expense on behalf of the University.” The policy defines a “reasonable expense” as “an expense that is ordinary and reflects a prudent decision to incur the expense on behalf of University business. Not extreme or excessive.” Travel for the purpose of conducting University business includes, but is not limited to, attending professional meetings, special demonstrations meetings, and other related meetings.

State travel regulations state that, except for meals or taxi fares, a state employee seeking reimbursement for a travel or transportation expense must provide receipts for all expenditures. The University's travel policy complies with state travel regulations by:

- Requiring employees to travel on a commercial airline via coach or tourist class.
- Requiring employees to travel a direct route when using their personal vehicles and compensating employees for miles driven by using the current mileage rate authorized by the Internal Revenue Services (IRS).
- Refusing to reimburse employees for overnight lodging within 50 miles of the employee's official headquarters or residence.

When seeking travel reimbursement, a USC employee must sign and certify that the amounts are true and correct and conform to the law and University guidelines and procedures. The employee's supervisor must also approve the employee's travel reimbursement. The supervisor's approval attests that the supervisor is aware of the employee's travel and that the travel is reasonable. The signed and certified travel reimbursement request is submitted to the University's controller's office for processing and payment. It is unclear from the University's travel policy whether the controller's office also reviews and certifies the accuracy of the submitted travel reimbursement.

Analysis of OEE Travel Reimbursements

We reviewed all 162 paid travel reimbursements submitted by OEE employees from 2019 through 2023 to verify that these paid travel reimbursements complied with federal and state travel regulations and the University's travel policy. We found:

- 6 (of the 162) paid travel reimbursements were for one OEE employee to attend two galas and four sporting events, one of which was the 2022 Gator Bowl in Jacksonville, Florida.
- 5 (of the 162) paid travel reimbursements were submitted by an OEE employee who lived out-of-state so this employee could attend OEE meetings in Columbia, S.C.

Sporting events and galas are considered entertainment events. However, it is difficult to ascertain how traveling to entertainment events would be considered a "reasonable expense" as defined by the University's travel policy.

OEE stated the gala trips were reasonable travel expenses which benefited the University because they were sponsorships and opportunities for outreach and networking for USC. OEE claimed the golf tournament trips were reasonable travel expenses because they were sponsorships that promoted corporate and industry engagement and provided outreach and marketing opportunities. However, terms like outreach, networking, and marketing are vague and could be used to describe any type of event. Without additional verification, accepting such vague language in a justification for travel reimbursement could lead to employees abusing the travel reimbursement system at USC since attendance at any entertainment event could be described as outreach, networking, and marketing for the University.

For the Gator Bowl trip, the OEE employee provided a justification letter where the stated purpose of the trip was to meet with several businesspersons. The justification letter stated the OEE employee hosted a businessperson and the businessperson's family at the 2022 Gator Bowl to discuss expanding student internship opportunities and to potentially partner with the business at the future health sciences campus on Bull Street. We met with this businessperson and asked about this trip, and the businessperson denied attending the 2022 Gator Bowl with this OEE employee. We were unable to ask the OEE employee in question for clarification because this individual was no longer employed by the University.

In 2022 and 2023, the University paid a total of \$5,119 to have an OEE employee who lived more than 400 miles away from Columbia, S.C. to physically participate in an OEE meeting in Columbia on five separate occasions. It is unclear why these meetings could not have taken place via teleconferencing, but it would have been more economically feasible to have this out-of-state employee join these meetings via free video conference.

Recommendations

56. The University of South Carolina should refrain from accepting self-reported travel expense reimbursement requests that have vague language such as outreach, networking, and marketing.
57. The University of South Carolina should require employees to provide the contact information of businesspersons with whom they meet when submitting requests for travel reimbursement so the University can verify these meetings occurred and that reasonable travel expenses were incurred.
58. The University of South Carolina should amend its travel policy to stipulate that the University will only reimburse an out-of-state employee's travel expenses to attend a meeting in South Carolina if the employee's supervisor provides a sufficient justification as to why the out-of-state employee's physical presence is needed and why a video conference with the out-of-state employee would be insufficient.

Purchasing Card and South Carolina Business Opportunities Posting Violations

We reviewed the Office of Economic Engagement's (OEE's) purchasing practices and found OEE:

- Used its purchasing card (P-card) to purchase items for the benefit of the USC/Columbia Technology Incubator (Incubator) in violation of USC's P-card policy.
- Used memoranda of understanding (MOUs) between the University and the Incubator to justify P-card transactions made for the Incubator's benefit.
- Entered into a sole source contract with a company led by a former business associate of an OEE official without first posting its intent to enter into a sole source contract on the South Carolina Business Opportunities (SCBO) website, as required by state law.

P-Card Activity

All state agencies are required to follow the State Fiscal Accountability Authority's (SFAA's) South Carolina Purchasing Card Policy and Procedures. As a state agency, USC has elected to participate in the South Carolina Purchasing Card Program. Under the program, a USC employee is issued a VISA[®] credit card to purchase supplies, materials, equipment, or services which have a purchase transaction total of less than \$5,000. A P-card is only issued to a full-time USC employee who has completed a pre-requisite exam, attended a training session, and signed a cardholder agreement. The P-card can only be used for official USC business. The SFAA policy strictly prohibits purchases of goods or services intended for non-work-related use or uses other than official state business.

All P-card transactions must be substantiated by receipts. The cardholder is responsible for reconciling the P-card's monthly statement with receipts and other supporting documentation and must note any change in accounting information. After verifying the accuracy of the monthly statement, the cardholder uploads all receipts into USC's finance system used to support procurement. Once the receipts are entered, a department liaison or business unit head will review the monthly statement and receipts and will attest to the accuracy of the charges. If the liaison or business unit head discovers unallowable charges, he will try to resolve the matter with the cardholder.

As of May 2023, only two OEE employees had P-cards. We reviewed OEE's monthly P-card statements from September 2022 through September 2023 and found 19 purchases for which we sought additional justification because transaction amounts seemed high for the vendor, or the transactions came from an unfamiliar vendor. We received additional documentation and found that 17 of the 19 purchases followed the SFAA's and University's P-card policy. Nonetheless, we discovered that a USC P-card had been used to make two purchases of less than \$500 each for the benefit of the Incubator.

On September 27, 2022, OEE used its P-card to purchase a GoDaddy.com subscription to fix the Incubator's website and the EngageUSC website. Additionally, on June 8, 2023, OEE used its P-card to purchase a yearly subscription from Wix.com to help create a website for 3PhaseSC. From January 1, 2021 through December 31, 2023, the South Carolina Department of Commerce's 3Phase grant was awarded to the Incubator.

MOUs Between USC and Incubator

The University and the Incubator signed three MOUs that permitted the parties to provide and/or share ideas, resources, and personnel for the purposes of growing the South Carolina economic development ecosystem for approximately 13 years. The first MOU went into effect on December 17, 2015, and the last MOU expires December 31, 2028, unless terminated earlier by either party (for more information on these MOUs, refer to *USC/Columbia Technology Incubator Financial Management Practices*).

OEE leadership justified using its P-card to purchase items for the Incubator because the MOUs permitted the two entities to share resources. However, OEE's interpretation of the MOUs is counterintuitive to the purpose of the P-card program—to help USC, as a state agency, make low-value purchases for official USC business. Permitting this sort of arrangement, especially left unchecked, could lead to misuse and intermingling of funds between a state agency and nonstate entity.

SCBO Posting Violations

The University did not follow required procedures for sole source procurements under the S.C. Consolidated Procurement Code (procurement code) which requires an agency to post its intent to sole source a contract exceeding \$50,000 on the SCBO website. We reviewed OEE's sole source procurements from 2018 through 2023 to verify USC posted sole source procurement ads on the SCBO website. USC failed to post an ad on the SCBO website showing its intent to enter a sole source contract before entering into an agreement with a company for access to a research database and an expert portal. At the time, the company was led by a friend and former colleague of an OEE official (refer to *Ethics and Conflicts of Interest Violations*).

The procurement code requires an agency to post its intent to award a contract through a sole source procurement on the SCBO website for at least five business days if the contract has a potential value greater than \$50,000 and up to \$250,000 (or, for 10 business days if the contract exceeds \$250,000). Posting on the SCBO website is not required if a chief procurement officer from the state procurement office determines that it is in the best interest of the state to award the contract without such notice.

On July 13, 2023, OEE submitted a sole source justification memorandum to the University's purchasing department for access to a research database and the licensing rights for an expert portal provided by this company. We reviewed all the University's sole source ads on the SCBO website from April 2022 through April 2024 and did not find any ad referencing this sole source procurement contract. We asked the state procurement office if USC had received an exemption from advertising this sole source bid on SCBO, and the state procurement office responded that USC had not. Therefore, other vendors were not considered by the University.

Recommendations

59. The University of South Carolina should follow state and University policy by prohibiting the use of purchasing cards for the benefit of any outside organization, including any affiliated organizations such as a foundation or the USC/Columbia Technology Incubator.
60. The University of South Carolina should ensure it properly posts notices of intent to enter into sole source contracts on the S.C. Business Opportunities website in accordance with state law.

Facilities and Security

Overview

During our audit, we identified weaknesses in the marketing of IdeaLabs (Figure 6.1, below) and potential health and safety concerns with Office of Economic Engagement's (OEE's) management of the IdeaLabs and similar concerns with the USC/Columbia Technology Incubator (Incubator). Consistent with our objective relating to the determination of compliance with University of South Carolina policies, pertinent law, and best practices, we audited OEE's relationships with these facilities and found:

- Opportunities for improvement in marketing IdeaLabs.
- Potential risks to health and safety in and around OEE offices, common areas, and IdeaLabs.
- Problems with the physical plant, including potential risks to health and safety, in and around the building that houses the USC/Columbia Technology Incubator.

