

Leader.

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December 8, 2008

Lee Fisher, Lt. Governor

Director, State of Ohio, Department of Development (“*ODOD*”)

Ohio Department of Development

c/o **Robert Stempfer**, Deputy Chief Legal Counsel, Legal Office, 614.466.1714

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77 S. High St., PO Box 1001

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Sent via facsimile, email and first class
mail return receipt requested.

Dear Director Fisher,

Re: Public Records Request

Pursuant to Ohio Public Records Act, I respectfully request that copies of the following information be electronically scanned, preferably, and e-mailed to me at the address above.

To avoid any conflict of interests, I respectfully request that the review, collection and delivery of these data be handled by *disinterested parties* who have not been involved with the Financial Assistance Application of Leader Technologies Incorporated submitted in 2003 or at any point since 2003, and who have not been involved with the other information being requested.

If for some reason you are unable to electronically scan and email the requested information, please provide physical copies. If some documents are large and copying would become prohibitively expensive, please collect all such documents in one place and we will travel to your office and review them at one time. Please inform us in advance if your copying costs will exceed \$100.

Our requests:

1. Please provide the complete contents of the “Leader Technologies Incorporated” file, including but not limited to all communications and information exchanged with third parties from January 2003 to the present time.

2. Please provide the written record regarding the Ohio Department of Development’s mandate and authority to manage the “Innovation Ohio Revolving Loan Fund” from January 2003 to the present time.

3. Please provide the written basis upon which then Department of Development Director Bruce Johnson had the authority to represent to Leader Technologies Incorporated the Department’s authority to promise Innovation Ohio Revolving Loan Funds pursuant to his March 24, 2003 letter to Leader Technologies Incorporated in which he stated that the financings described were subject only to approval from the Ohio Tax Credit Authority, which was received on May 19, 2003, and also according to that letter, he anticipated the Innovation Ohio Revolving Loan Funds would be capitalized “by June 2003.”

4. A summary or summaries of all enforcement actions taken by the Ohio Department of Development against recipients of funds in 2003 that are identified in the 2003 “ANNUAL LOAN/GRANT REPORT TO THE LEGISLATURE, January 1 - December 31, 2003” provided to the Ohio Legislature by then Director Bruce Johnson.¹ If such a summary or summaries has never been prepared, then please provide the contents of each recipient’s file describing all information regarding enforcement actions taken and the results of those actions. Please include current contact information (e.g., entity name, main contact person, address, phone, fax, email, website) for each of the recipients identified.

5. Ohio Department of Development staff notes, spreadsheets, documents, communication, opinions, findings and all other data explaining the entry for “Leader Technologies Incorporated” in the Ohio Department of Development Report to the Ohio Legislature titled “ANNUAL LOAN/GRANT REPORT TO THE LEGISLATURE, January 1 - December 31, 2003” that describes “153” jobs related to the 412 Business Development Grant on page 27 of the report.

Of special interest is all information explaining why Director Bruce Johnson in his report to the Ohio Legislature materially altered the Leader Technologies’ Financial Assistance Application from a projection of “159” jobs based upon a request for \$5.2 million from the Innovation Ohio Revolving Loan Fund into “153” jobs based only on a \$250,000 412 Business Development Grant.

LEADER TECHNOLOGIES INCORPORATED	412 Business Development	\$250,000	EDD	06/02/2003	153	18	136
	JCTC*	\$1,572,151	EDD	05/19/2003			
	OITP	\$80,000	EDD	07/01/2003			

Figure 1: Disclosure of the Ohio Department of Development to the Ohio State Legislature on April 30, 2004 regarding assistance provided to Leader Technologies Incorporated.²

6. Please provide the communication received from Leader that authorized the Department of Development to alter Leader’s Financial Assistance

¹ Johnson, Bruce. "Ohio Department of Development Loan / Grant Report to the Legislature." Ohio Department of Development. 30 Apr 2004. State of Ohio. 5 Dec 2008
<<http://www.development.ohio.gov/research/files/x103.pdf>>

² Id. p.27.

