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Title 4
ADMINISTRATION
Part I. General Provisions

Chapter 1. Annual Program Evaluation Reports

§101. Reports from Undersecretaries to Governor

A. Revised Statutes 36:8 (added by Act 160 of 1982 and amended by Act 230 of 1987 and Act 911 of 1995) requires undersecretaries, prior to November 25 of each year, to submit to the departmental secretary an annual report summarizing the activities of his office relating to management and program analysis. R.S. 36:8 also requires the departmental secretary to submit the report to the Governor, Commissioner of Administration, House Committee on Appropriations, Senate Committee on Finance, and the standing committee of each house of the legislature having responsibility for oversight of the department, as provided in R.S. 49:968, prior to December 5 of each year. This report is to be contained on a form prepared by the Division of Administration. The report must contain the following items as required by R.S. 36:8:

1. a description of significant problems, deficiencies, and abuses relating to the administration and management of programs and operations within the department;

2. corrective measures recommended by the office for those problems identified pursuant to Paragraph 1;

3. an identification of significant recommendations in previous reports on which no action has been taken;

4. a summary of reports made to the secretary pursuant to this Section; and

5. a list and brief summary of program evaluations made by the office.

B. The following forms (§§103-111) have been adopted by the Division of Administration to adhere to the requirements of R.S. 36:8 for annual program evaluation reports, commonly known as "Act 160 Reports."

C. The Division of Administration promulgated as rules in the December 1982 *Louisiana Register*, the use of four forms for agencies to use to meet the reporting requirements of Act 160 of 1982. The use of a fifth form to capture the required "identification of significant recommendations in previous reports on which no action has been taken" was promulgated as rule in the February 1984 *Louisiana Register*. Therefore, annual program evaluation reports must include Forms 160-1 through 5 (modified for the appropriate reporting period), which follow.

D. It is understood that the intent of the Act 160 legislation was to provide undersecretaries in each department with a tool for internal planning, management, and control as well as to provide appropriate persons in the House and Senate, the Commissioner of Administration and the Governor with program information. The submission of Forms 160-1 through 5 is an indication of the fulfillment of the role of the undersecretary as defined in R.S. 36:8, and can be evidence to the public of efforts to make state government more efficient and effective. Routine monitoring of programs, institutions, etc., does not need to be included, nor should actual reports be attached in lieu of summarized information on the forms. The "Act 160 Report" should include only significant problems, reports, and evaluations (generally distinguished by the focus on the impact or level of success of a particular program or project).

E. If a department has not identified any significant problems in its administration and management of programs and operations, has made or acquired no evaluations of programs within its agencies, and has not had any significant report made to the undersecretary during the reporting period, the undersecretary shall submit a letter to the House Committee on Appropriations, Senate Committee on Finance, standing committee of each house of the legislature having responsibility for oversight of the department, Governor, and Commissioner of Administration indicating such in lieu of Forms 160-1 through 5 by the December 5 deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:8, R.S. 36:53 and R.S. 36:629(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), amended LR 10:76 (February 1984), LR 28:1688 (October 2001) .

§103. Form 160-1XSignificant Problem, Deficiency, or Abuse

Form 160-1 Department_____

Reporting Period_____

1. Significant Problem, Deficiency, or Abuse Relating to the Administration or Management of Programs and Operations within the Department. (Complete one sheet per problem.)

   A. Problem Description

      1. What is the nature of the problem?

      2. What organizational unit in the department is experiencing the problem?

      3. Who else is affected by the problem?

      4. How long has the problem existed?

      5. What are the costs and consequences of failure to correct the problem?

   B. Corrective Measures

      1. What corrective measures are recommended to alleviate the problem?

      2. What are the criteria for improvement?

3. What is the expected time frame for corrective measures to be implemented?

4. What is the expected time frame for improvements to occur?

5. What are the costs of implementing the corrective measures?

6. Will additional personnel or funds be required to implement the recommended measures? If so, specify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration in LR 8:644 (December 1982), amended LR 28:1688 (October 2001).

§105. Form 160-2XReports to the Secretary

Form 160-2 Department _____

Reporting Period _____

Reports to the Secretary

Reports completed between November 25 of the preceding fiscal year and November 25 of the current fiscal year. List titles below and complete a summary sheet for each. (Use Form 160-4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), amended LR 28:1689 (October 2001).

§107. Form 160-3XList of Program Evaluations

Form 160-3 Department _____

Reporting Period_____

List of Program Evaluations

Evaluations completed between November 25 of the preceding fiscal year and November 25 of the current fiscal year. List titles below and complete a summary sheet for each. (Use Form 160-4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), amended LR 28:1689 (October 2001).

§109. Form 160-4XSummary of Evaluation or Report

Form 160-4 Department _____

Reporting Period _____

SUMMARY OF EVALUATION OR REPORT

Title:

Entity Evaluated/Reported:

Why was Evaluation/Report initiated?

Questions/Objectives of the Evaluation/Report:

Major Findings and Conclusions:

Major Recommendations:

What action was taken in response to the Evaluation/Report?

Contact person for more information:

Name _____ Agency _____

Phone # _____ Address_____

Fax #_____ E-mail Address _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), amended LR 28:1689 (October 2001).

§111. Form 160-5XSignificant Recommendations

Department _____

Reporting Period _____

Significant Recommendations from Previous Reports with No Action Taken		
Program/Project	Recommendations	Reason(s) No Action Taken

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:76 (February 1984), amended LR 28:1689 (October 2001).

Chapter 3. Fees

§301. Uniform Fee Schedule for Copies of Public Records

A. Copies of public records furnished to a person so requesting shall be provided at fees according to the following schedule.

B.1. Charges for the first copy of any public records shall be at a minimum $0.25 per page for microfiche reproductions or paper copies up to 8 1/2 by 14 inches.

2. A two-sided copy shall be considered two pages.

C. Charges for copies of public records on paper larger than 8 1/2 by 14 inches shall be the same as the actual cost to the agency for copying same.

D. Charges for copies of public records on preprinted computer reports shall be the same rate specified in §301.A and B. Each agency shall develop a uniform fee schedule for providing printouts of public records stored in a computer data base utilizing routing utility programs. Such uniform fee schedule shall be first approved by the Division of Administration. An estimated cost shall be given for reproduction of public records stored in a computer which require program modification or specialized programs. The requesting party shall be advised of the estimate, and that it is an estimate, but the actual cost for reproduction, including programming costs, shall be charged if it differs from the estimate.

E. Agencies which have an established fee for copying public records that is in excess of those set forth in the rule must justify that fee in writing and have the established fee approved by the Division of Administration.

F. Copies of public records shall be furnished without charge, or at a reduced charge, to indigent citizens of this state or the persons whose use of such copies will be limited to a public purpose, including, but not limited to, use in a hearing before any governmental regulatory commission.

G. This schedule does not apply to copies of public records, the fees for the reproduction of which are otherwise fixed by law, nor shall this schedule apply to requests for copies from one state agency to another.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241 and R.S. 44:32.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:411 (August 1982), amended LR 12:229 (April 1986).

§303. Department of State Non-Statutory Fee Schedule

A. The Department of State has established the following schedule of fees to be charged for various filings and services by the Department of State.

Item	Cost
Miscellaneous Certificates	$20
Replacement Commission Certificates	15
Certified Copies Amended	25
Copies Amended	25
Powers of Attorney	25
Business Opportunity Agents	15
Name Reservations	25
Trade Name Reservations	25
Partnerships	100
Foreign Partnerships	150
Special Handling	30
Vital Records Certified/Uncertified	10
Limited Liability Companies	75
Appointment of Registered Agent, New Officers or Directors	25
Resignation of Agent, Officer or Director	25
Change of Domicile	25
Change of Address	25
Supplemental Initial Report	25
Microfilm per 35mm reel, shipping included	25
Microfilm per 16mm reel, shipping included	20
Document Certification	15
Pension Applications per 10 pages or any part thereof	10
Military Records per 25 pages or any part thereof	10
Legislative Audio Tape, tape provided by Archives	15
Legislative Audio Tape, tape provided by patron	10
5x7 Photo Reproduction	15
8x10 Photo Reproduction	25

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, LR 12:689 (October 1986), amended LR 29:372 (March 2003).

Chapter 5. Incentive Award Program

§501. Definitions

*Agency*Xany unit within government that employs classified state civil service employees and has an identifiable self-contained budget or has its financial records maintained according to an accounting system which identifies, to the satisfaction of the legislative auditor, the expenditures and receipts properly attributable to that unit.

*Agency Employee Incentive Award Committee (agency committee)*Xa committee created within an agency that has had its structure approved by the State Employee Incentive Award Committee.

*Application*Xthe submittal of a suggestion, on the prescribed form, to an incentive award committee.

*Cost Savings*Xan actual dollar savings for an agency of government.

*Employee*Xan individual employed by an agency at the time the suggestion is submitted to an incentive award committee.

*Evaluation*Xthe formal process by which a suggestion reviewed. The evaluation process may include:

1. preliminary review by an incentive award committee;

2. review by the legislative auditor;

3. reviewing the idea with the suggester;

4. soliciting opinions and/or recommendations from supervisors or other state entities affected by the idea; and

5. an agency or budget unit documentation of the cost savings or revenue generation.

*Implementation*Xputting to use, putting into operation, and/or placing in effect an employee's suggestion by a budget unit, agency, or governmental entity.

*Implemented Suggestion*Xa suggestion that is actually implemented and results in cost savings or revenue generation.

*Incentive Award Program*Xthat program which is established in accordance with R.S. 39:366.1-6.

*Louisiana Civil Service League*Xa private, nonprofit educational organization that is authorized by R.S. 39:366.1 to make awards in the Incentive Award Program.

*Revenue Generation*Xan economy that increases funds available to an agency of government as a direct result of an implemented suggestion.

*State Employee Incentive Award Committee (state committee)*Xthe committee created within the Division of Administration under the authority of R.S. 39:366.1 that is authorized to do the following:

1. empower agencies to create agency committees;

2. approve the structure of agency committees;

3. provide oversight for agency committees;

4. conduct yearly reviews of agency committees;

5. review incentive award suggestions having a statewide impact;

6. request the legislative auditor to review any incentive award program or suggestion.

*Suggester*Xa budget unit or employee submitting an application to an agency committee or the state committee.

*Suggestion*Xan idea that:

1. poses a problem, or opportunity;

2. presents a solution;

3. has been implemented;

4. has been written up on the suggester's own time;

5. has been submitted to the state committee or an agency committee on the prescribed suggestion form;

6. has been signed by the suggester and has the approval of the department secretary or head of the agency employing the suggester;

7. has been received for processing by an agency or state committee.

*Transferability*Xthe feasibility of a suggestion being used in any other budget unit or agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Commissioner's Office, LR 16:29 (January 1990).

§503. Submittal of Suggestions to Committees

A. All applications must be submitted on the prescribed form. It is solely the responsibility of the suggester to fill out the form completely and accurately.

B. Before an application is formally submitted to an agency or state committee, the department secretary or the head of the agency shall sign the application form and list all participating employees from the agency. The committees shall rely on this application to determine employees eligible for an award recommendation. If an award recommendation is made, all participants shall be presumed to share the award equally.

C. To qualify for an incentive award recommendation, a suggestion must result in a cost savings or revenue generation.

D. The suggestion, upon submittal, shall become the exclusive property of the state of Louisiana.

E. All suggestions must be the suggester's idea and should not be the result of professional consultation or upon advice of others.

F. All suggestions shall be thoroughly documented and shall contain detailed information so that a cost-benefit analysis can be done to determine the cost savings or revenue generation. If the application does not contain sufficient information for such determination, a committee may require the suggester to submit supplemental information. If the suggester is unable or unwilling to submit the requested supplemental information, an agency or state committee may recommend that the application be declined.

G. All incentive award applications must be completed on the employee's off-duty time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Commissioner's Office, LR 16:29 (January 1990).

§505. Evaluation of Suggestions

A. Upon receipt of an application, the agency or state committee or its staff shall review the submittal for completeness. If an application is complete, it shall be evaluated to determine if the suggestion is eligible for the program. Whenever the agency or state committee declines an application, the suggester shall be notified in writing.

B. Applications that are accepted by an agency or state committee shall be forwarded to the head of the agency affected by the suggestion for further documentation of the cost savings or revenue generation. The suggestion shall be sent to the head of the agency with a request for specific documentation. The department or agency head's evaluation must be returned within the time-frame established by the agency or state committee and must be in writing.

C. A committee shall make the final recommendation based on the information supplied it by its staff, the applicant, and agency head. The agency or state committee recommendation shall be final; however, the suggester may submit the same suggestion again if he/she believes the committee was incorrect in its recommendation.

D. Committee members shall evaluate each suggestion based on the following criteria.

	Evaluation Category	Points
1.	Originality	0 to 10
2.	Transferability to other budget units or agencies	0 to 10
3.	Cost Savings or Revenue Generation	0 to 10
		Points
$ 0	- 4,999	1
5,000	- 14,999	2
15,000	- 29,999	3
30,000	- 49,999	4
50,000	- 74,999	5
75,000	- 104,999	6
105,000	- 139,999	7
140,000	- 179,999	8
180,000	- 224,999	9
225,000	-	10

E. Each committee member shall use the following evaluation form:

(File Number or Suggester Name) _____ Pts.
Originality _____
Transferability _____
Savings/Revenue _____
Total: _____

_____
Signature of Committee Member

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Commissioner's Office, LR 16:30 (January 1990).

§507. Incentive Award Recommendations

A. After a suggestion is evaluated, the committee members' evaluations shall be totaled and averaged and an award recommendation shall be made as follows.

Award Recommendation	Points
$ 200	4-8
250	9-10
500	11-13
750	14-16
1,000	17-19
2,000	20-22
4,000	23-25
6,000	26-27
8,000	28-29
10,000	30

B. If a suggestion does not receive enough points for a cash award recommendation, but is, in the opinion of an agency or state committee, meritorious, the suggester(s) may be recommended for a certificate of special recognition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Commissioner's Office, LR 16:30 (January 1990).

§509. Submission of Recommendations to the Louisiana Civil Service League

A. After the state committee or an agency committee completes evaluation of a suggestion and determines that an award recommendation should be made, a copy of the application and all documentation of the impact of the suggestion should be forwarded to the Louisiana Civil Service League, 535 Gravier Building, Suite 508, New Orleans, Louisiana 70130. The Civil Service League shall review the suggestion and award recommendation and determine the final award. All award determinations made by the Louisiana Civil Service League are final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Commissioner's Office, LR 16:30 (January 1990).

§511. Post Award Activity

A. All files shall be maintained by the appropriate committee for a period of three years after closure in accordance with R.S. 44:36. Suggesters may request to review these records. All scoring tabulations on which an award recommendation is based shall be maintained in the file.

B. After the file is closed the suggester will not be entitled to any further consideration for that suggestion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Commissioner's Office, LR 16:31 (January 1990).

§513. Miscellaneous

A. Any and all determinations made by the agency or State Employee Incentive Award Committee shall be final.

B. The State Employee Incentive Award Committee reserves the right to amend its rules. All suggestions shall be evaluated under the rules in effect at the time of submittal.

C. The agency and state committees reserve the right to modify a suggestion to provide the suggester a greater opportunity to have his or her suggestion receive a recommendation for an award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:366.1-39:366.6.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Commissioner's Office, LR 16:31 (January 1990).

Chapter 7. Implementation of Electronic Signatures in Global and National Commerce ActXP.L. 106-229

§701. Short Title

A. These procedures are in response to the Federal "Electronic Signatures in Global and National Commerce Act" (e-sign) effective October 1, 2000. E-sign applies only to the use of electronic records and signatures in interstate or foreign commerce. These rules may be referred to as the "E-Sign Rules."

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:524 (April 2001).

§703. Exemptions

A. State agency transactions that are not governed by the Electronic Signatures in Global and National Commerce Act, PL 106-229, hereinafter referred to as the "e-sign," are not subject to these procedures.

B. State agency transactions that have electronic record and signature technology procedures that have been established by statutory and/or regulatory authority approval and do not conflict with e-sign, shall remain in effect.

C. State agency transactions that have electronic record and signature technology procedures that have been established by statutory and/or regulatory authority approval with sections that are in conflict with e-sign, shall have all Sections of these procedures remain in effect that are not in conflict with e-sign.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:524 (April 2001).

§705. General

A. This Section applies to all written electronic communications which are sent to a state agency over the Internet or other electronic network or by another means that is acceptable to the state agency, for which the identity of the sender or the contents of the message must be authenticated, and for which no prior agreement between the sender and the receiving state agency regarding message authentication existed as of the effective date of this Section. This Section does not apply to or supersede the use and expansion of existing systems which are not in conflict with the Federal "Electronic Signatures in Global and National Commerce Act":

1. for the receipt of electronically filed documents pursuant to applicable Louisiana statutory law and promulgated rules and regulations, where the purpose of the written electronic communication is to comply with statutory filing requirements and the receiving state agency or local government is not a party to the underlying transaction which is the subject of the communication; or

2. for the electronic approval of payment vouchers under rules adopted by the State Treasurer pursuant to applicable law.

B. Prior to accepting a digital signature, a state agency shall ensure that the level of security used to identify the signer of a message and to transmit the signature is sufficient for the transaction being conducted. A state agency that accepts digital signatures may not effectively discourage the use of digital signatures by imposing unreasonable or burdensome requirements on persons wishing to use digital signatures to authenticate written electronic communications sent to the state agency.

C. A state agency that accepts digital signatures shall not be required to accept a digital signature that has been created by means of a particular acceptable technology described in Subsection D of this Section if the state agency:

1. determines that the expense that would necessarily be incurred by the state agency in accepting such a digital signature is excessive and unreasonable;

2. provides reasonable notice to all interested persons of the fact that such digital signatures will not be accepted, and of the basis for the determination that the cost of acceptance is excessive and unreasonable; and

3. files an electronic copy (in html format) of the notice with the Division of Administration. The Division of Administration shall make a copy of such notice available to the general public via the World Wide Web.

D. A state agency shall ensure that all written electronic communications received by the state agency and authenticated by means of a digital signature in accordance with this Section, as well as any information resources necessary to permit access to the written electronic communications, are retained by the state agency as necessary to comply with applicable law pertaining to audit and records retention requirements.

E. Guidelines Agencies Should Use in Adopting an Electronic Signature Technology

1. An agency's determination of which technology is appropriate for a given transaction must include a risk assessment, and an evaluation of targeted customer or user needs. The initial use of the risk assessment is to identify and mitigate risks in the context of available technologies and their relative total costs and effects on the program being analyzed. The assessment also should be used to develop baselines and verifiable performance measures that track the agency's mission, strategic plans, and performance objectives. Agencies must strike a balance, recognizing that achieving absolute security is likely to be in most cases highly improbable and prohibitively expensive.

2. The identity of participants to a transaction may not need to be authenticated. If authentication is required, several options are available: ID and passwords for a web-based transaction may be sufficient, however the user login session should be encrypted using either Secured Sockets Layer (SSL) or Virtual Private Networks (VPN) or an equivalent encryption technology.

3. Digital Signatures/Certificates may offer increased security (positive ID), however this will vary depending on:

a. who issues the certificates;

b. what is the identity-proofing process (e.g., are you using Social Security number, photo IDs, biometrics); and

c. is the certificate issued remotely via software or mail, or is "in person" identification required?

4. In determining whether an electronic signature is required or is sufficiently reliable for a particular purpose, agencies should consider the relationships between the parties, the value of the transaction, and the likely need for accessible, persuasive information regarding the transaction at some later date (e.g., audit or legal evidence). The types of transactions may require different security control measures, based on security risks and legal obligations:

a. transactions involving the transfer of funds;

b. transactions where the parties commit to actions or contracts that may give rise to financial or legal liability;

c. transactions involving information protected under state or federal law or other agency-specific statutes obliging that access to the information be restricted;

d. transactions where the party is fulfilling a legal responsibility which, if not performed, creates a legal liability (criminal or civil);

e. transactions where no funds are transferred, no financial or legal liability is involved and no privacy or confidentiality issues are involved.

5. Agency transactions fall into five general categories, each of which may be vulnerable to different security risks:

a. intra-agency transactions;

b. inter-agency transactions (i.e., those between state agencies);

c. transactions between a state agency and federal or local government agencies;

d. transactions between a state agency and a private organization-contractor, non-profit organization, or other entity;

e. transactions between an agency and a member of the general public.

6. Agencies should follow several privacy tenets:

a. electronic authentication should only be required where needed. Many transactions do not need, and should not require, detailed information about the individual;

b. when electronic authentication is required for a transaction, do not collect more information from the user than is required for the application;

c. the entity initiating a transaction with a state agency should be able to decide the scope of their electronic means of authentication.

7. When agencies evaluate the retention requirements for specific records, they should consider the following if the record was signed with an electronic signature.

a. *Low Risk*Xsimple electronic signature (e.g., typed name on an e-mail message).

b. *High Risk*Xdigitally-signed communication, a message that has been processed by a computer in such a manner that ties the message to the individual that signed the message. The digital signature must be linked to the message of the document in such a way that it would be computationally infeasible to change the data in the message or the digital signature without invalidating the digital signature.

8. If the record contains a digital signature, the following additional documents may be required:

a. a copy of the *Public Key*;

b. a copy of the Certificate Revocation List (CRL) showing the validity period of the certificate or a copy of the On-line Certificate Status Protocol (OCSP) results;

c. Certification Practice Statement (CPS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:525 (April 2001).

§707. Definitions

A. The following words and terms, when used in this Section, shall have the following meanings unless the context expressly indicates otherwise.

*Asymmetric Cryptosystem*Xa computer-based system that employs two different but mathematically related keys with the following characteristics:

a. one key encrypts a given message;

b. one key decrypts a given message; and

c. the keys have the property that, knowing one key, it is computationally infeasible to discover the other key.

*Certificate*Xa message which:

a. identifies the certification authority issuing it;

b. names or identifies its subscriber;

c. contains the subscriber's public key;

d. identifies its operational period;

e. is digitally signed by the certification authority issuing it; and

f. conforms to ISO X.509 Version 3 standards.

*Certificate Manufacturer*Xa person that provides operational services for a Certification Authority or PKI Service Provider. The nature and scope of the obligations and functions of a Certificate Manufacturer depend on contractual arrangements between the Certification Authority or other PKI Service Provider and the Certificate Manufacturer.

*Certificate Policy*Xa document prepared by a Policy Authority that describes the parties, scope of business, functional operations, and obligations between and among PKI Service Providers and End Entities who engage in electronic transactions in a Public Key Infrastructure.

*Certification Authority*Xa person who issues a certificate.

*Certification Practice Statement*Xdocumentation of the practices, procedures, and controls employed by a Certification Authority.

*Digital Signature*Xan electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature, and that complies with the requirements of this Section.

*Digitally-Signed Communication*Xa message that has been processed by a computer in such a manner that ties the message to the individual that signed the message.

*End Entities*Xsubscribers or Signers and Relying Parties.

*Escrow Agent*Xa person who holds a copy of a private key at the request of the owner of the private key in a trustworthy manner.

*Handwriting Measurements*Xthe metrics of the shapes, speeds and/or other distinguishing features of a signature as the person writes it by hand with a pen or stylus on a flat surface.

*Key Pair*Xa private key and its corresponding public key in an asymmetric cryptosystem. The keys have the property that the public key can verify a digital signature that the private key creates.

*Local Government*Xa parish, municipality, special district, or other political subdivision of this state, or a combination of two or more of those entities.

*Message*Xa digital representation of information.

*Person*Xan individual, state agency, local government, corporation, partnership, association, organization, or any other legal entity.

*PKI*XPublic Key Infrastructure.

*PKI Service Provider*Xa Certification Authority, Certificate Manufacturer, Registrar, or any other person that performs services pertaining to the issuance or verification of certificates.

*Policy Authority*Xa person with final authority and responsibility for specifying a Certificate Policy.

*Private Key*Xthe key of a key pair used to create a digital signature.

*Proof of Identification*Xthe document or documents or other evidence presented to a Certification Authority to establish the identity of a subscriber.

*Public Key*Xthe key of a key pair used to verify a digital signature.

*Public Key Cryptography*Xa type of cryptographic technology that employs an asymmetric cryptosystem.

*Registrar*Xa person that gathers evidence necessary to confirm the accuracy of information to be included in a subscriber's certificate.

*Relying Party*Xa state agency that has received an electronic message that has been signed with a digital signature and is in a position to rely on the message and signature.

*Role-Based Key*Xa key pair issued to a person to use when acting in a particular business or organizational capacity.

*Signature Digest*Xthe resulting bit-string produced when a signature is tied to a document using Signature Dynamics.

*Signer*Xthe person who signs a digitally signed communication with the use of an acceptable technology to uniquely link the message with the person sending it.

*State Agency*Xa department, commission, board, office, council, or other agency in the executive branch of state government that is created by the constitution, executive order, or a statute of this state. Higher education, the legislature and the judiciary are to be considered state agencies to the extent that the communication is pursuant to a state law applicable to such entities.

*Subscriber*Xa person who:

a. is the subject listed in a certificate;

b. accepts the certificate; and

c. holds a private key which corresponds to a public key listed in that certificate.

*Technology*Xthe computer hardware and/or software-based method or process used to create digital signatures.

*Written Electronic Communication*Xa message that is sent by one person to another person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:526 (April 2001).

§709. Digital Signatures Must Be Created by an Acceptable Technology

A. For a digital signature to be valid for use by a state agency, it must be created by a technology that is accepted for use by the Division of Administration pursuant to guidelines listed in §711 of this document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:526 (April 2001).

§711. Acceptable Technology

A. The technology known as Public Key Cryptography is an acceptable technology for use by state agencies, provided that the digital signature is created consistent with the following.

1. A public key-based digital signature must be unique to the person using it. Such a signature may be considered unique to the person using it if:

a. the private key used to create the signature on the message is known only to the signer or, in the case of a role-based key, known only to the signer and an escrow agent acceptable to the signer and the state agency; and

b. the digital signature is created when a person runs a message through a one-way function, creating a message digest, then encrypting the resulting message digest using an asymmetric cryptosystem and the signer's private key; and

c. although not all digitally signed communications will require the signer to obtain a certificate, the signer is capable of being issued a certificate to certify that he or she controls the key pair used to create the signature; and

d. it is computationally infeasible to derive the private key from knowledge of the public key.

2. A public key based digital signature must be capable of independent verification. Such a signature may be considered capable of independent verification if:

a. the relying party can verify the message was digitally signed by using the signer's public key to decrypt the message; and

b. if a certificate is a required component of a transaction with a state agency, the issuing PKI Service Provider, either through a certification practice statement, certificate policy, or through the content of the certificate itself, has identified what, if any, proof of identification it required of the signer prior to issuing the certificate.

3. The private key of public key based digital signature must remain under the sole control of the person using it, or in the case of a role-based key, that person and an escrow agent acceptable to that person and the state agency. Whether a signature is accompanied by a certificate or not, the person who holds the key pair, or the subscriber identified in the certificate, must exercise reasonable care to retain control of the private key and prevent its disclosure to any person not authorized to create the subscriber's digital signature.

4. The digital signature must be linked to the message of the document in such a way that it would be computationally infeasible to change the data in the message

or the digital signature without invalidating the digital signature.

5. Acceptable PKI Service Providers

a. The Division of Administration shall maintain an "Approved List of PKI Service Providers" authorized to issue certificates for digitally signed communications sent to state agencies or otherwise provide services in connection with the issuance of certificates. The list may include, but shall not necessarily be limited to, Certification Authorities, Certificate Manufacturers, Registrars, and/or other PKI Service Providers accepted and approved for use in connection with electronic messages transmitted to other state or federal governmental entities. A copy of such list may be obtained directly from the Division of Administration, or may be obtained electronically via the World Wide Web.

b. State agencies shall only accept certificates from PKI Service Providers that appear on the "Approved List of PKI Service Providers."

c. The Division of Administration shall place a PKI Service Provider on the "Approved List of PKI Service Providers" after the PKI Service Provider provides the Division of Administration with a copy of its current certification practice statement, if any, and a copy of an unqualified performance audit performed in accordance with standards set in the American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards No. 70 (S.A.S. 70) to ensure that the PKI Service Provider's practices and policies are consistent with the requirements of the PKI Service Provider's certification practice statement, if any, and the requirements of this Section.

d. In order to be placed on the "Approved List of PKI Service Providers" a PKI Service Provider that has been in operation for one year or less shall undergo a SAS 70 Type One auditXA Report of Policies and Procedures Placed in Operation, receiving an unqualified opinion.

e. In order to be placed on the "Approved List of PKI Service Providers" a PKI Service Provider that has been in operation for longer than one year shall undergo a SAS 70 Type Two auditXA Report of Policies and Procedures Placed in Operation and Test of Operating Effectiveness, receiving an unqualified opinion.

f. In lieu of the audit requirements of Subparagraphs d and e above, a PKI Service Provider may be placed on the "Approved List of PKI Service Providers" upon providing the Division of Administration with documentation issued by a person independent of the PKI Service Provider that is indicative of the security policies and procedures actually employed by the PKI Service Provider and that is acceptable to the Division of Administration in its sole discretion. The Division of Administration may request additional documentation relating to policies and practices employed by the PKI Service Provider indicating the trustworthiness of the technology employed and compliance with applicable guidelines published by the Division of Administration.

g. To remain on the "Approved List of PKI Service Providers" a Certification Authority must provide proof of compliance with the audit requirements or other acceptable documentation to the Division of Administration every two years after initially being placed on the list. In addition, a Certification Authority must provide a copy of any changes to its certification practice statement to the Division of Administration promptly following the adoption by the Certification Authority of such changes.

h. If the Division of Administration is informed that a PKI Service Provider has received a qualified or otherwise unacceptable opinion following a required audit or if the Division of Administration obtains credible information that the technology employed by the PKI Service Provider can no longer reasonably be relied upon, or if the PKI Service Provider's certification practice statement is substantially amended in a manner that causes the PKI Service Provider to become no longer in compliance with the audit requirements of this Section, the PKI Service Provider may be removed from the "Approved List of PKI Service Providers" by the Division of Administration. The effect of the removal of a PKI Service Provider from the "Approved List of PKI Service Providers" shall be to prohibit state agencies from thereafter accepting digital signatures for which the PKI Service Provider issued a certificate or provided services in connection with such issuance for so long as the PKI Service Provider is removed from the list. The removal of a PKI Service Provider from the "Approved List of PKI Service Providers" shall not, in and of itself, invalidate a digital signature for which a PKI Service Provider issued the certificate prior to its removal from the list.

B. The state may elect to enact or adopt the Federal Uniform Electronic Transactions Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:527 (April 2001).

§713. Provisions for Adding New Technologies to the List of Acceptable Technologies

A. Any person may, by providing a written request that includes a full explanation of a proposed technology which meets the requirements of §709 in this rule, petition the Division of Administration to review the technology. If the Division of Administration determines that the technology is acceptable for use by state agencies, the Division of Administration shall draft proposed administrative rules which would add the proposed technology to the list of acceptable technologies in §711 of this rule.

B. The Division of Administration has 90 days from the date of the request to review the petition and either accept or deny it. If the Division of Administration does not approve the request within 90 days, the petitioner's request shall be considered denied. If the Division of Administration denies the petition, it shall notify the petitioner in writing of the reasons for denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:528 (April 2001).

Title 4
ADMINISTRATION
Part III. Payroll

Chapter 1. Payroll Deductions

§101. Definitions

*Administrative Contract*Xcontractual agreement entered into by the state with a company or corporation which meets or exceeds the requirements to manage a Flexible Benefits Plan.

*Agency Number*Xthree digit identifier in the DOA statewide payroll system which serves as a key for processing and reporting. It may represent a single agency or a group of agencies.

*Applicant*Xany company, corporation, or organization which has submitted an application to be approved as a vendor for state payroll deduction or a vendor which has submitted an application for approval of an additional product or a change to an existing product.

*Application*Xthe process through which a vendor requests continued deduction authorization by providing verification of company status, employee participation, remittance reconciliation, designated coordinator, and etc.

*Authorized Code*Xa unique identification code assigned by OSUP to each vendor which has been approved in the application process.

*Commissioner*Xas referenced herein shall be the Commissioner of Administration, Division of Administration.

*Coordinator*Xa vendor designated representative who provides the single authorized contact for communication between the vendor and the Division of Administration, Office of State Uniform Payroll, payroll systems outside of the DOA statewide payroll system and any administrative contract(or).

*Data File*Xthe body of information documented by copies of correspondence between OSUP, SEGBP, administrative contractor, departments/agencies, vendors, Department of Insurance, and state employees relative to employee solicitation, participation and service from vendors.

