



STATE OF MISSISSIPPI
OFFICE OF THE STATE AUDITOR
STACEY E. PICKERING
STATE AUDITOR

Management Letter # 22 Regarding:

An Economic Development Bond Audit of Baxter Healthcare Corporation in Cleveland, Mississippi

April 11, 2013

Mr. Brent Christensen
Executive Director
Mississippi Development Authority
P. O. Box 849
Jackson, MS 39205

RE: 2012 Employee Verification

Dear Mr. Christensen:

Beginning on Wednesday, March 13, 2013 the Office of the State Auditor's (OSA) Performance Audit Division (PAD) performed a review of the accuracy and reliability of the 2012 employee information of Baxter Healthcare Corporation (Baxter) - Cleveland facility located in Bolivar County, Mississippi. This audit was conducted under the authority granted under MS§57-75-5(f)(xiv) to ensure the company's commitments and threshold dates were achieved accurately for receiving funding from the State of Mississippi as agreed upon in the Memorandum of Understanding (MOU) and the First Amendment to the MOU.

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.

The PAD conducted an audit to determine whether Baxter met its obligations according to the MOU and its compliance with the Mississippi Employment Protection Act (MEPA). 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 January 30, 2013. PAD examined and verified a 25% sample of the following data elements: date of hire, evidence of employment as of December 31, 2012, and employee W-2/W-4 tax forms and payroll documents provided by Baxter. ***On February 13, 2013, OSA found Baxter inaccurately certified to the Mississippi Development Authority the company***

employed no less than 750 full-time employees and as of December 31, 2012 had an annual average of 645 full-time employees. OSA noted this inaccuracy on March 19, 2013, during the audit, and Baxter resubmitted their Certification of Compliance reporting that as of December 31, 2012, they had an annual average of 616 full-time employees. However, OSA's procedures verified Baxter only actually employed 585 full-time persons at the Cleveland, MS facility at the end of calendar year 2012. *Therefore, OSA finds Baxter was in default of its annual commitment (Article I of the 1st Amendment MOU) by not maintaining at least 750 full-time employees or the annual average of 616 at the end of calendar year 2012.* Baxter fell short 134 (750 minus 616) employees and shall pay to the State of Mississippi an amount equal to ***\$171,520*** (134 multiplied by \$1,280).

Baxter did not comply with the Mississippi Employment Protection Act 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 Baxter Health Corporation enrolled in the E-Verify system on April 5, 2012 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. ***However, OSA finds Baxter did not comply with the rules and responsibilities of the E-Verify MOU and 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 the 4 out 146 employees required to be E-Verified met the Department of Homeland Security three (3) day verification requirement.*** It was noted 120 out of the 146 employees sampled were exempted from the E-Verification process due to the company's enrollment date of April 5, 2012.

In addition, the United States Department of Homeland Security requires after November 6, 1986, Form I-9 be completed by both the employee and evidence of identity must be examined by the company within (3) business days of the date of hire before the E-Verification process can be initiated. During the audit, OSA noted 22 out of the 146 employees sampled were exempt from the Form I-9 process due to employee hire dates. ***OSA finds Baxter did not comply with the Form I-9 requirements and 31 out of the 146 employees' evidence of identity and employment authorizations were not examined within the three (3) business days of the date of hire.***

Sincerely,



Brandie Branch,
Project Manager

cc: Governor Phil Bryant
Lt. Governor Tate Reeves
Philip Gunn, Speaker of the House
Herb Frierson, Chairman of Appropriations, House of Representative
Eugene Clarke, Chairman of Appropriations, Senate
Chuck Mobley, Mississippi Development Authority
Brad Keeton, Baxter Healthcare Corporation