



MONTANA
**State
Library**



ADMINISTRATION OF THE MONTANA NATURAL HERITAGE PROGRAM

A proposal to the Montana State Library Commission

December 11, 2019

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Summary

The Montana State Library (MSL) staff recommends to the State Library Commission (Commission) that the Commission act to approve a transition of the administration and operation of the Montana Natural Heritage Program (MTNHP) from the University of Montana to the State Library over an eighteen-month period concluding at the end of the 2021 biennium. This recommendation is made after careful analysis conducted over the past four months which is detailed below. Though not a guarantee of future funding, this recommendation is based on MSL's view that the current contract model serves as a barrier to stable funding as is evidenced over the past ten years of funding loss.

MSL values the work of the MTNHP, the staff, the Program partners, and our on-going relationship with the University of Montana (University). It is in the best interest of all stakeholders to ensure the long-term stability of the MTNHP. As the legal entity responsible for the success of the MNTHP and the fulfillment of its statutory responsibilities, it is the responsibility of MSL to ensure the stability and positive strategic direction of the MTNHP. These are not responsibilities for which we should contract, these are responsibilities we should administer.

Background

Since 1985 it has been the statutory responsibility of the MSL to operate the MTNHP as part of its Natural Resource Information System.¹ This program, which collects, studies, manages, and provides access to information about Montana's plants, animals, and habitats, is a model for the efficient data management that is responsive to the needs of the Programs users.

As allowed by statute, MSL has always operated the MTNHP through contract, rather than directly administering the program. The program was originally formed through a contract with The Nature Conservancy (TNC) and, in 2006, the contract was transferred to the University. It makes sense that the MTNHP was originally created under a contract because the functions of the MTNHP were not functions of MSL at the time and TNC was operating heritage programs in other states, provinces and countries. It also makes sense that, as a library, MSL would be given statutory responsibility for the MTNHP to ensure the neutral, non-regulatory access to the data managed by the MTNHP.

The MTNHP is part of NatureServe which is a network of Heritage Programs that exist in every state, Canadian province as well as countries in Latin America. The administration of programs varies; many

¹ **90-15-302. Natural heritage program.** (1) There is a Montana natural heritage program to be operated by the library. In order to establish the program, the library may contract with an independent contractor or may employ necessary staff. In order to minimize costs, the library or other state agencies may make available state resources and facilities to an independent contractor as part of a contract for services.

(2) The Montana natural heritage program shall be designed to be compatible with similar programs in other states. This program is to be an initial step in the formulation of the comprehensive natural resource information system referred to in **90-15-301** and is to be considered a part of the system.

are operated by natural resources or fish and game agencies or universities. The MTNHP is the only program whose statutory responsibility falls to a library.

It is for this reason that we believe that we attribute much of the success of the Program. As a neutral, non-regulatory agency, MSL and its programs, including the MTNHP, are regarded with much trust and MSL is considered the State's authoritative source for the data it provides. MSL also values the input of partners in all aspects of our work. One of three strategies of the MSL Strategic Framework is that MSL foster partnerships because partnerships are necessary to ensure that Montanans thrive and through partnerships, MSL and those we serve will continue to move Montana forward.² Because of its position in MSL, the MTNHP adopted a model of seeking partner feedback about its data collections and how the program delivers its data. The model of partner involvement is now being adopted by other programs in the country.

From the standpoint of many, the MTNHP is "not broken." Its data and web applications, including the scientific integrity of the data, is unsurpassed. MTNHP's partners hold the program in high regard.

However, and despite significant effort on the part of MSL, MSL funding for the core services has not kept pace with rising costs and increasing demands on the Program. Though there is not direct evidence that the contractual nature of the relationship between MSL and MTNHP is the cause for the decline in funds, the State does not automatically fund increases in contracts and anecdotally, when advocating for funding increases, MSL staff have heard confusion voiced by staff of the Governor's Office and the Legislature about who is responsible for funding the MTNHP.

In order to maintain the MTNHP programs and services MTNHP staff generate additional revenue in the form of supplemental core agreements from state, federal and private partners (moneys that fund core functions without specific deliverables) and grants and contracts. In FY 2019, MSL funding accounted for \$412,418 of the overall MTNHP budget. Supplemental core and project dollars accounted \$1,976,066 for a total budget of \$2,388,484. As the agency responsible for the success of the program, MSL staff find it concerning that the stability and strategic direction of the program are increasingly dependent on external soft funding. Some MTNHP staff have expressed similar concern due to the stress of keeping up with projects.

