

Report To

The Mississippi Legislature



AN INVESTIGATION OF SELECTED AREAS OF OPERATION OF THE MISSISSIPPI STATE HOSPITAL AT WHITFIELD

August 22, 1989

PEER investigated allegations that Mississippi State Hospital did not comply with equal opportunity laws and had experienced supply shortages because of expenditures for renovating two executive residences.

The Department of Mental Health has systems in place to monitor fairness in personnel matters and address equal opportunity concerns at the State Hospital.

PEER found no evidence of embezzlement of public funds or property. The hospital received goods and services in return for its expenditures. However, these expenditures were not in compliance with state budget and accounting laws:

- The department expended \$106,433 to renovate the residences of the Executive Director of the Department of Mental Health and the Director of the State Hospital, of which \$98,471 was expended without proper legislative appropriation authority.
- Contrary to law, the hospital spent \$28,194 for the houses prior to issuance of purchase orders.
- The hospital paid an interior decorator \$8,348 to decorate executive residences and offices, although the contract approved by the State Personnel Director stated that the services were for "patient" buildings. (\$22,693 of the \$31,041 spent under contract was for patient buildings.)
- The hospital did not receive competitive bids for certain renovation expenses because the hospital permitted the decorator to solicit bids. As a result, the hospital received bids only from the decorator's own firm and an associated firm.

While fiscal year-end supply shortages are not unusual at the State Hospital, \$29,787 of the housing renovation expenditures could have been used to lessen the severity of commodity shortages.

The PEER Committee

PEER: THE MISSISSIPPI LEGISLATURE'S OVERSIGHT AGENCY

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A standing joint committee, the PEER Committee is composed of five members of the House of Representatives appointed by the Speaker and five members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of three Representatives and three Senators voting in the affirmative.

An extension of the Mississippi Legislature's constitutional prerogative to conduct examinations and investigations, PEER is authorized by law to review any entity, including contractors supported in whole or in part by public funds, and to address any issues which may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

As an integral part of the Legislature, PEER provides a variety of services, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

**AN INVESTIGATION OF SELECTED AREAS OF OPERATION OF
THE MISSISSIPPI STATE HOSPITAL AT WHITFIELD**

August 22, 1989

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August 22, 1989

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MEMBERS OF THE MISSISSIPPI STATE LEGISLATURE

At its meeting of August 22, 1989, the PEER Committee authorized release of the report entitled
An Investigation of Selected Areas of Operation of the Mississippi State Hospital at Whitfield.


REPRESENTATIVE J. P. COMPRETTE, CHAIRMAN

This report does not recommend increased funding
or additional staff.

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AN INVESTIGATION OF SELECTED AREAS OF OPERATION OF THE MISSISSIPPI STATE HOSPITAL AT WHITFIELD

EXECUTIVE SUMMARY

Background

The Mississippi State Hospital at Whitfield (MSH) provides in-patient psychiatric services to Mississippians over eighteen years of age who reside in any of ten community mental health regions assigned as its catchment area. The hospital operates acute, intermediate, and continued psychiatric treatment units; an acute medical surgical hospital; a convalescent hospital; infirmaries; intermediate care facilities; and skilled nursing facilities.

In response to a legislative request, PEER investigated the state hospital's equal employment opportunity controls, recent staff housing renovations, and alleged supply shortages.

Equal Employment Opportunity Controls

The purpose of PEER's review of MSH personnel policies and procedures was to determine if systems were in place to monitor fairness in hiring, firing and promotion—specifically, to guard against discrimination. PEER did not attempt to review or make decisions regarding individual complaints or grievances filed against MSH.

MSH has systems and personnel in place to monitor fairness in personnel matters.

As a state agency, the Department of Mental Health (DMH) is bound by Mississippi State Personnel Board rules and regulations. DMH utilizes the State of Mississippi Employee Handbook, and in addition has developed an addendum that relates specifically to the agency. MSH is also bound by these rules and regulations and utilizes the same employee handbooks. The Department of Mental Health and MSH employ personnel directors who have responsibility for interpreting and monitoring employment rules and regulations.

PEER determined that fifteen appeals have been filed against MSH with the Mississippi Employee Appeals Board during the period January 1, 1987,

through November 30, 1988. Of the fifteen appeals, six contained specific charges of discrimination. Those appeals were filed on October 26, 1988, and had not been resolved as of November 30, 1988. Six complaints of discrimination were also filed with the federal Equal Employment Opportunity Commission against MSH during this period. Three of the cases were resolved in favor of MSH and three were pending as of November 30, 1988. PEER did not attempt to assess the validity of those cases that are pending with the agencies mentioned above, and PEER did not make any recommendations in this area.

Staff Housing Renovations

MSH has twenty-four staff houses (including four duplexes) on and near the hospital grounds. Since May 1987, MSH has renovated two staff houses at a total cost of \$106,433.70. Initially, the staff residence of the Executive Director of the Department of Mental Health (staff house #1) was renovated at a total cost of \$49,689.78. In February 1988, MSH proceeded with renovation of the hospital director's staff residence (staff house #2). The renovation of staff house #2 cost \$56,743.92. Although the other staff houses are of similar age and condition, none have benefited from the type or extent of renovation, nor the amount of funds expended, as have these two residences.

MSH does not have a formal written plan or schedule for the renovation of staff houses.

PEER interviewed Joe Blakeney, the MSH director, concerning hospital policies relating to the renovation of staff houses and reviewed a copy of the hospital policy statement, dated August 18, 1986, relating to staff housing. The policy statement at that time did not mention renovation of staff houses even though renovations had begun on the first house in May 1987 and on the hospital director's house in February 1988. However, a new hospital policy statement was issued effective September 1, 1988, stating, "*It is hospital policy to upgrade family housing to provide attractive, comfortable, energy-efficient housing. If resources permit, at least two family housing units will be upgraded each fiscal year until all have been com-*

pleted." The new policy statement does not define "upgrade," "comfortable," and "energy-efficient." Furthermore, the new policy statement does not define who will determine when resources are available or what basis will be used for such a determination.

MSH has not developed formal plans or cost estimates for renovating staff housing. In addition, MSH officials have not attempted to incorporate such plans into their budget requests. PEER reviewed MSH budget requests for fiscal years 1987, 1988 and 1989 and noted that MSH officials did not request any funds for the renovation of staff houses.

MSH officials' expenditure and encumbrance of \$98,471.40 during fiscal years 1987, 1988, and 1989 for staff house renovations did not comply with state law.

MSH officials expended and encumbered \$106,433.70 for renovation of two staff houses during fiscal years 1987 and 1988 and through September 30, 1988. Of this amount, MSH classified \$98,471.40 of the expenditures as commodities and contractual services. Expenditures for renovations included painting, wallpapering, carpeting, drapes, custom cabinets, replacement of plumbing fixtures and lighting fixtures, and repair of termite damage. Based on an analysis of MSH records, PEER concludes that the State Fiscal Management Board was not aware of the nature of the transactions involving the renovation of the staff houses. As a result, FMB granted approval for these expenditures because they were submitted over a lengthy period and without any indication that they were related to capital projects. However, a review of the entire project shows that the renovations were extensive and increased the useful lives and current fair market values of these houses, thus falling within the definition of capital outlay according to generally accepted accounting principles.

PEER concludes that MSH improperly categorized its staff housing renovation expenditures as commodities and contractual services, when in fact such expenditures should have been classified as capital outlay. These expenditures were not authorized by law, since the Legislature had not appropriated funds to Mississippi State Hospital for the capital outlay category of expenditure.

MSH officials' purchase of \$25,698.41 in equipment, supplies, materials, and services prior to

the proper issuance of purchase orders did not comply with MISS. CODE ANN. Section 7-7-23.

Thirty-seven invoices for equipment, supplies, materials, and services for the renovation of staff housing were dated prior to the date of the respective purchase orders. Hospital officials stated that it is common practice for staff members to issue initially only a purchase order number for goods and services and then later prepare the purchase order "after the fact" when the total amount of the purchase and the full description of the items being purchased are known. MISS. CODE ANN. Section 7-7-23 requires agencies to forward a copy of each purchase order to the state Fiscal Management Board on the same day an order is placed. In effect, employees should not order or receive goods and services prior to the issuance of a purchase order to the Fiscal Management Board.

MSH officials' expenditure of \$8,348.94 for interior design services on a non-patient building and staff houses without the State Personnel Director's approval did not comply with MISS. CODE ANN. Section 25-9-107 (c) (x).

MISS. CODE ANN. Section 25-9-107 (c) (x) states that "any agency which employs state service employees may enter into contracts for personal and professional services only with the prior written approval of the state personnel director." Agencies submit such requests to the State Personnel Director with accompanying information such as: the period of performance, the contracting parties, contract costs, description of contract services and the purpose, justification of request, and the consequences of the contract being disapproved.

On June 25, 1987, MSH requested and was granted permission by the State Personnel Director to contract with an interior decorator to serve as the design consultant for the remodeling of twenty-nine patient buildings. The request submitted to the State Personnel Director by MSH officials specifically stated that the interior decorating services were to be provided for patient buildings and made no mention of administrative buildings or staff houses.

PEER analyzed all invoices submitted by the interior decorator to MSH during the period November 1987 through September 1988. MSH officials expended \$31,041.50 during this period for the interior decorating services. Of this amount, \$8,348.94 was related to services provided on the hospital's admini-

stration building and six staff houses, including \$3,216.51 for the hospital director's residence. In effect, a portion of the funds earmarked for use to "provide a quality, homelike atmosphere" for patients, according to the request made to the State Personnel Director, was instead utilized on the administrative building and staff houses.

MSH officials' acceptance of noncompetitive bids did not comply with MISS. CODE ANN. Section 31-7-13 (b).

MISS. CODE ANN. Section 31-7-13 (b) requires that at least two competitive written bids be obtained for purchases between \$500 and \$2,500. The term "competitive" implies independence among the vendors that submit bids or quotes. MSH officials authorized the consulting interior decorator to obtain other quotes on purchases for which the consulting interior decorator was also submitting quotes (purchases of \$500 to \$2,500). On eight separate occasions, PEER determined that the consulting interior decorator (The "Magic" Touch Interiors, Inc.) obtained only one other quote. On these occasions the quotes were obtained from Interiors Unlimited of Terry, Mississippi. The owner of Interiors Unlimited was one of the original incorporators of The "Magic" Touch Interiors, Inc. The Interiors Unlimited owner also currently serves as a corporate officer of The "Magic" Touch Interiors, Inc. As an officer of The "Magic" Touch Interiors, Inc., the Interiors Unlimited owner has an interest in that company's performance as well as in the performance of her company.

By authorizing the consulting interior decorator to invoice the hospital for \$2,495.97 in household items without prior issuance of purchase orders, MSH officials did not comply with MISS. CODE ANN. Section 7-7-23.

During November 1987, MSH officials authorized the consulting interior decorator to supply necessary items to furnish staff houses 13-B and 14-B (the guest house and the house set aside for physicians on call). During a seven-week period from November 16, 1987, to January 8, 1988, The "Magic" Touch Interiors, Inc. invoiced MSH on six different occasions for miscellaneous household items for houses 13-B and 14-B and other miscellaneous items for patient buildings. Each invoice contained at least one item that was designated for house 13-B or 14-B. The combined total of all the invoices was \$2,495.97, with \$965.29 related to house 13-B and \$567.17 related to house 14-B.

MISS. CODE ANN. Section 7-7-23 requires the submission of a purchase order to the Fiscal Management Board on the same day as the order is issued. In addition, basic internal control standards dictate that proper authorization should be established for individual transactions (in this case, purchases). The only MSH involvement in these purchases was the acknowledgement of receipt of goods and the after-the-fact preparation of purchase orders.

In addition to noncompliance with statutes related to the issuance of purchase orders, this incident also reflects another potential problem. PEER analyzed the six invoices mentioned above and determined that if any two of the invoices had been combined, two competitive written bids would have been required, as the total purchase would have exceeded \$500. Five of the six invoices exceeded \$400 but were less than \$500. The hospital's business office manager had previously informed the interior decorator that the hospital could not pay any invoice that exceeded \$500. As a result, it appears that these invoices may have been "split" to avoid exceeding the \$500 limit.

The Department of Mental Health and many other state agencies do not understand state budgeting and purchasing regulations concerning the classification of capital outlay expenditures; some agencies also lack the accounting and purchasing expertise to interpret these regulations.

From hearing testimony of state officials with accounting and budgeting expertise, the Committee concluded that many agencies, including the Department of Mental Health, do not understand or lack the accounting and budgeting expertise to distinguish between repair and maintenance expenditures and capital outlay expenditures for budgeting and accounting purposes. Officials' testimony supported PEER's findings in regard to the proper classification of MSH staff house renovation expenditures as capital outlay rather than commodities and contractual services.

Recommendations

1. MSH officials should develop a formal written plan for the renovation of staff houses. Such a plan should include a study of all staff houses to determine needs and to develop a tentative renovation schedule based on the availability of funds and the priority of needs. In addition, MSH should submit a formal written request to the Bureau of Building seeking guidance on capital projects.

2. The Executive Director of the PEER Committee should refer instances of MSH's noncompliance with state purchasing laws to the Office of the State Auditor and the Office of the Attorney General for review.
3. The Office of the State Auditor should conduct an investigative audit of the purchasing procedures and practices at MSH.
4. Agencies currently doing so should not rely solely on the Department of Finance and Administration's pre-audit function to determine whether they have properly classified expenditures. Agencies should employ personnel with appropriate accounting and budgeting expertise and use them to make these types of judgements and decisions.
5. The Department of Finance and Administration should review the Mississippi Agency Accounting Policies and Procedures manual and revise the definitions of expenditure and budget categories to more clearly distinguish between capital outlay and other categories. The definition for capital outlay should parallel the definition according to generally accepted accounting principles.
6. The Legislature should consider establishing an optional central purchasing system for state agencies. This would relieve agencies of the problems associated with understanding and complying with purchasing, budgeting and accounting regulations regarding classification of expenditures.

Agency Reporting of Housing as Compensation

The Department of Mental Health's provision of free staff housing to the former and current agency directors exceeded statutory salary limits during 1985 and 1987 and thus did not comply with MISS. CODE ANN. Section 25-3-37.

PEER analyzed salary information relating to the agency directors of the Department of Mental Health for 1985, 1986, and 1987 (the same period in which the agency directors have occupied staff housing at MSH). The statutory limit for the annual salary of the Executive Director of the Department of Mental Health was set under MISS. CODE ANN. Section 25-3-33 at \$54,000 for 1985, 1986 and 1987. PEER determined that the statutory salary limits were exceeded in 1985 by \$1,350 and in 1987 by \$2,250. The statutory salary limits were not exceeded during 1986 as this was a

transition year in which both agency directors only served in that capacity for part of the year.

Recommendation

The Executive Director of the PEER Committee should refer the cases of compensation in excess of statutory limits for the executive directors of the Department of Mental Health for 1985 (\$1,350) and 1987 (\$2,250) to the Office of the State Auditor and the Office of the Attorney General for review.

Supplies

MSH maintains supply inventories at three primary locations on the hospital grounds: the central medical supply, the pharmacy, and the warehouse. The patient buildings requisition supplies as needed. In past years, personnel at the various patient buildings have also ordered supplies directly from vendors. During 1988 MSH officials began a centralized purchasing system that will route all supply purchases through the warehouse or the central medical supply.

MSH expended \$29,787 of budgeted commodity funds for the renovation of staff houses during fiscal years 1987 and 1988 even though the hospital suffers annual supply shortages because of limited funding.

MSH and Department of Mental Health officials stated that supply shortages are an annual problem at the state hospital due to limited funding. PEER determined that MSH officials instituted a stringent purchasing policy for commodities during the last quarter of fiscal year 1988 because of funding shortages. All requests for purchases had to be approved by the Director of Fiscal Services. According to hospital officials, the Director of Fiscal Services gave priority to items that were directly related to patient care, and as a result temporary shortages occurred in relation to some non-patient care supplies.

PEER reviewed and analyzed MSH supply inventory records for fiscal years 1985 through 1989. In particular, the analysis focused on twenty medical supply items in which alleged shortages had occurred. PEER determined that these medical supply inventory levels were low at the end of fiscal years 1987 and 1988. However, MSH officials expended funds intended for patient care supplies to renovate staff housing for the hospital director and the Executive Director of the Department of Mental Health. As

previously stated, MSH classified \$98,471.40 of its housing renovation expenditures as commodities and contractual services. Of this amount, \$29,787 was classified as commodities. While PEER did not determine that low inventory levels were a direct effect of the staff housing renovations, the availability of the commodity funds expended for staff housing renovations would have lessened the burden created by the low inventory levels.

Recommendation

As previously stated, MSH officials should request future funding for renovation of staff houses as capital outlay. Commodity funds should be reserved for the purchase of supplies, particularly those that relate to patient care.

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AGENCY RESPONSE



Mississippi State Hospital

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Joe F. Blakeney, FACHE
Director

Office of the
Director

August 21, 1989



John W. Turcotte, Director
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Dear Mr. Turcotte:

I have reviewed the amended draft report, "An Investigation of Selected Areas of Operation of the Mississippi State Hospital at Whitfield." Mississippi State Hospital's response by area of investigation and specific finding is detailed below. It is my understanding that Mississippi State Hospital's response will immediately follow PEER's discussion of each finding.

EQUAL EMPLOYMENT OPPORTUNITY CONTROLS

PEER: Mississippi State Hospital has systems and personnel in place to monitor fairness in personnel matters.

MISSISSIPPI STATE HOSPITAL: The PEER report acknowledges that the Department of Mental Health and Mississippi State Hospital utilize the State of Mississippi Employee Handbook and the Department of Mental Health Addendum and employ personnel directors responsible for interpreting and monitoring employment rules and regulations. PEER makes no recommendations in the area of Equal Employment Opportunity Controls.

Mississippi State Hospital has an excellent record with respect to fairness in hiring, firing and promotion and is diligent in its efforts to guard against discrimination. The facility will continue to make every effort to promote and monitor fairness and equal opportunity for employment.

