TITLE 3 – CENTRAL GOVERNMENT
CHAPTER 9 - AUDITOR-GENERAL- DUTIES, POWERS AND FUNCTIONS

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

AUDITOR-GENERAL (DEFINITION OF DUTIES, FUNCTIONS AND POWERS) ACT 1986

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Republic of the Marshall Islands
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AUDITOR-GENERAL (DEFINITION OF DUTIES, FUNCTIONS AND POWERS) ACT 1986

AN ACT to define the duties, functions and powers of the Auditor-General pursuant to Article VIII, Section 15 of the Constitution of the Marshall Islands and to provide for matters connected therewith or incidental thereto.[1]

Commencement:	*December 31, 1986*
Source:	*P.L. 1986-25*
P.L. 2018-99 *P.L. 2023-96* *P.L. 2025-54*	

§901. Short Title.

This Chapter may be cited as the "Auditor-General (Definition of Duties, Functions and Powers) Act 1986". **[P.L. 1986-25 §1.]**

§902. Interpretation.

In this Chapter, unless the context otherwise requires:

(a) "**agency**" means any department or body established or funded by the Government of the Marshall Islands or a local government, and includes the following bodies and entities and their officers, directors, servants, agents, and independent contractors; and any ministry, authority, board, branch, bureau, commission, cooperative, council, department, division, fund, group, institution, political division, office, public corporation, or any autonomous or semi-autonomous governmental entity;

(b) "**audit**" means an independent examination of books, performance, documents, records, and other evidence relating to the receipt, possession, charge, disbursement, expenditure, application or use of public funds by any agency or any activity of any agency; or relating to any contract or grant to which any agency is a party, or any operations relating to any transactions of such agency, and includes financial audits, performance audits and program audits, or any combination of such audits as the Auditor-General may deem appropriate;

(c) "**financial audit**" means an audit to determine:

(i) whether financial operations of any government contractor or grantee have been properly conducted;

(ii) whether any financial report of any agency, contractor, or grantee has been fairly presented; and

(iii) whether any agency, contractor, or grantee has complied with laws and regulations applicable to its or his operations;

(d) "**performance audit**" means an audit to determine whether an agency has managed or used its funds, personnel, property, space, and other resources in an effective and efficient manner, and to identify the cause of any inefficiency or ineffective practice, including any inadequacy in management information systems, administrative procedures, or organizational structure;

(e) "**program audit**" means an audit to determine whether the desired results or benefits of agency programs or activities or of any contract or grant, are being achieved; whether the objectives established by the Nitijela, or otherwise established pursuant to law or by the Constitution of the Marshall Islands, are being met; and whether the agency, contractor, or grantee has considered alternatives which might yield desired results more effectively or at lower cost. **[P.L. 1986-25, §2.]**

§903. Duties and functions.

(1) The Auditor-General shall transmit to each member of the Nitijela at its January and August regular session of each year a semi-annual report as required by Article VIII, Section 15(4) of the Constitution of

the Marshall Islands. The report shall consist of a financial audit of the Marshall Islands General Fund, trust funds, other funds of any agency whether or not appropriated, each contract to which any agency is a party, and each grant made or received by any agency. The audit shall cover the receipt, possession, and disbursement of public funds including all liabilities, receivables, and accruals of any agency, all taxes, fees, receipts, and other revenues of any agency, and all other financial statements issued or prepared by any agency. Personal service contracts and prime contracts with employees of any agency shall be audited as part of the regular operations and activities of the agency.

(2) The Auditor-General shall from time to time make such other audits of the government agencies, activities, contracts, or grants as are possible within the budget provided for him and as he deems to be in the public interest and consistent with this Chapter.

(3) Upon request of a government agency the Auditor-General shall provide his opinion as to whether or not any practices are in accord with generally accepted accounting principles. **[P.L. 1986-25, §3.]**

§904. Special duties to act to prevent fraud, waste and abuse in the collection and expenditure of public funds.

(1) The office of the Auditor-General shall specially act to prevent and detect fraud, waste and abuse in the collection and expenditure of all public funds. The Auditor-General may audit any transaction involving the procurement of supplies or the procurement of any construction by Ministries of the Government of the Marshall Islands and the procurement of any supplies and services in connection with such construction.

(2) The Auditor-General may conduct audits and investigations, when necessary, relating to programs and operations involving expenditure of public funds. He may review legislation and regulations relating to programs and operations involving expenditure of public funds and may make recommendations concerning the effect of such legislation or regulations on the prevention and detection of fraud, waste and abuse.

