



State of Mississippi

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

**A Disclosure of Emergency Purchases
Made By State Agencies In Fiscal Year 2004**

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STATE OF MISSISSIPPI
OFFICE OF THE STATE AUDITOR
PHIL BRYANT
AUDITOR

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 2004*. This disclosure is presented to you in the report published herein.

This report is available on the State Auditor's Office web page (<http://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 black ink 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 2004.

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 2004 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:

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

For more information about this report, contact:

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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 2003 through June 2004 that were reported to DFA, Office of Purchasing: Thirty-nine (39) purchases by twenty-one (21) state agencies totaling \$1,953,443.95.

Table 1

Emergency Purchases Reported To DFA, Office of Purchasing From July 2003 Through June 2004			
State Agency	Amount	Description	Explanation
Corrections	\$35,400.00	Replace 80 ton chiller	Central Kitchen chiller went out, timely replacement needed
Delta State University	\$20,820.00	Replace primary freezer	Freezer failure. Food loss and operational inefficiency can be prevented with replacement.
Dept. of Finance & Administration	\$206,435.00	Terrain Avoidance Warning System & Revised Vertical Separation Minimum Certification	To meet the upcoming FAA deadlines now that funds are available
Employment Security	\$60,786.00	Temporary chiller unit rental	40+ year old chiller pipe burst, non-repairable, needed temporary unit
Fair Commission	\$25,000.00	Dirt repair to practice arena	Repair hazardous conditions where dirt has worn down before next event
Fair Commission	\$26,467.00	Replace lighting & electrical panels	Faulty electrical/lighting system may cause 'lights out' hazard during public event
Military Department	\$21,635.00	Water Sewer hook-up to 8 trailers	Labor, materials, etc. to provide water/sewer in support of mobilization
Military Department	\$10,000.00	Mini-split HVAC units	Pilot to test adequacy of proposed living quarters for mobilized troops
Military Department	\$9,312.50	Change order	Increase costs over \$37,500
Military Department	\$37,500.00	Roof, electrical and other repairs to building	Required repairs to prepare only bldg type for medical mobilization efforts
Military Department	\$23,286.00	24,000 & 9,000 BTU Heat pumps	Prepare building for more troop mobilization
Military Department	\$30,252.00	Repair structural integrity of wall	Lightning strike caused structural damage to wall at the Vicksburg Readiness Center
MS Dept. of Health	\$3,513.00	DS2000 phone system	Tate Co. Home Health phone system failed, replacement needed to prevent non-service issues
MS Dept. of Transportation	\$30,998.00	Bridge repair	Immediate repair to side rail damaged in accident
MS Dept. of Transportation	\$21,378.97	Steel Sheet Piling X 40'	To temporarily stabilize roadway that is sliding.
MS Industries For The Blind	\$20,522.00	Mitsubishi PLKB1008H sewer	Machine to replace new machine that failed twice
MS Secretary of State	\$37,720.50	Typeset, print, bind, box & mail General Laws & Local & Private laws	Fix error on bid process, using low bidders on original RFP

MS Secretary of State	\$27,079.03	Print, bind, box & mail law book House & Senate Journal	Fix error on bid process
MS State Tax Commission	\$42,403.88	Rider scrubber	Time-sensitive to use FY 2003 funds after bid protest. Would delay by 3 additional years if not done immediately.
MS State University	\$18,700.00	Repairs to leaking mud bed @ Union Bldg	MSU Union dishwashing drains leaking into bookstore inventory causing damage
MS Univ. for Women	\$96,289.00	Erect temporary athletic facility (labor only)	Building must be ready by beginning of school session
MS Univ. for Women	\$20,540.00	Printing costs	Time-sensitive materials, in bid, recycled not specified option, using lowest bidder
MS Univ. for Women	\$26,735.00	ABR unit & 2 channel clinical audiometer	Trying to meet grant deadline of purchase equipment
MS Univ. for Women	\$18,500.00	New Wall construction	Storm damage repair
MS Univ. for Women	\$26,112.00	temporary roof	Fine Arts building roof is leaking, temp roof prevents further damage.
MS Valley State	\$17,315.00	Tissue-TEK Cry03 Cryostat	Purchase of equipment for research project to prevent required refund
Pat Harrison Waterway District	\$25,000.00	Repair Dam	Prevention of structural integrity damage to repair cracks and stop water seepage at Archusa Creek Water Park.
Port Authority-Gulfport	\$95,900.00	Repair Crane	Repair damaged crane after ship hit it and rendered it inoperable
S. MS Regional Center	\$12,022.03	4 sewage pumps & 2 duplex control panels	Sewer pump @ Wiggins Community Homes burned up, prevent sanitary hazard
State Aid Road Construction	\$228,846.13	Bridge Replacement	Heavy rains damaged bridge, bridge was closed causing transportation issues
UM Medical Center	\$9,200.00	50 ton compressor replacement	HVAC system equipment failure
Univ. of Southern MS	\$62,800.00	170 ton trailer mounted chiller & transformer	Temporary chiller while dormitory chiller being repaired
Univ. of Southern MS	\$207,556.00	Emergency teleconferencing system	Current system unable to be upgraded and addition of new hospitals requires additional equipment; Very short time frame to make changes
Wildlife, Fisheries & Parks	\$102,334.34	Golf Course Equipment for Quail Hollow	No RFP proposals with equipment lease/purchase; Extending current contract and buying equipment at reduced rate
Wildlife, Fisheries & Parks	\$95,711.73	Golf Course Equipment for Mallard Pointe	No RFP proposals with equipment lease/purchase; Extending current contract and buying equipment at reduced rate
Wildlife, Fisheries & Parks	\$68,749.80	Golf Carts for Mallard Pointe	No RFP proposals with equipment lease/purchase; Extending current contract and buying equipment at reduced rate
Wildlife, Fisheries & Parks	\$99,495.29	Golf Course Equipment	No RFP proposals with equipment lease/purchase; Extending current contract and buying equipment at reduced rate
Wildlife, Fisheries & Parks	\$1,457.00	Chain & wood fence	Change order to Turcotte Security Emergency Purchase
Wildlife, Fisheries & Parks	\$29,671.75	Mobile Home	To mitigate health hazard to employee due to detection of mold in current mobile home
Total	\$1,953,443.95		