STAFF HOUSING RENOVATIONS

Mississippi State Hospital contends that it has a responsibility to maintain, to the degree possible as determined by availability of funds and usefulness to the operation of the facility, all structures and property that are part of its large complex. Staff houses are included in that responsibility. In recent years, Mississippi State Hospital has recognized the effects of age and lack of attention upon the staff houses and has made systematic attempts to improve the condition of the houses. The PEER report is in error when it states, "Although the other staff houses are of similar

age and condition, none have benefited from the type or extent of renovation, nor the amount of funds expended, as have these two residences (staff house #1 and staff house #2)." In fact, it should be noted that staff houses #98 and #96, occupied by the facilities maintenance superintendent and physical plant director respectively, were the first two houses to benefit from extensive, though not as costly, repairs to the interiors and exteriors. In addition, Mississippi State Hospital repaired and furnished an apartment to provide on-campus accommodations for the MOD (Medical Officer of the Day). In actuality, staff houses #1 and #2 were the third and fourth houses to receive corrective attention. Staff house #1 had extensive water damage as well as deterioration associated with age, which required repairs and maintenance to correct. Due to the extensive nature of the repairs and maintenance required to render the house habitable, such work was accomplished while the house was vacant in 1987. Staff house #2 became vacant upon the retirement of the hospital director in January, 1988. Repairs and maintenance are more efficiently accomplished when a house is vacant and staff house #2 was scheduled for such work prior to occupancy by the incumbent hospital director. Repairs and maintenance were comprehensive due to age deterioration, water damage, and extensive termite damage.

In the last three fiscal years, all staff houses have benefited from the installation of energy efficient windows and insulation. In addition, the interiors and exteriors of several houses have been painted and the roofs repaired on several others. The cost of these items was included in the cost figure quoted by PEER. Mississippi State Hospital intends to continue its program of repair and maintenance to staff houses, as well as all other buildings, in its continuing effort to maintain and improve the properties for which it is responsible.

PEER: Mississippi State Hospital does not have a formal written plan or schedule for the renovation of staff houses.

MISSISSIPPI STATE HOSPITAL: Mississippi State Hospital is unaware of any state regulations that require formal written plans for such activities. PEER's implication that the repairs and maintenance to staff houses in 1987 and 1988 were unplanned or were accomplished surreptitiously appears to be based upon an uninformed judgment. The staff houses at Mississippi State Hospital range in age from 28 to 60 years old. That the houses were all in dire need of attention was self-evident during a 1986 inspection. A preliminary plan grew out of the obvious need. The work on each house would be extensive and more efficiently accomplished if the houses were unoccupied. Therefore, vacant houses for which a tenant was identified would be repaired first and to the extent possible. Since vacancies cannot typically be predicted more than a month in advance, a specific schedule was not established. A formal plan would follow based on experience gained from the initial projects. The PEER investigators toured a recently vacated staff house that demonstrated the condition of the houses. Mississippi State Hospital was pleased the PEER did not deny or contest the fact that the staff houses are dilapidated and in need of extensive repair and admitted such at the recent hearing. Should questions remain regarding this issue, Mississippi State Hospital would be glad to open the staff houses for further inspection by members of the PEER Committee. Mississippi State Hospital has adopted a formal written plan for repairs to staff houses, effective September 1, 1988. The houses have been inspected and a list of recommended repairs and maintenance for each prepared. The Resource

Management Committee will review the availability of funds for the repairs to staff houses using its collective best judgment to determine when planned repairs and maintenance are appropriate and can be implemented. The committee's recommendations are subject to final approval by the Mississippi State Hospital director.

In preparing its budget requests for Fiscal Years 1987, 1988 and 1989, Mississippi State Hospital considered the need to designate some of the appropriated funds in Commodities and Contractual Services for the purpose of repair and maintenance to staff houses. Justification is provided in the budget requests for each Major Object of Expenditure; line item justification is not required. Mississippi State Hospital contends, therefore, that PEER's assumption that funds for this purpose were not requested is erroneous.

PEER: Mississippi State Hospital officials' expenditure and encumbrance of \$98,471.40 during fiscal years 1987, 1988, and 1989 for staff house renovations did not comply with state law.

MISSISSIPPI STATE HOSPITAL: PEER does not cite a code section relating to the allegation of non-compliance by Mississippi State Hospital. PEER contends that the repairs and maintenance to staff houses were capital projects that increased the fair market value and extended the useful lives of the houses and were improperly categorized as Commodities and Contractual Services rather than as Capital Outlay. As understood by Mississippi State Hospital accountants, the defining factors in determining a capital project are the existence of major structural changes an/or the extension of the useful life of the structure. The repairs to the houses did not include major structural changes such as removing load-bearing walls or modifying the floor plan. The repairs did not include projects usually associated with extending the useful life such as foundation repairs, replacing underground plumbing pipes, or replacing a roof. Since the houses cannot be sold, PEER's reference to an increase in the fair market value seems irrelevant. Mississippi State Hospital contends that, given the condition of the staff houses, painting the interiors and exteriors of the houses alone would increase the market value but would not be categorized as a capital project. Mississippi State Hospital believed that it was appropriate to classify the expenditures as repairs and maintenance and charged these expenditures to Commodities and Contractual Services. Mississippi State Hospital clearly identified to the Fiscal Management Board, Financial Control Division, the nature of the expenditures being made. The contracts advertised for bid identified specifically the projects and their location by house number. The Forms P-1, Requests For Authority To Purchase, included the words "renovate," "install carpet," and "furnish and install draperies" and further specified, for example, Residence House #1 or Residence House #2. The Fiscal Management Board, Financial Control Division, performed its pre-audit and approved the repairs and maintenance to be charged to Contractual Services and Commodities. We contend that the pre-audit was valid. As further support for its position, Mississippi State Hospital cites the Fiscal Year 1989 special appropriation granted for the purpose of performing repairs and maintenance in 5 Mississippi State Hospital buildings. The Legislature specifically appropriated funds for renovations in the categories of Commodities and Contractual Services, rather than Capital Outlay Other Than Equipment. Therefore, we contend that the fund categorizations were proper.

For example: under the state guidelines as found in the MAAPP manual, the purchase of carpet, when it represents one component of the remodeling or complete renovation of a building or a state owned house, should be classified as a commodity. There was no new construction undertaken by Mississippi State Hospital. Expenditure code 257 (carpet and carpet padding, when involved in remodeling or renovation) is found under the "commodities section" in the MAAPP manual and is to be used for classifying an expenditure for carpet when involved in remodeling or renovation such as was the case at Mississippi State Hospital.

The Department of Finance and Administration, when queried as to the appropriate category of carpet involved in the renovation of a structure, responded:

The Department of Finance and Administration prescribes the accounting system and procedures used by state agencies. These guidelines apply to both budget and classification matters. Guidance for assigning expenditure codes to purchases is given in Section 11 of the Mississippi Agency Accounting Policies and Procedures (MAAPP) Manual. Sub-section 11.60.10, page 4, assigns commodity code 257 to the purchase of carpets and carpet padding when involved in remodeling or renovation.

In addition, Sub-section 23.10.30 of the MAAPP Manual cites the State Property Office's Statement of General Policy - Property Inventory Rules. Page 2 of these rules, item 8.1 says, "Property' does not include the following: carpeting, draperies, plants, installed floor-to-ceiling partitions..."

Because carpet is not an item considered as property by the State Auditor's Office, the purchase of carpet has been historically budgeted and classified as commodities -- It is our belief, however, that carpet installed in a newly completed state-owned facility may have been (and rightly so) included in the total construction cost of that facility paid to a contractor and that payment classified as "Capital Outlay-Other."

It is clear that the Department of Finance and Administration, the state Auditor's Office and the Legislative Budget Office should re-examine this area and give further guidance to state agencies.

Further, under the present guidelines of MAAPP, Mississippi State Hospital believes "repair and maintenance" should be considered operating expenditures under the classification of commodities and/or contractual services. Expenses for repair and maintenance are not the same as purchasing a building, adding new rooms or altering a structure to create more square footage. Purchasing a building or payments for new construction is generally the type of work done in cooperation and conjunction with Office of General Services, Bureau of Building and Grounds and is considered

capital outlay. This is not the type of expenses incurred by Mississippi State Hospital.

Testimony at the recent hearing confirmed that there exists much confusion as to the proper coding of similar items leaving room for much discretion as to what the appropriate code should be. It was the understanding of the Department of Mental Health that PEER Committee members agreed as to the ambiguities and found no intent on the part of any Department of Mental Health official to not comply with guidelines set out in the MAAPP manual. It is the Department of Mental Health's opinion that the general consensus of those present at the hearing was that it is virtually impossible to comply with all coding requirements and that by using hindsight it is probable that there will be differing opinions as to what the proper code category should have been. As evidence of this finding the PEER Committee has suggested clarification of appropriate regulations.

PEER: Mississippi State Hospital officials' purchase of \$25,698.41 in equipment, supplies, materials, and services prior to the proper issuance of purchase orders did not comply with MISS. CODE ANN. Section 7-7-23.

MISSISSIPPI STATE HOSPITAL: Mississippi State Hospital issued purchase orders prior to the purchase of any of the above referenced items and, therefore, did comply with Section 8-7-23. The purchase orders were given at the time the requisitions, based upon estimates, were submitted to the Business Office, before vendors were contacted. Due to heavy workload, the purchase orders were typed as soon as possible, which was "after the fact" in some cases. The typist dated purchase orders on the day typed rather than using the date the purchase order was actually assigned in an effort to be completely accurate. Mississippi State Hospital contends that a purchase order is used when assigned to the respective purchase, not when typed and submitted. PEER states that by assigning purchase orders without an exact dollar figure, Mississippi State Hospital issued "blank checks," a practice which PEER suggests fosters the splitting of purchase orders. Based on that presumption, PEER implies that Mississippi State Hospital split purchases but offers no justification for its opinion. Seeking clarification of Section 7-7-23, Mississippi State Hospital contacted an official at the Fiscal Management Board, Financial Control Division, on January 5, 1989, and on January 11, 1989, about the use of "open purchase orders" and about the question of same-day submission of purchase orders. He stated that there is no problem with the acceptance and processing of open purchase orders. His interpretation of a proper open purchase order execution is that a purchase order number can be issued to a vendor for a series of purchases, not to exceed a specific amount. The official further stated that the Fiscal Management Board recognizes that same-day submission of purchase orders is impractical and, in some cases, impossible. We contend that our management of purchase orders is in compliance with any and all requirements prescribed by the Fiscal Management Board.

These specific irregularities were cited in an audit by the Department of Audit. In that audit no violation of law was cited and no recovery of funds was recommended. Rather, the auditor recommended a procedure be implemented requiring completion of a written purchase order prior to the purchase. This has been implemented.

PEER: Mississippi State Hospital officials' expenditure of \$8,348.94

for interior design services on a non-patient building and staff houses without the State Personnel Director's approval did not comply with MISS. CODE ANN. Section 25-9-107(c)(x).

MISSISSIPPI STATE HOSPITAL: MISS CODE ANN. Section 25-9-107(x) states that "Any agency which employs state service employees may enter into contracts for personal and professional services only with prior written approval of the state personnel director." Mississippi State Hospital had a valid contract approved by the state personnel director and contends that it was not in violation of the code cited by PEER.

In late 1986, Mississippi State Hospital began a concerted effort to improve all aspects of the campus environment including grounds, building interiors and exteriors, and staff houses. Attention was focused on developing a coordinated plan for the entire campus, including patient buildings and administrative areas. Improvements in patient buildings were identified as the first priority. Initial efforts to accomplish the environmental improvements in one patient building quickly revealed the need for specific capabilities, experience, time, and expertise not available from the Mississippi State Hospital staff. Mississippi State Hospital applied for and received approval to contract with "Magic" Touch Interiors, Inc. to provide design plans and to write specifications for the implementation of approved projects. Once the design plan was developed, the consultant's primary role evolved to that of specifier, ensuring that all furnishings met safety codes and regulations applicable to a hospital setting and that all specifications were understandable and "biddable" by other professionals in the interior design field.

While the first priority was and remains the improvement of patient living areas, Mississippi State Hospital is also committed to improving the work environment for staff. As offices were prepared for new professional staff, as unused space was prepared to provide doctors' offices, and as the fire-destroyed director's office as repaired, the services of the approved consultant were utilized to ensure the campus-wide continuity specified in the contract and to write the detailed specifications required for the bid and purchasing processes. The repairs in staff houses also required detailed specifications for bid and purchasing that could be more efficiently and effectively provided by the consultant than by staff. Throughout the time period that the contract was in effect, the consultant's primary responsibility and utilization was as specifier for improvements to patient buildings.

Further, Mississippi State Hospital attaches a copy of the approved State Personnel Board contract with every invoice that is submitted to Fiscal Management Board for processing. We contend that the Fiscal Management Board, Financial Control Division, conducted the pre-audit and approved payment; therefore, Mississippi State Hospital is in compliance with any and all requirements prescribed by the Fiscal Management Board.

PEER: Mississippi State Hospital officials' acceptance of non-competitive bids did not comply with MISS. CODE ANN. Section 31-7-13(b).

MISSISSIPPI STATE HOSPITAL: The only definition of "competitive written bid" found in this statute is as follows:

The term "competitive written bid" shall mean a bid submitted on a bid form furnished by the buying agency or governing authority and signed by authorized personnel representing the vendor, or a bid submitted on a vendor's letterhead or identifiable bid form and signed by authorized personnel representing the vendor.

Under this definition, the bids received could be considered "competitive written bids."

Further, when asked whether a competitive bid had been obtained and describing the sequence of events discovered by the PEER staff relating to these bids, the Department of Finance and Administration stated that technically a competitive bid had been obtained.

Section 31-7-13(b) provides that at least two (2) competitive written bids have been obtained. This section defines the term "competitive written bid" as a bid submitted on a bid form furnished by the buying agency or governing authority and signed by authorized personnel representing the vendor or a bid submitted on a vendor's letterhead or identifiable bid form and signed by authorized personnel representing the vendor. Under a strict construction of the statute, therefore, the agency would appear to have received competitive bids. In the broader sense, it is obvious that the bids may, in fact, not be competitive. To go beyond the strict construction of the statute, however, would require a legal action.

Mississippi State Hospital engaged "Magic" Touch Interiors, Inc. on a professional consulting basis and relied on their services and expertise in writing specifications and obtaining written quotes as needed. Mississippi State Hospital had no knowledge of, and no reason to question the existence of, a relationship between "Magic" Touch Interiors, Inc. and Interiors Unlimited of Terry, Mississippi. When Mississippi State Hospital officials noticed the frequency of the written quotes being obtained from the same above-referenced vendors, the Director of Fiscal Services instructed the Business Office Director to obtain additional quotes whenever this situation arose to ensure that the quotes were competitive. If such bids were deemed non-competitive, Mississippi State Hospital can only correct what comes to its attention.

PEER: By authorizing the consulting interior decorator to invoice the hospital for \$2,495.97 in household items without prior issuance of purchase orders, Mississippi State Hospital officials did not comply with MISS. CODE ANN. Section 7-7-23.

MISSISSIPPI STATE HOSPITAL: Mississippi State Hospital reserved the right of approval or rejection of any merchandise purchased by "Magic" Touch Interiors, Inc. for consideration by Mississippi State Hospital. The invoices from "Magic" Touch Interiors, Inc. were accepted by Mississippi State Hospital only after the purchase orders were issued and the merchandise approved.

PEER suggests the appearance of split purchases. It has been and will be Mississippi State Hospital policy to abide strictly by state purchasing laws. It follows then that Mississippi State Hospital does not intentionally split a purchase and will continue to comply with state purchasing laws. In its FY1989 Budget, Mississippi State Hospital was authorized two internal auditor positions. It has been actively recruiting to hire internal auditors to provide additional safeguards and to further ensure adherence to purchasing regulations. The items purchased pursuant to the alleged split purchase orders were varied in nature and were obtained for six different buildings. It appears that, with a little better planning, the interior decorator could have written specifications for some of the items in question and the business office could have solicited bids, but nothing exists to indicate that invoices were deliberately split to circumvent the bidding requirement.

PEER: The Department of Mental Health and many other state agencies do not understand state budgeting and purchasing regulations concerning the classification of capital outlay expenditures; some agencies also lack the accounting purchasing expertise to interpret these regulations.

MISSISSIPPI STATE HOSPITAL: It is not true that the Department of Mental Health staff does not understand as well as anyone can understand proper allocation of accounting codes. It was clear from the July 26 hearing that reasonable people could not agree on proper coding categories. In hindsight, it is easy to step back from the work in progress and speculate as to what should or might have been. There was not one iota of evidence that would indicate that Mississippi State Hospital officials intentionally miscoded items to circumvent or defeat required accounting regulations. Further, to imply that the Department of Mental Health officials lack the accounting and purchasing expertise to interpret regulations is unfounded. The Department of Mental Health is proud of its staff, its credentials and experience, much of which experience was obtained in other branches of Mississippi state government, including the Department of Audit. It was clear from testimony given that coding regulations are ambiguous and leave much room for discretion.

AGENCY REPORTING OF HOUSING AS COMPENSATION

PEER: The Department of Mental Health's provision of free staff housing to the former and current agency directors exceeded statutory salary limits during 1985 and 1987 and thus did not comply with MISS. CODE ANN. Section 25-3-37.

MISSISSIPPI STATE HOSPITAL: The Department of Mental Health was established in 1974 to oversee the operation of the state-funded psychiatric and mental retardation facilities and programs. The agency director's responsibilities are not limited to the central office but extend to each of the facilities under the management of the Department of Mental Health. All former agency directors have lived in housing on Department of Mental Health property, specifically housing located at Mississippi State Hospital, at the direction of the board and in order to assist with the supervision of the department's largest aggregate group of facilities and staff consisting of Mississippi State Hospital and Hudspeth Retardation Center (also located in Whitfield). The previous agency director requested, and was granted by the board, an exception from its directive. Shortly thereafter, she recognized

that her residing off-site rendered her unable to fulfill effectively the agency director's responsibilities of providing oversight and supervision during evening and night hours and on weekends. She subsequently moved into the residence designated for the agency director. It is the position of the Department of Mental Health that the staff house on Department of Mental Health property is an emolument as it pertains to the agency director's state employment and is not considered salary in the sense of additional compensation which would raise the agency director's salary above the statutory limit. The methodology for computing and paying the agency director's salary has remained constant throughout the history of the Department of Mental Health. The agency director lives within the confines of Mississippi State Hospital at the behest of the Board of Mental Health with the full knowledge and apparent approval of the legislature and state officers who have an interest in fiscal matters. This was also the position expressed during committee hearings of SB 2414 which sought to clarify this issue not only for the Department of Mental Health but for other state officials similarly situated. Section 25-3-37 has been modified to clear up this ambiguity.