(3) The person in charge or the governing body of any Ministry or authority engaged in any expenditure relating to any construction or

otherwise, and services and supplies in connection therewith, may request the assistance of the office of the Auditor-General with respect to implementation of any proposed policy. **[P.L. 1986-25, §4.]**

§905. Staff.

(1) At the request of the Auditor-General the Public Service Commission may appoint Assistant Auditors-General, accountants, auditors, financial management analysts, investigators, clerks and such other personnel as may be necessary or convenient for the effective functioning of the office of the Auditor-General.

(2) An increment of 25% from the base salary shall be added to accountants, auditors, investigators and other professionals who are Marshallese citizen certified in the following fields:

(a) Certified Public Accountants (CPA) accredited by the American Institute of Certified Public Accountants (AICPA), Australia and New Zealand's equivalent of AICPA and other accreditation institutions from other countries as may be determined by the Auditor-General.

(b) Certified Fraud Examiners (CFE) accredited by the Association of Certified Fraud Examiners.

(c) Certified Government Auditing Professionals (CGAP) accredited by The Institute of Internal Auditors in North America.

(d) Certified Government Finance Manager (CGFM) accredited by the respective Associations of Government Accountants in various U.S. jurisdictions; and

(e) Certified Internal Auditor (CIA) accredited by the Institute of Internal Auditors in North America.

(3) The Auditor-General may establish supplemental personnel regulations including a code of ethics for the officers and employees of his office. No officer or employee of the office of the Auditor-General shall hold or be a candidate for any elective public office while being such officer or employee, nor shall he hold office in any political party or political committee, or participate in any political campaign of any candidate for public office while being such officer

or employee. No officer or employee shall actively engage in any other business, profession, or governmental office.

(4) Any person who violates any such regulation as referred to in Subsection (2) of this Section shall be guilty of a breach of discipline and shall accordingly be dealt with by the Public Service Commission or any other body which has jurisdiction in that behalf.

(5) The Auditor-General may, when in his judgment it is necessary, delegate any of his duties, functions and powers to any of his subordinate officers or employees. Such officers or employees shall report their findings to the Auditor-General for his review. **[P.L. 1986-25, §5.][Amended by P.L. 2023-96].**

§906. Outside specialists may be hired.

(1) The Auditor-General may retain the services of independent certified public accountants, qualified management consultants, or other professional persons, as he deems necessary to assist him in carrying out his duties. Independent specialists shall be used for any audit involving the office of the Auditor-General, or with respect to which the Auditor-General or the office of the Auditor-General has a conflict of interest, including an audit of any agency, contract, or grant for which the Auditor-General has had management responsibility or in which he was employed during the two (2) years preceding the time period covered by the audit, or during the two (2) years subsequent to the audit time period.

(2) If the Auditor-General fails to schedule an audit so that it can be completed in time to comply with any applicable law or the terms of any loan, grant, financial assistance, or contract, or if the Auditor-General fails to commence, conduct, or complete any audit as required by law, the person or agency concerned may, upon the approval of the Cabinet and the Auditor-General and subject to the availability of funds, enter into a contract with any independent certified public accountant for the purpose of conducting the audit. Such audit shall be conducted as far as possible in conformity with standards adopted by the office of the Auditor-General. **[P.L. 1986-25, §6.]**

§907. Centralization of all auditing services required by government agencies.

The office of the Auditor-General shall conduct or supervise all audits required for or sought by any government agency. **[P.L. 1986-25, §7.]**

§908. Audit standards.

(1) The audit standards shall be consistent with provisions of this Chapter and with generally accepted auditing standards. The audit standards shall incorporate the standards for audit of Government operations, programs, activities, and functions published from time to time by the United States General Accounting Office, including standards issued by the American Institute of Certified Public Accountants referred to therein.

(2) All audits conducted or caused to be conducted by the Auditor-General shall be performed with the highest degree of professionalism and with strict avoidance of any degree of partisanship or bias. **[P.L. 1986-25, §8.]**

§909. Audit procedures and requirements.

(1) At the conclusion of the audit the Auditor-General or his nominee shall discuss the audit with the officials whose agency, grant, contract, or activity has been the subject of the audit and submit to them a draft audit report. The preliminary audit and proposed findings shall not be made public prior to the receipt of comments from the agencies concerned. If the officials are not available for personal receipt of the list of audit findings, then delivery shall be deemed to be made when it is delivered to the agency. The agency shall submit to the Auditor-General within fifteen (15) days after the receipt of the list of findings its written statement of explanations or rebuttals concerning any corrective action to be taken to preclude a recurrence of any adverse findings. The Auditor-General shall publish the substance of the agency's response in the audit report.

