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Performance Audit Division Brief:  
***Economic Development Bond Monitoring Quarterly Report***  
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**Introduction**

The Office of the State Auditor (OSA) monitors the expenditure, employment, construction, and in some cases, the productivity of a number of State-funded major economic development projects. The Legislature supports these projects because they promise to bring and keep jobs and industry in the State. Chapter 75, Title 57 of the Mississippi Code of 1972, Annotated, is the Mississippi Major Economic Impact Act (MMEIA) and has historically been used by the Legislature to structure major economic projects. To date, there are 13 active programs under the Chapter mentioned above (listed in table 2).

Under MMEIA, the State Bond Commission is given the power to borrow money and issue general obligation bonds to the projects the State declares as major economic projects. Bonds are defined in MS Code §57-75-5 as *...general obligation bonds, interim notes, and other evidences of debt of the State of Mississippi...* The primary purpose of the MMEIA mentioned in this brief is to enhance the well-being of the State's communities and economic conditions through the attraction, retention, and expansion of businesses. The lead agency of economic development is the Mississippi Development Authority (MDA). As the lead agency, MDA is responsible for creating opportunities that bring economic development to communities, and greater employment opportunities to workers and businesses throughout the State. ***OSA found MDA appeared to provide limited monitoring and oversight process to these projects that did not actually ensure that all goals were being met. Nevertheless, the OSA believes each project reviewed herein has been successful in satisfying the general expectations of the State's overall economic plan.***

However, OSA's findings and recommendations are derived from various audit programs. These findings and recommendations offer ways that both MDA and the private entity might improve transparency within the State. Based on the review of past projects, including the ones named in this report, OSA has made the following recommendations in Table 1 to MDA to help improve its management processes for these and future projects.

MDA monitoring and oversight should be a regular activity to ensure—on the front-end—they are safeguarding

the taxpayers' money from fraudulent special interest and to ensure adherence to the terms created throughout the life of the bonds.

**Table 1**

**Recommendations to MDA**

	<b>Recommendations to MDA</b>
1	The OSA believes it is imperative for MOUs to be specific and detailed in defining all terms and requirements of the project. Providing comprehensive MOUs will minimize the opportunity for confusion and lack of understanding of contractual requirements. It will strengthen oversight control mechanisms by providing clarity and specificity and will better protect the money that comes from taxpayers in Mississippi.
2	Regularly (at least annually) verify and require certification for all employment information and records that pertain to the employment requirements listed in the MOU for each project <b>prior</b> to OSA conducting its audits.
3	Require entities to submit semi-annually qualified employment information to determine true employment figures.
4	Verify all prior employment information and records that pertain to the MOU <b>before</b> contracts are signed. For all future projects, MDA should no longer sign a contract without conducting its due diligence on a company.
5	Closely monitor all project obligations to ensure all aspects of the MOU and other incentives provided are being met, and establish penalties for those obligations or warrants, such as employment figures and capital investments etc., that are not met.
6	Notify all parties (especially other State agencies mentioned in MOUs/contracts) in writing of their obligations to the projects. The OSA further recommends the Mississippi Department of Revenue, which has created an economic development division, maintain any employment information on all State supported economic development projects for future auditing purposes. Without this notice and outreach by MDA, many of the listed agencies never know they are expected to do anything related to the projects until OSA tries to conduct an audit.



7 Ensure the entities that receive bond funds are following General Auditing Standards for financial and other record retention and make sure that they are aware of their long-term obligations to the State for auditing and reporting purposes **as stated in the MOU.**

8 Warrant Mississippi employers to enroll in the E-Verify program, emphasize the importance of the program, and audit the Form I-9 documents to identify any potential issues to ensure compliance with the Mississippi Employment Protection Act. Further, OSA recommends that MDA counsel each participating organization about the requirements of the law and its potential penalties.

9 Include in their MOU the following requirements and responsibilities of employers:

- Display the E-Verify participation posters (English & Spanish) in prominent places that are visible to prospective employees and all employees who are to be verified through the system,
- Comply with the most recent version of the E-Verify Manual,
- Comply with the current Form I-9 procedures,
- Initiate E-verify verification procedures for new employees within 3 business days after each employee has been hired, and

Record the case verification numbers on the employee's Form I-9 or print the screen containing the verification number and attach it to the employee's Form I-9.