SUPPLIES:

PEER: Mississippi State Hospital expended \$29,787 of budgeted commodity funds for the renovation of staff houses during fiscal years 1987 and 1988 even though the hospital suffers annual supply shortages because of limited funding.

MISSISSIPPI STATE HOSPITAL: PEER states that "Mississippi State Hospital officials expended funds intended for patient care supplies to renovate staff housing..." and recommends that "Commodity funds should be reserved for the purchase of supplies, particularly those that relate to patient care." The appropriation bill states that funds are appropriated "for the support and maintenance of the Department of Mental Health." The apparent assumption that the funds are intended solely for patient care neglects to take into account the costs associated with operating and maintaining a 55-60 year old facility.

In Fiscal Years 1987 and 1988, Mississippi State Hospital was appropriated \$4,853,015 in the Commodities category. The \$29,787 spent on house repairs and maintenance was .6% of the total Commodities funds available during the time specified by PEER. Mississippi State Hospital contends that, in light of the age and poor condition of the staff houses, the expenditures were appropriate and reasonable.

PEER erroneously states that there was a "burden created by low inventory levels." Through its Resource Management Committee, Mississippi State Hospital will continue to manage its funds prudently, efficiently, and legally. In an operation the size of Mississippi State Hospital, prudent management dictates that supply levels will be decreased toward the end any fiscal year. A decrease in supply levels does not automatically equate to a detrimental "supply shortage." A temporary decrease in supply levels would not be detrimental or considered a "shortage" unless supply levels were not adequate for all 30 patient buildings.

Mississippi State Hospital maintains supply inventories both in the warehouses and in the patient buildings. Although records showed a normal

decrease in warehouse inventory levels at the end of fiscal years 1987 and 1988, PEER makes no mention of the fact that inventory levels on the patient buildings remained constant and were adequate to maintain quality patient care and to meet patient care needs. No shortages were suffered, nor was patient care compromised as a result of any renovations to the houses or any other activities on the campus. The provision of quality patient care has been and will continue to be the top priority in the operation of Mississippi State Hospital.

MISSISSIPPI STATE HOSPITAL



JOE F. BLAKENEY, FACHE
Director

Date: 21 August 1989

AN INVESTIGATION OF SELECTED AREAS OF OPERATION OF THE MISSISSIPPI STATE HOSPITAL AT WHITFIELD

INTRODUCTION

Authority

At its meeting on August 11, 1988, the PEER Committee approved a legislative request for an investigation of selected areas of operation of the Mississippi State Hospital at Whitfield (MSH). The Committee acted in accordance with MISS. CODE ANN. Section 5-3-57 (1972).

Purpose and Scope

PEER's investigation had three purposes:

1. To review the state hospital's equal employment opportunity controls in relation to hiring, firing and promotion;
2. To investigate allegations concerning occupancy and renovation of certain units of staff housing at MSH; and,
3. To investigate allegations concerning shortages of supplies used in patient care and the relation between the alleged shortages and the cost of renovations of staff housing.

Methodology

In conducting this investigation, PEER:

1. Reviewed relevant state statutes and regulations;
2. Interviewed officials and employees of MSH and the Department of Mental Health;
3. Reviewed MSH procedures related to hiring, firing and promotion;
4. Interviewed selected vendors in relation to the renovation of staff housing at MSH;
5. Reviewed purchase documentation, bid documentation, and other information related to the renovation of staff housing at MSH;
6. Inspected selected staff houses and patient buildings at MSH;
7. Reviewed supply inventory records; and,
8. Held a hearing to receive testimony from state officials with accounting and budgeting expertise.

Background

The Mississippi State Hospital at Whitfield is one of seven institutions that represent separate budget entities of the Department of Mental Health. MSH is the largest of these institutions, with an annual authorized budget of \$42.9 million for fiscal year 1989 (see Exhibit 1, page 2). MSH also has authorization for 2,076 permanent full-time positions for this period.

EXHIBIT 1

**MISSISSIPPI STATE HOSPITAL
AUTHORIZED BUDGETS
FOR FISCAL YEARS 1987, 1988 AND 1989**

EXPENDITURE BY OBJECT	FY 1987	FY 1988	FY 1989
Personal Services			
Salaries, Wages, and Fringe Benefits	\$26,354,520	\$28,525,461	\$32,898,853
Travel and Subsistence	54,740	47,240	47,240
Contractual Services	5,540,456	5,764,985	6,277,714
Commodities	2,364,758	2,454,257	2,646,427
Capital Outlay:			
Other than Equipment	0	0	0
Equipment	381,658	430,412	1,050,389
Subsidies, Loans & Grants	59,000	59,000	25,300
	-----	-----	-----
TOTAL	\$34,755,132	\$37,281,355	\$42,945,923
	=====	=====	=====
FUNDING			
General Fund	\$25,099,093	\$27,721,941	\$30,778,245
Special Fund	9,656,039	9,559,414	12,167,678
	-----	-----	-----
TOTAL	\$34,755,132	\$37,281,355	\$42,945,923
	=====	=====	=====
 Authorized-Permanent full-time positions	 1,876	 1,877	 2,076

SOURCE: Appropriation bills.

MSH provides in-patient psychiatric services to Mississippians over eighteen years of age who reside in any of ten community mental health regions assigned as its catchment area. The hospital operates acute, intermediate, and continued psychiatric treatment units; an acute medical surgical hospital; a convalescent hospital; infirmaries; intermediate care facilities; and skilled nursing facilities.

Overview

PEER investigated MSH equal employment opportunity controls, recent staff housing renovations, and alleged supply shortages, and found problems in the area of housing renovations, which related to shortages in commodities.

PEER concludes that MSH has systems and personnel in place to monitor fairness in personnel matters. MSH is bound by Mississippi State Personnel Board rules and regulations and employs a full-time personnel director. To ensure compliance, hospital employees have avenues of redress available through the State Personnel Board and the federal Equal Employment Opportunity Commission.

PEER determined that MSH officials expended and encumbered \$106,433.70 from May 1, 1987 to September 30, 1988, for the renovation of the staff residences of the Executive Director of the Department of Mental Health and the Director of MSH. MSH performed these renovations with little or no formal planning and without legislative authority to expend funds in this manner. MSH officials did not comply with MISS. CODE ANN. Section 7-7-23 by purchasing \$28,194.38 in equipment, supplies, materials, and services prior to issuing purchase orders. MSH officials also failed to comply with MISS. CODE ANN. Section 25-9-107 (c) (x) by expending \$8,348.94 for the professional services of an interior decorator on non-patient buildings without approval of the State Personnel Director.

According to MSH records, the expenditure of funds for the renovation of staff houses included \$29,787 of budgeted commodity funds. MSH used these funds for capital outlay even though agency officials stated that the hospital annually faces supply shortages because of limited funding.

EQUAL EMPLOYMENT OPPORTUNITY CONTROLS

The purpose of PEER's review of MSH personnel policies and procedures was to determine if systems were in place to monitor fairness in hiring, firing and promotion--specifically, to guard against discrimination. PEER did not attempt to review or make decisions regarding individual complaints or grievances filed against MSH.

MSH has systems and personnel in place to monitor fairness in personnel matters.

As a state agency, the Department of Mental Health (DMH) is bound by Mississippi State Personnel Board rules and regulations. DMH utilizes the State of Mississippi Employee Handbook, and in addition has developed an addendum that relates specifically to the agency. MSH is also bound by these rules and regulations and utilizes the same employee handbooks. The Department of Mental Health and MSH employ personnel directors who have responsibility for interpreting and monitoring employment rules and regulations.

Employee complaints of discrimination are filed with either the Mississippi Employee Appeals Board or the federal Equal Employment Opportunity Commission (EEOC). Both agencies are structured to handle such complaints and render decisions. Fifteen appeals have been filed against MSH with the Mississippi Employee Appeals Board during the period January 1, 1987, through November 30, 1988. Of the fifteen appeals, six contained specific charges of discrimination. Those appeals were filed on October 26, 1988, and had not been resolved as of November 30, 1988. Six complaints of discrimination were also filed with EEOC against MSH during this period. Three of the cases were resolved in favor of MSH and three were pending as of November 30, 1988. PEER did not attempt to assess the validity of those cases that are pending with the agencies mentioned above.

Federal law requires that all governmental entities that have 100 or more employees file an annual report with EEOC that reflects an inventory of all employees by job title, salary range, sex and race (EEO-4 Report). EEOC officials stated that EEO-4 reports are reviewed as part of investigations of agencies resulting from employee complaints. The Mississippi State Personnel Board maintains this information for the State of Mississippi. PEER attempted to review this information in relation to the Mississippi State Hospital. Department of Mental Health officials stated that they were unable to obtain this information because State Personnel Board officials reported that their computers were only set up to provide this type of information for an entire agency (in this case, Department of Mental Health) and not a division, such as MSH.

STAFF HOUSING

PEER's investigation of staff housing at MSH focused on occupancy standards and the renovations of the staff residences of the Executive Director of the Department of Mental Health and the Director of MSH. PEER received complaints that renovations on these staff houses were performed with funds budgeted for patient care, that the renovations were excessive, and that MSH had not complied with purchasing laws during the renovations.

MSH has twenty-four staff houses (including four duplexes) on and near the hospital grounds. According to MSH housing policy, the hospital originally constructed family housing units because of the remoteness of the hospital and to provide housing for essential staff after hours. The current policy states that the hospital will base assignment of family quarters solely on the needs of MSH to provide adequate, immediate coverage in case of emergency. The policy also states that first priority will be given to medical staff members; however, the MSH director retains full control over the assignment of family housing units. As of October 1988, MSH employees occupied twenty staff houses and the Executive Director of the Department of Mental Health occupied one of the houses. Three staff houses were vacant.

Since May 1987, MSH has renovated two staff houses at a total cost of \$106,433.70 (see Exhibit 2, below). Initially, the Executive Director of the Department of Mental Health's staff residence (staff house #1) was renovated at a total cost of \$49,689.78. In February 1988, MSH proceeded with renovation of the hospital director's staff residence (staff house #2). The renovation of staff house #2 cost \$56,743.92. Although the other staff houses are of similar age and condition, none have benefited from the type or extent of renovation, nor the amount of funds expended, as have these two residences (see Exhibit 3, page 6).

EXHIBIT 2

RENOVATION EXPENDITURES FOR MSH STAFF HOUSES 1 AND 2

Renovation Expenditures House #1 (Residence of Executive Director, Department of Mental Health)	\$49,689.78
Renovation Expenditures House #2 (Residence of Director, Mississippi State Hospital)	56,743.92 -----
TOTAL	\$106,433.70 =====

SOURCE: PEER analysis of MSH records.

EXHIBIT 3

MSH STAFF HOUSING ACQUISITION DATES AND ESTIMATED CURRENT VALUE

STAFFHOUSE NUMBER	DATE OF ACQUISITION	ESTIMATED CURRENT VALUE
1	1959	\$108,566
2	1961	124,346
3	1952	45,767
4	1952	45,767
5	1929	76,466
6	1929	59,676
7	1929	60,315
8	1929	36,758
9	1929	42,889
10	1929	36,758
11	1929	60,484
12	1929	60,315
13	1929	60,315
14	1929	60,315
15	1929	60,989
16	1929	60,255
17	1929	60,233
18	1952	43,441
19	1952	43,441
20	1952	43,441
96	1929	35,728
97	1929	35,728
98	1929	18,433
99	1929	19,377

SOURCE: Bureau of Building, Grounds and Real Property Management inventory report dated August 22, 1988.

Housing Renovation Planning

MSH does not have a formal written plan or schedule for the renovation of staff houses.

PEER interviewed Joe Blakeney, the MSH director, on August 5, 1988, concerning hospital policies relating to the renovation of staff houses and reviewed a copy of the hospital policy statement, dated August 18, 1986, relating to staff housing. The policy statement at that time did not mention renovation of staff houses even though renovations had begun on the first house in May 1987 and on the hospital director's house in February 1988. However, a new hospital policy statement was issued effective September 1, 1988, stating, "It is hospital policy to upgrade family

housing to provide attractive, comfortable, energy-efficient housing. If resources permit, at least two family housing units will be upgraded each fiscal year until all have been completed." The new policy statement does not define "upgrade," "comfortable," and "energy-efficient." Furthermore, the new policy statement does not define who will determine when resources are available or what basis will be used for such a determination.

Apparently, MSH officials revised the housing policy as a result of renovations that had already begun rather than basing it on an administrative study or plan concerning staff housing needs. MSH has not developed cost estimates nor have MSH officials attempted to incorporate such plans into their budget requests. PEER reviewed MSH budget requests for fiscal years 1987, 1988 and 1989 and noted that MSH officials did not request any funds for the renovation of staff houses.

In addition to the lack of planning in relation to all staff housing renovations, MSH officials exercised inadequate administrative planning for the renovation of staff houses #1 and #2. MSH officials issued a total of sixty-seven purchase orders in relation to the renovation of these two staff houses. This included two purchase orders for large contracts with private contractors that totaled \$53,025 and sixty-five purchase orders that totaled \$48,666. In many cases, MSH issued several purchase orders for similar items, such as plumbing fixtures or lighting fixtures, over a period of a few weeks (see Exhibit 4, page 8). With proper planning, MSH officials could have avoided the inefficient use of personnel frequently calling on vendors to make purchases.

Recommendation

MSH officials should develop a formal written plan for the renovation of staff houses. Such a plan should include a study of all staff houses to determine needs and to develop a tentative renovation schedule based on the availability of funds and the priority of needs. This type of planning would result in a more efficient use of personnel time in purchasing materials and services necessary to perform the renovations. It would also provide the administration with an estimate of the amount of funding necessary to accomplish the capital improvements so that a proper request could be submitted to the Legislature or the Bureau of Building, Grounds and Real Property Management.

Compliance with State Fiscal/Purchasing Requirements

MSH officials' expenditure and encumbrance of \$98,471.40 during fiscal years 1987, 1988, and 1989 for staff house renovations did not comply with state law.

MSH officials expended and encumbered \$106,433.70 for renovation of two staff houses during fiscal years 1987 and 1988 and through September 30, 1988. Of this amount, MSH classified \$98,471.40 of the expenditures as commodities and contractual services. Expenditures for renovations included painting, wallpapering, carpeting, drapes, custom cabinets, replacement of plumbing fixtures and lighting fixtures, and repair of termite damage (see Exhibit 4, page 8). Based on an analysis of MSH records, PEER concludes that the Mississippi State Fiscal Management Board was not aware of the nature of the transactions involving the renovation of the staff houses. As a result, FMB granted approval for these expenditures because they were submitted over a lengthy period and without any indication that they were related to capital projects. However, a review of the entire project shows that the renovations were extensive and increased the useful lives and current fair market values of these houses, thus falling within the definition of capital outlay according to generally accepted accounting principles.

EXHIBIT 4

**RENOVATION EXPENDITURES FOR MSH
HOUSES 1 AND 2**

House #1 (EXECUTIVE DIRECTOR OF DMH)

P.O. DATE	DESCRIPTION	OBJECT CODE	VENDOR	AMOUNT	INVOICE DATE	P.O. NUMBER
7/30/86			Maintenance Work Orders	177.00		
4/13/87	Maytag washer	649	Dongleux's	517.50	3/30/87	4958
4/13/87	Maytag dryer	649	Dongleux's	378.75	3/30/87	4958
4/28/87	Draperies, blinds and hardware	257	Well's Interior Design	4,988.74	7/22/87	70
5/15/87	GE Microwave	649	Lowes of Jackson	455.00	5/18/87	89
5/15/87	Hotpoint range	649	Lowes of Jackson	220.65	5/18/87	89
5/15/87	Hotpoint dishwasher	649	Lowes of Jackson	330.43	5/18/87	89
5/15/87	Hotpoint refrigerator	649	Lowes of Jackson	1,064.00	5/18/87	89
5/22/87	Renovations & materials	152	Climate Masters	13,985.00	6/22/87	92
5/22/87	Custom cabinets	152	Climate Masters	9,540.00	6/22/87	92
5/26/87	Carpet	257	Maglc Touch Interiors	5,007.00	5/29/87	95
5/26/87	Vinyl tile	257	Maglc Touch Interiors	2,187.00	5/29/87	95
6/15/87	Vanly & top for master bath	242	Climate Masters	1,000.00	6/22/87	6452
6/16/87	Insulation for attic	259	Pearl Insulation	211.00	7/15/87	7011
6/23/87	Replacement of windows	152	East Miss Siding	2,000.00	8/10/87	7022
TOTAL FY 87 EXPENDITURES				\$42,062.07		
7/2/87	Material	242	Wickes	2.37	7/1/87	158
7/2/87	Bath tub enclosure	259	Wickes	139.99	7/1/87	158
7/2/87	Bath tub enclosure	259	Wickes	109.99	7/1/87	158
7/7/87	Commode	242	Arender Plumbing	348.30	6/17/87	313
7/8/87	Commode	242	Arender Plumbing	258.60	6/22/87	314
7/10/87	Attic ladder	259	Wickes	49.99	7/3/87	243
7/20/87	Removal of vinyl floor	159	Maglc Touch Interiors	352.00	7/20/87	634
7/27/87	Traverse rod for curtains	259	Wells Interiors	140.64	7/21/87	348
8/3/87	Carpet padding	241	Carpet Country	79.00	7/10/87	462
8/4/87	Tank	259	Sears	45.00	7/29/87	894
8/4/87	Bowl	259	Sears	54.99	7/29/87	894
8/4/87	Medicine cabinet	259	Sears	179.99	7/29/87	894
8/4/87	Medicine cabinet	259	Sears	49.99	7/29/87	894
8/18/87	Shower cabinets	225	Arender Plumbing	311.30	8/10/87	1227
9/1/87	Power vent	242	Frierson Bldg Sup.	225.34	8/26/87	1661
9/1/87	Four Rugs	257	Maglc Touch Interiors	60.53	8/19/87	1551
9/2/87	Spiral stairwell	241	Thrasher Company	2,073.00	9/3/87	1687
9/11/87	Medicine Cabinet	649	Sears	191.97	8/31/87	1345
10/12/87	Shower kit and door	259	Sears	219.98	9/30/87	2319
10/16/87	Bath & desk cabinet	241	Climate Masters	830.00	8/26/87	2457
12/16/87	Medicine cabinet & light	242	Wickes	26.99	10/6/87	2622
12/16/87	Medicine cabinet & light	259	Wickes	39.99	10/6/87	2622
1/25/88	Carpet on stairs	257	Maglc Touch Interiors	383.76	1/22/88	4221
1/25/88	Cover for disappearing stairs	257	Maglc Touch Interiors	248.00	1/22/88	4221
2/8/88	Towel bars, paper holders and tile	159	Kelly Bldg Co.	300.00	2/9/88	4597
4/12/88	Twelve cabinet knobs	241	Climate Masters	24.00	4/11/88	5681
6/30/88			Maintenance Work Orders	882.00		
TOTAL FY 88 EXPENDITURES				\$7,627.71		
TOTAL RENOVATION EXPENDITURES HOUSE #1				\$49,689.78		

SOURCE: PEER analysis of MSH records.