(2) An audit report shall make special mention of:

(a) any violation of the laws within the scope of the audit; and

(b) any improper expenditure, any improper accounting procedures, all failures to properly record financial

transactions, and all other inaccuracies, irregularities, shortages, defalcations and other improper practices.

(3) Specific allegations naming the persons involved in improper or illegal acts found in the course of an audit shall be included in a special confidential report which shall be transmitted only to the Attorney-General. **[P.L. 1986-25, §9.]**

§910. Committee of the Nitijela on Public Accounts.

The Committee on Public Accounts shall review all audit reports of the Auditor-General, and the Auditor-General shall discuss the manner in which his recommendations can be implemented with the assistance of the members of the Committee. The Committee shall recommend to the Nitijela in accordance with Rule 49 of the Rules of Procedure of the Nitijela, any changes in law or regulations which it finds necessary or desirable as a result of its work with the Auditor-General. **[P.L. 1986-25, §10.]**

§911. Semi-annual report.

The Auditor-General shall report on his activities and findings to the Nitijela as required under Section 903 of this Chapter and such reports shall be made public promptly. **[P.L. 1986-25, §11.]**

§912. Authorization for the Auditor-General to accept funds for audits performed for federal agencies.

(1) The Auditor-General may enter into agreements or contracts for the federal government of the United States, federal agencies, or government agencies, acting in behalf thereof, for the purpose of conducting mutual financial audits of programs funded in whole or in part by the federal government and carried out by agencies of the government of the Marshall Islands.

(2) Applications for grants, except where prohibited by law or the provisions of the grant, shall include a request for funds adequate to accomplish the objectives of the grant proposal, including monies to pay for the audit or audits of the financial transactions as required by law or the provisions of the grant. Monies budgeted for auditing a grant shall not be used for any other purpose.

(3) Costs shall be charged at rates established by the Auditor-General and all amounts received on account of those charges shall be deposited with the Secretary of Finance in a special account in the Marshall Islands General Fund and may be expended without further appropriation solely by the Auditor-General for the operations and activities of his office.

(4) The term of employment of any individual or firm hired by the Auditor-General under the provisions of this Section shall be expressly limited in duration by the availability of federal United States government funds and shall expire on the date of expiration of the federal United States government funds. **[P.L. 1986-25, §12.]**

§913. Budget.

The Auditor-General shall prepare an annual budget for submission to the Nitijela in the same manner as all other agency budgets. **[P.L. 1986-25, §13.]**

§914. Protection of informers.

(1) The Auditor-General may receive and investigate complaints or information from any person concerning possible existence of any activity constituting fraud, waste or abuse in the collection and expenditure of public funds.

(2) The Auditor-General shall not, after receipt of a complaint or information from a person, disclose the identity of the person without the written consent of the person, unless the Auditor-General determines the disclosure is necessary and unavoidable during the course of the investigation. In that event, the person shall be notified in writing prior to the disclosure.

(3) Any person who has authority to take, direct another to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any person as reprisal for making any complaint or disclosing any information to the Auditor-General, unless the complaint made or the information disclosed was with actual knowledge that it was false or with willful disregard for its truth or falsity. **[P.L. 1986-25, §14.]**

§915. Access to agency information.

(1) The Auditor-General in carrying out the provisions of this Chapter shall, pursuant to Article VIII, Section 15(3) of the Constitution of the Marshall Islands, have access to all records, reports, audits, reviews, papers, books, documents, recommendations, correspondence, and any other data and material that is maintained by or available to any agency which in any way is related to the activities with respect to which the Auditor-General has duties and responsibilities. The Auditor-General shall request such information, cooperation, and assistance from any agency as may be necessary for carrying out his duties and responsibilities. Upon receipt of a request, each person in charge shall furnish to the Auditor-General or his nominee the information, cooperation, and assistance requested. The Auditor-General may make such investigations, audits, and reports relating to the activities of the agencies audited as are necessary. The Auditor-General shall have direct and prompt access to the head of any agency when necessary for any purpose pertaining to the performance of his duties.

(2) The Auditor-General may request the production, on a voluntary basis, of testimony or documents from any individual, firm, or non-governmental entity which relate to his duties.

