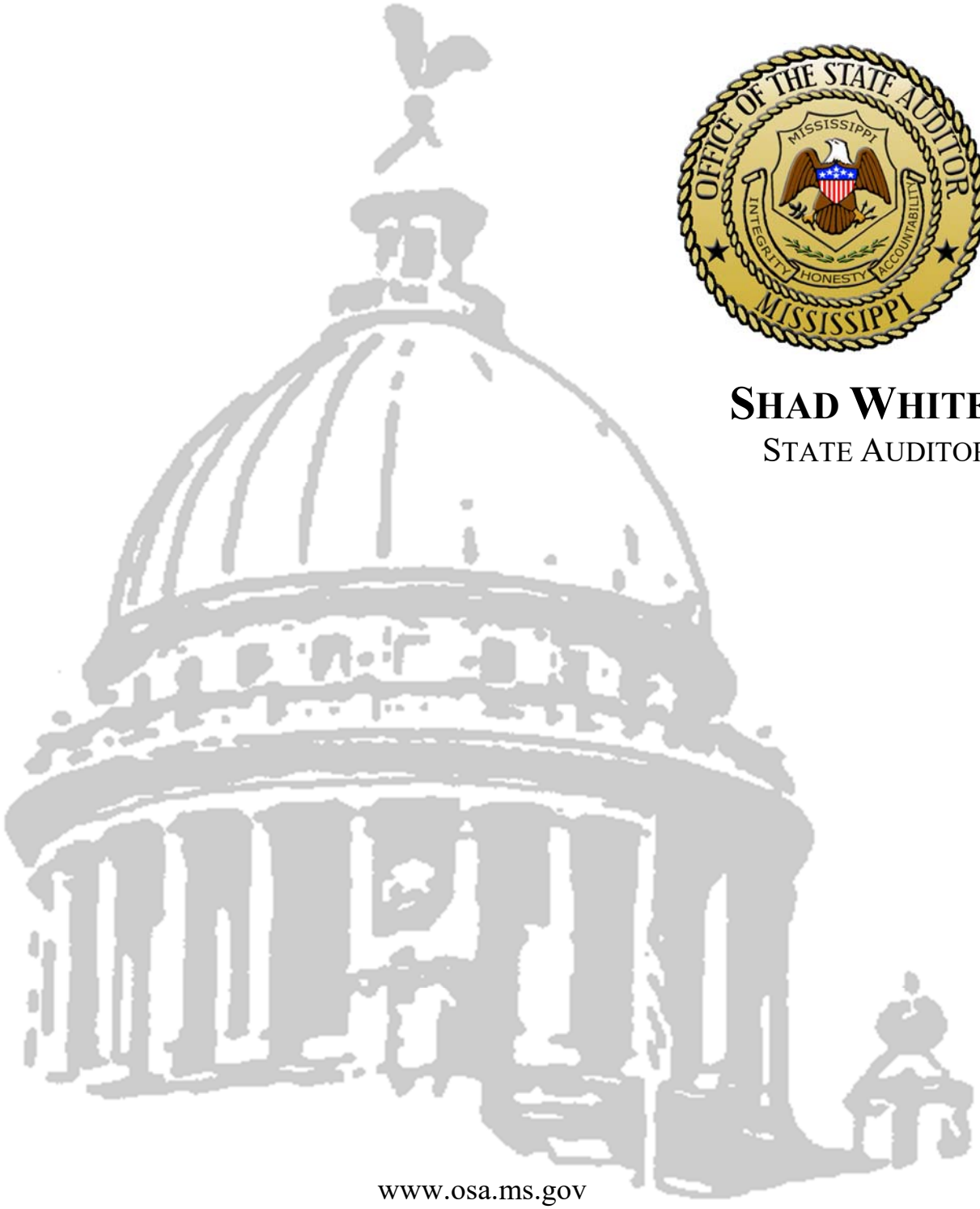
EMERGENCY ACCOUNTABILITY PLAN

FOR LOCAL GOVERNMENTS



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EMERGENCY MANAGEMENT

I. EMERGENCY DEFINITIONS

Emergencies of various types are defined in the Mississippi Code of 1972 (Ann.) for general purposes in Section 33-15-5 and for the purpose of purchasing in Section 31-7-1. Such emergencies include both locally declared emergencies and larger regional, state or national emergencies.