Therefore, MDA should actively seek certifications and verifications of job creation, investments, salary information, etc., from each of its projects.

The process of routinely gathering information on all aspects of the project will lessen systematic problems that show up in the post-audit process. It is evident that closer monitoring by all the necessary entities will provide stronger controls and a higher level of assurance of successful projects.

The OSA also verifies the compliance with the Mississippi Employment Protection Act (MEPA) by reviewing companies' E-Verify Program for Employment Verification Memorandum of Understanding (E-Verify MOU) to determine registration with the program and Form I-9s with case verifications to determine employment eligibility.

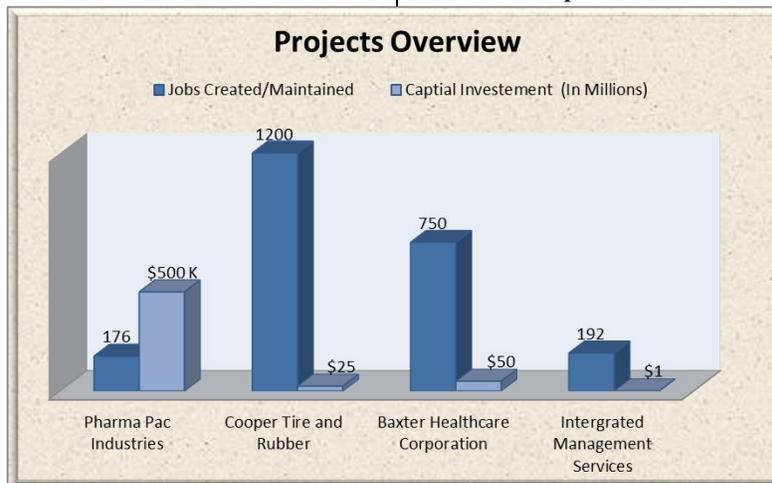
The MEPA became law during the 2008 Regular Session (SB 2988) and employers were required to register and use the system (effective dates listed in Vol 9, No.1 Report issued March 12, 2013).

The sanctions for not registering or using the system are the cancellation of State or public contracts; a debarment from State or public contracts for up to three (3) years; and the loss of business license for up to one (1) year. To date, the State of Mississippi has not imposed any of the sanctions listed above. OSA reports all E-Verify related violations to the MS Office of the Attorney General for further action. *OSA also makes recommendations in Table 1 (#8 & #9) pertaining to E-Verify due to finding of employers not following the requirements listed in the E-Verify MOU.*

### Bond Projects Evaluated

The OSA completed the review of five (5) major economic development projects under the MMEIA during calendar year 2014, which are listed in the Chart 1. These companies have invested approximately \$576.5 million of non-State capital in Mississippi and have also created and/or maintained approximately 3,056 jobs in the State. The Project Overview Chart 1 illustrates each company's initial capital investment and the employment creation/maintenance required by law and covenanted in the MOUs in order to receive general obligation bond funds from the State. *According to the OSA's test analysis, initial capital investments for these projects were achieved and employment figures were met and maintained by the companies, with the exception of Toyota.* During the audits, the OSA identified various components of these companies' data elements such as:

- The creation and maintenance of full-time jobs (employees),
- Annual salary requirements,
- Initial capital investments, and
- Compliance with the MEPA.



The following discussions provide a brief onsite analysis for each project audited. Audit work determined the accuracy and reliability of the data the companies provided for review to ensure the company's commitments, obligations, and threshold dates were



achieved and/or maintained accurately for receiving tax incentives and additional funding from the State of Mississippi as agreed upon in the MOU and each amendment to the MOU. Primarily, with each project, the OSA examined and verified the date of hire and if evidence of employment was traceable to the company’s payroll documents, W-2/W-4 tax forms, and compliance with the MEPA component. This report provides summary information on each of the audits conducted during the 2014 calendar year which includes: Pharma Pac, LLC, Cooper Tire and Rubber Company, Baxter Healthcare Corporation, Integrated Management Services, and Toyota Motor Engineering & Manufacturing North American.