Office of Economic Engagement IdeaLabs

IdeaLabs consists of 4,338 square feet of office and wet laboratory spaces on the first floor of the Horizon I Research Facility and is located near the OEE administrative offices. IdeaLabs is a laboratory facility managed by OEE that offers low-cost, wet and standard laboratory space for South Carolina small businesses. A wet lab is a laboratory equipped for research involving chemicals or biological samples, whereas a dry lab is a laboratory equipped for research involving computer systems, data, or coding. Wet labs, therefore, have unique structural requirements like sinks, disposal systems for biohazard materials, shower and eyewash stations, ventilation systems, and gas alarm systems.

The construction of IdeaLabs was funded by the state and federal grants. The facilities must be made available for lease to private entrepreneurs. OEE leases IdeaLabs facilities to entrepreneurs for \$25 per square foot, and OEE cannot undercut the local market rate for comparable facilities.

OEE invoices tenants for rent each month. Tenants may pay rent directly to OEE, who in turn mails it to the USC Office of the Bursar (Bursar), or the tenant may pay the Bursar directly. The Bursar credits 100% of the rent money to an account with the USC Office of the Chief Financial Officer. The IdeaLabs rent money becomes part of OEE's budget and is used for repairs and equipment purchases for IdeaLabs.

**Figure 6.1: Leasable IdeaLabs
Offices in the Horizon I Research
Facility**



Note: A corresponding laboratory is accessible from inside each office.

Source: LAC Staff

Occupancy and Marketing of IdeaLabs

We reviewed leases for IdeaLabs from January 1, 2018 through December 31, 2023 to determine occupancy rates. We found the annual rate of occupancy varied from 15% to 72%, with the lowest rates potentially due to the COVID-19 pandemic—when businesses nationwide transitioned to remote operations and office occupancy rates decreased.

We asked OEE about IdeaLabs marketing and learned there was no marketing plan. OEE relies on “word-of-mouth” and referrals to attract potential tenants.

We reviewed an undated webpage for IdeaLabs and found OEE offered laboratory space for small businesses, whether or not they were affiliated with the University. However, we also reviewed lease agreements for tenant criteria and found that IdeaLabs tenants are required to have a relationship with the University or a “strong potential” to forge a relationship with the University within six months. According to OEE, tenants are often faculty members or people working with a faculty member. A student may be involved when working with a faculty member.

Recommendations

61. The University of South Carolina should develop a marketing plan for IdeaLabs that could attract prospective tenants who are not currently affiliated with the University.
62. The University of South Carolina should assess whether current restrictions on tenant candidacy are in keeping with the spirit of the public nature of funding used to construct IdeaLabs and modify restrictions as appropriate.

Safety Practices Affecting Office of Economic Engagement Workplace

Potential risks to safety are manifest in and around the Horizon I Research Facility (Figure 6.2, below), home of the Office of Economic Engagement (OEE) and IdeaLabs. These risks include issues with storing and securing compressed gas cylinders, and insufficient protocols for IdeaLabs safety inspections and the vetting of IdeaLabs tenants. There are also opportunities for improving safety in the Horizon Parking Garage, where OEE employees, IdeaLabs tenants, and USC students park, and at OEE off-campus facilities.

Figure 6.2: The Horizon I Research Facility



Note: The Horizon I Research Facility is home to OEE administrative offices and IdeaLabs. A skywalk connects the floor where OEE offices and labs are located to the Horizon Parking Garage.

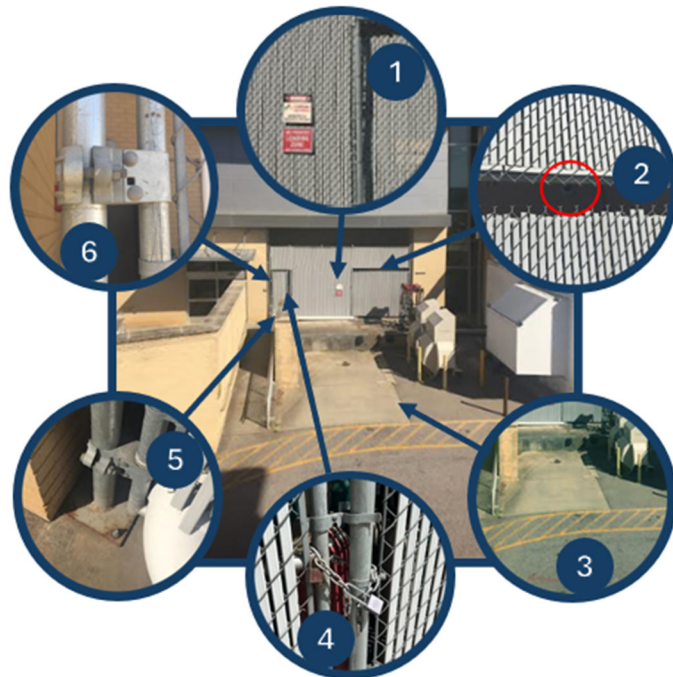
Source: LAC Staff

Vulnerability of Compressed Gas Cylinders Stored on Horizon I Loading Dock

Compressed gases used and stored throughout the Horizon I Research Facility, to include IdeaLabs, can present physical hazards to individual users, OEE employees who work in the building, and USC property. We reviewed procedures for handling and storing compressed gas cylinders at the building and found:

- Compressed gas cylinders stored on the Horizon I loading dock are vulnerable to theft, diversion, or an intentional release of their gases.
- Compressed gas cylinders inside the building, including in IdeaLabs, are commonly left unsecured, risking fall damage, property damage, personal injury, or death.
- Visible security measures, signage, and barriers have not been implemented to deter or delay the theft of, or tampering with, compressed gas cylinders.
- Little or no crime prevention programming was focused on Horizon I between 2018 and 2023.

Figure 6.3: Physical Security Vulnerabilities of the Compressed Gas Cylinder Storage Cage at the Loading Dock of the Horizon I Research Facility



Source: LAC Staff

Compressed gas cylinders delivered to the Horizon I Research Facility are received and temporarily stored inside a chain-link “cage” on a loading dock, pending movement inside the building where needed. We visited the loading dock on two occasions and observed:

- Signage warned of flammable materials and prohibited parking other than for loading (Figure 6.3.1). It did not limit access to authorized personnel, require an escort, prohibit trespassing, or otherwise limit access.
- No video surveillance warning was posted, nor was a camera obvious to passersby as a deterrent to criminals (Figure 6.3.2).
- No barrier or mechanical control was placed to prevent an unauthorized individual from backing a vehicle to the loading dock (Figure 6.3.3).
- The gate to the cage was secured with a chain and padlock that appeared vulnerable to bolt cutters (Figure 6.3.4).
- Gate hinges were fastened by standard nuts and bolts, rather than tamper-resistant fasteners, and appeared vulnerable to disassembly by a criminal using common tools, contrary to best practices for securing areas with high-risk assets or where safety is paramount (Figure 6.3.5).

Gate posts were not set in concrete but were fastened to anchor bolts by standard nuts—rather than security nuts—that also appeared vulnerable to a criminal using common tools. Bolt ends were not peened to prevent the removal of nuts (Figure 6.3.6).

We also reviewed USC Division of Health and Safety records and found that, between 2018 and 2023, crime prevention surveys and other crime prevention programming was available to University departments through that division. However, few crime prevention initiatives focused on Horizon I; and neither OEE, nor any other department in the building, requested crime prevention programming.

Researchers in the Horizon I Research Facility use compressed gases, including a highly flammable gas, and a corrosive gas that is a key ingredient in the illicit production of methamphetamine—the likes of which has been stolen from universities in the United States. In 2009, a Georgia company was indicted by a federal grand jury when a release of the latter gas resulted in a chemical cloud drifting across a roadway in Lexington County, S.C., causing a car to stall and killing the driver.

Both chemicals are of specific interest to the U.S. Department of Homeland Security for their potential use as tools of terrorism. Since September 11, 2001, hazardous chemicals have also been considered at risk for misappropriation by disgruntled employees and saboteurs motivated to inflict economic damage upon or to shut down a facility. There is also potential for losses from thieves motivated by financial gain. These could include financially-stressed students and employees. While a chemical may retail for \$250 per ton, it can command prices as high as \$300 per gallon on the black market.

In addition to safety risks associated with the theft, diversion, or intentional release of compressed gases, there is potential liability for the University if reasonable precautions are not taken to protect against theft or tampering. University procedures require that the cage, as a storage area for compressed gases, be protected from all unauthorized users. Visible security measures like “No Trespassing” signs and video-cameras can deter unauthorized access, as can barricading the lane leading to the loading dock. Limiting the time period in which cylinders are vulnerable can also offer protection from theft or criminal misuse.

Unsecure Storage of Compressed Gas Cylinders

USC policy and procedures require that compressed gas cylinders be secured to a bracket or floor stand using a strap or chain, whether they are with contents or empty. Unsecured, compressed gas cylinders stored in the IdeaLabs service corridor and in the chain-link storage cage on the Horizon I loading dock may present a risk of property damage, serious bodily injury, or death.