Over the last four months MSL staff have considered the question of whether to directly administer the program. Throughout the process MSL staff sought feedback and information from MTNHP staff, partners, the MSL Commission, the University of Montana, legal counsel, the Office of the Commissioner of Higher Education, and the Governor's Office of Budget and Program Planning. MSL staff carefully considered the financial implications of such a decision, the impact to MTNHP staff and partners, MSL's relationship with the University and our preferred vision for the program.

Financial overview

Core Funding

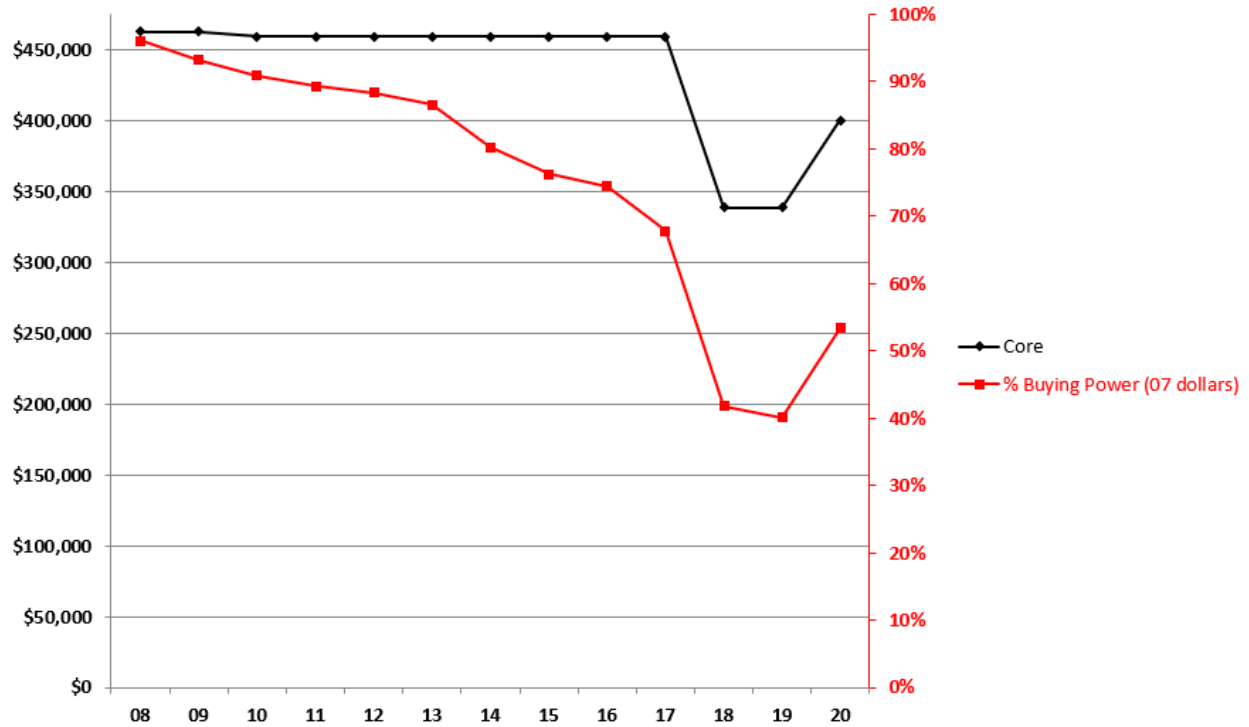
The budget for the core services contract between MSL and the University of Montana to operate the MTNHP provided \$442,680 in FY 2008. Due to state budget cuts, funding declined to \$439,113 in in FY

² Montana State Library Strategic Framework, Adopted December 14, 2016, updated October 2019: http://docs.msl.mt.gov/aboutweb/documents/strategic_framework.pdf

2010. Despite developing executive planning proposals to increase state funding for the program in every subsequent biennium, core funding remained flat until the 2017 biennium. As a result of dramatic budget cuts contained in Senate Bill 261, the core contract was cut to \$328,710 in FY 2018.

The proposed budget in the current draft contract for the current biennium contract is for \$400,000 in FY 2020 and \$410,000 in FY 2021. Additionally, MSL directly pays \$37,500 for rent and \$36,000 annually for phone and information technology costs for the MTNHP staff.