EXHIBIT 4 (continued)

House #2 (MSH DIRECTOR)

P.O. DATE	DESCRIPTION	OBJECT CODE	VENDOR	AMOUNT	INVOICE DATE	P.O. NUMBER
6/16/87	Attic insulation	259	Pearl Insulation	210.00	7/15/87	7011
6/23/87	Replacement of windows	152	East Miss Siding	2,000.00	8/10/87	7022
6/30/87	Two Bug lights	242	West Building Mat	79.98	5/21/87	6127
6/30/87			Maintenance Work Orders	86.00		

TOTAL FY 87 EXPENDITURES \$2,375.98

11/5/87	Celling fan	259	Sears	54.99	9/30/87	3116
11/10/87	Kenmore dishwasher	649	Sears	319.00	11/3/87	3055
12/1/87	Five Chandeliers	242	J.C. Penney	106.67	11/28/87	3428
12/17/87	Medicine cabinet	259	Sears	179.99	10/1/87	3754
2/8/88	Sheetrock	241	Brandon Cash & Carry	250.00	2/8/88	4602
2/8/88	Material	241	Brandon Cash & Carry	104.40	2/8/88	4602
2/8/88	Sheet rock nails	241	Brandon Cash & Carry	25.00	2/8/88	4602
2/22/88	Two Puritan lights	225	Jackson Lighting Center	40.30	2/23/88	4801
2/22/88	H1-Lite	225	Jackson Lighting Center	176.50	2/23/88	4801
3/1/88	Fan	225	Jackson Lighting Center	79.95	2/29/88	4931
3/1/88	Light kit	225	Jackson Lighting Center	55.65	2/29/88	4931
3/2/88	Delta 288AB Tub/Shower valve	242	Ferguson Enterprises Inc.	151.20	3/2/88	5000
3/2/88	Delta 288AB Tub/Shower valve	242	Ferguson Enterprises Inc.	6.01	3/2/88	5000
3/2/88	Delta 90z	242	Ferguson Enterprises Inc.	66.18	3/1/88	5000
3/2/88	Compact shower	242	Ferguson Enterprises Inc.	183.00	3/1/88	5000
3/3/88	Antique brass drain cover plate	242	Ferguson Enterprises Inc.	12.00	3/4/88	5098
3/23/88	Five Louvered doors	241	Wickes Lumber	373.75	3/18/88	5341
3/25/88	Louvered door	241	Wickes Lumber	105.44	3/21/88	5362
3/31/88	Electric oven	649	Climate Masters	1,350.00	4/19/88	2374
3/31/88	Glass surface cook top	649	Climate Masters	425.00	4/19/88	2374
3/31/88	Trash compactor	649	Climate Masters	355.00	4/19/88	2374
3/31/88	Under cabinet hood	649	Climate Masters	209.00	4/19/88	2374
3/31/88	Microwave	649	Sears	319.00	4/27/88	59
3/31/88	26 cu ft refrigerator	649	Sears	1,099.00	4/18/88	59
3/31/88	Sears washer	649	Sears	399.00	4/18/88	59
3/31/88	Sears dryer	649	Sears	329.00	4/18/88	59
4/1/88	Sheet rock	241	Wickes Lumber	29.70	3/23/88	5437
4/19/88	Materials	206	Seabrook	10.30	4/14/88	5807
5/2/88	Renovation & materials	152	Miss Homes, Inc.	29,500.00	4/22/88	307
5/2/88	Sheetrock	241	Sheppard Bldg. Sup	24.96	4/28/88	283
5/10/88	Vinyl Tile	152	Sherwin Williams	839.52	6/9/88	77
5/10/88	Carpet	257	Sherwin Williams	3,794.88	6/9/88	77
6/6/88	Siding glass door	159	Dixie Glass	145.73	6/4/88	706
6/9/88	Two Wood grain light fixtures	242	Two Wire Elec. Sup	264.72	6/16/88	754
6/9/88	Two Wood grain light fixtures	242	Two Wire Elec. Sup	172.04	6/16/88	754
6/10/88	Three Tri lites	225	Jackson Lighting Center	139.29	6/10/88	732
6/15/88	Light fixture & brass light kit	242	Jackson Lighting Co.	227.46	6/15/88	823
6/22/88	Shelve clips	241	Revell Hardware	5.85	6/22/88	856
6/29/88	Garbage disposal	225	Arender Plumbing	52.50	6/29/88	5941
6/30/88	Lock	242	Wickes	8.39	6/29/88	945
6/30/88	Antique brass door stops	242	Revell Hardware	17.70	7/1/88	972
6/30/88	Storage building		Maintenance Work Orders	2,337.43		
6/30/88			Maintenance Work Orders	1,261.00		

TOTAL FY 88 EXPENDITURES \$45,606.50

7/7/88	Draperies, blinds and hardware	257	Craft Crosswell	6,941.18	10/25/88	1
7/11/88	Shower kit	241	Wickes	149.99	7/5/88	134
7/11/88	Utility cabinet	241	Sears	119.99	7/12/88	161
7/11/88	Attic door	259	Wickes	49.95	7/5/88	134
7/12/88	Shower door	241	Blinswanger Glass	191.00	7/5/88	252
7/12/88	Mirrors	241	Blinswanger Glass	242.00	7/5/88	252
7/15/88	Install tile & wallpaper, paint	152	Miss Homes Inc.	475.00	7/14/88	362
7/20/88	Towel bars and paper holders	242	Frierson Building Supply	256.33	7/13/88	337
8/23/88	Install tile - bathroom	152	Greg Kassel	336.00	no date	884

TOTAL FY 89 EXPENDITURES \$8,761.44

TOTAL RENOVATION EXPENSES HOUSE #2 \$56,743.92

SUMMARY OF EXPENSES

Renovation Expenditures House #1 \$49,689.78

Renovation Expenditures House #2 56,743.92

\$106,433.70

SOURCE: PEER analysis of MSH records.

Furthermore, according to the Mississippi Agency Accounting Policies and Procedures (MAAPP) manual, the following items should be classified as capital outlay: land, buildings, equipment, furniture, fixtures, new construction, and **betterments**. Minor object code 625 (Buildings) is defined in the MAAPP manual as: "*the purchase of a building, construction payments made in building, or remodeling payments.*" MSH officials classified substantial remodeling contracts under minor object code 152 - (Repairing and servicing of buildings and grounds) which is defined in the MAAPP manual as: "*the maintenance costs of buildings, [and] equipment attached to buildings to make buildings functional. Includes mowing and grounds beautification.*" Other expenditures were classified in a similar manner that made them appear to be a part of the routine repair and maintenance procedures at MSH.

PEER concludes that MSH improperly categorized its staff housing renovation expenditures as commodities and contractual services, when in fact such expenditures should have been classified as capital outlay. These expenditures were not authorized by law, since the Legislature had not appropriated funds to Mississippi State Hospital for the capital outlay category of expenditure.

Appropriation bills for MSH as passed by the Legislature for fiscal years 1987, 1988, and 1989 did not appropriate funds to the state hospital under the object code of "capital outlay--other than equipment" (see Exhibit 1, page 2). These bills stated that "*not more than the amounts set forth. . . shall be expended for the respective major objects or purposes of expenditure.*" While the Legislature sometimes makes appropriations for capital projects under major object codes other than capital outlay, this type of special appropriation is usually made through an additional appropriation. MSH was granted an additional appropriation for fiscal year 1989 to reduce patient waiting lists by renovating patient buildings which had been closed for several years and reopening them.

The classification of staff housing renovation expenditures as commodities and contractual services also masks the true needs of MSH. MSH budget requests historically refer to patient care when requesting funding or increased funding for commodities and contractual services categories.

MSH officials' purchase of \$25,698.41 in equipment, supplies, materials, and services prior to the proper issuance of purchase orders did not comply with MISS. CODE ANN. Section 7-7-23.

Thirty-seven invoices for equipment, supplies, materials, and services for the renovation of staff housing were dated prior to the date of the respective purchase orders (see Exhibit 5, page 11). Hospital officials stated that it is common practice for staff members to issue initially only a purchase order number for goods and services and then later prepare the purchase order "after the fact" when the total amount of the purchase and the full description of the items being purchased are known.

MISS. CODE ANN. Section 7-7-23 states, "*It shall be the duty of the proper official in each department or agency to forward the copy of each purchase order to the state fiscal management board on the same day as the said order is issued.*" In effect, employees should not order or receive goods and services prior to the issuance of a purchase order to the Fiscal Management Board.

EXHIBIT 5

**MSH PURCHASES NOT IN COMPLIANCE WITH
MISS. CODE ANN. SECTION 7-7-23**

House #1 (EXECUTIVE DIRECTOR OF DMH)

P.O. DATE	DESCRIPTION	OBJECT CODE	VENDOR	AMOUNT	INVOICE DATE	P.O. NUMBER
4/13/87	Maytag washer	649	Dongieux's	517.50	3/30/87	4958
4/13/87	Maytag dryer	649	Dongieux's	378.75	3/30/87	4958
TOTAL FY 87 EXPENDITURES				\$896.25		
7/2/87	Material	242	Wickes	2.37	7/1/87	158
7/2/87	Bath tub enclosure	259	Wickes	139.99	7/1/87	158
7/2/87	Bath tub enclosure	259	Wickes	109.99	7/1/87	158
7/7/87	Commode	242	Arender Plumbing	348.30	6/17/87	313
7/8/87	Commode	242	Arender Plumbing	258.60	6/22/87	314
7/10/87	Attic ladder	259	Wickes	49.99	7/3/87	243
7/27/87	Traverse rod for curtains	259	Wells Interiors	140.64	7/21/87	348
8/3/87	Carpet padding	241	Carpet Country	79.00	7/10/87	462
8/4/87	Tank	259	Sears	45.00	7/29/87	894
8/4/87	Bowl	259	Sears	54.99	7/29/87	894
8/4/87	Medicine cabinet	259	Sears	179.99	7/29/87	894
8/4/87	Medicine cabinet	259	Sears	49.99	7/29/87	894
8/18/87	Shower cabinets	225	Arender Plumbing	311.30	8/10/87	1227
9/1/87	Power vent	242	Frierson Bldg Sup.	225.34	8/26/87	1661
9/1/87	Four Rugs	257	Magic Touch Interiors	60.53	8/19/87	1551
9/11/87	Medicine Cabinet	649	Sears	191.97	8/31/87	1345
10/12/87	Shower kit and door	259	Sears	219.98	9/30/87	2319
10/16/87	Bath & desk cabinet	241	Climate Masters	830.00	8/26/87	2457
12/16/87	Medicine cabinet & light	242	Wickes	26.99	10/6/87	2622
12/16/87	Medicine cabinet & light	259	Wickes	39.99	10/6/87	2622
1/25/88	Carpet on stairs	257	Magic Touch Interiors	383.76	1/22/88	4221
1/25/88	Cover for disappearing stairs	257	Magic Touch Interiors	248.00	1/22/88	4221
4/12/88	Twelve Cabinet Knobs	241	Climate Masters	24.00	4/11/88	5681
TOTAL FY 88 EXPENDITURES				\$4,020.71		
TOTAL RENOVATION EXPENDITURES HOUSE #1				\$4,916.96		

SOURCE: PEER analysis of MSH records.

EXHIBIT 5 (continued)

House #2 (MSH Director)

P.O. DATE	DESCRIPTION	OBJECT CODE	VENDOR	AMOUNT	INVOICE DATE	P.O. NUMBER
6/30/87	Two Bug Lights	242	West Building Mat	79.98	5/21/87	6127
TOTAL FY 87 EXPENDITURES				\$79.98		
11/5/87	Ceiling fan	259	Sears	54.99	9/30/87	3116
11/10/87	Kenmore dishwasher	649	Sears	319.00	11/3/87	3055
12/1/87	Five Chandeliers	242	J.C. Penney	106.67	11/28/87	3428
12/17/87	Medicine cabinet	259	Sears	179.99	10/1/87	3754
3/1/88	Fan	225	Jackson Lighting Center	79.95	2/29/88	4931
3/1/88	Light kit	225	Jackson Lighting Center	55.65	2/29/88	4931
3/2/88	Delta 90z	242	Ferguson Enterprises Inc.	66.18	3/1/88	5000
3/2/88	Compact shower	242	Ferguson Enterprises Inc.	183.00	3/1/88	5000
3/23/88	Five Louvered doors	241	Wickes Lumber	373.75	3/18/88	5341
3/25/88	Louvered doors	241	Wickes Lumber	105.44	3/21/88	5362
4/1/88	Sheet rock	241	Wickes Lumber	29.70	3/23/88	5437
4/19/88	Materials	206	Seabrook	10.30	4/14/88	5807
5/2/88	Renovation & materials	152	Miss Homes, Inc.	17,257.50	4/22/88	307
5/2/88	Sheetrock	241	Sheppard Bldg. Sup	24.96	4/28/88	283
6/6/88	Siding glass door	159	Dixie Glass	145.73	6/4/88	706
6/30/88	Lock	242	Wickes	8.39	6/29/88	945
TOTAL FY 88 EXPENDITURES				\$19,001.20		
7/11/88	Shower kit	241	Wickes	149.99	7/5/88	134
7/11/88	Attic door	259	Wickes	49.95	7/5/88	134
7/12/88	Shower door	241	Binswanger Glass	191.00	7/5/88	252
7/12/88	Mirrors	241	Binswanger Glass	242.00	7/5/88	252
7/15/88	Install tile & wallpaper, paint	152	Miss Homes Inc.	475.00	7/14/88	362
7/20/88	Towel bars and paper holders	242	Frierson Building Supply	256.33	7/13/88	337
8/23/88	Install tile - bathroom	152	Greg Kassel	336.00	no date	884
TOTAL FY 89 EXPENDITURES				\$1,700.27		
TOTAL RENOVATION EXPENDITURES HOUSE #2				\$20,781.45		
SUMMARY OF EXPENDITURES						
Renovation Expenditures House #1				\$4,916.96		
Renovation Expenditures House #2				\$20,781.45		
				\$25,698.41		

In addition to noncompliance with the law, the practice of after-the- fact preparation of purchase orders violates a very basic element of internal control--proper authorization. The issuance of only a purchase order number results in the issuance of a "blank check" to the individual placing the order. This practice of after-the-fact purchase order preparation could result in the illegal act of purchase order splitting. If purchase orders are not prepared until the invoices are received, accounting personnel can prepare them at their own discretion, regardless of how and when the goods were ordered.

MSH officials' expenditure of \$8,348.94 for interior design services on a non-patient building and staff houses without the State Personnel Director's approval did not comply with MISS. CODE ANN. Section 25-9-107 (c) (x).

MISS. CODE ANN. Section 25-9-107 (c) (x) states that "*any agency which employs state service employees may enter into contracts for personal and professional services only with the prior written approval of the state personnel director.*" Agencies submit such requests to the State Personnel Director with accompanying information such as: the period of performance, the contracting parties, contract costs, description of contract services and the purpose, justification of request, and the consequences of the contract being disapproved.

On June 25, 1987, MSH requested and was granted permission by the State Personnel Director to contract with an interior decorator to serve as the design consultant for the remodeling of twenty-nine patient buildings. The proposed cost was \$27 per hour, with maximum anticipated expenditures of \$6,500 for fiscal year 1988. On December 3, 1987, MSH requested and was granted a modification of the original request to increase the amount of the total anticipated expenditures from \$6,500 to \$25,000 for fiscal year 1988. On June 17, 1988, MSH requested and was granted permission by the State Personnel Director to contract with the interior decorator for total anticipated expenditures of \$40,000 for fiscal year 1989. The "Magic" Touch Interiors was awarded the interior decorating contract for both fiscal years.

According to the request submitted to the State Personnel Director by MSH officials, "*Ms. Higgins [The "Magic" Touch Interiors, Inc.] is to serve as the design consultant for the remodeling of the interiors of the patient buildings at Mississippi State Hospital (29 patient buildings).*" The request specifically stated that the interior decorating services were to be provided for patient buildings and made no mention of administrative buildings or staff houses.

PEER analyzed all invoices submitted by The "Magic" Touch Interiors, Inc. to MSH during the period November 1987 through September 1988 (see Exhibit 6, page 14). MSH officials expended \$31,041.50 during this period for the interior decorating services. Of this amount, \$8,348.94 was related to services provided on the hospital's administration building and six staff houses, including \$3,216.51 for the hospital director's residence. In effect, a portion of the funds earmarked for use to "*provide a quality, homelike atmosphere*" for patients, according to the request made to the State Personnel Director, was instead utilized on the administrative building and staff houses.

