Issue Brief: A Review of the Sustainability of the Mississippi Prison Industries Corporation

PEER MISSISSIPPI
Joint Legislative Committee on Performance Evaluation and Expenditure Review

Issue Brief #663
November 17, 2021

PEER Committee

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About PEER:

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms, with one Senator and three at-large members appointed from each house. Committee officers are elected by the membership, with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues that may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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Background of the Mississippi Prison Industries Corporation

The Mississippi Prison Industries Act of 1990 created a nonprofit corporation, known as the Mississippi Prison Industries Corporation (MPIC), to operate the prison industries program independent from, but in cooperation with, the Mississippi Department of Corrections (MDOC).

MISS. CODE ANN. Section 47-5-533 (1) (1972) states that MPIC's mission is to provide inmates with useful activities that can lead to meaningful employment after release in order to assist in reducing recidivism (i.e., re-incarceration of inmates). Although state law created an independent nonprofit corporation to administer the state's prison industries program, MISS. CODE ANN. Section 47-5-535 (1) (1972) assigns responsibility for the program to both MPIC and MDOC.

In February of 2015, MPIC and MDOC created a master plan to assign responsibilities to each entity in order to assist MPIC in achieving its goal of reducing recidivism. The master plan states:

- MPIC is responsible for providing inmates with the opportunity to gain additional skills through its work programs; and,
- MDOC is responsible for facilitating post-release job placement by assisting inmates in obtaining employment-related documentation, such as a birth certificate and a Social Security card.

MDOC is also responsible for working with the Mississippi Department of Employment Security (MDES) to create a computerized system by which the inmate will be able to input employment information directly into MDES's system before the inmate leaves prison.

While the two entities created the master plan, over the years, MPIC and MDOC did not follow the plan or coordinate in any manner. Instead, MPIC has been subjected to little oversight, neglected its statutory duties, and struggled with financial stability. MPIC's lack of operational and financial success has raised serious concerns regarding the entity's ability to remain viable.

In May 2018, PEER published *A Review of the Mississippi Prison Industries Corporation* (PEER Report #620) to address the concerns of the Legislature. In the report, PEER found that MPIC struggled to sustain itself financially and was unable to prove its effectiveness in reducing recidivism. To address MPIC's declining financial position, PEER recommended the following three limited options:

1. eliminating MPIC's least profitable industries;
2. seeking protection under Chapter 11 of the Bankruptcy Code; or,
3. dissolving the Corporation.

MPIC implemented option one and eliminated its least profitable industries in order to attempt to become financially stable.

Purpose of Issue Brief

The purpose of this issue brief is to determine if MPIC has been successful in achieving financial stability and its statutory goal of reducing recidivism.

PEER has monitored MPIC's finances, operations, and performance since the release of its report on MPIC in 2018. This issue brief addresses structural and operational changes MPIC has implemented in an attempt to improve its financial stability. In addition, PEER reviewed MPIC's inmate programming to determine if it has been effective in reducing recidivism.

Financial Problems Experienced by MPIC Over the Years

In FY 2015, MPIC began experiencing a decline in its financial sustainability and did not have a positive growth in net position until FY 2020.

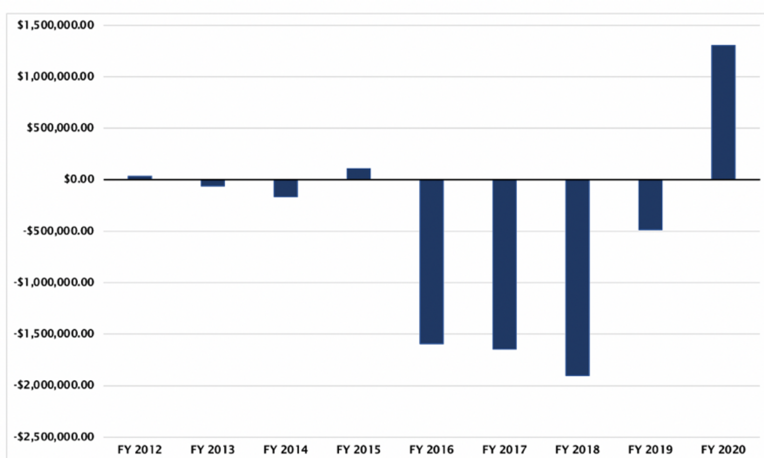
MPIC's financial operations were relatively stable from FY 2012 through FY 2015. However, significant operating losses of approximately $3.5 million during FY 2016 and FY 2017 affected the Corporation's financial health. Since FY 2015, MPIC has experienced a deterioration of its financial sustainability as the result of the following:

- 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.

According to PEER's review of MPIC's financial data, 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. In addition, costs associated with MPIC's expansion into two new product lines—fish tanks and suture spool recycling—contributed to the deterioration of the entity's overall financial condition. PEER notes that 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 financial sustainability of the lines, as required by state law. Further, administrative overhead expenses associated with MPIC's central office in Jackson increased from $1.6 million in FY 2015 to $2.8 million in FY 2017, a 74% increase. While MPIC had a freeze on employing new MPIC personnel from FY 2016 to FY 2017, salaries and benefits increased by 27% due to wage increases and year-end incentive payments for all MPIC employees. In response to PEER's review, MPIC reevaluated its product lines and cut product lines that were not profitable. MPIC also now conducts a profitability study and consults with Mississippi Delta Community College prior to proposing any new product lines. Additionally, MPIC implemented a budget in order to maximize profits and absorb losses.

PEER reviewed data presented in MPIC's audited financial statements from FY 2012 to FY 2020. One of the statements, MPIC's statement of revenues and expenses, reports whether an entity's operations result in a net income or loss and indicates whether an entity's operations are profitable or losing money. As shown in Exhibit 1 on page 2, as of PEER's 2018 Report, MPIC did not report an operating income until FY 2020. According to MPIC staff, the operating income in FY 2020 is due to the increase in COVID-19 sales for personal protective equipment (PPE).