*Deduction*Xany voluntary reduction of net pay under written authority of an employee, which is not required by federal or state statute, or by court ordered action.

*Department/Agency*Xas referenced herein shall be any one of the 20 major departments of state government or any subdivision thereof.

*Division of Administration (DOA)*Xthe Louisiana State Agency under the Executive Department which provides centralized administrative and support services to state agencies as a whole by developing, promoting, and implementing executive policies and legislative mandates.

*DOA Statewide Payroll System*Xthe statewide system administered by the Division of Administration, Office of State Uniform Payroll to provide uniform payroll services to state agencies.

*Employee Deduction Code*Xthe unique set of characters (representing vendor, product, product eligibility and Flexible Benefits Plan participation) used to record, deduct, remit, and track an employee's selection of available deduction.

*Employee Payroll Benefits Committee (EPBC)*Xthe group designated in §103 to review current and prospective payroll deduction benefits.

*Flexible Benefits Plan*Xthe program initiated by the state under which employees may participate in tax reduction benefits offered under IRS Code Section 125.

*Flexible Benefits Plan Year*Xthe annual period of time designated for participation (e.g., July 1 through June 30).

*General Insurance Vendors*Xthose insurance companies which market, through payroll deduction, non-tax qualified life and health insurance products.

*Governing Board*Xas referenced herein shall mean any one or all of: Board of Regents; Louisiana State University Board of Supervisors; Southern University Board of Supervisors; University of Louisiana Board of Supervisors; and Board of Supervisors of Community and Technical Colleges.

*Guidelines for Review (GFR)*Xas referenced herein shall mean the set of criteria established for the annual evaluation process.

*Insurable Interest*Xas referenced herein shall be as defined in R.S. 22:613.C.(1) and (2) e.g., an individual related closely by blood or by law, or a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue.

*IntraAgency Deduction*Xa deduction required by the department/agency for cost effective collection of funds from employees for benefits provided, such as meals, housing, uniforms, and etc.

*IntraOffice Deduction*Xa deduction required by a particular office within a department/agency for cost effective collection of funds from employees for benefits provided, such as meals, housing, uniforms, and etc.

*IRS*Xas referenced herein shall mean the Internal Revenue Service with emphasis directed to the rules and regulations issued relative to employee taxes and benefits.

*Menu Item Provider*Xany vendor that provides a product which is included in the current year Flexible Benefits Plan.

*New Application*Xthe process through which a new provider submits a request to be approved as a vendor to offer a specific product, or a current vendor requests for authorization to offer an additional product, policy form, or service plan.

*Non-Insurance Vendor*Xany vendor that offers a non-insurance product that is not provided under definition of a general insurance vendor.

*Office of State Uniform Payroll (OSUP)*Xthe Section within the Division of Administration primarily responsible for the DOA statewide payroll system and administration of the rules governing state employee payroll deductions.

*Organization*Xas referenced herein shall be any charitable group qualified under Federal Code 501(c)(3), credit unions formed for the primary purpose of serving state (or parish) employees, labor union councils, or other deduction "permitted" by state statute. Permitted deductions are allowed by state statute rather than mandated.

*Payroll Reporting Number*Xthe number used by the DOA statewide payroll system to identify a payroll reporting entity.

*Policy Form*Xreferenced herein shall mean any of the written instruments through which a contract of insurance is set forth (i.e., the policy, certificate, rider, endorsement, application, schedule page, etc.) which is submitted to the Department of Insurance and subsequently approved for sale in Louisiana by the Commissioner of Insurance.

*Premium Due*Xthe amount for which the client/employee would have been billed.

*Product*Xreferenced herein shall mean the specific insurance or service authorized through the annual application process as defined in §115. This may include multiple policy forms and service plans under the product.

*Product Authorization*Xthe term used to identify the annual process through which an additional product code is approved for a current vendor.

*Product Code*Xthe portion of the employee deduction code assigned to specific insurance policy forms or vendor service plans authorized through the new application process.

*Provider*Xthe individual or organization which renders service, provides goods, or guarantees delivery.

*Reconciliation*Xreferenced herein refers to the resolution of differences resulting from a monthly match or comparison of vendor accounts receivable/invoice records to the state deduction/remittance records.

*Review*Xthe process whereby the EPBC evaluates products and requests for product authorization.

*Section 125 Status*Xas referenced herein shall mean the eligibility, under Section 125 of the IRS Code, of the product to be included in a Flexible Benefits Plan menu.

*SED-2*Xreferenced herein shall be the standard form developed by the Division of Administration, Office of State Uniform Payroll used to process new applications and annual applications for deduction authority.

*SED-4*Xas used herein shall mean the authorized deduction form published in this rule (§141).

*Service Plan*Xtype of insurance or non-insurance coverage under which benefits rather than monetary reimbursements are provided to the covered individual.

*Third Party*Xany agent for or representative of a provider.

*Uniform Fee Schedule*Xthe fees designated for service(s) provided by state payroll systems for vendors, applicants, and others outside state government established by rule promulgated by the Division of Administration under R.S. 42:458.

*University*Xany one of the state higher education facilities which falls under the jurisdiction of appropriate "Governing Board."

*Vendor*Xreferenced herein shall be any company, corporation, or organization having met the requirements of this rule and participating in payroll deduction.

*Vendor Representative*Xas referenced herein shall be any licensed agent or duly appointed representative designated by a vendor to market that vendor's authorized product(s).

*Voluntary Deduction*Xany deduction which the employee is free to accept or decline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1024 (May 2000).

§103. Employee Payroll Benefits Committee (EPBC)

A. A committee comprised of 12 nominated and two ex-officio classified state employee members established by the commissioner prior to July 1, 1996 fulfills the requirement of §107-112 of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000).

§105. EPBC Selection and Tenure

A. Initial members of the EPBC were selected by the UPS Payroll Steering Committee submitting a list of nominees for EPBC membership to the Commissioner of Administration for appointment of 12 members to serve staggered terms of one, two, and three years. Said list was

submitted to the commissioner prior to November 30, 1995 and consisted of the following departmental membership:

1. one member, one-year termXDHH-Department of Health and Hospitals;

2. one member, two-year termXDOA-Division of Administration;

3. one member, three-year termXDOC-Department of Corrections;

4. one member, one-year termXDOL-Department of Labor;

5. one member, two-year termXDOTD-Department of Transportation;

6. one member, three-year termXDPS-Department of Public Safety;

7. one member, one-year termXDSS-Department of Social Services;

8. one member, two-year termXED-Education (Schedule 19);

9. one member, three-year termXELEC-Elected Officials;

10. one member, one-year termXLHCA-Louisiana Health Care Authority;

11. one member, two-year termXOTHER-other departments;

12. one member, three-year termXWLF-Department of Wildlife and Fisheries;

13. ex-officio members shall be: director or assistant director of OSUP; and a designee of the Commissioner of Insurance.

B. Successive committee appointments shall be for a period of three years beginning July 1 consisting of the above departmental representation.

C. Prior to April 1, annually, EPBC shall submit, to the commissioner, three nominees for each of the four vacancies which will occur each year maintaining representation indicated in §105.A.

D. The commissioner shall select four of the nominees to fill respective dept/agency vacancies for EPBC membership.

E. The commissioner shall return a list of appointees to OSUP prior to May 1 each year.

F. Any EPBC vacancy which occurs due to termination of employment or retirement of a member, and which creates a vacancy for a period of 12 months or more shall be filled by appointment by the commissioner.

1. Within 30 days of notice of the vacancy, the EPBC shall submit a nominee for replacement to the commissioner.

2. The commissioner shall affirm or reject the nomination within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000).

§107. EPBC Product Evaluation (Requirements)

A. EPBC shall adopt and maintain basic Guidelines for Review (GFR), to follow in the conduct of the annual review of general insurance and non-insurance products.

B. OSUP shall maintain a data file of documentation provided each year by user agencies, employees, vendors, and Flexible Benefits Plan administrator relative to product utilization, services provided, and adherence to department/agency policy and this rule.

1. OSUP shall copy to the data file all correspondence relating to resolution of problems with and between vendors, employees, and departments/agencies.

2. OSUP shall include the basic information from annual application process and from new applications in the data file provided to EPBC.

C. The EPBC shall conduct an annual review of products authorized for deduction and new applications and requests for changes to existing products. The EPBC shall utilize the data file to evaluate user satisfaction with products and providers and the Guidelines for Review to evaluate product quality.

D. The EPBC shall issue an opinion of the annual review of all authorized products and all products and services requested on new applications, along with recommended actions to the commissioner.

E. OSUP shall provide the Commissioner of Administration information relative to vendor/product compliance with all other provisions of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000).

§109. EPBC Product Evaluation (Annual Applications)

A. Annual applications shall be submitted to the Division of Administration, Office of State Uniform Payroll by all vendors participating in payroll deduction. Annual application forms and instructions shall be provided to all approved vendors to be submitted prior to January 31 annually.

B. OSUP shall complete the annual application process in compliance with the commissioner's actions from the EPBC annual review.

1. On or before April 1 each year, the Division of Administration, Office of State Uniform Payroll or Governing Board will conduct a compliance review and

shall notify vendors whether their annual application has been conditionally approved (see §119).

2. DOA statewide payroll system user agencies and other departments/agencies will be notified by OSUP of authorized deductions by vendor and product name and code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000).

§111. EPBC Product Evaluation (New Applications)

A. New applications shall be submitted annually to the Division of Administration, Office of State Uniform Payroll for any company, corporation, or organization interested in a new payroll deduction for additional products, policy forms, or service plans.

1. Written notice of requests for a new payroll deduction for additional products, policy forms, or service plans should be sent to the Office of State Uniform Payroll prior to April 1, 2000 and December first annually thereafter, in order to receive an application form to submit.

2. On or before April 1, 2000 and January thereafter, OSUP will provide deduction application forms along with instructions for completion to each entity on file.

3. Applications must be completed and submitted to the Office of State Uniform Payroll by April 30, 2000 and January 31 annually thereafter.

B. The EPBC shall conduct an annual review of all products requested in the new application process.

1. OSUP shall provide copies of the current data file information to EPBC for the annual review.

2. EPBC shall utilize the data file to evaluate user need/employee need for products and evaluate products and vendors in accordance with the GFR.

C. EPBC shall issue an opinion of the results of the annual review of products and new applications, along with recommended actions.

D. EPBC shall issue a summary report of opinions resulting from the annual review along with recommended actions to the commissioner on or before October 1 annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000).

§112. Requests for Changes to Existing Products

A. Vendors are allowed to solicit for payroll deduction only those products submitted and approved in the annual renewal or application process. Any change to existing products must be submitted to the Office of State Uniform Payroll for review and approval.

1. Any changes to existing products, including across the board rate increases, co-payment changes, and benefit changes, must be submitted to the Office of State Uniform Payroll by October 1 annually.

2. The Office of State Uniform Payroll and the EPBC will review the request and notify vendor of acceptance or denial by December 1 annually.

a. If accepted, the Office of State Uniform Payroll will notify the vendor by December 1 and provide procedures for implementing the change.

b. If denied, the Office of State Uniform Payroll will notify the vendor and add the vendor to the file of vendors for new applications (see §111 for new applications). Upon receipt of completed application, the product will be reviewed along with all other applicants in the annual review process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 26:1027 (May 2000).

§113. Product Approval and Notification

A. On or before November 1 annually, the Commissioner of Administration shall advise OSUP whether EPBC recommendations relative to products and new applications have been accepted or denied.

B. OSUP will complete the new application process for products which have been approved and notify all applicants whether requests were approved or denied (see §119).

C. DOA statewide payroll system user agencies and other departments/agencies will be notified by OSUP of authorized deductions by vendor and product name, DOA statewide payroll system vendor, product name and code and effective date. Deduction authorization for new products will be established on or before January 1 annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000).

§115. Application Process

A. Application shall be made by the company, corporation, or organization which is the provider of the product or recipient of monies and shall be signed by two officers of the applicant company, corporation or organization.

B. Applications for the purpose of providing deductions for IRA'S, Annuities, or noninsurance investment programs are not permitted.

C. Any applicant requesting authority to implement a deduction through OSUP, shall submit a completed application form to the Division of Administration, Office of State Uniform Payroll, Post Office Box 94095, Baton Rouge, LA 70804. Companies requesting application for any

state University shall submit the application to the governing board for that university. The application shall:

1. be submitted on a currently approved application (Form SED-2);

2. include certification (Form SED-3, §139) from the secretary or undersecretary of the requesting department or university chancellor that said applicant has provided evidence that the vendor does meet the requirement of R.S. 42:455; that said deduction will not represent a duplication of a product of comparable value already provided by payroll deduction; that there is a recognized need for same; that a reasonable evaluation of the product was made by the department which substantiates the request; and that the applicant has been advised of the statute and the rule governing payroll deductions. Form SED-3, §139, is submitted only with the completed application Form SED-2;

3. indicate whether the request is for participation within a specific department/agency by choice (ability to service or applicability), or for statewide authority limited to certain payroll system(s);

4. include a written request for consideration for statewide authority (if current authority is limited) for next available deduction authorization;

5. designate a "coordinator" to represent the vendor as primary contact for: obtaining solicitation authorization for the vendor; dissemination of information and requirements among representatives presenting the product to state employees; resolution of invoicing, refund, and reconciliation problems; and resolving claims problems for employees;

6. respond to all applicable items (designated in instructions) on the form (SED-2) for new and annual renewal applications;

7. respond to all additional questions as required by EPBC.

D. Intraagency and/or intraoffice deductions for meals, housing, etc., will be permitted, provided the respective department head(s) certifies that collection of funds from employees is required by and is a benefit to the department/agency.

E. All vendors shall file an annual application with the Division of Administration, Office of State Uniform Payroll or Governing Board as scheduled by that office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1028 (May 2000).

§117. Applicant and Vendor Requirements

A. Any applicant for deduction which is not regulated by the Department of Insurance or federal or state Office of Financial Institutions and not permitted by state statute, except charitable organizations, shall:

1. possess appropriate license or other required certification for providing the particular product or service for a fee;

2. have been doing business in this state for not less than five years providing the product and/or services anticipated to be offered state employees;

3. be in compliance with all requirements of any regulatory and/or supervisory office or board charged with such responsibility by state statute or federal regulations;

4. provide to the commissioner within 30 days of approval an irrevocable Letter of Credit in the amount of $100,000, or an irrevocable pledge of a Certificate of Deposit in the amount of $100,000 to protect the state and any officer or employee from loss arising out of participation in the program or plan offered by the vendor;

5. have been recommended for consideration by the Employee Payroll Benefits Committee as an applicant from the annual review of active and prospective deductions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1028 (May 2000).

§119. Notification, Implementation, and Transition

A.1. On or before April 1 each year, the Division of Administration, Office of State Uniform Payroll or Governing Board will conduct a compliance review and shall notify vendors whether their annual application has been conditionally approved.

2. The EPBC shall conduct a thorough review of all products and, on or before January 1 each year, the Division of Administration, Office of State Uniform Payroll, shall notify all vendors whether their annual application has been approved.

3. Vendors whose requests have not been approved by the EPBC shall be notified by the Division of Administration, Office of State Uniform Payroll, by December first annually.

4. On or before first of January, each year OSUP shall notify all DOA statewide payroll system agencies and other departments/agencies and university governing boards of any new products which have been approved for deduction; governing boards shall notify universities.

5. Payroll systems outside of the DOA statewide payroll system will advise vendors whether the deduction will be established.

B. The vendor shall enroll employees for semi-monthly deduction amounts only. Optional modes may be authorized by OSUP or governing board prior to implementation of the deduction. Vendors granted deduction authority on the DOA statewide payroll system must use only semi-monthly deduction amounts. Payroll systems outside of the DOA

statewide payroll system which permit monthly deductions may continue same.

C. Any vendor receiving payment through voluntary deductions on the effective date of this rule shall continue to be approved as a vendor until the next annual renewal process under the following conditions:

1. has a currently approved application on file, provided:

a. general insurance vendors have met the rating requirements set forth in R.S. 42:455 or equivalent;

b. noninsurance vendors shall have met the requirements set forth in this rule as required in R.S. 42:455.B;

c. individual product participation shall exceed 1000;

d. proper monthly reconciliation is being accomplished;

e. policy information and detail employee/client participation has been provided in response to requests for same from OSUP;

2. all other permitted deduction vendors have filed application for informational purposes.

D. Vendors currently participating in deductions which do not meet the minimum requirements set forth in R.S. 42:455.A(1)(a)-(e), (2)(a)-(e) or are not in compliance with the requirements of this rule by December 31, 2000 will be denied deduction privileges.

E. Vendors will be allowed 12 months after initial approval to meet the minimum product participation requirements.

F. Companies, corporations, or organizations which have been placed on the annual listing of applicants (April 1, 1999-March 31, 2000) for consideration of deduction participation shall not be exempted from compliance with any part of this rule.

1. New applications shall be processed for review by the EPBC in May 2000 and in February annually thereafter.

2. Results of the EPBC review shall be forwarded to the commissioner on or before October 1 annually.

3. The commissioner shall confirm or reject each recommendation and notify OSUP to establish, deny, and/or delete deduction authorization, and notify vendors and non-UPS agencies accordingly by December 30 each year.

4. OSUP shall notify vendors whether application requests have been approved or denied.

5. OSUP shall notify vendors and departments/ agencies of products approved for deduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1029 (May 2000).

§121. Deduction Authorization Form

A. Vendors not exempted in §121.F of this rule shall provide and use the standard deduction authorization format (Form SED-4, §141) authorized by the Division of Administration.

1. The form provided by the vendor shall be no less than 8 1/2 inches in width nor 11 inches in length with a top margin (top of page to top of blocked area) of 1 1/8 inches.

2. Within a blocked area as illustrated herein the form shall include:

a. the employee name and Social Security Number;

b. the employer (department/agency) name and payroll reporting number or other appropriate I.D. (identification);

c. vendor name, authorized code (vendor) and product code;

d. product name, Section 125 eligibility, monthly premium amount, and semi-monthly premium amounts;

e. amount of deduction, frequency, and beginning date of the deduction;

f. employee signature and date of signature;

g. authorized agent/vendor representative signature.

3. The form may include additional information provided that such information shall not represent a disclaimer or escape clause(s) in favor of the vendor. The authorization shall not stipulate any "contract" or "term of participation" requirements. However, employees may designate a 'cap' or annual maximum for a charitable organization deduction authorized by R.S. 42:456.

B. The authorization must specify product name, Section 125 status, monthly premium or fee, the amount of deduction to be taken and the frequency of deduction as semi-monthly (24 annually). All "MS __ __ __ __" deductions in the DOA statewide payroll system must be semi-monthly only. Payroll systems outside of the DOA statewide payroll system which currently provide a monthly deduction cycle may continue same.

C. An employee shall have only one deduction authorization (which may cover more than one product) for a single vendor effective at any one time. Total current deduction amount and each component amount that make up that total must be reflected on any successive form(s). The form shall indicate:

1. a total monthly premium or fee amount, the total semi-monthly amount, individual product codes, and premium/fee amounts for each product code;

2. the pay period (date) in which the deduction was calculated to begin.

D. Vendor shall be responsible for completing authorization forms prior to obtaining employee signature and for submitting forms to the appropriate payroll office designated by each employing department/agency.

E. Deduction forms must contain appropriate employer identification number to support monthly Reconciliation process.

F. State Employee Group Benefits, Louisiana Deferred Compensation, United Way, U.S. "EE" Savings Bond, and Flexible Benefits Plan enrollment forms may be used in lieu of standard deduction (Form SED-4, §141).

G. An employee may discontinue any voluntary deduction amount that is not committed for participation in a current Flexible Benefits Plan Year by providing written notification of that intent to his or her payroll office.

H. A deduction authorization shall not be processed for any employee which is intended to provide a benefit for any party for whom the employee has no insurable interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1029 (May 2000).

§123. Solicitation of State Employees

A. Employees may be solicited for deduction only:

1. after notification to the vendor and state department/agencies from the Division of Administration, Office of State Uniform Payroll, or notification from the Governing Board for Universities, that the product has been approved;

2. upon written authorization from employer department and agency administrator; and

3. for participation in products currently authorized for deduction.

B. Solicitation of employees shall be conducted within the guidelines established by the department/agency.

C. The coordinator shall be responsible for obtaining solicitation authorization and department policy from the department/agency secretary or his designee.

D. Vendors may be barred by a department/agency from solicitation within that department/agency. Vendors may be barred from solicitation statewide by OSUP.

E. Any vendor representative who has been barred from state participation by a vendor shall not be allowed to represent any vendor for deduction for a minimum of two years thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1030 (May 2000).

§125. Vendor Responsibility

A. Vendor coordinator shall be responsible for dissemination of information such as the requirements of this rule and department/agency policy and procedures to vendor representatives.

B. Vendor coordinator shall act as liaison for the vendor with any administrative contract(or) and the state relative to Flexible Benefits Plan participation. The coordinator shall also be responsible for dissemination of information to vendor representatives.

C. Vendor shall use invoice/billing identification structure that is compatible with payroll agency control groups to facilitate the monthly reconciliation.

D. Vendors shall be responsible for preparing a reconciliation of monthly payroll deduction/remittances to vendor's monthly premium due.

E. Monthly Reconciliation shall include total monthly premium due amount, each product amount and product code that makes up the total amount of premium due, total remittance amount, and a listing of all exceptions between the premium due and deduction/remittance by employee within billing/payroll reporting groups.

F. Monthly Reconciliation exception listing shall identify the employee by Social Security Number and payroll reporting number and shall be grouped within payroll agency numbers for DOA statewide payroll system agencies and similarly for payroll systems outside of the DOA statewide payroll system.

G. Vendors shall furnish evidence of reconciliation to the Division of Administration, Office of State Uniform Payroll as requested by that office. Like verification may be required by other payroll systems outside of the DOA statewide payroll system.

H. Monthly certification of reconciliation will not be required of vendors that provide participants or members with monthly or quarterly statements of activity and/or balances.

I. Vendors failing to provide accurate and timely reconciliation verification will be barred from active solicitation until satisfactory certification is submitted to the Division of Administration, Office of State Uniform Payroll.

J. Vendors shall not be authorized to submit any deduction form which was obtained from an employee for the purpose of transmitting any part of that deduction to a third party.

K. Vendors must identify each policy form for specific product provided on the SED-2 application form. Vendors must indicate whether the form SED-2 is an annual application (renewal) or a new application for a product or service not previously approved for deduction.

L. Vendors shall not submit deduction forms listing any product or service for which a product code has not been assigned through the new application process. Vendors shall

submit deduction forms only for those policy forms or service plans which have been approved.

M. Vendors shall follow procedures established by the Division of Administration, Office of State Uniform Payroll or Governing Board when refunding payroll deducted and remitted premiums to employees, implementing across the board rate increases, or requesting changes to existing products (see §112).

N. Vendors, applicants, and any representatives thereof shall be prohibited from any action intended to influence the opinion or recommendation of any EPBC member.

O. Vendors must reconcile monthly remittances in total and at each product level as of January.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1030 (May 2000).

§127. Department/Agency Responsibility

A. Department secretary/undersecretary or his designee shall:

1. approve or reject requests for solicitation authorization presented only by designated coordinators of approved vendors;

2. confirm with the vendor coordinator (and/or Louisiana Department of Insurance when applicable) the credentials of any vendor agent not represented to the department by the vendor coordinator;

3. provide vendor coordinators a copy of department/agency policy relative to receipt, processing, and cancellation of payroll deduction forms, as well as guidelines prior to permitting access to employees;

4. certify the use of any intraagency deduction to collect funds from employees for meals, housing, etc., is required by and is a benefit to the agency/department;

5. insure that intraoffice deductions such as flower, gift, and coffee funds are not permitted;

6. provide support for participation of selected EPBC members.

B. Departments/agencies shall provide OSUP a written report of acts of noncompliance by any vendor to this rule or to the published guidelines of that department/agency.

C. Payroll personnel of DOA statewide payroll system agencies may process refunds for amounts previously deducted from any vendors which receive consolidated remittance only as directed by OSUP. Payroll systems outside of the DOA statewide payroll system shall establish written policy for remittance and refund of deductions taken.

D. Department/agency payroll/personnel shall:

1. accept only authorization forms which conform to the standard deduction format (Form SED-4, §141) from vendor representatives;

2. verify that the vendor name and the vendor and product codes on any deduction form submitted are in agreement with the current approved list;

3. accept forms for employee deductions which contain no obvious alterations without employee's written acknowledgment of such change;

4. be responsible for verifying that the deduction amount is in agreement with the monthly amount shown on the authorization;

5. be responsible for maintaining compliance with employee flexible benefits plan year contract commitment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000).

§129. Reporting

A. Vendors shall provide written notification within 10 days of final approval of any change in the name, address, company status, principal officers, and designated coordinator to OSUP.

B. Vendors shall provide as required by OSUP data disks, mailers, labels, postage, or other supplies necessary to avoid cost to the state in providing deduction information. Like assistance shall be provided to other payroll systems as determined appropriate to control state cost of providing deduction.

C. Annual (renewal) applications shall list specific products/policy forms provided. No new products or services or changes to existing products or services shall be added to SED-4 forms (§141) or marketed without prior approval through the annual application process.

D. Departments/agencies shall be responsible for reporting any infractions of this rule and/or department policy committed by any vendor or vendor representative to OSUP and/or appropriate governing board or boards.

E. Vendors shall provide written notification of the dismissal of any representative participating in state deduction to OSUP and/or appropriate governing board or boards.

F. Vendors with deductions "permitted" by statute shall provide annual (renewal) applications (Form SED-2).

G. Each governing board shall provide OSUP an annual report relative to vendors currently approved for deductions within each system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform

Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996). LR 26:1031 (May 2000).

§131. Fees

A. Data, information, reports, or any other services provided to any vendor or any other party by the DOA statewide payroll system or other state payroll system shall be subject to payment of a fee for the cost of providing said data, information, reports, and/or services in accordance with the Uniform Fee Schedule.

B. Fees assessed shall be satisfied in advance of receipt of the requested data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000).

§133. Termination of Payroll Deduction

A. Unethical conduct or practices of the vendor will result in the termination of payroll deduction authority for that vendor.

B. Unethical or unprofessional conduct of any vendor representative shall result in that individual being barred from participation in state deduction for any vendor.

C. Deduction authority shall be revoked for any vendor that fails to maintain compliance with provisions of R.S. 42:455.

D. Deduction authority may be revoked for any vendor that fails to comply with requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1031 (May 2000).

§135. General

A. Deduction authorization shall not be transferred.

B. Approval of an applicant in no way constitutes endorsement or certification of the applicant/vendor by the state.

C. Group Benefits HMO and other board approved third party pass-through deductions and credit union reciprocal agreement payments to other state agency credit unions for transferred employees shall be the only exception to §125.J.

D. Administrative responsibilities of this rule shall preclude the Division of Administration from sponsoring applicants for vendor deduction authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1031 (May 2000).

§137. Appeal Process

A. Any vendor participating in deduction debarred from participating for any reason by a department/agency or university shall have the right to have that action reviewed by filing a written request for review with the secretary of the department/agency, or the chairman of the respective governing board. This request for review shall be filed within 10 days from the notice of debarment.

B. A written decision shall be rendered on any request for review within 14 days of receipt.

C. Any vendor who is not satisfied with this decision has the right to appeal to the Commissioner of Administration. Any such appeal must be in writing and received by the commissioner within 10 days of receipt by the vendor. The commissioner shall issue a written decision on the matter within 14 days of receipt of the written appeal.

D. The decision of the commissioner shall be the final administrative review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000).

§139. SED-3 (09/95)

DEPARTMENT REQUEST

FOR

PAYROLL DEDUCTION VENDOR

In accordance with the rule governing payroll deductions, Title 4 (Chapter 1, §115.C.2),

I,_____, _____, on behalf of the
NAME TITLE

employees of _____, hereby request
DEPARTMENT

favorable consideration of a payroll deduction application submitted by:

A.

_____
APPLICANT/VENDOR NAME

_____
ADDRESS

_____
CITY/STATE/ZIP

_____
AGENT/REPRESENTATIVE

_____
PHONE (Area/Number/Extension)

To offer:

B. (PRODUCT/

Section 125 Eligible

_____ Yes [__] No [__]

_____

_____

_____

I further certify that this request does not represent a duplication of a product or service of comparable value currently available in the payroll system; that a review and/or survey conducted by this department has indicated a need for this particular deduction; that the above named company applicant has provided evidence of having met and/or exceeded all requirement of R.S. 42:455; and has knowledge of the requirements of the rule governing payroll deductions.

Department _____

Signature _____

Title _____

Date _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1033 (May 2000).

§141. SED-4 (4/95)

Vendor Name

State of Louisiana Employee Payroll Deduction Authorization

Employee Name	Soc. Sec. No.	Payroll Reporting No.
Department/Agency/Section Name	Control No.	Authorized Codes **MS@ a-? MS@ m-?**

I hereby authorize my employer to deduct a total of $_____, monthly rate, from my salary until further notice and remit same to (VENDOR NAME HERE)_____. A TOTAL Semi-Monthly Deduction in the amount of $_____ represents one half of the total monthly premium required for the coverage(s) detailed below. I, hereby waive on behalf of myself, my heirs, successors, agents, and assigns any and all rights of action against the state of Louisiana, its agents, and assigns, arising out of the deduction, failure to deduct, or any other handling of this request for payroll withholding.

DEDUCTION DETAIL (Product Codes, Premium Amts., 125 Elig.) MENU ELECTIONS

PRODUCT NAME	PLAN	PART.CODE YES	PART.CODE NO	125 ELIG	MO PREM.	PAYROLL CODE	INELIGIBLE & NON-PART Semi-Mo.	ELIGIBLE PART Semi-Mo.
PRODUCT ONE	##	P		Y	$	**MS@ P ?**		$
Product one	##		N	Y	$	**MS@ N ?**	$	
PRODUCT TWO	##	P		Y	$	**MS@ P ?**		$
Product two	##		N	Y	$	**MS@ N ?**	$	
PRODUCT THREE	##	P		Y	$	**MS@ P ?**		$
Product three	##		N	Y	$	**MS@ N ?**	$	
					SUB TOTALS	**MS@**	**Non-Part. - Part. $ _____**	**$ _____**
Other product	##		N	N	$	**MS@ N ?**	$	
Other product	##		N	Y	$	**MS@ N ?**	$	
Other product	##		N	N	$	**MS@ N ?**	$	

_____
Begin/Change Date

_____
Date Authorized

Total Mo. Prem. $ _____

Total Semi-Mo. **Ineligible** MS@ $ _____
Total Semi-Mo. **Non-Part**. MS@ $ _____
Total Semi-Mo. **Part.** MS@ $ _____

BY: _____
Employee Signature

TOTAL SEMI-MONTHLY MS@ $ _____

(THIS FORM SUPERSEDES AND REPLACES ALL OTHER AUTHORITY FOR THIS DEDUCTION)

Presentation and deduction authorization processed by:

_____ _____
MS@ Agent Phone Date

_____
Address

(@ = Vendor Code Letter ? = Product Code Letter ## = FBMC Product Type number)

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1033 (May 2000).

Chapter 3. Direct Deposit of Employee Pay

§301. Definitions

*Agency*Xany one of the 20 major departments of state government or any subdivision thereof.

*Automated Clearing House (ACH)*Xthe network, operated by the Federal Reserve Bank, which establishes procedures and guidelines regarding electronic transfer of funds.

*Compensation*Xany form of monetary pay issued to an employee for services performed.

*Condition of Employment*Xpolicy requiring a particular requirement to be met in order for offer of employment to be given.

*Department Head*Xthe person responsible for the operation of a department.

*Direct Deposit*Xthe automatic deposit, through electronic transfer of funds, of employees' compensation into a checking or savings account at a bank, savings and loan, or credit union of their choice.

*Direct Deposit Enrollment Authorization Form*Xthe standard form developed by the Division of Administration, Office of State Uniform Payroll, completed by the employee, giving the employing agency authority to process employee specific direct deposit bank account information in the ISIS Human Resource System for the electronic transfer of funds.

*Division of Administration (DOA)*Xthe Louisiana State Agency under the executive department which provides centralized administrative and support services to state agencies as a whole by developing, promoting, and implementing executive policies and legislative mandates.

*Electronic Processing*Xmethod of automatically transferring data/funds through computers rather than through hard copy.

*Employee Administration*Xthe section within an agency responsible for payroll and human resources.

*Employing Agency*Xthe agency for which an employee is currently working.