We visited IdeaLabs on November 8, 2023, and observed an upright compressed gas cylinder that was not chained or strapped to a bracket or floor stand (Figure 6.4). A USC employee advised us that an unsecured cylinder had also been found the previous day. We visited the storage cage on the loading dock on April 15, 2024, and observed at least five compressed gas cylinders that were not chained or strapped to a bracket or floor stand (Figure 6.5). We also revisited IdeaLabs, where we observed two more cylinders in the service corridor that were not chained or strapped to a floor stand, as required by USC policy and procedures.

Damage to a compressed gas cylinder from a fall can result in a release of gas at sufficient pressure to slice human tissue or propel the cylinder as a missile, with sufficient energy to penetrate a wall or ceiling. Inhalation of some gases in high concentrations can result in death.

Figure 6.4: Unsecure Compressed Gas Cylinders in IdeaLabs



Note: USC procedures require cylinders to be secured by a chain or strap whether the cylinder is with contents or empty.

Source: LAC Staff

IdeaLabs Safety

We reviewed procedures for IdeaLabs safety inspections and found:

- A startup laboratory consultation with the Environmental Health and Safety Officer (EHSO) is not required until after the University has entered into a lease agreement with a tenant.
- University safety staff and OEE could not identify a safety officer for IdeaLabs.
- University safety staff members encounter difficulty, or are enjoined from, accessing IdeaLabs to conduct safety inspections, due to the private, proprietary nature of the research occurring in IdeaLabs.
- Neither the *IdeaLabs Tenant Resource Guide* nor IdeaLabs leases specifically require USC access to IdeaLabs for safety inspections.

Figure 6.5: Unsecure Compressed Gas Cylinders Inside the Storage Cage



Note: Those in the foreground are not secured by a strap or chain.

Source: LAC Staff

Startup Consultation with Environmental Health and Safety Officer

We reviewed the *IdeaLabs Tenant Resource Guide* and found that tenants must submit a startup notice to the Environmental Health and Safety Officer (EHSO) before beginning work in their IdeaLabs. The notice informs the EHSO of biological, chemical, or other hazardous materials and equipment that will be present in the laboratory. The EHSO then meets with the tenant on-site to discuss safety and “ensure overall compliance.”

As described by USC safety staff, much is needed to ensure the safety of a new laboratory; one “can’t just throw it into a space.” Some types of research are not a “good fit” for a given building and the EHSO has authority to shut down a laboratory for safety reasons. We found there is an informal relationship between OEE leadership and the EHSO by which the EHSO surveys the setup of a new laboratory. However, there is no formal requirement for evaluation of a laboratory proposal until after the University has committed itself, by lease agreement, to transfer possession of the laboratory. Lack of a formal, written procedure may:

- Reduce the capacity of the EHSO to identify a high-risk laboratory proposal and disapprove tenancy.
- Prolong an unacceptable expectation by the tenant of how research will be conducted.
- Result in unsafe laboratory conditions at the Horizon I Research Facility.

Safety Inspections

The *USC Laboratory Safety Manual and Chemical Hygiene Plan* requires the appointment of a safety officer for each USC research group. The safety officer evaluates laboratory-specific safety issues, assists in training new laboratory personnel, disseminates safety information to laboratory group members, conducts laboratory self-inspections, and inspects and maintains safety equipment. A USC safety staff member familiar with IdeaLabs could not identify a safety officer for IdeaLabs. Neither could OEE identify an IdeaLabs safety officer.

USC procedures require a scheduled, annual safety inspection of every laboratory, and provide for additional inspections, even unannounced, when needed. USC safety staff conducts safety inspections of USC laboratories in the Horizon I Research Facility twice per day.

We reviewed the *IdeaLabs Tenant Resource Guide* and could not find a reference to the appointment of a safety officer for IdeaLabs. We also reviewed 28 IdeaLabs lease agreements that were in effect between January 1, 2018 and December 31, 2023, but found no specific reference to a safety officer. Appendices to three agreements entered into since May 2023 did require tenants to “comply with USC safety policies, procedures, and other requirements,” which may include safety officer requirements in the *USC Laboratory Safety Manual and Chemical Hygiene Plan*.

In discussing IdeaLabs safety inspections with USC safety staff, we noted two themes:

- Some IdeaLabs tenants have resisted access to their laboratories by USC safety staff for safety inspections, or safety staff has been prevented from conducting inspections.
- Some IdeaLabs tenants are concerned with the confidentiality of their research and do not feel compelled to permit access for inspections because safety staff access is not required by their leases.

Vetting of IdeaLabs Tenants

The University uses background checks to support efforts to minimize institutional risk, provide a safe and secure work environment for students and staff, and protect University funds and property. We reviewed procedures for checking the background of IdeaLabs applicants and found:

- No written policy, procedure, or lease provision required a background check of IdeaLabs tenants.
- Inconsistency in OEE leadership’s understanding of requirements, or the lack of requirements, for IdeaLabs background checks.

We reviewed the *2023 IdeaLabs Tenant Resource Guide*, IdeaLabs lease agreements, and University policies to determine the extent of IdeaLabs background checks. We also asked OEE leadership about these checks. We found none of the lease agreements required principals to undergo a background check. Twenty-eight leases required tenants to self-warrant a “technical/scientific orientation” and that principals had “education, experience, and backgrounds reasonably related to the business concepts involved.” Leases did not require principals to have a technical or science background that would lend itself to an awareness of laboratory hazards. We found no reference to background checks in the *2023 IdeaLabs Tenant Resource Guide* nor in University policies regarding IdeaLab tenants.

USC Policy HR 1.90, *Background Screenings and Professional References*, requires background screenings for all new faculty members, student employees in some positions, employees of contractors and temporary services, and volunteers with unsupervised access to non-public areas. A standard background check consists of a criminal conviction check, sex and violent offender registry check, social security verification check, professional reference check, and employment verification. Positions requiring a professional license or certification, or that require an associate degree or above, also require a professional license/certification verification, a credit history check, and education verification. The policy does not generally require an updated check except for cause and makes no reference to IdeaLabs or tenants.

We asked OEE management about background check requirements for IdeaLabs tenants, but responses were conflicted. One stated that background checks are required but may not be conducted; another stated no background checks are conducted because “most tenants are connected to USC.”

Safety of Horizon Parking Garage and Off-Campus OEE Facilities

We reviewed safety of the Horizon Parking Garage and found:

- Security camera coverage of the parking garage may be insufficient to deter crime or to protect OEE employees and their property from crimes in progress.
- The USC Division of Law Enforcement and Safety does not have records of all OEE controlled properties off-campus, as needed to plan and expedite emergency responses to those locations.

We reviewed records of the USC Division of Law Enforcement and Safety (the Division) pertaining to safety in the Horizon Parking Garage and found increasing concerns about the safety of students, faculty, and staff. Between 2017 and 2023, there were at least 113 incidents in the garage, with a slightly upward trend since 2020. Approximately 48% of those incidents involved vandalism or property destruction, but incidents also included indecent exposure, drug violations, hit-and-run vehicle collisions, weapon violations, and the arrest of one fugitive from justice.

USC police have identified poor security camera coverage in the garage due to an insufficient number of cameras and lack of real-time monitoring capabilities. On April 15, 2024, we visited each level in the garage, observed cameras and camera angles, and concurred with the department's concern. Camera upgrades for the garage are pending fiber optic connectivity, but a date for bringing the upgrades online was not available.

We inquired of the Division about safety at OEE facilities off-campus and found a communication breakdown between OEE and the Division, resulting in the Division being unaware of certain OEE facilities over which it may have primary jurisdiction. This was inclusive of leased office space inside the Incubator.

Recommendations

63. The University of South Carolina should conduct and document daily inspections of the chain-link storage cage on the loading dock of the Horizon I Research Facility for signs of tampering and ensure compressed gas cylinders are secured in accordance with University policy and procedures.
64. The University of South Carolina should conduct and document an independent, daily walkthrough of the IdeaLabs service corridor to ensure compressed gas cylinders are secured in accordance with University policy and procedures to complement any walkthrough already conducted by the Environmental Health and Safety Officer or the Horizon I Research Facility Superintendent.
65. The University of South Carolina should require, as a matter of written procedure, that a potential IdeaLabs tenant obtain approval of the USC Environmental Health and Safety Officer with regard to safety of the laboratory proposal before offering the individual a lease agreement.
66. The University of South Carolina should revise the standard IdeaLabs lease agreement and the *IdeaLabs Tenant Resource Guide* to specifically provide access to laboratories by the USC Environmental Health and Safety Officer for the purpose of conducting safety inspections consistent with the *University of South Carolina Laboratory Safety Manual and Chemical Hygiene Plan*.
67. The University of South Carolina should enact a policy that requires all applicants for IdeaLabs to obtain a background check comparable to the University's standard background check before approval of a new lease, extension of a lease, or renewal of a lease.
68. The University of South Carolina should complete fiber optic installation at the Horizon Parking Garage for security camera upgrades.
69. The University of South Carolina should formally notify the University of South Carolina Division of Law Enforcement and Safety when a property is leased to house USC staff or programs, or when a property otherwise comes under management or control of the University.

Physical Plant and Health and Safety Conditions at USC/Columbia Technology Incubator Facility

We reviewed records pertaining to the location of the USC/Columbia Technology Incubator (Incubator); interviewed current and former tenant member companies, members of Incubator leadership, Incubator board members, and persons familiar with Incubator operations as to the conditions of the facility; conducted multiple onsite visits; and reviewed e-mails pertaining to Incubator conditions. We found:

- The exterior of the building is weathered.
- The parking lot is strewn with trash and marred with massive potholes and loose gravel that have caused at least one trip and fall accident.
- The interior of the building, which is untidy and unaesthetic, poses potential health and safety hazards.
- There are sanitation and pest issues affecting the exterior and interior of the building, some of which have caused tenant member companies to seek office space elsewhere.
- There are safety issues due to the presence of loiterers.
- The building has been in continual need of maintenance and repairs, the costs of which Incubator management has, at times, sought to have the City of Columbia (City) subsidize, even though the lease specifies the City is not responsible for such costs.
- There have been ongoing issues with the building's elevators that could negatively impact the building's compliance with the Americans with Disabilities Act (ADA).

