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Report to the Mississippi Legislature

# FY 2018 Impact Report



# FY 2018 PEER Reports

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# FY 2018 PEER Report Impacts

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## Impact: State Travel

### *A Review of State Travel Expenses for Fiscal Years 2015 and 2016 (Report #610)*

Prior to the 2017 Regular Session, the Legislature established several tax and budget review committees to examine spending for the state's largest agencies. For each agency examined, one area of budget review focused on travel expenditures and policies. The committees questioned agency leadership to determine whether opportunities exist for more efficient travel management policies and practices that could result in savings to the agencies and state.

In times when state revenue and growth falls below forecasted estimates, state agency travel budgets receive additional scrutiny—often the result of the perception that such travel is susceptible to misuse or inefficient use of state dollars and subject to cutbacks. Thus, it is critical that states manage expenses (including travel) and ensure that they adhere to established guidelines and follow best practices.

PEER sought to review state travel expenditures for fiscal years 2015 and 2016 by agency, funding source, and broad category of travel type (in-state, out-of-state, and out-of-country). In addition, PEER reviewed the methods used by the Department of Finance and Administration to control the travel expenditures of state agencies; compared Mississippi's travel expenditures to those of neighboring states; and examined best practices that other states administer nationwide to control travel costs.

DFA travel management data systems have the ability to collect and maintain historical travel-related data across all agencies. However, to produce a comprehensive statewide fiscal year-end travel expenditure report that includes each agency's total travel expenses segregated by travel type and commitment item, the DFA has to extract data from multiple systems.

The DFA performs post-audits to ensure that required travel documentation has been submitted, but these audits focus primarily on compliance with state policy and law rather than identification of ways to better manage expenditures. The DFA should monitor travel-related information to ensure that it is of appropriate and sufficient detail to allow analysis and reporting of expenditures.

While the DFA has recently taken steps to make travel agent fees more uniform and to have travel agents submit their state expenditure logs in a consistent format (e.g., fiscal year time period, type of service provided, number of transactions), it should ensure that it can identify and compare the total amount spent in fees by agent. Furthermore, the DFA should evaluate these fees to identify potential areas for cost savings, such as additional reductions in the fee amounts, or even to determine the necessity to continue to use travel agencies in the future.

### **Implementation Actions**

Following release of the Committee's report, the **Department of Finance and Administration** considered improvements to the oversight and management of state travel expenses by taking the following actions:

- Implemented a trip optimizer system in accordance with House Bill 938 (2017).
- Revised the processes for post-audit of travel expenditures to ensure compliance with the new law.
- Continued efforts to promote efficiency in travel policy, to include evaluation of the future use of travel agency contracts, as well as annual reporting of travel expenditures to the Legislature.
- Explored the possibility of expanding the General Ledger Crosswalk between SPAHRS and MAGIC.

## Impact: Purchasing

### ***State Government Purchasing: A Review of Recent Statutory Changes and a Case Study (Report #611)***

The Legislature made considerable changes in procurement laws in 2015 and 2017. In 2015 the Legislature passed two bills to address risk to the integrity, transparency, and accountability of the state's procurement process: Senate Bill 2400 changed commodity purchasing standards relative to emergency and sole-source procurements. House Bill 825 revised the composition, jurisdiction, and duties of the Personal Service Contract Review Board. The bill also changed the regulation of sole-source procurements and lowered the oversight threshold for personal services from \$100,000 to \$75,000.

The three state agencies with purchasing oversight authority—Department of Finance and Administration, Department of Information Technology Services, and Personal Service Contract Review Board—reported that S.B. 2400 had minimal impact on reducing the number of emergency procurements. In contrast, they reported a reduction in sole-source procurements—viewed as a risk to the integrity, transparency, and accountability of the procurement process—after passage of H.B. 825. The oversight authorities noted other effects, including an increase in the use of brand preference in bid specifications and the statutory approval of 325 contracts in FY 2016 without the benefit of PSCRB review.

During the 2017 legislative session, in an effort to further strengthen oversight, the Legislature passed House Bill 1109, which revised state policy on procurement as follows:

- Established procurement best practices.
- Abolished the PSCRB and transferred its authority and responsibilities for personal services to the Public Procurement Review Board.
- Made reverse auctions the preferred method of procurement (excluding individual state institutions of higher learning) for commodities and certain other items or services designated in Section 31-7-13 when such procurements exceed \$50,000.
- Restricted agency emergency procurement regarding the purchase of commodities or repair contracts to a contract period not to exceed one year.
- Required third-party vendors seeking a protective order for contract information to provide the reasons for the order to any entity or individual requesting these records in accordance with the Mississippi Rules of Civil Procedure. In addition, a third party seeking a protective order from the chancery court must also post notice and the reasons for seeking the remedy on the state procurement portal at least seven days before filing a petition in chancery court.

### ***Case Study***

The Mississippi Department of Education entered into multiple contracts with Research in Action in fiscal years 2014–2016 having apparent similarities in scope of work and for amounts that collectively exceeded bid thresholds, rather than competitively bidding contracts for such services. Doing so represents possible waste of taxpayer dollars as the lowest price may not have been realized.

In addition, the MDE made multiple payments to The Kyles Company through purchase orders despite there being no contract in place. These contracts, when combined, well surpassed the purchasing thresholds for both IT and personal services, in which case a request for proposal or other bid process should have been employed.

PEER found that operational deficiencies in MAGIC, the statewide accounting and procurement system—along with inconsistent coding of similar products/services by the MDE—allowed such procurements to be made without proper accountability, i.e., oversight. As such, there is no assurance that goods and services were procured at a competitive rate.

## **Implementation Actions**

Following release of the Committee's report, the **Department of Finance and Administration** took the following actions:

- Relocated the former PSCRB staff and property to the DFA after a build out of office space to accommodate them.
- Implemented the reverse auction module in MAGIC and trained agency personnel on the change.
- Began hiring and training new personnel to absorb the increased workload.
- Produced new rules and regulations, templates, and training materials.
- Worked with ITS to establish state contracts for governing authorities to utilize for reverse auction and electronic bidding.
- Made adjustments within MAGIC to increase the procurements that route to DFA procurement business owners for review.
- Began evaluating possible changes to NIGP (National Institute of Governmental Purchasings' Commodity/Services Code) coding.