Application jobs projection down from “159” jobs to “153” jobs and then to only apply it to the requirements of the 412 Business Development Grant.

7. Please provide evidence where Leader Technologies Incorporated was provided notice by the Ohio Department of Development that the Innovation Ohio Revolving Loan Funds requested as the basis of its Financial Assistance Application would not be forthcoming as represented by Director Bruce Johnson... “by June 2003.”

8. Please provide evidence that the Department of Development provided notice to Leader Technologies Incorporated that it intended to materially alter the Financial Assistance Application to apply the 159 (or 153) jobs projection to only the 412 Business Development Grant and that Leader Technologies Incorporated would be held accountable to create 159 (or 153) jobs within three years based only upon the receipt of the \$250,000 412 Grant for purchasing computer equipment.

9. Please provide evidence that Leader Technologies Incorporated was told by the Department of Development not to rely upon its representations and the receipt of the promised \$5.2 million in Innovation Ohio Revolving Funds as the basis upon which it committed to provide 159 jobs.

10. Please provide evidence that Leader Technologies Incorporated was extended the courtesy of adjusting its job projections when the Department of Development realized the promised Innovation Ohio Revolving Fund would not be forthcoming pursuant to then Director Bruce Johnson’s statement to the Ohio Legislature on April 30, 2003:

“Economic conditions occasionally precipitate adjustments in stated commitment figures.”³ – *Department of Development Director Bruce Johnson*

³ Id. p.i.

11. Please provide Ohio Department of Development staff notes, spreadsheets, documents, communication and all other data explaining Director Bruce Johnson did not disclose the Innovation Ohio Revolving Loan Fund as a program managed by the department in his Legislature Report cited below.

PROGRAMS BY DIVISION			
DIVISION	PROGRAM	DIVISION	PROGRAM
CDD	431 CDC E.D. GRANTS	EDD	166 Direct Loan
	440 ESGP DISCRETIONARY		166 Regional Loan
	440 ESGP PROGRAM		412 Business Development
	ARC ARC PROGRAM		629 Roadwork Development
	CDBG DISCRETIONARY		629 Roadwork Development/TID
	CDBG ECONOMIC DEVELOPMENT		CDBG Economic Development Program
	CDBG ESGP PROGRAM		Family Farm Loan Program
	CDBG FORMULA PROGRAM		JCTC
	CDBG NEW HORIZONS		Labor Management Cooperative
	DRG ARC PROGRAM		OEBF
	ESGP ESGP PROGRAM		Ohio Enterprise Bond Fund
	HOME CHDO OPERATING		OITP
	HOME CHIP PROGRAM		Pioneer Rural Loan
	HOME HDAP – NON-PROFIT		Pollution Prevention Loan
	Home Weatherization Assistance Program		Rural Industrial Park Loan Program
	Ohio Energy Program		Scrap Tire
	OHTF HDAP NON-PROFIT		Small Business Development Center
OHTF OHTF DISCRETIONARY	Urban and Rural Initiative		
	Urban Redevelopment Loan Program		
MBDD	Management & Technical Assistance	OHFA	Seed-Compliance Balance & Interim Loan
TECHNOLOGY	Defense Conversion		
	Edison Program		
	Ohio Technology Action Fund		
	SBIR		
	Technology Investment Tax Credit		

Figure 2: Disclosure of the Ohio Department of Development to the Ohio State Legislature on April 30, 2004 regarding programs managed by the Ohio Department of Development.⁴

12. Please provide any evidence in the Ohio Department of Development files that Mr. Keith Voigts had the authority from the Board of Directors of Leader Technologies Incorporated to enter into a cognovit note with the Ohio Department of Development.