Exterior Building Conditions

We visited the Incubator on multiple occasions and found that the building had a weathered front, along with a torn-up parking lot with large potholes and trash. Incubator staff told us that trash, especially liquor bottles, is often strewn about the parking lot.

We also reviewed e-mails concerning the exterior of the Incubator building and learned that former tenant member companies complained to Incubator management about the potholes and loose gravel in the parking lot, which made for a "very hazardous walkway to the front door" and sometimes caused pedestrians to fall. At least one Incubator tenant member company's lease required the parking lot to be maintained and in "good repair."

These e-mails also detailed that something needed to be done about the night-time security lighting in the parking lot. Persons familiar with the Incubator told us the building was “falling apart” and that addressing its condition was the greatest overhead cost for the Incubator. We were also informed by Incubator staff that, prior to one of our onsite visits, they had picked up trash in the parking lot. The overall exterior conditions of the building and grounds do not convey an atmosphere of a professional office building. Figure 6.6 shows some of the exterior conditions we observed during our visits.

Figure 6.6: Exterior of Incubator Building



Source: LAC Staff

Interior Building Conditions

We were told by current and former Incubator tenant member companies and a person familiar with Incubator operations that the condition of the building was so embarrassing they did not want to bring clients and visitors there. This environment may undermine efforts to attract new startup businesses and retain existing tenant member companies.

During our in-person visits to the Incubator in October and November 2023, we observed a considerable number of unaesthetic conditions inside the building. These conditions included:

Peeling and chipped paint around doorways and on ceilings, doors, and stair rails.

Buckled carpet.

Mismatched/improperly installed ceiling tiles and holes in the ceiling.

Walls bolstered by wooden boards.

Broken stair treads.

An open window in a vacant office, potentially allowing wet weather to enter the building.

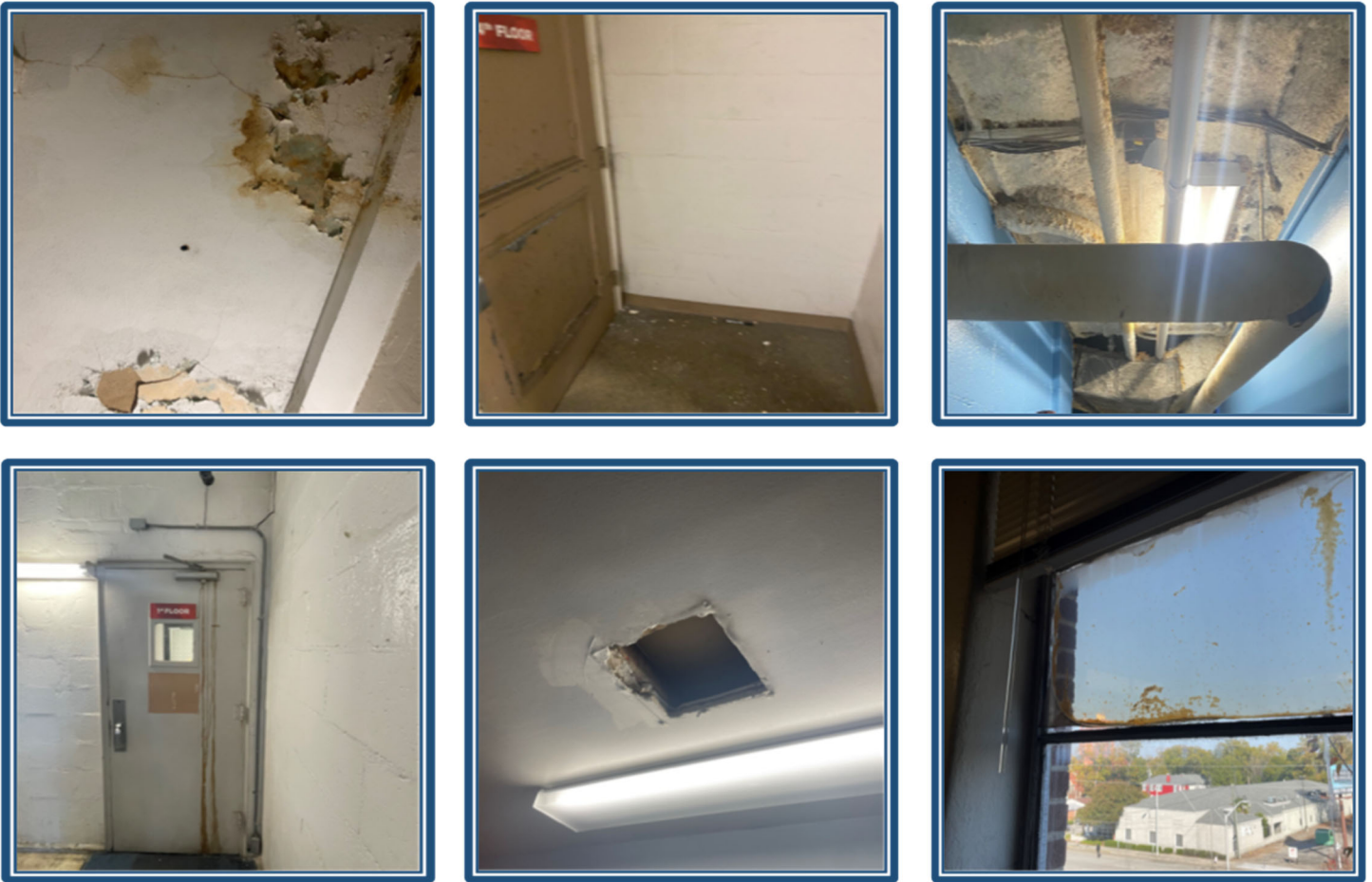
Flaking insulation in the roof access landing and the basement.

Exposed cables and sagging ductwork.

General untidiness and poor housekeeping.

Figure 6.7 shows some of the interior conditions we observed during our visits.

Figure 6.7: Interior of Incubator Building



Source: LAC Staff

Building Lease and Cost of Maintenance and Repairs

In 2004, the South Carolina Research Foundation (SCRF), the tenant, entered into a lease for the building housing the Incubator at an annual cost of one dollar, payable to the City of Columbia, the landlord. SCRF was allowed to sublet space in the building only to Incubator “tech program” companies and graduates. While the original term of the building lease ended in 2011, and while the Incubator ceased having a services agreement with SCRF in 2012, it appears that the building lease has been informally continued since at least 2013 (for more information, see *Lease Agreement Between the City of Columbia and the South Carolina Research Foundation*). Since then, the Incubator has assumed responsibility for leasing space in the building and collecting rents from tenant member companies and has thus continued to fulfill the intent of the original lease.

The lease also specifies that the tenant (legally, the SCRF; in practice, the Incubator) must keep the building and fixtures therein “in good repair and operating condition” and bear the cost of maintenance. We reviewed copies of e-mail correspondence between the Incubator and the City of Columbia concerning Incubator maintenance and repairs and found that the Incubator had e-mailed the City to ask that it provide financial support to cover costs for things such as landscaping and HVAC system replacement. In 2021, the Incubator asked the City to subsidize maintenance and repair costs because Incubator revenue was, according to an Incubator official, “down more than 30%.” However, the building lease only cost the SCRF—and by extension, the Incubator—one dollar per year, and the Incubator can keep all rents paid by tenant member companies. Effective January 15, 2024, the City terminated the lease on the building and gave notice that the building must be vacated no later than the end of 2024.

Dangers to Health

Environmental Contamination

After conducting environmental sampling, we found the Incubator building presumptively contained mold but was free of lead and asbestos. We had conducted the sampling based on the age of the Incubator building, reports of asbestos and/or mold by tenants and others familiar with the Incubator, and the poor facility conditions we observed during our October and November 2023 site visits. During a subsequent site visit we made to the Incubator on December 11, 2023, we collected five samples to test for asbestos, five samples to test for mold, and four samples to test for lead-based paint. We submitted the asbestos samples to a certified laboratory for processing. We utilized test kits for mold and lead-based paint that offered “instant” results.

None of the samples tested for asbestos or lead-based paint had positive results; however, all five samples tested for mold—one sample collected on each floor of the building—showed presumptive positive results for *Aspergillus* or *Penicillium* mold species.

Sanitation Issues and Presence of Pests

We met with or surveyed tenant member companies and reviewed e-mails concerning the conditions of the Incubator and learned of other health, as well as a number of sanitation, issues that existed at the Incubator. These included:

The presence of human excrement and toilet paper in the parking lot, or persons defecating or urinating outside/in the parking lot.

The presence of rats, which had been chewing their way through the ceiling tiles in Incubator offices.

Disintegrated drywall “everywhere.”

A lack of potable water in the building.

Mold growing in the carpet near a flooded/broken-down air conditioning system.

The presence of old/contaminated food and drink in the breakroom (e.g., green mold in community water coolers).

Collectively, these conditions are likely to make workers and visitors feel anxious or uncomfortable in visiting or occupying the building. We are aware that two tenant member companies, after notifying Incubator management of such issues, opted to vacate their spaces at the Incubator facility.

