

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

January 3, 2020

Larry Gandy, Executive Director
Rail Authority of East Mississippi
610 Azalea Drive
Waynesboro, Mississippi 39367

Re: Financial Audit of a Regional Railroad Authority

Dear Mr. Gandy:

OFFICIAL OPINION
Attorney General Jim Hood is in receipt of your opinion request and has assigned it to me for research and response. In your letter, you explain that the Rail Authority of East Mississippi is a local government entity that was created pursuant to Section 19-29-9 of the Mississippi Code Annotated.

Questions Presented

1. Whether or not a local governmental agency, such as ours, can lawfully rely on a Certified Public Accountant "review" of its books as opposed to a full-scale audit. To our understanding, audits and reviews are two different services that a Certified Public Accountant can provide involving financial statements. A review of an organization's financial statements provide a report issued by the Certified Public Accountant that expresses the financial statements are free from material misstatements.
2. Is there any financial threshold or criteria in Mississippi law for an agency such as ours that must be met for an audit?
3. If a review is sufficient, would it be lawful to send this report to participating partners in the process in a similar fashion as has been done with our audits in the past?

In response to your first question, the only requirement regarding an annual report is found in Section 19-29-45 of the Mississippi Code Annotated. This section provides that at least once a year the regional railroad authority shall file with the clerk of the board of supervisors of each county, and the Governor's office of planning and coordination, a report of its activities for the preceding year. This requirement does not specify that the report include a financial audit, nor is there any mention that the report be performed by a certified public accountant. However, although there is no requirement that the District prepare an annual financial audit by a certified public accountant, Section 19-29-18(4) provides that each railroad authority shall be subject to examination by the State Auditor. Thus, the District is subject to being audited by the State Auditor's office under Section 7-7-211(e), which authorizes the State Auditor:

To postaudit and, when deemed necessary, preaudit and investigate separately the financial affairs of (i) the offices, boards and commissions of county governments and any departments and institutions thereof and therein; (ii) public school districts, departments of education and junior college districts; and (iii) any other local offices or agencies which share revenues derived from taxes or fees imposed by the State Legislature or receive grants from revenues collected by governmental divisions of the state; the cost of such audits, investigations or other services to be paid as follows: Such part shall be paid by the state from appropriations made by the Legislature for the operation of the State Department of Audit as may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour for the services of each staff person engaged in performing the audit or other service plus the actual cost of any independent specialist firm contracted by the State Auditor to assist in the performance of the audit, which sum shall be paid by the county, district, department, institution or other agency audited out of its general fund or any other available funds from which such payment is not prohibited by law. Costs paid for independent specialists or firms contracted by the State Auditor shall be paid by the audited entity through the State Auditor to the specialist or firm conducting the postaudit.

An internal audit by an independent auditor/Certified Public Accountant (CPA) could be of assistance when being audited by the State. You may wish to contact the State Auditor regarding financial criteria that may be required if an audit is done by the State Auditor.

Your second question asks whether it is lawful for the Rail Authority to send a financial review, rather than a financial audit to participating partners. We are unable to find any statute that requires the Rail Authority to provide either a financial audit or a review to participating partners. Thus, we are unable to opine upon this issue.

Based upon our response to your first question, your third question is moot.

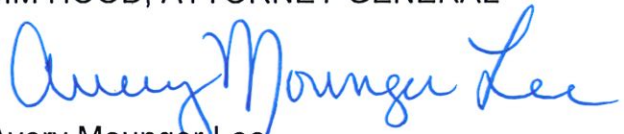
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If this office may be of any further assistance to you, please let us know.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Avery Mounger Lee
Special Assistant Attorney General

OFFICIAL OPINION