II. EMERGENCY DECLARATIONS

Local emergencies may be declared by the governing bodies of county and municipal governments, individually or jointly, or the president of the board of supervisors or mayor of a municipality, under authority of Sections 33-15-17 and 33-15-31. If declared by the president or mayor, the appropriate board must review and approve or disapprove at its next meeting. The need for continuing the local emergency must be reviewed by the local governing body at least every thirty days until the emergency is terminated. During a local emergency, the governing body of a political subdivision may promulgate orders and regulations necessary to provide for the protection of life and property. Such orders and regulations must be in writing and shall be given widespread notice and publicity. Section 31-7-13(k) also authorizes local governments to declare emergencies with regard to purchasing commodities and repair contracts.

The Governor may declare a state of emergency or issue a disaster declaration as provided in Section 33-15-11. Sections 33-15-11 and 33-15-31 provide the Governor broad authority to issue orders, rules and regulations as well as enter into appropriate agreements to deal with local, regional and state emergencies and disasters when he finds that a local authority is unable to cope with the emergency or upon request of the mayor of a municipality or by the president of the board of a county. The emergency proclamation shall be filed with the Secretary of State and be given widespread notice and publicity.

The President of the United States may declare a state of emergency or issue a disaster declaration under Federal Law. In this case, it is possible that agencies and governing authorities may later seek reimbursement for some or all of their costs.

III. EMERGENCY PLANS

Local governments should refer to their emergency management officer (Civil Defense Director, Emergency Operations Center Director and etc...), the local emergency management plan which is coordinated with the state emergency management plan, and any existent mutual aid agreements with other governmental entities as provided in Sections 33-15-17 and 33-15-19. These plans and agreements should provide information, assistance and contingencies for various emergency needs. Section 17-7-1 also provides

that whenever, due to an emergency resulting from a natural disaster, it becomes imprudent, inexpedient, or impossible to conduct the affairs of municipal, county or other political subdivisions, the governing body may meet at any place within or without the territorial limits of the local government on the call of the presiding officer or any two (2) members of the local government.

IV. EMERGENCY OPERATIONS

Section 33-15-17 provides that each local organization for emergency management shall have a director who shall be appointed by the governing body of the political subdivision, or political subdivisions acting jointly, and who shall have direct responsibility for the organization, administration and operation of such local organization for emergency management, subject to the direction and control of such governing body. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of the state emergency management plan.

In carrying out the provisions of this article each county and municipality, or the two (2) acting jointly, or two (2) or more counties acting jointly, where there is joint organization, in which any disaster as described in Section 33-15-5 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster.

Each county and municipality is authorized to exercise the powers vested under this section in the light of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes and the appropriation and expenditure of public funds

Each county and each municipality, or two (2) or more counties acting jointly, shall have the power and authority:

> **(1)** To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any enemy attack or man-made, technological or natural disasters; and to direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies;
>
> **(2)** To appoint, employ, remove, or provide, with or without compensation, air raid wardens, rescue teams, auxiliary fire and police personnel, and other emergency management workers;

(3) To establish, as necessary, a primary and one or more secondary emergency operating centers to provide continuity of government, and direction and control of emergency operation during an emergency;

(4) To donate public funds, supplies, labor and equipment to assist any governmental entity in a county or municipality in which a disaster, as described in Section 33-15-5, occurs;

(5) Subject to the order of the Governor, or the chief executive of the political subdivision, to assign and make available for duty, the employees, property or equipment of the subdivision relating to fire fighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency management purposes either within or outside of the limits of the subdivision;

(6) Subject to the order of the chief executive of the county or municipality or the Governor, to order the evacuation of any area subject to an impending or existing enemy attack or man-made, technological or natural disaster;

(7) Subject to the order of the chief executive of the county or municipality or the Governor, to control or restrict egress, ingress and movement within the disaster area to the degree necessary to facilitate the protection of life and property.

V. EMERGENCY ORDERS, RULES AND REGULATIONS

Local governments have authority granted in Sections 33-15-17, 33-15-31 and 31-7-13 to issue rules and regulations applicable to emergencies that are not in conflict with rules and regulations issued by the Governor and the Mississippi Constitution. All orders, rules, and regulations promulgated by the Governor, the Mississippi Emergency Management Agency or by any political subdivision or other agency authorized by this article to make orders, rules and regulations, shall have the full force and effect of law, when, in the event of issuance by the Governor, or any state agency, a copy thereof is filed in the office of the Secretary of State, or, if promulgated by a political subdivision of the state or agency thereof, when filed in the office of the clerk of the political subdivision or agency promulgating the same. Section 33-15-31 also suspends all existing laws, ordinances, rules and regulations inconsistent with the necessary management of the emergency during the period of time and to the extent that such conflict, disaster or emergency exists.

