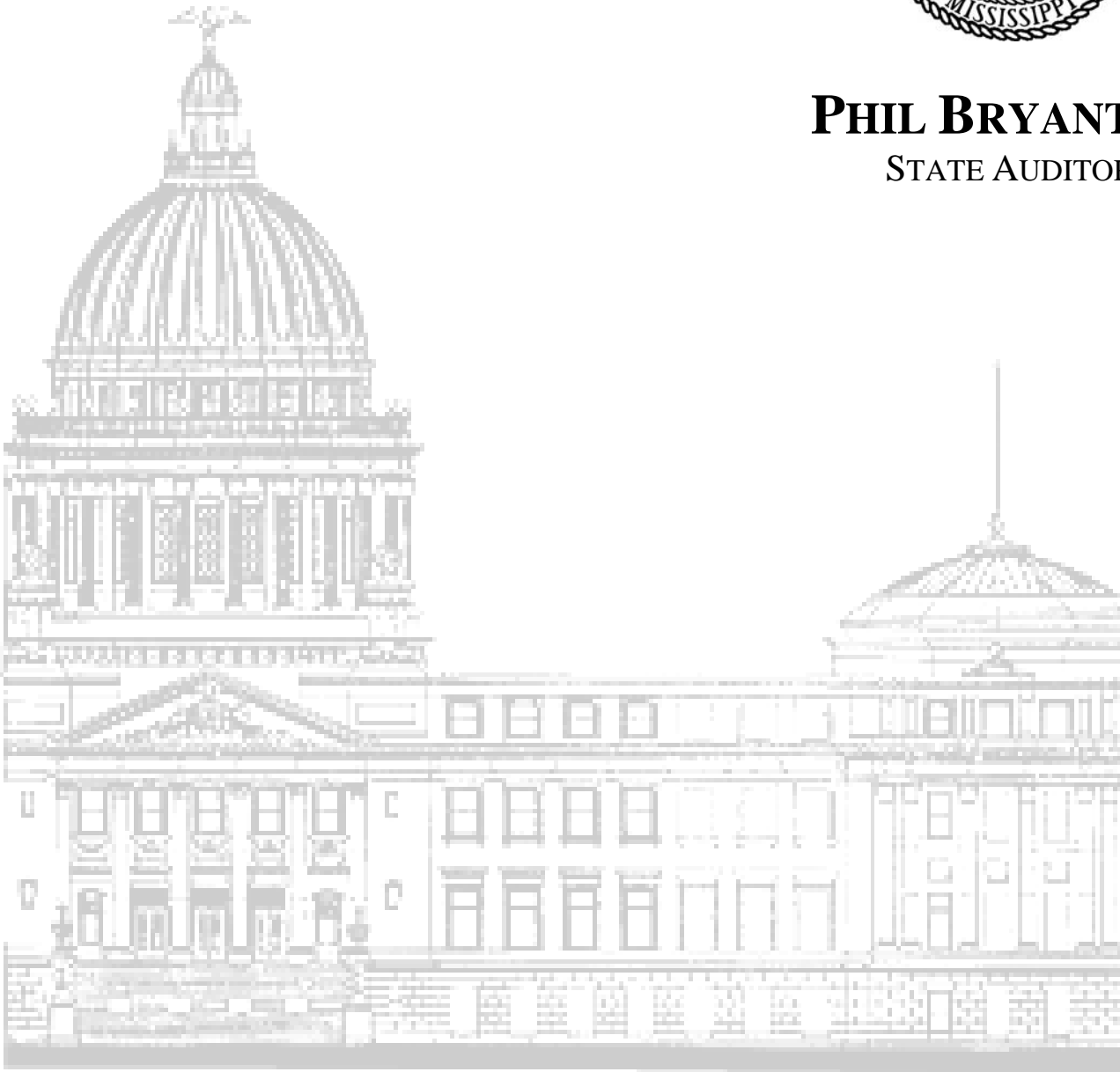


**A DISCLOSURE OF EMERGENCY PURCHASES MADE
BY STATE AGENCIES IN FISCAL YEAR 2005**

REPORT # 98



PHIL BRYANT
STATE AUDITOR





STATE OF MISSISSIPPI
OFFICE OF THE STATE AUDITOR
PHIL BRYANT
AUDITOR

October 14, 2005

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

Dear Members of the Legislature:

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 2005*. 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, reading "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 2005.