Following release of the Committee's report, the **Mississippi Department of Education** took the following actions:

- Eliminated the Pool of Service as a method of procurement for contracts, effective July 1, 2017.
- Adopted new personal and professional services procurement guidelines.
- Conducted MDE staff procurement training.
- Strengthened the technology-related procurement process.
- Restructured the Offices of Accounting/Procurement.
- Established that the Procurement Director now verifies the accuracy of all product (NIGP) codes entered into MAGIC prior to final approval of purchasing requests.
- Began inputting all supporting documentation related to the purchase of goods or services into MAGIC and established procedures for follow-up if clarification is needed.
- Hired an MDE compliance officer.
- Updated fiscal policies and procedures to align with MAGIC.
- Provided additional procurement training to MDE staff.

# Impact: Confidential Data Management

## *A Review of State Agencies' Management of Confidential Data (Report #612)*

After a breach in the security of confidential data belonging to the Mississippi Department of Human Services—e.g., birth certificates, health records, Social Security cards—PEER examined the state's policies and procedures for ensuring the security of such data, also known as “personally identifiable information” (PIE), i.e., information that can distinguish, trace, or link an identity to a specific individual.

The Mississippi Department of Archives and History sets forth the rules and regulations regarding retention, destruction, and sanitization of PII managed by the state. Agencies must comply with retention schedules and ensure the proper security for any data not covered by these schedules, such as electronic data. The Department of Information and Technology Services has overlapping authority regarding policies for confidential data stored electronically on state servers or equipment.

Although the MDAH has authority to ensure the proper management of the confidential data retained by state agencies, it has no feasible punitive action available for enforcement; i.e., current MDAH rules and regulations are reactionary and do not provide incentive for agencies to implement effective policies. Thus, management of PII falls to individual state agencies and the rules and regulations they adopt.

To evaluate the effectiveness of management protocols followed by state agencies for safeguarding confidential data, PEER examined national best practices for retention, destruction, and sanitization, as set by the National Institute of Standards and Technology, which produces best practice guides and minimum requirements for federal agencies to ensure security of data. According to NIST, these principles can be applied to state agencies as well, and ITS utilizes them when developing security standards and policies for state agency data and IT resources. NIST best practices served as the standard for measuring the effectiveness of the varying rules and regulations of individual agencies.

PEER's examination of policies across a sample of state agencies varying in size, structure, and types of PII managed exposed common variations that when compared against NIST best practices revealed the most pervasive risk areas for a potential security breach, as follows:

- *Collection of Unnecessary PII:* Many of the entities reviewed collected more PII than needed to conduct business. In addition, no uniform practice existed for removal of unnecessary PII, except for agencies mandated to do so under federal laws. Some regulatory boards reported collecting only the last four digits of Social Security numbers, but the practice was not uniform.
- *Outdated Retention Schedules:* Most agencies had not updated their retention schedules on a regular basis. The majority of the schedules included data last updated in the early 1980s or 1990s with only the protection of hardcopies of PII in mind; thus, the shift to electronic collection and storage of PII has made some retention schedules outdated.
- *Lack of Uniform Agreements for Sharing Data with Other Agencies and Non-State Entities:* Agencies that fall under federal law and receive federal funding had exemplary data sharing and use agreements. However, regarding sharing other types of PII that do not fall within stringent federal mandates, some contracts with third parties do not address data retention or destruction upon the completion of the contract. Furthermore, some agencies had no form of written agreement defining the procedures for retention, destruction, or sanitization of shared data.
- *Lack of Proper Verification of the Destruction or Sanitization of PII:* State agencies followed no uniform practice regarding verification of destruction or sanitization.
- *Transmission and Storage of PII Electronically in an Unsecured Manner:* Some agencies used nonsecure methods, such as sending unencrypted email, to transmit documents containing PII. MDAH issued guidelines reflective of best practices for development of policy on transmission of PII; however, due to lack of enforcement and oversight, many agencies had failed to develop any policies or regulations identifying proper electronic storage practices or put controls in place to limit access. Additionally, many agencies did not have policies addressing the use of mobile devices.
- *Improper Handling of Equipment Containing PII:* Agencies indicated that (1) they relied on agreements with third parties—such as private entities providing copier rental—regarding the destruction of PII retained in the equipment; (2) they had the hard drive removed and stored; or (3) they did not have any policy regarding electronic equipment, such as copiers, that may store PII.



## **Implementation Actions**

Following release of the Committee's report, the **Mississippi Department of Archives and History** took the following actions:

- Began to implement more uniform practices and agreements by state agencies for sharing information with third parties.
- Required agencies to ensure that PII covered by an MDAH-approved retention schedule is retained, destroyed, or sanitized in the appropriate manner.
- Began working with ITS to ensure that requirements for retention, destruction, and sanitization of state data are incorporated in policies and standards.
- Participated in the Mississippi Data Management Working Group survey.
- Began creating more general retention schedules that apply to all agencies to reduce the number of agency-specific schedules.

Following release of the report, the **Department of Information Technology** took the following actions:

- Reviewed existing enterprise security policies and standards and confirmed that requirements for protecting data and IT resources throughout their life cycle are incorporated into the State's Enterprise Security Policy.
- Began working to align the Enterprise Security Policy with the National Institute of Standards and Technology Cybersecurity Framework and other industry standards.
- Shared available resources, policies, and state government IT-related statistics with the MDAH.
- Participated the Mississippi Data Management Working Group.