Dangers to Safety

Exterior Safety Issues

Through our interviews with current and former tenants and our discussions with persons familiar with the Incubator, we learned there were numerous issues arising from individuals loitering around the building, which caused the location to be unsafe.

Such issues included:

Individuals accosting, ambushing, robbing, or asking tenants for money.

Individuals snooping around or defacing tenants' cars.

Individuals huffing and dumpster diving.

Individuals camping in a building alcove or breaking into the building.

Individuals fighting in the parking lot.

Individuals following tenants into the building.

A person in a soiled gown who "escaped from the hospital" blocking the front door to the building.

A deceased person and another person suspected to have had a drug overdose, both of whom were found in the parking lot.

We also learned from Incubator staff and those familiar with the Incubator that staff would escort some tenants to their cars after dark and that the external doors are never locked. They stated that the building access code had been passed around or was given out to "everyone."

Interior Safety Issues

During our visits to the Incubator facility, we noted the following interior safety issues:

A missing lock/hole in the door of a vacant office on the third floor.

A trip/fall hazard created by broken stair treads.

Clutter in the hallway, creating an impediment to passage.

A dangling smoke alarm that may not have been operational.

Unplugged or inoperable security cameras.

These exterior and interior safety issues could cause concern for any person working in or visiting the Incubator facility. A number of these issues could have been remedied at little to no cost.

Issues with the Building Fire Panel, Fire Protection Devices, and Fire Alarm System

We reviewed fire inspection reports for the building for the years of 2020 through 2023 and found the Incubator’s fire panel had not been inspected since 2012, but an inspection was not commissioned by the Incubator until 2021. Also, during our visit to the Incubator building in October 2023, we found that one fire extinguisher was not mounted properly, and some smoke detectors did not display a light to indicate they were powered.

We were informed by an Incubator staff member that since the building was “grandfathered,” there was no fire sprinkler or suppression system installed, even though such system was required by at least one tenant member company’s lease terms. Another person familiar with the operations of the Incubator indicated that Incubator management deactivated the fire alarm system after two false fire alarms rather than risk a fine. The City of Columbia Fire Department charges a \$100 fine when four false alarms occur at any one location within a year. Turning off the fire alarm system unnecessarily could have resulted in no alarm being sounded in the event of a real fire emergency.

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Potential Non-Compliance with Americans with Disabilities Act

We reviewed elevator inspection documents for the only two elevators in the Incubator building—one in the front and another in the back—and found:

There were two years for which there was no evidence that a certificate of operation was issued for the front elevator.

There were safety issues associated with the front elevator that required abatement measures for all years between 2015 through 2023, except 2017.

Elevator inspection records show that the back elevator had been temporarily decommissioned starting in 2017.

We also noted that, during our visit to the Incubator building in October 2023, neither the front nor the back elevator was operational. E-mail correspondence between Incubator management and tenants from September 2023 indicated that the front elevator had been out of service for four weeks prior and that Incubator management was offering discounted rental rates to tenant member companies occupying space on floors two and higher until a repair could be made. During one of our site visits, we found that the front and back elevators were inoperable; this may have jeopardized the Incubator’s compliance with Section 36.211 of the Americans with Disabilities Act Title III Regulations. These regulations specify that “inoperable elevators or other equipment intended to provide access” would violate this section.

Recommendations

70. The University of South Carolina should only continue its relationship with the USC/Columbia Technology Incubator as it is currently structured if the lease on the Incubator building is current and clearly outlines the relationship between the University and/or any of its affiliates, and any other party to the agreement.
71. The University of South Carolina should only continue its relationship with the USC/Columbia Technology Incubator as it is currently structured if the Incubator maintains the facility and the grounds in a manner that ensures the health and safety of Incubator employees, tenant member companies, and visitors.
72. The University of South Carolina should only continue its relationship with the USC/Columbia Technology Incubator as it is currently structured, if the Incubator has valid and current lease agreements in place for any rented facilities.
73. The University of South Carolina should only continue its relationship with the USC/Columbia Technology Incubator as it is currently structured, if the Incubator is in compliance with the Americans with Disabilities Act Title III regulations.

Agency Comments



Michael D. Amiridis
President

December 4, 2024

(via email: JKresslein@lac.sc.gov)
Mr. John C. Kresslein
Audit Manager
South Carolina Legislative Audit Council
1331 Elmwood Ave., Ste. 315
Columbia, SC. 29201

Re: USC Response to the LAC Report: “A Review of the Office of Economic Engagement of the University of South Carolina and its Affiliation with the USC/Columbia Technology Incubator and the South Carolina Research Foundation” (Report)

Dear Mr. Kresslein:

The South Carolina Legislative Audit Council’s (LAC) review of the University of South Carolina (USC) Office of Economic Engagement (OEE) and its affiliation with the USC/Columbia Technology Incubator and the South Carolina Research Foundation was initiated by written request of six members of the South Carolina Senate dated September 7, 2022. The audit, spanning approximately twenty-six months, culminated in the issuance of LAC’s Report, received by USC on November 22, 2024.

According to the Report, LAC’s audit objectives were to:

- “Determine if the administrative and project management practices of the Office of Economic Engagement (OEE) comply with University of South Carolina (USC) policies, state and federal law and regulations, and conform with best practices.”
- “Determine how the Office of Economic Engagement’s approach to collaborating with external partners affects economic growth, student learning, and student employment opportunities and conforms with best practices.”
- “Determine whether the controls exercised by the University of South Carolina in its relationships with the South Carolina Research Foundation (SCRF) and the USC/Columbia Technology Incubator (Incubator) are effective in minimizing the risk of waste, fraud, and abuse and conform with best practices.”

The Report concludes: “S.C. Code §2-15-50(b)(2) requires us to review the effectiveness of an agency to determine if it should be continued, revised, or eliminated. We did not conclude from this audit that the Office of Economic Engagement (OEE) should be eliminated; however, our audit includes recommendations for improvement.”

USC agrees with LAC's conclusion and is gratified that the audit revealed no evidence or significant issues supporting the elimination of OEE, whose mission is critical to the success of the institution and the State of South Carolina. USC takes issue, however, with the time required to conduct the review of OEE, the methodology employed, and a number of the findings and recommendations contained in the LAC Report. Most importantly:

- Grant expenditures called into question by LAC were in fact allowable and appropriate
- Many of the recommendations in the Report apply to outside organizations not under the legal authority of USC
- USC President Michael Amiridis has already appointed new leadership to OEE and relevant changes to business practices were already underway prior to and during LAC's review.

1. LAC Report Chapter 1: USC Comments (Timeliness of Audit Completion; Methodology)

As a public institution, USC welcomes a review of any of its activities to ensure conformity with best practices and to identify issues of potential waste and abuse of taxpayer resources. USC notes, however, that LAC's review of OEE - a small department of the State's flagship university - lasted in excess of two years and consumed significant time, effort and attention by the many USC employees required to produce records and otherwise respond to various LAC requests. USC questions whether the resulting cost of the review to South Carolina taxpayers can be justified in this case.

USC also questions the appropriateness of the time periods within which USC was asked to digest and provide a response to LAC's Report, both the initial draft (consisting of 129 pages) and the final version (consisting of 138 pages). Although LAC spent in excess of two years gathering information and drafting the Report, USC was provided only 25 days to respond to the initial draft, and only 12 days, including the Thanksgiving Holidays, to provide this response. The inequity of the response times imposed on USC, given the comprehensive nature of the audit and the Report, raises doubts about the impartiality of the review.

With respect to LAC's methodology, USC notes that in the course of LAC's more than 2-year audit, LAC chose not to interview USC's President and other key University officials who could have provided insight regarding OEE, its history and operation, and existing plans for its future. Had LAC spoken to the President, for example, it would have discovered that the President, following his hire and arrival on July 1, 2022, quickly concluded that OEE was not appropriately aligned with his vision for the university's engagement with industry, researchers, students, entrepreneurs, and government, and that certain contractual and personnel changes would be needed in order for the office to more successfully cultivate technologies, champion entrepreneurship and build partnerships that drive economic and workforce development in South Carolina. Throughout the period of LAC's review, the President and members of the new administration had already begun to address many of the issues LAC identified. Such information would, no doubt, have been relevant to the audit and would have allowed LAC to reach its final conclusions in a more timely manner.

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LAC's Report also contains lengthy narrative to support findings and recommendations LAC made as to the grant management practices of two independent state agencies - the South Carolina Department of Administration and the South Carolina Department of Commerce - over which USC does not have any legal authority or control. (See Report Recommendation Numbers 3 and 10-12). USC questions LAC's inclusion of such information in an audit focused on OEE, particularly in light of LAC's prohibition on USC contacting government officials at either state agency to discuss the specific findings and obtain relevant information for inclusion in USC's response to the Report.

With respect to the overall content of the Report, USC notes that much of the Report - not less than 49 of the 73 total recommendations contained in the Report - involve organizational issues about which USC management was already aware and actively addressing before and during the period of LAC's audit. (See Report Recommendation Numbers 1, 2, 4-7, 9, 13-38, and 40-55). LAC never sought comment from USC leaders and key officials who could have provided these important details.

Similarly, LAC Report Recommendation Numbers 13-34 largely concern management issues involving South Carolina not-for-profit corporations with independent status and governance authority outside USC's purview. Unfortunately, the inclusion of LAC's findings in the OEE audit as to these independent entities implies incorrectly that USC is somehow responsible for the management of these organizations. With respect to both the state agencies and not-for-profit corporations referenced in the LAC Report, USC has, to the extent practical, already implemented management changes to alleviate concerns identified by LAC as a result of the relationships these entities have had with USC.