(3) The Auditor-General may require by subpoena, the production of all records, reports, audits, reviews, papers, books, documents, recommendations, correspondence, and any other data and material relevant to any matter under audit or investigation. The subpoena shall be served in the same manner as the summons for the production of documents in civil cases issued on behalf of the Government of the Marshall Islands, and all provisions of law relative to such summons shall apply to subpoenas issued under this Chapter .

(4) A judge of any court of competent jurisdiction may, upon application by the Auditor-General, issue an order to compel the production of records, audits, reviews, papers, books, documents, recommendations, correspondence, and any other data and material relevant to any matter under audit or investigation. Any failure to obey a court order made under this Subsection shall be punishable by the court as contempt.

(5) Any subpoena issued under this Section shall not be made public by the Auditor-General, or any officer or employee of his office, nor shall any documents provided under this Section be made public until such time as it is necessary for the Auditor-General to do so in the performance of his duties.

(6) The provisions of Subsections (3), (4) and (5) of this Section shall apply to Sections 916, 917 and 918 of this Chapter .**[P.L. 1986-25, §15.]**

§916. Access to confidential information and proprietary records.

(1) Confidential or proprietary records or information disclosed to the Auditor-General shall be subject to the same legal confidentiality and protective restrictions in the office of the Auditor-General as those records and information have in the hands of the officially authorized custodian. Any penalties applicable to the officially authorized custodian or his subordinates for the violation of any confidentiality or protective restrictions applicable to those records or information shall also apply to the officers and employees of the officer of the Auditor-General.

(2) The office of the Auditor-General may not publish any confidential or proprietary information or records in any report, including data and statistics, if that information as published is directly referable to any individual.

(3) Inside the office of the Auditor-General, confidential or proprietary records or information may be used only for official purposes. **[P.L. 1986-25, §16.]**

§917. Access to tax data.

(1) The Auditor-General or any member of his staff nominated by him shall have authority to examine and audit the books and accounts of the Ministry of Finance including the Division of Revenue and Taxation, and shall have access to all papers, books, documents (including tax returns and tax return information), files, tapes, and any forms of recording, including computers and recording devices, which the Auditor-General, in his opinion, deems necessary for the purpose of making the audit, if such disclosure of information is not in contravention of any provision of law prohibiting the dissemination thereof.

(2) The Auditor-General and his nominees may audit and enforce a taxpayer's or debtor's compliance with the law in the same manner and with the same authority as the Secretary and other officers of the Ministry of Finance.

(3) The scope of the examination may include certification of financial accountability, legal compliance, or evaluations of the economy, efficiency, and effectiveness of the Ministry of Finance, or any combination of the foregoing.

(4) In the performance of the audit and examination of the Ministry of Finance, the Auditor-General or any member of his staff nominated by him may inspect and make copies of any papers, books, records, instruments, documents (including tax returns and tax return information), films, tapes, and any other forms of recording, including computers and recording devices, of the Ministry. He may call upon the Ministry for assistance and advice, and such assistance and advice shall be given through the assignment of personnel or in any other manner as requested. **[P.L. 1986-25. §17.]**

§918. Access to contracts and grants information.

Any contract to which an agency is a party, except a personal service or prime contract with an employee of the agency, and any grant awarded by any agency, with or without formal advertising, shall include a clause to the effect that the Auditor-General shall, until the expiration of three (3) years after final payment, have access to and the right to examine and copy any records, data, or papers of the contractor, any subcontractor, grantee or any sub-grantee, relevant to said contract or grant. **[P.L. 1986-25, §18.]**

§919. Power to subpoena persons to testify.

(1) Whenever the Auditor-General has a reasonable basis for believing that a person has information with respect to any matter which is within the Auditor-General's jurisdiction to investigate, he may require by subpoena the attendance and testimony of such person under oath or affirmation.

(2) If necessary to secure enforcement, the Auditor-General shall provide to the judge information concerning the matter under investigation which shall include the name and address of the prospective witness, the subject of the investigation, a summary of the status of the

investigation, a summary of the reasons for requesting a summons for testimony, and a summary of the general scope of the inquiry to be made of a prospective witness.