13. Please provide the complete files for:

- a. Edward B. Detwiler
- b. Benjamin S. Zacks, Esq., Zacks Law Group LLP
- c. Marcus D. Dunn, Esq., Zacks Law Group LLP
- d. James Billings, Esq., Zacks Law Group LLP
- e. Brandi L. Dorgan, Esq., Isaac Brandt Ledman & Teetor LLP
- f. Timothy E. Miller, Esq., Isaac Brandt Ledman & Teetor LLP
- g. O. Judson Scheaf, Esq., Thompson Hine LLP
- h. Dale F. Pelsozy, Esq.

⁴ Id. p.iii.

- i. Eric J. Wittenberg, Esq.
- j. Karen Hockstad, Esq.

14. Please provide all staff notes, files, documents, communications, opinions, findings and all other data relating to the Department's decision to demand a rescission of its 412 Business Development Grant from Leader Technologies Incorporated.

15. Please provide all staff notes, files, documents, communications, opinions, findings and all other data relating to the June 7, 2006 meeting between Leader Technologies Incorporated personnel and Department of Development personnel at the offices of then Development Department Counsel John Barron, Esq. Of special interest are notes of sidebar conversation that Department personnel had with Leader Technologies Incorporated personnel with respect to the cognovit note and the interference of Edward B. Detwiler in the Leader project.

16. Please provide all staff notes, files, documents, communications, opinions, findings and all other data relating to the consequences of the June 7, 2006 meeting (Section 9) which perfected the agreements reached in the sidebar discussions and no actions were taken for 18 months.

17. Please provide all staff notes, files, documents, communications, opinions, findings and all other data relating the reasons why Chad Davie, the Department Program Manager on the Leader Technologies Incorporated program, resigned during the course of the Leader Technologies Incorporate project. Please include his exit interviews. Of special interest is information relating to his frustration with arranging the Innovation Ohio Revolving Loan Fund funds for the Leader Technologies Incorporated project.

18. Please provide all staff notes, files, documents, communications, opinions, findings and all other data relating to and discussing the failure of the Department to supply the requested \$5.2 million financing assistance to Leader Technologies Incorporated via the Innovation Ohio Revolving Loan Fund, and the failure of the Innovation Ohio Revolving Loan Fund funds to materialize timely as clearly requested in Leader Technologies' Financial Assistance Application as the basis for the 159 jobs projection.

19. Please provide all staff notes, files, documents, communications, opinions, findings and all other data relating why the Department did not adjust the Leader Technologies Incorporate jobs projections commitments once the Department decided it would not fulfill its commitment to fund \$5.2 million so that Leader could create 159 jobs.

20. Please provide all staff notes, files, documents, communications, opinions, findings, and all other data relating to the interference of Edward B. Detwiler, including notes of conversations between Leader's attorneys and the Department's attorneys.

21. Please provide all staff notes, files, documents, communications, opinions, findings, and all other data relating to why the cognovit note was revived after lying dormant for 18 months pursuant to the sidebar agreement reached on June 7, 2006 (Section 9).

22. Please provide all staff notes, files, documents, communications, opinions, findings, and all other data regarding the rationale for enforcing the 159 jobs (or 153 jobs) benchmark against Leader when those jobs were clearly projected based upon the \$5.2 million Financial Assistance Application.

23. Please provide all staff notes, files, documents, communications, opinions, findings, and all other data regarding why there is a discrepancy in the Department's disclosure of "153" jobs when the Leader Financial Assistance Applications clearly shows "159" jobs on page 4 of the Application.

Please feel free to phone me if you have any questions. Kindly notify me that you have received this request and provide an estimate of when we can expect to receive this information.

Thank you for your assistance.

Yours truly,

/ Signature /

Michael T. McKibben
Chairman & Founder

cc.

- Kenneth R. Donchatz, Esq., Christensen, Christensen, Donchatz, Kettlewell & Owen, LLP, kdonchatz@columbuslaw.org
- James Sobwick, jsobwick@leader.com
- Candace M. Jones, Esq., Candace.Jones@development.ohio.gov
- Michael Scoliere, Esq., Michael.Scoliere@publicans.com