Decline in Core Contract and Buying Power



Contract and grant funding

The core contract for services acknowledges that the MTNHP receives grants and contracts and requires that the University “ensure that any contracts, grants and/or funding opportunities complement and enhance the mission of the MTNHP and the Library as defined in statute, in the MTNHP Scope of Work (Appendix 1) and Strategic Plan.”³ The contract further requires the University to “[e]nsure that special projects do not directly compete with, or create the perception of competing with, the private sector.”⁴

MTNHP currently manages approximately 60 grants, contracts and supplemental core agreements from state, federal and private sector partners. In FY 2019 these agreements totaled \$1,976,066. The University collected an average indirect cost rate of 18%. One third (1/3) of the indirect dollars are returned to the program plus an additional \$50,000 annually.

³ <http://mtnhp.org/about/announce.asp#StrategicPlan2015>

⁴ Fiscal Year 20-21 Core Contract, University Responsibilities, w.

The number of external agreements managed by MTNHP is substantially higher than the average number of agreements managed by MSL. The workload associated with contract management is addressed below. Of note, MSL recognizes that with the addition of grants and contracts comes the increased responsibility for their proper management and the associated audit risks.

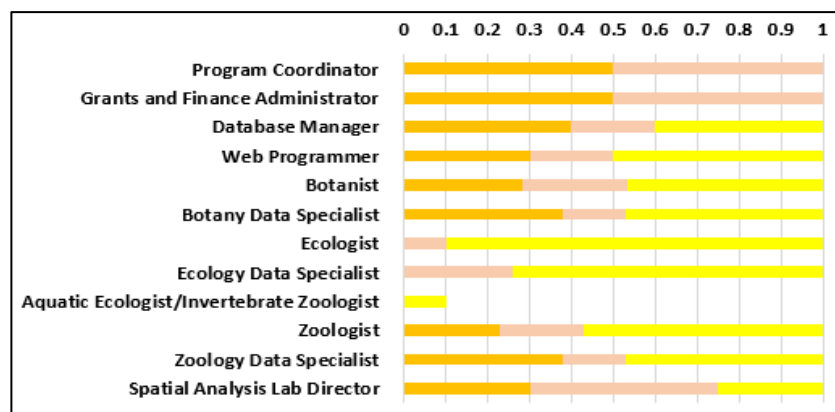
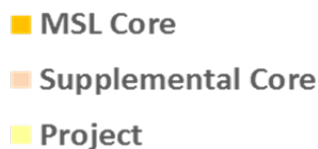
While these dollars are necessary to sustain current MTNHP staffing, programs and services, the reliance on soft money creates increased pressure on staff to generate revenue. Some MTNHP staff have expressed anxiety over their ability to raise revenue for their positions and stress about keeping up with contract work. Some MTNHP staff have also noted that the need to generate revenue puts the program at risk of letting the dollars drive the work rather than making strategic decisions about the MTNHP's future. The Program is already in a position to prioritize projects over core work. Without an influx of dedicated funding, this pressure and risk to the program exists regardless of who administers the program and amplifies the need for stable, core funding.

MSL and MTNHP staff agree that grants and contracts are valuable to the MNTHP not only for the revenue and gathering field and remotely sensed data and centralizing information from other sources, but also for the assurance that through externally funded projects, the Program is best meeting the needs of its partners. Everyone also agrees that more stable funding and a funding ratio of MSL dollars that prioritizes core work rather than project work is necessary to the future success of the MTNHP.

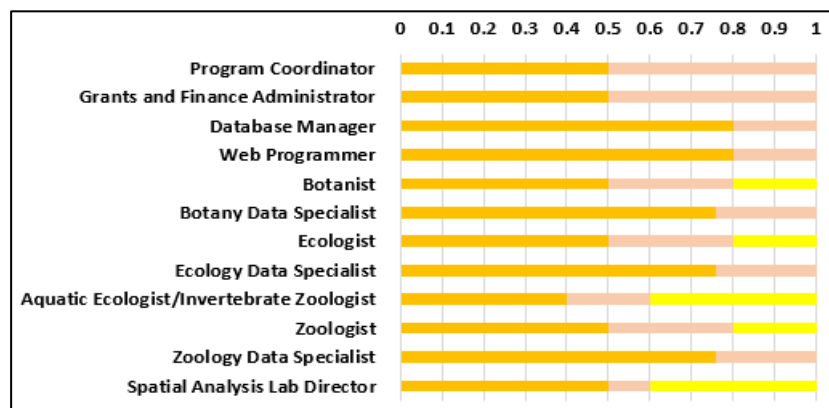
Staffing and Organizational Structure

MTNHP currently employees seventeen permanent staff and numerous temporary staff who work on grants and contracts. Two employees are considered classified staff and the rest are hired under letters of appointment which are renewed each year. No permanent staff is funded wholly through MSL core contract dollars. As the buying power of the core contract has declined due to increasing costs for expenses such as employee benefits, the proportion of funding for salaries has also declined.