(3) The subpoenas shall be served in the same manner as a summons for a witness in a civil case issued on behalf of the Government of the Marshall Islands and all provisions of law relative to such a summons shall apply to a subpoena issued under this Section. A witness required by subpoena to attend and testify under oath or affirmation and produce books, documents and records shall be given not less than forty-eight (48) hours notice of the time and place of the taking of testimony, unless the notice shall unduly interfere with the conduct of the investigation and prior approval for a shorter period of time for the subpoena and notice has been obtained from the judge. The witness, at the time of service of the subpoena, shall be notified of the matter under investigation concerning which the witness will be required to testify, shall be given a copy of the rules and procedures adopted by the Auditor-General, shall be notified that his testimony will be taken at a private session and that the issuance of the subpoena was approved by the judge, and shall be notified whether the witness is a subject of an investigation, i.e., a person whose conduct is within the scope of the investigation. The failure to furnish the witness with any notice or information required to be given by this Section shall cause the subpoena to be invalid. In addition, the witness shall be notified that he has a right to consult and to have an attorney present at the time the testimony is taken and that he has a constitutional right not to furnish or produce evidence which may tend to incriminate him, (4) A person subpoenaed to attend and testify shall appear and testify under oath or affirmation before the Auditor-General or his nominee.

(5) The information sought from the witness subpoenaed must be reasonably related to the subject matter under investigation. No subpoenas may be issued for purposes of harassment or for any illegitimate or improper purpose.

(6) All constitutional and statutory rights and privileges which exist with respect to any summons issued by a court, including the privilege against self-incrimination, shall have the same force and effect with respect to any subpoenas issued by the Auditor-General.

(7) A judge of any court may, upon application by the Auditor-General, issue an order to compel the attendance of a witness and the giving of testimony under oath or affirmation in furtherance of any audit or investigation under this Chapter in the same manner and to the same extent as before a court of law. Failure to obey the order of the court with respect to the summons may be punished by the court as contempt. **[P.L. 1986-25, §19.]**

§920. Referrals: criminal action.

In carrying out his duties, the Auditor-General shall report to the Attorney-General whenever the Auditor-General has reasonable grounds to believe that there has been any violation of the criminal law. The Attorney-General may institute further proceedings. **[P.L. 1986-25, §20.]**

§921. Referrals: civil action.

In any case where the Auditor-General has discovered fraudulent acts and believes that civil recovery proceedings may be appropriate, he shall refer the matter to the Attorney-General and the Ombudsman who may institute any proceedings that he deems appropriate. **[P.L. 1986-25, §21.][Amended to include Ombudsman by P.L. 2025-54]**

§921A. Referrals: Administrative Action.

Where the Auditor-General has discovered action which renders administrative remedies, he or she shall refer the matter to the relevant agency or body for appropriate action. **[inserted by P.L.2018-99.]**

§922. Offense and penalties.

All records of the Auditor-General shall be confidential unless it is deemed necessary for the Auditor-General to make the records public in the performance of his duties. Any violation of the requirement of secrecy of proceedings by the Auditor-General or any officer or employee of his office, shall result in an offense and the violator shall upon conviction be liable to a fine not exceeding $1,000 or to a term of imprisonment not exceeding six (6) months, or both.

The provisions of this Section shall not restrict the power of a court to order the production of any records with respect to any matter pending before court. **[P.L. 1986-25, §22.]**

§923. Failure to provide information.

(1) All agencies shall enter into their public records sufficient information for a proper audit, and shall make the same available to the Auditor-General at his request.

(2) Any person who willfully fails or refuses to furnish or produce any book, record, paper, document, data, or sufficient information necessary to a proper audit which the Auditor-General is authorized by the Constitution of the Marshall Islands or this Chapter to perform, shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding $1,000 or to a term of imprisonment not exceeding three (3) months, or both.

(3) A willful failure or refusal by any person to furnish or provide upon request any book, record, paper, document, data, or sufficient information necessary to a proper audit which the Auditor-General is authorized by the Constitution of the Marshall Islands or this Chapter to perform shall be sufficient cause for disciplinary action by the Public Service Commission against such person if he is an employee of the Government of the Marshall Islands or of a body or agency subject to the jurisdiction of that Commission.

(4) If such person is an employee of a body or agency not subject to the jurisdiction of the Public Service Commission, that body or agency shall take appropriate disciplinary action against him. **[P.L. 1986-25, §23.]**

§924. Administration of oath or affirmation.

Where pursuant to the provisions of this Chapter, the Auditor-General summons any person as a witness to give testimony or produce any documents, records, papers, recommendations or any other data or material on oath or affirmation, the Auditor-General or his nominee may administer the oath or affirmation as the case may be. [P.L. 1986-25, §24.

ENDNOTES

Endnote References

1 [Section numbering style modified to reflect new format]