



State of Mississippi

**From the Office of State Auditor
Phil Bryant**

**A Disclosure of Emergency Purchases
Made By State Agencies In Fiscal Year 2003**

Report # 76
August 28, 2003

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STATE OF MISSISSIPPI
OFFICE OF THE STATE AUDITOR
PHIL BRYANT
AUDITOR

August 28, 2003

Senate Fees, Salaries and Administration Committee
House Fees and Salaries of Public Officers Committee
Joint Legislative Budget Committee

Pursuant to Section 31-7-13 (j), Mississippi Code of 1972, Annotated, the Office of the State Auditor has completed *A Disclosure of Emergency Purchases Made By State Agencies In Fiscal Year 2003*. This disclosure is presented to you in the report published herein.

This report has been uploaded to the State Auditor's Office web page (www.osa.state.ms.us). Additional copies may be downloaded from this site.

I trust that by publishing a report of emergency expenditures for the Legislative Committees and the public, state agencies will remain circumspect in exercising the emergency purchase exception to state purchasing laws thereby making public purchasing more efficient.

Sincerely,

A handwritten signature in cursive script that reads "Phil Bryant".

Phil Bryant
State Auditor

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Introduction

Purpose

Pursuant to Section 31-7-13 (j), Mississippi Code of 1972, Annotated, the Office of the State Auditor (Office) Performance Audit Division (Division) initiated an inquiry concerning emergency purchases made by state agencies. The purpose of this review was to disclose emergency purchases made by state agencies for Fiscal Year 2003.

This report will:

- summarize information on the number and dollar amount of emergency purchases reported by agencies; and
- provide background information on current state law concerning emergency purchases by state agencies.

Scope

The scope of the performance review by statute is all emergency purchases by state agencies for Fiscal Year 2003 reported to DFA, Office of Purchasing and Travel; DFA, Bureau of Buildings, Grounds, and Real Property; and Information Technology Services.

Method

In conducting the review, the Division performed the following procedures:

- analyzed Mississippi statutes;
- reviewed emergency purchase documentation;
- interviewed appropriate state agency personnel; and
- performed other necessary procedures

Background

Emergencies Defined By State Purchasing Law

Section 31-7-1 (f), Mississippi Code of 1972 Annotated defines the term, emergency as:

“‘Emergency’ shall mean any circumstances caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection or caused by any inherent defect due to defective construction, or when the immediate preservation of order or of public health is necessary by reason of unforeseen emergency, or when the immediate restoration of a condition of usefulness of any public building, equipment, road or bridge appears advisable, or in the case of a public utility when there is a failure of any machine or other thing used and useful in the generation, production or distribution of electricity, water or natural gas, or in the transportation or treatment of sewage; or when the delay incident to obtaining competitive bids could cause adverse impact upon the governing authorities or agency, its employees or its citizens; or in the case of a public airport, when the delay incident to publishing an advertisement for competitive bids would endanger public safety in a specific (not general) manner, result in or perpetuate a specific breach of airport security, or prevent the airport from providing specific air transportation services.”

State Agencies Must Notify DFA Of Emergency Purchases

State purchasing laws provide an exemption for state agencies experiencing an emergency situation. Section 31-7-13 (j), Mississippi Code of 1972 Annotated states:

*“If the executive head of any agency of the state shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interests of the state, then the provisions herein for competitive bidding shall not apply and the head of such agency shall be authorized to make the purchase or repair. Total purchases so made shall only be for the purpose of meeting needs created by the emergency situation. In the event such executive head is responsible to an agency board, at the meeting next following the emergency purchase, documentation of the purchase, including a description of the commodity purchased, the purchase price thereof and the nature of the emergency shall be presented to the board and placed on the minutes of the board of such agency. The head of such agency shall, at the earliest possible date following such emergency purchase, file with the Department of Finance and Administration (i) a statement under oath certifying the conditions and circumstances of the emergency, and (ii) a certified copy of the appropriate minutes of the board of such agency, if applicable. **On or before September 1 of each year, the State Auditor shall prepare and deliver to the Senate Fees, Salaries and Administration Committee, the House Fees and Salaries of Public Officers Committee and the Joint Legislative Budget Committee a report containing a list of all state agency emergency purchases and supporting documentation for each emergency purchase.”***

Information Technology Emergency Purchases

When state agencies make emergency purchases related to computers, telecommunications and other information technology, agencies notify Information Technology Services rather than DFA, Office of Purchasing.

