

TITLE 1: GOVERNMENT  
DIVISION 7: PLANNING, BUDGETING AND AUDITING

**§ 7846. Power to Summon Persons to Testify.**

(a) Whenever the Public Auditor has a reasonable basis for believing that a person has information with respect to any matter which is within the Public Auditor's jurisdiction to investigate, the Public Auditor may require by summons the attendance and testimony under oath of the person.

(b) If necessary to secure enforcement, the Public Auditor 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.

(c) The summons shall be served in the same manner as a summons for a witness in a civil case issued on behalf of the Commonwealth and all provisions of law relative to a summons issued in such a case shall apply to a summons issued under this section. A witness required by summons to attend and testify under oath and produce books and records shall be given not less than 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 summons and notice has been obtained from the judge. The witness, at the time of service of the summons, shall be notified of the matter under investigation concerning which the witness will be required to testify and shall be given a copy of the rules and procedures adopted by the Public Auditor and shall be notified that the testimony of the witness will be taken at a private session and that the issuance of the summons was approved by the judge and whether the witness is a subject of an investigation. A subject of an investigation is 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 summons to be invalid. In addition the witness shall be notified that the witness has a right to consult with and to have an attorney present at the time the testimony is taken and that the witness has a constitutional right not to furnish or produce evidence which may tend to be self-incriminatory.

(d) A person summoned to attend and testify shall appear and testify under oath before the Public Auditor or a designee.

(e) The information sought from the summoned witness must be reasonably related to the subject matter under investigation. No summons may be issued for purposes of harassment or any illegitimate or improper purpose. 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 summons issued by the Public Auditor.

(f) Any judge of the Commonwealth Trial Court may, upon application by the Public Auditor, issue an order to compel the attendance summoned and the giving of testimony under oath in furtherance of any audit or investigations under

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this part in the same manner and to the same extent as before the Commonwealth Trial Court. Failure to obey the order of the court with respect to the summons may be punished by the court as contempt.

**Source:** PL 3-91, § 405.

**Commission Comment:** Section 4 of PL 6-25, the “Commonwealth Judicial Reorganization Act of 1989,” provides that “[w]herever the term ‘Commonwealth Trial Court’ appears in the Commonwealth Code, it is henceforth to be interpreted and understood to refer to the Commonwealth Superior Court.”