



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

December 10, 2024

The Honorable John A. Polk
Mississippi State Senate
Post Office Box 1018
Jackson, Mississippi 39215

Re: Audit Authority

Dear Senator Polk:

The Office of the Attorney General has received your request for an official opinion.

OFFICIAL OPINION

Questions Presented

1. Is the authority conferred on the Department of Audit in Mississippi Code Annotated Section 7-7-211(d) limited to financial audits only?
2. Does any provision of law authorize the Department of Audit to conduct managerial studies without a prior request from an enumerated party in Section 7-7-211(c)?

Brief Response

1. Yes, the authority conferred on the Department of Audit in Section 7-7-211(d) is limited to financial audits only.
2. No, there is no other provision of law that authorizes the Department of Audit to conduct managerial studies without a request from “the Governor, the Legislature or any committee or other body empowered by the Legislature.”

Applicable Law and Discussion

Section 7-7-211 prescribes the powers and duties of the Department of Audit (“Department”). Paragraph (d) provides in pertinent part that the Department shall have the following authority:

(d) To postaudit each year and, when deemed necessary, preaudit and investigate the *financial* affairs of the departments, institutions, boards, commissions, or other

agencies of state government, as part of the publication of a comprehensive annual financial report for the State of Mississippi, or as deemed necessary by the State Auditor.

(emphasis added).

The immediately preceding paragraph of Section 7-7-211 provides that the Department shall also have the authority:

(c) To study and analyze existing *managerial* policies, methods, procedures, duties and services of the various state departments and institutions *upon written request of the Governor, the Legislature or any committee or other body empowered by the Legislature to make such request* to determine whether and where operations can be eliminated, combined, simplified and improved[.]

(emphasis added).

As an initial matter, we understand this request to be part of your preparation for the 2025 legislative session, particularly as it relates to the appropriation of state funds to various agencies and departments to enable them to fulfill their statutory duties. Attorney General opinions are prospective determinations on matters of state law only and can neither sanction nor invalidate past actions. *See MS AG Op., Brock at *1 (Nov. 8, 2019).*

It is our understanding that both of your questions arise from the nuanced but essential distinction between a financial audit and a managerial study. The term “audit” is undefined in the Mississippi Code. According to Black’s Law Dictionary, “audit” means “a formal examination of an individual’s or organization’s accounting records, *financial* situation, or compliance with some other set of standards.” *Audit*, BLACK’S LAW DICTIONARY (12th ed. 2024) (emphasis added). This is in contrast to the action described in paragraph (c), which focuses instead on *managerial* policies, methods, and procedures.

As to your first question, the independent authority conferred on the Department in Section 7-7-211(d) is clearly limited to conducting financial audits only. The statute plainly reads “to postaudit each year and, when deemed necessary, preaudit and investigate the *financial affairs*” of state government agencies, *not* their managerial policies, methods, and procedures. Miss. Code Ann. § 7-7-211(d) (emphasis added).

In contrast, paragraph (c) of Section 7-7-211 empowers the Department to conduct *managerial* studies, but such authority is patently predicated upon a request in writing from one of the enumerated parties.

As to your second question, no other provision of Mississippi law empowers the Department to conduct a managerial study. Section 7-7-211(c) provides the sole authority under state law for the Department to conduct such studies. Section 7-7-211 lists the powers and duties of the Department, all of which are related to the financial and fiscal affairs of public entities, except for Section 7-7-211(c). *See* Miss. Code Ann. §§ 7-7-211(a), (b), and (l) (related to the duties of the Department to

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provide best practices and training related to accounting, budgeting, and recordkeeping); 7-7-211(d), (e), (f), (j), (k), (m), (n), (o), (p), and (q) (related to the duties of the Department to conduct financial audits); and 7-7-211(g), (h), and (i) (related to the duties of the Department to recover funds misappropriated or improperly withheld or misspent).

Thus, while the Department may conduct a financial audit on its own accord under paragraph (d) of Section 7-7-211, the Department lacks the authority under state law to conduct a managerial study without the prerequisite written request from an enumerated party, such as the Governor or the Legislature.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Caleb A. Pracht*

Caleb A. Pracht
Special Assistant Attorney General

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