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 2005 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:

- reviewed 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 Department of Finance and Administration (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 governing board or the executive head, or his designee, 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, or his designee, shall, at the earliest possible date following such emergency purchase, file with the Department of Finance and Administration (i) a statement explaining the conditions and circumstances of the emergency, which shall include a detailed description of the events leading up to the situation and the negative impact to the entity if the purchase is made following the statutory requirements set forth in paragraph (a), (b) or (c) of this section, 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 (ITS) 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 2004 through June 2005 that were reported to DFA, Office of Purchasing: Fifty-six (56) purchases by thirteen (13) state agencies totaling \$3,640,558.28.

Table 1

Emergency Purchases Reported To DFA, Office of Purchasing			
From July 2004 Through June 2005			
State Agency	Amount	Description	Explanation
Delta State University	\$6,000.00	Hot water heater	Only hot water heater for entire building broke; immediate replacement needed
Delta State University	\$62,998.00	Dishwasher	Purchase new to replace 22 yr old unit & prevent health issues
East MS State Hospital	\$9,606.61	Hot water heater	Nursing Home water heater rusted out, wouldn't hold water, needed immediate replacement
Military Dept./Military Special Fund	\$8,500.00	Drill and equip new water well	Necessary replacement of temporary well; pump destroyed by sand and chalk
Military Dept./Military Special Fund	\$19,200.00	Insecticide and spray for staph	Camp Shelby barracks need to be sprayed for spiders and cleaned to rid any staph bacteria causing health hazard to soldiers
Military Dept./Military Special Fund	\$27,230.00	Replace hanger doors	30-year old system not repairable, dangerous situation needed to be fixed
Military Dept./Military Special Fund	\$35,545.00	Trailers/mobile homes	Immediate need for office, classroom and administrative space to support June, 2004 mobilization order
Military Dept./Military Special Fund	\$290,000.00	Heat pump system	Upgrades at Camp Shelby required by commander for 1st army for HVAC units in barracks during high temperatures
Military Dept./Military Special Fund	\$855,000.00	Heat pump system	Upgrades at Camp Shelby required by commander for 1st army for HVAC units in barracks during high temperatures
MS Dept. of Transportation	\$3,120.00	Chainsaw, oil, & chain	Rental
MS Dept. of Transportation	\$24,992.20	556,000 hurricane evacuation maps	Due to layout delays outside MDoT's control, they requested the formal bid process be waived
MS Dept. of Transportation	\$76,750.00	Hwy. 6 bridge repair	Truck impact caused structural damage
MS Dept. of Transportation	\$128,295.12	400 linear feet of road replacement	Temporary repair until permanent repairs completed
MS Dept. of Transportation	\$130,000.00	Uninterrupted power supply (generator)	Not reported

MS Emergency Management Agency	\$101,478.02	Purchase ice	During State of Emergency, purchased ice for citizens
MS Department of Health	\$2,029.50	Emergency bottled water	Needed at all flu vaccine centers
MS Department of Health	\$2,759.40	Emergency bottled water	Needed at all flu vaccine centers
MS Department of Health	\$4,164.00	Emergency bottled water	Needed at all flu vaccine centers
MS Fair Commission	\$36,950.00	Parking lot repairs (7,268 sq. ft.)	FEMA reimbursable damage to parking lot
MS Fair Commission	final amount not reported	A/C chiller rental	Temporary weekly rental until newly purchased unit could be installed
MS State Hospital	\$28,940.00	Steam boiler	Cost to repair broken steam boiler exceeded new purchase
MS Veterans Memorial Stadium	\$72,633.60	165 lockers; 34 end panels; filler sales model; & shipping	VMSC wanted lockers installed prior to a football game on August 6, 2005
MS State University	\$4,567.00	Cooling tower fan shaft gearbox & hardware	Cooling fan for building broke; immediate replacement needed
MS State University	\$5,010.00	6 Square D46011-600-50 1200 Amp insulating bushing	Water leak from failed gasket seals at substation circuit breaker caused broken high voltage part
MS State University	\$5,150.00	Energy management computer communication control device	Sole source emergency replacement of equipment
MS State University	\$6,364.10	Foundation repairs at Vet School	Repair 50' unstable wall that had foundation problems
MS State University	\$8,472.38	Goal post	To immediately repair ones that were destroyed
MS State University	\$11,235.78	Material & labor for chiller repair	Repair needed immediately
MS State University	\$12,179.60	8" sewer line replacement	Emergency repair of collapsed segment of sewer line
MS State University	\$14,289.00	Power supply for specialized medical equipment	Immediate replacement of a sole-source power supply
MS State University	\$23,750.00	New boiler for dormitory	To replace a boiler that could no longer be repaired
MS State University	\$25,142.22	Roof repair at Raspet Flight Lab	Temporary roof repair after windstorm damage
MS State University	\$28,844.00	Air conditioning system	A/C unit needed to be replaced
MS State University	\$35,919.00	Ten HP refrigeration system	Ice cream freezer broken, outdated, needed immediate replacement
MS State University	\$41,351.00	Chiller (AC) unit	Age & freon leak necessitated immediate replacement
MS State University	\$43,000.00	HVAC controls	Continued equipment failure could cause further damage
MS State University	\$176,000.00	Dormitory balcony repairs	Age & structural problems
MS University for Women	\$5,000.00	Floor replacement	Part of 2002 storm damage emergency purchases
MS University for Women	\$9,468.00	Bleachers	Part of 2002 storm damage emergency purchases
MS University for Women	\$11,358.35	Window replacements	Part of 2002 storm damage emergency purchases