2019 Core Staff Funding



Sustainable Core Staff Funding Mix



Salaries and Classification

The State Department of Administration Human Resources Division (DOA HR) is currently evaluating the job descriptions of MTNHP staff. They have stated that there are similar classifications for all positions within state government. DOA HR is creating a cross walk of University positions to state positions to help us fully understand what a transition would mean for individual employees. While waiting for this cross walk, MSL staff made a preliminary comparison of current MTNHP salaries to salaries in comparable positions in state government. Staff found that university salaries were comparable to or slightly lower than state salaries.

Leave and benefits

Annual and sick leave benefits are largely comparable between the University and the State. While insurance benefits are also similar, individual analysis of insurance costs from some MTNHP employees demonstrated additional out of pocket expenses under the State insurance plans for premiums, co-pays, deductibles and medical travel. The University also offers tuition waivers for staff and dependents, a benefit not offered by the State.

MTNHP employees currently accrue longevity for years of service. Longevity increases the amount of annual leave employees receive over time. Unlike for state employees, longevity does not result in increased pay overtime for permanent MTNHP staff because of their status as Letters of Appointment and Contract Professionals.

Annual and sick leave for all MTNHP employees is fully transferable to the State as is longevity. Over time, staff would begin to receive longevity pay increases as state employees.

MTNHP employees are fully vested in their University contributions to their retirement plan through TIAA-CREF. No retirement benefits would be lost if an administrative change occurs.

Recruitment

MSL researched options for the transfer of MTNHP staff through a governmental reorganization. The guidance that we received was that a reorganization was not an option because the program is operated under a contract. For this reason, MSL would have to recruit current MTNHP employees for their current positions. Though DOA HR provided good guidance to MSL about how to streamline the recruitment process, this fact creates additional anxiety for staff as well as an increased, though temporary, workload for MSL Central Services. It is MSL's intent to provide greater long-term stability for the Program. MSL staff are pleased and supportive of the ongoing work. Despite MSL's best intentions that this recommendation cause minimal impact to the day to day work of MTNHP staff, there is some risk that individual employees would choose to not apply for their positions.

Organizational Structure

Except for business office employees, MSL is not considering MTNHP organizational changes as part of this study. The program structure, lines of supervision, and work priorities would not change.

In order to support the increased workload that comes with managing a significantly increased number of staff and grants and contracts, MSL would need to hire additional Central Services staff including a budget analyst/accountant, a human resources specialist and a contracts manager. These services are currently handled by the University funded through overhead dollars that the University collects MTNHP grants and agreements. Additional Central Services staff would benefit all MSL and some MTNHP staff

have expressed appreciation for the opportunity to have more ready access to these staff. Long-term funding for Central Services staff would come through overhead dollars on grants and contracts as well as other MSL revenue including Library Services Technology Act and Montana Land Information Act dollars.

Staffing considerations

Though not a universal concern, some MTNHP staff have articulated the importance of academic credibility that is tied to the reputation of the MTNHP. These staff have expressed concern that not being employees of the University may make recruitment of new staff more difficult. With regard to staff, important long-term measures of success to MTNHP include:

- The general ability to recruit and retain staff through appropriate compensation and sustainable workloads;
- The ability to support appropriate staffing levels to maintain currency and completeness of existing core service products; and
- The ability to support appropriate staffing levels to fully develop core service products that are currently nonexistent or underdeveloped.

Core Services Status

The biennial contract for core services is intended to fund core work documented in the contract statement of work. Unlike many contracts however, this contract acknowledges that the lack of funding means that many of the known core service needs will not be addressed. MTNHP program staff prepared this summary of the status of core services:

At current core and supplemental core funding levels, staff are not able to spend as much time working on core services as is needed to best meet the mission of the program. While all the contracts meet the mission of the MNTHP and in most cases staff have found creative ways to ensure these projects will provide support to core needs, MTNHP staff are currently working on contracts that address needs of other states and heritage programs and program priorities are being driven by contract funding rather than the Program's core mission. For example, in order to generate revenue and retain staff to map wetlands in Montana, some staff will be mapping wetlands in Colorado and Alaska. Additionally, staff are building common field guide applications for states including Utah, California and Wyoming. While these common field guides do benefit MTNHP, Partners and NatureServe, work on certain MTNHP information technology needs, like a website update, have not been addressed.