### Pharma Pac, LLC

Pharma Pac, LLC (Pharma Pac) was located in DeKalb, MS Kemper County. It was a “Full Service” manufacturing and packaging company of topical pharmaceutical products. The company emphasis was on both “over the counter” medications and topical creams such as analgesics, acne treatments, anti-inflammatories, wound care products, cough and cold products, skin cleansers, exfoliators, and many others. This bond project was originally authorized and approved in November 2005.



In April 2014, it was announced Pharma Pac was bought out by Emilia Group, a cosmetics company based in Israel. The new company will also operate as a manufacturing company of pharmaceutical and cosmetic products under the name of Emilia Resources; which makes appropriately 1,600 pharmaceutical and cosmetic products.

Beginning on Monday, March 31, 2014, the OSA performed an audit of the accuracy and reliability of the 2013 employee data and compliance with the MEPA at Pharma Pac. This audit was conducted under the authority granted under MS§57-75-5(f)(xv), Mississippi Code of 1972 (MOU dated May 8, 2009, First Amendment dated May 20, 2012).

As a legislatively approved, major economic impact project designed to maintain and expand the existing plant, the State Bond Commission authorized a total of \$500,000 in general obligation bonds for Pharma Pac. In 2008, Pharma Pac made a capital investment to the project in an amount not less than \$500,000, which OSA previously verified in Management Letter #12, dated December 7, 2011.

To ensure the company appropriately expended the bond issuance, the OSA validated the company maintained at least 179 full-time direct jobs at the Project site. The audit utilized Pharma Pac’s employee listing from October 2013 to randomly select a 25% sample of the data elements listed above. Based on the OSA’s audit test procedures, Pharma Pac directly employed 164 full-time direct employees. ***OSA finds that Pharma Pac did not satisfy compliance of maintaining its level of employment at the Project site as of September 31, 2013. The company fell***

***short 15 employees; however, this shortage was previously modified with the amendment to the MOU in 2012. In addition, 17 out of 40 employees reviewed had incomplete and/or non-verifiable evidence of employment.***

During the time of the audit, the OSA’s procedures verified Pharma Pac employed 21 employees at the project site.

In conjunction with the employee verification, the OSA confirmed the company’s compliance with MEPA by reviewing the company’s E-Verify MOU, Form I-9s, and E-verify confirmations. ***OSA finds Pharma Pac did satisfy compliance with the MEPA by registering with and utilizing the status verification system by July 1, 2011.*** Based on OSA’s test procedures, OSA confirmed Pharma Pac enrolled in the E-Verify system on July 29, 2010. ***However, Pharma did not satisfy compliance with E-Verify and/or Form I-9 requirements by failing to maintain required documents for its employees. Twelve out of 21 employees reviewed had inaccurate and/or unsatisfactory data and in some cases documentation was not provided.*** OSA recommends Pharma Pac becomes



familiar and complies with the E-verify and Form I-9 requirements

### Cooper Tire and Rubber Company



Cooper Tire and Rubber Company (Cooper) is a rubber tire manufacturer located in Tupelo, MS in Lee County and one of the largest employers in North Mississippi. The company specializes in the design, manufacture, marketing, and sales of passenger car and light truck tires with subsidiaries that specialize in medium truck, motorcycle, and racing tires. The company headquarters are in Findlay, Ohio with manufacturing, sales, distribution, technical and design facilities in 10 countries around the world.

Beginning on Tuesday, May 20, 2014, OSA performed an audit of the accuracy and reliability of the 2012 and 2013 employee data and compliance with MEPA. This audit was conducted under the authority granted in §57-75-5(f)(xxiv), Mississippi Code of 1972 (MOU dated May 8, 2009).

As a legislatively approved, major economic impact project designed to maintain and expand the existing plant, the State Bond Commission authorized a total of \$13 million dollars in general obligation bonds May 2009. In 2011, Cooper made a capital investment in the project in an amount not less than \$25 million, which OSA previously verified in Management Letter #16, dated July 29, 2012. To ensure the company appropriately expended the bond issuance, during the 2014 audit, the OSA verified whether the company employed and maintained at least 1,200 new full-time jobs with an annual average salary of at least \$45,000 as of May 31, 2014 for a minimum of 10 years.