EXHIBIT 6

ANALYSIS OF MSH EXPENDITURES FOR INTERIOR
DECORATING SERVICES
JULY 1, 1987, THROUGH SEPTEMBER 30, 1988

Staff Houses	\$5,662.98	18%
Administrative Building	2,685.96	9%
	-----	-----
Total Non-patient Buildings	8,348.94	27%
Patient Buildings	22,692.56	73%
	-----	-----
Total Expenditures	\$31,041.50	100%
	=====	=====

SOURCE: PEER analysis of invoices.

MSH officials' acceptance of noncompetitive bids did not comply with MISS. CODE ANN. Section 31-7-13 (b).

MISS. CODE ANN. Section 31-7-13 (b) requires that at least two competitive written bids be obtained for purchases between \$500 and \$2,500. The term "competitive" implies independence among the vendors that submit bids or quotes.

MSH officials authorized the consulting interior decorator (The "Magic" Touch Interiors, Inc.) to obtain other quotes on purchases for which the consulting interior decorator was also submitting quotes (purchases of \$500 to \$2,500). On eight separate occasions, PEER determined that "Magic" Touch obtained only one other quote. On these occasions the quotes were obtained from Interiors Unlimited of Terry, Mississippi. The owner of Interiors Unlimited, Darlene Hays, was one of the original incorporators of The "Magic" Touch Interiors, Inc. Ms. Hays also currently serves as a corporate officer of The "Magic" Touch Interiors, Inc. As an officer of The "Magic" Touch Interiors, Inc., Ms. Hays has an interest in that company's performance as well as in the performance of her company (Interiors Unlimited).

MSH officials are responsible for quotes that are received for hospital purchases. MISS. CODE ANN. Section 31-7-12 states that it is the agency's responsibility to purchase at the state contract price or solicit competitive bids in accordance with MISS. CODE ANN. Section 31-7-13. As a result, MSH officials are responsible for quotes that are obtained. By allowing a vendor to solicit quotes, hospital officials are in effect taking responsibility for the vendor's actions.

By authorizing the consulting interior decorator to invoice the hospital for \$2,495.97 in household items without prior issuance of purchase orders, MSH officials did not comply with MISS. CODE ANN. Section 7-7-23.

During November 1987, MSH officials authorized the consulting interior decorator to supply necessary items to furnish staff houses 13-B and 14-B (the guest house and the house set aside for physicians on call). During a seven-week period from November 16, 1987, to January 8, 1988, The "Magic" Touch Interiors, Inc. invoiced MSH on six different occasions for miscellaneous household items for houses 13-B and 14-B and other miscellaneous items for patient buildings. Each invoice contained at least one item that was designated for house 13-B or 14-B. The combined total of all the invoices was \$2,495.97, with \$965.29 related to house 13-B and \$567.17 related to house 14-B.

MISS. CODE ANN. Section 7-7-23 requires the submission of a purchase order to the Fiscal Management Board on the same day as the order is issued. In addition, basic internal control standards dictate that proper authorization should be established for individual transactions (in this case, purchases). The only MSH involvement in these purchases was the acknowledgement of receipt of goods and the after-the-fact preparation of purchase orders.

In addition to noncompliance with statutes related to the issuance of purchase orders, this incident also reflects another potential problem. PEER analyzed the six invoices mentioned above and determined that if any two of the invoices had been combined, two competitive written bids would have been required, as the total purchase would have exceeded \$500. Five of the six invoices exceeded \$400 but were less than \$500. The hospital's business office manager had previously informed the interior decorator that the hospital could not pay any invoice that exceeded \$500. As a result, it appears that these invoices may have been "split" to avoid exceeding the \$500 limit. MISS. CODE ANN. Section 31-7-13 (n) states:

No contract or purchase as herein authorized shall be made for the purpose of circumventing the provisions of this section requiring competitive bids, nor shall it be lawful for any person or concern to submit individual invoices for amounts within those authorized for such contracts or purchases where the actual contract or commodity purchased exceeds such amount and the invoices therefor are split so as to appear to be authorized as purchases for which competitive bids are not required.

The Department of Mental Health and many other state agencies do not understand state budgeting and purchasing regulations concerning the classification of capital outlay expenditures; some agencies also lack the accounting and purchasing expertise to interpret these regulations.

PEER held a hearing to receive input from state officials with accounting and budgeting expertise regarding the findings of this report. Officials from the Office of the State Auditor, the Department of Finance and Administration (formerly the State Fiscal Management Board), and the Legislative Budget Office testified at the hearing.

The Committee concluded that many agencies, including the Department of Mental Health, do not understand or lack the accounting and budgeting expertise to distinguish between repair and maintenance expenditures and capital outlay expenditures for budgeting and accounting purposes. As a result, agencies use the capital outlay budget category primarily for equipment expenditures. The Legislature has historically shown a great interest in capital outlay budget requests due to the future costs generally associated with capital outlay. The misclassification of capital outlay expenditures as commodities and contractual services can result in less than full disclosure of an agency's budget plan to the Legislature.

Officials' testimony supported PEER's findings in regard to the proper classification of MSH staff house renovation expenditures as capital outlay rather than commodities and contractual services. However, officials testified that ambiguities exist in the Mississippi Agency Accounting Policies and Procedures relating to the classification of expenditures for commodities, contractual services and capital outlay, and they stated that these categories should be reviewed and revised if necessary to provide more clarity.

Recommendations

1. MSH should request funds for future renovations of staff houses through the budgetary process as "capital outlay--other than equipment" or seek guidance from the Office of General Services, Bureau of Building, Grounds and Real Property Management. This would provide the Legislature with better information concerning the intended use of public funds appropriated to MSH.
2. The Executive Director of the PEER Committee should refer the following cases to the Office of the State Auditor and the Office of the Attorney General for review:
 - (a) Expenditure of \$25,698.41 by MSH without proper issuance of purchase orders as required by MISS. CODE ANN. Section 7-7-23;
 - (b) Expenditure of \$8,348.94 for interior decorating services by MSH without proper authorization by the State Personnel Director as required by MISS. CODE ANN. Section 25-9-107 (c) (x);
 - (c) The acceptance of bids by MSH officials that were not competitive as required by MISS. CODE ANN. Section 31-7-13 (b);
 - (d) Expenditure of \$2,495.97 by MSH without the proper issuance of purchase orders as required by MISS. CODE ANN. Section 7-7-23; and,
 - (e) Potential "split" invoices in relation to the \$2,495.97 expenditure by MSH referred to in (d) above.
3. The Office of the State Auditor should conduct an investigative audit of the purchasing procedures and practices at MSH.
4. Agencies currently doing so should not rely solely on the Department of Finance and Administration's pre-audit function to determine whether they have properly classified expenditures. Agencies should employ personnel with appropriate accounting and budgeting expertise and use them to make these types of judgements and decisions.
5. The Department of Finance and Administration should review the Mississippi Agency Accounting Policies and Procedures manual and revise the definitions of expenditure and budget categories to more clearly distinguish between capital outlay and other categories. The definition for capital outlay should parallel the definition according to generally accepted accounting principles.
6. The Legislature should consider establishing an optional central purchasing system for state agencies. As stated in Governing magazine (August 1988 issue), ". . .centralization is important because individual agencies don't usually have the appropriate expertise or the motivation to give the purchasing process top priority." A central purchasing system would relieve agencies of the problems associated with understanding and complying with purchasing, budgeting and accounting regulations regarding classification of expenditures. A central purchasing agency would be staffed by personnel with expertise in purchasing and expenditure classification.

Agency Reporting of Housing as Compensation

The Department of Mental Health's provision of free staff housing to the former and current agency directors exceeded statutory salary limits during 1985 and 1987 and thus did not comply with MISS. CODE ANN. Section 25-3-37.

PEER analyzed salary information relating to the agency directors of the Department of Mental Health for 1985, 1986, and 1987 (the same period in which the agency directors have occupied staff housing at MSH). The statutory limit for the annual salary of the Executive Director of the Department of Mental Health was set under MISS. CODE ANN. Section 25-3-33 at \$54,000 for 1985, 1986 and 1987.

MISS. CODE ANN. Section 25-3-37 expressly provides that "*the salaries fixed in sections 25-3-31 to 25-3-35 shall be the full and complete compensation for all public duties rendered by all public officers and public employees designated therein...*" This section of the law specifically exempts the housing provided to the employees of the Mississippi State Penitentiary. No other exemptions are provided in relation to housing or other fringe benefits provided to public officials and employees. [NOTE: During the 1989 session, the Legislature passed Senate Bill 2414, which added employees of the Department of Mental Health and the Governor to this list of exemptions. However, the bill was to be effective after its date of passage--March 8, 1989--and not retroactively.]

PEER determined that the statutory salary limits were exceeded in 1985 by \$1,350 and in 1987 by \$2,250 (see Exhibit 7, page 18). PEER used the \$450 per month valuation for housing developed by the Department of Mental Health (see the previous finding) and related it to the number of months the agency directors occupied the staff houses during 1985 and 1987. The statutory salary limits were not exceeded during 1986, since this was a transition year in which both agency directors only served in that capacity for part of the year.

Recommendation

The Executive Director of the PEER Committee should refer the cases of compensation in excess of statutory limits for the executive directors of the Department of Mental Health for 1985 (\$1,350) and 1987 (\$2,250) to the Office of the State Auditor and the Office of the Attorney General for review.

EXHIBIT 7
ANALYSIS OF EXECUTIVE DIRECTORS'
COMPENSATION FOR 1985 AND 1987

	1985	1987
Taxable income as reported on federal form W-2	\$50,679	\$50,436
Employee's share of retirement withheld from salary (non-taxable)	3,321	3,564
Value of housing (\$450 x 3 months)	1,350	
(\$450 x 5 months)		2,250
	-----	-----
Total Compensation	\$55,350	\$56,250
Statutory Compensation Limit	54,000	54,000
	-----	-----
Compensation in Excess of Statutory Limit	\$1,350	\$2,250
	=====	=====

NOTE: Dr. Duker resigned and Dr. Hendrix was appointed in 1986. Thus neither director was compensated for a full year in this position.

SOURCE: PEER analysis of information provided by the Department of Mental Health

SUPPLIES

MSH maintains supply inventories at three primary locations on the hospital grounds: the central medical supply, the pharmacy, and the warehouse. The patient buildings requisition supplies as needed. In past years, personnel at the various patient buildings have also ordered supplies directly from vendors. During 1988 MSH officials began a centralized purchasing system that will route all supply purchases through the warehouse or the central medical supply.

MSH expended \$29,787 of budgeted commodity funds for the renovation of staff houses during fiscal years 1987 and 1988 even though the hospital suffers annual supply shortages because of limited funding.

MSH and Department of Mental Health officials stated that supply shortages are an annual problem at the state hospital due to limited funding. PEER determined that MSH officials instituted a stringent purchasing policy for commodities during the last quarter of fiscal year 1988 because of funding shortages. All requests for purchases had to be approved by the Director of Fiscal Services. According to hospital officials, the Director of Fiscal Services gave priority to items that were directly related to patient care, and as a result temporary shortages occurred in relation to some non-patient care supplies.

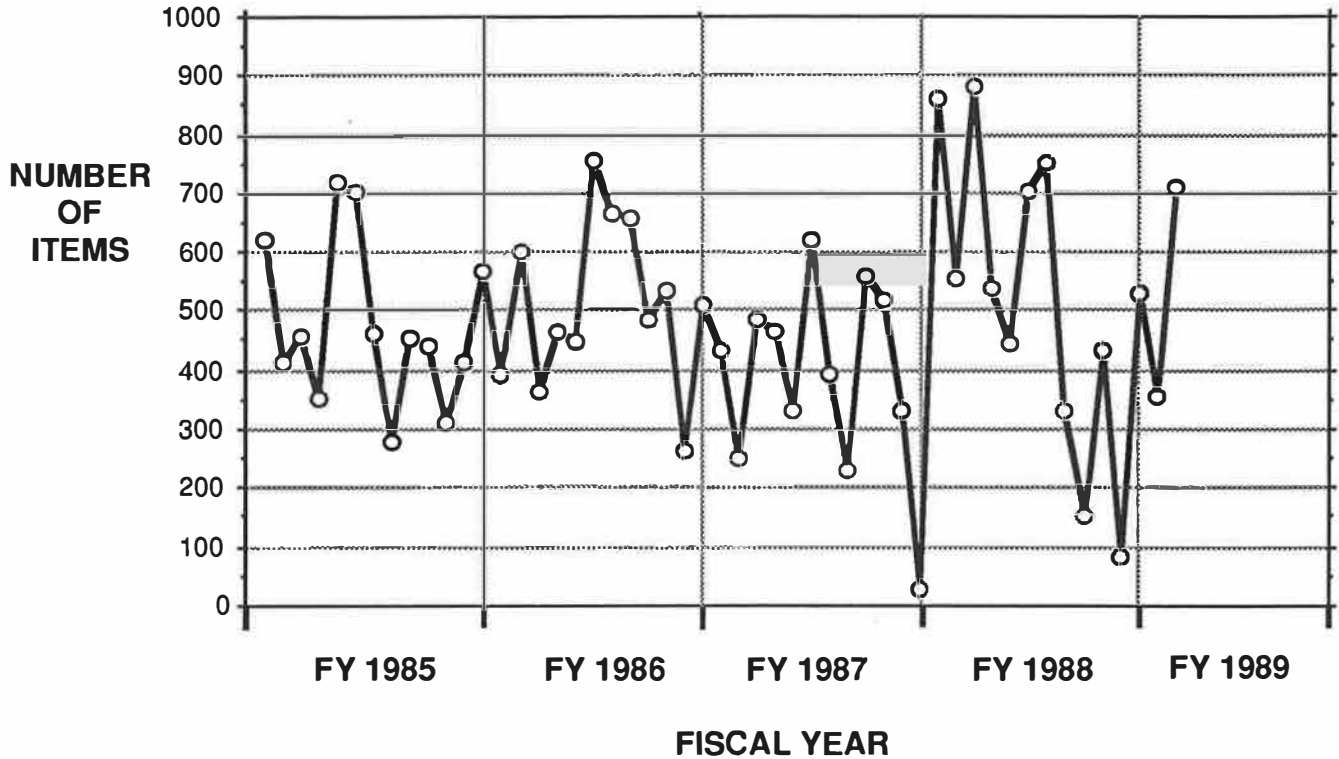
PEER reviewed and analyzed MSH supply inventory records for fiscal years 1985 through 1989. In particular, the analysis focused on twenty medical supply items in which alleged shortages had occurred. PEER developed a graph depicting the composite number of items on hand for fifty-one consecutive months (see Exhibit 8, page 20). This graph reflects the variance in the composite and shows low medical supply inventory levels at the end of fiscal years 1987 and 1988. However, MSH officials expended funds intended for patient care supplies to renovate staff housing for the hospital director and the Executive Director of the Department of Mental Health. As stated on page 7, MSH classified \$98,471.40 of its housing renovation expenditures as commodities and contractual services. Of this amount, \$29,787 was classified as commodities. While PEER did not determine that low inventory levels were a direct effect of the staff housing renovations, the availability of the commodity funds expended for staff housing renovations would have lessened the burden created by the low inventory levels.

Recommendation

As stated earlier, MSH officials should request future funding for renovation of staff houses as capital outlay. Commodity funds should be reserved for the purchase of supplies, particularly those that relate to patient care.

EXHIBIT 8

MONTHLY INVENTORY LEVEL OF SELECTED MEDICAL SUPPLIES*
AT MISSISSIPPI STATE HOSPITAL
(For Fiscal Years 1985)



* NOTE: Forty-one inventory items were selected based on staff reports of shortages. Twenty-one items were excluded because inventory data on the item was missing for more than 20 of the 51 total months examined. This graph depicts the variance of the monthly inventory level via a composite of the remaining twenty items.

SOURCE: PEER analysis of Mississippi State Hospital inventory records.

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APPENDIX

HEARING ON PEER'S INVESTIGATION OF THE
MISSISSIPPI STATE HOSPITAL

July 26, 1989
1:30 p.m.

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Chairman's Opening Statement

The PEER Committee staff has completed an investigation of selected areas of operation of the Mississippi State Hospital at Whitfield and submitted a draft report for the Committee's consideration. Due to the sensitive nature of the report's findings, the Committee has called this hearing to receive input regarding the findings from representatives of agencies with expertise in accounting, budgeting, and purchasing.

The hearing will begin with a presentation by the PEER staff of their findings and recommendations resulting from this investigation. Presentations will follow by Department of Audit representatives, Department of Finance and Administration representatives, and Joint Legislative Budget Committee staff.



STATE OF MISSISSIPPI
OFFICE OF THE STATE AUDITOR



PETE JOHNSON
STATE AUDITOR

POST OFFICE BOX 956
JACKSON, MISSISSIPPI 39205-0956
(601) 359-3561

July 17, 1989

Honorable John W. Turcotte
Executive Director
Joint Committee on Performance
Evaluation and Expenditure Review
P. O. Box 1204
Jackson, Mississippi 39215-1204

HAND DELIVERED

Dear Mr. Turcotte:

I am writing in regard to your letter of July 7, 1989, concerning your Subpoena to appear at the hearing and your request for our response to your questions on the the PEER investigation of selected areas of operation of the Mississippi State Hospital at Whitfield.

I have designated certain members of my staff to appear at the Committee's hearing on July 26, at 1:30 p.m., as ordered by your Subpoena. In addition, I have enclosed with this letter my office's answers to your questions, thereby, complying with your request to provide the answers to the Committee no later than July 19, 1989.

If you have any questions concerning this letter or the enclosed answers, please do not hesitate to call me.