# Impact: State-Owned Vehicles

## ***Management of Mississippi's State-Owned Vehicles: Data Quality, the Control Environment, and Recent Statutory Changes (Report #613)***

As of February 2017, the state owned 7,145 fleet vehicles across 60 agencies with an acquisition value of \$193,973,583.82. The data currently maintained in MAGIC (the statewide management system) is incomplete and unreliable to manage those assets. Such information as the number and types of state-owned vehicles; vehicle mileage, which indicates extent of use; and maintenance costs over a vehicle's life cycle are lacking.

Factors at both the agency and state level have contributed to the deficiencies. State agencies have not consistently used MAGIC correctly or to its fullest capacity as a vehicle management tool. In addition to agency staff turnover limiting full implementation, users reported finding the system complicated and cumbersome. Some responsibility regarding deficiencies in the state's vehicle information lies with the Bureau of Fleet Management. Training efforts have not resulted in any significant improvement in data quality nor increased use of the system's capabilities, and there have been no consequences for agencies that do not properly maintain vehicle data.

Department of Finance and Administration policy requires state employees to report specific information in their travel logs (e.g., trip purpose), but agencies inconsistently record that information, and in many cases users simply do not follow the policy. These conditions create an environment for potential misuse and abuse, and PEER found instances of questionable vehicle use and inconsistencies in application of IRS policies regarding calculating fringe benefits for personal vehicle use.

During the 2017 Regular Session, House Bill 938 placed the state under a vehicle moratorium as of July 1, 2017, limiting the purchase of new vehicles, requiring state agencies to utilize a trip optimizer system prior to official travel, and requiring agencies to acquire the lowest cost vehicle option to carry out the agency mission. In addition, the bill provides that the BFM can authorize vehicle purchases only when the data in MAGIC are accurate.

### **Implementation Actions**

Following release of the Committee's report, the **Department of Finance and Administration:**

- Analyzed agency FY 2020 budget requests for vehicles and provided recommendations to the Legislative Budget Office.
- Presented at the 2017 Annual MAGPPA Conference and the 2018 MAGIC Users Meeting.
- Customized MAGIC to assist agencies in assessing data to be corrected or supplemented.
- Developed job aides and a "Fleet Data Cleanup Guide" to assist agencies in data correction.
- Conducted 14 Cleanup Workshops to provide agencies with real-time assistance in correcting their data and to train them in how to complete an audit of their data and correct deficiencies.
- Began working with multiple agencies that are still using legacy systems to capture their data to begin interfacing information from those legacy systems into MAGIC.
- Assigned a new employee to the BFM to assist in data correction and to perform training and audit.
- Disseminated a training survey to agency fleet managers to identify areas that need additional training.
- Began development of a Fleet Manager Certification Program (beginning January 2019) in preparation for the July 1, 2019, policy that only Certified Fleet Managers will be allowed to purchase vehicles.
- Began planning revisions to the Fleet Manual, including requiring annual data integrity audits from agency Executive Directors as well as the annual submission of a vehicle acquisition//use/disposal plan.
- Began discussion with DFA Legal regarding how to offer a more comprehensive policy to state agencies regarding the tax implications of personal use of a business vehicle.

# Impact: Pat Harrison Waterway District

## *A Financial Viability Review of the Pat Harrison Waterway District (Report #614)*

Although the Pat Harrison Waterway District has approximately \$6.5 million in unrestricted reserves, uncertainty in the current funding environment leads to concerns about its continuing viability. The district collected approximately \$2.17 million in ad valorem tax revenue in FY 2017, and its gross revenue from parks totaled approximately \$2.59 million in FY 2017. However, when factoring in operational expenses, including both district office costs and maintenance costs, the parks realized a net loss of approximately \$530,000 in FY 2017.

Major expenditures for the district include the operations of its parks and recreational facilities, Works Projects Grant program allocations to member counties, and other long-term liabilities. In FY 2017 the district expended approximately \$2.2 million to operate, staff, and maintain its parks. When factoring in park revenues and district office and maintenance costs, the parks operated at a net loss of \$529,809 for that fiscal year. In addition, the district approved \$399,335 in Works Projects Grant program allocations for 21 projects in FY 2017. The district had \$57,324 in long-term liabilities due in FY 2017. As of June 30, 2016, the district owed \$140,982 in principal and interest to the Corps of Engineers over the next three fiscal years.

As of June 30, 2016, the Pat Harrison Waterway District had cash reserves totaling \$8,483,505, which included \$1,905,349 in cash set aside to pay counties upon the completion of county works projects. Also at the close of FY 2016, the district held \$6,578,156 in unrestricted cash reserves to support future operations. If the district were to experience a loss comparable to that of FY 2017 (\$530,000) on an annual basis, based on its current cash reserve it would exhaust the reserve after 18.5 years.

Along with the potential for operating losses, the Pat Harrison Waterway District faces other environmental threats to its long-term sustainability.

The district's 10 remaining member counties' ad valorem tax collection revenues range from \$59,000 to \$435,000; thus, the financial impact could be quite significant depending upon the county exiting. With five counties having already departed, FY 2018 ad valorem tax collections will be down 18% compared to FY 2017 and 36% (\$1,000,000) compared to FY 2011. Declining ad valorem revenues place increased pressure on parks to become self-sufficient. Furthermore, the unknown cost to manage and operate two proposed lake developments—the Pascagoula River Drought Resiliency Project in George County and the Smith County Recreational Project in Smith County—represent a potential increase in expenditures.

In addition, certain provisions in Chapter 222, *Laws of 1962* give prior owners or their heirs the right to reacquire property previously purchased or otherwise acquired from them. This right could effectively impair the district's ability to bundle several tracts together for sale because the heirs of a small portion of such land would have the right to purchase the property back from the district.

### **Implementation Actions**

Following release of the Committee's report, the **Pat Harrison Waterway District** took the following actions:

- Sought legislative changes to require exiting member counties to do so with an effective date of the fiscal year-end, June 30, and to impose a deadline by which member counties must complete approved Works Projects Grant program projects and request reimbursement from the district and stipulate that if they fail to do so, the funds will be returned to the PHWD's Works Projects Grant program to be disbursed in the following year (neither was passed).
- Contracted with an independent agent to work closely with the University of Southern Mississippi to further the marketing of its parks to increase the volume of guests per year.
- Reached out to Harrison, Hancock, Franklin, and other former counties regarding membership.