IMPORTANT!

§ 33-15-31 allows laws, rules and regulations to be set aside as necessary to deal with emergencies. It does not waive constitutional prohibitions which bar things such as:

- **(A)** Public Officers having an interest in contracts with public entities (Miss. Const. Art. 4 § 109);
- **(B)** Donations not authorized by statute (Miss. Const. Art. 4 § 66);
- **(C)** Extra compensation and unauthorized payments (Miss. Const. Art. 4 §96);
- **(D)** Release of obligation or liability owed to gov't (Miss. Const. Art. 4 §100);
- **(E)** Other requirements or prohibitions of the Mississippi Constitution.

VI. COORDINATION OF MANPOWER AND EQUIPMENT

The Mississippi Emergency Management Agency (MEMA) is authorized by Section 33-15-15 to coordinate personnel, equipment and other resources of state agencies and political subdivisions as is necessary to reinforce emergency management agencies in areas stricken by emergency. Local governments are authorized to request aid from other counties and municipalities to furnish needed services as specified in Section 33-15-15. Section 33-15-17 also allows counties and municipalities to donate public funds, supplies, labor and equipment to assist any governmental entity in a county or municipality in which as disaster, as described in Section 33-15-5, occurs. Under the authority of Section 33-15-39, county and municipal governing boards, with the approval of the sheriff in a county or the chief of police in a municipality, may confer upon members of emergency management auxiliary police units, the powers of peace officers, subject to such restrictions as shall be imposed by the local government and Section 33-15-41.

Section 33-15-19 authorizes mutual aid agreements within and outside of the State as well as interstate compacts. The governing body of a municipality or county is authorized to participate in the Statewide Mutual Aid Compact (SMAC) established by MEMA as a mechanism to standardize mutual aid arrangements between jurisdictions within the state. SMAC provides guidelines for requesting and receiving mutual aid, liability protection and reimbursement procedures for providing such aid. The governing body of each political subdivision of the state is strongly encouraged to sign and ratify the SMAC for mutual aid between their jurisdiction and other cities or counties within the state. A copy of this agreement must be signed by the senior elected official of the jurisdiction and the director and will be maintained on file by MEMA. Political subdivisions of the state are also authorized to develop and enter into mutual aid agreements with other jurisdictions outside the state for reciprocal emergency aid and assistance in case of emergencies too extensive to be dealt with unassisted. Copies of the agreements shall be sent to MEMA and shall be consistent with the state comprehensive emergency management plan and program, and in time of emergency it shall be the duty of each local emergency management organization to render assistance in accordance with the provisions of such mutual aid agreements.

VII. WORKING ON PRIVATE PROPERTY

Section 33-15-49 authorizes the use of local public employees to work on private property in certain limited circumstances. In the event an impending enemy attack, an enemy attack, or a man-made, technological or natural disaster occurs within the state or within any portion of it and a proclamation is issued by the governing authorities of the county, the governing authorities of the municipality, the office of the Governor of the state or the President of the United States declaring such affected areas to be disaster areas, the governing authorities of any county or municipality adversely affected by such disaster may:

> **(A)** Use county or municipally owned equipment and such public employees as necessary to venture onto private property to aid in removing debris and to prevent further damage to such property at the request of the property owners;
>
> **(B)** Use county or municipally owned equipment and such public employees as necessary to venture onto private property to remove debris and to perform any other necessary and needed services to prevent the spread of disease or any other health hazard to the community at large.

If the governing authorities of such adversely affected counties or municipalities are unable to perform such necessary and needed functions with their own equipment and personnel, they may request aid from other counties and municipalities not adversely affected by such impending enemy attack, enemy attack, or man-made, technological or natural disaster, and capable and willing to furnish needed services.

In addition, if the Governor determines that the governing authorities of such adversely affected counties or municipalities still lack sufficient equipment and personnel under such circumstances to perform such functions, any state agency or instrumentality, when directed by the Governor, is authorized to enter upon publicly or privately owned land or water and to use state-owned equipment and state employees as necessary to clear or remove debris and wreckage. Whenever the Governor provides for clearance of debris or wreckage pursuant hereto, employees of the designated state agencies or instrumentalities are authorized to enter upon private or public land or water and perform any tasks necessary to the removal or clearance operation.