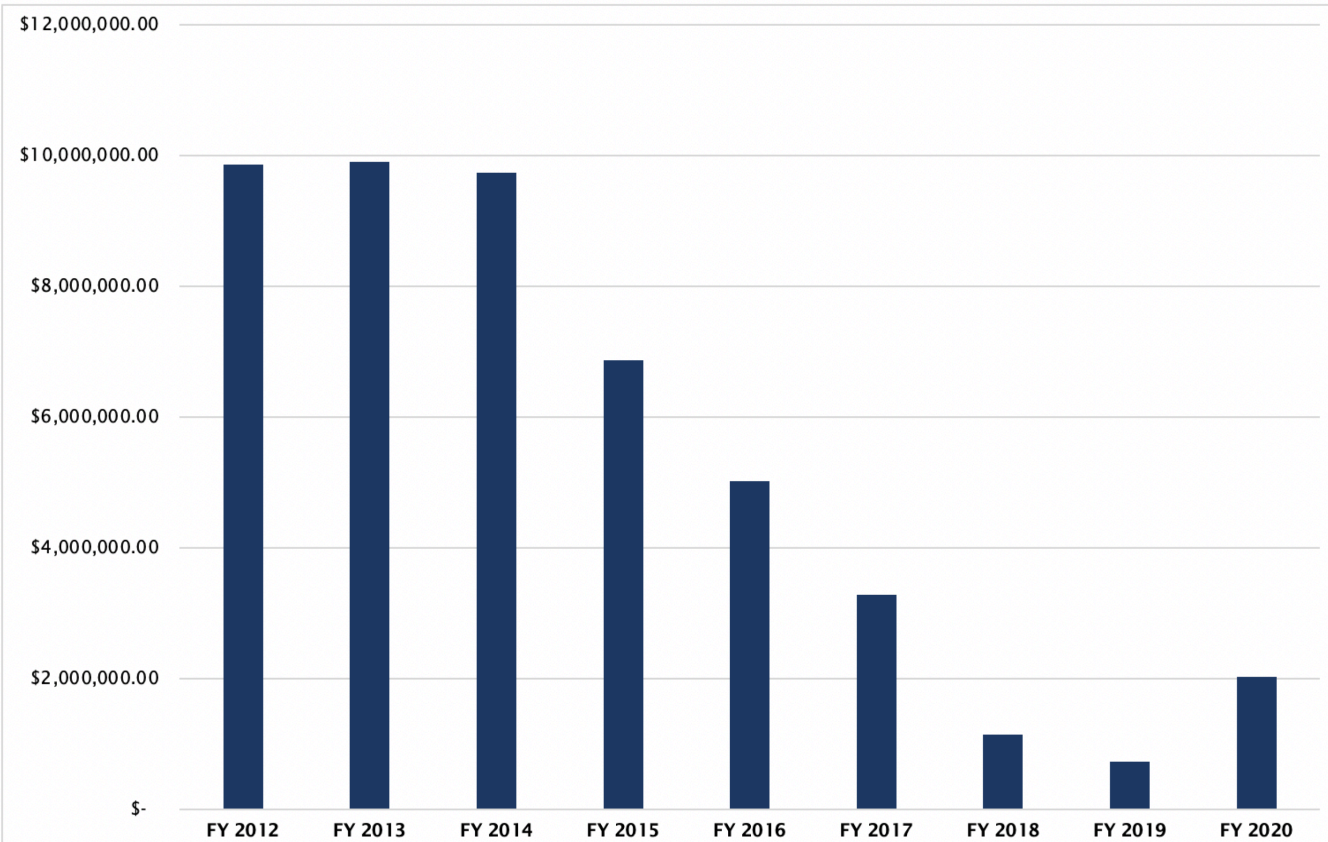
Exhibit 1: MPIC's Operating Income (Loss) from FY 2012 to FY 2020



SOURCE: PEER analysis of data provided by MPIC.

PEER also reviewed MPIC's statement of net position, which reflects the entity's net worth by subtracting total liabilities from total assets. As shown in Exhibit 2 on page 3, MPIC's net position (net worth) continued to decline until FY 2020.

Exhibit 2: MPIC's Ending Net Position from FY 2012 to FY 2020



SOURCE: PEER analysis of data provided by MPIC.

MPIC's unaudited financial statements for FY 2021 show a further decline in its financial sustainability.

PEER notes that MPIC's FY 2021 audited financial statements were not available as of November 8, 2021. However, PEER reviewed MPIC's monthly unaudited financial statements for FY 2021. According to MPIC's unaudited income statements for FY 2021, MPIC reported net losses for six consecutive months, from January to June 2021. In addition, for the first month of FY 2022, MPIC reported a net income of $162,364. However, it is important to note that the reported income is due to an inflow of $300,008 in "Other Income" derived from the Paycheck Protection Program (PPP) Loan Forgiveness. Had this inflow not occurred MPIC would have reported a net loss of $136,444.

MPIC's Failure to Maintain Inmate Program Data and Determine Effectiveness in Reducing Recidivism

Statutory Purpose of the Prison Industry Program

MISS. CODE ANN. Section 47-5-533 states the following legislative findings regarding the state's prison industry program:

(1) *It is the finding of the Legislature that prison industry programs of the State Department of Corrections are uniquely different from other programs operated or conducted by other departments in that it is essential to the state that the prison industry programs 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.*

(2) *It is further the finding of the Legislature that the mission of a prison industry program is:*

(a) To reduce the cost of state government by operating prison industries primarily with inmate labor, which industries do not seek to unreasonably compete with private enterprise;
(b) To serve the rehabilitative goals of the state by duplicating as nearly as possible, the operating activities of a free-enterprise type of profit-making enterprise; and,
(c) To serve the security goals of the state by reducing the idleness of inmates and by providing an incentive for good behavior while in prison.