An administrative change is not a silver bullet that will immediately result in new core monies to correct this problem, but MSL staff believe it is a necessary first step that will have positive impact in MSL's ability to slowly increase funding over time.

Partners

MTNHP has forged strong relationships with a wide variety of state, federal, and private partners. These partners provide funding in the form of grants, contracts and supplemental core agreements. MTNHP holds annual partner meetings to share program updates and for partners to provide feedback to MTNHP staff and MSL about their priorities that might inform future MTNHP and MSL data, applications and services development. For many years partners have expressed concern over the lack of stable

funding for the program. Even so these partners hold MTNHP in high regard. Several partners have offered testimony to the Legislature in support of additional program funding.

Staff discussed the possibility of an administrative transition of the MTNHP to MSL at a meeting of the Partners on November 25th. Feedback from Partners was similar to questions and comments from MTNHP staff. No state agency expressed concerns over the ability to contract with MSL vs. UM. Staff from two federal partners, the Bureau of Land Management and the Forest Service, stated they would need to research whether they could transfer cooperative agreements (supplemental core) from the University to MSL because those types of federal agreements are being phased out. Some partners noted the importance of access to academia and the research affiliation. Others suggested that a transition not be considered unless a major benefit could be demonstrated.

Long term evaluation of the success of the MTNHP regardless of how the program is administered is based on the success of our partners. MSL and MTNHP must have the ability to provide partners with stable long-term access to core services products through web pages and applications and other tools that are easy to use, the ability to outreach to and train stakeholders; and the ability to adapt and respond to changing user needs.

Deeper analysis of the impact to partners might be addressed through questions such as the following.

- Would MSL's direct administration of MTNHP improve the services the program provides to partners?
- Would direct administration result in better maintenance, more rapid development, and greater availability of core service products?
- Would direct administration improve servicing of partner needs for field surveys and assessments and development of ancillary natural resource information products?
- Would direct administration result in more comprehensive data and service delivery through deeper integration with the programs of MSL?

Without an influx of new monies, these are questions that can only be properly evaluated over time. More immediate benefits for partners may develop through improved customer service as MSL librarians are able to handle some basic inquiries and requests for information, especially when MTNHP staff is in the field.

University of Montana relationship

Of all partners, none have been more essential to the success of the MTNHP over the last thirteen years than the University of Montana. The University is very generous in the funding they provide back to the program. Though this study did not evaluate the administrative support provided by the University, nothing in this study is intended to reflect concern of their operation of the MTNHP. When discussing the benefits of the current administrative model, MTNHP staff point to the freedom and flexibility offered by affiliations with both the University and the state, access to academia and academic credibility. The exact nature of these benefits is hard to quantify but comments reflected a more positive perception of the University than for state government. For these reasons MTNHP staff and partners urge MSL to continue to maintain a strong relationship with the University and this is something MSL is committed to.

Spatial Analysis Lab

One way MSL desires to maintain a long and mutually beneficial relationship with the University through the shared operation of the Spatial Analysis Lab. The Lab develops landscape-scale ecological information through partnerships with agency personnel, research groups, and conservation organizations to support effective management of terrestrial, wetland and aquatic communities.

Maintaining the Lab on campus provides deeper integration with academic departments on campus. Funding the Director as a Research Professor of the University continues opportunities for research funding that might not otherwise be available to non-academics. Through a suggested Memorandum of Agreement with the University, MSL and the University may continue current collaborations that support Montana Spatial Data Infrastructure themes including Wetlands and Land Cover. MSL and the MTNHP have also discussed how the Lab may support MSL's investment in LiDAR and the Elevation theme.

MSL supports the opportunities the Lab affords the University to bring in additional research dollars through research grants and by attracting post docs to work in the Lab who would generate additional dollars for the University.

House Bill 633 implications

MTNHP staff have raised the question, why now if House Bill 633 (the Legislative Interim Study that is considering funding models for MSL) may provide new funding for MSL? HB 633 *may* result in new revenue sources but there is no guarantee. The results of the study may not guarantee that any new revenue will continue to increase over time. If MTNHP continues to be administered under a contract any new revenue would only become available to the MTNHP through contract negotiations. HB 633 has the potential to address the current revenue shortfall for MTNHP. By contrast, the administrative change recommendation in this document is intended to address the long-term stability of the program.