County inmates or prisoners may be worked during emergencies if the governing authorities determine that an emergency exists and there is a need to use the services of such prisoners to protect life and property (Attorney General's Opinion to Price, dated December 13, 1996.) State inmates or prisoners may be worked during emergencies if the Governor determines that an emergency exists in accordance with Section 47-5-133.

Whenever possible, the local government should obtain permission to enter onto private property when necessary by obtaining a signed "right of entry" form. Please note that the emergency authority to work on private property must be necessary and reasonable in the

emergency circumstances, not merely an excuse to do work for the benefit of private property owners.

VIII. LIABILITY

Section 33-15-21 provides that:

> **(A)** Neither the state nor any political subdivision thereof, nor other agencies, nor, except in cases of willful misconduct, the agents, employees, or representatives of any of them engaged in any emergency management activities, while complying with or attempting to comply with this article or any rule or regulation promulgated pursuant to the provisions of this article, shall be liable for the death of or any injury to persons, or damage to property, as a result of such activity. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this article, or under the workmen's compensation law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of congress.
>
> **(B)** Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons or providing assistance to persons during or in recovery from an actual, impending, mock or practice attack or any man-made, technological or natural disaster, together with his successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises by virtue of its use for emergency management purposes, or loss of, or damage to, the property of such person.

In addition, Section 33-15-49, regarding the Governor's authorization of state employees and agents to work on private property, also provides, except in cases of willful misconduct, gross negligence or bad faith, any state employee or agent complying with and performing duties pursuant hereto shall not be liable for death or injury to persons or damage to property.

FISCAL MANAGEMENT

Even though emergencies create many problems and may prevent normal local government operations, local governments ultimately must remain accountable to the public, the State government, the Federal government and other grantors. In many cases, even if State law does not require evidence of competitive bids, quotes or proposals for purchase, construction and service contracts, applicable Federal regulations or private grant regulations generally require such evidence to be obtained and maintained by the local government for emergency related expenses. Some common problems reported by the United States Office of Inspectors General include:

1. Poor Project Accounting
2. Unsupported Costs
3. Duplication of Benefits
4. Excessive Equipment Charges
5. Excessive Labor and Fringe Benefits Charges
6. Unrelated Project Charges
7. Unapplied Credits
8. Excessive Administrative Charges
9. Poor Contracting Practices

Some key points to remember with FEMA grants include:

1. Designate a person to coordinate the accumulation of records.
2. Establish a separate and distinct account for recording revenues and expenses, and a subsidiary account for each project.
3. Ensure final claims made for each project are supported by amounts recorded in the accounting system.
4. Ensure each expenditure is recorded in the accounting books with proper supporting documentation.
5. Research insurance coverage and seek full reimbursement. Credit the appropriate FEMA project with that amount.
6. Check with your Federal Grant Program Coordinator about the availability of funding under other Federal programs.
7. Do not charge the regular salaries of permanent employees or seasonal employees to FEMA debris removal and emergency service projects.
8. Do not claim costs for which you have no cash outlay.
9. Ensure that claims for overtime fringe benefits relate to overtime worked, not items like health insurance that are paid anyway.

10. Ensure that expenditures claimed for FEMA projects are reasonable and necessary, are authorized under the scope of work, and directly benefit the project.
11. Document pertinent actions for contracts let under FEMA projects, including the rationale for the method of procurement, the basis for contractor selection, and the basis for contract price. Remember, no "cost plus" contracts are allowed.

I. POLICIES

Local government should consider policies necessary for fiscal operations in emergency circumstances. Their emergency plan and policies should consider the ability of employees to work; agreements with other governments to accommodate financial, budget and payroll operations; accounting for and coordinating donations; records recovery and retention; tax collection and assessment services; purchasing; contracting; and complying with Federal, State and private grantor rules and regulations. If the local governing board is not able to meet to authorize contracts and expenditures, a designee or designees should be authorized and guidance should be provided so that the designee(s), whether it is the Mayor, City Administrator, Police Chief, County Administrator, Chancery Clerk, Sheriff or other official, will have authority, guidelines and limitations to take care of necessary emergency fiscal business. The local government should consider personnel policies which will provide guidance for overtime and extra work time required by emergencies and whether or not to authorize employees who are unable to work due to the emergency to be allowed administrative leave with pay.

II. RECORDS RESTORATION

Frequently, vital public records are damaged during emergencies. The local government should include in their emergency plan contingencies for protecting and restoring public records. Section 19-15-1 allows broad authority for county boards of supervisors to protect and restore public records. Section 21-15-35 provides the same authority to municipalities.