2. LAC Report Chapter 2: USC Comments (Grants Management)

USC advised LAC during the audit process that USC was actively addressing the grant management issues identified in Report Recommendation Numbers 1 and 2. Specifically, USC had already directed its Grants and Funds Management Office to work closely with OEE to address the accounting and compliance requirements for grants.

With respect to the Governor's Emergency Education Relief (GEER) Grant, LAC cited OEE for using \$1,714,077 for "questionable transactions" (See Page 17 of the Report). USC maintains that the expenditures identified by LAC were allowable charges to the grant and asserts the use of the term "questionable" inappropriately creates the negative impression that OEE acted outside the purposes for which the grant was established, which it did not.

GEER Grant funding originated from appropriations by Congress and delegated to states under the federal CARES and CRRSA Acts. The enabling legislation specifically allowed for expenditures related to "preventing, preparing for, and responding to COVID-19." OEE's use of GEER funds to support distance learning and education during the pandemic was a reasonable and allowable grant expenditure for responding to the effects of COVID.

OEE management made best efforts to apply these funds toward opening iCarolina computer labs across the state of South Carolina. While the success of those efforts may be subject to interpretation, the underlying expenditure of federal funds to support those efforts was indeed necessary, reasonable and appropriate. However, to eliminate any concerns or

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uncertainty raised by the LAC Report, USC has removed those expenses from the OEE computer labs project and revised its grant application and reporting. Those expenses were replaced with other legitimate expenses related to USC's distance education technology services. The new expenses were incurred within the allowable grant period and are clearly valid under the enabling federal legislation.

Additionally, USC notes that LAC did not recommend action be taken on any of the “questionable transactions” other than the \$4,589 spent to purchase Apple Watches for Palmetto College IT directors and computer lab coordinators for use in demonstrating Apple products in the iCarolina computer labs created through GEER Grant funding. Notwithstanding that USC maintains the purchase and intended use of Apple Watches was consistent with and allowable under the terms of the grant, because of questions raised by LAC, USC has collected the watches and will offer them for sale through the State Surplus Property Office in accordance with applicable law.

As mentioned above, USC questions LAC’s inclusion in the Report of negative comments on the grant management practices of the South Carolina Department of Commerce and the South Carolina Department of Administration while simultaneously prohibiting USC from discussing the findings with the respective governmental leaders. USC has no legal authority or control over these independent state agencies. Regardless, USC accepts responsibility for and has already resolved the issues giving rise to the substance of LAC’s Recommendations in this regard.

USC notes that OEE secured \$10,620,543 in grant funding – a success by most measures. USC also acknowledges that accounting for grant-related time, effort, and transactions in order to comply with applicable laws and regulations requires diligence. For that reason, in October 2023 – a year before the LAC audit was complete – the USC Office of Grants and Funds Management, a central office staffed with professional accountants, was assigned responsibility for grant accounting for both OEE and the College of Engineering and Computing. USC informed LAC that it was addressing concerns it had already identified regarding grants management in these two units. The LAC Report fails to mention USC’s corrective actions and instead makes recommendations already implemented by USC.

3. LAC Report Chapter 3: USC Comments (Incubator; SCRF).

USC cannot address the management practices of the USC/Columbia Technology Incubator (Incubator), a non-profit entity with which USC has a memorandum of understanding. The Incubator was intentionally established as an independent legal entity, separate and distinct from USC. USC acknowledges, however, the involvement of now former OEE personnel at the Incubator as identified by LAC.

LAC’s recommendations regarding its audit of the Incubator begin with the qualifying language, "The University of South Carolina should, provided it continues its relationship with the USC/Columbia Technology Incubator as it is currently structured" USC notes that the President, upon his hire and arrival on July 1, 2022, began working with the City of Columbia to locate an appropriate facility for a more modern technology incubator. At the President’s direction, USC is disengaging from its current involvement with the Incubator and will reengage later under a more efficient and effective model guided by best practices.

Similarly, USC cannot address the governance and internal operations of the South Carolina Research Foundation (SCRF), an independent, non-profit entity with which USC has an affiliation agreement. USC supported the establishment of SCRF in 1997; the foundation was previously used for the management of grants from funding entities that did not wish to directly affiliate with an institution of higher education. USC's expectation has always been that SCRF would be self-supporting, as is the case with USC's other single purpose support foundations.

In 2012, USC began reducing the role and its use of SCRF to the point that SCRF now manages and possesses limited resources on behalf of USC. As with the Incubator, LAC's recommendations regarding SCRF begin with the qualifying language, "The University of South Carolina should, provided it continues its affiliation with the South Carolina Research Foundation" USC will continue to examine the viability of and necessity for an affiliation with SCRF.

4. LAC Report Chapters 4 and 5: USC Comments (Technology Transfer; Procurement Code; Ethics/Travel Reporting)

OEE's establishment more than a decade ago is the result of an evolutionary development in university technology transfer efforts. What began in the 1980s as a technology transfer office became an intellectual property office in the early 2000s and was formally established as OEE in 2012. As detailed previously, President Amiridis in 2022 determined that change was required in order for OEE to fulfill its critical mission. Rather than wait for the results of LAC's audit of OEE, the President appointed new leadership in OEE, including a new Vice President for Economic Engagement. This new Vice President is in the process of reorganizing OEE into a modern technology transfer office that will better serve USC's faculty and research objectives.

Regarding the use of P-Cards, USC policy is clear. While misuse can occasionally occur, it is managed with appropriate institutional oversight. LAC's conclusion that a particular P-Card case was "counterintuitive" is based on conjecture regarding the intent of former OEE leadership. The new OEE management will receive thorough training on P-Card use and be responsible for ensuring that misuse does not occur.

USC takes seriously its statutory obligation to comply with the requirements of the South Carolina Consolidated Procurement Code (Procurement Code). USC's Purchasing Office is staffed with knowledgeable and trained professionals who oversee the many procurement needs of the university community. LAC cited USC for "[entering] into a sole source contact with a company ... [for access to a research database] without first posting its intent to enter into a sole source contract on the South Carolina Business Opportunities (SCBO) website, as required by state law." (See Page 113 of the Report). LAC's conclusion is incorrect and fails to recognize that database purchases are exempt from the Procurement Code; therefore, neither a sole-source determination nor SCBO posting was required by law. No USC action is needed on this matter.

USC acknowledges the importance of accurate and complete individual ethics and travel reporting by USC employees. Institutional control at any level relies on the good faith efforts of everyone involved, and individual self-reporting is an essential first step before management can evaluate the need for follow-up or intervention. USC will engage USC Audit

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and Advisory Services, or other authorities, if necessary, to draw reasoned conclusions regarding the issues LAC identified in the LAC Report.

5. LAC Report Chapter 6: USC Comments (Facilities)

The physical conditions and limitations of the current Incubator space are and have been known to USC. As acknowledged by LAC in its Report, the space has been the only available space since before 2004, with minimal investment in improvements. USC informed LAC during its review of OEE that the space will be vacated by the end of 2024. Furthermore, the new Vice President for Economic Engagement is working with the City of Columbia and USC's Small Business Administration to secure more appropriate space for a newly envisioned technology incubator.

Because safety is a top campus priority, USC acknowledges and takes seriously LAC's observations about the USC Horizon Building and IdeaLabs. Management has increased scrutiny of the back loading dock, corridors, and tenant practices to ensure safety and compliance with applicable laws and regulations. The new Vice President for Economic Engagement, a respected faculty member with extensive experience in research, grants, and corporate agreements, is leading efforts to ensure safety as well as improve marketing and operations in IdeaLab to better serve USC.

6. USC Conclusions.

The University of South Carolina is committed to prudent use of taxpayer funds and welcomes good faith reviews of its practices. The important work of OEE in forging new business partnerships and encouraging innovation and entrepreneurship is essential to the University's mission of serving the State. As noted, under the leadership of President Amiridis, USC had identified and began implementing needed changes to OEE's business practices prior to the start of the LAC audit. These changes, led by new senior leadership at OEE, will assist the Office in becoming more efficient and more productive. USC is grateful for the conclusion of this inquiry so efforts can be fully directed towards these goals.

Respectfully submitted,



Michael D. Amiridis
President

cc: Honorable Thad Westbrook
Chairman, Board of Trustees

**The South Carolina Department of Administration's Response to an
Excerpt from the Legislative Audit Council's Final Draft Report Entitled
A Review of the Office of Economic Engagement of the University of
South Carolina and its Affiliation with the USC/Columbia Technology
Incubator and the South Carolina Research Foundation**

As part of what is apparently a larger audit of the Office of Economic Engagement of the University of South Carolina (USC), the Legislative Audit Council (LAC) has reviewed USC's management of the Governor's Emergency Education Relief (GEER) grant used to establish Apple computer labs statewide from March 30, 2021, through January 28, 2023. The excerpt from the final draft report provided to the Department of Administration on November 22, 2024, indicates that the LAC found USC:

- Used over \$1.7 million in grant funds for questionable transactions.
- Failed to comply with federal grant regulations when using funds to remodel and renovate the USC/Columbia Technology Incubator (Incubator) building.
- Failed to consider counties with a large population of residents without reliable broadband capability before deciding on the locations for the computer labs.
- Failed to provide the public with accurate information about the computer labs on OEE's website.

The excerpt of the final draft report also includes a finding that the "The S.C. Department of Administration ... did not sufficiently monitor USC's activities under this grant." Additionally, the excerpt contains a recommendation from the LAC that:

The S.C. Department of Administration should monitor future grants awarded to the University of South Carolina more closely to ensure the University is using grants for authorized purposes and in compliance with federal regulations.