Sincerely,

Pete Johnson
State Auditor

PJ:sr

Enclosure

Responses to the Questions for the State Auditor's Office
Relating to the PEER Committee Investigation of the
Mississippi State Hospital at Whitfield

Classification of Expenditures

1. In which category should the purchase of carpet be budgeted and classified if purchased only as part of a project to provide carpet for a building? Depending on the circumstances of each case the purchase could be categorized under commodity code 257, drapes carpets, mattresses and springs; or capital outlay code 625, buildings and improvements (purchased, constructed or remodeled.) [Ref.: MAAPP Manual] The reason for this conclusion is a replacement of existing carpet is considered an expense because it maintains the existing condition or restores to the normal operating efficiency, thereby being an ordinary operating expense because the useful life of the building is not increased. However, installation of carpet for the first time could possibly constitute an improvement to the building which would be subject to capitalization under generally accepted accounting principles. The key in deciding whether an improvement should be capitalized is determining if the expenditure has increased the building's future service potential. [Kieso and Weygandt, Intermediate Accounting, 4th ed. (John Wiley & Sons, Inc., 1983), p. 496-499.]
2. In which category should the purchase of carpet be budgeted and classified if it represents one component of the construction or complete renovation of a building or state owned house? The context of this question indicates the proper classification would be 625, buildings and improvements (purchased, constructed or remodeled.) A complete renovation indicates a substitution of an asset for the one currently used, the extension of the useful life of the asset and an increase in the market value of the asset, all reasons for capitalization. If an addition, it would be capitalized simply because a new asset has been completed, achieving a greater future benefit. [Kieso and Weygandt, Intermediate Accounting, 4th ed. (John Wiley & Sons, Inc., 1983), p. 496-499.]
3. If "repairs and maintenance" expenditures are such that they substantially increase the fair market value and the useful life of a structure, should they be considered capital outlay or operating expenditures (commodities and contractual services)? Generally accepted accounting principles

designate routine "repairs and maintenance" expenditures as those that do not extend the useful life or increase the market value. [Kieso and Weygandt, Intermediate Accounting, 4th ed. (John Wiley & Sons, Inc., 1983), p. 496-499.]

Purchasing

4. Does the purchase of a commodity or service prior to the forwarding of a purchase order to the Department of Finance and Administration (formerly the State Fiscal Management Board) represent a violation of MISS. CODE ANN. Section 7-7-23? Section 7-7-23, Miss. Code Ann. (1972 amended), centers on two primary functions of the "purchase order." These two functions are: 1- to act as an offer to purchase by initiating the purchase process; and, 2- to act as a budgeting tool by obligating the funds in the proper budget classification. In order for an agency to meet both functions of Section 7-7-23, it would have to issue the purchase order prior to the purchase and provide the purchase order to the Department of Finance and Administration on that same day.
5. An agency receives the State Personnel Director's approval to contract for certain professional services on a specified group of buildings (i.e. patient buildings). Under this authority, the agency also employs the contractor for services on an administration building and staff houses. Does this represent a violation of MISS. CODE ANN. Section 25-9-107(x)? From a review of the draft of your Executive Summary that relates to this finding, the key appears to be how the work was invoiced. If the \$31,041.50 was invoiced under the approved contract for "providing a quality, home-like atmosphere for patients" and the analysis indicates the work required by the contract was fully completed, then the work on the administration building and staff houses could be considered "free gratis." However, if the work on the administration building and staff houses was invoiced as part of the \$31,041.50, then in our opinion there would be a violation. In addition, it would be necessary to investigate why the authorized contract was set at \$31,041.50 for work on the patients' housing when only \$22,692.56 was needed to complete the project.
6. An agency authorizes a vendor to bid on an item with a cost between \$500 and \$2,500. The agency also authorizes the vendor to obtain another bid so that two bids will be on file as required by statute. The vendor obtains the other bid from a related party (a company whose owner has an

interest in both companies). Has the agency received two competitive bids as required by MISS. CODE ANN. Section 31-7-13 (b) for purchases between \$500 and \$2,500? The competitive bidding process performs two functions: 1- it places the bidders on a plane of equality; and, 2- it provides a system for the public entity to receive the lowest and best bid. It is the position of the State Auditor's Office that you do not have a competitive bid process when one bidder determines the other bidder or bidders because the plane of equality does not exist and when the close association of the bidders defeats the elements of competition and confidentiality needed to force bidders to present their lowest dollar bid.

Housing as Compensation

NOTE: PEER does not contest the Department of Mental Health's policy of providing free housing (including utilities) to the executive director of the Department of Mental Health on the grounds of the Mississippi State Hospital. PEER's contention is that the free housing should be reported as income to the executive director according to federal law and Internal Revenue regulations.

7. Do you consider the central offices of an agency to be the place of employment of the executive director of the agency if the executive director's office is located there and he/she manages day-to-day operations from that location? It is a logical conclusion that the "central offices" of an agency are located where the day-to-day operations occur.
8. The central administrative offices of an agency (including the executive director's office from which he/she manages the day-to-day operations of the entire agency) are located in downtown Jackson. The executive director lives in a staff house at a branch facility (one of seven in the state) in Rankin County. He/she is not on call at the branch facility which is managed by a facility director and assistant director who live on the facility's grounds. The executive director's scope of responsibilities with respect to the Rankin County facility is no different than with the other six facilities located throughout the state. In your opinion, could the executive director live anywhere in the Jackson metropolitan area and properly perform the duties of his/her employment or must he/she live at the branch facility in Rankin County in order to properly perform his/her duties? In our opinion the information provided discloses no justification for the executive director to live on the grounds of the facility in order for him/her to perform his/her duties.

9. Did the provision of free housing and utilities to the executive directors of the Department of Mental Health during the years 1985 through 1987 represent violations of MISS. CODE ANN. Section 25-3-37 (prior to amendment by Senate Bill 2414 passed by the 1989 Legislature) by compensating the directors amounts in excess of the statutory limits? (NOTE: The directors' cash wages during this period were already set at the maximum allowed by statute.) Section 25-3-37, Miss. Code Ann. (1972 amended) and Article 4, Section 96, of the 1890 Constitution prohibit the state or its agencies from granting additional compensation to any person for services he/she was previously obligated to perform. Therefore if the furnished lodging is compensation and the salary was already at the statutory maximum then in our opinion there would be a violation of both laws. For information purposes Section 119 of the Internal Revenue Code of 1986 has been interpreted to exclude from income the value of lodging provided to the employee under the following conditions: 1- the lodging is furnished by the employer; 2- the lodging is on the business premises; and, 3- the lodging is furnished for the convenience of the employer (i.e. to enable the employee to properly perform his/her duties). It is not clear to this office whether the interpretation of Section 119 does affect or should affect the determination of whether lodging provided to a state employee has lead to an increase in compensation over an established statutory maximum. This office does believe the information presented in your Executive Summary indicates that the furnished lodging of the Executive Director of the Department of Mental Health is not exclude from income as defined by Section 119 of the Internal Revenue Code of 1986.



STATE OF MISSISSIPPI

RAY MABUS
GOVERNOR



July 20, 1989

Mr. John W. Turcotte, Executive Director
Joint Committee on Performance Evaluation
and Expenditure Review
P. O. Box 1204
Jackson, MS 39215-1204

Dear Mr. Turcotte:

Please consider this letter and the enclosure our agency's response to your request of July 7, 1989. In addition, representatives of our agency will appear at the hearing on July 26, 1989.

Our answers to your questions are based upon the facts and circumstances as presented. In our opinion, many of the questions are couched in a manner that leaves only one reasonable conclusion. In addition, the questions you have asked present a number of legal issues. In some circumstances, you have asked whether or not the fact situation you described represents a violation of a specific section of the Mississippi Code. While our agency has certain pre-audit responsibilities, we are not staffed by attorneys and do not wish to represent to the Committee that our answers constitute legal opinions. We feel that such questions are better directed to the Attorney General's office.

While we are happy to cooperate with the Committee, we are concerned that our responses might be taken out of context or that they might be given a broader construction than they deserve. They are limited to the facts as presented and could change if additional information became available.

If you have any questions with regard to this matter, please let us know.

Very truly yours,

DEPARTMENT OF FINANCE AND ADMINISTRATION

Cecil C. Brown, Executive Director
CCB:cs
Enclosure

Classification of Expenditures

1. **In which category should the purchase of carpet be budgeted and classified if purchased only as part of a project to provide carpet for a building?**

The purchase of carpet (only as a part of a project to provide carpet) should be budgeted in the commodities category (see answer #2 for additional information).

2. **In which category should the purchase of carpet be budgeted and classified if it represents one component of the construction or complete renovation of a building or state owned house?**

The Department of Finance and Administration prescribes the accounting system and procedures used by state agencies. These guidelines apply to both budget and classification matters. Guidance for assigning expenditure codes to purchases is given in Section 11 of the Mississippi Agency Accounting Policies and Procedures (MAAPP) Manual. Sub-section 11.60.10, page 4 assigns commodity code 257 to the purchase of carpets and carpet padding when involved in remodeling or renovation.

In addition, Sub-section 23.10.30 of the MAAPP Manual cites the State Property Office's Statement of General Policy - Property Inventory Rules. Page 2 of these rules, item #8.1 says, "'Property' does not include the following: carpeting, draperies, plants, installed floor-to-ceiling partitions...."

Because carpet is not an item considered as property by the State Auditor's Office, the purchase of carpet has been historically budgeted and classified as commodities--It is our belief, however, that carpet installed in a newly completed state-owned facility may have been (and rightly so) included in the total construction cost of that facility paid to a contractor and that payment classified as "Capital Outlay-Other."

It is clear that the Department of Finance and Administration, the State Auditor's Office and the Legislative Budget Office should re-examine this area and give further guidance to state agencies.

3. If "repair and maintenance" expenditures are such that they substantially increase the fair market value and the useful life of a structure, should they be considered capital outlay or operating expenditures (commodities and contractual services)?

The decision as to whether or not an expenditure is a repair, purchase of a commodity, or a capital outlay-other is determined by the magnitude of the renovation and whether it substantially increases the value of the building or it merely repairs an existing structure. The decision must be made on a case-by-case basis considering all of the facts and circumstances available. However, a general rule is material expenditures that substantially increase the useful life of a structure should be classified as a capital outlay.

PEER staff represented to us that they determined that the renovations of buildings at Whitfield should have been classified as capital outlay-other based on the increase of fair market value of these buildings from the time before renovations were made to the time after they were made as determined by the Office of General Services in their annual inventory of state-owned buildings.

One PEER chart reflects the estimated value at January, 1988 of Staff House 1 at \$38,624 and the estimated value of Staff House 2 at \$43,458. PEER reflects in this same chart the estimated value at September, 1988 of Staff House 1 at \$108,566 and the estimated value of Staff House 2 at \$124,346. It is our understanding that the change in these estimated values as reflected in this chart was the basis for the conclusion reached by the PEER staff that substantial renovation was done.

Based on discussion with individuals from General Services with knowledge of these estimated values, we found the following:

- a) The figures cited in the above mentioned PEER chart for January, 1988 were actual construction costs at the date these two houses were constructed, not the fair market values at January, 1988.
- b) The estimated values for these houses at September, 1988 were derived from the Markel method of estimating property, and had nothing whatsoever to do with renovations made to these properties.
- c) The estimated values of these staff houses at September, 1988 do not represent an actual appraisal or fair market value of these houses.

PURCHASING

4. **Does the purchase of a commodity or service prior to the forwarding of a purchase order to the Department of Finance and Administration (formerly the State Fiscal Management Board) represent a violation of MISS. CODE ANN. Section 7-7-23?**

Section 7-7-23 requires that purchases of whatever kind be made only by written purchase orders duly signed by an authorized official unless the State Fiscal Management Board (currently the Department of Finance and Administration) by general rule or special order, permits certain purchases without a written purchase order.

Section 7-7-23 requires that a copy of each purchase order be forwarded to the State Fiscal Management Board on the same day the said order is issued.

5. **An agency receives the State Personnel Director's approval to contract for certain professional services on a specified group of buildings (i.e. patient buildings). Under this authority, the agency also employs the contractor for services on an administration building and staff houses. Does this represent a violation of MISS. CODE ANN. Section 25-9-107(x)?**

Section 25-9-107(x) provides that any agency which employs state service employees may enter into contracts for personal and professional services only with the prior written approval of the state personnel director. This section also states that the state personnel director shall disapprove such contracts where the services to be provided could reasonably be performed by an employee in an authorized position.

Whether the facts you present constitute a violation of Section 25-9-107(x) depends on the terms of the contract that was approved. Any proposed change in scope to a contract previously approved by the state personnel director should be re-submitted to the state personnel director unless the original approved contract made provisions for changes in scope. If there is a change in scope provision, no additional approval would be required. In any case, since the approval which is granted by the state personnel director is based upon the conclusion that work could not reasonably be performed by an employee in an authorized position, a change in buildings in which services were to be rendered would not ordinarily affect such approval.

6. An agency requests a vendor to bid on an item with a cost between \$500 and \$2,500. The agency also authorizes the vendor to obtain another bid so that two bids submitted to Whitfield will be on file as required by statute. The vendor obtains the other bid from a related party (a company whose owner has an interest in both companies). Has the agency received two competitive bids as required by MISS. CODE ANN. Section 31-7-13(b) for purchases between \$500 and \$2,500?

Section 31-7-13 provides bid requirements and exceptions for purchases by agencies and governing authorities.

Section 31-7-13(b) provides that at least two competitive written bids have been obtained. This section defines the term "competitive written bid" as a bid submitted on a bid form furnished by the buying agency or governing authority and signed by authorized personnel representing the vendor or a bid submitted on a vendor's letterhead or identifiable bid form and signed by authorized personnel representing the vendor. Under a strict construction of the statute, therefore, the agency would appear to have received competitive bids. In the broader sense, it is obvious that the bids may, in fact, not be competitive. To go beyond the strict construction of the statute, however, would require a legal opinion.

In our opinion, an agency should not delegate the securing of additional bids to a vendor who is bidding. This practice could prevent competitive bids from being obtained.

HOUSING AS COMPENSATION

7. Do you consider the central offices of an agency to be the place of employment of the executive director of the agency if the executive director's office is located there and he/she manages day-to-day operations from that location?

Under normal circumstances, in the fact situation you present the executive director's place of employment would be the agency's central office. The central offices of an agency should be those offices designated as such by the governing authority or board of an agency.

8. The central administrative offices of an agency (including the executive director's office from which he/she manages day-to-day operations of an entire agency) are located in downtown Jackson. The executive director lives in a staff house at a branch facility (one of seven in the state) in Rankin County. He/she is not on call at the branch facility which is managed by a facility director and assistant

director who live on the facility's grounds. The executive director's scope of responsibilities with respect to the Rankin County facility is no different than with the other six facilities located throughout the state.

In your opinion, could the executive director live anywhere in the Jackson metropolitan area and properly perform the duties of his/her employment or must he/she live at the branch facility in Rankin County in order to properly perform his/her duties?

If the duties of his/her employment as directed by the agency's governing authority/board are such that it is required by such governing authority/board that the executive director live at the branch facility in Rankin County, then the executive director should do so. If not, the executive director could live elsewhere.

9. Did the provision of free housing and utilities to the executive directors of the Department of Mental Health during the years 1985 through 1987 represent violations of MISS. CODE ANN. Section 25-3-37 (prior to amendment by Senate Bill 2414 passed by the 1989 Legislature) by compensating the directors amounts in excess of the statutory limits? NOTE: The directors' cash wages during this period were already set at the maximum allowed by statute.

It could be interpreted as a possible violation of Miss. Code Ann. Section 25-3-37. We suggest that the PEER request an official Attorney General's opinion on this question.



MISSISSIPPI
 Joint Legislative Budget Committee
 Chairman

SENATOR GLEN S. DEWEESE
 President Pro Tempore
 SENATOR C. J. (JACK) GORDON, JR.
 Chairman, Appropriations Committee
 SENATOR C. R. (BOB) MONTGOMERY
 Chairman, Finance Committee
 SENATOR BILLY H. THAMES

BRAD DYE, LIEUTENANT GOVERNOR
 ROBERT A. GREENLEE, DIRECTOR
 Legislative Budget Office

Central High Legislative Services Building
 259 North West Street
 Jackson, Mississippi 39201
 601-359-1580

TIM FORD, SPEAKER
 House of Representatives
 REPRESENTATIVE CECIL L. SIMMONS
 Speaker Pro Tempore
 REPRESENTATIVE CHARLES W. CAPPS, JR.
 Chairman, Appropriations Committee
 REPRESENTATIVE THOMAS H. WALMAN
 Chairman, Ways and Means Committee
 REPRESENTATIVE ED BUELOW, JR.

July 14, 1989



Mr. John Turcotte, Executive Director
 PEER Committee
 Central High Legislative Services Building
 Jackson, Mississippi

RE: PEER Committee Letter of July 7, 1989

Dear Mr. Turcotte:

The attached is a response to the three questions posed by your office. I have provided additional comments which I feel are pertinent to the issue of the proper categorization of an agency's budget request dealing with repair and renovation. I will be unable to attend the meeting on July 26, 1989, but Lee Lindell, Deputy Director, and Dick Estes, our budget analyst for Mental Health, will attend.

Sincerely,

Robert A. Greenlee
 Director

RAG:msa

Attachment

LEGISLATIVE BUDGET OFFICE RESPONSE TO PEER INQUIRY OF JULY 7, 1989

1. In which category should the purchase of carpet be budgeted and classified if purchased only as part of a project to provide carpet for a building?

The most appropriate category for the purchase of carpet would be commodities under maintenance and construction supplies. The carpet may be also a part of a contractual services item under repairs and service.

2. In which category should the purchase of carpet be budgeted and classified if it represents one component of the construction or complete renovation of a building or state owned house?

The most appropriate category if the carpet is to be utilized during the construction or renovation of a building would be capital outlay (other than equipment) under buildings and improvements.

3. If "repair and maintenance" expenditures are such that they substantially increase the fair market value and the useful life of a structure, should they be considered capital outlay or operating expenditures (commodities and contractual services)?

If there is substantial increase in the fair market value and useful life of a structure, capital outlay (other than equipment) would be the most appropriate category.