## Impact: Funding for Charter Schools

### *FY 2017 Annual Report: Analysis of Funding for Mississippi Charter Schools and the Charter School Authorizer Board (Report #615)*

The Mississippi Charter School Authorizer Board is the sole authorizing body for charter schools in the state and is responsible for oversight of the schools' operations. MCSAB responsibilities include developing chartering policies, reviewing charter school applications, deciding whether to approve or reject applications (including renewal applications), entering into charter contracts with applicants, overseeing charter schools, and, when necessary, revoking a charter school's contract.

During the 2016 Regular Session the Legislature amended the "Mississippi Charter Schools Act of 2013" to include the following:

- To allow students in districts rated "C," "D," or "F" to cross district lines to attend charter schools;
- To require charter schools to meet or exceed graduation requirements set by the State Board of Education for a regular high school diploma; and
- To require that Mississippi Adequate Education Program payments to charter schools be reconciled each year using average daily attendance for months two and three, with the reconciliation being applied to the following year's MAEP payments.

Per state law, the MCSAB may approve a maximum of 15 qualified charter applications during a fiscal year. Through the 2017 application cycle, the board had evaluated 28 applications, denying 24 while approving four, including one new charter school to be located in the Clarksdale Municipal School District.

In September 2017, the U.S. Department of Education awarded a five-year, \$15 million grant to the Mississippi Charter School Authorizer Board to help expand the state's charter school sector. The board aims to increase the number of 15,000 additional seats.

Charter schools receive funding from state sources, local ad valorem taxes, federal funds, and through fund-raising and other sources, such as grants and gifts. During the 2016–2017 school year, Midtown Public received approximately \$1.6 million, Reimagine Prep approximately \$2.75 million, and Smilow Prep approximately \$2 million from MAEP funding, local ad valorem taxes, federal funds, and other sources.

For FY 2017, Midtown Public, Reimagine Prep, and Smilow Prep received state and local support payments in a manner consistent with payments to other school districts that receive MAEP funds and with the school districts in which charter school students reside. However, the local ad valorem pro rata calculation provides unequal shares between charter schools and the school districts. Further, the statute does not require that local ad valorem support to charter schools be reconciled annually, as it does for MAEP payments.

PEER reviewed each charter school's audited financial statements for FY 2017 to determine whether revenues were sufficient to cover the schools' expenditures. The difference in revenues and expenditures for Reimagine Prep was \$140,046 and the difference for Smilow Prep was \$498,712—both schools' revenues exceeding expenses. However, Midtown's revenues failed to cover its expenses by \$133,206, which according to the school, was due to such costs as building expansion, desks, books, and the loss of the 21st Century Grant.

Under state law, the MCSAB receives 3% of annual per-pupil allocations received by charter schools from state and local sources. As occurred in FY 2016, funding from the 3% fee of annual per-pupil allocations was insufficient to fully fund MCSAB operations in FY 2017. The Legislature included additional funding for the board in Institutions of Higher Learning—appropriated funding.

If Mississippi charter schools receive FY 2018 per-student funding equal to amounts received during FY 2017, enrollment of 2,643 charter school students will be necessary revenue from the 3% fees. The contracts between the charter schools and the board project FY 2018 enrollment to be 776 students.

Until charter school enrollment reaches a level sufficient for the 3% fee combined with any gifts, grants, or donations the authorizer board may receive is large enough to fully fund the board's operations, supplemental legislative funding will continue to be necessary.

### **Implementation Actions**

Following the release of the report, the **Mississippi School Authorizer Board** (MCSAB) reported that it has worked with the charter schools and the Mississippi Department of Education for the past two fiscal years to establish a crosswalk between the Mississippi local school district accounting manual's chart of accounts and the chart of accounts used by each charter school operator.

# Impact: Department of Corrections' Food Service Delivery

## *A Compliance Review of Mississippi Department of Corrections' Food Service Delivery Contract (Report #616)*

On July 1, 2016, Aramark began providing on-site management of the food service delivery program of the Mississippi Department of Corrections, becoming responsible for food preparation and delivery to 22 correctional locations throughout the state. "Management" includes supplying and preparing daily meals for inmates, maintaining kitchen equipment, and ensuring clean, safe kitchens and food preparation areas. With an estimated total value of approximately \$36 million, the contract will continue through June 30, 2019, with a one-time option for a one-year renewal that would extend the contract to June 30, 2020.

The contract requires Aramark to provide on-site management staff at all kitchen facilities during the hours of operation, as well as any warehouse and delivery personnel needed to ensure efficient and timely distribution of food. Furthermore, these employees are to be trained in correctional food services, and food service personnel are to be ServSafe certified, as appropriate, if working in food preparation areas. In addition, Aramark must handle routine maintenance and service for kitchen equipment at the Mississippi State Penitentiary, Central Mississippi Correctional Facility, and South Mississippi Correctional Institution, as well as for vehicles used in food service operations.

Aramark is not providing the staffing levels required by contract. PEER review of staffing levels at three prison facilities revealed that Aramark had hired subcontractors for maintenance positions and had consolidated titles/duties into fewer positions than stipulated in the contract. In neither instance did the Mississippi Department of Corrections grant Aramark authority to alter its staffing obligations nor act to enforce the contract terms.

The contract stipulates that all new Aramark employees receive 40 hours of MDOC orientation training pertaining to MDOC policy and procedures during their first year of employment as well as inmate interaction safety training. However, Aramark provides new employee orientation in-house using its own instructional material. It does so without having received MDOC approval. In addition, the MDOC has not reviewed the material for comparison to its own training material to assess its appropriateness. Although the MDOC has the authority to bar any Aramark employee who has not received orientation training from the grounds of any correctional facility, the department has not exercised this authority.