The LAC gave the Department of Administration until December 4, 2024, to provide its comments regarding the finding and recommendations. Accordingly, the following comments on behalf of the Department of Administration are provided.

THE DEPARTMENT OF ADMINISTRATION DISAGREES WITH THE LAC'S FINDING REGARDING ITS MONITORING OF USC

The Department of Administration disagrees with the finding that it "did not sufficiently monitor USC's activities under this grant." The Department of Administration affirmatively asserts that it has complied with and will continue to comply with all monitoring obligations and duties resulting from its role in the Governor's Office's award of GEER grant funds to USC.

As set out more fully below, the Department of Administration's Executive Budget Office (EBO) along with the Governor's Office, as Grantee of GEER funds, established and followed a process that satisfied EBO's monitoring obligations in making reimbursements to USC under USC's Memorandum of Agreement (MOA) with the Governor's Office regarding the GEER grant award. The process included EBO and the Governor's Office receiving and reviewing contemporaneous documentation, acknowledgments and certifications from USC through its Controller prior to making any

reimbursements. The process that EBO and the Governor's Office followed was reviewed by the U.S. Department of Education's (USDOE) Office of State and Grantee Relations (SGR), the Federal agency responsible for the GEER grant, and the SGR concluded that "... South Carolina's awarding of GEER funds and monitoring of subrecipients is consistent with the program requirements." See March 14, 2023, letter from Laura Jimenez, Director of SGR, to Governor Henry McMaster which is attached to and incorporated into this response as Exhibit A.

Neither the provisions of 2 C.F.R. §200.332(e) (formerly subsection (d)) nor the process reviewed and approved by SGR required the Governor's Office or EBO to perform site visits or real-time contemporaneous audits of USC, an entity with significant personnel and operating resources and a long history of dealing with federal grant program requirements, prior to reimbursing USC for documented expenses in order to satisfy monitoring obligations under GEER or the MOA. Additionally, both the State, which includes the Governor's Office, and USC have annual single audits performed as contemplated in 2 C.F.R. §200.332(g) and 2 C.F.R. §200.501(b). EBO is aware of no findings from either single audit indicating a problem with the GEER award to USC. Had EBO been made aware that any such audit findings had been made, it would have taken appropriate actions as provided for in 2 C.F.R. §200.332(e)(2)(3)&(4). Should findings from any other audit regarding USC and the GEER grant be made known to EBO, EBO will take whatever action is appropriate under 2 C.F.R. §200.332(e)(2).

In its final draft report, the LAC appears to have confused EBO's obligations to monitor USC before making reimbursements with an obligation to take appropriate action on findings from detailed audits that would naturally occur after reimbursement. There was absolutely no requirement for EBO to perform an audit with "... a detailed review of grant expenditures ..." lasting several months like the LAC has performed in this matter prior to EBO making reimbursements to USC. EBO and the Governor's Office had every right to rely on the accuracy of the reimbursement requests documentation submitted and corresponding certifications and representations made by the Controller of USC and to expect that USC would follow through with any obligations to provide the contemplated services after reimbursement for documented expenses occurred.

Additionally, the LAC misapprehends the March 14, 2023, letter from Laura Jimenez, Director of SGR, to Governor Henry McMaster as only approving the established process. The letter was issued approximately 6 weeks after the final reimbursement was made to USC and clearly states that the SRG determined that the "monitoring of the subrecipients" was consistent with the GEER grant program requirements.

BACKGROUND

In May of 2020, the S.C. Governor's Office was the grantee of approximately \$48 million from the CARES Act's GEER fund as part of the Education Stabilization Fund Program (GEER I). As part of this grant, the Governor's Office entered into an MOA in April of 2021 with USC to provide USC \$6 Million to, among other things, establish computing labs around the State to make available needed computer access because of the COVID Emergency. Through the MOA, USC agreed to be reimbursed for expenses related to the requirements of the MOA after submitting appropriate documentation to the Department of Administration. GEER I required that all funds be liquidated by January 28, 2023. Ultimately, USC was reimbursed for \$6 million in documented expenses with the last of three reimbursement payments being made on January 27, 2023. In accepting the GEER grant, the Governor's Office listed the Director of EBO

as the State Program Representative and EBO assisted the Governor's Office in making reimbursements under the Governor's Office's MOA with USC.

USE OF GEER FUNDS BY INSTITUTIONS OF HIGHER EDUCATION

Generally, as set out in the CARES Act, GEER funds could be awarded by the Governor to institutions of higher education like USC to further the institution's ability to provide educational services and support the on-going functionality of the institution. Guidance and communication from the USDOE related to what GEER funds could be used for expressed an encouragement for awarding funds to support accessible remote learning or distance education through actions including, but not limited to: providing off-campus access to reliable, high-speed internet for students and teachers; purchasing hardware and software applications for students and teachers; providing access to high-quality digital learning content, apps, and tools; and, providing professional development and training for teachers on effective strategies for the delivery of remote and digital instruction. Further, USDOE guidance indicates a higher education institution might use GEER funds to, among other things, provide staff, infrastructure, and technology to support distance education, or remote learning; provide academic support for libraries, laboratories, and other academic facilities; and provide institutional support for activities related to personnel, payroll, security, environmental health and safety, and administrative offices. The USDOE noted that, subject to any restrictions that a Governor places on an institution's use of GEER funds, an institution may use the funds to support a broad array of activities.

THE GOVERNOR'S OFFICE'S MOA WITH USC AND EBO'S MONITORING OBLIGATIONS

In line with the CARES Act's requirements for GEER funds and USDOE guidance, the Governor entered an MOA with USC to use GEER funds to establish computing labs around the State that were to provide free access to computers, laptops, and iPads; to collaborate with Benedict College to create a main hub computer lab in Columbia, to advertise the availability of access to the computer labs; and to purchase the necessary equipment and wifi access for the computer labs. The Governor's Office and EBO created standard documentation for USC to submit prior to reimbursement and required USC to present back-up documentation reflecting expenditures in order to be entitled to reimbursement under the MOA.

The Governor's Office and EBO in assisting the Governor's Office satisfied the obligations each entity had with respect to the GEER award through establishing a reimbursement based subgrant rather than a preliminary out-lay of funds to USC, entering an MOA with USC aligned with the requirements of GEER, creating standard documentation for USC to submit prior to reimbursement, requiring USC to present back-up documentation reflecting expenditures, and consistently communicating to USC its obligations under the MOA and receiving assurance and representation from USC that its expenditures were in agreement with the MOA. The monitoring process followed was not developed in a vacuum by EBO. In addition to substantial involvement by the Governor's Office, EBO participated in several meetings with employees of the USDOE's SGR regarding the GEER award and subgrantee monitoring process. The SGR was certainly aware of the process the Governor's Office and EBO followed in making reimbursements to USC when the SGR determined that the monitoring efforts were consistent with the GEER program requirements.

During the process, there were numerous contacts between and among USC, the Governor's Office and EBO. Through these contacts, USC acknowledged or certified on multiple occasions that its expenditure of funds met the requirements of the MOA and therefore GEER. Except for those reimbursements

denied by EBO as noted in the LAC's final draft report, nothing in the documentation provided would indicate that the expenditures were for expenses not allowed by the grant or the MOA. EBO maintained regular communications with USC and the Governor's Office regarding the sufficiency of the documentation and submitted the documentation to the Governor's Office for its review prior to making any reimbursements to USC under the MOA. USC is a large well-funded institution with substantial personnel and operating resources and a history of receiving and complying with federal grants. USC has an annual single audit performed related to its grant programs. Every "Subrecipient Disbursement Request Form" as well as the "Subrecipient Set-up Form" submitted by USC was signed by the University's Controller and contained an acknowledgement that, among other things, the requested reimbursement was only for expenditures that align with the MOA and consequently GEER.

EBO and the Governor's Office had every right to rely on the accuracy of the reimbursement request documentation submitted and corresponding representations made by USC's Controller under these circumstances and to expect that USC would follow through with any obligations to provide the contemplated services after reimbursement for documented expenses occurred. Similarly, EBO and the Governor's Office had every right to rely on the assurance made in the final GEER I Monitoring Reports from USC that the GEER I funds were in fact expended in accordance with the MOA.

LAC'S RECOMMENDATION

As has been set out, the obligation of the Governor's Office and EBO regarding the MOA was to ensure that USC was aware of the types of expenses that were allowed under the MOA and require and review appropriate documentation of those expenses prior to reimbursement. That obligation has been satisfied. It was and is USC's obligation to be forthcoming and provide accurate information to the Governor's Office and EBO regarding their expenses and to continue to provide whatever services were related to expenses for which they received reimbursement. As stated above, should EBO be made aware of any audit findings that USC may not have fulfilled its obligation, EBO will follow-up to ensure that USC takes or has taken timely and appropriate action on all deficiencies pertaining to the audit findings.

Assuming the LAC's final report findings are consistent with the final draft report and to the extent the Department of Administration is involved, the Department will follow the LAC's recommendation to monitor future grants awarded to USC more closely to ensure the University is using grants for authorized purposes and in compliance with federal regulations. It is reiterated, however, that neither the Governor's Office nor EBO were required to perform site visits or real-time contemporaneous audits of USC prior to reimbursing USC for documented expenses in order to satisfy monitoring obligations under GEER or the MOA. The LAC's findings regarding USC cannot be taken as an indication that the reimbursement of documented expenses through the established monitoring process was incorrect or constitutes a failure on EBO's part.