The purpose of a prison industry program is to provide "real-world" work experience and training to inmates to increase inmates' job skills and employability upon release. In return, this should lead to a reduction in the reincarceration of inmates into the correctional system.

MISS. CODE ANN. Section 47-5-533 defines MPIC's mission and goals. The primary mission of 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. In PEER's 2018 report, due to the poor quality of Mississippi's prison industries program data, PEER could not accurately assess the program's effectiveness in reducing recidivism. Furthermore, Mississippi's implementation of its prison industries program did not have several key components designed to increase the program's effectiveness in reducing recidivism. Examples of MPIC's deviation from best practices included:

- not targeting the inmate population most likely to yield a reduction in recidivism; and,
- providing inmates with work skills in occupations for which there were expected to be few to no job prospects in Mississippi.

While PEER's 2018 report stated the importance of maintaining inmate program and recidivism data to determine the effectiveness of the prison industry program in reducing recidivism, MPIC has not maintained its data as required.

Exhibit 3 on page 5 provides a list of services and training programs provided to inmates during FY 2021. The exhibit includes the total number of inmates served by MPIC during the fiscal year. PEER notes that MPIC did not report the number of inmates participating in all MPIC training programs. According to MPIC, the entity served a total of 213 inmates in FY 2021. PEER notes that one inmate could receive multiple programs and services from MPIC. For example, an inmate provided job search assistance could have also received Thinking for a Change.

Exhibit 3: MPIC Services and Training Programs Provided to Inmates in FY 2021

Name of Service or Training Program Provided	Total Number of Inmates Served
Services	
Job Search Assistance	67
Career Counseling	5
Employment Development Plan	11
Referrals to Other Community Resources	2
Support Services	35
Training Programs	
Life Skills, Thinking for a Change	56
Practice Interviewing	76
Job Training Services	145
Certified Logistics Associates	Not Reported
Certified Logistics Technician	Not Reported
Job Readiness Training	Not Reported
Lift Truck Safety	Not Reported
NCCER[1] CORE Instructor and Performance Evaluator	Not Reported
NCCER Welding I and II Instructor and Performance Evaluator	Not Reported
NCCER Curriculum Proctor	Not Reported
Value Stream Mapping	Not Reported

[1] The National Center for Construction Education and Research.

SOURCE: PEER analysis of data provided by MPIC.

While MPIC has attempted to institute inmate programs to reduce recidivism prior to and during the COVID-19 pandemic, the corporation has only maintained data upon PEER's request, and only provided data for FY 2021. Further, MPIC reported a recidivism rate to PEER. However, PEER determined that MPIC did not have the three-year data needed to calculate a recidivism rate properly. It is clear that MPIC does not place an importance on inmate programming and reducing recidivism as required by state law.

Considerations for the Legislature

While MPIC may be able to continuously fund inmate programs in the future, the possibility exists that MPIC may suspend funding of inmate programs due to a downturn in MPIC revenues and the resulting lack of available funds for such programs.

Of the 49 states operating a prison industries program (Alaska's Legislature repealed its prison industries program in 2005), only Mississippi and Florida operate their programs though a nonprofit prison industries corporation working with the state's corrections department. In the other 47 states, either the state's corrections department bears sole responsibility for the operation of the program or a division of the corrections department functioning as a semiautonomous agency operates the program.

Therefore, PEER staff recommends that the Legislature consider repealing MPIC's enabling statute, MISS. CODE ANN. Section 47-5-533 (1972), in order to dissolve the Corporation. The law states that upon dissolution of the Corporation, MDOC becomes responsible for the duties of MPIC and receives the Corporation's assets. MDOC could use these assets to create a more stable reentry division with greater oversight and the resources to provide inmates with opportunities to gain skills that can help inmates find meaningful work after incarceration and reduce recidivism.

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