Section 25-53-5 (p), Mississippi Code of 1972 Annotated, describes the powers of Information Technology Services regarding state procurement of telecommunications equipment, software and services by stating:

“When applicable, the authority may procure equipment, systems and related services in accordance with the law or regulations, or both, which govern the Bureau of Purchasing of the Office of General Services or which govern the Mississippi Department of Information Technology Services procurement of telecommunications equipment, software and services.”

Based on this statute, Information Technology Services developed the following procurement procedure regarding emergency purchases of information technology by state agencies:

“ITS oversees sole source and emergency information technology procurements consistent with Public Purchasing Laws and guidelines. Agencies and institutions making sole source or emergency purchases should follow Public Purchasing guidelines, sending documentation to ITS rather than to DFA, where Public Purchasing Laws and Procedures prescribe DFA sign-off, approval, or notification.”

**State Agencies Utilizing the Emergency Exemption
From State Purchasing Laws**

List of Emergency Purchases Reported By State Agencies To DFA, Office of Purchasing

Table 1 lists emergency expenditures by state agencies for the period July 2002 through June 2003 that were reported to DFA, Office of Purchasing: sixty-nine (69) emergency purchases by nineteen (19) state agencies totaling \$3,167,811.21.

Table 1

Emergency Purchases Reported To DFA, Office of Purchasing From July 2002 Through June 2003			
State Agency	Amount	Description	Explanation
Agriculture	\$18,850.00	Roof repairs	Heavy rains
Delta State University	38,945.00	HVAC System	System failure during cold weather
Education(MSD)	4,734.00	Asbestos/mold removal	Time frame before residents return to school
Education(MSD)	45,600.00	Painting and cleaning of buildings	Time frame before residents return to school
Education(MSD)	1,485.00	Testing for mold and asbestos	Time frame before residents return
Education(MSD)	132,083.00	Repairs to dormitories and elementary school	Time frame before residents return
Education(MSD)	4,734.00	Asbestos removal	Time frame before residents return
Education(MSD)	37,076.00	Repairs to buildings	Time frame before residents return
Ellisville State School	5,781.00	Compressor	Hot weather required immediate attention
Fair Commission	21,400.00	Compressor	Compressor destroyed by lightning
Gulf Coast Research Lab	15,600.00	Life rafts	Pending trips after failed inspection

**Emergency Purchases Reported To DFA, Office of Purchasing
From July 2002 Through June 2003**

Health Department	5,800.00	Plate washer	West Nile Virus testing
Health Department	28,000.00	Door hangers	West Nile Virus public awareness
Health Department	5,634.20	Light traps and dippers	West Nile Virus testing
Health Department	12,908.00	Plate stacker	West Nile Virus testing
Health Department	88,332.80	Meningococcal vaccine	Meningitis outbreak in north Mississippi
Health Department	256,717.20	Meningococcal vaccine	Meningitis outbreak in north Mississippi
Health Department	13,802.00	Meningococcal vaccine	Meningitis outbreak in north Mississippi
Health Department	5,628.00	Rifamin capsules	Meningitis outbreak in north Mississippi
Health Department	29,457.90	Various lab supplies	State Response Team needs to be able to respond to terrorist attack without delay
Hudspeth Regional Center	8,446.00	Hot water heater	Hot water heater in disabled children's cottage broke and flooded
Jackson State University	41,755.00	Rebuild chiller	Chiller motor failure left building without air conditioning during Summer
Military Department	5,040.00	Spill control and containment supplies	Supplies required to contain fuel spills
Military Department	7,074.29	Repair variable speed drive	Lightning strike on water well
Military Department	1,061.29	Repair bulk fuel facility	Fuel leak