MS University for Women	\$15,670.64	Body repairs to University vehicles	Part of 2002 storm damage emergency purchases
MS University for Women	\$17,000.00	Elevator parts and repair	Elevator fell with student inside, emergency repairs needed
MS University for Women	\$20,015.00	FLNC panel & sensors in 2 buildings	Part of 2002 storm damage emergency purchases
MS University for Women	\$22,463.60	Windows & sash repairs & replacements	Part of 2002 storm damage emergency purchases
MS University for Women	\$22,651.00	Repairs to Fine Arts Bldg.	Part of 2002 storm damage emergency purchases
MS University for Women	\$23,922.50	Exercise equipment	Part of 2002 storm damage emergency purchases
MS University for Women	\$24,411.00	Windows & sash repairs & replacements	Part of 2002 storm damage emergency purchases
MS University for Women	\$25,750.00	Window replacements	Part of 2002 storm damage emergency purchases
MS University for Women	\$38,130.00	Chiller (AC) unit	Part of 2002 storm damage emergency purchases
MS University for Women	\$42,113.78	Outdoor lamps and lamp poles	Part of 2002 storm damage emergency purchases
MS University for Women	\$56,177.00	Floors, walls, & carpeting	Part of 2002 storm damage emergency purchases
MS University for Women	\$59,680.00	Fence replacement & wall repair	Part of 2002 storm damage emergency purchases
MS University for Women	\$776,637.00	Partial renovation of Fine Arts Bldg.	Necessary to prevent a 3rd mold abatement treatment while awaiting reimbursement from FEMA
University of MS Medical Center	\$69,998.00	Power transformer (substation)	Transformer for the hospital & critical research areas failed
Wildlife, Fisheries & Parks	\$8,000.00	Marina repairs	Storm damage to fuel dock, dock A & B at J.P. Coleman State Park
Wildlife, Fisheries & Parks	\$24,646.88	Golf Course equipment	During transition from outside contractor to State management, option offered to purchase existing equipment at 25¢ on the dollar
TOTAL	\$3,640,558.28		

Source: Department of Finance & Administration / State Agencies

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

Table 2 lists emergency purchases made in Fiscal Year 2005 by state agencies through DFA, Bureau of Buildings, Grounds, and Real Property Management (DFA-Buildings): twelve (12) emergency purchases by eight (8) state agencies totaling \$2,652,476.46.