Aramark has, however, met the terms of the contract that require employees at Parchman, CMCF, and SMCI to participate in 40 hours of MDOC-approved in-service training each year by providing safety, sanitation, and food-handling training.

The contract also requires Aramark to maximize the use of reduced-cost food programs, such as USDA commodity programs, and use of MDOC farm products when available to offset the costs of the contract (food products obtained through these sources are credited to the MDOC and reduce its payments to Aramark for food service delivery). The Mississippi Department of Corrections has sole responsibility to enter into and participate in these programs for its own benefit. However, since 2006, it has not participated in any USDA commodity program, and in recent years the production of food commodities on prison farms has declined, both circumstances potentially resulting in higher food service costs.

Under terms of the contract, Aramark is to provide and deliver three meals per day that meet acceptable nutritional standards. The contract requires that meals meet specified recommended daily allowances for caloric and nutritional intake. An Aramark nutritionist reviews the caloric and nutritional value of the meals provided by Aramark at Parchman, CMCF, SMCI, the community work centers, and the restitution centers. However, Aramark staff reported instances of having altered meal menus. Furthermore, the MDOC does not have an independent nutritionist on staff or on contract to review menus for compliance with the standards required under contract terms.

Food facilities, such as those operating at the three main state prisons, are required by state law to obtain a food permit before they can begin operations. Permits are issued for a period of one year. However, the Mississippi Department of Corrections allowed Aramark to operate without having food permits (at least five months) because it did not require Aramark to submit proof of food permits in a timely manner. In

addition, Aramark did not provide an emergency feeding plan, as required by the contract, to the MDOC until five months into the contract. Furthermore, details of the plan indicated that should an emergency occur the feeding plan would not go into effect until one week after the occurrence.

Because the Mississippi Department of Corrections contracts out its food services, the prison kitchens and food service operations are subject to inspection. A health inspection includes observation and tests to ensure that the facility is abiding by Mississippi State Department of Health requirements for food storage temperatures as well as proper food handling and preparation practices and following proper sanitation and cleaning procedures. The MSDH also conducts annual permit renewal inspections. The MSDH has conducted inspections at each of the three public prisons since Aramark's contract began on July 1, 2016: three at CMCF, three at SMCI, and six inspections at Parchman (where critical violations led to repeat inspections).

At Parchman, the MSDH closed one of two production kitchens approximately three weeks into the Aramark contract in July 2016 after finding poor conditions, repeated violations, and inoperable equipment. After the MDOC corrected the problems, the kitchen reopened in June 2017. However, the second kitchen was subsequently closed because of structural damage and equipment issues and now is used exclusively as a serving area. Aramark received a "B" for both kitchens during its permit renewal inspection in October 2017. The MSDH inspector voiced concern about the seriously deteriorated condition of the floor in both kitchens and a significant amount of inoperable equipment that should have been marked as "out of order," in addition to a large number of damaged or inoperable food warmers previously noted during inspection.

Aramark received an "A" on its original permit inspection at Central Mississippi Correctional Facility, on August 9, 2016, followed by a "B" in February 2017, and a "B" on its most recent inspection for renewal of its permit on September 14, 2017. The MSDH inspector voiced concern about the dangers of working on the seriously deteriorated kitchen floor.

For the South Mississippi Correctional Institution, Aramark received an "A" for its original permit inspection on October 31, 2016, followed by a "B" on May 16, 2017, and a "B" during its permit renewal inspection on October 5, 2017. The health inspector expressed concern regarding the need to place out-of-order signs on inoperable equipment, leaking ceiling pipes, extensive corrosion of ductwork below the ceiling, and the dangers of working on deteriorating floors.

### **Implementation Actions**

Following release of the report, the **Mississippi Department of Corrections** took the following actions:

- Filled vacant positions and is having new employees attend its new employee orientation.
- Contacted the Mississippi Department of Health and Mr. Ray Horton inquiring about a dietitian to oversee the dietary allowances for each menu.
- Requested an application from USDA to apply for any future bonus products.
- Plans to make regulations and requirements for drug testing on food service contract employees and emergency plans specific and detailed in the next RFP.
- Reached out to other states requesting the penalty clauses that are in their food contracts, with plans to implement a penalty clause into its next contract amendment or RFP.

## **Impact: Harrison County**

### ***A Limited Management and Compliance Review of Harrison County (Report #617)***

The “County Government Reorganization Act of 1988” mandated a centralized purchasing system that placed controls on procurements by individual county supervisors. Additionally, the legislation provided for the use of county administrators and a central inventory system in all counties, and established the unit system of road and bridge fund management to foster efficient use of road and bridge resources. A county operating under the unit system of government must manage its road and bridge resources for the benefit of the county as a whole and not according to the unique interests and concerns of any of its districts. Although Harrison County complies with the formal requisites of unit system law, certain county practices fail to realize the efficiencies of the system, are noncompliant, or represent questionable or inadvisable use of funds.

#### ***Operation of Five Repair and Maintenance Facilities***

Harrison County operates five road repair and maintenance facilities, one in each of the five supervisors’ districts. In so doing, it fails to efficiently allocate resources based on road miles under management. Three districts each have more than 150 miles of road to manage and oversee, whereas the remaining two districts have 60 miles and 7, respectively, reflecting a disparity in employees per mile under supervision between districts, ranging from 1:1 to 1:14.68. Continued use of facilities in the districts with fewest miles under management draws resources away areas with the greatest need for road maintenance, based on actual mileage of roads under county control.

#### ***Lack of Priorities in County Road Plan***

Although Harrison County has a current four-year road plan outlining road projects and their funding methods, no determination of priorities for the particular miles of road to be paved or reconstructed has been made. Without established priorities, paving and other road and bridge maintenance decisions may reflect only the preferences or concerns of a particular supervisor.

#### ***Noncompliant Use of Road and Bridge Levy Resources***

Per MISS. CODE ANN. Sections 65-15-1 and 65-13-7, funds levied for roads, bridges, and culverts may be used only for road and bridge construction and maintenance, and most activity of the county follows this mandate. However, the Harrison County Board of Supervisors has also used road and bridge funds to support recreational facilities.