*Financial Institution*Xa bank, savings and loan, or credit union who is established as a receiver of ACH payments.

*Geographical Barrier*Xan obstacle based on the physical location of an employee in relation to the physical location of a financial institution that would impede an employee's ability to obtain funds from the financial institution.

*ISIS Human Resource System*Xthe integrated statewide information system administered by the Division of Administration, Office of State Uniform Payroll to provide uniform payroll services to state agencies.

*Net Pay*Xthe amount of compensation due to the employee after taking an employees wages and compensation earned and deducting all voluntary and involuntary deductions.

*Office of State Uniform Payroll (OSUP)*Xthe section within the Division of Administration primarily responsible for the DOA statewide payroll system and administration of the rules governing state employee payroll deductions.

*Physical/Mental Disability Barrier*Xan obstacle based on a physical or mental impairment that would impede an employee's ability to obtain an account at a financial institution or impede an employee's ability to obtain funds from a financial institution.

*Primary Bank Account*Xan employee's checking or savings account at a financial institution to which net pay is deposited.

*Prospective Employee*Xa person to whom an agency wishes to issue an offer of employment.

*Representative*Xa person appointed by the department head to handle the operation of the department.

*Secondary Bank Account*Xan employee's checking or savings account at a financial institution to which a fixed dollar amount or percentage of net pay is deposited.

*Third Party Account*Xbank account established for a person other than the employee.

*Wage*Xpayment for services to an employee.

*Waiver*Xauthorization by the Division of Administration, Office of State Uniform Payroll, for an exception to the enforcement of this rule.

*Waiver Form*Xthe standard form developed by the Division of Administration, Office of State Uniform Payroll, completed by the employee to request a waiver from the requirement of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1197 (June 2002).

§303. Direct Deposit of Employee Pay

A. Beginning July 1, 2002, all employees paid through the ISIS Human Resource System are required to receive wage and compensation payments via direct deposit through the Automated Clearing House (ACH). Employees must complete an approved direct deposit enrollment authorization form to establish direct deposit of net pay to the employee's primary bank account at an approved financial institution. Employees may choose to send, via direct deposit, a fixed dollar amount or a percentage of net pay to a secondary bank account by completing an approved direct deposit enrollment authorization form for a secondary account. These forms can be obtained from the employee

administration office of the employing agency. Completed forms must be forwarded to the employee administration office of the employing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1198 (June 2002).

§305. Direct Deposit of Employee Pay to a Third Party's Account

A. Direct deposit of employee pay cannot be set up to go to a third party's account. This includes any account where the employee is not named on the account. Exceptions may be made by the employing agency for deposits to a dependent's account or to the account of a parent/guardian, when the employee is a dependent of the parent/guardian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1198 (June 2002).

§307. Condition of Employment

A. Direct deposit of pay must be considered a condition of employment, and agencies shall not submit job offers to prospective employees who are not willing to receive their wage and compensation payments via direct deposit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1198 (June 2002).

§309. Request for Direct Deposit Waiver

A. Employees may request a waiver of the requirement for direct deposit by completing and submitting to the employee administration office of the employing agency a request for direct deposit waiver on an approved waiver form. The approved form can be obtained from the employee administration office of the employing agency. The employee administration office is required to submit all requests for waivers to the department head or representative. The department head or representative must approve or deny the waiver based on reasonableness of the request. Approved waivers must be submitted to the Office of State Uniform Payroll for final approval/denial. The Office of State Uniform Payroll will approve, or deny, the request for waiver and return the form to the agency who must then notify the employee of the status of the request for waiver. The agency must maintain a copy of the waiver form with the employee's records with a notation as to when the employee was notified of the waiver status. Waivers may be approved for geographical barriers, physical/mental disability barrier, or inability to establish an account at any financial institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1199 (June 2002).

§311. Enforcement of Rule

A. Wage and compensation payments will be placed in a holding account until such time that employee completes an approved direct deposit enrollment authorization form and forwards said form to the employee administration office of the employing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1199 (June 2002).

§313. Department/Agency Responsibility

A. Departments/Agencies are responsible for incorporating within the hiring process notification of direct deposit as a condition of employment, enforcing compliance with this rule, reviewing and approving/denying employee requests for waivers, forwarding approved waivers to the Office of State Uniform Payroll for final approval/denial of waivers, notifying employees of the final decision on the waivers, maintaining record of waivers, reporting to the Commissioner of Administration any employees not complying with this rule, and withholding job offers to prospective employees failing to comply with this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1199 (June 2002).

Chapter 5. Direct Deposit of Vendor Payments and Electronic Receipt of Supporting Data

§501. Definitions

*Child Support*Xinvoluntary employee deduction ordered by a court for payment for support of a child.

*Direct Deposit*Xthe automatic deposit, through electronic transfer of funds, of vendor pay into a checking or savings account at a bank, savings and loan, or credit union of their choice.

*Direct Deposit Enrollment Authorization Form*Xthe standard form developed by the Division of Administration, Office of State Uniform Payroll, completed by the vendor, giving the Division Of Administration, Office of State Uniform Payroll authority to process vendor specific direct deposit bank account information in the ISIS Human Resource System for the electronic transfer of funds.

*Director*Xthe leader responsible for the operation of the Office of State Uniform Payroll.

*Division of Administration (DOA)*Xthe Louisiana State Agency under the executive department which provides centralized administrative and support services to state

agencies as a whole by developing, promoting, and implementing executive policies and legislative mandates.

*Electronic*Xmethod of automatically transferring data/funds through computers rather than through hard copy.

*Financial Institution*Xa bank, savings and loan, or credit union who is established as a receiver of ACH payments.

*Garnishment*Xinvoluntary employee deduction ordered by a court for payment to a creditor.

*Involuntary Payroll Deduction*Xany reduction of net pay which is required by federal or state statute, or by court ordered action.

*ISIS Human Resource System*Xthe integrated statewide information system administered by the Division of Administration, Office of State Uniform Payroll to provide uniform payroll services to state agencies.

*Levy*Xinvoluntary employee deduction ordered by the court for payment of unpaid federal and/or state taxes.

*Office of State Uniform Payroll (OSUP)*Xthe section within the Division of Administration primarily responsible for the DOA statewide payroll system and administration of the rules governing state employee payroll deductions.

*Payment Processing Costs*Xcosts associated with establishing bank accounts and receipt of funds and data electronically, including internal costs and financial institution costs.

*Prospective Vendor*Xany company, corporation, or organization which has submitted an application to be approved as a vendor for state payroll deduction or a vendor which has submitted an application for approval of an additional product or a change to an existing product.

*Supporting Data*Xinformation to support the electronic payment, including employees' amounts and other related data.

*Undue Hardship*Xan unwanted burden placed on a vendor as a result of receiving payment and supporting data electronically.

*Vendor*Xany company, corporation, or organization approved to participate in payroll deduction through the ISIS Human Resource System.

*Vendor Payment*Xpayment to vendor for voluntary and involuntary employee payroll deductions with the vendor through the ISIS Human Resource System.

*Voluntary Payroll Deduction*Xany reduction of net pay made under written authority of an employee, which is not required by federal or state statute, or by court ordered action and which the employee is free to accept or decline.

*Waiver*Xauthorization by the Division of Administration, Office of State Uniform Payroll, for an exception to the enforcement of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1199 (June 2002).

§503. Direct Deposit of Vendor Payments and Electronic Receipt of Supporting Data

A. Effective July 1, 2002, all vendors having either voluntary or involuntary payroll deductions through the ISIS Human Resource System must accept payments for deductions via direct deposit or other approved electronic means and must accept supporting data via an approved electronic means. Vendors must complete an approved direct deposit enrollment authorization form and forward said form to the Office of State Uniform Payroll to establish direct deposit of vendor payments to the vendor's bank account at an approved financial institution. Approved direct deposit enrollment forms can be obtained from the Office of State Uniform Payroll. Prior to a new vendor being approved and established in the ISIS Human Resource System, the Office of State Uniform Payroll must receive a completed approved direct deposit enrollment authorization form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1200 (June 2002).

§505. Request for Direct Deposit Waiver

A. Vendors may request a waiver of this rule by submitting in writing a formal request to the Director of the Office of State Uniform Payroll. Upon receipt of formal request, the Office of State Uniform Payroll will approve or deny the request for waiver and notify the vendor in writing within 15 days of receipt of request for waiver. Waivers may be approved if the vendor can prove that use of direct deposit and/or electronic receipt of supporting data will cause an undue hardship or will significantly increase payment processing costs.

B. Vendors receiving payments for garnishment, child support, and levies are exempt from the requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1200 (June 2002).

§507. Enforcement of Rule

A. Vendor payments will be placed in a holding account until such time that vendor completes an approved direct deposit enrollment authorization form and forwards said form to the Office of State Uniform Payroll.

B. Failure to adhere to this rule will result in termination of payroll deduction privileges.

C. Current and prospective vendors requesting to receive new payroll deductions through the Payroll Deduction Rule (LAC 4:III.Chapter 1) will be denied acceptance for refusal to receive payments via direct deposit or other approved electronic means and receive supporting data via an approved electronic means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1200 (June 2002).

Title 4
ADMINISTRATION
Part V. Policy and Procedure Memoranda

NOTE: No authority notes are required for rules or policy and procedure memoranda promulgated by the Commissioner of Administration.

Chapter 1. Issuance of Policy and Procedure MemorandaXPPM Number 1

§101. Authority

A. All memoranda setting forth fiscal policy and procedures issued by the Commissioner of the Division of Administration shall be compiled in manual form, with copies provided to each state agency. Copies shall be maintained by the agency head and by the chief fiscal officer for the agency. Two binders will be provided by the Division of Administration for the retention of policy and procedure memoranda.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, March 1, 1966, promulgated LR 1:132 (February 1975).

Chapter 3. Responsibility for Fiscal ApprovalXPPM Number 7

§301. Fiscal Review of Proposed Disbursements

A. In all instances where responsibility for fiscal review of proposed disbursements has been assigned to an employee subordinate to the agency administrator, and where such employee in practice must act to approve or disapprove proposed disbursements, that employee will be held accountable for his acts of approval. As specific examples:

1. approval or payment should be withheld when known to be contrary to law or regulation as in the cases of compensation for dual employment, split purchase orders to avoid bid procedures, and illegal objects of expenditure;

2. approval and payment of travel reimbursements to an employee, officer, board member, etc., should be given only when in conformity with prescribed travel regulations and approved travel policies;

3. no approval or payment should be given for any services or goods without sufficient evidence that such goods or services were actually received.

B. If an employee is directed by higher authority to approve payments which are considered inappropriate, objection to payment should be noted in writing on the face of the disbursement voucher. Failure to register objection will imply approval and subject the responsible employee to personal liability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, July 19, 1966, promulgated LR 1:81 (February 1975).

Chapter 5. Property Insurance Claims Recover FundsXPPM Number 10

§501. Purpose

A. It is the purpose and intent of this memorandum to establish procedures in handling reimbursement for losses, including automobile physical damages losses, incurred under property insurance policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4 and R.S. 39:1527, et seq.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, October 1, 1996, promulgated LR 1:82 (February 1975), amended LR 14:293, (May 1988).

§503. Funds for Property Claims

A. Funds for all property claims payable to state agencies under property policies, commercially insured or self-insured by the Office of Risk Management, shall be held in the Self-Insurance Fund by the Office of Risk Management, Division of Administration, until the damaged property or equipment has been repaired, reconstructed, or replaced.

B. Agency and state purchasing procedures and policies shall be followed, and invoices submitted to the Office of Risk Management for payment to vendors. In the event an agency has paid for a covered loss, the Office of Risk Management shall reimburse the agency for its payments where paid invoices can be produced, and any agency receiving payments from the Office of Risk Management shall receive such as reimbursement of expenses or available income. Payment by Risk Management to agencies for purposes other than reimbursement of expenses or available income may be made upon an approved BA-7. Should the estimate of repairs or replacement represented on an executed Proof of Loss exceed the actual costs incurred, the excess shall remain with the Self-Insurance Fund within the Department of Treasury and shall not be reflected in the actual loss experience of the affected agency.

C. Commercial and self-insurance fund loss recoveries from policies purchased by the state shall be payable to the state treasury if payment is not otherwise made pursuant to other provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4 and R.S. 39:1527, et seq.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, October 1, 1966, promulgated LR 1:82 (February 1975), amended LR 14:293 (May 1988).

§505. Repair or Replacement of Property

A. Except for state-owned vehicles provided for in Paragraph B, infra, if repair or replacement of damaged, destroyed, or stolen state-owned property, to include buildings and improvements, boiler and machinery equipment, contents, inventories (including mobile equipment and excluding licensed vehicles), and marine hulls 26 feet and under, is not commenced within 36 months of the loss date, or if a Proof of Loss is not submitted within 36 months of the date of loss, the claim file will be closed. No liability will remain to the insurance fund, and the loss will not be charged to the loss experience of the affected agency.

B. If repair or replacement of damaged, destroyed, or stolen state-owned vehicles is not completed within 18 months of the loss date, or if a Proof of Loss is not submitted within 18 months of the date of loss, the claim file will be closed. No liability will remain to the insurance fund, and the loss will not be charged to the loss experience of the affected agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4 and R.S. 39:1527, et seq.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, October 1, 1966, promulgated LR 1:82 (February 1975), amended LR 14:294 (May 1988).

Chapter 7. Request for New or Substitute PositionsXPPM Number 33

§701. Purpose

A. It is the purpose and intent of this memorandum to incorporate a revised form, BA-8, 10/76.

B. This revised form, BA-8, 10/76, will be used, without exception, to request authorization for any new position not authorized in the executive budget and also to request authorization for any substitution of previously approved positions on the personnel position control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4.

HISTORICAL NOTE: Adopted by the Office of the Governor, Division of Administration, February 21,1969, promulgated LR 1:97 (February 1975), amended LR 12:229 (April 1986).

§703. Instructions

A. In utilizing the revised Form BA-8, 10/76, a request for new positions will be executed as follows:

Column 1. Classification or Title

Column 2. Organizational Unit or New Position (Functional Section or Unit)

Column 3. Date of Occupancy

Column 4. Monthly Salary

Column 5. Cost for Remainder of Current Year

Column 6. JustificationXExplain in Detail

B. For substitution of previously approved positions:

Column 1. Classification or Title

Column 2. Organizational Unit or New Position (Functional Section or Unit)

Column 3. Date of Occupancy

Column 4. Monthly Salary

Column 5. Cost for Remainder of Current Year

Column 6. JustificationXExplain in Detail

Column 7. Title or Position to be Replaced

Column 8. Organizational Unit (Functional Section or Unit)

C. A separate Form BA-8 must be completed for each and every request submitted for the commissioner's approval and must also indicate whether the position affected is classified (C) or unclassified (U).

D. It must be emphasized that the approval of a classification substitution in no manner changes the numerical position of the control. Approval of a substitution automatically cancels and eliminates the substituted position from the authorized personnel position control in the executive budget and replaces it with the approved change. Under no circumstance will the substituted position be retained on the adjusted control. Also, the approval of a new position automatically advances the numerical position of the control.

E. The personnel position control block must be completed before approval can be granted. In the column "number" the agency must designate the current personnel control by incumbents and vacancies. This will include all previously authorized changes.

F. If the request for change represents a new position, the total adjusted personnel control will show a numerical increase of one position. If the request represents a substitution of a previously budgeted position, the adjusted personnel control will remain the same. In all cases the control block must be completed.

G. In the second block headed "fundsXpro rataX amount," the agency will disclose the source of funds intended to defray the additional salary expense. If the cost is to be borne by a joint state-federal participation, indicate the pro rata cost of each source. If the funds are derived from other sources, e.g., self-generating, etc., explain in detail on the reverse side of the form.

H. This memorandum supersedes Policy and Procedure Memorandum Number 3, and all memoranda and manuals in conflict herewith are superseded.

I. Form BA-8 should be duplicated by your agency as future needs arise (see form below).

Rev. 10/76

DIVISION OF ADMINISTRATION

REQUEST FOR NEW OR SUBSTITUTE FULL

TIME EQUIVALENT POSITION

BA-8 Number_____

Agency Date _____

Schedule Number

C or U	(1) Classification or Title	(2) Organizational Unit or New Position	(3) Date of Occupancy	(4) Monthly Salary	(5) Cost Differential for Remainder of Current Year	U or C	(6) Title of Position to be Replaced	(7) Organizational Unit

Justification: Explain in Detail

PERSONNEL POSITION CONTROL

Authorized Personnel-Budgeted	Current Number	Change	Adjusted Personnel Control
Incumbents			
Vacancies			
Total			

Funds	Pro Rate	Amount
State	%	
Federal	%	
Interagency	%	
*Other	%	

*Explain in detail (reverse side)

Certificate: I certify that this request, if approved, will (will not) change the Personnel Position Control (authorized number of employees) as stipulated in the Executive Budget; that the position to be filled is not now or will not be filled prior to receipt of approval; that the substitution requested automatically cancels or eliminates the position substituted and in no manner changes the status of the approved Personnel Position control; that this request, if approved will (will not) impair or exceed the total amount of monies allocated in Salaries (2112) category for Fiscal Year_____.

No. positions funded in other charges over authorized T.O._____.

In all cases use the "justification" column to explain how funds will be made available for the request.

Note: A separate form must be executed on each and every individual request for change.

_____
(Budget Unit Head)

_____
Title

Approved: _____
Commissioner of Administration

Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, February 21, 1969, promulgated LR 1:97(February 1975), amended LR 12:229 (April 1986).

Chapter 13. Equipment Purchase Approval (BA-22)XPPM Number 43

(Editor's Note: Form Number BA-22 was revised February 1983 and is not included. Copies of the revised form may be obtained from Forms Management; Division of Administration; Box 94095, Capitol Station, Baton Rouge, LA 70804-9095.)

Subchapter A. General Provisions

§1301. Purpose

A. It is the purpose of this memorandum to provide for Form BA-22 (Revised) to be used in all acquisitions of machinery and equipment allotted under Capital Outlays-Acquisitions. This form must accompany each requisition, affecting this allotment, submitted to the State Purchasing Section. After processing by the purchasing section, it must then be approved by the Commissioner of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, October 1, 1971, revised July 1, 1973, promulgated LR 1:114 (February 1975).

§1303. Authority of State Purchasing Officer

A. The state purchasing officer is hereby directed to return, without action, any purchase requisition received without a properly executed BA-22 (Revised) attached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, October 1, 1971, revised July 1, 1973, promulgated LR 1:114 (February 1975).

§1305. Form BA-22 (Revised)

A. Form BA-22 (Revised) is designed so that the agency can indicate by a check (T) mark whether the purchase is a scheduled item or a substitution for a scheduled item. It will further show by a check (T) and property tag number the equipment to be replaced. This equipment is to be turned in immediately to the Division of Administration Purchasing and Property Control Section upon receipt of the new equipment.

B. The machinery and equipment balance section of Form BA-22 (Revised) should indicate allotment balance as of the last purchase requisition submitted.

C. Agencies may reproduce attached Form BA-22 (Revised) as need dictates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, October 1, 1971, revised July 1, 1973, promulgated LR 1:114 (February 1975).

Chapter 15. General Travel RegulationsXPPM Number 49

§1501. Authorization and Legal Basis

A. In accordance with the authority vested in the Commissioner of Administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2004. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

B. Legal BasisXL.R.S. 39:231. "The commissioner, with the approval of the governor, shall prescribe rules defining the conditions under which each of various forms of transportation may be used by state officers and employees and used by them in the discharge of the duties of their respective offices and positions in the state service and he shall define the conditions under which allowances will be granted for all other classes of traveling expenses and the maximum amount allowable for expenses of each class."

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004).

§1502. Definitions

A. For the purposes of this PPM, the following words have the meaning indicated.

*Authorized Persons*X

a. advisors, consultants, contractors and other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et seq.;

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided.

*Conference/Convention*Xis herein defined as a meeting (other than routine) for a specific purpose and/or objective. Non-routine meetings can be defined as a seminar, conference, convention, or training. Documentation required is a formal agenda, or program, or Letter of Invitation, or registration fee. Participation as an exhibiting vendor in an exhibit/trade show also qualifies as a conference. (For a hotel to qualify for conference rate lodging, requires that the hotel is hosting or is in "conjunction with hosting" the meeting.)

*Emergency Travel*Xunder extraordinary circumstances where the best interests of the state require that travel be undertaken not in compliance with these regulations, approval after the fact by the Commissioner of Administration may be given if appropriate documentation is presented promptly. Each department shall establish internal procedures for authorizing travel in emergency situations.

*Extended Stays*Xof any assignment made for a period of 31 or more consecutive days at a place other than the official domicile.

*In-State Travel*Xall travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

*International Travel*Xall travel to destinations outside the 50 United States, District of Columbia, Puerto Rico and the Virgin Islands.

*Official Domicile*Xevery state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile.

a. Except where fixed by law, official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace).

b. A traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence.

c. The official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interest of the agency and not for the convenience of the person.

*Out-of-State Travel*Xtravel to any of the other 49 states plus District of Columbia, Puerto Rico and the Virgin Islands.

*Per Diem*Xa flat rate paid in lieu of travel reimbursement for people on extended stays.

*Receipts/Document Requirements*Xsupporting documentation must be retained according to record retention laws. It shall be at the discretion of each agency to determine where the receipts/documents will be maintained.

*State Employee*Xemployees below the level of state officer

*State Officer*X

a. state elected officials;

b. department head as defined by Title 36 of the Louisiana Revised Statutes (secretary, deputy secretary, undersecretary, assistant secretary, and the equivalent positions in higher education and the office of elected officials).

*Temporary Assignment*Xany assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

*Travel Period*Xa period of time between the time of departure and the time of return.

*Travel Routes*Xthe most direct and usually traveled route must be used by official state travelers.

*Traveler*Xa state officer, state employee, or authorized person when performing authorized travel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004).

§1503. General Specifications

A. Department Policies

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the Commissioner of Administration. Three copies of such regulations shall be submitted for prior review and approval by the Commissioner of Administration. One of the copies shall highlight any exceptions /deviations to PPM 49.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

3. Contracted Travel Services. The state has contracted for travel agency services which use is mandatory for airfares unless exemptions have been granted by the Division of Administration prior to travel. The state also encourages the use of the contracted travel agency to make reservations for hotel and vehicles accommodations, but hotel and vehicles are not a mandatory requirement.

4. When a state agency enters into a contract with an out-of-state public entity, the out-of-state public entity may have the authority to conduct any related travel in accordance with their published travel regulations.

5. Authorization to Travel

a. All travel must be authorized and approved in writing by the head of the department, board, or commission from whose funds the traveler is paid. A department head may delegate this authority in writing to one designated person. Additional persons within a department may be designated with approval from the Commissioner of Administration. A file shall be maintained on all approved travel authorizations.

b. An annual authorization for routine travel shall not cover travel between an employee's home and workplace, out-of-state travel, or travel to non-routine meetings such as conferences and conventions.

B. Funds for Travel Expenses

1. Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses that cannot be covered by the corporate credit card. Advances of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the travel voucher covering the related travel, not later than the fifteenth day of the month following the completion of travel.

2. Exemptions. At the Agency's discretion, cash advances may be allowed for:

a. employees whose salary is less than $30,000/year;

b. employees who applied for the state-sponsored corporate credit card program but were rejected (proof of rejection must be available in agency travel file);

c. employees who accompany and/or are responsible for students on group or client travel;

d. new employees who are infrequent travelers or have not had time to apply for and receive the card;

e. employees traveling for extended periods, defined as 31 or more consecutive days;

f. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

g. advanced ticket/lodging purchase;

h. registration for seminars, conferences, and conventions;

i. incidental costs not covered by the corporate credit card, i.e., taxi fares, tolls, registration fees; conference fees may be submitted on a preliminary request for reimbursement when paid in advance;

j. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. Passenger airfare receipts are required for reimbursement;

k. employees who infrequently travel or travelers that incur significant out-of-pocket cash expenditures.

3. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

4. State Credit Cards (Issued in the Name of the Agency Only). Credit cards issued in the name of the state agency are not to be used for the purpose of securing transportation, lodging, meals, or telephone and telegraph service, unless prior written permission has been obtained from the Commissioner of Administration.

5. No Reimbursement When No Cost Incurred by Traveler. This includes but is not limited to reimbursements for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

C. Claims for Reimbursement

1. All claims for reimbursement for travel shall be submitted on state Form BA-12, unless exception has been granted by the Commissioner of Administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. The purpose for extra and unusual travel must be stated in the space provided on the front of the form. In all cases the date and hour of departure from and return to domicile must be shown.

2. Excepting where the cost of air transportation, conference, or seminar is invoiced directly to the agency/department, all expenses incurred on any official trip shall be paid by the traveler and his travel voucher shall show all such expenses in detail to the end that the total cost of the trip shall be reflected by the travel voucher. If the cost of air transportation is paid directly by the agency/department, a notation will be indicated on the travel voucher indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler's copy of the passenger receipt is required.

3. In all cases, and under any travel status, cost of meals and lodging shall be paid by the traveler and claimed on the travel voucher for reimbursement, and not charged to the state department, unless otherwise authorized by the Division of Administration.

4. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least $10 is due. Department heads at their discretion may make the 30 day submittal mandatory on a department wide basis.

5. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any

claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to severe disciplinary action as well as being criminally and civilly liable within the provisions of state law.

6. Agencies are required to reimburse travel in an expeditious manner. In no case shall reimbursements require more than 30 days to process from receipt of complete, proper travel documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1253 (June 2000), LR 27:803 (June 2001), LR 28:1126 (June 2002), LR 29:823 (June 2003), LR 30:1112 (June 2004).

§1504. Methods of Transportation

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, employee's salary, cost of operation of a vehicle, cost and availability of common carrier services, etc.

B. Air

1. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

2. Before travel by privately-owned or by chartered aircraft is authorized by a department head, the traveler shall certify that at least one hour of working time will be saved by such travel; and no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

a. Chartering a privately-owned aircraft must be in accordance with the Procurement Code.

b. Reimbursement for use of a chartered or unchartered privately-owned aircraft under the above guidelines will be made on the following basis:

i. at the rate of $0.34 per mile; or

ii. at the lesser of state contract rate or coach economy airfare.

If there are extenuating circumstances requiring reimbursement for other than listed above, approval must be granted by the Commissioner of Administration.

c. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

3. Commercial air travel will not be reimbursed in excess of state contract air rates when available, or coach/economy class rates when contract rates are not available (receipts required). The difference between contract or coach/economy class rates and first class or business class rates will be paid by the traveler. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline indicating this fact. The certification is required for travel reimbursement.

a. The state encourages but does not require use of lowest priced airfares where circumstances which can be documented dictate otherwise. Lowest logical fares are penalty tickets that can have restrictions and charge penalty fees for changing/canceling ticket purchases. Lowest logical tickets must be purchased from the state's contracted travel agency unless prior approval is granted by the State Travel Office.

b. Where a stopover is required to qualify for a low-priced airfare, the state will pay additional lodging and meals expense subject to applicable limits where a net savings in total trip expenses results from use of the low-priced airfare. For determining whether there is a savings, the state contract airfare should be used for comparison, or coach/economy fare if there is no contract rate. If additional work time will be lost, then the cost of the traveler's time is to be used in the calculation. The comparison must be shown on the travel voucher.

c. The policy regarding airfare penalties is the state will pay the penalty incurred for a change in plans or cancellation only when the change or cancellation is required by the state. Certification of the requirement for the change or cancellation by the traveler's department head is required on the travel voucher.

d. For international travel only, when an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel voucher.

4. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline charge of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by the employee.

5. If companion fares are purchased for a state employee and non-state employee, the reimbursement to the state employee will be the amount of the lowest logical fare.

6. Contract airfares are to be purchased only through the state's contracted travel agencies and are to be used for

official state business. State contract airfares are non-penalty tickets. Therefore no penalty fees are charged for changes/cancellations, and no restrictions are imposed on flight schedules. The state contract airfares cannot be used for personal/companion or spouse travel. This is a requirement of the airlines and our failure to monitor the use of these contract airfares could cause their cancellation. (Therefore, persons booking tickets for non-official business using contract rates will be subject to disciplinary action as well as payment of the difference between contract fare and full coach fare.)

7. Traveler is to use the lowest logical airfare/state contract whether the plane is a prop or a jet.

8. Employees may retain promotional items, including frequent flyer miles, earned on official state travel. However, if an employee makes travel arrangements that favor a preferred airline/supplier to receive promotional items/points and this circumvents purchasing the most economical means of travel, they are in violation of this travel policy. Costs for travel arrangements subject to this violation are non-reimbursable.

9. In order for the state to continue to receive state contracted airfares, it is necessary that the contract carrier be utilized when electing to use state contract rates. When using the Contract Airfares there are no restrictions or penalties. In many cases, airlines that did not win an award for a certain city will now offer the same discounted price that was awarded to the contract vendor. This is known as a matched carrier. Matched carriers are not to be used unless there is two or more hours difference in the departure or arrival time. The state does not have a contract with the matched fare carriers; therefore, we do not have last seat availability and certain rules including cancellation penalties will apply to these fares. Once the decision is made not to use the contract fare you are giving up your option for the non-penalty ticket, and must use the lowest logical fare available.

10. When making airline reservations for a conference, inform the travel agency that you are attending a conference giving the name of the conference and the airline that is offering the discount rate, if available. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates. If so, giving this information to our contracted agencies could result in them securing that rate for your travel.

11. Use of Corporate Card

a. The State Travel Office contracts an official state corporate travel card to form one source of payment for travel. All travelers or agencies shall make application through their agency travel program administrator.

b. An employee's corporate travel card or agency CBA (Controlled Billed Accounts) must be used to purchase contract airfare. This is a mandatory requirement by the airlines in order to continue to receive discount, non penalty state contract airline tickets.

c. The corporate travel card is the liability of the employee and not the state.

d. The Department/Agency is responsible for cancellation of corporate travel cards for those employees terminating/retiring state service.

C. Motor Vehicle

1. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid U.S. driver's license.

2. Safety restraints shall be used by the driver and passengers of vehicles. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. An accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

3. State-Owned Vehicles

a. All purchases made on state gasoline credit cards must be signed for by the approved traveler making the purchase. The license number, the unit price, and quantity of the commodity purchased must be noted on the delivery ticket by the vendor. Items incidental to the operation of the vehicle may be purchased via state gasoline credit cards only when away from official domicile on travel status. In all instances where a credit card is used to purchase items or services which are incidental to the operation of a vehicle, a copy of the credit ticket along with a written explanation of the reason for the purchase will be attached to the monthly report mentioned in this subsection. State-owned credit cards will not be issued to travelers for use in the operation of privately-owned vehicles.

b. Travelers in state-owned automobiles who purchase needed repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Each agency/department shall familiarize itself with the existence of such allowances and/or contracts and location of vendors by contacting the Purchasing Office, Division of Administration.

c. The travel coordinator/officer/user of each state-owned automobile shall submit a monthly report to the department head, board, or commission indicating the number of miles traveled, odometer reading, credit card charges, dates, and places visited.

d. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-

effective means of travel should be readily available in the department's travel reimbursement files.

e. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the traveler's supervisor if he determines that the best interest of the state will be served and if the passenger (or passenger's guardian) signs a statement acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

4. Personally-Owned Vehicles

a. When two or more persons travel in the same personally-owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage shall be reimbursable on the basis of $0.34 per mile.

c. Mileage shall be computed by one of the following options:

i. on the basis of odometer readings from point of origin to point of return;

ii. by using a website mileage calculator or a published software package for calculating mileage such as Tripmaker, How Far Is It, Mapquest, etc. Employee is to print the page indicating mileage and attach it with their travel expense form.

d. An employee shall never receive any benefit from not living in his/her official domicile. In computing reimbursable mileage to an authorized travel destination from an employee's residence outside the official domicile, the employee is always to claim the lesser of the miles from their official domicile or from their residence. If an employee is leaving on a non-work day or leaving significantly before or after work hours, the department head may determine to pay the actual mileage from the employee's residence.

e. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance at infrequent or irregular meetings, etc. Within the city limits where his/her office is located, the employee may be reimbursed for mileage only.

f. Reimbursements will be allowed on the basis of $0.34 per mile to travel between a common carrier/terminal and the employee's point of departure, i.e., home, office, etc., whichever is appropriate and in the best interest of the state.

g. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel for the traveler's convenience, the traveler will be reimbursed for in-route expenses on the basis of $0.34 per mile only. The total cost of the mileage may not exceed the cost of travel by state contract air rate or lowest logical if no contract rate is available. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take their personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses. File should be justified accordingly.

h. When a traveler is required to regularly use his/her personally-owned vehicle for agency activities, the agency head may request authorization from the Commissioner of Administration for a lump sum allowance for transportation or reimbursement for transportation (mileage). Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Requests for lump sum allowance shall be granted for periods not to exceed one fiscal year.

i. The traveler shall be required to pay all operating expenses of the vehicle including fuel, repairs, and insurance.

