



Stacey E. Pickering
State Auditor

Performance Audit Division Brief:
2007 and 2008 Nissan Employment Verification
Vol. 7, No. 4
July 26, 2010

Introduction

The Office of the State Auditor (OSA) monitors the expenditure, employment, construction, and in some cases, the productivity of a number of major economic development projects for the term of their contract with the State. OSA's Performance Audit Division (PAD) is primarily responsible for this effort. The audit plans developed for the bond monitoring program are based on a manual created specifically for this purpose by Horne CPA, in conjunction with government performance auditing standards. These plans are then tailored for each project based on individual laws and Memorandums of Understanding (MOU) between the State and the private or federal entity.

As part of OSA's Bond Monitoring Program, the PAD monitors the number of persons employed by Nissan each year. This monitoring, along with expenditure review, will continue until the year 2021. Numerous reports chronicling Nissan's activities over the last five years have included other employment verification reports, construction progress, reviews of interlocal agreements, and service delivery, among others.

The PAD traveled to Nissan headquarters in Nashville, TN and Canton, MS in March 2009, September 2009, and February 2010 to determine whether Nissan actually met the benchmark of 3,000 employees by the required contractual dates of December 31, 2007 and December 31, 2008. Shortly after the first of the year, Nissan North America, Inc. certified to the Mississippi State Tax Commission (MSTC), the Mississippi Development Authority (MDA), and OSA that Nissan did, in fact, have in excess of 3,000 direct employees working at its Canton, MS plant.

OSA's responsibility under current law is to verify that what Nissan reported was accurate. Specifically, the Mississippi Legislature authorized OSA in §57-75-15 (4)(c) of the Mississippi Code to conduct necessary monitoring activities. In addition, all parties—including MDA, Nissan, and the State Tax Commission—benefit from enhanced credibility when an independent agency not

directly involved in implementing the terms of the MOU between the State and Nissan is able to cost-effectively verify and provide assurance that the terms of the agreement is being met and even exceeded.

Nissan

Under the terms of the Nissan "Delta I" MOU and through existing State law, there are a number of tax incentives for which Nissan can qualify, provided that Nissan can clearly establish the number of employees they have at a given moment in time. This verification process is complicated by the need to adjust the total number of hires to account for terminations and a variety of other smaller factors, all of which may influence the exact number. In preparing the audit plan, OSA was able to consider these factors.

In order to satisfy employee threshold requirements, Nissan submits annually a listing of all their employees to the MSTC. The Tax Commission then removes all confidential or legally protected information from the file in order to protect Nissan and individual employees. Once this is done, MSTC sends the list to MDA. Next, MDA forwards a copy to OSA, and Performance Audit uses this list to choose a randomly selected test sample of ten percent (10%) of all employees.

Had any exceptions been found in examining our test sample, our procedure called for an automatic increase to a twenty percent (20%) sample.

Next, OSA traced employment data within the payroll section of Nissan's automated employee recordkeeping system. Performance Audit examined and verified three (3) data elements: date of hire; evidence that the employee was working as of December 31, 2007 and December 31, 2008; and that employment was traceable to W-2 and W-4 tax forms. ***Based on the OSA's test procedures, Nissan had no negative findings related to their employment record keeping and did appear to have the requisite minimum number of employees.***



Leased Employees

Because the definition of ‘employee’ in the Mississippi Advantage Jobs Act §57-62-5(b) of the Mississippi Code includes ‘leased employees’ as well, and because these employers also qualify for tax incentives based on their number of employees, OSA also post-audits leased personnel, using the same audit protocols and standards used in the Nissan direct hire audit.

Performance Audit randomly selected a test sample of ten percent (10%) from the list of employees provided by MDA of all staff leased to Nissan by Yates Services, Minact Yates, Comprehensive Health Services, Johnson Maintenance Services, WWL Vehicle Services, and Randstad for the calendar year 2007. The same procedure was performed for staff leased to Nissan by Yates Services, Minact Yates, and WWL Vehicle Services for the calendar year 2008. Nissan had also submitted this list to the State Tax Commission. Included in these auditing procedures was the same twenty percent (20%) sampling escalation in the event of even a single discrepancy. There were no discrepancies found in the test sample. However, OSA was unable to audit certain companies because their records are not located at the Canton facility or within the State of Mississippi. Testing these particular entities, when OSA had already determined that Nissan and other associated employers had met the 3,000 employee requirement, is considered to be cost prohibitive and unnecessary. Had Nissan not met its employment minimum, then OSA would have expended the additional funds to travel out of State to verify these additional positions.

Findings and Recommendations

Nissan direct hires were in excess of 3,000 for 2007 and 2008. *Therefore, based on the audit procedures used, OSA concludes that Nissan met the requirements of the “Delta I” MOU by having at least 3,000 employees at its Canton, Mississippi facility as of December 31, 2007 and December 31, 2008.* Nissan must continue to maintain at least 3,000 employees until 2021 in order to meet the terms of the MOU. Otherwise, Nissan might be required to repay some or all incentives for that year.

OSA did not audit the employment records at the following companies: Comprehensive Health Services and Randstad. These companies’ records are located in New Jersey and Ohio, or (in the case of Randstad) are no longer contracting with Nissan and have not received any State incentives.

Being able to audit and verify all related company records becomes more important once an entity begins requesting state income tax incentive payments based on their number of employees. OSA plans to audit those Nissan affiliated companies once MDA has secured a means to verify the necessary records or once the companies begin requesting tax incentive payments.

While §57-62-5(c)—The Advantage Jobs Act—defines a full-time job as a job of at least thirty-five (35) hours per week, there is not an equivalent definition built into the Mississippi Major Economic Act, which governs many other economic development bond projects. In addition, there is no minimum length of time that a position must exist.

This allows Nissan, as well as the employment services that Nissan utilizes, to receive credit for any employee who works thirty-five hours regardless of the length of their employment. For example, if Nissan hires an employee December 1, 2007 or December 1, 2008 and that employee works at least 35 hours per week and remains employed until December 31, 2007 or December 31, 2008, then Nissan can count that employee towards their employment number requirement from the MOU for 2007 or 2008.

MDA has begun to address this issue in recent MOUs. *OSA recommends that for future bond projects, MDA continue to establish job definitions that will not only define a minimum number of hours worked per week, but also a minimum employment length of time to be counted in the annual audit (for example, 4, 6, or twelve months, etc).* This might include establishing a minimum number of positions, PINs (position identification numbers), WINs (worker identification numbers), or FTEs (full time equivalencies) throughout the year.

Hiring Data by Home County

OSA continues to monitor demographic data from Nissan regarding the characteristics of the Canton, MS work force. The following maps show Nissan hires, by county of residence, as of December 31, 2007 and December 31, 2008.

<i>OSA audit procedures verified total employment at Nissan for</i>	
2007:	
	3,613 (direct hires)
+	1,439 (contract employees)
	<u>5,052 total employees</u>
2008:	
	3,439 (direct hires)
+	961 (contract employees)
	<u>4,400 total employees</u>



For more information about this issue, contact

The Office of the State Auditor
Post Office Box 956
Jackson, MS 39205-0956
Phone: 601-576-2800 in the Jackson area or
1-800-321-1275 Statewide
Fax: 601-576-2687
Website: <http://www.osa.state.ms.us>

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