III. RECORDS RETENTION

It is very important that records be maintained to document expenditures, quotations, bids, proposals, contracts, revenues and donations that occur during or after the immediate emergency. It is critical for local governments to avoid losing Federal, State and other reimbursements for emergency expenditures due to lack of adequate documentation. Section 19-15-3 (for counties) and section 21-15-37 (for municipalities) provide direction for reproducing, retaining and destroying public records.

IV. DONATIONS – GIVING AND RECEIVING

Even in emergencies, unauthorized donations by the local government are still prohibited. However, Sections 33-15-17 and 33-15-49 authorize the local government, through its emergency plan and board orders to provide for the health and safety of persons and property, including emergency assistance, such as food and shelter to the victims of disasters and emergency workers as well as clearing debris from private property when necessary. Other donations are authorized in Section 19-5-93 for counties and Chapter 21, Title 19 for municipalities.

Donations to the local government during and after the emergency must be accepted and accounted for like any other public funds. If donations are made to local governments for expenditure purposes that are not purposes for which a local government is legally empowered to expend funds, then the donations should be returned or, with the permission of the donor, re-directed to a qualified non-profit organization, not operated by the local government, that can legally expend the funds for the purpose for which the donation was made. The Sheriff, Emergency Operations Director, Police Chief, Fire Chief, Mayor, County Administrator or other individual local government officers or employees should not expend donated funds except as specifically authorized by the local governing board for lawful purposes. Generally, the local government may not expend funds, public or donated, for the personal benefit of local government officers and employees, except to the extent such funds are lawfully expended for the public at large. It is very important that all donations must be properly accounted for to insure the donor and the public that donated funds were used for lawful purposes and consistent with the donor's intent.

V. BUDGETS, PAYROLL AND TAXES

While budgetary and payroll laws may be suspended or amended during emergencies to the extent necessary, plans should include provisions for accounting, budget and payroll preparation at an alternate site if necessary. Emergencies frequently cause the government to incur expenses that were generally not included in the budget. Budget revisions may be made to provide for emergency expenditures. In addition, after the emergency, it may be necessary for the local board of supervisors to re-assess property destroyed in the disaster in accordance with Section 27-35-143.

VI. PURCHASING AND TRAVEL

The Mississippi Department of Finance and Administration Office of Purchase and Travel developed a brief guide to emergency purchasing and travel which is incorporated herein, edited for applicability to local governments. This document is intended to be used as a starting point in understanding the local government purchasing process. There is no way to cover all aspects of the process in a few pages. Applicable sections of the Mississippi Code are referenced to allow parties to gain complete information. You are urged to review the various laws and manuals which are referenced herein as well as visit the various websites. The document is arranged as follows:

General
- Who are you?
- What do you want to buy?
- The competitive bid process
- General guidelines for governing authorities
- Master Lease Purchase Program (Applies to local school district)
- Procurement Card Program

Emergency purchasing
- The laws – definition and procedures
- Declaration of emergencies
- Responsibility for making purchases
- Vehicle issues during an emergency
- Additional emergency purchasing tips

A. GENERAL PURCHASING

Because the laws and requirements are varied depending upon the type of governmental entity that is doing the purchasing and the items/services to be purchased, the following brief definitions and discussions are given here as clarification.

I. WHO ARE YOU?

- "Governing authority" is intended to mean any political subdivision such as counties, cities, schools, port authorities, etc. (See Section 31-7-1 of the Mississippi Code)

II. WHAT DO YOU WANT TO BUY?

- **Commodities, Supplies and Equipment (other than Computer related items)** - Contact the Department of Finance and Administration, Office of Purchasing and Travel (OPT), 1401 Woolfolk Building, Suite A, 501 North West Street, Jackson, MS 39201. Phone: 601-359-3409. You can review the state contracts at: http://www.dfa.state.ms.us/Purchasing/StateContracts.html. If there is no state contract, you may contact OPT and they will be able to advise you on how the local entities should purchase the product(s). If the items are not on a contract, competitive procedures are probably required.