DOCUMENTS PREVIOUSLY PROVIDED TO LAC

It is understood that by email communication with an EBO employee earlier this year, the LAC was provided with the MOA, the final GEER I Monitoring Report – USC, the final GEER I Monitoring Report –

Benedict College, GEER Recap – USC, and certain supporting documentation surrounding the three separate reimbursements made to USC pursuant to the MOA on September 9, 2022, December 15, 2022, and January 27, 2023. It is also understood that the LAC was provided a link to a USDOE site through which the LAC could access guidance regarding administration of the GEER grant. The additional documentation regarding the reimbursement process listed below was provided to the LAC on October 31, 2024.

- the March 14, 2023, letter from Laura Jimenez, Director of SGR, to Governor McMaster finding that S.C.'s monitoring process was consistent with GEER program requirements with email from Governor's Office of the same date (also attached to this response as Exhibit A).
- a February 9, 2023, SGR Quarterly Review Agenda-Template with accompanying 10/18/21 through 2/21/23 email chain communication between and among the Governor's Office, EBO and SGR related to an SGR quarterly review of S.C.'s GEER award process.
- Subrecipient Disbursement Request Forms from USC signed by the University's Controller in addition to the supporting documentation already provided by EBO surrounding the requests from USC for the reimbursements made on September 9, 2022, December 15, 2022, and January 27, 2023.
- a series of email communications between EBO and the Governor's Office reflecting the Governor's Office's review of USC's proposed budget categories (with Subrecipient Set-Up Form updated by USC 7/26/2022) and USC reimbursement requests prior to the September 9, 2022, December 15, 2022, and January 27, 2023, payments.
- a series of EBO email communications with USC as examples of communications regarding the requirements of the MOA and grant.

CONCLUSION

The Department of Administration disagrees with the findings related to its monitoring of USC. The Department of Administration believes that the LAC's conclusion regarding EBO's monitoring of USC under the MOA is based on a misconstruction of the parties' roles and duties with regard to the reimbursements made. The Department of Administration confirms that, while EBO had no duty to perform site visits or audit functions prior to reimbursement of USC, it will follow-up on any audit findings subsequently made known to EBO and take appropriate action.

Thank you for the opportunity to comment on the findings contained in the excerpt of the final draft report and should the LAC have questions or need additional comment or information, we will be available at your convenience.

Exhibit A



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

March 14, 2023

The Honorable Henry McMaster
South Carolina Office of the Governor
1100 Gervais St.
Columbia, SC 29201

Dear Governor McMaster:

On February 9, 2023, the U.S. Department of Education's (Department's) Office of State and Grantee Relations (SGR) met with Brian Gaines, Director, Executive Budget Office to review South Carolina's implementation of its Governor's Emergency Education Relief (GEER) Fund grants. The review centered on the grantee's criteria and process for determining which local educational agencies, institutions of higher education, or other education related entities were served by the program, including the criteria for determining entities "most significantly impacted by coronavirus" and/or "essential for carrying out emergency educational services." Additionally, SGR reviewed the grantee's awarding of GEER funds and monitoring of subrecipients.

As a result of this review, the Department has determined that South Carolina's awarding of GEER funds and monitoring of subrecipients is consistent with the program requirements. This monitoring review is considered closed.

We want to thank Brian and his team for their hard work and assistance related to this monitoring review. We look forward to continuing to work with you and your staff to support the needs of students and families in South Carolina.

If you have any questions regarding this review, please do not hesitate to contact Darienne A. Feres-Merchant at darienne.merchant@ed.gov.

Sincerely,

/s/

Laura Jimenez
Director
Office of State and Grantee Relations
United States Department of Education

Cc: Brian Gaines, Director, Executive Budget Office

400 MARYLAND AVE., SW, WASHINGTON, DC 20202
<http://www.ed.gov/>

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

From: Barton, Melanie
To: Lemoine, Leigh; Walker, Trey
Cc: Gaines, Brian; Etheridge, Kevin
Subject: FW: [External] South Carolina: FY23 GEER Quarterly Review Determination Letter
Date: Tuesday, March 14, 2023 3:32:43 PM
Attachments: Image001.png
South Carolina FY23_SGR_OR_DeterminationLetter_NoFind.pdf

The attached document needs to be entered into our system. Fortunately, there were no findings. . .

“As a result of this review, the Department has determined that South Carolina’s awarding of GEER funds and monitoring of subrecipients is consistent with the program requirements. This monitoring review is considered closed.”

The Office of the Governor is in compliance with the USDE regarding the awarding and monitoring of GEER funds.

Brian Gaines and his team at EBO have been wonderful to work with on this process. Our office has asked each state agency that received GEER fund monies to make a report to our office so that we can ensure that the monitoring is verified.

Melanie

From: OESE.SGR.South Carolina <SouthCarolina.oese@ed.gov>
Sent: Tuesday, March 14, 2023 3:24 PM
To: Barton, Melanie <M8barton@governor.sc.gov>
Cc: Gaines, Brian <Brian.Gaines@admin.sc.gov>; OESE.SGR.South Carolina <SouthCarolina.oese@ed.gov>
Subject: [External] South Carolina: FY23 GEER Quarterly Review Determination Letter

Good afternoon Governor McMaster,

I hope all is well. Attached please find South Carolina’s GEER quarterly review determination letter. We appreciate all the hard work that the governor’s office and the South Carolina Department of Education is doing to support school districts in the implementation of the GEER programs. Please let me know if you have any questions.

Best,
Darienne A. Feres-Merchant



Darlene A. Feres-Merchant
U.S. Department of Education
Office of Elementary and Secondary Education
Office of State and Grantee Relations (SGR)

Email: darlene.merchant@ed.gov

400 Maryland Avenue SW
Washington, D.C. 20202

Connect. Engage. Empower.



Henry McMaster
Governor

SOUTH CAROLINA
DEPARTMENT OF COMMERCE

Harry M. Lightsey III
Secretary

December 3, 2024

Mr. K. Earle Powell, Director
Legislative Audit Council
1331 Elmwood Ave., Ste. 315
Columbia, SC 29201

Dear Director Powell:

Thank you for the opportunity to respond to the final report by the Legislative Audit Council (LAC) entitled *A Review of the Office of Economic Engagement of the University of South Carolina and its Affiliation with the USC/Columbia Technology Incubator and the South Carolina Research Foundation*, a portion of which relates to grant programs administered by our agency's Office of Innovation. The audit period for the LAC's report precedes my tenure as Secretary at the Department of Commerce, but we appreciate the LAC's thorough analysis of the implementation of certain agency grant programs, including those administered by the Office of Innovation, during that time and provide the following response to the LAC's report and recommendations.

One of my first priorities after joining the Department of Commerce was to gather the agency's leadership – via an off-site retreat – to get to know the agency better. Among other things we did during the retreat was conduct what was essentially a SWOT analysis. The No. 1 concern that came out of the analysis was that there were silos within the agency where different divisions and/or programs did not communicate effectively causing disruption in the organizational structure. The Office of Innovation was one of those silos.¹

After the retreat, we realized that the Department of Commerce had not thoroughly examined its structure and organizational effectiveness for over 10 years. Accordingly, we continued our extensive analysis and conversations regarding the need to do things differently by undertaking a comprehensive reorganization and restructuring to (1) better align areas where there were natural synergies, (2) merge resources, and (3) improve our internal processes. The result has made the agency more efficient, transparent, and accountable.

¹ The former director of the Office of Innovation during the audit period is no longer employed with the agency, but my understanding is that she was tasked by the former Secretary of Commerce to stand up a new Office of Innovation to meet a growing need in the innovation sector. She did that with some success, but we acknowledge in hindsight that there always are areas for improvement.



Henry McMaster
Governor

SOUTH CAROLINA
DEPARTMENT OF COMMERCE

Harry M. Lightsey III
Secretary

While we may not agree with every detailed conclusion by the LAC in its report, the Department of Commerce supports the LAC's recommendations regarding process improvements, some of which have been in use since the audit period. As part of the reorganization and restructuring, the Office of Innovation became one of two teams managed by, Julie Kunkle, who is a deputy director for the reorganized Business Services Division. Unlike the prior Innovation director, Ms. Kunkle reports to the division director and works closely with the director to ensure that the Innovation Team's programs and processes align with the division's overall goals, priorities, and processes as well as with the agency's new mission, vision, and goals.

Most of the issues identified with grants awarded to the Office of Economic Engagement (OEE) have been resolved by our agency's reorganization and the steps Ms. Kunkle has taken to implement better institutional processes and accountability for the grant programs administered by the Innovation Team.² In fact, the LAC acknowledges in its report that the new grant monitoring system implemented by Ms. Kunkle has resulted in the agency's terminating two grants, including one grant awarded to the OEE. Regarding the LAC's recommendation that the Department of Commerce conduct post-award audits for its grant programs, the agency will implement this recommendation if provided the additional funding needed for staff resources to make further audits possible.

In the meantime, we at the Department of Commerce will continue the effort to create economic opportunities to increase choices for all South Carolinians and embrace the future to ensure South Carolina's sustainable advantage.

Sincerely,

Harry M. Lightsey III

² We have implemented improved monitoring across all grant programs in response to the LAC's recommendations, including those administered by the South Carolina Coordinating Council for Economic Development, which was the subject of a prior LAC audit. As is the case with the post-award audits by the Office of Innovation (nka the "Innovation Team") and as we stated in our response to the LAC's recommendations related to the Council's grant program, further audits would require funding for additional staff.

This report was published for a total cost of \$113.76; 13 bound copies were printed at a cost of \$8.75 per unit.