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 2004 by state agencies through DFA, Bureau of Buildings, Grounds and Real Property Management (DFA-Buildings): nine (9) emergency purchases by four (4) state agencies totaling \$676,478.88

Table 2

Emergency Purchases Reported To DFA-Buildings		
For Fiscal Year 2004		
State Agency	Amount	Description
Alcorn State University	\$42,875.00	Removal of toxic mold from dorm bldg.
Alcorn State University	\$46,500.00	Dormitory elevator renovation
Alcorn State University	\$62,682.00	Dormitory emergency door security locks
Department of Corrections	\$211,494.00	HVAC modifications in kitchen unit @ Parchman
Dept. of Human Services	\$53,094.13	Dental equipment & supplies to open Oakley facility
Dept. of Human Services	\$17,500.00	Roof repairs @ Oakley facility
Dept. of Human Services	\$202,124.00	Roof replacement @ Oakley facility
Hudspeth Regional Center	\$35,490.00	Repair sewer drain to 3 cottage kitchens @ Whitfield
Hudspeth Regional Center	\$4,719.75	Floor replacement in 3 cottages @ Whitfield
Total	\$676,478.88	

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 2004 through Information Technology Services (ITS) but not reported to DFA, Office of Purchasing: nine (9) emergency purchases by three (3) state agencies totaling \$504,872.00.

Table 3

Emergency Purchases Reported To ITS		
For Fiscal Year 2004		
State Agency	Amount	Description
Dept. of Health	\$121,000.00	Fingerprinting software and licenses
Real Estate Appraisal Bd	\$8,181.00	Replacement & repair of lightening damaged computer equipment
MS State Tax Commission	\$263,636.62	Cleaning services for fire damage
MS State Tax Commission	\$14,034.73	Wireless network for employees affected by fire
MS State Tax Commission	\$20,816.44	Keyboards & mice damaged by fire
MS State Tax Commission	\$15,578.09	Fire damaged equipment replacement
MS State Tax Commission	\$34,506.65	Fire damaged equipment replacement
MS State Tax Commission	\$6,073.13	Fire damaged equipment replacement
MS State Tax Commission	\$21,045.34	Fire damaged equipment replacement
Total	\$504,872.00	

Source: Information Technology Services

**Comparison of Emergency Purchases Amount and Percentage Increases
From Fiscal Year 2003 to Fiscal Year 2004**

Table 4 gives a comparison of the total amount spent and percentage increase for all emergency purchases for Fiscal Year 2003 and Fiscal Year 2004.

Table 4

Increase in Emergency Purchases From Fiscal Year 2003 to Fiscal Year 2004				
	Fiscal Year 2003	Fiscal Year 2004	Dollar Amount Increase/(Decrease)	% Increase/ Decrease
DFA-Purchasing	\$3,167,811.21	\$1,953,443.95	(\$1,214,367.26)	-38%
DFA-Buildings	\$2,064,360.00	\$676,478.88	(\$1,387,881.12)	-67%
ITS	\$178,079.05	\$504,872.00	\$326,792.95	184%
Total	\$5,410,250.26	\$3,134,794.83	(\$2,275,455.43)	-42%

The total amount spent for emergency purchases for Fiscal year 2003 was \$5,410,250.26, while the amount for Fiscal Year 2004 was \$3,134,794.83. There was a 42% percent decrease in the total dollar amount of emergency purchases from 2003 to 2004. Emergency Purchases through ITS saw the only increase. This was related to the fire that damaged the State Tax Commission building in Raymond, MS. Camp Shelby had mobilization readiness issues that triggered several emergency purchases, but overall, DFA emergency purchases saw a significant decrease in dollars spent in 2004.