Proposal and timeline

MSL staff proposes to administer and operate the MTNHP. Given the number of MTNHP staff as well as the number of grants and contracts that would need to transfer to MSL, the MSL staff propose a staged transfer of programs following initial development of MSL's Central Services office. MSL staff further recommends use of most of MSL's House Bill 2, fiscal year 20 and 21 one-time appropriation to fund increased staff in the Central Services office during the transition period as well as any ancillary costs associated with the transfer. An administrative change of this kind would inevitably be disruptive. MSL staff believe the following timeline that allows for the needed capacity to ensure a slow transition will create the best possible outcomes.

Timeline

December 11, 2019	<ul style="list-style-type: none">• Commission Action
January through March 2020	<ul style="list-style-type: none">• Recruit and hire Central Services Staff

May through June 2020	<ul style="list-style-type: none"> Recruit and hire Information Services staff and Program Coordinator Transfer IT and supplemental core agreements
July 1, 2020	<ul style="list-style-type: none"> Initial MTNHP staff are hired and agreements transferred
September 2020	<ul style="list-style-type: none"> Recruit and hire Zoology staff Transfer Zoology agreements
October 1, 2020	<ul style="list-style-type: none"> Zoology staff are hired and agreements transferred
October 2020	<ul style="list-style-type: none"> Recruit and hire Botany staff Transfer Botany agreements
November 1, 2020	<ul style="list-style-type: none"> Botany staff are hired and agreements transferred
November through December 2020	<ul style="list-style-type: none"> Recruit and hire Ecology staff Transfer Ecology agreements
January 1, 2021	<ul style="list-style-type: none"> Ecology staff are hired and agreements transferred
Winter 2021	<ul style="list-style-type: none"> Recruit and hire field season staff
June 30, 2021	<ul style="list-style-type: none"> Finalize Memorandum of Agreement for the operation of the Spatial Analysis Lab

Transition funding

Heritage Transition																		
	FY 2020						FY 2021											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Salary/Benefits	-	21,486	21,486	21,486	21,486	21,486	56,891	56,891	56,891	67,997	74,271	74,271	108,752	108,752	108,752	108,752	108,752	108,752
Total Revenue	-	25,000	25,000	25,000	25,000	25,000	77,583	77,583	77,583	77,583	77,583	77,583	120,250	120,250	120,250	120,250	120,250	120,250
Net	-	3,514	3,514	3,514	3,514	3,514	20,692	20,692	20,692	9,586	3,313	3,313	11,498	11,498	11,498	11,498	11,498	11,498

Items to note:

- Analysis does not include operational costs (IT, rent, supplies) because those costs are already paid by MSL.
- Does not include staff travel.
- Revenue includes projected vacancy savings, one time only funding, as well as current Heritage funding (core, supplemental core, and project dollars) as staff are transitioned.
- Project revenue is based on historical averages and assumes current MTNHP agreements administered by the University would transfer to MSL.
 - MSL requested a legal opinion regarding whether MSL has a legal right to current agreements. Attorney Mike Manion from the Department Administration advised MSL that MSL has the greater legal claim to such agreements.
- Estimates are all conservative to leave room for unanticipated expenses.

Future funding

Future funding of the MTNHP would be integrated into the overall budget approved annually by the State Library Commission. Without an influx of new revenue, the budget for staff and operations would remain largely the same. Staff estimates an ongoing budget that assumes a mix of current MSL appropriations, supplemental core, and project dollars based on historic averages. MSL does not have a negotiated indirect rate. It takes several years to demonstrate a history of indirect need. MSL will negotiate an indirect rate when that history can be proven. Staff financial analysis demonstrates that, based on a 3-year average, indirect rates necessary to fund the administration of the Program would be remain largely the same.

Conclusion

The proposal to assume administration of the MTNHP is not a silver bullet that will resolve the longstanding funding challenges faced by MSL and the MTNHP. Immediate benefits to MTNHP and MSL include increased administrative capacity that will alleviate pressure on staff across the agency and should improve project management. The MTNHP will also benefit from direct information technology support provided by MSL as well as procurement of IT equipment from MSL.

In time MSL staff believe that through direct administration MSL and MTNHP will eliminate the confusion that exists about the operation of the MTHP that may have created barriers to increasing funds. More importantly, staff strongly believe that direct administration is the best option to ensure the long-term stability and viability of the program and therefore the best option to exercise our responsibility for the stability and strategic direction of the MTNHP as is granted to and required of MSL by statute.