5. Rented Motor Vehicles (Receipts Required)

a. Written approval of the department head prior to departure is required for the rental of vehicles. Such approval may be given when it is shown that vehicle rental is the only or most economical means by which the purposes of the trip can be accomplished. In each instance, documentation showing cost effectiveness of available options must be readily available in the reimbursement files. This authority shall not be delegated to any other person.

b. Only the cost of rental of a compact model is reimbursable, unless:

i. non- availability is documented;

ii. the vehicle will be used to transport more than two persons; or

iii. the cost of a larger vehicle is no more than the rental rate for a compact.

c. Insurance billed by car rental companies is not reimbursable for domestic travel. At the discretion of the department head, CDW costs only may be reimbursed for international travel. Following are some of the insurance packages available by rental vehicle companies that are not reimbursable.

i. Collision Damage Waiver (CDW). Should a collision occur while on official state business, the cost of the deductible should be paid by traveler and reimbursement claimed on a travel expense voucher. The accident should also be reported to the Office of Risk Management.

ii. Loss Damage Waiver (LDW)

iii. Personal Accident Insurance (PAC)Xemployees are covered under workmen's compensation while on official state business.

iv. Auto Tow Protection (ATP)

v. Emergency Sickness Protection (ESP)

vi. Supplement Liability Insurance (SLI)

d. Any personal mileage or rental days on a vehicle rented for official state business is not reimbursable and shall be deducted.

e. Reasonable gasoline cost is reimbursable, but not mileage on a rental vehicle.

D. Public Ground Transportation. The cost of public ground transportation such as buses, subways, airport limousines, and taxis is reimbursable when the expenses are incurred as part of approved state travel. Taxi reimbursement is limited to $15 per day without receipts; claims in excess of $15 per day require receipts to account for total daily amount claimed. At the agency's discretion, the department head may implement an agency wide policy requiring receipts for an amount less than $15 per day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1254 (June 2000), LR 27:804 (June 2001), LR 28:1127 (June 2002), LR 29:824 (June 2003), LR 30:1113 (June 2004).

§1505. Lodging and Meals

A. Eligibility

1. Official Domicile/Temporary Assignment. Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of 31 calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the 31 day period has been previously secured from the Commissioner of Administration.

2. Single Day Travel

a. Meals are not eligible for reimbursements on single day travel. This means that when an authorized traveler of the state is in travel status where no overnight stay is required, no meals are eligible for reimbursement. Each department head or their designees are to determine the reasonableness of when an over night stay is justified.

b. However, the department head will be allowed to authorize single day meal reimbursements on a case-by-case basis or by type(s) of single day travel when it is determined to be in the best interest of the department. In those cases the department must keep the approvals in the travel file and must be responsible to take appropriate steps to report the reimbursement as wages to the employee.

c. If a department head or their designee determines that single day meals will be provided for, they must follow the following allowances.

i. To receive any meal reimbursement on single day travel, an employee must be in travel status for a minimum of 12 hours. The maximum allowance for meal reimbursement for single day travel will be $20.

(a). Breakfast and Lunch: ($14). The 12 hour travel duration must begin at or before 6 a.m.

(b). Lunch: ($8). Requires 12 hours duration in travel status.

(c). Lunch and Dinner: ($20). The 12 hour travel duration must end at or after 8 p.m.

3. Travel with Over Night Stay. Travelers may be reimbursed for meals according to the following schedule.

a. Breakfast. When travel begins at/or before 6 a.m. on the first day of travel or extends beyond 9 a.m. on the last day of travel, or for any intervening days.

b. Lunch. When travel begins at/or before 10 a.m. on the first day of travel or extends beyond 2 p.m. on the last day of travel, or for any intervening days.

c. Dinner. When travel begins at/or before 4 p.m. on the first day of travel or extends beyond 8 p.m. on the last day of travel, or for any intervening days.

4. Alcohol. Reimbursement for alcohol is prohibited.

B. Exceptions

1. Twenty Five Percent over Allowances. Department heads may allow prior approval for their employees to exceed the lodging and meals provisions of these regulations by no more than 25 percent on a case-by-case basis. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files. This authority shall not be delegated to any other person. Receipts are required for reimbursement.

2. Actual Expenses for State Officers. State officers and others so authorized by statute (See Definitions under Authorized Persons) or individual exception will be reimbursed on an actual expenses basis for meals and lodging except in cases where other provisions for reimbursement have been made by statute. Receipts or other supporting documents are required for each item claimed. Request shall not be extravagant and will be reasonable in relationship to the purpose of travel. State officers entitled to actual expense reimbursements are only exempted from meals and lodging rates; they are subject to the time frames and all other requirements as listed in the travel regulations.

C. Traveler's Meals (Including Tax and Tips)

1. Travelers may be reimbursed up to the following amounts for meals.

	Tier I	Tier II	Tier III	Tier IV
Breakfast	$ 6	$ 6	$ 8	$ 9
Lunch	$ 8	$ 9	$10	$11
Dinner	$12	$14	$19	$20
	$26	$29	$37	$40

Tier IXIn-State cities: with the exception of New Orleans
Tier IIXNew Orleans and Out-of-State cities; with the exception of the cities listed in Tier III and Tier IV.
Tier IIIXAtlanta, Cleveland, Dallas/Fort Worth, Denver, Detroit, Hartford, Houston, Los Angeles, Miami, Minneapolis/ St. Paul, Nashville, Oakland, CA., Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, ME, Portland, OR., San Antonio , San Diego, St. Louis, Tampa, Fl., Wilmington, De., Puerto Rico, Virgin Islands, all of Alaska and Hawaii
Tier IVXBaltimore, Boston, Chicago, New York City, San Francisco, Seattle, Washington, DC

2. Receipts are not required for routine meals within these allowances. Number of meals claimed must be shown on travel voucher. Partial meals such as continental breakfasts or airline meals are not considered meals. If meals of state officials exceed these allowances, receipts are required.

D. Conference Meals

1. Cost allowance for meals direct billed to agency in conjunction with state-sponsored in-state conferences, plus tax and mandated gratuity.

Lunch in-State excluding New Orleans	$12
LunchXNew Orleans	$15

2. Conference Refreshment Expenditures. Cost for a meeting, conference or convention are to be within the following rates: (NOTE: refreshment expenses are not applicable to an individual traveler) served on agency's property: not to exceed $2 per person, per morning and/or afternoon sessions served on offsite properties that require catered services: not to exceed $3.50 plus tax and mandated gratuity per person, per morning and/or afternoon sessions

E. Lodging. Employees will be reimbursed lodging rate, plus tax, Receipt Required.

$ 55	In-state (except as listed)
$ 60	Lafayette, Slidell
$ 65	Bossier City, Shreveport
$ 70	Baton Rouge, Lake Charles, Gretna, Kenner, Metairie (Sulphur will be considered a suburb of Lake Charles)
$ 90	New Orleans
$ 65	Out-of-State (except those listed)
$105	High cost (Atlanta, Cleveland, Dallas/Fort Worth, Denver, Detroit, Hartford, Houston, Los Angeles, Miami, Minneapoliis/St. Paul, Nashville, Oakland, CA, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, ME, Portland, OR, San Antonio, San Diego, St. Louis, Tampa, FL, Wilmington, DE, all of Alaska or Hawaii)
$140	Baltimore, Boston, Chicago, San Francisco, Seattle, Washington, DC
$165	New York City
The inclusion of suburbs shall be determined by the department head on a case-by-case basis.	

F. Conference Lodging. Employees will be reimbursed lodging rate, plus tax, Receipt Required.

1. Travelers may be reimbursed expenses for conference hotel lodging per the following rates, if the reservations are made at the actual conference hotel. When reservations are not available at the conference hotel and multi-hotels are offered in conjunction with a conference, traveler shall seek prices and utilize the least expensive. In the event all conference hotels are unavailable, then the traveler is subject to making reservations within the hotel rates as allowed in Section E, above.

$ 65	In-state (except as listed))
$ 70	Bossier City, Shreveport
$ 75	Baton Rouge, Lake Charles, Gretna, Kenner, Metairie
$110	New Orleans, state sponsored conferences
$140	Out-of-state and New Orleans for non-state sponsored conferences
$165	New York City
The inclusion of suburbs shall be determined by the department head on a case-by-case basis	

2. State Sponsored Conferences. An agency must solicit three competitive quotes in accordance with the Governor's Executive Order for Small Purchase.

3. No reimbursements are allowed for functions not relating to a conference, i.e., tours, dances, golf tournaments, etc.

G. Extended Stays. For travel assignment involving duty for extended periods (31 or more consecutive days) at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), repromulgated LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004).

§1506. Parking and Related Parking Expenses

A. Parking for the Baton Rouge Airport. The state's current contract rate is $3.50 per day (no receipts required) for parking in the outside, fenced parking lot at the airport. Documentation required to receive the contract price is either a parking coupon or a travel itinerary issued by the state contracted travel agency designating the employee is on "official state business". At the agency discretion an employee may be paid actual expenses up to $4.75 per day with a receipt.

B. Parking for the New Orleans Airport. The state's current contract rate is $5.50 per day and $32.50 weekly at Park 'N Fly (no receipts required). Documentation required to receive the contract price is your agency issued photo ID, a business card, state issued corporate card or a travel itinerary issued by the state contracted travel agency designating the employee is on "official state business." At

the agency discretion an employee may be paid actual expenses up to $8 per day with a receipt.

C. Travelers using motor vehicles on official state business will be reimbursed for reasonable storage fees, for all other parking, including airport parking except as listed in Paragraphs 1 and 2 above, ferry fares, and road and bridge tolls. For each transaction over $5, a receipt is required.

D. Tips for valet parking not to exceed $1 per in and $1 per out, per day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1257 (June 2000), LR 27:808 (June 2001), repromulgated LR 27:1496 (September 2001), repromulgated LR 27:1496 September 2001, LR 28:1130 (June 2002), LR 30:1117 (June 2004).

§1507. Reimbursement for Other Expenses

A. The following expenses incidental to travel may be reimbursed.

1. Communications Expenses

a. For Official State BusinessXall costs (receipts required for over $3).

b. For Domestic Overnight TravelXup to $3 in personal calls upon arrival at each destination and up to $3 for personal calls every second night after the first night if the travel extends several days.

c. For International TravelXup to $10 in personal calls upon arrival at each destination and up to $10 for personal calls every second night after the first night if the travel extends several days.

d. Internet access charges for official state business from hotels or other travel locations are treated the same as business telephone charges. A department may implement a stricter policy for reimbursement of internet charges.

2. Charges for Storage and Handling of State Equipment

3. Baggage Tips

a. Hotel AllowancesXnot to exceed $1 per bag for a maximum of three bags. Tips may be paid one time upon each hotel check-in and one time upon each hotel check-out, if applicable.

b. Airport AllowancesXnot to exceed $1 per bag for a maximum of three bags. Tips may be paid one time for the airport outbound departure trip and one time for the inbound departure trip.

4 Registration Fees at Conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head).

5. Laundry Services. Employees on travel for more than seven days up to 14 days are eligible for $20 of laundry services, and for more than 14 days up to 21 days an additional $20 of laundry services, and so on. Receipts are required for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:808 (June 2001), LR 28:1131 (June 2002), LR 30:1118 (June 2004).

§1508. Special Meals

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc., by federal or local representatives.

2. Extraordinary situations are when state employees are required by their supervisor to work more than a 12-hour weekday or six-hour weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the Commissioner of Administration in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed one fiscal year with the exception in Subsection C, as follows.

C. A department head may authorize a special meal within allowable rates to be served in conjunction with a working meeting of departmental staff.

D. In such cases, the department will report on a semi-annual basis to the Commissioner of Administration all special meal reimbursements made during the previous six months. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;

2. clear justification of the necessity and appropriateness of the request;

3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;

4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the Commissioner of Administration to exceed this reimbursement limitation.

E. All of the following must be reviewed and approved by the department head or their designee prior to reimbursement:

1. detailed breakdown of all expenses incurred, with appropriate receipts(s);

2. subtraction of cost of any alcoholic beverages;

3. copy of prior written approval from the Commissioner of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1118 (June 2004).

§1509. International Travel

A. All international travel must be approved by the Commissioner of Administration prior to departure, unless specific authority for approval has been delegated to a department head. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate/date, meals, local transportation, etc.), and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the Tier IV area rates for lodging and meals, unless U.S. State Department rates are requested and authorized by the Commissioner of Administration prior to departure. Receipts are required for reimbursement of meals and lodging claimed at the U.S. State Department rates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1119 (June 2004).

§1510. Waivers

A. The Commissioner of Administration may waive in writing any provision in these regulations when the best interest of the state will be served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1259 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1119 (June 2004).

Chapter 17. Contracts for Maintenance, Equipment, and ServicesXPPM Number 51

§1701. Introduction

A. This Policy and Procedure Memorandum rescinds Policy and Procedure Memorandum Number 51 and Policy and Procedure Memorandum 51 (Revised 6/1/73).

B. Except as otherwise provided in this Chapter, the Commissioner of Administration, hereinafter referred to as "the commissioner," shall have the authority and responsibility to promulgate regulations, consistent with this Chapter, governing the procurement, management, and control of any and all supplies, services, and major repairs required to be procured by the state. The commissioner shall consider and decide matters of policy within the provisions of this Chapter, including those referred to him by the director of State Purchasing. The commissioner shall have the power to audit and review the implementations of the procurement regulations and requirements of this Chapter.

C. Therefore, pursuant to the above authority, in order to discharge my duty and responsibility as directed by the above quoted Section of the state statutes, it is hereby ordered that all state of Louisiana agencies shall abide by the following rules and regulations, except where specific authority has been delegated, in writing, by the Commissioner of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561.

HISTORICAL NOTE: Revised by the Office of the Governor, Division of Administration, June 1,1973, promulgated LR 1:131 (February 1975), repealed LR 9:48 (February 1983), promulgated LR 9:48 (February 1983).

§1703. Purpose and Scope

A. The policies and procedures contained herein shall apply to all agencies of the state government as required by the Louisiana Procurement Code, R.S. 39:1551 et seq., the executive order of the governor Number 82-13, and the official rules and regulations of the Purchasing Section, Division of Administration, as contained in the state purchasing manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561.

HISTORICAL NOTE: Revised by the Office of the Governor, Division of Administration, June 1, 1973, promulgated LR 1:131 (February 1975), rescinded LR 9:48 (February 1983), promulgated LR 9:48 (February 1983).

§1705. Definitions of Contractual Services

A. Contractual services include all contracts, interagency agreements, or other documents for the maintenance and

service of equipment, buildings, or any other facilities and the lease and rental of equipment of any state agency under the jurisdiction of the Division of Administration, as noted in §1703.

B. The following is a listing of contracts referred to in this memorandum. Any other type of contract needs prior approval from the director of State Purchasing.

C. It is emphasized that this directive applies to CONTRACTUAL SERVICE FOR MAINTENANCE AND CONTRACTUAL AGREEMENTS FOR LEASES AND RENTALS OF EQUIPMENT. Listed below are some commodities that fall into this category:

1. janitorial services;
2. garbage disposal services;
3. water treatment services;
4. office machine maintenance;
5. thermostatic and temperature control;
6. laundry services;
7. pest control services;
8. office equipment;
9. communication equipment;
10. heavy equipment;
11. concession leases;
12. vending;
13. any other category with prior approval of the director of State Purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561.

HISTORICAL NOTE: Revised by the Office of the Governor, Division of Administration, June 1, 1973, promulgated LR 1:131 (February 1975), rescinded LR 9:48 (February 1983), promulgated LR 9:48 (February 1983).

§1707. Procedures

A. In accordance with R.S. 39:1566 all agencies of the state government are hereby delegated the authority to purchase all contractual services, as defined above, in accordance with Executive Order 82-13 and purchasing rules and regulations.

B. Agencies are authorized to prepay preventive maintenance contracts on equipment only when a brand name statewide contract exists that provides for at least a 10 percent savings over paying on a monthly basis, or a competitive bid is requested that provides for preventive maintenance on a monthly basis and on a prepaid basis. A savings of 10 percent or more is required to award on a prepaid basis.

C. A sample checklist is attached for use on each contract.

D. One complete copy of each file shall be forwarded to the Purchasing Section of the Division of Administration upon completion. These files will consist of:

1. copy of purchase requisition;
2. complete agency purchase order;
3. BA-22 RL for leases or rental of equipment;
4. copy of all bids received;
5. proof of advertisement (in accordance with Executive Order 82-13);
6. tabulation of bids received;
7. copy of the list of vendors solicited.

E. Please note: no purchase order is to be released until approval has been granted by the director of State Purchasing.

F. Approved copies of the purchase order will be returned to the agency. One copy of the purchase order and the remainder of the file will remain on file in the Division of Administration. Agencies are authorized to handle at agency level, without forwarding to Central Purchasing, those files within their delegated purchasing authority.

G. Any questions concerning this matter should be directed to the purchasing section of the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561.

HISTORICAL NOTE: Revised by the Office of the Governor, Division of Administration, June 1, 1973, promulgated LR 1:131 (February 1975), repealed LR 9:48 (February 1983), promulgated LR 9:48 (February 1983).

Chapter 19. Changes in Approved BudgetXPPM Number 52

§1901. Procedures

A. Pursuant to the above authority, in order to discharge my duty and responsibility as directed by the statutes, it is hereby ordered that all state budget units shall abide by the statutes and the following rules and regulations.

1. All requests shall be fully documented to include the following information.

a. What is the source of funding [if other than General Fund (Direct)]? Specifically identify any grant or public law and purposes of the funds, if applicable. A copy of any grant application and the notice of approved grant or appropriations must accompany the BA-7. What are the expenditure restrictions of the funds? Include the date the grant was applied for, the date approval from the federal granting authority was received, and the duration of the grant.

b. What is the financial impact in the current year and the next four fiscal years? That is, if the funds are being used to start a new program or enrich an ongoing program,

what will the impact be in future years? Will the grant decline either in funds available or in ratio of participation?

c. What programmatic impact (positive or negative) will occur as a result of the approval of this request? In other words, who will benefit, how, and to what extent? If expenditure authority is being moved from one program to another, what is the impact on the program giving up the expenditure authority? List performance indicators affected.

d. What strategy will be used in accomplishing your agency's mission and goals? Include your resource allocation plan (i.e., how, and on what, will money be spent?).

e. Will this action require additional personnel? Explain in detail.

Failure to answer all questions completely will be cause to return this document without action.

2. All requests for appropriation changes initiated after over-expenditures have been made will be summarily denied unless certification is made to the Division of Administration and the Joint Legislative Committee on the Budget, attesting that the change was of an emergency nature. Emergency is defined as being a condition detrimental to the protection of employees and/or the general public and to state property.

3. All requests shall also comply with the current appropriation bill restrictions.

AUTHORITY NOTE: Promulgated in accordance with Act 14, 1973, R.S. 39:7.

HISTORICAL NOTE: Revised by the Office of the Governor, Division of Administration, December 18, 1974, promulgated LR 1:132 (February 1975), amended LR 17:758 (August 1991).

§1903. Form BA-7

FORM BA-7

Revised 7/91

STATE OF LOUISIANA

DIVISION OF ADMINISTRATION

OFFICE OF PLANNING AND BUDGET

REQUEST FOR CHANGES IN APPROPRIATION

DEPARTMENT NAME:_____ DATE:_____

AGENCY NAME:_____ AGENCY BA-7 NO:_____

SCHEDULE NUMBER:_____

HEAD OF BUDGET UNIT:_____

TITLE:_____

OPB LOG NO.						
CATEGORY OF MEANS OF FINANCING OR EXPENDITURE	BUDGETED 19_____19_____		ADJUSTMENT (+) / (-)		REVISED 19_____19_____	
MEANS OF FINANCING						
GENERAL FUND BY:						
DIRECT						
INTERAGENCY TRANSFERS						
FEES AND SELF-GENERATED						
STATUTORY DEDICATIONS						
INTERIM EMERGENCY BOARD						
FEDERAL						
TOTAL MEANS OF FINANCING						
EXPENDITURES BY PROGRAM	DOLLARS	POSITIONS	DOLLARS	POSITIONS	DOLLARS	POSITIONS
PROGRAM NAME:						
PROGRAM NAME:						
PROGRAM NAME:						
PROGRAM NAME:						
PROGRAM NAME:						
PROGRAM NAME:						
PROGRAM NAME:						
PROGRAM NAME:						
TOTAL						

FOR OPB USE ONLY
AGENDA NO.

Policy and Procedure Memorandum No. 52, Revised, requires that all Request for Changes in Appropriations be fully documented. At a minimum, the following questions and statements must be answered. Use Continuation Sheets as needed. Failure to answer all questions completely will be cause to return this document without action.

What is the source of funding [If other than General Fund (Direct)]? Specifically identify any grant or public law and the purposes of the funds, if applicable. A copy of any grant application and the notice of approved grant or appropriation must accompany the BA-7. What are the expenditure restrictions of the fund?

What is the financial impact in the current year and the next four fiscal years?

MEANS OF FINANCING	CURRENT YEAR	YEAR 1	YEAR 2	YEAR 3	YEAR 4
GENERAL FUND BY:					
DIRECT					
INTERAGENCY TRANSFERS					
FEES & SELF-GENERATED					
STATUTORY DEDICATIONS					
INTERIM EMERGENCY BOARD					
FEDERAL					
TOTAL MEANS OF FINANCING					

What programmatic impact (positive or negative) will occur as a result of the approval of this request?

What strategy will be used in accomplishing your agency's mission and goals?

Will this action require additional personnel? Explain in detail.

AUTHORITY NOTE: Promulgated in accordance with Act 14, 1973, R.S. 39:7.

HISTORICAL NOTE: Revised by the Office of the Governor, Division of Administration, December 18, 1974, promulgated LR 1:132 (February 1975), amended LR 17:759 (August 1991).

Chapter 21. Repair and Replacement of Damaged Property Covered under the State's Risk Management ProgramXPPM No. 53

§2101. Responsibilities and Rights

A. The Office of Risk Management, Division of Administration, has the responsibility to manage all state insurance covering property and liability exposure through commercial underwriters or by self-insuring. Personnel benefits, group health, and life coverage are excepted. In discharging this responsibility, the Office of Risk Management has the right of access to all information relating to the state's Self-Insurance and Loss Control Program. This will be accomplished by affording the Office of Risk Management opportunity of inspections of all locations throughout the state.

B. The Office of Risk Management has most rights normally afforded a commercial insurance company. Among these rights is the opportunity to inspect any damage to insured property prior to repair or disposal. Therefore, the Office of Risk Management must be contacted before any repairs or disposal of insured, damaged material is accomplished. Submit all appropriate information relative to incurred losses to the Office of Risk Management at the following address: Office of Risk Management, Division of Administration, Box 94095, 1201 N. Third Street, Baton Rouge, LA 70804-9095, Phone (225) 342-8500.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:171.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, July 1, 1973, promulgated LR 1:132 (February 1975), amended LR 12:231 (April 1986).

Chapter 23. Professional Services Approval (BA-22 PS)XPPM Number 61

(Editor's Note: Form Number BA-22 PS was revised February 1983 and is not included. Copies of the revised form may be obtained from Forms Management, Box 94095, Capitol Station; Baton Rouge, LA 70804-9095.)

§2301. Purpose

A. It is the purpose of this memorandum to provide for a Form Number BA-22 PS to be used in all professional services agreements. This form must accompany each signed professional service agreement that is forwarded to the Division of Administration for final consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:7.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 1:263 (June 1975).

§2303. Office of Contractual Review

A. The Office of Contractual Review is hereby directed to return, without action, any professional service agreement received without a properly executed BA-22 PS attached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:7.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 1:263 (June 1975).

§2305. Form BA-22 PS

A. The Form BA-22 PS is designed to give the Budget Office the required information needed to give budgetary approval.

B. Agencies may reproduce attached Form BA-22 PS as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:7.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 1:263 (June 1975).

Chapter 25. Use and Management of State VehiclesXPPM Number 63

§2501. Preamble

A. Except where otherwise noted, these regulations apply to all state officers, employees, and authorized persons in all agencies of the state, as defined in R.S. 39, Section 82 to include all offices and entities of the executive branch, judicial branch, and legislative branch of state government.

B. The use of a state-owned vehicle is considered to be a privilege provided by the state so that official job responsibilities can be fulfilled. The intentions of these policies are to insure that this privilege is exercised appropriately and that the operation and management of state-owned vehicles is as economical and effective as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:281 (April 1984).

Subchapter A. Introduction

§2503. Current Legal Authority from Other Sources

A. R.S. 39:231(A). Except as provided in §2503.B and C, the Commissioner of Administration, with the approval of the governor, shall, by rule or regulation, prescribe the conditions under which various forms of transportation may be used by state officers and employees in the discharge of the duties of their respective offices and positions in the state service and the conditions under which allowances will be granted for traveling expenses.

B. R.S. 39:231(B). Each statewide elected official may use, at public expense, any state aircraft, automobile, or other vehicle which has been assigned to such official by the Commissioner of Administration for any purpose which such official deems necessary in performing the duties of his office.

1. R.S. 39:361. The Division of Administration shall establish a uniform policy for all state agencies for the use of state-owned motor vehicles by state employees. In developing the policy the following criteria shall be used.

a. Based upon miles driven, the break-even point at which it is more economical to purchase a vehicle for an employee as opposed to the paying of mileage shall be determined.

b. If the vehicle is to be used primarily for city-to-city travel, a standard size car may be purchased, and if travel is primarily within a city or within a small geographical area, a compact car or other type shall be purchased. No foreign made vehicles shall be purchased. All passenger sedans purchased, except those for use by the Louisiana Department of Public Safety and those major department heads of the executive branch and certain other personnel approved by the Joint Legislative Budget Committee, shall have highway mileage ratings of at least 20 miles per gallon according to United States Environmental Protection Agency standards for that particular make and model automobile.

c. In cases in which the vehicle will not meet the mileage break-even point as established pursuant to §2503.B.1.a, the special need of the individual employee or official to have the use of a car purchased for his individual use, as in the case of certain department heads or persons engaged in law enforcement undercover work, may be considered.

2. R.S. 39:362. Purchase of Vehicles: Specifications

a. The Division of Administration shall prepare set specifications for automobiles (both compact and standard size cars) and trucks (both pickup and heavy-duty trucks) and other types of vehicles to be used by all state agencies. The Bureau of Purchasing in the Division of Administration shall prepare specifications so that state agencies only purchase one type of car per category and shall prepare a list of exceptions, such as a vehicle for the governor, the vehicles for undercover police work, and other similar purposes. The Bureau of Purchasing shall bid contract rather than negotiate with all of the authorized dealers for prices on individual cars and shall also require state agencies to purchase from the authorized dealer who has been awarded the bid. Other authorized dealers who meet the standard specifications for the vehicles may sell cars to the state but only at the lowest bid price. The specifications and purchasing procedures set out in this Section, and all other provisions of this Part, shall be applicable to every state agency and department which uses state-owned vehicles, without exception and notwithstanding any law to the contrary.

3. R.S. 39:363. Pooling of state-owned vehicles: determination of need, exclusions.

a. The Division of Administration shall determine how many vehicles, based upon the break-even points, determined as provided in R.S. 39:361, would be surplus because employees who presently have them would not be

eligible for them. The Division of Administration shall assume title to all of those vehicles and initiate a motor pool in various areas of the state where there are significant numbers of state employees who could benefit from such a pool. The Division of Administration shall assess the needs for the pools in those areas and determine the total number of vehicles in each pool to meet the daily attendance requirements of such agencies.

4. R.S. 39:364. Employees of Office of State Police (Special Provisions)

5. R.S. 39:365. Purchase or lease of luxury automobiles and equipment prohibited (including exclusions).

6. R.S. 39:60.1.C. The Commissioner of Administration shall assemble and release annually to the governor and legislature, by January 31, a comprehensive report by each budget unit and each spending agency in the executive and judicial branches of state government, complete as of September 30 of the preceding year, of information concerning motor vehicles, aircraft, and boats, owned or leased by each agency within the executive or judicial branch. The report shall include, for each vehicle, the type of vehicle, make, model, year, primary user (if any), mileage traveled or hours of use, annual rental or lease cost if not purchased, or the purchase price.

7. R.S. 49:121. Identification of property (name of board, department or subdivisions; marking on boat or vehicle; Louisiana public license plates; exemptions).

a. Every boat, watercraft, aircraft, automobile, truck or other vehicle belonging to the state or to any of its political subdivisions shall, if required by law to bear a Louisiana license plate, bear a public license plate, and each such vehicle also shall have inscribed, painted, decaled or stenciled conspicuously thereon, either with letters not less than 2 inches in height and not less than 1/4 inch in width or with an insignia containing not less than 144 square inches, or if circular, not less than 8 inches in diameter, the name of the board, commission, department, agency or subdivision of the state to which the boat, watercraft, aircraft, automobile, truck, or other vehicle belongs, such as "Louisiana Department of Highways," or "Louisiana Conservation Commission," or "School Board-East Baton Rouge," or "Sheriff-East Baton Rouge," or "City of Baton Rouge"; provided, however, that recognized and approved abbreviations such as "LA.," "Dept.," "Com.," "Bd.," and the like, may be used.

b. The individual whose responsibility it is to place the purchase order for any vehicle or watercraft as herein provided for shall be personally responsible for seeing that the agency name is placed thereon as herein required and shall do so within 10 days after the delivery of such vehicle or water craft is receipted for and prior to delivery of such vehicle to the person or agency for whom the purchase was made.

c. Those automobiles used in crime prevention and detection and similar investigative work which, if identified as required by this Section, could not be used effectively for such purposes, are exempt from the provisions of this Part, and in addition, the automobiles used by the governor, lieutenant governor and statewide elected officials are exempt from the provisions of this Part.

d. No officer or employee of the state or any of its political subdivisions shall drive or operate any publicly owned land vehicle, aircraft, or watercraft not marked in accordance with the provisions of this Section, and no public officer or employee shall request, direct, or permit any other public official or employee or any other person to drive or operate any such vehicle.

e. The head of any department or board of the state or any of its subdivisions who operates or who orders, requests, or permits any employee under his control or supervision or any other person to operate any publicly-owned land vehicle, watercraft, or aircraft not marked in accordance with the provisions of this Section shall be guilty of a violation thereof. Each day upon which such a violation is committed shall be considered a separate offense.

8. R.S. 39:330. Responsibility for Property

a. Each property manager shall be the custodian of and shall be responsible for all property of his agency; provided, however, that when any property is entrusted to any other officer or employee of the agency, the property manager shall require a written receipt for such property to be executed by the person receiving the property, and in such event, the property manager shall be relieved of responsibility for the property.

b. Each property manager and each person to whom property is entrusted and receipted for, as provided in this Part, shall be liable for the payment of damages whenever his wrongful or negligent act or omission causes any loss, theft, disappearance, damage to or destruction of property of his agency.

c. Whenever a property manager has knowledge or reason to believe that property of the agency is lost, stolen, or otherwise unaccounted for or is damaged or destroyed, or whenever any other person has such knowledge or reason for such belief with respect to property entrusted to him, such property manager or such person shall report his knowledge or reason to the head of the agency. The head of the agency shall immediately notify the commissioner, who shall cause an investigation to be made to determine whether the property manager or the person entrusted with the property or any other person has, by his wrongful or negligent act or omission, caused the loss, theft, disappearance, damage to, or destruction of such property. After the investigation, the commissioner shall either:

i. release the property manager or person entrusted with the property from liability;

ii. collect payment of damages from or arrange for such payment by the property manager or person entrusted with the property; or

iii. certify the facts to the attorney general.

d. If the commissioner deems that the investigation shows some other person to be liable for the damages, he

shall take such steps as are necessary to recover damages therefrom or otherwise satisfy the claims of the state with regard thereto.

