

State of Yap Public Auditor Act

- §701.** Title.
- §702.** Office of the Public Auditor.
- §703.** Powers and duties.
- §704.** Annual audit report.
- §705.** Recommendations.
- §706.** Special audit.
- §707.** Records.
- §708.** Prohibition.
- §709.** Verification of deposits.
- §710.** Payment of salaries and expenses.
- §711.** Issuance of subpoenas.
- §712.** Noncompliance with subpoena; penalties.
- §713.** Cooperation with National Public Auditor or an independent public accountant

§701. Title.

This chapter shall be known and may be cited as the "Public Auditor Act".

Source: YSL 1-124 §1, modified.

Cross-reference: The constitutional provision on audits is found in Yap Const., Art. IX, Sect. 8. That section states: "There shall be regular and independent audits of State agencies and revenues."

§702. Office of the Public Auditor.

(a) There is an Office of the Public Auditor for the State of Yap to be headed by the Public Auditor, who may be a certified public accountant. The Office of the Public Auditor shall be independent of administrative control and political influence.

(b) The Public Auditor shall be appointed by resolution, by the Legislature to serve for a term not to exceed six years. During the term of the appointment, the Public Auditor may be removed for cause and by the affirmative vote of two-thirds (2/3) of the members of the Legislature. If there is a vacancy in the Office of the Public Auditor, the Speaker of the Legislature shall appoint a temporary public auditor to serve until the vacancy is filled.

(c) The Public Auditor shall have an annual salary not to exceed \$27,000.00.

Source: YSL 1-124 §2, as amended by YSL 1-153 §1, YSL 3. 26 §1 and YSL 4-75 §1, modified.

Cross-reference: The statutory provisions on the Legislature are found in Title 2 of this Code.

§703. Powers and duties.

The Public Auditor shall:

(a) Inspect and audit all accounts, books, and other financial records of the State Government, to include but not limited to, every branch, department, office, political subdivision, board, commission and agency, and other public legal entities or non-profit organizations receiving public funds from the State Government, and to prepare written reports of such inspections and audits for presentation to the Governor and the Legislature;

(b) Inspect and audit personally, or by his duly authorized assistants, the fiscal books, records, and accounts of all custodians of public funds, making independent verification of all assets, liabilities, revenues, expenditures, and obligations of the State Government and agencies thereof;

(c) Cooperate with State agencies by offering such advice and assistance as may be requested of the Public Auditor for the establishment or improvement of the accounting system used by the various State agencies;

(d) Require the aid and assistance of all State officials and employees and any custodian of public funds at all times in the inspection, examination, and audit of any and all books, accounts, and records of the State Government; and

(e) Have access at all times to all of the books, and accounts, reports, vouchers, or other records of information in any State agency. Nothing in this section shall be construed as authorizing or permitting the publication of information prohibited by law.

Source: YSL 1-124 §3, modified.

Cross-reference: The constitutional provision on audits is found in Yap Const., Art. IX, Sect. 8. That section states: "There shall be regular and independent audits of State agencies and revenues."

§704. Annual audit report.

The Public Auditor shall file an annual report with the Governor and the Legislature within five days after the convening of each January regular session of the Legislature. Each annual report shall contain, among other things, copies of, or the substance of audit reports on the various agencies, as well as a summary of recommendations made in regard thereto. The Public Auditor shall file with the Attorney General copies of audit reports on the various agencies whenever such reports contain findings on activities that are inconsistent with State laws.

Source: YSL 1-124 §4, as amended by YSL 2-61 §1 and YSL 3-26 §1.

§705. Recommendations.

All recommendations submitted by the Public Auditor shall be confined to those matters properly coming within his jurisdiction, including the compliance with laws governing the expenditure of public monies, apparent violations of such law, and the

need to change existing laws or enact new laws to secure the efficient spending of public funds.

Source: YSL 1-124 §5, as amended by YSL 3-26 §1.

§706. Special audit.

The Legislature by a majority vote or the Governor may by a written request and upon written notice of at least 30 days, request the Public Auditor to conduct any audit of an agency of the State Government or legal entity or non-profit organization receiving public funds from the State Government. The Public Auditor shall conduct and make such audit.