**Emergency Purchases Reported To DFA, Office of Purchasing
From July 2002 Through June 2003**

Military Department	159,454.00	Repair armory	Eighteen wheel truck crashed into armory causing major structural damage
Military Department	4,000.00	Soil disposal	Disposal of contaminated soil needed
Mississippi State Univ.	10,995.00	Chill water coils	Mechanical failure at lab needing proper ventilation and air circulation
Mississippi State Univ.	12,775.00	Batteries	Battery failure meant possible damage to expensive computer equipment unless replaced
Mississippi State Univ.	41,242.00	Emergency lease of modular buildings	Contractor delay made space planned unavailable
Mississippi State Univ.	47,785.00	Construct handicapped access	Safety and security of students/ADA guidelines
Mississippi State Univ.	25,950.00	Adaptive equipment for electric car	Time limit to acquire equipment under present year budget
Mississippi State Univ.	21,500.00	Heating and cooling coils	Mechanical failure due to freeze
Mississippi State Univ.	45,000.00	Boiler	Building occupied and additional cost of renting boiler
Mississippi State Univ.	103,311.00	Elevator	Time limit to install before football season
Mississippi University for Women	13,499.00	Various work on buildings	Tornado damage

**Emergency Purchases Reported To DFA, Office of Purchasing
From July 2002 Through June 2003**

Mississippi University for Women	55,440.00	Chiller	Tornado damage
Mississippi University for Women	142,578.00	HVAC	Tornado damage
Mississippi University for Women	41,542.00	Roof repairs	Tornado damage
Mississippi University for Women	102,096.00	Roof repairs	Tornado damage
Mississippi University for Women	26,800.00	Roof	Tornado damage
Mississippi University for Women	4,452.00	Windows and blinds	Tornado damage
Mississippi University for Women	7,233.97	Glass replacement	Tornado damage
Mississippi University for Women	38,471.20	Glass replacement	Tornado damage
Mississippi University for Women	115,992.63	Windows	Tornado damage
Mississippi University for Women	39,219.00	Roof repairs	Tornado damage
Mississippi University for Women	60,365.00	HVAC	Tornado damage
Mississippi University for Women	124,600.00	Repair tennis courts	Tornado damage

**Emergency Purchases Reported To DFA, Office of Purchasing
From July 2002 Through June 2003**

Mississippi University for Women	37,885.00	Wiring	Tornado damage
Mississippi University for Women	77,217.00	HVAC	Tornado damage
Mississippi University for Women	32,975.00	Temporary roof	Tornado damage
Mississippi University for Women	74,831.00	Chiller	Tornado damage
Mississippi University for Women	13,021.00	Replace insulation and architectural panel	Tornado damage
Mississippi Valley State Univ.	20,720.00	Inverted microscope	Time frame before accreditation visit
Port Authority at Gulfport	129,704.70	Repair/replace ore handling and blending facility control system	Further failure of system would result in total system shutdown
Port Authority at Gulfport	242,122.50	Repair docks, piers and fender system	Damage from hurricane and tropical storm
Public Employees Retirement System	20,200.00	Construction and waterproofing	Time frame to avoid loss of needed office space, and further deterioration and formation of mold
State Hospital (Whitfield)	28,775.00	Standby generators	Comfort and safety of nursing home residents
State Hospital (Whitfield)	33,640.00	Chiller	Mechanical failure
State Hospital (Whitfield)	59,230.00	Air handling unit	Mechanical failure