#### ***Questionable Use of Escrow Funds***

Although within the scope of state law, the Harrison County Board of Supervisors expends escrow funds imprudently without any measurable, collective benefit to the county and allocates escrow collections among the five supervisors’ districts, allowing each supervisor to make decisions regarding specific expenditures.

In addition, the Harrison County Board of Supervisors expended \$98,364 and \$106,709 during fiscal years 2016 and 2017, respectively, in escrow funds to “advertise county resources” in event programs and other printed materials, banners, signage, and T-shirts or sports jerseys. While not contrary to state law, the practicality of expending escrow funds on local advertising is questionable.

#### ***Travel Expenditures***

For county fiscal years 2016, 2017, and 2018 (as of November 30, 2017), the Harrison County Board of Supervisors expended approximately \$73,000 on in-state and out-of-state travel associated with attendance at conferences and events.

A review of reimbursements related to these expenses showed 33 instances in which supervisors’ travel expenditures were not compliant with state law or state or county travel policies. These instances of



noncompliance demonstrate county officials' poor internal control over travel expenditures.

### ***Executive Sessions***

Contrary to Mississippi's policy on the transaction of business in an open setting, according to minutes of the Harrison County Board of Supervisors, during several meetings held between October 2015 and September 2017, the board went into executive session, and its announcements to the public and the recitation of reasons for going into closed and executive sessions set out in the minutes failed to meet the requirements of the "Open Meetings Law."

### **Implementation Actions**

Following the release of the report, **Harrison County** took the following actions:

- Underwent an audit to ensure all expenditures conform with internal policies and law.
- Reimbursed the road fund \$73,019.99 for work performed for other county departments.
- Reimbursed the road fund \$48,115.38 for other work outside roads as discovered in review.
- Took corrective action as recommended by independent auditors to correct deficiencies in internal control.
- Reviewed entire Road Department to evaluate whether the order establishing the work centers should be changed.
- Began a search for new road manager and will address road plan priorities after hire.
- Corrected board minutes to accurately reflect events of closed sessions.

## Impact: MDOT and OSARC

### ***Selected Issues: Mississippi Department of Transportation and the Office of State Aid Road Construction (Report #618)***

MDOT data show that Mississippi has approximately 9,000 lane miles (33%) in poor or very poor condition as of 2016. Also, although the percentage of deficient bridges has decreased within the past five years (from 2012 to 2017), the state still has 861 deficient bridges (15%) as of 2017.

The Mississippi Department of Transportation receives the majority of its federal funds through the Federal Highway Administration based on specific allocation formulas and receives state funding through legislative appropriations of special funds derived from the state fuel tax and other state taxes and fees. According to MDOT, the type of federal funds received does not impact the timing or selection of MDOT projects for the five-year plan.

To satisfy 540 multiyear project commitments authorized in fiscal year 2017 (or from previous periods), MDOT will be required to expend additional federal and state funds over the next three fiscal years (2018–2020) totaling approximately \$652.3 million, and \$345.7 million, respectively.

Expenditures for capital outlays (i.e., payments to contractors) represent MDOT's greatest expenditure category from FY 2015 to FY 2017, approximately 55%. Total MDOT expenditures were approximately \$1.07 billion, \$1.06 billion, and \$1.15 billion for fiscal years 2015, 2016, and 2017, respectively. MDOT's total expenditures increased by approximately 8% from FY 2015 to FY 2017 primarily because of increases in payments for capital outlays and subsidies, loans, and grants.

PEER also examined MDOT's expenditures by budget and accountability program. For FY 2017, the department spent 86% of its funds on construction and maintenance.

Over the past several years the Mississippi Department of Transportation has shifted its priorities from new construction and system preservation almost exclusively to system preservation. For federal fiscal year 2018, MDOT's five-year plan includes work on 269 projects, with the majority involving bridge replacement/preservation, pavement overlay, and other system-preservation projects.

Since PEER's January 2014 report, MDOT has developed a written policy for prioritizing and selecting its bridge and pavement projects; reprioritized its bridge projects in 2015; and created a bridge prioritization report that includes both quantitative data (replacement indexes) and qualitative data (comments from the Bridge Division and the districts). In addition, it has placed its five-year plan online along with information on the various phases of projects and project changes (e.g., move of a project start date and the reason).

As a result of the Federal Highway Administration's compliance review findings regarding deficiencies of the Office of State Aid Road Construction's current bridge load-rating system, as well as a lack of bridge closure enforcement and concerns for the safety of the traveling public, OSARC and MDOT developed an action plan to meet the requirements of the National Bridge Inspection Standards, a component of which included new timber bridge inspection contracts. PEER estimates an approximate average not-to-exceed cost of \$10,500 per bridge.

Under the new bridge inspection contracts, as of December 7, 2017, consultants had inspected 1,005 bridges, with 166 having critical findings that warranted immediate closure. After determining a bridge closure, a county, which bears the majority of the cost burden for bridge repair, may proceed in several ways; however, the chosen option may require extensive planning or there may be a long wait for funding. The Office of State Aid Road Construction is exploring options to provide county engineers with the additional knowledge and equipment necessary to facilitate transition of the inspection of bridge contracts back to the engineers at the end of the current contract cycle.

## **Implementation Actions**

Following the release of the report, the **Mississippi Department of Transportation** took the following actions:

- Continuing efforts toward greater transparency.
- Increasing communication with the public by making performance metrics available through a dashboard on its website.
- In conjunction with the FHWA, assisting OSARC in revision of its county engineer bridge inspection contracts to emphasize federal guidelines and to schedule training for county engineers on load-rating bridges.

Following the release of the report, the **Office of State Aid Road Construction** took the following actions:

- Working with FHWA and MDOT to ensure that federal guidelines are adhered to and to provide training for county engineers, and increase quality assurance procedures related to bridge inspections.
- Evaluating its procedures in an effort to ensure that state and federal guidelines are met.