- **Computer and Telecommunications Equipment, Software and Services** - Contact the Department of Information Technology Services – Procurement Help Desk. Phone: 601-432-8166. isshelp@its.ms.gov. ITS utilizes various procurement mechanisms which state and local entities

may use. ITS will be able to tell you if there are standing requests for proposals (RFPs) or Express Products Lists (EPLs) for your required products/services and if so, how to use these agreements. If there is no standing procurement vehicle, ITS will be able to advise you on how state and local entities should purchase the products/services. Contact ITS directly to arrange for the following services:

Telephone: business lines, trunking, Centrex, voice mail, set installation, long distance, toll free numbers, calling cards, audio conferencing
Data: cabling, circuits (inter-LATA, intra-LATA, MPLS), Internet, DSL

For additional information, see the ITS Procurement Handbook.
http://www.its.ms.gov/Procurement/Documents/ISS%20Procurement%20Manual.pdf

For specific information about ITS Telecom Contracts and Services go to:
http://dsitspe01.its.ms.gov/its/procman.nsf/f4ad43bd44ad9d8c86256daa0063e1f0/c29fa4737d13967e86256e6d007be1d4?OpenDocument

- **Construction** - If governing authorities do not have expertise on staff, it is recommended that they hire an architect with experience in governmental construction contracting.

- **Service Contracts** - Most governing authorities are not required to comply with any competitive process for services, yet many do implement a competitive procedure. Note: in order to be reimbursed by FEMA, even service contracts may require documentation of competitive bids, quotations and requests for proposals.

- **Travel -** Contact the Department of Finance and Administration, Office of Purchasing and Travel, 1401 Woolfolk Building, Suite A, 501 North West Street, Jackson, MS 39201 601-359-3647 The Office will be able to tell you if there is a state contract for your required travel services. If there is no state contract, the Office will be able to advise you on how the state and local entities should procure the service(s).

III. THE COMPETITIVE BID PROCESS

Section 31-7-13 (a), (b), or (c)	$0 to $5,000 – no bids required $5,000 to $75,000 – at least two written quotes Over $75,000 – Reverse auction process, unless exempted by the Public Procurement Review Board.

All purchases in excess of $75,000 must be advertised in a local paper and a copy of the notification must be sent to the Mississippi Procurement Technical Assistance Program 601-359-3448. (See Section 31-7-13(c) of the Mississippi Code)

IV. General Guidelines – Governing Authorities

- If a commodity is on **any contract** approved by the Office of Purchasing and Travel, governing authorities may buy the contract item from the contract vendor; or they may buy the identical item from any source provided that the price does not exceed the state contract price; or they may ignore the contract and purchase under the guidelines set forth in Section 31-7-13 of the Mississippi Code as outlined above.

- If a commodity is **not covered by any contract**, governing authorities must follow statutory bid procedures which are set forth in Section 31-7-13 of the Mississippi Code.

- Governing authorities are not required to obtain approval from the Office of Purchasing and Travel.

V. Master Lease Purchase Program – State Agencies and School Districts (K-12 and Junior College)

The Department of Finance and Administration administers the Master Lease Purchase Programs. These programs allow DFA to combine the equipment needs of multiple state agencies or school districts and obtain financing at rates which are based upon the combined volume of all of the needs. These programs allow the state agency or the school district to acquire equipment (computers, school buses, etc.) at rates which are typically much lower than the individual agency or school district could obtain on their own. For more information contact the Office of Purchasing and Travel.

VI. Procurement Card

The Office of Purchasing and Travel maintains a contract for a Small Purchase Procurement Card Program. (Specific guidelines for using the Small Purchase Procurement Card are listed in the Procurement Manual http://www.dfa.state.ms.us/Purchasing/ProcurementManual.html). The intent of this Procurement Card program is to allow government entities to make small purchases of commodities, repairs, or services easier and in a more economical manner. This charge card is accepted by a wide variety of businesses offering goods and services. Government entities may use the Small Purchase Procurement Card to make purchases which are genuine needs of the entity. The maximum amount of a single purchase transaction shall be $5,000 (entities may establish stricter guidelines). There is no

purchase order required for credit card, procurement card, or membership card transactions. Information related to signing up for the program is available at http://www.dfa.state.ms.us/Purchasing/ProcurementCardServices.html.

B. EMERGENCY PURCHASING

In an emergency situation the requirements for purchasing may change. There are potentially three different emergency declarations that could take place;

- The agency head, governing authority, or mayor/president of the board of supervisors could declare an emergency;
- The Governor could declare an emergency; or,
- The President could declare an emergency.

The following is intended to be a quick guide and may not cover all situations that are possible.

I. THE LAWS

In the case of an agency or governing authority head declaration of an emergency, the entity should comply with Sections 31-7-1 and 31-7-13 of the Mississippi Code as shown below:

The **definition of "Emergency"** is set forth in Section 31-7-1 (f) of the Mississippi Code as follows:

> "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.