Table 2

Emergency Purchases Reported To DFA-Buildings			
For Fiscal Year 2005			
Institution/Agency	Description	Amount	Explanation
Alcorn State University	Emergency Chiller Replacement	\$46,600.00	Air conditioning unit failure at Eunice Powell Hall, which houses the Daycare Center and Human Sciences academic programs.
Alcorn State University	Emer Chiller Repair Admin/Library	\$49,918.00	Repair failed chillers for the Walter Washington Administration/Classroom Building.
East Mississippi State Hospital	Emergency Repairs – Lewis Building	\$912,500.00	Mechanical, electrical, ceiling, repairs in patient sleeping areas and bathrooms of the Lewis Building.
Fair Commission	Emergency Chiller Replacement: Fordice Equine Center	\$99,600.00	Chiller for the Expo Center (a/k/a Multi Purpose Fordice Equine Center) at the Fairgrounds - Mississippi Fair Commission - Department of Agriculture and Commerce.
Hudspeth Regional Center	Emergency Sewer Repairs- Beechwood	\$18,178.92	Sewer drain system for Beechwood Cottage.
Jackson State University	Phase II – Transitional Dormitory	\$34,711.00	Failed transformer for the Transitional Dormitory.
Mississippi Industries for the Blind	Emergency Sewer Repairs	\$65,183.00	Main sewer line in the central plant area under the north parking lot.
Mississippi Industries for the Blind	Emergency Water Line Repairs	\$52,327.00	Deterioration of domestic water supply lines.
Mississippi State Penitentiary	Emergency Roof Repairs - Units 32, 30, 29	\$542,924.00	Roof repairs on Units 32, 29 and 30 at Parchman, Mississippi.
Mississippi State Penitentiary	Unit 29 Emergency Mechanical Repairs	\$577,906.00	Underground pipe heating system at Mississippi State Penitentiary.
Mississippi State Penitentiary	Emergency Cross-Flusing Toilet - Unit 32	\$148,650.00	Toilets between cells of the Maximum Security Unit 32 at Parchman, Mississippi
Woolfolk Building	Emergency Power Outage	\$103,978.54	Power outage in the Woolfolk Building in Jackson, Mississippi.
Total		\$2,652,476.46	

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 2005 through Information Technology Services (ITS) but not reported to DFA, Office of Purchasing: four (4) emergency purchases by three (3) state agencies totaling \$444,141.00.

Table 3

Emergency Purchases Reported To ITS		
For Fiscal Year 2005		
State Agency	Amount	Description
Library Commission	\$21,508.00	Replace a core router for the MissIn Network.
Division of Medicaid	\$195,450.00	Additional capacity during the Medicaid to Medicare transition.
Department of Public Safety	\$134,115.00	Radio communication equipment that will identify an officer's badge number in an emergency.
Department of Public Safety	\$93,068.00	Purchase of mobile printers, converters, mounting supplies and accessories.
Total	\$444,141.00	

Source: Information Technology Services

**Comparison of Emergency Purchases Amount and Percentage Increases
From Fiscal Year 2004 to Fiscal Year 2005**

Table 4 gives a comparison of the total amount spent and percentage increase for all emergency purchases for Fiscal Year 2004 and Fiscal Year 2005.

Table 4

Increase in Emergency Purchases From Fiscal Year 2004 to Fiscal Year 2005				
	Fiscal Year 2004	Fiscal Year 2005	Dollar Amount Increase/(Decrease)	% Increase/ Decrease
DFA-Purchasing	\$1,953,443.95	\$3,640,558.28	\$1,687,114.33	86%
DFA-Buildings	\$676,478.88	\$2,652,476.46	\$1,975,997.58	262%
ITS	\$504,872.00	\$444,141.00	(\$60,731.00)	-12%
Total	\$3,134,794.83	\$6,737,175.74	\$3,602,380.91	115%

The total amount spent for emergency purchases for Fiscal Year 2004 was \$3,134,794.83, while the amount for Fiscal Year 2005 was \$6,737,175.74. There was a 115% percent increase in the total dollar amount of emergency purchases from FY 2004 to FY 2005. Emergency Purchases through MS Department of Information Technology Services (ITS) saw the only decrease. DFA Purchasing reported emergency purchases from the MS University for Women related to FEMA reimbursable expenses and repairs from 2002 storms still outstanding in FY 2005. Due to a bad flu season and hurricane season in FY 2005, there were increased emergency purchases by the MS Emergency Management Agency, MS Department of Health, and the MS Department of Transportation in FY 2005. Additionally, Camp Shelby emergency purchases related to the June 2004 mobilization effort increased overall DFA Purchasing reported figures. DFA Bureau of Grounds and Buildings saw increased emergency repairs/replacements of air conditioning and heating systems, sewer lines, as well as needed repairs at Parchman.

Due to Hurricane Katrina, it is expected that emergency purchases will significantly increase between FY 2005 and FY 2006. It is recommended that DFA and ITS carefully review all emergency purchases related to the hurricane season and require those that are FEMA (or other non-state) reimbursable to be so noted by agencies on their DFA request forms.