9. Chapter 15. General Travel RegulationsXPPM Number 49

a. Section 1525.A of this Part. State-owned vehicles shall be utilized for travel to points within Louisiana whenever possible unless another method of transportation can be documented as more efficient.

b. Section 1527 of this Part. Operation of Motor Vehicles on Official State Business.

i. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid state driver's license.

ii. If available, safety restraints shall be used by the driver and passengers of vehicles.

iii. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. An accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and returned to ORM, together with names and addresses of principals and witnesses. An accident report concerning state- owned vehicles shall also be filed with the insuring agency, Travelers Insurance Company, as soon as possible. The branch closest to the official domicile of the vehicle should be contacted. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety, as required by law.

iv. Unauthorized persons should not be transported in state or privately-owned vehicles during the conduction of official state business. Approval of exceptions to this policy may be made by the traveler's supervisor if he determines that the best interests of the state will be served and if the passenger (or passenger's guardian) signs a statement acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

c. Section 1529 of this Part. State-Owned Automobiles

i. All purchases made on state gasoline credit cards must be signed for by the approved traveler making the purchase. The license number and the unit price and quantity of the commodity purchases must be noted on the delivery ticket by the vendor. Items incidental to the operation of the vehicle may be purchased via state gasoline credit cards only when away from official domicile on travel status. In all instances where a credit card is used to purchase items or services which are incidental to the operation of a vehicle, the tissue copy of the credit ticket, along with a written explanation of the reason for the purchase, will be attached to the report required in 2503.B.9.iii.

ii. Travelers in state-owned automobiles who purchase needed repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts, where applicable. Each agency/department shall familiarize themselves with the existence of such allowance and/or contracts and the location of vendors by contacting the Purchasing Office, Division of Administration.

iii. The user of each state-owned automobile shall submit a monthly report to the department head, board, or commission indicating the number of miles traveled, odometer readings, credit card charges, dates, and places visited. When an agency car pool vehicle is used, the traveler, upon returning the vehicle to the pool, shall report the operating condition of the vehicle to the person designated as the responsible assigning officer.

iv. State-owned vehicles may be taken out of state only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost effective means of travel should be readily available in the department's travel reimbursement files.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:281 (April 1984).

§2505. Definitions

A. For the purpose of these regulations, the following words have the meanings indicated.

*Break-Even Mileage*Xthe annual mileage traveled on official state business beyond which it is more economical for employees to utilize a state vehicle than receive reimbursement at the established state rate for use of a personally-owned vehicle. Commuting mileage is *not* included in this computation.

*Department*Xunless otherwise noted, use herein represents all departments of the executive branch, including colleges and universities, boards, commissions, councils, and other entities; and offices and entities of the judicial and legislative branches of state government.

*Department Head*Xunless otherwise noted, use herein represents statewide elected officials, the secretary of a department in the executive branch, and his/her equivalent in colleges and universities, boards, commissions, councils, and other entities of any branch of state government. Delegations of authority must be submitted to and approved by the Division of Administration, as alluded to in §2513.

*Official Domicile*Xfor the purpose of determining commuting mileage, shall be the physical location of the office, institution, or other facility where the state employee regularly reports and performs most official job responsibilities.

*Passenger Vehicles*Xthose state-owned vehicles whose primary function is to transport people from one place to another, excluding emergency medical transportation (e.g., ambulances) and vehicles assigned for use by direct law enforcement agents. Generally, this shall include trucks with up to 3/4 ton capacity.

*Personal Mileage*Xmileage accrued which is not directly connected to state business. Travel between home and office (commuting mileage) is considered personal mileage, unless in specially approved circumstances the employee does not normally work in an office.

*Personally-Assigned Vehicles*Xa state-owned vehicle assigned to a particular employee for use in accomplishing job assignments and/or for the purpose of vehicle accountability.

*Pool Vehicle*Xa state-owned vehicle made available to state employees on a specific trip basis. These may include:

a. *DOA Pool*Xstate-owned vehicles under the supervision of the DOA Office of State Property Control, from which any state agency may rent a vehicle, as available and appropriate;

b. *Department Pool*Xstate vehicles under the general "ownership" of an executive branch department or, in these regulations, a state college or university;

c. *Office Pool*Xstate vehicles available as needed to employees of any section within a larger organizational structure, such as the offices within the executive departments;

d. *Section Pool*Xstate vehicles assigned to particular sub-units of a major state organization;

e. *Unit/Agency Pool*Xstate cars assigned to more than one section, usually at a common location such as an institution or larger office building.

*State Employee*Xany classified or unclassified employee of the state of Louisiana, e.g., whose salary is paid through the state treasury, and "authorized persons" such as advisors and consultants, members of boards, commissions, and advisory councils, and others who have received appropriate authorization to utilize a state vehicle.

*State Fleet Manager*Xthe Division of Administration staff person in State Property Control responsible for the implementation, monitoring, and overall administration of the statewide vehicle management program.

*State-Owned Vehicles*Xmotor vehicles owned or leased by the state which require a human operator.

*Statewide Elected Official*Xgovernor, lieutenant governor, Attorney General, Secretary of State, State Treasurer, Superintendent of Education, Commissioner of Agriculture, Commissioner of Elections, Commissioner of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:283 (April 1984).

Subchapter B. Organization of Vehicle Maintenance Program

§2507. Duties of State Fleet Manager

A. In accordance with the responsibilities and authority vested in the Commissioner of Administration by Sections 231 and 361 of Title 39 of the Louisiana Revised Statutes of 1950, interagency management of state-owned vehicles is the responsibility of the Division of Administration. The duties of the state fleet manager shall include, but are not limited to:

1. functioning as the primary liaison with transportation coordinators for each of the executive departments, colleges, universities, boards, etc.;

2. establishment and maintenance of an accurate data base which is sufficient for the fixed asset program; assignment of vehicles; cost allocation for vehicle use, fuel purchase, maintenance, and repairs;

3. identification of the need for and provision or coordination of training for departmental transportation coordinators, officers, and vehicle operators;

4. development and implementation of assessment for ongoing identification of areas where state vehicle shortages are occurring based on utilization patterns, vehicle availability, etc;

5. assumption of title to under-utilized vehicles which have not been granted exceptions based on special functions, and reassignments of these to agencies with assessed vehicle needs (as well as temporary rentals); develop and maintain coordination with the Budget Office regarding the above;

6. review of all requests from department transportation coordinators for exceptions to state vehicle policies (Appeals may be made by the department secretary to the Commissioner of Administration.);

7. development and maintenance of interdepartmental agreements for use of bulk fuel dispensing, maintenance facilities, secure vehicle storage areas, etc.;

8. review of all reports of vehicle abuse or policy violation, supervision of investigation of same, as necessary, and approval of action recommended by department head, or recommend alternative to commissioner;

9. review of department requests regarding major repairs (both mechanical and body damage), disposal, and acquisition of vehicles; final authorization for action to be taken, within other appropriate guidelines;

10. monitoring of reports received from department transportation coordinators, notification of commissioner and department head when problems are not being resolved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:283 (April 1984).

§2509. Department Transportation Coordinator

A. Because the effective and efficient utilization of vehicles requires the cooperation of all parties, each department (see §2505.A herein) shall designate one individual as the department transportation coordinator. The name, position, and telephone number of this person shall be furnished to the Commissioner of Administration by March 1, 1984, and updated as changes occur. This is to be accomplished within the current position allocation. Although the scope of duties of the department transportation coordinators will vary somewhat because of the vast differences in the sizes and uses of motor vehicle fleets among state agencies, all department transportation coordinators shall:

1. serve as primary liaison for his/her department with the Division of Administration, Office of State Property Control, including:

a. responsibility for dissemination of DOA policies and procedures regarding the use of state vehicles among all department employees;

b. responsibility for submission of accurate and timely reports regarding state-owned motor vehicles, as requested by the division and/or mandated by legislation;

c. responsibility for responding to inquiries from the June 6, 1997 division regarding particular situations involving the possible misuse of state-owned vehicles assigned to his/her department or operated by the department's employee;

d. report to the division any improper use of state vehicles that comes to his/her attention, along with corrective actions taken, as appropriate;

e. report to the division any major accident involving a state-owned vehicle or plans to dispose of or transfer a vehicle;

2. review monthly vehicle usage and maintenance reports, as required elsewhere in these regulations, investigate irregularities or have them investigated, and provide explanations to the division as requested;

3. supervise or monitor the study of any department operated garages or service/repair facilities, as directed by the division or the legislature;

4. maintain current and complete files on each motor vehicle assigned to, owned by, or used by the department, to include information detailed elsewhere in these regulations, until such time that all the required information is automated and easily retrievable;

5. by July 1, 1984, and thereafter, insure that every department employee who operates a state vehicle at any time has on file a signed and dated agreement and understanding form. This form will be developed by and available from DOA Forms Management;

6. insure that department employees with personally assigned state-owned vehicles file an additional signed application and agreement (DOA Form MV-2) at least annually with the department transportation coordinator, which shall be submitted to the state fleet manager for approval by May 1 each year;

7. supervise and control interagency car pool operations, as established within the department, and serve as liaison with DOA State Property Control for the interdepartmental state motor pool operations;

8. coordinate and approve agency requests within the department for replacement or new vehicles before such are submitted to the DOA Budget Office, first insuring that under-utilized vehicles are not available within the department for transfer. (Each case will also be reviewed and approved by the DOA fleet manager prior to Budget Office approval.) The department transportation coordinator should have sufficient authority to reassign agency vehicles within the department. This authority shall not be delegated to a lower level;

9. insure that preventive maintenance has been performed on all vehicles assigned to the department according to the minimum schedule contained herein or the schedule developed and approved for the particular vehicle, and that required records of such are current and complete (see also §2509.A.2 and 4);

10. insure the collection of any approved commute charges that are not collected by payroll deduction within the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:284 (April 1984).

§2511. Transportation Officers

A. In order to more efficiently fulfill the responsibilities outlined in this policy memorandum, the department may designate appropriate employees in smaller organizational units as transportation officers, within present position allocations. The department transportation coordinator shall delegate, in writing, those functions which the transportation officer is responsible for on the small scope of an institution, pool, or office level. A copy of these delegated responsibilities shall be furnished to the transportation officer's supervisor so that conflicts in assignments can be avoided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:284 (April 1984).

§2513. Substitute Programs

A. A department may develop another organizational structure or internal policies which better serve the vehicle needs of its agencies, if such comply with the minimal

guidelines contained herein. Details of such structures, policies, and procedures shall be approved by and filed with the Division of Administration and updated as changes occur. Substitute structures must still provide all reports and accountability features required herein unless excepted by law, or unless a substitute format or timetable of such has also been approved by the division as part of the department's internal policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:284 (April 1984).

Subchapter C. Acquisition and Disposition of Vehicles

§2515. Acquisition of Vehicles

A. In view of the increasing cost of fuel and vehicles and in view of Louisiana's need to employ the most cost-effective method of transportation, the following rules shall be observed in the acquisition of vehicles (effective January 20,1982).

1. Large-size or "luxury" vehicles [as defined in R.S. 39:365(B) and (C) shall henceforth be purchased only for use of elected officials, as is presently permitted under R.S. 39:365(E)].

2. Mid-size vehicles may only be purchased for use by department heads at the level of secretary.

3. Compact vehicles may be purchased for usual occupancy by three or more persons or when the major usage will be inter-city mileage.

4. Subcompact vehicles shall be purchased where usual occupancy is anticipated by one or two persons, or where travel will be limited in the main to intra-city travel, or when mileage is not expected to exceed 15,000 per year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:284 (April 1984).

§2517. Specifications

A. Specifications shall be developed by the Division of Administration, Office of State Purchasing, to provide for the needs of state agencies according to the above and define specifically what model types each category includes, to result in a bid contract for vehicle purchases. Specifications will accommodate those restrictions and exceptions detailed in R.S. 39:361, 362 and 365.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:285 (April 1984).

§2519. Vehicle Purchase Requests

A. All requests to purchase vehicles, including purchase release orders, shall include a detailed explanation of the purpose and use of each vehicle. The explanation shall include such details as intended use in the motor pool, whether the vehicle will be used mainly in inter-city or intra-city travel, number of expected occupants, anticipated yearly mileage, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:285 (April 1984).

§2521. Approval for the Acquisition of a Vehicle

A. Approval for the acquisition of a vehicle will not be given until it has been determined that a suitable vehicle is not already owned by the state and underutilized at its current assignment, which could be transferred to the requesting agency, and that the need for the vehicle is sufficient to warrant a purchase rather than a lease or rental. Signatures of the state fleet manager and state executive budget officer will constitute such approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:285 (April 1984).

§2523. Inspection of Newly Purchased State-Owned Vehicles

A. All newly purchased state-owned vehicles will be delivered to State Property Control for inspection of compliance with purchasing specifications and condition at delivery, as well as establishment of a centralized file on the vehicle and, when developed, insertion of an operator's manual, accident reporting procedures and forms, and, as appropriate, a universal state credit card.

1. The preventive maintenance requirements of the vehicle will be determined between the state fleet manager and department travel coordinator, and reporting expectations clarified, as necessary.

2. No vehicle will leave the premises of State Property Control without the appropriate state identification affixed. After that time, the owner-department becomes responsible for insuring that such identification is maintained in a readable condition. Exceptions to this mandate are detailed in §2503.B.7 of this Chapter.

3. Departments shall apply to the Department of Public Safety for vehicle license plates and shall notify the state fleet manager of the number assigned to a new vehicle and any subsequent changes which may occur.

4. Vehicles purchased by the Department of Transportation and Development and Department of Public Safety are not accepted and inspected by DOA State Property Control, but these agencies will notify the state

fleet manager of vehicle acquisition, license plate number assignment or changes, and other such information as is necessary to maintain a current and comprehensive vehicle inventory and control program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:285 (April 1984).

§2525. Disposition of a Vehicle

A. Upon determination by the department travel coordinator and, ultimately, the state fleet manager that the useful or efficient life of a vehicle has been surpassed, that vehicle shall be transferred to DOA State Property Control for disposal as surplus property in accordance with law or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:285 (April 1984).

Subchapter D. Vehicle Assignments

§2527. Personally Assigned Vehicles

A. To qualify for an assigned vehicle, state employees must drive, on state business, in excess of the break-even mileage, which has been determined for these purposes to be 15,000 miles annually. This mileage should accrue consistently throughout the year, not sporadically month-to-month. Exceptions to this policy include:

1. according to R.S. 39:364, an employee of the Department of Public Safety, except police employees, must travel in excess of 18,000 business miles per year in order to have a vehicle personally assigned to him/her. The Secretary or Assistant Secretaries of Public Safety may make exceptions to this because of emergencies or unusual circumstances, which must be documented for the files of the state fleet manager on DOA Form MV-2;

2. assignment of vehicles to statewide elected officials, the Commissioner of Administration, cabinet secretaries, and presidents or chancellors of state colleges and universities, and their equivalent positions in the judicial and legislative branches, due to the extensive and constant nature of their responsibilities. Personal use of these vehicles, however, is considered a gratuity by the Internal Revenue Service, so these persons are not exempt from later provisions dealing with that subject;

3. state police troopers, who generally report to assignments directly from their residences and because of their 24-hour assignment to protect Louisiana citizens, uphold compliance with the law, and protect property;

4. those which may be made by the Commissioner of Administration for other state employees whose responsibilities include full-time public safety or investigative work, those who drive specially-equipped vehicles, and those whose technical expertise demands frequent overtime in the service of data processing equipment, heating and air conditioning at institutions, etc. Individual requests for such exceptions must be made to the commissioner on DOA Form MV-2;

5. personal assignment agreement. A personal assignment agreement (DOA Form MV-2) must be completed, signed, and filed with the state fleet manager annually by May 1 in order to continue the personal assignment into the new fiscal year. Any agreements approved by the state fleet manager during the year shall expire June 30 and require renewal request according to the schedule above;

6. assigned vehicle drivers do not have the authority to grant permission for the use of assigned vehicles to any other person except for reason of health and/or safety, except as below;

7. the personally assigned vehicle shall be made available for official use by other staff members when it would otherwise not be used (and such use noted on the daily vehicle log, DOA Form MV-3). When the employee is on extended leave (more than five days), the transportation officer or coordinator should be notified so that the vehicle may be temporarily reassigned;

8. employees with personal vehicle assignments are responsible for insuring that service, maintenance, and inspection of the vehicle is completed as required, which includes proper reporting to the transportation officer or department transportation coordinator, as determined within the department;

9. the driver of each personally assigned state-owned vehicle shall submit a Monthly Vehicle Usage Report to his/her supervisor by the third working day of each month, who shall audit such, and within three additional days, route the reports to the appropriate transportation officer or departmental transportation coordinator. Drivers shall utilize DOA Form MV-3, attaching any explanatory information, as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:285 (April 1984).

§2529. Pool Vehicles

A. Assignment of vehicles shall be made on a priority basis to those locations where a combination of employees are reimbursed for more than 15,000 miles driven on official state business in their personal vehicles because state vehicles were not available.

B. Continuance of assignment of vehicles to a departmental or smaller unit pool shall be provided on a top priority to those units which accrue 15,000 or more miles annually per vehicle on official state business, as determined by monthly and annual reports. Rotation of the use of

vehicles in a pool is therefore encouraged if vehicle retention is considered important. (Nonpassenger vehicle utilization will be assessed on an individual basis.)

C. The transportation officer or department transportation coordinator, as determined within each department, shall be responsible for monitoring the utilization of pool vehicles and making assignment decisions, as necessary. Additionally, this person will:

1. insure that any state employee in his/her unit who may operate a state vehicle has on file a signed state vehicle operator's agreement and, when applicable, a personal assignment agreement;

2. insure that each driver maintains the daily log for the particular vehicle and submits to him/her necessary documentation for reporting purposes;

3. compile required information for monthly reports submitted to the department travel coordinator and, upon request, to the state fleet manager;

4. insure that each vehicle under his/her supervision has the minimum preventive maintenance performed at appropriate intervals, as defined in §2543 herein, with required reports completed and submitted. This shall include oversight of basic upkeep such as car washing, checking tire pressure, and annual safety inspections;

5. insure that proper procedures have been followed when any accident occurs involving a state-owned vehicle (see §2503.B.9.b.iii), and that an incident report is filed with the department transportation coordinator whenever he/she receives a report of vehicle abuse, that vandalism has occurred, etc. If it is determined that a state-owned vehicle has been totaled or incurred major damages, the state fleet manager shall also be notified;

6. perform such duties as necessary to monitor the use of state vehicles assigned to that pool and insure their most efficient and effective operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:285 (April 1984).

§2531. Division of Administration Pool Vehicles

A. Under separately available procedures, any department may request the utilization of a pool vehicle maintained by DOA State Property Control. Such utilization may be on the basis of short-term rental or long-term leasing, with prior approval of the State Budget Office, at a fee estimated by State Property Control to recover to the costs of operating the service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:286 (April 1984).

Subchapter E. Vehicle Storage and Commuting Policies

§2533. Vehicle Storage

A. Each state-owned vehicle shall have a designated overnight storage site which shall generally be the office location, regardless of whether the vehicle is personally assigned or a pool vehicle. This site shall be reported annually to the state fleet manager as indicated in §2565.A herein, and updated as changes occur. If the requested storage site is an employee's home, the subsequent Sections shall apply.

B. State-owned vehicles may be stored overnight at an employee's residence at the discretion of the appropriate transportation officer or department transportation coordinator when:

1. the state employee will be departing upon or returning from an official trip away from the employee's official domicile either before or after normal working hours, or where the employee's residence is reasonably in route between the employee's official domicile or the vehicle storage site and the place where the employee is to commence work the next workday;

2. the vehicle is to be used in the conduct of specific, scheduled state business outside the normal working hours of the agency;

3. the employee is required to work specific, unexpected and unplanned overtime with the result that no other practical means of getting home is available to the employee;

4. the employee has a short-term assignment (no longer than one week) during which he/she is on 24-hour call and must use a specific vehicle due to the special equipment carried therein. Longer term assignments require approval of the commissioner (see Subchapter E.§2533.B).

C. Regular home storage (overnight parking) of a state-owned vehicle will only be permitted with approval of the Commissioner of Administration, using DOA Form MV-2, which shall expire at the end of each fiscal year. For renewal, this form must be submitted to the state fleet manager by May 1 each year. Reasons considered for home storage include:

1. documentation that no state facility, commercial parking, or other state parking space is available. The division may determine that paying for space is more cost-efficient than commuting, or that another state agency will provide storage space;

2. documentation that available overnight parking space is unsafe. The division may arrange for additional security measures (police patrols, fences, etc.) or institute a trial period, at any time, to determine whether conditions cited are chronic or sporadic. Specially-equipped vehicles will be given added consideration;

3. documentation that the state employee is required to travel in response to urgent or emergency calls outside of regular working hours in such frequency that it is more cost-effective to provide a state vehicle than reimburse the employee at the official mileage rate for use of his/her personal vehicle. Being "on call" does not constitute documentation. Travel logs must indicate the regularity of these occurrences over at least a three-month period. The nature of the service rendered, the importance to life and property of an immediate response, and the reasonable availability of other appropriate means of transportation will be considered on an individual basis. If a bona fide emergency exists during which an employee must travel to a site and personal transportation is not available, he/she may be reimbursed for taxi utilization (with receipts). Departments shall, however, have employees in such vital positions determine a substitute or backup transportation method in case an emergency should occur when they do not have personal transportation available. As a last resort, a local or state law enforcement agency may be contacted by the local agency or institution director for emergency transportation assistance, to be reimbursed by the agency upon invoice;

4. the need for immediate access to special equipment carried only in or attached to the state-owned vehicle, in order to respond to actual threats to life and/or property;

5. the fact that specific employees or a class of employees are engaged in field work or work not generally confined to a permanent duty station, in which a vehicle must be used to perform said duties and the nature of which must preclude regular pickup and return of a state vehicle from and to a state storage facility or parking area. A three-month travel log utilizing consecutive Monthly Vehicle Usage Reports (DOA Form MV-3) or processed travel reimbursement forms will provide documentation for this exception when inclusion of a large group (i.e., State Police field troopers) is not relevant;

6. when used in a commute program as described in §2535.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:286 (April 1984).

§2535. State-Owned Vehicles Operated in a Commute Program

A. State-owned or leased automobiles and passenger vans may be used to provide commute transportation for state employees if such use does not interfere with the prescribed use of the vehicles and if the full cost of operating the service is reimbursed directly by the employees in a program specifically approved by the Division of Administration.

1. Requests for commencement or continuation of an employee commuting program shall include:

a. identification of vehicles to be utilized;

b. reasons that this use of vehicle would be of particular benefit to program (e.g., remote location of institution, movement from one road site to another, etc.);

c. method of determining operating cost of vehicle and monthly fee for each participant (driver is included);

d. method of charging employee for participation, to reimburse agency for cost of operation (e.g., payroll deduction, advance payment, etc.);

e. identification of probable participants; routes; probable drivers (with Louisiana driver's license numbers); where vehicle will be stored overnight and on weekends; other uses of vehicle;

f. any other information requested by the DOA fleet manager.

2. Each approved commuting program shall maintain records that will demonstrate it is self-supporting, and provide such to the DOA fleet manager by May 15 of each year. Renewal of approval for the subsequent fiscal year will be dependent upon this report. A daily mileage log will be maintained that also indicates the driver and passengers for each trip.

3. Agencies may include whatever additional controls they deem necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:286 (April 1984), LR 10:463 (June 1984).

§2537. Reimbursement for Commute Miles

A. At the present time, state employees who are permitted to commute in state-owned vehicles between their residences and official domiciles or duty stations shall retain responsibility for personally reporting the fair market value of this fringe benefit to the Internal Revenue Service. The Commissioner of Administration may delegate to the governor the authority to issue executive orders in regard to commute fees or income reporting. In the absence of such, or of further rule-making by the commissioner, commute fees will not be collected by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:287 (April 1984).

Subchapter F. Maintenance and Care of Vehicles

§2539. General

A. The preventive maintenance (PM) program is designed to provide maximum safety, efficiency, and economy in the operation of motor vehicles, and to minimize lost vehicle time caused by extensive repairs. All

departments and other agencies must follow the minimum guidelines contained herein or submit an alternative, formal program to the state fleet manager by April 1, 1984 for approval. There shall be a primary person designated as responsible for insuring that PM guidelines are followed on each state-owned vehicle; this may be the employee who has a personally-assigned vehicle, a transportation officer for a group or pool of vehicles, the department transportation coordinator, maintenance facility managers, or others. This person will be held accountable for compliance with these or the department's PM guidelines and maintenance of compliance records which are subject to audit. An individual file will be maintained on each vehicle, as called for in §2547 in these policies, by either the designated responsible person or someone in a higher management position within the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:287 (April 1984).

§2541. Routine Maintenance

A. Each state employee designated in §2539 shall routinely check their assigned vehicles to insure proper oil level, water and coolant or antifreeze for radiators, water for batteries, wear on belts, and proper inflation of tires. Additionally, vehicles shall be kept clean both inside and out. The vehicle driver and/or responsible person shall see that these services are performed at least weekly, and the vehicle file shall document this. DOA Form 424 may be utilized for this purpose if signed by the person who checked the vehicle. A pool transportation officer may require that every driver of the state-owned vehicles complete a checklist and turn it in with the vehicle keys after each trip.

B. All state employees authorized to operate state-owned vehicles should, at least occasionally, be responsible for performance of the routine maintenance check so that any questions regarding how to check these items can be clarified before a problem on the road occurs. Basic items such as how to change a tire or jump a dead battery should also be taught, as necessary. Drivers may be tested on these or other appropriate items, at the discretion of the department head, before permitting the employee to drive a state-owned vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:288 (April 1984).

§2543. Preventive Maintenance

A. The preventive maintenance guidelines indicated on DOA Form MV-4 will be followed for all passenger vehicles unless the manufacturer's guidelines are more stringent. In that case, the DOA form shall be modified and still utilized to maintain a current and ongoing record of the vehicle's maintenance. The department transportation coordinator is responsible for seeing that an appropriate written maintenance plan has been prepared for any other type of state vehicle he/she is responsible for, and that such is followed.

B. DOA Form MV-4 shall be completed at each preventive maintenance interval (adapted, as necessary, for nonpassenger vehicles) and signed by both the mechanic or shop foreman and responsible state employee. One copy of the completed form shall be maintained in the vehicle file; one copy shall be transmitted through the responsible transportation officer (if any) to the department transportation coordinator, one copy shall be forwarded to the state fleet manager, where an automated system will begin to track operating costs and repairs on each vehicle. Departments may arrange to communicate this information to DOA by another method, such as printouts of internally maintained data, until electronic networking is accomplished.

C. Until such time that the state fleet manager or another system can generate prompter messages to agencies regarding due dates for preventive maintenance on specific vehicles, the person designated as responsible for that vehicle shall develop some type of tickler system so that maintenance intervals will not be exceeded. If maintenance is not performed within 10 working days of the due date or mileage indicator, the vehicle assignment is subject to termination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:288 (April 1984).

§2545. Annual Safety Inspections

A. All state-owned vehicles shall maintain valid safety inspection stickers or other safety criteria, as appropriate to the type of vehicle. The department transportation coordinator is responsible for insuring that this occurs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:288 (April 1984).

§2547. Vehicle Files

A. In addition to the records of routine and preventive maintenance required above on each vehicle, the vehicle file shall include a copy of the daily/ monthly log of vehicle use, which shall indicate downtime of the vehicle and reason for such, as well as records of all repairs, operating costs, etc. associated with the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:288 (April 1984).

§2549. Service Facilities

A. When a vehicle is under warranty, the authorized dealer (certified by the manufacturer to perform maintenance on their equipment) shall be utilized, except in unusual circumstances, as approved by the department transportation coordinator. Payment for services to other private facilities should not be authorized, except in such cases.

B. Service from state-owned garages or maintenance facilities operated or leased by the department owning the state vehicle (not under warranty) is required when reasonably available, following procedures established by the department.

C. Basic service through the Division of Administration's Fleet Management Section is available at nominal fees to all state agencies on a scheduled basis at the Baton Rouge facility. Loan vehicles may be provided when available. As additional services and facilities become available, departments will be notified. Gasoline is available at reduced rates for state-owned vehicles which belong to departments who have entered into an agreement for payment with the Division of Administration's Office of State Property Control.

D. Every state agency is encouraged to furnish preventive and restorative services (including labor, parts, fuel) to state-owned vehicles belonging to any other state agency as its own facilities and needs permit. The agency served shall pay expenses involved to the agency providing the service, at a rate agreed upon prior to the service being rendered, and any such funds collected will be made available to the agency furnishing the services, facilities, and records.

1. The Division of Administration will assist in the development of any intradepartmental assessment of vehicle maintenance services in order to determine the feasibility of expanding service availability to other agencies in the geographic region and appropriate charges to recover costs.

2. The Division of Administration will prepare a directory after July 1, 1984, with regular updates, listing locations of all fuel and maintenance facilities which departments have indicated are available to meet the needs of state-owned vehicles belonging to other state agencies.

E. Commercial facilities under state contact or with blanket purchase agreements with the state will be utilized where the above are not available. These will also be identified in the forthcoming directory, as they are developed.

F. When the service facilities detailed above are not available, automotive repairs fall under specific purchasing code procedures, as outlined in Executive Order 82-13. These state that repairs and parts associated with those repairs for automobiles and machinery shall be obtained by either an authorized dealer (as defined in §2549.A), or through competitive bids according to small purchase regulations as follows (unless otherwise exempted):

1. under $100Xno competitive bidding required;

2. over $100 but under $500Xreceipt of price quotations required, and purchase made on basis of lowest quotation (telephone and telegraph quotations acceptable when reason explained in writing);

3. over $500 but under $2,000Xsolicit written quotations from at least five bonafide prospective bidders using DA 101 and FACS 101 forms;

4. over $2,000 but under $5,000Xsending out written invitations for bids to a least eight bona fide, qualified bidders including complete specifications, notice of bid reading, etc;

5. over $5,000 includes advertising requirements, etc.Xstate agencies are strongly urged to adopt internal procedures whereby the department transportation coordinator is consulted when repairs are estimated to total between $100 and $500, and that his/her authorization be required for repairs estimated to cost over $500 prior to performance, even by an authorized dealer. The department transportation coordinator, in consultation with the state fleet manager, should review repair and operating expense records to determine whether it may be more cost-efficient to replace the vehicle than continue to maintain it.

G. Except for those agencies to which other purchasing authority has been delegated, Executive Order 82-13 states that:

> (2.g.5) "Repairs and parts associated with those repairs for heavy equipment, airplanes, and large boats shall be obtained by the use of an authorized dealer."

H. State contracts exist for most major vehicle items, under which substantial discounts are available. Except in emergency situations, these dealers must be utilized for batteries, tires, parts, transmissions, glass repair, etc. Lists of these dealers will be furnished to all departments for placement in each state vehicle and updated as changes occur.

I. Drivers of state vehicles should be aware that fuel purchases for state-owned vehicles are exempt from federal excise taxes (usually credited on the monthly fuel bill), and that parts and other commodities are exempt from the state portion of the sales tax. Retailers may, however, not be knowledgeable in this area and may have to call the transportation officer for confirmation.

J. When fuel is not available from a state-operated facility, the driver shall utilize the self-service pumps unless a mechanical problem needs to be checked by the attendant, or such are not available. Credit card charge receipts will be audited for this periodically, and an employee violating this provision shall be personally responsible for full-service purchases which cannot be justified. Handicapped drivers are excluded from this policy when the handicap makes self-service a hardship.

K. Each state employee has the responsibility to report to his/her transportation officer, department transportation coordinator, or the Division of Administration state fleet manager any incident involving possible misuse, abuse, or neglect of a state vehicle, including lack of proper

maintenance. Confidentiality of the source of information will be maintained, if requested. Reports received from the general public will also be investigated.

L. Operators of state-owned vehicles will follow all reasonable procedures to insure the safety and economical use of state vehicles, including:

1. locking vehicles at any time they are left unattended;

2. removing credit cards when keys must be left in the vehicle at parking facilities;

3. parking the vehicle in authorized places where reasonable security is offered and removing from ready visibility any state or personal property within the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:288 (April 1984).

Subchapter G. General Provisions

§2551. Cases of Special Need

A. Cases of special need where the performance of official state business requires deviation from stated policy must receive prior written approval from the Commissioner of Administration. Such cases include:

1. state-owned vehicles used by employees traveling less than 15,000 miles annually (personal assignments);

2. privately owned vehicles used by employees traveling in excess of 15,000 miles annually;

3. the above requests for exception must be submitted annually to the commissioner by May 1 for application in the following fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:289 (April 1984).

§2553. Vehicles Operated Less Than 15,000 Miles Annually

A. State-owned passenger vehicles which are anticipated to be operated less than 15,000 miles annually and are not specifically excepted by the commissioner, will be either:

1. reassigned to employees or units in the same department who travel more than 15,000 miles per year in personal vehicles or where state vehicles need to be replaced;

2. incorporated into intradepartmental motor pools; or

3. turned over to the Division of Administration's State Property Control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:289 (April 1984).