The audit utilized Cooper’s employee listing from March 1, 2012-2013 to randomly select a 25% sample of the data elements listed above. **Based on OSA’s audit test**

**procedures, Cooper has met its obligation to maintain 1,200 full-time jobs with an average annual salary of \$45,000.** OSA’s procedures verified Cooper was in compliance of maintaining at least 1,200 full-time jobs at the Project site. In addition, OSA finds that Cooper not only maintained 50 new full-time jobs by the threshold achievement date of March 1, 2012; but also added an additional 382 new hires during this time.

In reference to compliance with MEPA, **OSA finds Cooper did comply with the MEPA by registering and utilizing the federal status verification system to verify all newly hired employees by July 1, 2011 per Senate Bill 2988, Mississippi Legislative 2008 Regular Session.** Based on OSA’s test procedures, OSA confirmed that Cooper enrolled in the E-Verify system on June 2, 2011.

Once a company enrolls in E-Verify, the company agrees to the rules and responsibilities mentioned in the E-Verify MOU. **However, OSA finds Cooper did not comply with the rules and responsibilities of the E-Verify and/or Form I-9 requirements. Forty-one out of the 70 employees selected for review had incomplete, unverifiable, missing and/or no documentation provided.** OSA recommends Cooper becomes familiar and complies with the E-verify and Form I-9 requirements.

### Baxter Healthcare Corporation

Baxter Healthcare Corporation (Baxter) is located in Cleveland, MS Bolivar County. It operates as a subsidiary of Baxter International Inc. located in Deerfield, Illinois. The company develops, manufactures, and markets healthcare equipment and instruments; which specializes in products and services for blood therapies, cardiovascular medicine, medication delivery, and renal therapy. Baxter’s products are offered worldwide.





Beginning on Monday, June 9, 2014 OSA performed a review of the accuracy and reliability of the 2013 employee data and compliance with MEPA. This audit was conducted under the authority granted by MS§57-75-5(f)(xiv), Mississippi Code of 1972 (MOU dated December 11, 2006 and the First Amendment to the MOU dated October 25, 2010).

As a legislatively approved major economic impact project designed to expand and upgrade facilities and equipment and maintain workforce to become globally competitive, the State Bond Commission sold a total of \$24 million in general obligation bonds for Baxter (\$18 million loan to Baxter and \$6 million grant to the City of Cleveland). In 2002, Baxter made a capital investment in the project in an amount not less than \$50 million dollars; which has been previously verified by OSA. As a major economic impact project, the company has been required to maintain at least 750 full-time employees based on an annual average of full-time employees validated at the end of each calendar year.

The audit utilized Baxter's employee listing from December 30, 2013 to randomly select a 25% sample of the data elements as of December 31, 2013. ***OSA finds Baxter did not comply with Article I, Section 3 of the MOU and was in default of its annual commitment by not maintaining at least 750 full-time employees at the end of calendar year 2013.*** Baxter fell short 156 (750 minus the 594 annual average) employees and shall pay to the State of Mississippi an amount totaling **\$199,680** (156 multiplied by \$1,280 an amount applied to the number of employees the company fell short). OSA would like to note that Baxter repaid this amount in January 2014.

***Baxter did comply with the MEPA by registering and utilizing the federal status verification system to verify all newly hired employees by July 1, 2011 per Senate Bill 2988, Mississippi Legislative 2008 Regular Session.*** Based on OSA's test procedures, OSA confirmed Baxter enrolled in the E-Verify system on October 20, 2008 using an E-Verify Employer Agent.

Once a company enrolls in E-Verify, the company and the E-Verify agent agrees to the rules and responsibilities mentioned in the E-Verify MOU. ***OSA finds Baxter did not comply with the rules and responsibilities of the E-Verify MOU and in some cases did not record the case verification number on the employee's Form I-9 or attach the printed screen containing the case verification number to the Form I-9 (per Article II, Section C-11 of the E-Verify MOU). Due to this, OSA was unable to verify if 20 out of 41 employees required to be E-Verified met the Department of Homeland Security verification requirement.*** In addition, the United States Department of Homeland Security

requires the Form I-9, Section 1 be personally signed by the employee. ***OSA finds Baxter did not comply with the Form I-9 requirement and 40 out of the 41 Form I-9s were electronically populated and was not personally signed by the employee.*** OSA recommends Baxter becomes familiar and complies with E-verify and the Form I-9 requirements.