Source: YSL 1-124 §6, modified.

Cross-reference: The constitutional provision on audits is found in Yap Const., Art. IX, Sect. 8. That section states: "There shall be regular and independent audits of State agencies and revenues."

§707. Records.

The Public Auditor shall keep a complete and accurate record of fiscal transactions of the Office of the Public Auditor. He shall also keep a complete file of copies of all audit reports, inspections, investigations, any and all other reports or releases issued by him or his office, and a complete file of audit work papers and other evidence pertaining to the work of the Office of the Public Auditor.

Source: YSL 1-124 §7.

§708. Prohibition.

The Public Auditor shall not hold any other State public office or any private employment.

Source: YSL 1-124 §8, as amended by YSL 3-26 §1.

§709. Verification of deposits.

In verifying any audit, the Public Auditor shall have the right to ascertain the amount of bank deposits belonging to the agency required to be audited, and shall have the right to audit said account on the books of such bank. No bank shall be liable for making available to the Public Auditor any of the information required under the provisions of this section.

Source: YSL 1-124 §9.

§710. Budget; payment of salaries and expenses.

(a) The Public Auditor shall prepare and submit to the Governor for review and inclusion in the State annual budget for submission to the Legislature, an annual budget with supporting justification for the Office of the Public Auditor.

(b) The salaries of the Public Auditor, his staff, and employees shall be paid in the same manner and through the same procedure used for the payment of salaries of other State government employees.

Source: YSL 1-124 §10, as amended by YSL 3-26 §1 and YSL 3-30 §1, modified.

Cross-reference: The statutory provisions on Public Officers and Employment are found in Title 8 of this Code.

§711. Issuance of subpoenas.

(a) The Public Auditor may issue subpoenas duces tecum requiring the production of books, documents, or other papers required for the performance of his duties.

(b) Any subpoena issued under the authority of the Public Auditor shall run in the name of the State of Yap and shall be addressed to the Chief of Police or any police officer of the State. The subpoena shall be signed by the Public Auditor and shall set forth in general or specific terms the books, documents, or other papers required and the account subject to inspection and audit.

(c) Any officer to whom such subpoena is directed shall forthwith serve or execute the same upon delivery thereof to him without charge or compensation.

Source: YSL 1-124 §11.

§712. Noncompliance with subpoena; penalties.

(a) A person who fails or refuses to furnish any relevant books, documents, or other paper subpoenaed by the Public Auditor, and upon conviction thereof, shall be fined not more than \$1,000.00 or imprisoned not more than one year, or both.

(b) If the Public Auditor fails in any material respect to comply with the requirements of this chapter, any person subject to a subpoena duces tecum who is injured by such failure shall be relieved of any requirement to produce the subpoenaed material; and such failure shall be a complete defense in any proceeding against the person for punishment.

(c) A person shall have only those privileges against producing books, documents, or other papers under subpoena duces tecum which are:

(1) Authorized by [Rules of Evidence of the State Court](#); or

(2) Required by the Trust Territory Bill of Rights, the Declaration of Rights of the Federated States of Micronesia, the Bill of Rights of the State of Yap, or other law applicable to the State of Yap.

Source: YSL 1-124 §12, as amended by YSL 1-135 §1, modified.

Cross-reference: The constitutional provisions on Fundamental Rights for the State of Yap are found in [Yap Const., Art. II](#). The constitutional provisions on declaration of rights for the Federated States of Micronesia are found in [FSM Const., Art. IV](#). The [Trust Territory Bill of Rights](#) is found in sections 1 to 12 of the Trust Territory Code.

§713. Cooperation with National Public Auditor or an independent public accountant.

(a) The Public Auditor may request the assistance of and assist the National Public Auditor or an independent public accountant.

(b) The National Public Auditor or an independent public accountant may audit State agencies and revenues.

Source: YSL 1-124 §13, as amended by YSL 1-153 §2, modified.

Cross-reference: The FSM constitutional provision on the National Public Auditor is found in [FSM Const., Art. XII, Sect. 3](#).