**Emergency Purchases Reported To DFA, Office of Purchasing
From July 2002 Through June 2003**

Transportation Department	35,000.00	Generator	Draw bridge needs immediate back-up power source
Transportation Department	45,000.00	Repair drawbridge	Potential for inoperable drawbridge and structural damage
Transportation Department	36,105.53	Piling	Slide area needing immediate attention
University Medical Center	73,106.00	Heating/air conditioning units	Mechanical failure
University Medical Center	22,290.00	Boiler	Mechanical failure
University Medical Center	39,000.00	Chiller	Mechanical failure
University Medical Center	26,356.00	Chiller installation	Needed for uninterrupted activities of critical departments
University Medical Center	39,800.00	Chiller	Mechanical failure
Wildlife, Fisheries and Parks	587.00	Window air conditioner	Mechanical failure
Total	\$3,167,811.21		

Source: Department of Finance & Administration / State Agencies

**List of Emergency Purchases Made By State Agencies Through
DFA, Office of Building, Grounds and Real Property Management**

Table 2 lists emergency purchases made in Fiscal Year 2003 by state agencies through DFA, Bureau of Buildings, Grounds and Real Property Management (DFA-Buildings): fourteen (14) emergency purchases by eight (8) state agencies totaling \$2,064,360.00.

Table 2

Emergency Purchases Reported To DFA-Buildings For Fiscal Year 2003		
State Agency	Amount	Description
Alcorn State University	\$54,470.00	Treatment plant
Alcorn State University	98,700.00	Chiller
Finance and Administration	27,000.00	New Capitol elevator
Human Services Dept.	12,675.00	Sewage pump
Jackson State University	35,000.00	Hazardous materials
Jackson State University	24,755.00	Hazardous materials
Jackson State University	48,350.00	Hazardous materials
Mental Health Dept.	34,315.00	Chiller
Mental Health Dept.	38,192.00	Elevator
Mental Health Dept.	202,880.00	Roof
Mental Health Dept.	66,390.00	Asbestos removal
Miss. Development Authority	1,377,672.00	Roof
Narcotics Bureau	9,586.00	Roof
Stadium	34,375.00	Restroom water pumps
Total	\$2,064,360.00	

Source: Department of Finance and Administration, Bureau of Buildings, Grounds and Real Property Management

**List of Emergency Purchases Made By State Agencies Through
Information Technology Services**

Table 3 lists emergency purchases made by state agencies in Fiscal Year 2003 through Information Technology Services (ITS) but not reported to DFA, Office of Purchasing: three (3) emergency purchases by one (1) state agency totaling \$178,079.05.

Table 3

Emergency Purchases Reported To ITS For Fiscal Year 2003		
State Agency	Amount	Description
Health Department	\$5,162.00	Child care fingerprinting equipment, software and related commodities
Health Department	74,765.25	Incident Master software, maintenance, consulting and training
Health Department	98,151.80	Satellite and mobile radios, radio phones, installation, programming and accessories
Total	\$178,079.05	

Source: Information Technology Services

**Comparison of Emergency Purchases Amount and Percentage Increases
From Fiscal Year 2002 to Fiscal Year 2003**

Table 4 gives a comparison of the total amount spent and percentage increase for all emergency purchases for Fiscal Year 2002 and Fiscal Year 2003.

Table 4

Increase in Emergency Purchases From Fiscal Year 2002 to Fiscal Year 2003				
	Fiscal Year 2002	Fiscal Year 2003	Dollar Amount Increase/Decrease	Percentage Incr./Decr.
DFA-Purchasing	\$703,314.65	\$3,167,811.21	\$2,464,496.56	350%
DFA-Buildings	\$1,874,499.78	\$2,064,360.00	\$189,860.22	10%
ITS	\$208,833.03	\$178,079.05	[\$30,753.98]	[15%]
Total	\$2,786,647.46	\$5,410,250.26	\$2,623,602.80	94%

The total amount spent for emergency purchases for Fiscal year 2002 was \$2,786,647.46 while the amount for Fiscal Year 2003 was \$5,410,250.26. The percentage increase from one year to the next was 94%. The main reasons for the large increase, in both dollar and percentage terms, appear to be the tornado at MUW; expenditures at the Health Department for West Nile Virus testing and a meningitis outbreak; and extraordinary repairs at the Port Authority at Gulfport.