The appropriate procedures are also set forth in the Mississippi Code as follows:

For Governing Authorities Emergency Purchase Procedures, Section 31-7-13 (k)

Governing authority emergency purchase procedure. If the governing authority, or the governing authority acting through its designee, 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 interest of the governing authority, then the provisions herein for competitive bidding shall not apply and any officer or agent of such governing authority having general or special authority therefore in making such purchase or repair shall approve the bill presented therefore, and he shall certify in writing thereon from whom such purchase was made, or with whom such a repair contract was made. At the board meeting next following the emergency purchase or repair contract, documentation of the purchase or repair contract, including a description of the commodity purchased, the price thereof and the nature of the emergency shall be presented to the board and shall be placed on the minutes of the board of such governing authority.

Emergency Declared by the President;

If the President declares an emergency the Governor will also issue a declaration. In this case, it is possible that agencies and governing authorities may later seek reimbursement for some or all of their costs. If reimbursement will be requested the buying entity is urged to take the following issues into consideration:

- FEMA usually requires a record of some form of competition or an adequate justification why no competition was obtained. Thus, while state law does not require a second or third quote in an emergency situation, entities are urged to seek competition (telephone quotes, written quotes, bids) to be sure they are getting a good value and to enhance their opportunities for reimbursement at a later date. If competition is not available it is recommended that the entity document the situation and justification for not obtaining a second price quote.

- FEMA usually will reimburse for the rental of equipment but will not normally reimburse for the purchase of equipment that will be useable after the immediate emergency subsides.

- FEMA usually will reimburse for the replacement of equipment at the value prior to the emergency. For example, if an agency has a 15 year old

bus, FEMA would reimburse the value of a 15 year old bus, not a new bus.

Agency or Governing Authority Responsibility

All agencies and governing authorities are reminded that it is their responsibility to purchase the commodities, equipment and services which their agency needs to fulfill its mission during an emergency situation. Only after all internal resources and capabilities have been expended should the entity submit a request to the MEMA Emergency Operations Center. Municipalities should submit their requests to their county EOC where it will be prioritized and forwarded to the MEMA EOC. Counties should work with their EOC to submit requests. State agencies should submit their requests to their agency Emergency Operations Coordinator who will submit the request in the MEMA on-line request system.

II. VEHICLE USE DURING AN EMERGENCY

State Agency and Governing Authority Vehicles

State Agency and Governing Authority vehicles should be the "vehicle of choice" in emergency situations. These vehicles are properly marked and are more likely to be properly identified as government vehicles. The users should follow standard fueling and maintenance policies and should maintain proper records of activities as required by their entity.

Rental Vehicles

Vehicles may be rented under the terms of the State of Mississippi contract. (see http://www.dfa.state.ms.us/Purchasing/Travel/Travel.html) Entities are urged to obtain fuel cards to be used with rental vehicles so that costs can be tracked and the entity can take advantage of the prices and reporting capabilities associated with the fuel card contract. (see http://www.dfa.state.ms.us/Purchasing/StateContracts/FuelAccessContract946.pdf)

Employee's Personal Vehicles

Employee's personal owned vehicles (POV) may be used in an emergency situation, but employees are urged to check with their own insurance agent to determine if there are any issues or limitations with this type usage. Tort Claims is the primary liability insurer of POVs when used on state business. This would be the case whether in a disaster area or not. Tort Claims does not

offer any physical damage (collision/comprehensive) coverage to any vehicle, whether state owned or POV. The employee's personal insurance coverage would need to cover areas not covered by Tort Claims. Most insurance companies' policies will meet these needs.

Public fuel (fuel owned by a government entity) may be provided to private vehicles only in those cases of extreme necessity to serve the government's purposes when fuel is otherwise unavailable for private purchase. Adequate records should be kept documenting the amount of fuel provided, the name of the person, the vehicle tag number, and the public purpose. In addition, to the extent possible, the fuel provided should be limited to the amount necessary for the public purposes to avoid donations of fuel to private individuals. If fuel is otherwise available for purchase, public fuel should not be provided to private vehicles whether owned by private citizens or public employees. If public fuel is provided, the employee shall not be paid mileage reimbursement.

Contract Workers Use of State Owned Vehicles

Contract workers may operate state owned vehicles. Tort Claims does cover liability for contract workers. Tort Claims does **not** cover liability for independent contractors. If an independent contractor needs to operate a state owned vehicle, proof of auto liability insurance must be on file before operation.