§2555. PPM Number 49, General Travel Regulations

A. Regulations related to state-owned vehicles promulgated in Policy and Procedure Memorandum Number 49, General Travel Regulations (cited in §2503.B.9 of these policies) shall continue to be in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:289 (April 1984).

§2557. Federal Funds

A. When federal funds were involved in the purchase or lease of a state-owned vehicle, federal rules and regulations governing the utilization of that vehicle will prevail. Such situations that conflict with state policies must be justified to the commissioner as exceptions, following procedures outlined herein. Vehicles purchased by other special funds containing specific utilization provisions that conflict with state policies herein will likewise be identified to the commissioner for exception.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:289 (April 1984).

§2559. Meals and Other Services

A. When a state employee is required to use a state-owned vehicle for travel while away from his domicile, the vehicle may be used prudently to obtain meals and other necessary services. It shall not, however, be used for entertainment or personal purposes, either within or outside of the official domicile, and such use shall result in a suspension of the privilege of using a state vehicle. The employee will be required to pay a $50 fee for the reinstatement of this privilege, and may be subject to disciplinary action at the discretion of the employee's appointing authority. The state fleet manager will be notified of all such incidents and their disposition. Use of state-owned vehicles within the official domicile to obtain meals is not permitted except for State Police and other investigative and law enforcement officers actually on duty or State Police with the personal use privilege; field workers who are between consecutive site visits; and elected statewide officials who determine that such is official state business. In other extraordinary situations, the state fleet manager may authorize use of a state vehicle to obtain meals within the domicile. In all situations, the operation of a state-owned vehicle will be in the best interest of the tax-paying public and, therefore, directly service oriented. (The intent of this Section is that unless a meal-time is used for a bona fide, strictly official state business meeting, a state-owned vehicle shall not be used.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:289 (April 1984).

§2561. Driving While Intoxicated

A. Under no circumstances shall a state employee operate a state-owned vehicle while under the influence of intoxicating beverages, drugs, or other substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:289 (April 1984).

§2563. Employee Responsibilities

A. The operator of a state-owned vehicle will be personally responsible for any fines, tow-away charges, or other costs associated with his/her failure to observe all federal and state motor vehicle laws or municipal ordinances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:289 (April 1984).

§2565. Accident Review Board

A. Each department will establish an accident review board consisting of at least three persons, which will review the circumstances of any accident involving a state vehicle. Internal department guidelines shall be developed regarding disciplinary and other action (potentially including recovery of damages) that may be taken should an employee be determined to be at fault due to negligence, violation of law, etc., particularly if the accident did not occur during the conduct of official state business. A copy of the guidelines developed shall be submitted to the Division of Administration for review and approval by June 1, 1984.

1. An annual report on vehicles will be submitted to the Commissioner of Administration by January 1, 1985, and each succeeding year, to include the following:

a. listing of state-owned vehicles assigned or leased to the department, to include type of vehicle, make, model, year, primary user (if any), mileage traveled or hours of use (grand total through September 30 and specified yearly figures), annual rental or lease cost, if not purchased, or the purchase price. (This information has been required since 1978.) The BR-20B, C, and D forms prepared for the state Budget Office will suffice for much of this information, but must be submitted separately to the commissioner by January 1 and will be supplemented to include license plate identification number, State Property Control agency tag numbers, daytime location of vehicle, overnight storage site, total days of downtime due to repairs or maintenance, total annual cost of repairs and maintenance (excluding fuel and oil added between changes), basic operating costs (fuel, oil added, etc.), and estimated insurance cost;

b. total number of state-owned passenger vehicles driven less than 15,000 miles annually (required since 1978), by official domicile location;

c. total number of miles traveled by state employees in privately-owned vehicles on state business during the same reporting period, by official domicile location (required since 1978);

d. listing of state employees traveling more than 15,000 miles annually in private vehicles on state business; actual miles and amount reimbursed (required since 1978) and office or official domicile location. By adding office (or official domicile) location under "Nature and Purpose of Travel," the BR-14B budget request form will suffice for this requirement (copy attached)*;

e. information on intradepartmental motor pools operating; any interdepartmental motor pools established; identified needs for these services or other status indicators (required since 1978);

f. number of passenger vehicles turned over to DOA State Property Control, or otherwise disposed of, during the year reported (required since 1978).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration in LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:289 (April 1984).

§2567. Forms DOA-MV-1, 2, 3, 4, and 5

A. Forms DOA-MV-1, 2, 3, 4, and 5 as referenced in Subchapter B, §2509.F-Subchapter G, §2565.A are to be finalized and printed by the Division of Administration's Forms Management Section. All agencies will be sent copies and instructions regarding the procurement of these forms. Until these forms are available, deadlines mentioned herein will be extended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:290 (April 1984).

§2569. Waiver of Provisions

A. The Commissioner of Administration may waive in writing any provision in these regulations when the best interest of the state will be served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:60, 39:231, 39:361-365, and 49:950-970.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 3:434 (November 1977), amended LR 7:71 (March 1981), LR 7:619 (December 1981), LR 10:88 (February 1984), LR 10:290 (April 1984).

Chapter 27. Printing ProceduresXPPM Number 64

Subchapter A. Introduction

§2701. Repeal of Prior Rules

A. This Policy and Procedure Memorandum rescinds, supersedes, and cancels revised Policy and Procedure Memorandum Number 64 dated February 1, 1984. This memorandum also cancels all previous delegation of authority, delegated under R.S. 43:1(B)(2), and special exemption previously granted prior to December 29, 1987, for any printing under R.S. 43:31(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 43:31(A).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 14:429 (July 1988).

Subchapter B. R.S. 43:1 Purchase of Printing and Engraving; Central Purchasing; Louisiana Procurement Code; Power and Authority of Chief Procurement Officer

§2703. Provisions

A. All administrative boards, commissions, departments, agencies, institutions, and offices within the executive branch of the state government shall purchase all requirements of printing and engraving through a central purchasing agency in the division of administration, which hereafter in this Chapter is referred to simply as the purchasing agent. This provision, however, shall not apply to Louisiana State University and Agricultural and Mechanical College, the Department of Transportation and Development, the port authorities of the state, the legislature, the Office of State Bond Commission in the Department of the Treasury, or the judiciary, except that it shall apply to the Office of the Attorney General. All procurement of such printing and engraving for the executive departments of state government shall be done under, and in accordance with, the provisions of the Louisiana Procurement Code.

B. In order to carry out the duties and functions imposed upon him by this Chapter, in conjunction with the Louisiana Procurement Code, the chief procurement officer shall have the power and authority:

1. to consult, review, and make recommendations with regard to all printing requirements in order that the best and most economical methods may be employed;

2. to delegate the purchase of printing to any instrumentality covered by this Chapter whenever, in his written opinion, the best interests of the state will be served thereby;

3. to use any and all powers and authority granted to him by law or otherwise delegated to him by competent authority.

Explanation (43:1)

C. All requirements for printing and engraving shall be submitted directly by the agency to State Purchasing, Division of Administration, and shall not be handled at the agency level through the printing vendors or their representative. Act 306 of 1983 requires Central Purchasing to procure all printing and engraving in accordance with the provisions of the Louisiana Procurement Code. All printing requests are to be forwarded to State Purchasing, and the following procedures will be used in handling small purchases.

1. If the item requested can be produced by the Administrative Services Print Shop, it will be forwarded to them for processing, and no purchase order will be issued by the State Purchasing Office. Otherwise, if the item requested is covered under a contract, the requisition will be assigned to that contract, and State Purchasing will issue a purchase order.

a. Administrative Services (Division of Administration's Print Shop)Xif a state agency is certain their printing will be handled by Administrative Services, they can fill out an Administrative Services printing request DA-200 (Rev. 12/01). This form, along with an original sample, may be sent directly to Administrative Services: a DA 101 or FACS 101 does not have to be included with this request. The state agencies may request form DA-200 (Rev. 12/01) from Administrative Services which can be reached at (225) 219-9570 or FAX (225) 219-9598.

b. Forms ManagementXforms that are warehoused by the state for state agencies are ordered on a warehouse requisition (DA FM 1). These requisitions are sent directly to Forms Management. If you do not have a forms register or the warehouse requisition, request these from Forms Management at (225) 219-9570 or FAX (225)219-9573.

c. Classes of PrintingXthe state printing contracts cover approximately 23 categories of printing and engraving. State Central Purchasing, Division of Administration, reserves the right to assign each request for printing to the proper contractor, to the Administrative Services Section of the Division of Administration, or to award to a commercial printer as a result of competitive bids taken by the state printing agent.

2. If the item requested is not covered under contract, it will be competitively bid by the State Purchasing Office or the requisition may be returned to the agency with State Purchasing's approval to process at agency level in accordance with all laws, rules and regulations, and executive orders. The dollar level at which this delegation will take place will be described, in writing, by the director.

3. In all printing contracts, the right shall be reserved for all state boards, commissions, departments, institutions, and offices to obtain any printing, mimeographing, copying, and similar work from any state agency which has existing facilities to produce such materials instead of utilizing one of the printing contracts.

D. Requisition

1. All items of printing and engraving shall be requisitioned on a Purchase Requisition through ISIS system. Keep the same types of printing on one requisition. Do not combine printing items from any two or more of the following categories:

a. printed letterheads;

b. engraving (letterheads, envelopes, business cards);

c. flat forms;

d. snap sets (same general size);

e. continuous forms (excluding mailers);

f. card forms, posters and folders;

g. envelopes (Kraft);

h. envelopes (Sulphite commercial, standard size, white and color);

i. leaflets;

j. books (6 inches by 9 inches and smaller);

k. books (larger than 6 inches by 9 inches);

l. certificates;

m. mailers;

n. business cards (printed).

2. Each requisition must be accompanied by complete specifications (size, color, and kind of paper, construction, numbering information, etc.) and two original samples or clean layouts. A copy of a sample or a reference to a previous order only will not be acceptable. Agencies are also required to reference the previous requisition number and state the previous vendor that supplied the requested item in order to prevent delays in requesting negatives.

3. In order to minimize waste in obsolete printed materials the following guidelines are to be strictly adhered to by all agencies, unless special exemption is granted.

a. Should the printed material contain the agency's name and address, it is to be the post office box address only (no street address).

b. Any executives, officers, officials, etc., shall not have their individual names imprinted on the printed material, unless required by law or granted special exemption.

4. When preparing a requisition, the agencies must use a 14-digit requisition number (first three digits agency number, next five agency cost center, next five requisition number, final digit will be last number of the fiscal year in which money is to be encumbered).

5. If the requisition does not have all the above information, the requisition may be returned to the agency or the order could be delayed until the information is obtained.

E. Delegation of Authority

1. The state director of purchasing may delegate the purchase of printing to any instrumentality whenever the best interest of the state will be served; however, the delegation of this authority does not preclude the procurement of these items through the Purchasing Section when the state director of Purchasing deems it more desirable or practical to do so.

2. Where unusual problems are encountered, and an agency considers additional delegated authority necessary, an application for this authority may be submitted to the state director of purchasing, or his designated representative; however, application for such exceptions must be in writing and must present detailed information in support of such request.

3. Authority is delegated to all agencies covered by this act to purchase the following items without prior approval by the printing office.

a. Agencies have unlimited authority to purchase publications such as textbooks, newspapers, subscription or foreign publications when purchased directly from the publisher. All files must have documentation that the contractor is the publisher. (Subscription services must be bid.)

b. Agencies may purchase within their designated purchasing authority, and in accordance with proper procurement procedures, the following types of items:

i. blueprints;

ii. plaques, name plates, award pins, etc. (Class 080);

iii. imprinted novelty items such as pencils, caps, balloons, pot holders, key chains, etc. (Class 080);

iv. stock item labels: these are pre-printed stock items which are inventoried by suppliers; not custom printed;

v. standard sizes of computer paper which are stock items. (Check to see if item is available from Division of Administration, Forms Management before bidding.) Any requests for customized sizes should be forwarded to the State Purchasing Office.

4. All purchases, whether made by the division or by the agency under the delegated authority provision, shall be made in compliance with R.S. 43 and the Louisiana Procurement Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 43:1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 14:429 (July 1988).

Subchapter C. Suspension

§2705. R.S. 43:31XPrinted Matter Prohibitions; Uniform Standards; Election Material

A.1. No branch, department, agency, official, employee, or other entity of state government for which a budget has been approved, and for which an appropriation has been made or a transfer of funds effected pursuant to law, shall print or cause to be printed any bulletin, leaflet, Christmas card, personalized memorandum stationery, or other similar communication, house organ, circular, book, report or similar publication, except those required by law.

2. All printed matter so required shall be effected in a uniform manner as to basic content, size, quality of paper, and use of color as contained in standards to be established by the Division of Administration, the legislative budgetary control council, and the judicial budgetary control council. The Division of Administration, legislative budgetary control council, and the judicial budgetary control council shall be empowered to make such exceptions affecting their respective branch of government to the provisions of this Subsection as may be in the best interest of the state of Louisiana.

3. In addition, the provisions of this Subsection shall not be construed to prohibit the printing or publication of any printed matter required by any federal law or regulation in order that the state or any department or agency thereof may obtain or receive federal funds, grants, or assistance. The provisions of this Section shall apply to printed matter printed pursuant to any such federal law or regulation to the extent that this Section does not conflict with any such law or regulation.

Explanation [43:31(A)]

B. Agencies seeking to print public documents not required by state or federal law must send copies, facsimiles, or descriptions of these documents, with a detailed justification of need for printing and distributing these documents, to their respective undersecretaries.

C. The public document printing requests that pass the undersecretary's screening process shall be sent to Division of Administration, State Purchasing, Box 94095, Baton Rouge, LA 70804-9095 along with a signed copy of the Public Document Printing Request Form (see Exhibit A) for review and forwarding to the commissioner's office for approval. (Note: This does not apply to forms, letterheads, internal memorandums, envelopes, etc.)

D. ImportantXwhen submitting a printing request to Central Purchasing the following information must be included on the requisition:

1. the federal or state law that requires the agency to print this material;

2. Division of Administration special exception documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 43:31.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 14:431 (July 1988).

§2707. Uniform Standards

A. All printed matter, except documentation in connection with proceedings of the executive, legislative, and judicial branches of state government, printed or caused to be printed by any branch, department, agency, official, employee, or other entity of state government, shall contain the following statement, with required information inserted, printed on the publication adjacent to the identification of the agency responsible for publication:

> "This public document was published at a total cost of $_____. (Number) copies of this public document were published in this (number) printing at a cost of $_____. The total cost of all printing of this document including reprint is $_____. This document was published by (name and address of person, firm or corporation or agency which printed the material) to (statement of purpose) under authority of (citation of law requiring publication or of special exception by Division of Administration, the legislative budgetary control council, or the judicial budgetary control council as provided in Subchapter C, Section 2705.A.). This material was printed in accordance with the standards for printing by state agencies established pursuant to R.S. 43:31." If the printing of the material was not done by a state agency, the above statement shall include the following additional language: "Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes." This statement shall be printed in the same size type as the body copy of the document and shall be set in a box composed of a one-point rule. The provisions of this Subsection shall not apply to printed matter used by the following entities: the Department of Commerce for the purpose of attracting new industry to locate within the state of Louisiana; the Office of Tourism of the Department of Culture, Recreation and Tourism, relative to new promotional materials; and public colleges and universities, and vocational technical schools. The following three factors shall be utilized in computing cost data:
>
> 1. preparation of the public document for publication;
>
> 2. printing, including all expenditures for reproduction, whether on bid or in-house;
>
> 3. circulation, including all estimated expenditures for postage and distribution of the public document.

Explanation [43:31(B) (C)]

B. Printed Matter

1. All printed matter referred to in Subsection A is assumed by the Division of Administration to refer to types of printing material described in R.S. 43:31(A).

2. The required cost statement can be placed on the title page of books. On leaflets, brochures and other publications, it should be placed below the agency name. Preparation of the cost statement is enumerated below:

This public document is published at a total cost of $_____. _____ copies of this public document
(a) (b)
were published in this _____printing at a cost of $_____. The total cost of all printings of this document,
(c) (d)
including reprints is $_____. This document was published by _____to_____
(e) (f) (g)
under authority of _____. <u>This material was printed in accordance with standards for printing by state</u>
(h)
<u>agencies established pursuant to R.S. 43.31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statues.</u>

a. this figure should reflect a total of the three factors listed in 43:31(c):

i. preparation cost of the public document for publication;

ii. printing cost, including all expenditures for reproduction, whether acquired through bid or in-house;

iii. circulation cost, including all estimated expenditures for postage and distribution of the public document;

b. number of copies agency is printing in this issue;

c. number of times exact document has been published (first, third, or tenth, etc.);

d. this figure should reflect only the printing cost for this printing;

e. this figure should include a total of all factors set forth in R.S. 43:31(c) for all printings. (If this is the first printing, the figures for (a) and (c) should be the same. If this is a reprint, then this figure should include the total cost for all publications from the beginning. Example: total of first, second and third printing). A reprint would be a publication that is reprinted with no changes. Publications that are printed yearly, with changes, would not be considered a reprint;

f. printing company name and address or if printed in-house, then agency's name and address;

g. the reason for publishing this document;

h. the law that authorized you to print, or if there is no state or federal law, you would get special permission. Then you would state "under special exception by the Division of Administration";

i. to be used if not printed in-house by state agency.

C. The cost statement shall be set in same size type as the body copy and shall be set in a box composed of a one-point rule.

D. If the printed matter is a book, print this statement on the title page, and if there is not sufficient space on the title page, then it should be printed on the inside front cover.

E. If this document is a single page or a fold down leaflet, then the statement should be printed under the agency's name.

F. The Division of Administration assumes that the intent of the legislature was not to increase either administrative or printing costs with the passage of R.S. 43:31; therefore, in computing cost data, estimated costs may be used. The estimated costs should include:

1. an estimated portion of the salaries of agency personnel involved in preparing document;

2. printing costs should be given by printer, whether in-house, administrative services, or printing contract on quantity ordered;

3. estimated postage or freight for distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 43:31.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 14:431 (July 1988).

§2709. Election Material

A. No funds appropriated for printing purposes, or otherwise, shall be used to urge any elector to vote for or against any candidate or proposition on an election ballot, nor shall such funds be used to lobby for or against any proposition or matter having the effect of law being considered by the legislature or any local governing authority. This provision shall not prevent the normal dissemination of factual information relative to a proposition on any election ballot or a proposition or matter having the effect of being considered by the legislature of any local governing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 43:31.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 14:431 (July 1988).

§2711. Violations

A. Any administrative head of any branch, department, agency, or entity who violates any provision of this Section and any employee who, without the authorization of his administrative supervisor, violates any provision of this Section shall be personally liable for the cost of any printing in violation of this Section. Any state funds expended on any printing in violation of this Section may be recovered by the state in a civil action instituted by the attorney general or any taxpayer. In addition, any such person who violated the provisions of this Section shall be assessed a fine by the court of not more than $500.

AUTHORITY NOTE: Promulgated in accordance with R.S. 43:31.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 14:431 (July 1988).

Subchapter D. Standard Specifications

§2713. State Publications [43:31 (A)(2)]

A. Books, Booklets, Pamphlets, and Brochures

1. Size: 5 1/2 inch x 8 1/2 inch, 6 inch x 9 inch, 8 1/2 inch x 11 inch, or 9 inch x 12 inch

2. Paper

a. Text: 50 lb. or 60 lb. white offset, 60 lb. or 70 lb. enamel (gloss and dull)

b. Cover: 65 lb. Number 1 Antique cover (white and standard colors), 65 lb. embossed cover (white and colors), or 65 lb. or 80 lb. coated covers (white only)

3. Ink

a. Text: one color

b. Cover: one or two colors

4. Binding

a. Saddle

b. Side stitch

c. Perfect bind, etc. on individual basis

5. Copy

a. Can be typeset composition or camera ready copy.

B. Newsletters, Leaflets, etc.

1. Size: 8 1/2 inch x 11 inch, 17 inch x 11 inch or 25 inch x 11 inch

2. Stock

a. 15 lb. to 20 lb. Bond, (white and color)

b. 50 lb. to 80 lb. offset text, (white and color)

c. 60 lb. to 70 lb. enamel text, gloss and dull (white)

d. 65 lb. cover stock (white and colors)

e. 60 lb. to 80 lb. coated covers (white)

3. Ink

a. One or two colors (both sides)

4. Fold

a. Fold to meet agency's need

5. Copy

a. Can be typeset composition or camera ready

C. Agency may select type face and size from those available. Size of type will depend on amount of copy and the number of photographs that will be used in the newsletter, leaflet, etc. Photographs should be held to a limited number.

D. Alteration Requirement Procedures

1. Any document that warrants printing warrants the efforts necessary to present that document to the printer properly compiled, organized, complete, and error free.

2. Since changes made in manuscripts, layout, color, type style, etc., which are all considered alterations, are very costly to the state once the printer has begun work, the following guidelines are hereby imposed:

a. galley proofsXany changes made in the galley proof stage that total more than 25 percent of the total original lines set, will require a letter of authorization from the secretary of the department;

b. page proofs (following galleys)Xany changes made in the page proof stage that total more than 10 percent of the total lines and 25 percent of the total pages, will require a letter of authorization from the secretary of the department;

c. page proofs (no galleys)Xany changes made in the page proof stage that total more than 25 percent of the total lines and 33 percent of the total pages, will require a letter of authorization from the secretary of the department;

d. blueline proofsXat this stage it is extremely expensive to make changes. Therefore no changes will be allowed without a letter of authorization from the secretary of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 43:31(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration , LR 14:432 (July 1988).

Subchapter E. Distribution

§2715. Distribution of Printed Matter (R.S. 43:32)

A. Except for interagency distribution and distribution otherwise required by law, no state department, agency, or other instrumentality of state government shall distribute any printed materials in excess of 10 pages in length, unless the availability of such printed materials has been announced by written notice stating the title or subject matter of the printed material, and that such materials shall be mailed upon receipt of a written request therefor. Such written notice may be mailed to the names on the regular mailing list and to any others deemed by the department, agency, or other instrumentality of state government to be interested parties.

B. The provisions of this Section shall not apply to the distribution of printed material by any public college or university to potential students for recruitment purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 43:31 (A) (2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 14:432 (July 1988).

§2717. Printed Matter; Missing Children Information (R.S. 43:33)

A. As a public service, each state department and agency that publishes a periodical of an informational nature that has as its intent public distribution rather than solely internal or interagency distribution is authorized to have published in each issue of such periodical the picture and name of one or more Louisiana children believed to be missing, or children from other states believed to be missing in Louisiana. The periodical may also include the toll-free telephone number provided by the National Center for Missing and Exploited Children for the purpose of receiving information related to a missing child or children.

B.1. Each state department and agency shall identify and provide to the Division of Administration a list of their periodicals that have public distribution and such other department or agency publications that have wide enough circulation to be useful for the purpose of disseminating information about such missing children.

2. The Division of Administration and the Office of State Police shall develop such policies, rules, and regulations as shall be necessary to implement this Section including, but not limited to, policies, rules, and regulations concerning the nature and number of department or agency publications that shall be used for this purpose, the number of such missing child identities that may be published in each periodical, and the provision of any other information deemed pertinent to this purpose.

3. The Division of Administration is hereby authorized to consult and coordinate with the National Center for Missing and Exploited Children, any other public,

quasi-public, or private organization, or agency, the purpose of which is to provide information and assistance related to missing children, and local law enforcement agencies in order to implement the provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 43:33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 14:433 (July 1988).

§2719. Requests for Information

A. All requests for information shall be directed to Division of Administration, Central Purchasing, State Printing Agent, Box 94095, Baton Rouge, LA 70804-9095. Questions regarding specifications, deliveries, and other matters pertaining to printing jobs shall be submitted directly by the agency to the Division of Administration, Central Purchasing and shall not be handled by the agency through representatives or vendors. The facilities of the printing office are available to any agency, and all requests will be handled promptly.

EXHIBIT A

PUBLIC DOCUMENT PRINTING REQUEST FORM

Requisition Number _____

Name of Agency _____

Mailing Address _____

Quantity _____ Estimated Amount $_____

Description of Public Document(s):

Size:

Number of pages and/or folds: _____

Paper-Cover: _____

Text: _____

Ink-Cover: _____

Text: _____

Binding: _____

Give a brief statement of why this publication needs to be printed.

I hereby certify that the above public document(s) is (are) essential to the fulfillment of the programs approved for this agency by the Appropriation Act, and that funds are available to print this (these) document(s). (Attach copies, facsimiles, or descriptions of the documents along with their justifications). I am, therefore, requesting an exception as provided for in R.S. 43:31(A).

_____
Undersecretary

AUTHORITY NOTE: Promulgated in accordance with R.S. 43:33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 14:433 (July 1988).

Chapter 29. Travel in State-Owned AircraftXPPM Number 67

Subchapter A. Introduction

§2901. Authority and Legal Basis

A. In accordance with the authority vested in the Commissioner of Administration by §231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-970, as amended, notice is hereby given of this intent to issue Policy and Procedure Memorandum Number 67, Travel in State-Owned Aircraft Policy, effective March 20, 1984. These regulations are both substantive and technical in nature and are intended to specify the conditions under which aircraft owned and operated by the state of Louisiana may be utilized to transport state personnel, to identify personnel of state government who may utilize state-owned and operated aircraft, and to specify the rates to be charged for usage of state-owned and operated aircraft. These regulations apply to all state departments, boards, and commissions created by the legislature or executive order, with the exceptions noted below, and operating from funds appropriated, dedicated, or self-sustaining; federal funds, or funds generated from any other source.

B. Legal Basis: R.S. 39:231: "The commissioner, with the approval of the governor, shall, by rule or regulation, prescribe the conditions under which each of the various forms of transportation may be used by state officers and employees in the discharge of the duties of their respective offices and positions in the state service and the conditions under which allowances will be granted for traveling expenses."

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:200 (March 1984).

Subchapter B. Definitions

§2903. Aircraft

A. When used in these regulations, the following terms shall have meanings as set forth below:

*General Transportation Aircraft*Xaircraft owned and operated by any state agency routinely for the general transportation of state officers or state employees in the conduct of official state business.

*Special Purpose Aircraft*Xaircraft owned and operated by any state agency which has been:

a. specially designed or modified to perform specific technical functions; or

b. specifically assigned to the performance of a specialized technical function, and which is being utilized in the performance of its designated special purpose.

*State-Owned Aircraft*Xall aircraft owned and operated by any agency of state government. Unless otherwise indicated, this term shall be deemed synonymous to general transportation aircraft as defined above.

B. When designated special purpose aircraft are being utilized for the general transportation of personnel, such aircraft shall be considered general transportation aircraft under this policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:201 (March 1984).

§2905. Classes of Travelers

A. State Officer

1. Statewide elected officials: governor, lieutenant governor, Attorney General, Secretary of State, State Treasurer, Superintendent of Education, Commissioner of Agriculture, Commissioner of Elections, Commissioner of Insurance.

2. Duly elected members of the Louisiana Legislature.

3. Department head as defined by Title 36 of the Louisiana Revised Statutes (secretary, deputy secretary, undersecretary, assistant secretary, and the equivalent positions in higher education and the offices of elected officials). For the purposes of this policy, the Speaker of the House of Representatives and the President of the Senate shall be considered as being equivalent to secretary of their respective chambers. No additional hierarchical levels of the chambers shall assume department head status for the legislature without prior written approval of the Commissioner of Administration.

B. State Employee

1. All employees below the level of state officer.

C. Advisors and consultants who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, consulting services in accordance with R.S. 39:1481 et seq.

D. Members of boards, commissions, and advisory councils required by federal or state legislation or regulation.

E. Sponsored Travelers

1. Industrial inducement prospects, when accompanied by a sponsoring state officer or employee, when engaged in official state business.

2. Spouses of statewide elected officials and other state officers to the level of secretary of departments, when accompanied by the sponsoring state officer, and when engaged in official state business. Spouses may only be transported on state-owned and operated aircraft on a space-available, standby basis. The provisions of this Part shall not apply to the spouse of the duly elected governor of the state of Louisiana, when same is performing travel instead of or on behalf of the governor, and thus is engaged in official business of the state.

F. Sponsoring State Traveler

1. The state officer or employee who assumes responsibility for the travel of a sponsored traveler in state-owned and operated aircraft by physically accompanying that sponsored traveler.

G. Other persons performing official state business who have prior written approval for travel from the Commissioner of Administration, subject to the general provisions of air travel authorization provided in Subchapter D, §2915; Subchapter E, §2919; and Subchapter F, §2925 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:201 (March 1984).

Subchapter C. Usage of State-Owned Aircraft

§2907. Official State Business

A. Any state officer or state employee may utilize the aircraft owned and operated by the state for general transportation purposes in the conduct of official state business, in connection with the function of the department of the state officer or employee, subject to the provisions of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:201 (March 1984).

§2909. Personal Usage

A. Aircraft owned and operated by the agency may be utilized for the personal transport of state officers or employees on a space-available standby basis, subject to the following conditions:

1. such travel shall be approved, in writing, by the appropriate department head on an individual trip basis prior to commencement of travel, and normal air travel authorization requirements shall be observed;

2. such travel shall occur only on flights already scheduled by the agency to the desired destination of the requesting state officer or employee;

3. such travel shall occur only in the event that vacant seats are available on the desired flight;

4. such travel shall not occur in the event that previously vacant seats become required for travel by other personnel on official state business; and

5. payment for such travel shall be the personal responsibility of the state officer or employee requesting the travel, at rates established in §2923 of these rules. Charges for such travel shall in no way be the responsibility of the department of the state officer or employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:201 (March 1984).

§2911. Political Usage

A. State-owned aircraft shall not be utilized to transport state officers or state employees covered by these policies to any event, meeting, function, or other occasion which is primarily political in nature, or for any other political purpose.

B. Any statewide elected official who determines, under the authority of R.S. 39:231(B), that personal or political usage of state-owned and operated aircraft is necessary in performing the duties of his/her office and should, therefore,

be conducted at public expense, is specifically exempted from the provisions of §2923, pertaining to personal responsibility for costs of such flights. For the purposes of fee determination to the agency, flights of political nature scheduled by statewide elected officials shall be billed in accordance with the schedule established for personal flights in §2923 of this policy. All other provisions of this policy shall be applicable to travel in state-owned and operated aircraft by statewide elected officials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:201 (March 1984).

§2913. Purpose of Flight

A. In order to effect these provisions of this policy, all passengers in state-owned aircraft shall provide specific information on the purpose of their travel at the time of reserving space and/or during check-in procedures. In the event that there is any question about the purpose of the flight for any particular passenger, it shall be assumed to be a personal usage request and shall be billed accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:201 (March 1984).

Subchapter D. Reserved.

Subchapter E. Aircraft Owned and Operated by Other State Agencies Utilized for General Transport

§2919. Authorization for Air Travel

A. All general transport air travel in aircraft owned and operated by state agencies must be authorized and approved, in writing, by the head of the department, board, or commission from whose funds the traveler is paid, on forms designed or approved by the Division of Administration. Additionally, all air travel must be authorized and approved, in writing, by the head of the agency operating the aircraft. A file shall be maintained on all approved air travel authorizations. These authorities shall not be delegated by the department or agency heads to any other person within the department.

B. The department head may approve an authorization for routine air travel for an employee who must travel in the course of performing his/her duties. This routine air travel authorization must be renewed each fiscal year, and must be maintained by the department in its files.

C. An authorization for routine air travel shall not cover travel out-of-state, travel to conferences and conventions, nor sponsored travel. All such air travel must receive prior, written approval from the department head on a case-by-case individual basis.

D. Prior to departure, all passengers must have presented proper written authorization from the relevant department head to the head of the agency operating the aircraft.

E. Travelers for whom no authorization is received shall not be transported in state-owned and operated aircraft.

F. State officers may be transported upon their own written authorization, subject to approval of the particular travel by the head of the agency operating the aircraft. State officers must observe the travel authorization requirements of the general state travel regulations.

G. In no case shall any sponsored traveler be transported on any state-owned and operated aircraft when unaccompanied by the sponsoring traveler. The provisions of this Part shall not apply to the spouse of the elected governor of the State of Louisiana when same is acting instead of or on behalf of the governor and is therefore engaged in official business of the state. All sponsored travel shall be in connection with official state business.

H. Each passenger to be transported in state-owned and operated aircraft shall be required to sign in for his/her flight prior to departure, identifying him/herself by name, position and agency, as well as the purpose of travel and destination.