# Impact: Retirement System

## ***2017 Update on Financial Soundness, Delays in Application Processing, and Legal Issues (Report #619)***

The Public Employees' Retirement System consists currently of six plans, or programs:

- Public Employees' Retirement System of Mississippi;
- Mississippi Highway Safety Patrol Retirement System;
- Mississippi Government Employees' Deferred Compensation Plan and Trust;
- Retirement Systems;
- The Supplemental Legislative Retirement Plan; and
- Optional Retirement Plan.

All assets, proceeds, and income of the system as defined herein are held in trust for the exclusive purpose of providing benefit payments and refunds and providing for the system's administrative expenses. Assets of the various plans, excluding the MDC and ORP, are invested collectively at the direction of the PERS Board of Trustees and their advisers. Assets of each member of the MDC and ORP are invested at the direction of the member.

A primary responsibility of the PERS Board is to ensure adequate funding of the plans it administers. One means of accomplishing this is by setting contribution rates for employers participating in the plans. For assistance setting these rates, the PERS Board receives actuarial reports annually and works with its actuarial consultants to create comprehensive models that are used to project the financial position of the various plans. These models include such factors as investment return assumptions, wage inflation assumptions, retirement tables, and retiree mortality tables.

### ***Update on Financial Soundness***

As a result of the most recent experience study, as of June 30, 2016, the PERS Board adopted a decrease of 0.50% to the wage inflation assumption for the PERS plan, reducing it from 3.75% to 3.25%. Even with the adoption of this change, over the past five- and 10-year periods the PERS actual average annual payroll increase has fallen below the actuarial model's projected rate of salary increase. Continued analysis of variation between actual and assumed is warranted.

From FY 2007 through FY 2017, the ratio of active members to retired members has decreased by approximately one-third, driven by the increasing number of retirees and the decreasing number of active members. A lower number of active members to retired members results in funding future pension obligations over the payroll of fewer active members. Although the PERS ratio of active members to retired members has declined over the past 10 fiscal years, the PERS active/retiree ratio remained above the national average ratio for other pension plans across the nation. However, in deviation from the national average plan, which has seen active member growth, PERS active membership continues to decline.

### ***PERS Sustainability***

The current PERS funding policy is designed to address the past volatility of employer contribution rates within the system by setting the employer contribution rate percentage to a fixed rate of 15.75% of annual compensation. The policy also targets an 80% funding level by 2042 while still reducing the plan's unfunded actuarial accrued liability. In addition to reducing the unfunded actuarial accrued liability, the funding policy should result in more long-term sustainability within the system.

### **PERS Risk Management and Investment Management**

As of June 30, 2017, the PERS funding ratio was 61.1%, an increase from 60% as of June 30, 2016. Even with the increase in funding ratio, actuarial projections show that the PERS Board's originally adopted model's funding goals of an 80% minimum funding ratio in 2042 will not be achieved. Furthermore, the plan has been below its 75% funding threshold for two consecutive periods. There are several options the PERS Board and/or the Legislature could consider to address this issue:

- Request additional employer contributions (PERS Board);
- Make adjustments to the funding policy (PERS Board);
- Maintain the current employer contribution rate and funding policy (PERS Board);
- Make adjustments to the plan (Legislature);
- Change the plan for new members (Legislature).

For fiscal year 2017 the PERS Board of Trustees continued to adhere to the asset allocation model put in place in June 2015. This model continues to set investment level targets for the PERS investment portfolio.

For fiscal year 2017 the PERS plan's combined investment portfolio experienced a return of 14.96%, and the market value of the system's assets was approximately \$26.9 billion.

PERS paid \$95.6 million to investment managers during fiscal year 2017, which represents a combined investment expense rate of 0.36% of the PERS plan's total assets (the expense rate for FY 2016 was 0.36%).

### **Study of the Causes of the PERS Plan's Unfunded Liability**

Unfunded actuarial accrued liability occurs when a pension system's current actuarial value of assets is less than the present value of benefits earned by retirees, inactive members, and current employees as of the valuation date. UAAL takes into consideration the expected investment return of present assets but does not consider future employee or employer contributions.

According to a study conducted by the PERS Board's actuaries, the unfunded actuarial accrued liability, as of June 30, 2016, results from the present value of the initial UAAL as of June 30, 1998; plan benefit changes; changes to plan assumptions; asset gains/losses; and liability experience.

As of June 30, 2016, the Public Employees' Retirement System of Mississippi pension plan had an unfunded actuarial accrued liability of approximately \$16.8 billion. According to the study conducted by PERS actuaries, the unfunded actuarial accrued liability, as of June 30, 2016, results from several factors:

<b>Source</b>	<b>Approximate Liability</b>	<b>Percentage of Total</b>
Present Value of Initial UAAL	\$2.2 billion	13%
Plan Benefit Changes	3.7 billion	22%
Changes to Plan Assumptions	1.4 billion	9%
Asset Gains/Losses	6.3 billion	37%
Liability Experience	3.2 billion	19%
<b>Total</b>	<b>\$16.8 billion</b>	<b>100%</b>

SOURCE: *Analysis of the Funded Status Changes to the Public Employees' Retirement System of Mississippi from June 30, 1998, to June 30, 2016*, Cavanaugh Macdonald Consulting, LLC.

## **Implementation Actions**

The **Public Employees' Retirement System Board of Trustees**, in conjunction with the biennial experience review, made adjustments to the actuarial assumptions in an effort to present a more conservative forecast of the system's future performance. PERS staff noted that the agency has addressed the application processing challenges associated with the agency's conversion to the Mississippi Automated Retirement System.

# Impact: Prison Industries

## *A Review of the Mississippi Prison Industries Corporation (Report #620)*

The Mississippi Prison Industries Act of 1990 established the current prison industries program. The act created a nonprofit corporation to operate prison industries independent from but in cooperation with the Mississippi Department of Corrections. The primary mission of the prison industry programs as established by law is to provide inmates with useful activities that can lead to meaningful employment after release in order to assist in reducing the return of inmates to the system, i.e., reducing recidivism.

