

August 31, 1971

OPINION LETTER NO. 308  
Answer by Letter - Craft

Honorable E. J. Cantrell  
State Representative  
3406 Airway  
Overland, Missouri 63114



Dear Representative Cantrell:

Your letter requesting an opinion of the Attorney General reads as follows:

"I would appreciate your office's review of the opinions pertaining to the authorization of the Missouri State Auditor using State funds for the contracting of an auditing firm outside State Government to conduct audits, as the Auditor's office is charged with performing by statute.

"I would want to know the legal statute that would state precisely the Auditor's authorization for conducting these audits through outside firms other than the auditing of the Highway Department, which I find specified in the statutes."

The qualifications and duties of the State Auditor are provided for in Article IV, Section 13 of the Missouri Constitution which is amplified by Chapter 29 of the Revised Statutes of Missouri, 1969.

The Auditor's office has advised this office that the only audit which has been performed by an auditing firm outside of state government is the audit of the State Auditor's office itself.

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That is, all audits thus far have been conducted by the Office of the Auditor except the audit of the Auditor's office which was performed under contract with a private firm.

Section 29.200, RSMo 1969, provides in part as follows:

"The state auditor shall postaudit the accounts of all state agencies and audit the treasury at least once annually. . . ."

The Auditor advises that a private firm was retained to audit his office in conformity with the Auditing Standards and Procedures, Procedure No. 33, issued by the Committee on Auditing Procedure of the American Institute of Certified Public Accountants. It is there provided in General Standards 2 that:

". . . an independence in mental attitude is to be maintained by the auditor or auditors."

The Committee report explains the type of independence which is desirable as follows:

"6. The second general standard requires that the auditor be independent; aside from being in public practice (as distinct from being in private practice), he must be without bias with respect to the client under audit, since otherwise he would lack that impartiality necessary for the dependability of his findings, however excellent his technical proficiency may be. However, independence does not imply the attitude of a prosecutor, but rather a judicial impartiality that recognizes an obligation for fairness not only to management and owners (shareholders) of a business, but also to creditors and those who may otherwise rely (in part, at least) upon the auditor's report, as in the case of prospective owners or creditors."

Impartiality is also required of the State Auditor by Section 29.070, RSMo 1969, which provides in part as follows:

"Every examiner appointed by the state auditor shall, . . . make fair and impartial examinations, . . ."

In addition, Section 29.235, RSMo 1969, provides in part as follows:

"All audits shall conform to recognized governmental auditing practices."

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Thus the standard of impartiality which is recognized by Section 29.070 and which is more fully explained in the Standards and Procedures promulgated by the Committee on Auditing Procedure of the American Institute of Certified Public Accountants is incorporated into the standards to be used by the Missouri State Auditor by Section 29.235.

Impartiality is defined in Black's Law Dictionary, Fourth Edition as follows:

"Favoring neither; disinterested; treating all alike; unbiased; equitable, fair, and just."

In Opinion No. 249, dated July 29, 1964, to Dr. Ben Morton, this office responded to an opinion request asking whether boards of regents of state colleges were empowered to hire certified public accountants. The opinion was written in terms of the employment of independent, expert personnel to prepare periodic reports. The opinion held:

". . . Authority to employ independent expert personnel to prepare reports of information necessary for the administration of state colleges is a necessary power the boards of regents should possess to accomplish the obligations imposed by statute.

"It is therefore the opinion of this office that the boards of regents of state colleges may employ independent expert personnel to prepare periodic reports of information necessary for the administration of their institutions according to recognized standards of college administration."

Since Section 29.200, RSMo 1969 requires that the State Auditor audit his own office and since the audit standard he is to use requires an independent and impartial audit, he is empowered to retain a firm of certified public accountants to audit his office.

We conclude that the State Auditor is authorized to conduct an audit of the Auditor's office through an independent certified public accountant.

Very truly yours,

JOHN C. DANFORTH  
Attorney General