General Comments

While the definition and guidance provided through the pre-audit of purchase orders has followed the guidelines of reasonability, this matter is subjective in nature and open to interpretation. It will be very difficult to establish guidelines that would be applicable in every case and circumstance.

The Legislative Budget Office and the Fiscal Management Board analysts do not police the categories under which the agencies request their budget appropriations. The difficulty of doing this is partially attributed to the lack of clear, concise budget narratives that spell out the exact usage of every dollar within any particular category. Also, the narratives are so often expanded upon in the agency's contact with the committees/subcommittees and individual legislators that the detailed reason for expenditures within categories may not be in a written form.

In many cases the agency has spelled out to the Legislature the purpose for which the money will be spent, but has through a misinterpretation of the proper assignment of budget categories requested the monies in an inappropriate category. Other cases exist where the intended purpose for the money has not been detailed, yet the legislative process has provided monies in sufficient quantity in categories which might be used to accomplish repairs and renovations with the subjective interpretation of using monies in either capital outlay or contractual services/commodities.

Possibly the best means of determining whether or not the project is a capital outlay or a maintenance/repair effort would be to set a dollar limit being spent on a structure within a set period of time. For instance, if more than \$10,000 is spent on a structure within any twelve-month period the project would be considered capital outlay rather than maintenance/repair. Even this can be abused and is not the end of discussions in this area.

The emphasis should be placed on the identification of the purpose for which the monies are requested of the Legislature rather than the category under which the monies are expended. If there has been a failure in this particular report, it would be the failure to identify to the Legislature the requirement to perform extensive renovations to the staff houses. The categories under which monies were appropriated become a lesser concern than the use of monies for items or projects that were never identified through the appropriation process.

DEPARTMENT OF MENTAL HEALTH

State of Mississippi



ALBERT RANDEL HENDRIX, Ph.D.
Executive Director
1101 Robert E. Lee Building
239 North Lamar Street
Jackson, Mississippi 39201
(601) 359-1288

July 19, 1989



Mr. John W. Turcotte
Executive Director
PEER Committee
Post Office Box 1204
Jackson, Mississippi 39215-1204

Re: PEER Hearing

Dear Mr. Turcotte:

I am in receipt of your letter of July 7, 1989, requesting my attendance at the hearing to be held before the Joint Committee on Performance Evaluation and Expenditure Review on July 26, 1989, at 1:30 p.m. I will be glad to attend.

Please excuse the delay in responding to your letter, but I was out of state from July 7 until this past weekend. Please find enclosed responses to the questions you forwarded. These responses, as well as Mississippi State Hospital's original response, summarize the Department of Mental Health's position on these matters. I will be glad to answer any questions the committee may have as well as present a summary of these responses at the hearing.

Sincerely yours,

A handwritten signature in cursive script that reads "Randy Hendrix".

Randy Hendrix, Ph.D.
Executive Director

/sas
Enclosures

Classification of Expenditures

1. In which category should the purchase of carpet be budgeted and classified if purchased only as part of a project to provide carpet for a building?

REPLY:

Under present state guidelines, carpet, if purchased only as part of a project to provide carpet for a building, should be budgeted and classified as commodities. Existing guidelines published by the Fiscal Management Board in the **Mississippi Agency Accounting Policies and Procedures Manual (MAAPP)** identify carpet and carpet padding chargeable as contractual services or commodities. This is identified in the manual by an expenditure code which is a three-digit number used to classify expenditures and expenses of state agencies into expenditure accounts. The expenditure code for carpet found in sub-section 11.60.10 on page 4 of 22 is as follows:

- 152 Carpets, repair or minor maintenance of wall-to-wall carpeting.
- 257 Carpet and carpet padding when involved in remodeling or renovation.
- 257 Carpets - institutional use - movable.
- 257 Carpet - office use - movable.
- 257 Carpet pads - institutional use - movable.
- 257 Carpet pads - office use - movable.

Code 257 is an expenditure code for commodities. Thus, according to the guidelines, the purchase of carpet would be classified as a commodity.

2. In which category should the purchase of carpet be budgeted and classified if it represents one component of the construction or complete renovation of a building or state owned house?

REPLY:

Under the state guidelines as found in the MAAP manual above, the purchase of carpet, when it represents one component of the remodeling or complete renovation of a building or a state owned house, should be classified as a commodity. There was no new construction undertaken by Mississippi State Hospital. Thus, Mississippi State Hospital responds to this question only in regard to renovation or remodeling. As mentioned above, expenditure code 257 is found under the "commodities section" in the MAAPP manual and is to be used for classifying an expenditure for carpet when involved in remodeling or renovation.

3. If "repair and maintenance" expenditures are such that they substantially increase the fair market value and the useful life of a structure, should they be considered capital outlay or operating expenditures (commodities and contractual services)?

REPLY:

Under the present guidelines of MAAPP, Mississippi State Hospital believes "repair and maintenance" should be considered operating expenditures under the classification of commodities and/or contractual services. Expenses for repair and maintenance are not the same as purchasing a building, adding new rooms or altering a structure to create more square footage. Purchasing a building or payments for new construction is generally the type of work done in cooperation and conjunction with Office of General Services, Bureau of Building and Grounds and is considered capital outlay. This is not the type of expenses incurred by Mississippi State Hospital.

NOTE: In regard to questions 1, 2, and 3, please review Mississippi State Hospital's prior response to the above concern which was as follows:

As understood by Mississippi State Hospital accountants, the defining factors in determining a capital project are the existence of major structural changes and/or the extension of the useful life of the structure. The repairs to the houses did not include major structural changes such as removing load-bearing walls or modifying the floor plan. The repairs did not include projects usually associated with extending the useful life such as foundation repairs, replacing underground plumbing pipes, or replacing a roof. Since the houses cannot be sold, PEER's reference to an increase in the fair market value seems irrelevant. Mississippi State Hospital contends that, given the condition of the staff houses, painting the interiors and exteriors of the houses alone would increase the market value but would not be categorized as a capital project. Mississippi State Hospital believed that it was appropriate to classify the expenditures as repairs and maintenance and charged these expenditures to Commodities and Contractual Services. Mississippi State Hospital clearly identified to the Fiscal Management Board, Financial Control Division, the nature of the expenditures being made. The contracts advertised for bid identified specifically the projects and their location by house number. The Forms P-1, Requests for Authority To Purchase, included the words "renovate," "install carpet," and "furnish and install draperies" and further specified, for example, Residence House #1 or Residence House #2. The Fiscal Management Board, Financial Control Division, performed its pre-audit and approved the repairs and maintenance to be charged to Contractual Services and Commodities. We contend that the pre-audit was valid. As further support for its position, Mississippi State Hospital cites the Fiscal Year 1989 special appropriation granted for the purpose of performing repairs and maintenance in 5 Mississippi State Hospital buildings. The Legislature specifically appropriated funds for renovations in the categories of Commodities and Contractual Services, rather than

Capital Outlay Other Than Equipment. Therefore, we contend that the fund categorizations were proper.

Purchasing

4. Does the purchase of a commodity or service prior to the forwarding of a purchase order to the Department of Administration and Finance (formerly State Fiscal Management Board) represent a violation of MISS. CODE ANN. Section 7-7-23?

REPLY:

No, Section 7-7-23 does not require a purchase order to be forwarded to the Fiscal Management Board (FMB) prior to purchasing commodities or services. Briefly it requires:

- (a) That purchases made by state agency be made by written purchase order by an officer of the agency empowered to do so;
- (b) That purchases made without purchase orders are not obligations of the state unless FMB, by general rule or special order, permits otherwise;
- (c) That at least three (3) copies of the purchase order shall be made; one retained by FMB, one copy furnished to vendor, and one copy retained by agency; and
- (d) That proper officials in each department forward a copy of the purchase order to FMB on same day issued.

If this question was meant in reference to Mississippi State Hospital making purchases of under \$500 prior to completion of a purchase order, then this practice is not in strict compliance with purchasing regulations. However, in all cases, a purchase order number was issued prior to the purchase, a common, accepted practice within state government in prior years.

This practice was cited by the State Auditor at Mississippi State Hospital recently. In that audit, no violation of law was cited and no recovery of funds was recommended. Rather, the auditor recommended a procedure be implemented requiring completion of a written purchase order prior to purchase. This has been implemented.

5. An agency received the State Personnel Director's approval to contract for certain professional services on a specified group of buildings (i.e. patient buildings). Under this authority, the agency also employs the contractor for services on an administration building and staff houses. Does this represent a violation of MISS. CODE ANN. Section 25-9-107(x)?

REPLY:

No, Section 25-9-107 is the definition section of the statewide personnel system law. "Sub-section x" referred to in the above question should be properly cited as 25-9-107(c)x and excludes contract personnel from state service provided the contract for services is entered into with the prior written approval of the State Personnel Director. It also allows for State Personnel Director disapproval where the services could be performed by an employee in an authorized position. Prior to paying any warrant for contractual services, the Fiscal Management Board is to determine whether the contract involved was for personal or professional services and whether it was properly submitted to the State Personnel Board and approved. This statute's intent is to prevent the contracting of professional services when it can be performed by state employees. The only obligation it places on the agency is prior approval by the State Personnel Director.

In the case at hand, the services were approved by the State Personnel Director. While better wording of the request may have been to leave out "patient buildings" and just say "buildings on the Mississippi State Hospital campus," the State Personnel Board did approve the contract for these type services. Thus, Mississippi State Hospital's contention is that no violation of the statute occurred. Further, in the case at hand, the Fiscal Management Board paid the warrant indicating that the contract involved was properly submitted to and approved by the State Personnel Director.

6. An agency authorizes a vendor to bid on an item with a cost between \$500 and \$2,500. The agency also authorizes the vendor to obtain another bid so that two bids will be on file as required by statute. The vendor obtains the other bid from a related party (a company whose owner has an interest in both companies). Has the agency received two competitive bids as required by MISS. CODE ANN. Section 31-7-13(b) for purchases between \$500 and \$2,500?

REPLY:

Yes, please note that the only definition of "competitive written bid" found in this statute is as follows:

The term "competitive written bid" shall mean a bid submitted on a bid form furnished by the buying agency or governing authority and signed by authorized personnel representing the vendor, or a bid submitted on a vendor's letterhead or identifiable bid form and signed by authorized personnel representing the vendor.

Under this definition, the bids received could be considered "competitive written bids." However, even if such bids were deemed non-competitive, Mississippi State Hospital can only correct what comes to its attention. Thus, please consider its prior response to this area of concern:

Mississippi State Hospital engaged "Magic" Touch Interiors, Inc. on a professional consulting basis and relied on their services

and expertise in writing specifications and obtaining written quotes as needed. Mississippi State Hospital had no knowledge of, and no reason to question the existence of, a relationship between "Magic" Touch Interiors, Inc. and Interiors Unlimited of Terry, Mississippi. When Mississippi State Hospital officials noticed the frequency of the written quotes being obtained from the same above-referenced vendors, the Director of Fiscal Services instructed the Business Office Director to obtain additional quotes whenever this situation arose to ensure that the quotes were competitive.

It is acknowledged that using a vendor to solicit quotes from other vendors is a poor business practice. However, it is not a violation of the statute mentioned in that the bids received meet the definition of "competitive bid" contained in the law.

The incident cited was an isolated one and not a common practice. Steps have been taken to ensure it will not occur in the future.

Housing as Compensation

NOTE: PEER does not contest the Department of Mental Health's policy of providing free housing (including utilities) to the executive director of the Department of Mental Health on the grounds of the Mississippi State Hospital. PEER's contention is that the free housing should be reported as income to the executive director according to federal law and Internal Revenue Service regulations.

7. Do you consider the central offices of an agency to be the place of employment of the executive director of the agency if the executive director's office is located there and he/she manages day-to-day operations from that location?

REPLY:

See Cumulative Response Below:

8. The central administrative offices of an agency (including the executive director's office from which he/she manages the day-to-day operations of the entire agency) are located in downtown Jackson. The executive director lives in a staff house at a branch facility (one of seven in the state) in Rankin County. He/she is not on call at the branch facility which is managed by a facility director and assistant director who live on the facility's grounds. The executive director's scope of responsibilities with respect to the Rankin County facility is no different than with the other six facilities located throughout the state.

In your opinion, could the executive director live anywhere in the Jackson metropolitan area and properly perform the duties of his/her employment or must he/she live at the branch facility in Rankin County in order to properly perform his/her duties?

REPLY - Cumulative Response:

While the above-mentioned questions are hypothetical in nature, they are calculated to solicit some type of admission by the Department of Mental Health or other agencies that there has been a violation of federal law and Internal Revenue Service Regulations. While these type of questions may more properly be in the purview of the Internal Revenue Service, the Department of Mental Health once again states its position on this matter as previously set out in its January 20, 1989, response submitted by Mr. Joe F. Blakeney. Mr. Blakeney responded as follows:

It is the position of the Department of Mental Health that all income has been reported to the Internal Revenue Service as required by law. The agency director meets the three criteria which exempts the reporting of the value of his residence as income to the Internal Revenue Service. The first criterion is that the lodging is furnished on the business premises of the employer. Mississippi State Hospital is a facility operated by the Department of Mental Health and governed by the Board of Mental Health. Since the agency director occupies a house on the property of the Department of Mental Health, the governing board of which is his employer, the first condition is met. The second criterion, the lodging is furnished for the convenience of the employer, is not contested by PEER. The board recognizes that residing on the premises of its largest facility may be an inconvenience to the agency director but requires the arrangement for its convenience. The third criterion is that the employee is required to accept such lodging as a condition of his employment. PEER reviewed the Board of Mental Health minutes but did not speak with past or present board chairman to determine the accuracy of its statements. The Board of Mental Health conducts all personnel business in executive session and does not provide the details of its actions or employee contracts in its minutes. When the board appointed the agency director, it stipulated the requirement that he reside in the house designated for the agency director. The Internal Revenue Service has conducted an audit at Mississippi State Hospital within the last 5 years and noted no violations. With reference to retirement contributions, the Public Employees Retirement System regulations allow the inclusion of the value of housing in the calculation of retirement contributions. The Department of Mental Health, therefore, has complied with both the Internal Revenue Service and state retirement system regulations and requirements.

Please note the Board of Mental Health reiterated its requirement that the Executive Director reside on Mississippi State Hospital grounds in its minutes of January 1989.

9. Did the provision of free housing and utilities to the executive directors of the Department of Mental Health during the years 1985 through 1987 represent violations of MISS. CODE ANN. Section 25-3-37 (prior to amendment by Senate Bill 2414 passed by the 1989 Legislature) by compensating the Directors amounts in excess of the statutory

limits? NOTE: The directors' cash wages during this period were already set at the maximum allowed by statute.

REPLY:

It is the position of the Department of Mental Health that the staff house on Department of Mental Health property is an emolument as it pertains to the agency director's state employment and is not considered salary in the sense of additional compensation which would raise the agency director's salary above the statutory limit. The methodology for computing and paying the agency director's salary has remained constant throughout the history of the Department of Mental Health. The agency director lives within the confines of Mississippi State Hospital at the behest of the Board of Mental Health with the full knowledge and apparent approval of the legislature and state officers who have an interest in fiscal matters. This was also the position expressed during committee hearings of SB 2414 which sought to clarify this issue not only for the Department of Mental Health but also any other state official similarly situated.

Questions and Answers
PEER Committee Hearing

July 26, 1989

Office of the State Auditor
(represented by Scott Rankin)

- Senator Mills -- ***How would you define the expenditures out there? Would you define it as capital outlay or would you define it as repair and renovation?***
- Scott Rankin -- From the information I heard in Danny's report dealing with the appraisals and the increase in values, it sounds like to me that it would meet the components that normal accounting principles would place on capital outlay.
- Senator Mills -- ***Then you can't answer that for sure, can you? That's what we've got you up here for.***
- Scott Rankin -- It's based on what we know now.
- Senator Mills -- ***Well, have you looked at all the information? Just what information do you have?***
- Scott Rankin -- We have the executive summary and the information that was just presented to you is what we have reviewed.
- Senator Huggins -- ***On these code sections, account sections I guess you would call it, do you find that any other agencies, where let's just say account 201 and it gives a description of what would go in that account and you would find account 102 which has some of the same language, in other words its kind of like a judgement call on which one of these accounts that you charge these to?***
- Scott Rankin -- That's something that we tried to point out in question one. Depending on the set of facts, if you just have a general presentation of installation of carpet, you would have to look at each one of those individual cases and determine which category it would fall under.
- Senator Huggins -- ***So you have a lot of that, and not only this agency but other agencies, they have to make a judgement call and they have accidentally or to the best of their knowledge put it in one account number when it should have gone in another?***
- Scott Rankin -- It's possible to accidentally make that determination.
- Senator Harpole -- ***Have you found any place where there has been as much as five dollars illegally, what I mean by that, spent and***

somebody took it and run off with it, and the state didn't get their money's worth?

Scott Rankin -- In this particular instance?

Senator Harpole -- ***In any instance out there at the State Hospital at Whitfield on this house that we are talking about, has here been any money spent where the state of Mississippi didn't get a dollar's worth of materials or a dollar's worth of labor or whatever it is?***

Scott Rankin -- Senator Harpole, we haven't placed anybody in the field out there to look at each invoice individually to see what kind of work was done, but from the information that was presented to us and our indications are the contracts, except for, and we don't have all of the details, except on our response to question five, other than that we don't know of anything that they didn't get a dollar's worth of value for.

Senator Harpole -- ***What is five?***

Scott Rankin -- Five dealt with the State Personnel Director's approval of a contract, where it was approved for \$31,000 and only \$22,600 of work was apparently done on patient housing and the rest was done somewhere else.

Senator Harpole -- ***You mean that between the 21 [thousand] and the 30 [thousand] that money was spent at Whitfield. That money wasn't stole and carried off, it was spent. You got your money's worth, but it wasn't it that particular deal. What I'm trying to get at is has there been any grand larceny out there?***

Scott Rankin -- Not that we are aware of.

Senator Harpole -- ***The money has been spent but it's been classified wrong. We're in the right church but we're in the wrong pew in other words, or sitting in the wrong seat?***

Scott Rankin -- I think we agree with Danny's presentation in that there was no embezzlement of funds as far as money that was spent on capital improvements.