III. EMERGENCY PURCHASING TIPS

- Prior to an emergency consider what your needs may be
- Determine if the items you need are on a state contract
- Contact potential suppliers and get contact names, phone numbers and email addresses
- Make sure you have 24/7 contacts for the suppliers
- Contact potential suppliers and establish a payment method (you don't want to be doing a credit check in the middle of an emergency)
- Make copies of all information prior to an emergency, give to several people, have hard copy, put it on a computer disk, have it on a flash drive.
- Develop a generic request for quotes form to be used during an emergency
- Develop a generic services contract form to be used during an emergency
- Think ahead. Don't order what you need today, by the time it gets here it will be tomorrow or beyond. Order what you will need so you can have it when the need develops.
- Establish the use of the Procurement Card Program or local procurement card prior to an emergency. The card is a great tool under normal conditions. It is even more valuable during an emergency.

IV. PROCUREMENT LINKS

- Online ITS Procurement Handbook:
  http://www.its.ms.gov/Procurement/Documents/ISS%20Procurement%20Manual.pdf

- EPLs online:
  http://www.its.ms.gov/Procurement/Pages/EPLs.aspx

- ITS Online Procurement Request System (includes submission of emergency procurements):
  http://dsitspe01.its.ms.gov/its/procurement.nsf/Instructions?OpenForm

- For specific information about ITS Telecom Contracts for State Agencies:
  https://www.its.ms.gov/sites/default/files/ProcurementPDFs/ISS%20Procurement%20Manual.pdf

- For specific information about ITS Telecom Contracts for IHLs:
  https://www.its.ms.gov/sites/default/files/ProcurementPDFs/ISS%20Procurement%20Manual.pdf

- ITS Procurement Forms in Word or PDF format:
  https://www.its.ms.gov/procurement/procurement-request-forms

- Procurement Manual, Office of Purchasing and Travel
  https://www.dfa.ms.gov/sites/default/files/Office%20of%20Purchasing%2C%20Travel%20and%20Fleet%20Home/Resources%20Manuals%20Guidelines/procurement-manual.pdf

- State Contracts, Office of Purchasing and Travel
  http://www.dfa.ms.gov/Contracts

- Travel Information (contracts, reimbursement rates, manual)
  http://www.dfa.ms.gov/travel

If you have any questions you may contact the Department of Finance and Administration, Office of Purchasing and Travel, 601-359-3409. On the web, go to http://www.dfa.state.ms.us/ and click on Statewide Purchasing

CONTACT INFORMATION

Office of the State Auditor
E-mail auditor@osa.ms.gov
Technical Assistance Division – E-mail tech@osa.ms.gov
Investigations Division – E-mail auditor@osa.ms.gov
Voice 601-576-2800, Toll-free 800-321-1275, Fax 601-576-2750,
Web site www.osa.ms.gov

Governor's Office of Disaster Assistance Coordination
Voice 601-359-3150, Toll-free 877-405-0733, Fax 601-359-3741,
Web site www.governorreeves.ms.gov

Mississippi Emergency Management Agency
Voice 601-933-6362, Toll-free 800-222-6362, Fax 601-933-6800,
Web site www.msema.org

Federal Emergency Management Agency
Voice Toll-free 800-621-FEMA (3362) Fax Toll-free 800-827-8112,
TDD/TTY Toll-free 800-462-7585
E-mail FEMA-Correspondence-Unit@dhs.gov
Web site www.fema.gov

Department of Finance and Administration, Office of Purchasing and Travel
Voice 601-359-3409, Fax 601-359-3910,
E-mail Purchasing_and_Travel@dfa.state.ms.us
Web site www.dfa.ms.gov

Department of Information Technology Services
Voice 601-359-1395, Fax 601-354-6016
Web site www.its.ms.gov

Mississippi Department of Transportation
Voice 601-359-7001
Web site www.gomdot.com

Department of Environmental Quality
Voice 601-961-5797, Toll-free 888-786-0661, Fax 601-354-6569,
Web site www.deq.state.ms.us

Department of Archives and History – Local Government Records
Voice 601-576-6894, Fax 601-576-6975
Web site www.mdah.state.ms.us

Office of the Attorney General
Consumer Protection Division (price gouging)
Voice 601-359-4230, Toll-free 800-281-4418, Fax 601-359-4231
Public Integrity Division
Voice 601-359-4250, Fax 601-359-4254
Web site www.ago.state.ms.us

Ethics Commission
Voice 601-359-1285, Fax 601-354-6253
Web site www.ethics.state.ms.us

Department of Public Safety
Voice 601-987-1212, Fax 601-987-1498
Web site www.dps.state.ms.us

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