I. Each state agency owning and operating aircraft may devise procedures for identification and authorization of all passengers on its aircraft. Such procedures and policies shall be subject to the review and approval of the Commissioner of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:202 (March 1984).

§2923. Payment for Usage of State-Owned Aircraft

A. All passengers in aircraft owned and operated by state agencies shall be billed for air travel in accordance with a fee schedule established by the agency supplying the aircraft. Fees should cover the cost of operation for the particular type of aircraft utilized for both official state business and personal business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:203 (March 1984).

Subchapter F. Special Purpose Aircraft

§2925. Authorizations

A. All air travel in special purpose aircraft owned and operated by the state must be authorized and approved, in writing, by the head of the department, board, or commission from whose funds the traveler is paid, on forms designed or approved by the Division of Administration. A file shall be maintained on all approved air travel authorizations.

B. Those state personnel who must regularly use special purpose aircraft for the special purpose for which the aircraft was designed/modified in the performance of their job duties may be authorized to do so via a routine air travel authorization approved by the appropriate department head. This routine air travel authorization must be renewed at least once each fiscal year and must be maintained by the department in its files.

C. Other state travelers who must utilize special purpose aircraft in the performance of their job duties for the special purpose for which the aircraft was designed/modified must receive prior written authorization from the appropriate department head on a case-by-case individual trip basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:203 (March 1984).

§2927. Restrictions on Usage

A. Special purpose aircraft shall not be utilized for general transportation purposes without the prior, written approval of such usage by the head of the agency owning and operating the aircraft. Complete justification for such usage of these aircraft must be submitted and maintained by the agency owning and operating the aircraft.

B. Sponsored travelers shall not be transported in special purpose aircraft without prior written approval of such travel by the Commissioner of Administration. Full justification of usage of the special aircraft must be provided with any request for such approval, to include name(s) of sponsored traveler, name(s) of sponsor and agency, time and date of flight, purpose of flight, and reason why alternate aircraft cannot be utilized.

C. Special purpose aircraft shall not be utilized for any transportation of state travelers which is personal or political in nature, nor shall they be utilized for conference or convention travel. Special purpose aircraft may be utilized for out-of-state travel only if such travel is conducted as an integral part of the special purpose for which the aircraft was designed/modified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:203 (March 1984).

§2929. Official State Business Charges

A. All passengers in aircraft owned and operated by state agencies shall be billed for air travel in accordance with a fee schedule established by the agency supplying the aircraft. Fees should cover the cost of operation for the particular type of aircraft utilized for both official state business and personal business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:203 (March 1984).

Subchapter G. Waiver of Provisions

§2931. Authority of Commissioner of Administration

A. The Commissioner of Administration may waive, in writing, any provision of these regulations when the best interest of the state will be served. Such waiver shall be based upon adequate written documentation from the requesting agency. The request from the agency must be received by the commissioner at least seven working days prior to the anticipated date of the travel, and must contain full particulars on the specific exception requested, including the name(s) of affected traveler(s), date of travel, purpose of travel, and an explanation of how the requested exception will serve the best interest of the state. Late or after-the-fact requests shall not be considered, except under the most unusual of circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:203 (March 1984).

Chapter 31. Revenue and Expenditure AccountingXPPM Number 68

§3101. Authorization

A. Title 39, Section 91: Uniform System of Accounting. The Commissioner of Administration shall, under authority of the governor and consistent with the provisions of this Chapter, prescribe and cause to be installed and maintained a uniform system of accounting in all state agencies. Should the legislative auditor find that these accounting procedures do not adequately reflect the financial activities of the state agencies, he shall so advise the legislature at its next regular session in a detailed report outlining said inadequacies.

B. Title 39, Section 92: Fiscal Reporting. Within six months after the close of each fiscal year, the Commissioner of Administration shall cause to be prepared a comprehensive annual financial report containing those financial statements, including notes thereto, which are necessary for a fair presentation of the financial position and results of operations of the state in conformity with generally accepted accounting principles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:91, R.S. 39:92.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:449 (June 1984).

§3103. Introduction

A. Pursuant to the above authority, it is hereby ordered that all boards, commissions, departments, agencies, institutions, and offices within the Executive branch of state government shall abide by the following financial reporting procedures, except where specific authority has been granted in writing by the Commissioner of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:91, R.S. 39:92.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:450 (June 1984).

§3105. Purpose and Scope

A. The purpose of this Policy and Procedure Memorandum is to establish criteria to be applied in the accrual of revenues and expenditures for governmental fund types of the general and special revenue nature for financial reporting purposes in accordance with generally accepted accounting and financial reporting principles. As of the effective date of this memorandum all boards, commissions, departments, agencies, institutions, and offices within the executive branch of state government shall report financial

activity on a modified accrual accounting basis as described herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:91, R.S. 39:92.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:450 (June 1984).

§3107. Revenues

A. Revenues associated with the economic activity of a particular fiscal year must be recognized (accrued) and reported in that fiscal year:

1. when the revenues are collected during the fiscal year to which they are associated; or

2. when the revenues are collected within 45 days after the end of the fiscal year to which they are associated.

B. Certain revenues may be excluded from the accrual requirements outlined in §3107.A, provided:

1. the amount is not material or the cost of attaining the data for accruing the revenue exceeds the benefits derived from its accrual. For purposes of the state of Louisiana's financial statement materiality is generally defined as less than 1/2 of 1 percent of the total estimated revenues of that fund;

2. the amount is not measurable and cannot be reasonably estimated with an acceptable degree of accuracy;

3. the revenue will not be available (collected) within the fiscal year or soon enough after the fiscal year end to be used to pay liabilities of that fiscal year.

C. Specified exceptions to the 45 day cut-off rule (§3107.A.2) to be included are as follows:

1. gas royalties for the month of June when the revenue from this source is material and predictable or measurable;

2. natural gas franchise tax due for the quarter ending June 30 of each year but does not become delinquent until 60 days thereafter.

D. Refunds of revenue are to be paid from current year receipts; however, refunds paid during the 45-day period at the end of each fiscal year, which are attributable to prior year activities, must be accumulated separately and reported as a liability on the appropriate fiscal year end financial statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:91, R.S. 39:92.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:450 (June 1984).

§3109. Expenditures

A. Expenditures, with the exception of payroll and payroll-related items, shall be recognized in the fiscal year in which the liability for the expenditure was incurred. Payroll and payroll-related expenditures shall remain on the appropriated basis.

B. Obligations outstanding at the end of a fiscal year must be separated so there is a clear distinction between encumbrances and accounts payable.

C. Encumbrances are defined as obligations for which the state is committed, but for which goods and/or services have not yet been received or rendered and accepted. An encumbrance becomes a liability when the goods are received and accepted or the services are rendered in accordance with terms of the service agreement or contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:91, R.S. 39:92.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:450 (June 1984).

§3111. Requests for Information

A. Any questions concerning this memorandum should be directed to the State Accounting Office of the Division of Administration, Box 44095, Baton Rouge, LA 70804.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:91, R.S. 39:92.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:450 (June 1984).

Chapter 33. Unemployment CompensationXPPM Number 69

§3301. Payment of Unemployment Compensation

A. Expenditures occasioned as a result of the payment of unemployment compensation liabilities by state agencies will be paid from the appropriate source of funding. More specifically, charges attributable to compensation paid from non-general-fund sources will not be proper charges against general fund direct appropriations.

B. The unemployment compensation reporting units, in making the unemployment compensation reimbursement payments, shall make such payments from the same source(s) of funding as the ex-employer claimant had been paid while employed by the state.

C. Therefore, all unemployment compensation claims arising as a result of separation from state employment of employees funded from dedicated revenues, self-generated revenues, federal funds, interagency transfers, ancillary funds, endowments, and other non-state general fund sources, shall be paid from such sources in the manner prescribed by the Commissioner of Administration.

AUTHORITY NOTE: Promulgated in accordance with Title 39, Section 4 of the R.S. of 1950.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 11:834 (September 1985).

Chapter 41. Taxable CompensationXPPM Number 73

§4101. Purpose and Scope

A. The purpose of this memorandum is to establish a policy for the reporting of all taxable compensation provided to employees, withholding of applicable amounts to meet the employee's tax liability associated with the taxable

compensation, to provide guidelines for establishing a value for taxable compensation, and to provide guidelines for inclusion or exclusion of fringe benefits as taxable compensation.

B. All boards, commissions, departments, agencies, institutions, and offices of the executive branch of state government shall comply with this memorandum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:78 and Executive Order Number 85-52.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:528 (July 1989), repromulgated LR 20:374 (April 1994), amended LR 25:1406 (August 1999).

§4103. Definitions

A. For purposes of this memorandum the following definitions shall apply.

*Compensation*Xincludes wages, salaries, bonuses, tips, commissions, fringe benefits, termination or severance pay, commission, per diem, and any and all similar items.

*Fair Market Value (FMV)*Xthat amount of compensation that would be paid between unrelated third parties to obtain a service or benefit.

*Fringe Benefits*Xmeals, lodging, allowances, vehicle personal usage, moving expenses, etc.

*Inkind*Xnoncash compensation, may include meals, lodging, vehicle personal use, moving expenses, etc.

*Reimbursed Expenses*Xitems of expenditure incurred by an employee in the performance of his job.

*Tax Liability*Xincludes federal and state tax withholding, FICA and Medicaid withholding, and any penalty or interest payment due as a result of noncompliance.

*Taxable Compensation*Xall compensation items not excludable as income under a specific IRS Code Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:78 and Executive Order Number 85-52.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:528 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4105. Policy

A. It shall be the policy of the state of Louisiana to report all taxable compensation and withhold all applicable taxes for such compensation as required by the Internal Revenue Code on each scheduled pay period.

B. Effective July 1, 1989 for calendar year 1989 and for each calendar year thereafter, all taxable compensation shall be reported and a withhold of applicable taxes shall be processed each pay period. For the period of January 1, 1989 through June 30, 1989 all taxable compensation not reported on a pay period basis shall be included on the employee's Form W-2 Wage and Tax Statement for calendar year 1989.

C. Applicable taxes for taxable compensation received in the form of cash during the period of January 1, 1989 through June 30, 1989 must be withheld during calendar year 1989.

D. Values for state owned housing taxable to the employee should be based on the values provided by the Office of Statewide Reporting and Accounting Policy. Agencies must also include the value of utilities, such as electricity, gas, water and sewerage service, as these costs are not included in the values provided by the Office of Statewide Reporting and Accounting Policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:78 and Executive Order Number 85-52.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:528 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4107. Reporting Requirements

A. Each board, commission, department, agency, institution or office must develop a plan each calendar year delineating those conditions under which an employee shall receive any compensation other than salary, wages, per diem for board members and those benefits provided by the State Employees' Group Benefits Program and the various retirement systems. The plan must include the specific employee receiving compensation, the valuation method of the compensation, the value of the compensation and any reason the compensation is partially or fully nontaxable to the employee. Such plan shall be submitted for approval to the Commissioner of Administration by February 1, each calendar year for the immediately preceding calendar year.

B. Department heads who fail to adequately value, report, or withhold applicable taxes for compensation provided employees shall be responsible for payment of any tax liability from the avails of the respective budget units appropriations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:78 and Executive Order Number 85-52.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4109. Reimbursed Expenses

A. Payments to employees in accordance with General Travel RegulationsXPPM Number 49 for reimbursement of actual business travel expenses shall be treated as a noncompensation item.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:78 and Executive Order Number 85-52.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4111. Employment Contracts

A. For purpose of computing taxable compensation, the provisions of an employment contract, or state law fixing the terms of employment cannot be considered in determining if fringe benefits are intended as compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:78 and Executive Order Number 85-52.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4113. Valuation Method

A. The general valuation rule will be FMV. Taxable cash compensation items, regardless of source, are to be reported and withheld at the dollar value paid. Taxable inkind noncash compensation, including fringe benefits, are to be included at FMV of the property transferred, excluding any payment offsets at the time of the transfer, unless excluded or adjusted under a specific Internal Revenue Code Section. There is no taxable compensation if the employee pays 100 percent of the FMV of the benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:78 and Executive Order Number 85-52.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4115. Evaluation Tests for Exclusion from Taxable Compensation

A. The general rules of evaluation to be used in determining if and when a fringe benefit is exempt from inclusion as taxable compensation are as follows.

1. Meals

a. The value of meals furnished to an employee by and on behalf of the state will be excludable from the employee's gross compensation if two tests are met:

i. the meals are furnished on the premises of the employer; and

ii. the meals are furnished for the convenience of the employer.

b. Meals furnished by the state without charge will be considered furnished for the convenience of the employer if the meals are furnished for substantial noncompensatory business reasons of the state rather than as a means of providing additional compensation to the employee.

c. On the premises will be interpreted to mean either:

i. quarters that constitute an integral part of the business property; or

ii. premises on which the entity carries on some of its business activities.

2. Lodging

a. The value of lodging furnished to an employee by or on behalf of the state will be excluded from the employee's gross income, if three tests are met:

i. the lodging is furnished on the business premises of the employer;

ii. the lodging is furnished for the convenience of the employer; and

iii. the employee is required to accept such lodging as a condition of his employment. The third requirement means that the employee must be required to accept the lodging on the business premises in order to enable him to properly perform the duties of his employment, which in turn will mean that the lodging is furnished because the employee is required to be available for duty at all times or because the employee could not perform the services required of him unless he was furnished such lodging.

b. On the business premises will be interpreted to mean either:

i. living quarters that constitute an integral part of the business property; or

ii. premises on which the entity carries on some of its business activities.

c. Ownership or control by the state of the premises furnished is not a test criteria.

d. Lodging includes utilities and associated related items such as lawn maintenance, maid service, etc. The value of utilities, etc., furnished to the employee for the convenience of the state is excludable, unless the employee contracts directly with the utility, etc., for the service.

3. Transportation

a. The value of personal use of a state vehicle must be included as taxable compensation.

b. The value for use of a state vehicle for commuting purposes shall be a flat $1.50 per one way commute trip ($3 per day for round trip) if the following conditions are met:

i. the vehicle is owned or leased by the state and is provided for and used for state business;

ii. for bona fide noncompensatory business reasons the state requires the employee to commute to and from work in the vehicle;

iii. the department, agency, etc., has a written policy which disallows personal use of the vehicle by the employee, or any individual whose use would be taxable to the employee, except for de minimus personal use such as a lunch stop between business meetings;

iv. neither the employee nor any individual whose use would be taxable to the employee uses the vehicle for any personal purpose other than commuting and de minimus personal use; and

v. the employee using the vehicle is not a control employee as defined in Temporary Regulation Section 1.61-2T(f)(5),(6).

c. For valuation of personal use of a vehicle for those employees who use a state vehicle to commute, but do not meet the conditions enumerated above, and those employees who have personal use of other modes of transportation, alternative valuation methods are available in the Internal Revenue Code and Regulations.

d. the alternative valuation methods, including the cents-per-mile rule or lease valuation method, may be

utilized only upon prior approval of the Commissioner of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:78 and Executive Order Number 85-52.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4117. ParkingXTaxable Benefits

A. The Energy Policy Act of 1992 amended the Internal Revenue Code provisions on taxing employer provided transportation benefits. Under these provisions, employer provided parking in a public parking facility valued up to $175 per month may be excluded from taxable income. Any amounts of $175 or higher must be considered taxable fringes and are to be included in taxable income, unless the employee pays amounts in excess of the $175 per month.

B. The value of the parking cost is to be based on the cost an employee would incur in an arm's-length transaction to obtain parking at the same site. If this cost cannot be determined, value should be based on the cost incurred in an arm's-length transaction to obtain other space in the same lot or a comparable lot in the same general area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:78 and Executive Order Number 85-52.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 20:376 (April 1994), amended LR 25:1407 (August 1999).

Title 4
ADMINISTRATION
Part VII. Governor's Office

Chapter 1. Architects Selection Board

Subchapter A. Organization

§101. Name

A. The name of this board is the "Louisiana Architects Selection Board," hereinafter referred to as "board," and its domicile shall be in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), amended LR 24:329 (February 1998).

§103. Authority

A. The Louisiana Architects Selection Board shall be organized in accordance with the provisions of R.S. 38:2310 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), amended LR 15:262 (April 1989), LR 24:329 (February 1998).

§105. Objective

A. The objective of this board is to provide a system for the procurement of services rendered by architects, licensed to practice in the state of Louisiana, that is impartial, equitable and in the best public interest of the citizens of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), amended LR 24:330 (February 1998).

§107. Members

A. The board shall be composed of members, serving terms in accordance with the provisions of the authority set forth in §103.

B. Any member desiring to resign from the board shall submit his resignation, in writing by registered mail, to the governor of Louisiana and the president of the Board of Architectural Examiners, with copies addressed to the chairman of the board. The effective date of resignation shall be the date of registered mailing to the Governor's Office.

C. The filling of a board vacancy for the unexpired term due to resignation, or death, or removal from office by just cause, shall be made in accordance with the provisions of the authority stated in §103.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), amended LR 15:262 (April 1989), LR 24:330 (February 1998).

§109. Officers

A. The officers of this board shall be a chairman and a vice chairman elected by the board at the first regular meeting following each January 1 and July 1. The board member who serves as chairman and the board member who serves as vice chairman shall be from different, overlapping terms of service to the board. In the event, for whatever reason, the offices of both chairman and vice chairman of the board become vacant, a special board meeting shall be called within 30 days of the second vacancy to fill both vacancies for the remainder of the unexpired term of each respective office.

B. The duties of the chairman shall be as follows:

1. be the presiding officer at meetings of the board;

2. call meetings of the board;

3. coordinate the activities of the board;

4. appoint all committees and serve as an ex-officio member thereof;

5. be responsible for implementing all orders and resolutions of the board; and

6. have the authority to issue the official advertisement of the intent of an agency to contract for design services.

C. The duties of the vice chairman shall be as follows:

1. in the event of absence or incapacity of the chairman, assume his duties as outlined above;

2. authenticate by his signature, when necessary, all acts, orders, and proceedings of the board, including the minutes; and

3. tabulate and record the results of all balloting at the meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:262 (April 1989), LR 24:330 (February 1998).

§111. Meetings

A. A regular meeting of the board shall be held between January 1 and June 30 and between July 1 and December 31 of each year, unless such meeting is waived by the chairman as unnecessary.

B. Special meetings may be called by the chairman or shall be called upon the written request of a simple majority of the total membership of the board. Except in cases of emergency, at least three days' notice shall be given for special meetings.

C. A simple majority of all members of the board shall constitute a quorum.

D. All meetings shall be held in public, except as provided in §128.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975) amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:262 (April 1989), LR 17:1206 (December 1991), LR 24:330 (February 1998).

§113. Committees

A. Committees, standing or special, shall be appointed by the chairman of the board as he shall deem necessary to carry on the work of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), LR 24:330 (February 1998).

§115. Parliamentary Authority

A. The rules contained in the current edition of *Robert=s Rules of Order Newly Revised* shall govern the board, except as modified herein or as provided for in §119.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 24:330 (February 1998).

§117. Voting

A. Only the votes of members present at the meeting shall be counted in the board's official actions. Proxy votes are not allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 24:330 (February 1998).

§119. Amendments to Rules

A. These rules may be amended in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 24:331 (February 1998).

§125. Application

A. Any applicant (proprietorship, partnership, corporation or joint venture of any of these) meeting the requirements of Title 38 of the Revised Statutes of 1950, R.S. 38:2310 et seq., may submit an application for selection consideration for a particular project upon which official advertisement has been published. The applicant shall submit data concerning its experience, previous projects undertaken, present state projects now being performed, scope and amount of work on hand, and any other information which the board may request.

B.1. The Louisiana Architects Selection Board adopts the use of the LASB-1 Form as the format for submitting a firm's experiences to the board.

2. The board will accept only those applications submitted on the current edition of the LASB-1 form, with no more than two attached additional 8 1/2 inch x 11 inch sheets of paper. Any submittal not following this format will be discarded.

3. In this LASB-1 form, *principal* shall be defined as a licensed architect who has the right and authority to exercise control over the project; who shares in profits, losses, and responsibility for incurred liabilities.

4. The board has the right to require proof of compliance with the above definition.

C. Consultants may be listed at the option of the applicant.

D. All applications to be considered shall be received by the board at the Office of Facility Planning and Control during the time prescribed in the advertisement.

E. The board may, at its option and with the concurrence of the Division of Administration and the user agency, conduct design competitions in accordance with nationally accepted professional standards. Final selection of the applicant from among the competition submissions will be made within 30 days of deadline date of receipt of the entries. No closed competitions will be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:262 (April 1989), LR 20:29 (January 1994), LR 24:331 (February 1998).

§127. Selection

A. After the deadline for applications, the Office of Facility Planning and Control shall forward copies of the applications together with any available description of the job to the board members.

B. The selection procedure shall be as follows:

1. user agency shall give scope of project and make recommendations, with supporting data, of a firm or firms for the project under consideration;

2. discussion of applications and recommendation by the board members;

3. the board shall then take a vote. Each board member present shall, by written ballot, vote for three applicants. Each board member shall vote for the first, second, and third choice of applicants for each project, except where fewer than six applicants have applied, in which case board members shall vote for only two applicants. In cases where there are three or fewer applicants, board members may vote for only one applicant. In all cases, board members may abstain from voting entirely. This is a weighted vote:

a. first choiceXthree points;

b. second choiceXtwo points;

c. third choiceXone point;

4. the secretary shall tabulate these ballots aloud and report to the board the results of the balloting;

5. in the event that during the selection of a designer for a particular project the first ballot is unanimous for the first place choice, the selection shall be awarded to that firm, and a second ballot will not be required;

6. the two applicants receiving the most votes shall be considered nominated, then be voted on by written ballot, each board member having one vote;

7. the results of this balloting shall be announced by the secretary. The applicant selected must receive a majority vote;

8. in case of a tie for nomination, there shall be a runoff election to reduce the nominees to two in accordance with procedures prescribed in §127.B.3;

9. in case no applicant receives a majority vote for selection, a discussion will be held, and new balloting for selection shall take place;

10. the selection of an architect by the board shall be final unless formal charges of having submitted false information required by R.S. 38:2313 are made against the selected architect by the Office of Facility Planning and Control, in writing, with proper accompanying documentation, to the board members and the selected architect within seven days of the selection. When a formal charge is made, the board shall, within 10 calendar days, hold a hearing at which time the evidence of false information shall be presented and the selected architect shall be given opportunity to present rebuttal. If the board determines that the charges of false information are not sufficiently documented, the selection shall become final. If the board determines that the information was false, the application will be rejected and the project readvertised. The applicant shall be allowed to reapply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:181 (April 1975), amended LR 4:495 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:263 (April 1989), LR 24:331 (February 1998).

§128. Interview Procedures

A. The interview procedures of the board are as follows.

1. The user agency notifies the Division of Administration, or the Division of Administration may determine on its own that the proposed project is of a special nature and should be considered under the interview procedure.

2. The user agency, the Division of Administration, and the chairman of the board (vice chairman in the absence of a chairman) shall decide if the nature of the project warrants utilizing the interview procedure. This may be done in a meeting or by teleconference.

3. The chairman of the board authorizes the Division of Administration to advertise the project under these procedures. The advertisement will contain:

a. the deadline for applications;

b. the date of the meeting;

c. the proposed interview meeting date.

4. The selection procedure (§127) will be followed from §127.A and B.1, 2, 3, 4, and 6. However, if an applicant is not selected unanimously on the first ballot, the following procedure will be implemented.

a. After the results of the weighted ballot are reported, the board secretary will list all applicants receiving one or more points. They will be listed in order, ranked by number of points from highest to lowest.

b. After the list is prepared, there will be a roll call vote on each applicant starting with the first applicant on the list. Voting for each applicant will take place in the order that he is listed. Each applicant on the list will receive a "yes" or "no" vote from each board member. Each applicant that receives a majority of "yes" votes will be invited to be interviewed.

c. Voting will end when there are five applicants to be invited to be interviewed or the end of the list is reached, whichever comes first.

d. In the event that the end of the list is reached before there are at least three applicants to be interviewed, the board may begin voting again by the method of their choice.

e. All applicants selected by the foregoing process will be invited to be interviewed at an interview meeting.

5. The interview meeting will be held in accordance with criteria that the board sets forth in a letter to the applicants that have been selected to be interviewed.

6. At the interview meeting, the board will begin in an open meeting and vote to go into executive session to conduct the interviews in accordance with the criteria set forth in §128.A.5 and pursuant to R.S. 42:6 and 42:6.1.

7. After all the interviews have been conducted, the board will return to a public meeting.

8. At this time, the selection procedure will resume according to procedures outlined in §127.B.5, 7, 8, and 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2310 et seq.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 17:1206 (December 1991), amended LR 24:331 (February 1998).

§129. Emergency Procedures

A. The emergency procedures of the board are as follows:

1. notification of emergency to the Division of Administration by the user agency is received;

2. chairman of the board is notified by the Division of Administration that an emergency does exist;

3. the chairman of the board then:

a. authorizes the advertisement; and

b. sets date for meeting for selection within 72 hours after advertisement is printed, not including Saturdays, Sundays and holidays;

4. meeting will convene at 10 a.m. on the day designated pursuant to §129.3.b to receive applications;

5. applications will be distributed as the first order of business;

6. meeting will then adjourn and reconvene one hour later (11 a.m.) after review of applications; and then selections shall be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 7:408 (August 1981), amended LR 10:455 (June 1984), LR 24:332 (February 1998).

§131. Communications with Applicant Firms

A. No member of the board shall communicate in any manner concerning a project application with any representative of an applicant firm or anyone communicating on behalf of an applicant firm. This restriction shall apply from the time advertisement of a project begins until the opening of the board meeting at which the project application will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 10:454 (June 1984), repromulgated LR 24:332 (February 1998).

§133. Information

A. Any person may obtain information concerning the board, its rules, regulations and procedures from the board's secretary at the Office of Facility Planning and Control, Division of Administration, Box 94095, Capitol Station, Baton Rouge, LA 70804. Requests for information may be made verbally or in writing. There may be a nominal fee charged to defray the cost of information furnished. Said fee shall be set by the Office of Facility Planning and Control, with the approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 4:495 (December 1978), repromulgated LR 10:455 (June 1984), amended LR 15:263 (April 1989), repromulgated LR 24:332 (February 1998).

§139. Severability

A. If any provision or item of these rules or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of these rules which can be given effect without the invalidated provisions, items, or applications and, to this end, the provisions of these rules are hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 4:495 (December 1978), repromulgated LR 10:455 (June 1984), amended LR 24:332 (February 1998).

Chapter 3. Engineers Selection Board

Subchapter A. Organization

§301. Name

A. The name of this board is the "Louisiana Engineers Selection Board," hereinafter referred to as "board," and its domicile shall be in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311(2).
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:217 (May 1975), repromulgated LR 6:10 (January 1980).

§303. Authority

A. The Louisiana Engineers Selection Board shall be organized in accordance with the provisions of Act 721, 1975 Regular Legislative Session (R.S. 38:2310 through R.S. 38:2316, Revised Statutes of 1950), effective date, September 12, 1975.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311(2).
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:217 (May 1975), amended LR 6:10 (January 1980).

§305. Objective

A. The objective of this board is to provide a system for the nonpolitical selection of services rendered by engineers licensed to practice in the state of Louisiana, that is impartial, equitable, and in the best public interest of the citizens of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:217 (May 1975), amended LR 6:10 (January 1980).

§307. Members

A. The board shall be composed of seven members, appointed or elected, serving terms in accordance with the provisions of the authority stated in §303.

B. Any member desiring to resign from the board shall submit his resignation, in writing by registered mail, to the governor of Louisiana, with a copy addressed to the chairman of the board. The effective date of resignation shall be the date of registered mailing to the governor's office.

C. The filling of the board vacancy for the unexpired term due to resignation, or death, or removal from office by just cause, shall be made in the same manner as the original appointment, or in the case of an elected member, the original electing organization shall select an individual to fill the vacancy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:218 (May 1975), amended LR 6:11 (January 1980).

§309. Officers

A. The officers of this board shall be a chairman and a vice-chairman. These officers shall perform the duties prescribed in §303 and by these rules.

B. The chairman shall:

1. be the presiding officer at meetings of the board;

2. have the authority to order a special meeting of the board;

3. be responsible for coordinating the activities of the board;

4. appoint all committees and serve as an ex-officio member thereof;

5. authenticate by his signature, when necessary, all acts, orders, and proceedings of the board;

6. be responsible for implementing all orders and resolutions of the board; and

7. have the authority to issue the official advertisement of the intent of an agency to contract for design services.

C. Vice Chairman. In the event of absence or incapacity of the chairman, the vice chairman shall assume the duties of the chairman as outlined above. In the absence of the secretary, the duties of the secretary shall be delegated to the vice chairman.

D. Nomination and election of chairman and vice chairman of the board shall be held and conducted twice yearly at scheduled meetings.

E. The first of the twice yearly scheduled meetings of the board, wherein chairman and vice chairman are elected, shall be held during the period January 1-June 30; the second during the period July 1-December 31, of each year.

F. The chairman and vice chairman shall begin their terms in office immediately upon election. They shall serve a maximum of six months, unless reelected for one term (see §309.H); however, in no case shall the term in office of the chairman and vice chairman extend beyond either June 30, (when elections are held between January 1 and June 30), or December 31, (when elections are held between July 1 and December 31).

G. In the event that the term of office of the chairman and vice chairman expires in accordance with §309.F, and a meeting is called at a time when there is no duly elected chairman and vice chairman, upon convening, the first order of business of the board shall be the selection of a temporary chairman who shall serve merely for the purpose of conducting the nomination and election of chairman and vice chairman. Upon election, the temporary chairmanship automatically dissolves, and the newly elected officers begin their terms in office. Nothing in this Section shall prevent the temporary chairman from either voting or being nominated for or elected to the office of chairman or vice chairman.

H. No member shall hold more than one office at a time. A member may serve consecutive terms, not to exceed a total of 12 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:218 (May 1975), amended LR 6:11 (January 1980).

§311. Secretary

A. The office of secretary shall be furnished to the board by the Division of Administration of the state of Louisiana, subject to approval by the board.

B. The secretary shall:

1. be under the general supervision of the board;

2. give notice of all meetings of the board and its committees to the board and general public;

3. attend all meetings of the board and committees and record the minutes of all proceedings in a book to be kept for that purpose and make the minutes and records available upon request;

4. keep on file all committee reports;

5. receive and conduct the general correspondence of the board; that is, correspondence which is not a function proper to the officers, or to committees;

6. cause the official advertisement to be advertised in accordance with Act 721, 1975 Regular Legislative Session (R.S. 38:2316, Revised Statutes of 1950) and the rules of selection procedure (see Subchapter B) as adopted by the board;

7. maintain and be the custodian of a file of all applications for projects, as well as all data submitted by engineers selected by the board to furnish engineering services for state projects as provided for in the rules of selection procedure (see Subchapter B); and

8. perform such other duties as may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:218 (May 1975), amended LR 6:11 (January 1980).

§313. Meetings

A. Meetings shall be held by the board, when requested by the Division of Administration, to select engineers for state projects, but in no case shall the board not meet at least once during each of the periods, January 1-June 30; July 1-December 31, of each year.

B. Special meetings can be called by the chairman or secretary or shall be called upon the written request of a simple majority of the total membership of the board. Special meetings may be held at any place provided that the time, the place, and the purpose of the meeting shall be stated in the call and made public in accordance with applicable laws. Except in cases of emergency, at least three days notice shall be given for special meetings.

C. A simple majority of all members of the board shall constitute a quorum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:218 (May 1975), amended LR 6:11 (January 1980).

§315. Committees

A. Such other committees, standing or special, shall be appointed by the chairman of the board, from time to time, as he shall deem necessary to carry on the work of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:219 (May 1975), amended LR 6:11 (January 1980).

§317. Parliamentary Authority

A. The rules contained in the current edition of *Robert's Rules of Order, Newly Revised* shall govern the board in all cases to which they are applicable and in which they are not inconsistent with these rules of organization and any special rules of order that the board may adopt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:219 (May 1975), repromulgated LR 6:11 (January 1980).

§319. Voting

A. Only the votes of members present at a meeting will be counted in the board's official actions, except as contained in the emergency provisions under §331 of the rules for selection procedure. Proxy votes are not allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 6:11 (January 1980).