Senator Anderson-- ***I'm kind of in agreement with Senator Harpole, but if you did not get competitive bids, and I think that is what you are saying, could the state not be at a loss if you did not get competitive bids? For example, if from what I saw on the presentation, with the close proximity of the bids and if you did not get fair competitive bidding, then the state could have in fact lost money. Is that not correct?***

Scott Rankin --

Yes sir, that's correct. I'd like to preface that answer with the fact that House Bill 4 that went into effect in August 1988 requires now that any purchase violations, as far as civil recovery is concerned, directly affect the State Auditor's office's approach to our demand process. We would have to show an actual dollar loss, not just that they intentionally violated or violate the purchasing laws. I think, indirectly, that answers your question.

Department of Finance and Administration
(represented by Cecil Brown)

Senator Anderson -- ***When you talk about legal opinions, don't you have legal staff over there?***

Cecil Brown -- We have an attorney on staff. We did not consult with our attorney to answer these questions. We answered these questions from the standpoint of the pre-audit division of the Department of Finance and Administration. It was our understanding that's the way the questions were to be answered, not by the Attorney General's office.

Senator Mills -- ***As I understood you, Mr. Brown, you are saying that there are a number of things that could be classified as commodities in these expenditures, is that what you were saying?***

Cecil Brown -- What I'm saying is that in the accounting manual which is published by our office there is a definition, classification of carpet, and it is classified as commodity. Now the specific question dealt with carpet. What I'm saying is a literal interpretation of that would say that every time you buy carpet you put it in this category. But as the auditor said, there could be an exception. When you are building a new building, for instance, you would typically take all of the costs of that building and put in the capital outlay category, including the carpet. But it's not clear, we feel like, in the accounting manual, because you could interpret that in every instance when you buy carpet you would put in this category, although that would be stretching it; you could draw that conclusion from the manual.

Senator Mills -- ***I feel like this is a very important question, in other words, how much of that total expenditure could an honest mistake, in other words, could be classified as in commodities. So you don't have that answer?***

Cecil Brown -- No, sir.

Senator Harpole -- ***Mr. Brown, I know that you haven't been out there and looked at every invoice and all this, that and the other, but from what you have seen do you feel the State of Mississippi has got their money's worth? Is there any indication that anybody has done anything intentionally wrong and misspent Mississippi state's money where it shouldn't be spent and this, that and the other?***

Cecil Brown -- We haven't made any analysis of that at all. We haven't tried to determine what went behind the classifications or what somebody's intent was. All I've heard is what PEER has presented, what the State Department of Audit has said, and we have read the executive

summary and seen some of the analysis, but we haven't tried to determine what the intent of the classifications was.

Senator Harpole -- ***What you have seen so far, there has been no indication that nobody has taken anything illegally or unlawfully?***

Cecil Brown -- No, sir, not in relation to classifications.

John Turcotte -- ***Mr. Brown, if an agency comes to you with plans prior to the preparation of the budget request and told you that they intended to spend about \$106,000 renovating two residences and intended to hire a contract interior decorator to guide and direct the expenditures, what category of the budget would you advise that money be placed in to be requested from the Legislature?***

Cecil Brown -- Capital outlay - other than equipment.

Senator Huggins -- ***Mr. Brown, on your question number 3, you've got, "based on discussion with individuals from General Services with knowledge of these estimated values, we found the following, a, b, and c." Explain your opinion on that, please.***

Cecil Brown -- In the original summary information that was presented to us on the calculation of the increase in the value of the houses, there was a calculation based on a report that the Office of General Services prepared that is a property appraisal inventory of all the property owned by the State of Mississippi. In that report there is a column that represents the original construction price or acquisition cost of property and there is a later column that is the current estimated market values. The apparent purpose of the report is to give a consolidated overview of the value of all state-owned property. That is the purpose of the report. Well, in the original chart that was used, there was a calculation that the increase in the value of the property, I believe it was a part of the original briefing, there was a chart in the briefing, that shows the Bureau of Building estimated value of staff houses. There was a column that shows January 1988 estimated value and September 1988. What we are pointing out in a, b, and c is that that calculation in the chart is incorrect. The author of the chart misread the report prepared by the Office of General Services. What they interpreted to be an actual appraisal was in fact derived by a formula called the Markel formula which had nothing to do with the improvements to the property. In fact the improvements to the property were totally ignored in the calculation. They weren't a part of that calculation. That chart was in error. That's what Danny was saying, the chart has been omitted and was not a part of his presentation. Our response was that we wanted to clarify that if that was what was being used as a basis for the increase in the value of the property to say that it should have been categorized as capital outlay - other than equipment, then it was a faulty premise.

Senator Huggins -- ***What I'm trying to get at is whether or not that difference in increase in value of property, that is cost to cost and not market value to market value, I guess. Would that fall under too much money spent and it should have gone into capital outlay or should it have come out of commodities and fallen back below there?***

Cecil Brown -- All this a, b, and c is intended to do is point out that the chart was wrong. The chart drew a conclusion that was not a valid conclusion because the information that went into the chart was incorrect. It was not a part of the presentation that was made to you here, and as I understand, it was not a part of the report.

Legislative Budget Office

(represented by Dick Estes and Lee Lindell)

Senator Harpole -- ***Mr. Estes, as far as you have become involved in this thing, have you seen anything that would indicate that anybody at Mississippi State Hospital has misspent or misappropriated or done away with the State of Mississippi's money? Have you seen anything that would indicate that?***

Dick Estes -- No, sir.

Senator Harpole -- ***I don't think anybody denies that there have been some mistakes made, through ignorance or just didn't know, but I don't think anybody willfully and unlawfully made these mistakes. They didn't know what category...you just got through admitting that it could have been classified in several categories, and I think that is what has happened here.***

Dick Estes -- There is an intent to put them in certain categories, but certainly we agree with PEER and FMB and the Audit Department that those are the proper categories. But you're right, sir, subjectively they can end up in other categories in this agency as well as in others. The entire history of Mental Health, as well as other agencies, has been to move away from putting money in OTE [other than equipment] and utilizing commodities and contractual services for things that are renovations and could be utilized for renovations. If you look through the budget books for the last five or six years you will find that there is very little OTE being utilized in Mental Health at all, and they have been going through the pre-audit and the audit functions utilizing a lack of OTE and therefore they have done this in years when there has been major renovations throughout, and not just the renovation of staff housing. We have this going through their agency and other agencies. There is a problem.

John Turcotte -- ***Mr. Estes and Mr. Lindell too, before the Legislative Budget Committee makes its recommendations on agency budgets, does the Committee and staff get together and develop guidelines for analysis of the budgets?***

Dick Estes -- Yes.

John Turcotte -- ***Do you remember back in 1987 and again in 1988 what guidelines were for budgeting commodities and capital outlay - other than equipment?***

Lee Lindell -- Not specifically, the guidelines are normally printed in the front of the books, and we can refer to the budget books and see what they were.

- Dick Estes -- There were never any specific guidelines.
- John Turcotte -- ***Without knowing what the specific guidelines were, had you known in advance of making your staff recommendations that there was money in the commodities category of the Department of Mental Health budget for the purchase of a \$1,500 spiral staircase to go from a child's bedroom to the attic, would you have recommended that money be placed in the budget for commodities?***
- Dick Estes -- No, sir. I possibly in my recommendation process would not have recommended...in the subcommittee process if monies were available and the subcommittee chairmen were aware of that requirement and approved that requirement, in most cases it enters the appropriation bill. No, I probably would not have recommended that in the austere environment we're put under.
- John Turcotte -- ***How about a \$6,000 set of drapes for a house, the hospital director's house?***
- Dick Estes -- Again, under the austere aspects that we are put under I would not have recommended it.
- John Turcotte -- ***Had you known the total scope of the expenditures out there from the commodities and contractual services categories and the way the money was spent ultimately, would you have been inclined to put the money in those categories, just on your staff level, realizing of course that the Legislature has the ultimate authority?***
- Dick Estes -- In the recommendation process I would not have, I would go with those in your report.
- Representative
Wilkerson -- ***Dick, we have been through several budgets over the years. Am I hearing you say that by not requesting money in the capital outlay other than equipment category but rather lumping it all together, that it is easier to do certain things that they don't have to write out in black and white and dot all the i's and cross all the t's. Now I am not talking about anything illegal, I am saying to be able to have more flexibility in their day-to-day operation.***
- Dick Estes -- The broad categories in which you all do appropriations you do it by major object and there are many different subcategories and certainly that allows a lot of flexibility in the commodities or the ability to move monies by going to FMB and asking for transfers, etc. between funds. It allows a great deal of flexibility. We would hope that anything that they do has been brought to the attention of the subcommittees and the legislative members during the appropriations process so that you approved it even though

they may utilize the wrong category under the regulations of GAAP or the Audit Department but still be at least an approved action.

Representative
Wilkerson --

But the fact is we approve budgets with x amounts in a commodities category every year that those monies are expended for things that we as Legislators and members of the appropriations committee have never heard of. Isn't that a fact?

Dick Estes --

Yes, sir.

Department of Mental Health
(represented by Dr. Hendrix)

Representative
Wilkerson --

Dr. Hendrix, we've spent a lot of hours on this, but let me ask you one question. I do not serve on the subcommittee that handles your budget. In your request last year for the money that was for the repair or renovation for the two patient buildings and whatever else, was there a discussion and a request for x amount of dollars to repair the two houses?

Dr. Hendrix --

These houses were done two or three years ago.

Representative
Wilkerson --

Well, whatever the period was before the work was done.

Dr. Hendrix --

We had a discussion with the chairmen of our subcommittee that we were using the money to try to do one large house or two small houses per year. We told them the general plan.

Representative
Wilkerson --

So it was not really broken down as far as how much on each one or for an average per house?

Dr. Hendrix --

The chairman of our subcommittee, it would be better to ask him if he was fully aware. But if you ask him, I think that he would say that he was fully aware that we were doing the houses.

Representative
Grist --

There was one issue that you had not responded to that you had on your list that you hadn't finished with. What was that?

Dr. Hendrix --

About additional compensation. To violate the law, the law says the person has to knowingly overpay himself. It may or may not be true that for that one year which was about three years ago that I may have gotten overpaid if you consider housing additional compensation under this bill. Even if that happened, which I don't think it did, it wasn't a violation of law. The law says for it to be a violation, just like he was talking about on House Bill 4, it says you have to knowingly overpay yourself. We have had two attorneys researching this and they are convinced this section does not mean this.

Senator Anderson --

Dr. Hendrix, you did not respond to the question where there are allegations of splitting purchase orders.

Dr. Hendrix --

I don't know anything about that. I think I addressed that when I . . . that all goes back to that interior decorator, it wasn't Department of Mental Health employees. I understand it was six or eight he was talking about. I don't know about that one, Senator. I know

that none of our staff was involved in it, but I don't know. But I will say this, if they were out there six months investigating, surely if they were split, there would have been a decision made whether they were or weren't. I mean they were out there six months investigating it.

Senator Anderson -- ***Let me say Dr. Hendrix that Senator Harpole and I were talking and asking about your salary and all those kinds of things. A man in your position, I certainly believe the salary should be considerably more than what it is. And I also believe that there should be some changes in the purchase laws from what we've looked at here today. On the other hand, I think that the PEER Committee staff can only investigate and recommend changes pertaining to what the law actually is, whether it's a good law or bad law, I think they have to make their decisions based on the letter of the law and not the intent. And so in that sense, I certainly sympathize with you. I don't think there was any intent on your part to, I don't think you did take anything or intended to take anything or anything of that nature. I do think there are some questions as to whether or not the letter of the law may have been, for whatever reason, not completely adhered to. And here again, it could have been a lack of knowledge of what the law is or it could have been confusion, but I think that our staff has an obligation to look at the letter of the law and then make those reports to us based on that. And certainly I don't think they can determine what intent is or what it was, so don't fault our staff for not knowing what the intent was, because really I don't know what the intent was. But I do think from this hearing, we as Legislators need to look at purchasing practices and laws. To me I see a vast difference, and I'm on appropriations, between patient houses and administrative houses in terms of my vote on some things and maybe I wouldn't have questioned it. My concept of commodities as a whole does not include some of these things.***

Senator Harpole -- ***Let me ask you one question, who is this man what lives in Jackson? Does somebody live here in Jackson?***

Dr. Hendrix -- I work here in Jackson. Most of these comments that I made today address Mississippi State Hospital which has a separate administrator, but I was subpoenaed.

Senator Harpole -- ***But the point I'm trying to make is you work here in the city during the day, but at night you work out there at MSH subject to call 24 hours. And I was thinking there was an administrator that worked here in Jackson.***

Dr. Hendrix -- There is an administrator at State Hospital that runs that facility.

Senator Harpole -- ***But you are the boss out there and you are the first man that they are going to call if something happens at twelve o'clock at night.***

Dr. Hendrix -- He is actually the boss of that facility. That's his agency out there.

Senator Harpole -- ***Are you over him?***

Dr. Hendrix -- I'm over him. I work down here but they wanted me out there to increase administrative supervision at that facility.

Senator Harpole -- ***If something happens at twelve o'clock tonight, and they need you they will call you and you go to work.***

Dr. Hendrix -- Yes sir, they call me if they need me.

John Turcotte -- ***Dr. Hendrix, will you look at the requisition under tab A to Climate Masters for \$24,525, and would you explain that to the Committee and justify those expenditures?***

Dr. Hendrix -- Well, I did. It is attached to it there.

John Turcotte -- ***OK, what is that? Is that cabinets for the house?***

Dr. Hendrix -- Yes, that is cabinets for the house. Well, no, not all of it. Part of it is for cabinets.

John Turcotte -- ***How much is for cabinets?***

Dr. Hendrix -- Seven or eight thousand dollars.

John Turcotte -- ***Let's say it is eight thousand dollars. Can you justify to the Committee \$8,000 for cabinets for that house?***

Dr. Hendrix -- The cabinets in that house, the cabinets in the bathroom were old metal leg cabinets that had rusted and things of that nature. The cabinets in the kitchen, the knobs were gone, the formica was split. We were told that almost the same price. . . these are not custom made cabinets. These are pressed, prefab, premanufactured cabinets set in there. Nobody came in there and built them, it would be almost as cheap to put in new cabinets as to rework what was already in there.

John Turcotte -- ***So is this a standard design that you intend to put in other houses when they get renovated?***

Dr. Hendrix -- Again, as I said a while ago there is an administrator at State Hospital and they have their own plans for those houses. I was in Oxford when that house was done. This house was done before I moved to Jackson. I mean I know it was going on before I moved to Jackson.

John Turcotte -- ***Isn't it a fact though that your wife picked out the cabinets?***

Dr. Hendrix -- Yes, I think she did.

John Turcotte -- ***OK, well then, how can you say you that were in Oxford when the house was being renovated?***

Dr. Hendrix -- They called her up and asked her what color she would have and she said a neutral type color that could be used by whoever had the house after us. The curtains are also neutral white. Let me point out that those cabinets were between thirty and forty years old. Those curtains, most of them were dry rotted or had sheets over the windows and they were twenty years or older. But your staff, Mr. John Turcotte, said that they did not question that the repairs needed to be done.

John Turcotte -- ***Again, I'm asking you to just justify that you testified that \$8,000 of the \$24,000 was for the cabinet work.***

Dr. Hendrix -- Wait a minute. Let me ask you something. If it is to justify the work that was done, your staff has already stated that they had no question that the work needed to be done. Or is it a question here, was it properly paid for?

John Turcotte -- ***No, I'm asking you to justify the cabinet work. According to the invoice, it says \$24,525 - remodeling work cabinets.***

Dr. Hendrix -- You know that your staff did a detail breakdown on that and it's not \$24,000. It was seven or eight as I said a while ago.

John Turcotte -- ***Well, there it is. This is your document, and I'm only trying to explain that that's what we had to go on ourselves is this document.***

Dr. Hendrix -- No ,sir, Danny's broken it down and he found out exactly what those cabinets cost, and it's seven or eight thousand dollars.

John Turcotte -- ***Now on the idea of purchase orders and the fact that they were prepared after the materials had been ordered, are you condoning that practice?***

Dr. Hendrix -- No, I'm just saying that that's already been audited this year, and the Auditor's office's conclusion was quite different from yours. Now I gave you a copy of the audit report.

John Turcotte -- ***OK, so I guess a thing done wrong long enough makes it right.***

Dr. Hendrix -- I gave you a copy of the audit report, you know.

John Turcotte -- ***I understand and I don't think they did a detailed financial audit. I think that if you will read that it says that it was included as part of the overall audit of the state, and as such they did not do what I would call a detailed financial audit, and if they did I suspect that their conclusions might have been different. Now you gave your opinion on what was put in front of us, now I'm stating mine. Now go back again to the purchase orders. Has that practice been stopped?***

Dr. Hendrix -- I have a response here from Mr. Blakeney that says it has.

John Turcotte -- ***You are director of the Department. Has it been stopped?***

Dr. Hendrix -- I have 6,400 employees. I have a director out there. His letter tells me in writing that it has been stopped, and he told me that so I have to believe that it has been.

John Turcotte -- ***When we did our review out there at the time, it is true that a building, a security building, was being constructed and that the work was stopped.***

Dr. Hendrix -- There was a guard house at the entrance to that facility, and when the question came up whether that was an addition to capital outlay - other, we told them to delay any work on that project until such time as it was resolved.

John Turcotte -- ***Do you intend to go back now after this is over with and get them to finish the work?***

Dr. Hendrix -- Oh, absolutely. The Legislature this year did include some capital outlay in the senate section. The house put it in contractual and the senate put it in capital outlay. And one of the projects that was recommended to them was to do that guard house. And that probably was the most talked-about item in the Legislature that they wanted to put in there. I was stopped by more senators on that particular thing. Do that guard house. Yes, sir.

John Turcotte -- ***That was a high priority? Put up a guard house.***

Dr. Hendrix -- It was a high priority for the Legislators from that county out there. Yes, sir.