### Integrated Management Services

Integrated Management Service, P.A. (IMS) is located in Canton, MS Madison County. IMS is a full-service consulting firm. It provides consulting, engineering, technical, management, and operations services to its clients on a wide variety of projects.

Beginning on Monday, July 14, 2014 OSA performed a review of the accuracy and reliability of the 2013 employee's data and compliance with MEPA. This audit was conducted under the authority granted under MS§57-75-5(f)(xvii), Mississippi Code of 1972 (MOU dated April 3, 2009 and each amendment to the MOU).

As a major economic impact project, the State Bond Commission authorized a total of \$3.5 million in general obligation bonds. To ensure the bond issuance was expended appropriately, the OSA conducted an audit to determine whether IMS met its obligations according to the MOU to invest not less than \$1 million dollars in capital expenditures at the project site; which OSA previously verified in Management Letter #21, dated March 27, 2013; and created at least 90 new full-time jobs on or before February 1, 2013. OSA also verified the warranted employment of 102 employees prior to the commencement date of February 1, 2009.

The audit utilized IMS' employee listing from June 30, 2014 to randomly select a 25% sample of the data elements to ensure IMS employed 192 employees as of February 1, 2013. ***Based on the OSA's test procedures,***



***IMS has met its obligation to maintain at least 192 full-time jobs at the Project site as of February 1, 2013.*** OSA noted 31 out of the 68 employees reviewed did not have



complete and verifiable evidence of employment. *However, due to a third party maintenance of employee records and privacy laws 31 out of the 68 employees' records were not obtainable.* OSA's test procedures verified IMS employed 285 persons during the time of the audit; which exceeded the requisite minimum number of employees per the MOU.

*IMS did comply with the MEPA by registering with the federal status verification system by July 1, 2011.* OSA's test procedures verified IMS enrolled in the E-Verify system on March 10, 2009. *However, OSA finds IMS did not comply with MEPA by utilizing the federal status verification system to verify all newly hired employees. One out of the 43 employees had unsatisfactory compliance with E-verify.*

In addition, before an employer can start the E-verification process, the United States Department of Homeland Security has a requirement that all employees hired after November 6, 1986 working in the United States must complete a Form I-9 (Section 1) and employers must complete Section 2 within three (3) days of employment. *OSA finds IMS did not comply with the Form I-9 requirements and 15 out of the 43 sampled employees' Form I-9 had incomplete, unsatisfactory, or documentation provided, and/or employment authorizations were not examined within three (3) business days of the date of hire.* OSA recommends IMS becomes familiar and complies with E-verify and the I-9 requirements.

**Conclusion**

Borrowing money and issuing bonds for the purpose of these projects listed in Table 2 should serve valid public purposes that significantly contribute to the employment base and growth in the State revenue and employment opportunities.

In conclusion, the overall accomplishments of the projects appear to be a success to the State of Mississippi. Ultimately, the OSA notes the Legislature's economic goal for all of these projects were met and there was significant business growth in the areas where the projects were located. Hence, it appears to be beneficial to continue to encourage the interest of the State's counties, towns, and prospective industries' continual involvement with the economic growth, retention, development, and interest of upcoming or existing projects through Legislative actions.

**Table 2**

	Legislative Project No. Under §57-75-5	Project Name	Location
1	iv	Nissan	Madison County Canton, MS
2	v	Howard Industries, Inc.	Jones County Ellisville, MS
3	xiii	Viking Range Corporation	Leflore County Greenwood, MS
4	xviii	Severstal	Lowndes County Columbus, MS
5	xv	Pharma Pac, LLC	Kemper County DeKalb, MS
6	viii	American Eurocopter	Lowndes County Columbus, MS
7	xiv	Baxter Healthcare	Bolivar County Cleveland, MS
8	xxii	PACCAR Engine Company	Lowndes County Columbus, MS
9	xvii	Integrated Management Services (IMS)	Madison County Canton, MS
10	xxiv	Cooper Tire & Rubber	Lee County Tupelo, MS
11	xxvi	Schulz Xtruded Products, LP (SXP)	Tunica County Tunica, MS
12	xxi	Toyota	Lee County Blue Springs, MS
13	xxviii	Yokohama Tire Corporation	Clay County West Point, MS



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