MPIC operates eight prison industry work programs at the three state prisons, the Jefferson-Franklin County Correctional Facility, and a warehouse located in Jackson. These programs use inmate labor to manufacture products and services for purchase by state agencies, local governments, educational institutions, and private entities as authorized by state law.

MPIC's audited financial statements for fiscal years 2012 through 2017 showed a significant decline in the financial health and sustainability of the corporation, a decline that threatens MPIC's future viability as an ongoing business enterprise and its ability to operate an effective prison industries program. From FY 2012 through FY 2017, MPIC's ending net position (net worth) declined by \$6.7 million, from approximately \$10 million to \$3.3 million and fiscal year-end cash balance declined from approximately \$4.8 million to \$560,707. Costs for goods and services, increased payroll, acquisition and construction of capital assets, and capital lease obligations, as well as other expenses, contributed to the significant decrease of approximately \$3.7 million in cash during FY 2016 and FY 2017.

Through February 28, 2018, MPIC's FY 2018 net operating loss totaled \$628,970, including a net operating profit of approximately \$24,000 during February 2018. At the end of February 2018, MPIC's cash balance was \$329,970.

While MPIC's financial operations were relatively stable from FY 2012 through FY 2015, significant operating losses of approximately \$3.5 million during fiscal years 2016 and 2017 have affected the corporation's financial health. Since fiscal year 2015, MPIC has experienced a deterioration of its financial sustainability as the result of losses in long-term product lines, unsuccessful expansion into new product lines, and failure to control administrative overhead expenses, such as salaries and benefits, contractual services, and operating expenses.

Increases in direct costs associated with MPIC product lines without appreciable increases in sales caused five of MPIC's six existing long-term product lines to move from being profitable in FY 2015 to being unprofitable in FY 2017. Costs associated with MPIC's expansion into two new product lines—fish tanks and suture spool recycling—have contributed to a deterioration of the corporation's overall financial condition. In addition, when establishing these two new product lines, MPIC did not conduct marketing feasibility studies, hold public hearings, or consult with Mississippi Delta Community College regarding the lines' financial sustainability as required by state law in the establishment of new product lines.

Administrative overhead expenses associated with MPIC's central office in Jackson increased from \$1,594,494 in FY 2015 to \$2,781,701 in FY 2017 (74%). Despite a freeze on employing new MPIC personnel, wage increases, and year-end incentive payments for all MPIC employees, MPIC salaries and benefits increased 27% from FY 2016 to FY 2017.

Because MDOC and MPIC do not maintain accurate program participant data, it is not possible to determine whether MPIC is fulfilling its statutory mandate to reduce recidivism of program participants.

The participation data available for Mississippi's prison industries program vary significantly from source to source, making it impossible to identify an accurate count of program participants. None of the four datasets examined by PEER had sufficient expected agreement for the data to be deemed reliable.

In addition to the lack of expected agreement between participant datasets, errors within individual datasets included the following:

- The MPIC payroll dataset contained 56 MPIC worker identification numbers with no linkage to worker names or MDOC inmate identification numbers. Each of these 56 inmate worker identification numbers received multiple paychecks.
- The MDOC “All Participants” dataset included 92 cases for which time in the MPIC program was zero or less, indicating that the inmate left the prison industries program before entering the program.

Recidivism rates presented in MPIC’s FY 2016 annual report are not reliable and do not support conclusions regarding the effectiveness of the prison industries program in reducing recidivism:

- Recidivism calculations were performed on an unverified source of data.
- Recidivism calculations involved an unverified subset of the original data.
- Recidivism calculations did not attempt to distinguish program effects from chance or confounding effects.
- Recidivism calculations should be made from all participants, not year-plus participants.

The National Institute of Corrections Guide and high-quality research on prison industries programs identify best practices for inmate worker employment. The following MPIC inmate worker employment practices do not align with best practices, which impedes the corporation’s ability to reduce recidivism:

- Maximizing the number of prison industry job opportunities available to inmate workers.
- Targeting the inmate population most likely to yield a reduction in recidivism.
- Employing inmate workers in industries with job prospects in Mississippi.

### **Implementation Actions**

Following release of the report, the **MPIC Board and MPIC leadership** took the following actions:

- Developed a plan to once again become financially sustainable.
- Removed CEO and Vice President of Sales and Marketing.
- Began working to secure a line of credit to provide cash to support operations while looking to open new work programs in two regional facilities.
- Planned to work with the MDOC and the National Strategic Planning and Analysis Research Center on data collection and evaluation of recidivism.
- Conducted a program review to establish which work programs provide valuable work skills and are sustainable.
- Consulted with the board attorney regarding use of Chapter 11 to provide time to reorganize the business and operations and Chapter 7 if necessary.



# Impact: Legislative Support

## **Legislative Assistance**

PEER Committee rules state that PEER staff will provide assistance to any legislator or legislative committee upon request. During FY 2018, PEER staff completed 93 legislative assistance projects, ranging from simple information and data requests to more complex direct assistance on behalf of committees or subcommittees. The following list illustrates the types of assistance provided by PEER staff:

- Staff assistance on the economic impact of a state lottery;
- An analysis of ad valorem taxes paid by lessors of state leased property;
- Outsourcing of highway maintenance functions;
- Reverse auctions and procurements; and
- Engineering services and competitive bids.

## **Appointee Background Investigations**

Since 1977, Senate committees have routinely requested PEER staff to conduct background investigations of appointees to assess each appointee's compliance with statutory qualifications and general fitness to hold office prior to their consideration for advice and consent of the Senate. During FY 2018, PEER staff completed 27 background investigations of gubernatorial and other appointees appointed to state boards or commissions. Some of the more notable background investigations included appointees to the following:

- Board of Education,
- Gaming Commission,
- State Personnel Board,
- Board of Mental Health, and
- Selected state agency executive directors.

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# PEER Committee Staff

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