§321. Amendments to Rules

A. These rules of organization may be amended at any regular or special called meeting of the board by an affirmative vote of a simple majority of the attending board, provided that the proposed amendment has been submitted, in writing, at the previous regular or special meeting, and is in full compliance with the Louisiana Administrative Procedure Act and other applicable laws. Upon receipt of a proposed written amendment, the chairman, before the next regular or special meeting, shall cause to give at least 20 days notice of the board's intended action as provided in the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:219 (May 1975), amended LR 6:11 (January 1980), LR 9:550 (August 1983).

§323. Severability

A. If any provision or item of these rules or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of these rules which can be given effect without the invalid provisions, items, or applications, and to this end the provisions of these rules are hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:219 (May 1975), repromulgated LR 6:11 (January 1980).

Subchapter B. Selection Procedure

§329. Information

A. Any person may obtain information concerning the board, its rules, regulations, and procedures from the board's secretary at the Office of Facility Planning and Control Department, Office of the Governor, Box 94095, Baton Rouge, LA 70804. Request for information shall be made verbally or in writing. There may be a nominal fee charged to defray the cost of information furnished.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:270 (June 1975), amended LR 6:12 (January 1980), LR 9:550 (August 1983).

§331. Public Notification

A. Upon being advised by the Division of Administration, Facility Planning and Control Department, that an agency intends to contract for design service, the chairman shall request the official advertisement to be published by the Division of Administration. There shall be a 10-day application period, commencing with the day of the first publication of the official advertisement and ending on the day of the deadline for receiving applications. During this period, the official advertisement shall be published in the official state journal one time.

B. The official advertisement specified above shall include the following information:

1. the name, location, and user agency for which the engineer is to be selected;

2. time and instructions for applicants to submit application to the board;

3. a statement that details are available, upon request, from the user agency;

4. time frame in which the engineer must complete the work;

5. the project budget;

6. the fee, as determined by the Division of Administration, together with contractual obligations, as contained in the current *Capital Improvement Projects Procedure Manual for Design and Construction*; and

7. the tentative date of the board meeting at which applications will be considered.

C. Special selections for emergency reasons will be made under one of two methods. The first of these methods should be used whenever possible.

1. The first method will require a one-week application period. The official advertisement will be published one time in the publication listed in §331.A. The deadline for applications shall be one week after the advertisement. The selection shall be made one week after the deadline for applications.

2. The second method shall be to make a selection within 24 hours of the notice to the board by the Division of Administration. The Division of Administration shall contact the chairman, vice chairman, and other members in alphabetical order by telephone. The first person contacted shall select a time and place for the meeting, which shall be held on the day following notification by the Division of Administration. Members not attending the meeting in person will be contacted by telephone for their vote. The board shall make the selection from names submitted by the user agency or any board member. The user agency shall submit names of at least three firms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:270 (June 1975), amended LR 6:12 (January 1980), LR 9:550 (August 1983).

§333. Communications with Applicant Firms

A. No member of the board shall communicate in any manner concerning a project application with any representative of an applicant firm or anyone communicating on behalf of an applicant firm. This restriction shall apply from the time advertisement of a project begins until the opening of the board meeting at which the project application will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 9:550 (August 1983).

§335. Application

A. Any applicant (proprietorship, partnership, corporation, or joint venture of any of these) meeting the requirements of Title 38 of the Louisiana Revised Statutes of 1950, R.S. 38:2310 through R.S. 38:2316, may submit an application for selection consideration for a particular project upon which official advertisement has been published. The information submitted shall contain data concerning its experience, previous projects undertaken, present state projects now being performed, scope and amount of work on hand, and any other information that the board deems appropriate.

B.1. The Louisiana Engineers Selection Board hereby adopts the use of Standard Form LE-1-Engineer Selection Board Services as the format for submitting a firm's experience to the board.

2. Any special information requested in the advertisement shall be submitted with the required LE-1 form. Incomplete submittals become property of the board, to be disposed of as it sees proper.

C. All selection applications shall be filed with the secretary within the time prescribed by the board. The secretary shall time date, when received, all applications. All applications are to be received by the board at the Facility Planning and Control Department during the time prescribed in the advertisement. The burden for timely and complete submittal lies solely with the applicant, and additionally, will in no way be affected by nondelivery of the application by the U.S. Postal Service or other common carrier.

D. The submission of an application on a particular project shall be considered by the board to mean that based on available information:

1. that the applicant is aware of the scope of work of the project;

2. that the applicant can perform the work within the time frame stated;

3. that the applicant concurs that the project budget is reasonable;

4. that the fee is equitable;

5. that the engineering contract shall contain a prohibition against contingent fees;

6. that the applicant is familiar with the terms and conditions set forth in the current *Capital Improvement Projects Procedure Manual for Design and Construction*, and will comply therewith; and

7. should an applicant determine that any of the above items are incomplete, inadequate, or insufficient, the applicant is invited to submit a letter stating in detail the applicant's findings, and the board will consider this information in the selection process. No unsolicited additional information shall be considered. The board reserves the right to reject all applications for selection consideration and to re-advertise any official advertisement.

E. The board may, at its option and with the concurrence of the Division of Administration and the user agency, conduct design competitions in accordance with nationally accepted professional standards. Final selection of the applicant from among the competition submissions will be made within 30 days of deadline date of receipt of the entries. No closed competitions will be allowed.

Page 1 of Form:

STANDARD FORM LE-1 Engineer Selection Board Services (Revised April 1, 2000)	1. Project Name, Location, Using Agency (As stated in the advertisement)		
2. Firm (or Joint Venture) Name and Address	2a. Name, Title and Telephone Number of Principal to Contact		2b.* State Eng. License # of Principal or Key Personnel
	2c. Estimated Distance from Office of Engineer and/or Nearest Joint Venturer of Project		

Personnel by Discipline (All employees presently employed by firm must be listed. Each person should only be counted once.)

_____Administrative	_____ Economists	_____Mechanical Engineers	_____Transportation Engineers
_____Architects	_____ Electrical Engineers	_____Planners: Urban/Regional	
_____Chemical Engineers	_____ Energy Specialists	_____Sanitary Engineers	_____ _____
_____Civil Engineers	_____ Estimators	_____Soil Engineers	_____ _____
_____Construction Inspectors	_____ Geologists	_____Specification Writers	_____ _____
_____Draftsmen	_____Interior Designers	_____Structural Engineers	_____ _____
_____Ecologists	_____Landscape Architects	_____Surveyors	_____ Total Personnel

4. If submittal is by Joint Venture, list participating firm and outline specific areas of responsibility (including administrative, technical, and financial) for each firm:

4a. Has Joint Venture previously worked together? _____Yes _____No

4b. If yes, how often? _____Times.

*__NOTE: ITEMS 6b AND 6g MUST BE COMPLETED TO RECEIVE PROPER CONSIDERATION.__

Page 2 of Form:

5. Indicate the percentage of the total project that you, the applicant firm, will perform. _____		
Outside Key Consultants/Associates for this Project (All consultants must agree in advance to have their names included.) An outside Key Consultant/Associate not listed here may be utilized on this project only after obtaining written concurrence from Facility Planning and Control.		
Name and Address	Specialty	Worked with Prime Before (Yes or No)

Page 3 of Form:

6. Brief Resumé of Engineer Principal, Key Persons, Specialists, and Major Consultants Proposed for this Project.	
a. Name and Title:	a. Name and Title:
b. Project Assignment:	b. Project Assignment:
c. Name of Firm with which Associated:	c. Name of Firm with which Associated:
d. Years Professional Experience: With this Firm: _____With other Firms: _____	d. Years Professional Experience: With this Firm: _____With other Firms: _____
e. Educational Background: Institution/Degree(s) Year/Specialization	e. Educational Background: Institution/Degree(s) Year/Specialization
f. Continuing Education, Seminars/Institution	f. Continuing Education, Seminars/Institution
g. Active Registration: Year First Registered Discipline & Louisiana Registration Number & Discipline	g. Active Registration: Year First Registered Discipline & Louisiana Registration Number & Discipline
h. Other Experience and Qualifications Relevant to the Proposed Project:	h. Other Experience and Qualifications Relevant to the Proposed Project:

Page 4 of Form:

7. List all current projects under contract.				
a. Project Type or Name	b. Nature of Responsibility of Firm	c. Actual or Estimated Cost	d. Current Status	e. Actual or Estimated Completion Date
1)				
2)				
3)				
4)				
5)				
6)				
7)				
8)				
9)				
10)				

Page 5 of Form:

8. List all state projects which have been awarded to Applicant during the past three (3) years.				
a. Project Type or Name	b. Nature of Responsibility of Firm	c. Actual or Estimated Cost	d. Current Status	e. Actual or Estimated Completion Date
1)				
2)				
3)				
4)				
9. List experience of Firm in energy related projects and/or special education in energy related concerns. Project/Description of Work Performed:				
1)				
2)				
3)				
4)				
5)				
6)				

Page 6 of Form:

10. Use this space to list projects which best illustrate qualifications for this project, or to provide any additional information or description of resources supporting your firm's qualifications for the proposed project.

11. I certify that the foregoing information is accurate and complete to the best of my knowledge. I understand and accept the requirements of the standard state *Contract Between Owner and Designer* and agree to sign said contract should I be selected for this project by the Louisiana Engineers Selection Board.

Signature:_____ Typed Name and Title:_____

Date:

_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:270 (June 1975), amended LR 6:12 (January 1980), LR 9:550 (August 1983).

§337. Application Review

A. After the deadline for applications, the Division of Administration shall forward copies of the applications, together with any available description of the job, to the board members. A special meeting of the board shall be called within 10 days after the deadline for application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:271 (June 1975), amended LR 6:12 (January 1980), repromulgated LR 9:551 (August 1983).

§339. Final Applicant Selection

A. The board shall make its final selection from the submitted applications. The board reserves the right to require interviews, or additional information, in excess of that required in the official advertisement, when it deems necessary.

B. The final selection shall occur no later than 60 days following the official advertisement.

C. Upon the final selection of the applicant, the chairman shall notify the Division of Administration, Facility Planning and Control Department, said notification to be made in accordance with the terms of Act 721.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:271 (June 1975), amended LR 6:12 (January 1980), LR 9:551 (August 1983).

§341. Selection Procedure

A. Selection procedure is as follows:

1. user agency will give scope of project;

2. call for discussion of applications;

3. board will take weighted vote. Each member shall vote for a first, second, and third choice from the firms under consideration. A ballot without all three choices indicated shall not be considered;

4. in the event that, during the selection of a designer for a particular project, the first ballot is unanimous for the first place choice, the selection shall be awarded to that firm, and a second ballot will not be necessary;

5. select firm from the two firms with most votes on a one-vote basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 6:12 (January 1980), amended LR 9:551 (August 1983), LR 11:1077 (November 1985), LR 17:661 (July 1991), LR 22:345 (May, 1996).

§343. Severability

A. If any provision or items of these rules or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of these rules which can be given effect without the invalid provision, items, or applications, and to this end, the provisions of these rules are hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:271 (June 1975), amended LR 6:13 (January 1980), repromulgated LR 9:551 (August 1983).

Chapter 5. Landscape Architects Selection Board

Subchapter A. Organization

§501. Name

A. The name of the board is the "Louisiana Landscape Architects Selection Board," hereinafter referred to as "board," and its domicile shall be in Baton Rouge, LA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:311 (July 1975), repromulgated LR 5:78 (April 1979).

§503. Authority

A. The Louisiana Landscape Architects Selection Board shall be organized in accordance with the provisions of Act 721, 1975 Regular Legislative Session (R.S. 38:2310 through R.S. 38:2316, Revised Statutes of 1950) effective date September 12, 1975, as amended by Act 525, 1976 Regular Legislative Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 1:311 (July 1975), amended LR 5:78 (April 1979).

§505. Objective

A. The objective of this board is to provide a system for the procurement of services rendered by landscape architects, licensed to practice in the state of Louisiana, that is impartial, equitable, and in the best public interest of the citizens of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:311 (July 1975), amended LR 5:78 (April 1979).

§507. Members

A. The board shall be composed of five members, serving terms in accordance with the provisions of the authority stated in §503.

B. Any member desiring to resign from the board shall submit his resignation, in writing by registered mail, to the governor of Louisiana and the president of the Louisiana Society of Landscape Architects with copies addressed to the chairman of the board. The effective date of resignation shall be the date of registered mailing to the governor's office.

C. The filling of a board vacancy for the unexpired term due to resignation, or death, or removal from office by just cause shall be made in accordance with the provisions of the authority stated in §503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:312 (July 1975), amended LR 5:78 (April 1979).

§509. Officers

A. The officers of this board shall be a chairman and a secretary, elected by the board at the first regular meeting following each January 1 and July 1.

B. The duties of the chairman shall be as follows:

1. be the presiding officer at meetings of the board;

2. call meetings of the board;

3. coordinate the activities of the board;

4. appoint all committees and serve as an ex officio member thereof;

5. be responsible for implementing all orders and resolutions of the board; and

6. have the authority to issue the official advertisement of the intent of an agency to contract for design services.

C. The duties of the secretary shall be as follows:

1. in the event of absence or incapacity of the chairman, assume his duties as outlined above;

2. authenticate by his signature, when necessary, all acts, orders, and proceedings of the board, including the minutes; and

3. tabulate and record the results of all balloting at the meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:312 (July 1975), amended LR 5:78 (April 1979).

§511. Meetings

A. A regular meeting of the board shall be held on the last Friday of January and July, in the State Capitol Building.

B. Special meetings may be called by the chairman or shall be called upon the written request of a simple majority of the total membership of the board. Except in cases of emergency, at least three days notice shall be given for special meetings.

C. A simple majority of all members of the board shall constitute a quorum.

D. All meetings shall be held in public. There will be no participation at the meetings other than from members of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:313 (July 1975), amended LR 5:78 (April 1979).

§513. Committees

A. Committees, standing or special, shall be appointed by the chairman of the board as he shall deem necessary to carry on the work of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:313 (July 1975), amended LR 5:78 (April 1979).

§515. Parliamentary Authority

A. The rules contained in the current edition of *Robert's Rules of Order, Newly Revised*, shall govern the board, except as modified herein or as provided for in §519.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:313 (July 1975), amended LR 5:78 (April 1979).

§517. Voting

A. Only the votes of members present at the meeting shall be counted in the board's official actions. Proxy votes are not allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 5:78 (April 1979).

§519. Amendment to Rules

A. These rules may be amended in accordance with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:313 (July 1975), amended LR 5:78 (April 1979).

Subchapter B. Selection Procedure

§525. Application

A. Any applicant (proprietorship, partnership, corporation, or joint venture of any of these) meeting the requirements of Title 38 of the Louisiana Revised Statutes of 1950, R.S. 38:2310 through R.S. 38:2316, may submit an application for selection consideration for a particular project upon which official advertisement has been published. The information submitted shall contain data concerning its experience, previous projects undertaken, present state projects now being performed, scope and amount of work on hand, and any other information that the board deems appropriate.

B. The Louisiana Landscape Architects Selection Board adopts the use of Form LA-1 as the format for submitting a firm's experience to the board. In this Form LA-1, the principal listed in 2 A shall be defined as follows.

*Principal*Xa licensed landscape architect who has the right and authority to exercise control over the project; who shares in profits, losses, and responsibility for incurred liabilities.

The board has the right to require proof of compliance with the above definition. Only the form shall be sent to Facility Planning and Control and any supporting data may be sent to the board members individually.

C. Consultants may be listed, at the option of the applicant.

D. All applications to be considered shall be received by the board at the office of Facility Planning and Control Department during the time prescribed in the advertisement.

E. The board may, at its option and with the concurrence of the Division of Administration and the user agency, conduct design competitions in accordance with nationally accepted professional standards. Final selection of the applicant from among the competition submissions will be made within 30 days of deadline date of receipt of the entries. No closed competitions will be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:314 (July 1975), amended LR 5:78 (April 1979).

§527. Application Review

A. After the deadline for applications, the Division of Administration shall forward copies of the applications, together with any available description of the job, to the board members. A meeting of the board shall be called within 30 days after the deadline for application. A list of three to five applicants will be developed by each board member to use for final selection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:314 (July 1975), amended LR 5:79 (April 1979).

§529. Selection Procedure

A. The selection procedure shall be as follows:

1. the chairman shall provide a tabular listing of all projects under consideration to include a short title, location, and estimated cost. Projects shall be listed in descending order by estimated cost; the projects with the highest estimated cost listed first;

2. user agency shall give scope of project and make recommendations with supporting data of a firm or firms for the project under consideration;

3. discussion of applications and recommendation by the board members;

4. the board shall then take a vote. Each board member present shall, by written ballot, vote for up to three applicants. This vote is a weighted vote:

a. first choiceXthree points;

b. second choiceXtwo points;

c. third choiceXone point;

5. the secretary shall tabulate these ballots aloud and report the results of the balloting to the board;

6. in case of a tie for nomination, there shall be a run-off election to reduce the nominees to two in accordance with procedures prescribed in Paragraph 4 of this Subsection;

7. the two applicants receiving the most votes shall be considered nominated, then be voted on by written ballot, each board memberXone vote;

8. the results of this balloting shall be announced by the secretary. The applicant selected must receive a majority vote;

9. in case no applicant receives a majority vote for selection, a discussion will be held, and new balloting for selection shall take place as specified in §529.A.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of Governor, Landscape Architects Selection Board, LR 1:311 (July 1975), amended LR 5:79 (April 1979).

Subchapter C. Severability

§535. Severability

A. If any provision or item of these rules or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of these rules which can be given effect without the invalidated provisions, items, or applications, and to this end, the provisions of these rules are hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:315 (July 1975), repromulgated LR 5:79 (April 1979).

Chapter 9. Veterans' Affairs

Subchapter A. Veterans' Affairs Commission

§901. Officers

A. The Veterans' Affairs Commission shall be composed of nine members who are honorably discharged veterans, citizens of the United States of America and of this state, and who are qualified voters.

B. The chairman and vice chairman of the commission shall be elected at the first meeting following the governor's appointment of the total commission or at the first meeting held following July 1 in even-numbered years.

C. The elected chairman of the commission shall appoint committee chairman at the first meeting following his election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:251.2, 29:253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:486 (October 1981).

§903. Committees

A. Standing committees shall be as follows:

1. War Veterans' Home;

2. Committee on Rules and Regulations;

3. Committee on Administration Policy;

4. Committee on Service Officers and conduct pertaining to department operation; and

5. Committee on Veterans' Welfare and Benefits.

B. These committees can be partial or of the entire commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:486 (October 1981).

§905. Members

A. Each member shall be paid $75 each day devoted to the work of the commission, but not more than $1,500 in any one fiscal year.

B. Commissions members shall also be entitled to reimbursement for necessary travel and other expenses, in accordance with current state travel regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:486 (October 1981), amended by the Office of the Governor, Veterans' Affairs Commission, LR 20:48 (January 1994), LR 25:2211 (November 1999).

§907. Meetings

A. The commission shall hold its regular meeting in the administrative office in Baton Rouge, unless, at the discretion of the chairman, it is necessary or convenient in the performance of its duties, to meet in some other city or location.

B. The commission shall hold at least one regular meeting in each quarter, annual period, at the administrative office in Baton Rouge.

C. The commission can hold special meetings at times and places specified by call of the chairman, or a majority of the commission, upon written notice of time and place by the director.

D. A majority of commission members (five) constitutes a quorum for the transaction of business.

E. No action will be taken by the commission without the concurrence of at least five members physically present and voting.

F. No commission member shall vote by proxy, by representation, or by mail.

G. The director of Veterans' Affairs shall act as secretary and keep adequate records and minutes of official actions and distribute copies to each member as soon as practical.

H. The commission shall meet semi-annually with the director and his staff for the purpose of reviewing the overall operation and upgrading of the department.

I. The commission, as a body, shall meet at least once per year with the Joint Legislative Committee on Veterans' Affairs to assist the committee in forming legislative goals for the Department of Veterans' Affairs.

J. The meeting with the Joint Legislative Committee on Veterans' Affairs shall be arranged at the call of the chairman and the director.

K. No meeting of the Veterans' Affairs Commission shall exceed a maximum of two days.

L. Two-day meetings or weekend meetings of the commission are not to be scheduled unless there is valid justification and/or unusual circumstances.

M. Minutes of the commission meetings are to be submitted to the Legislative Committee on Veterans' Affairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:486 (October 1981).

§909. Policies of the Department

A. The commission shall determine the overall general and the administrative policies of the Department of Veterans' Affairs.

B. The director and his staff shall review semi-annually all proposed new rules, regulations, and procedures, and the commission shall approve all proposed rules, regulations, and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:486 (October 1981).

§911. Travel

A. Travel will only be authorized on days that per diem is paid, unless prior approval is granted by the chairman or his designated representative. Travel must be for official state business.

B. All travel vouchers for the commission members shall be authorized by the chairman or his designated representative, the director of the Office of Veterans Affairs, with ultimate responsibility held by the chairman, in accordance with adopted rules relating to travel.

C. The director, as secretary of the commission, shall keep the chairman and all members of the commission appraised of the availability or nonavailability of travel monies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:48 (January 1994), LR 24:936 (May 1998), LR 25:2211 (November 1999).

Subchapter B. State Aid Program

§917. Eligibility

A. Application must be made through the Parish Veterans Service Office. In order to be eligible, the following criteria must be met.

1. A member of the armed forces of the United States of America must have been killed in action or died in active service from other causes or who is missing in action or who is a prisoner of war or veteran who died as a result of a service-connected disability incurred during a wartime period defined in R.S. 29:251(2).

2. The veteran must be rated 90 percent or above service-connected disabled or who has been determined to be unemployable as a result of a service-connected disability by evaluation of the United States Department of Veterans Affairs Rating Schedule.

3. The deceased veteran must have been a Louisiana resident for at least one year immediately preceding his entry into service.

4. The qualified veteran must have been a resident of Louisiana for at least two years immediately preceding admission of the child into a training institution.

5. The child applicant must be between the age of 16 and 25, and marriage is not a bar to the program.

6. The surviving spouse has no age limit but must use the benefit within 10 years of the date eligibility is established. Remarriage is a bar to this benefit. Divorce after remarriage does not re-establish eligibility. Program termination for remarried surviving spouse will be the end of the semester in which the marriage takes place.

7. The eligible student must attend school on a full-time basis.

8. The eligible student may attend any state college or university, including institutions under the jurisdiction of the Board of Supervisors of Community and Technical Colleges; all entrance requirements for such institution must be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981), amended LR 13:743 (December 1987), LR 19:1565 (December 1993), LR 23:1685 (December 1997), LR 26:2211 (November 1999).

§919. Fee Exemption Certificate

A. A fee exemption certificate must be issued to each eligible applicant upon completion of his/her processed claim in the administrative office, Department of Veterans' Affairs, reflecting exemption from payment of all tuition and school-imposed fees for the forthcoming fall or spring semester, or any other type of school term below college level.

B. The registration certificate must be signed by a school official indicating date of enrollment and returned by the student or his/her designee to the administrative office, Department of Veterans' Affairs, within 45 days after the beginning of the semester, in order to receive a possible payment of cash subsistence allowance for the semester.

C. If the student transfers from one school to another, the original fee exemption certificate may be taken, or the student may request from the administrative office the issuance of another fee exemption to be used at his/her next school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981).

§921. Maximum of Four Years

A. Tuition and possible payment of cash subsistence allowance are given for a maximum of four years, to be completed in not more than five years from the date of original entry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981).

§923. Not Covered

A. No money will be issued for the summer semester or winter quarter in the case of vocational schools: fee exemption only is given.

B. Fees assessed by the student body on themselves, such as yearbook, weekly paper, are not exempt. Free registration does not cover books, supplies, room and board, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:486 (October 1981).

Subchapter C. Veterans' Home

§937. Admission Requirements

A. For admission to a Louisiana State Veterans' Home, a veteran must be a resident of the state of Louisiana. State residence is not mandatory if applicant is referred from an in-state United States Department of Veterans' Affairs Medical Center, or by a Louisiana Department of Veterans' Affairs Veterans' assistance counselor. The veteran must be recommended by the home administrator and approved for admission by the executive director of the Louisiana Department of Veterans' Affairs.

B. The veteran must have served on active military duty 90 days or more during a wartime period, as defined by the United States Department of Veterans' Affairs, or 90 days or more consecutive service that either began or ended during a wartime period, or if less than 90 days, discharged due to a disability incurred in the line of duty and must be in receipt of a discharge under honorable conditions for his/her latest period of active military service.

C. The veteran must undergo a medical examination prior to admission and, as a result, it must be confirmed that he/she does not have a communicable disease, does not require medical or hospital care for which the home is not equipped to provide, and does not have violent traits which may prove dangerous to the physical well-being of the other patients or employees.

D. The veteran must consent to abide by all rules and regulations governing the home and to follow the course of treatment as prescribed by the veterans' home medical staff.

E. The veteran, or party responsible for his/her financial matters, must agree to pay the full patient care and maintenance fee. The Louisiana State Veterans' Home administrator may waiver any charge that exceeds the veteran's income.

F. Income, either the availability of or lack of, will not be a factor for admission.

G. The veteran applicant must not have criminal charges pending against him/her.

H. The veteran applicant must not be confined in a correctional facility or treatment facility for the criminally insane.

I. Veteran applicants under judicial/court commitments will not be accepted for admission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21:801 (August 1995).

§939. Care and Maintenance Fees

A. Care and maintenance fees will be based on total family income. This includes income from all sources (Social Security, United States Department of Veterans' Affairs pension/compensation, private pension, interest from savings, and/or interest bearing accounts/investments).

B. In no case will the fee charged to the patient be more than the actual cost of care, as determined by the executive director of the Louisiana Department of Veterans' Affairs and approved by the Veterans' Affairs Commission.

C. All income earned as a direct result of the sale of arts and crafts made at the home shall be excluded as countable income when computing care and maintenance charges; however, one-half of such income will be returned to the recreation and welfare fund account to be used in replenishing supplies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:801 (August 1995).

§941. Domiciliary Resident Fees

A. If a patient's family income is $300 or more each month, he/she will be allowed to retain the first $100 per month for personal spending. All remaining income must be applied to the care and maintenance fees until maximum cost of care is reached.

B. If a patient's family income is less than $300 each month, he/she will be allowed to retain the first $60 per month for personal spending. All remaining income will be applied to care and maintenance fees until maximum cost of care is reached.

C. If a patient has a legal dependent(s), he/she will be allowed a deduction from total family income of up to $300 per month for a spouse and up to $150 per month for each dependent child before the care and maintenance fee is computed. This same policy will also apply when computing nursing care and maintenance fees.

D. *Domiciliary Care*Xfor the purpose of this Section, all beds approved as domiciliary beds by the United States Department of Veterans' Affairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:801 (August 1995).

§943. Nursing Care Resident Fee

A. Patients will be allowed to retain the first $90 per month for personal spending and appropriate deduction(s) for any legal dependent(s) as specified in §941.C, effective July 1, 2002. All remaining income must be applied to the care and maintenance fee until maximum care cost is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 28:2509 (December 2002).

§945. Mandatory Election for Benefits

A. Patients must apply for all monetary benefits to which they may be entitled from both the state and federal government. Any increase, as a result thereof, must be applied to care and maintenance fees until maximum cost of care is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995).

§947. Fee Payable in Advance after Admission

A. Care and maintenance fees are payable one month in advance. These fees are due before the tenth of each month. A portion of a month will be prorated according to the number of days stay. Patients will not be charged care and maintenance fees for periods of hospital confinement in excess of 96 hours unless they desire that a bed be held until they return. For periods of leave from the home, care and maintenance fees are payable as arranged with the home administrator or his designee. Patients who are unable to pay charges in advance will be allowed to prorate the advance month fee over a 12-month period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995).

§949. Fees Adjusted

A. Care and maintenance fees will be adjusted when it has been established that there is a change in the veteran's total family income. The home reserves the right to obtain updated income information from the patient or his/her responsible party (signed authority at admission by patient, and/or responsible party, or any other source). The home also reserves the right to establish retroactive charges effective to the date a change of income occurs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995).

§951. Additional Fees

A. In addition to the regular care and maintenance fees collected, if less than the maximum monthly amount, and the patient has an accumulation of funds in excess of $500, if single, and $7,500, if married, the patient will be assessed an amount that would bring his care and maintenance fees up to the maximum allowable per month until their funds are reduced to the above stated balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995).

§953. Home Administrator Authority When Incorrect Income Given

A. The home administrator, when provided incorrect total family income information, will avail himself of all state laws to recoup all monies that should be made available to the home for care and maintenance fees, retroactive to the time that these monies became available for the patient's use while he/she was residing at a Louisiana state veterans' home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995).

§955. Unusual Financial Circumstances

A. All patients at a Louisiana veterans' home who feel they have unusual financial circumstances/hardships can request relief and consideration of a reduction in care and maintenance fees. Under no circumstances will the waiver exceed 25 percent of the established care and maintenance fee, which is based on total family income. Patients may apply for this consideration through the home administrator. The home administrator will forward the request, with an appropriate recommendation, to the executive director of the Louisiana Department of Veterans' Affairs for approval or disapproval. In the event the request is denied, an appeal may be submitted to the Veterans' Affairs Commission for their consideration. The decision of the Veterans' Affairs Commission shall be final.

B. All waivers that are in force will be re-evaluated annually on anniversary month. The home administrator will make a report of re-evaluation, with recommendations on each case, to the executive director of the Louisiana Department of Veterans' Affairs for further consideration. If the waiver is discontinued, an appeal may be submitted to the Veterans' Affairs Commission for their consideration. The decision of the Veterans' Affairs Commission shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:251.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995).

§957. Housing Policy

A. Purpose. This policy establishes policies, procedures, and responsibilities relative to state veterans' homes employee housing quarters.

B. Applicability. This policy applies to all employees who are eligible to reside in state veterans' home quarters. All state homes are required to provide occupants with an occupancy handbook.

C. General. All employee occupants, their dependents, and guests are expected to maintain high standards in their personal conduct. The appearance of their quarters and surrounding grounds areas must be such that it reflects favorably on the occupants, the state veterans' home, and the Office of Veterans' Affairs.

D. Responsibilities

1. The executive director, with the approval of the Veterans' Affairs Commission, has responsibility for establishing and enforcing the departmental housing policy, in compliance with all applicable federal and state laws, rules, and regulations.

2. The home administrator has staff responsibilities for the overall supervision of housing operations and is responsible for assignment/termination of quarters in accordance with the rules and regulations established by the Department of Veterans' Affairs.

3. The assistant home administrator has direct responsibility for all housing operations and is principal staff advisor on housing matters. Specific functions include, but are not limited to:

a. inspection of state veterans' home housing by appointment on a semi-annual basis. Written reports of findings will be maintained on file in the building maintenance superintendent's office. In instances where there is obvious neglect or abuse, the occupants will be advised to take corrective action. If the occupant fails to do so in a reasonable amount of time, as determined by the assistant home administrator, an assessment and/or recommendation for eviction will be in order;

b. counseling state veterans' home housing occupants, as required, on standards of conduct, care of property, and availability of assistance in resolving complaints.

4. The building maintenance superintendent is responsible for assisting with the semi-annual inspection of family quarters and following up with the necessary maintenance, as required.

5. The property control officer is responsible for conducting a complete inventory of state property in family quarters during the scheduled semi-annual inspections. Results of the inventory will be recorded and filed with the inspection report in the building maintenance superintendent's office.

6. Occupant/employee is responsible for the actions of their dependents who reside with them, regardless of age. In addition, he/she is directly responsible for the actions of guests and domestic employees. He/she will be held monetarily liable for any damages to state property that are caused due to carelessness or neglect. Every effort must be made to eliminate friction and unpleasant situations by avoiding arguments, criticism, and petty differences. Specific occupant responsibilities are contained in the housing handbook.

E. Repair and Maintenance of Quarters

1. Procedures applicable to occupants for maintaining their assigned quarters in an acceptable state are contained in the applicable state veterans' home handbook.

2. Occupancy of state veterans' home quarters carries the responsibility and self-reliance for the occupant to accomplish simple handyman type maintenance. This would include those jobs which would normally be accomplished by a prudent homeowner to keep maintenance costs at a minimum and to preserve the home. Accordingly, occupants are required to participate in self-help programs in their quarters and on the surrounding grounds.

F. Eligibility for Occupancy of State Veterans' Home Quarters

1.a. Based on the availability of quarters of sufficient space to adequately accommodate the size and composition of the applicable employee's family, the following key positions shall have priority to occupy the quarters. Each occupant will be required to sign an occupancy agreement:

i. long-term care home administrator or long-term care assistant home administrator;

ii. medical director or staff physician;

iii. director of nursing/night shift registered nurse.

b. Housing granted to individuals in the above category will be considered a fringe benefit and will be included in the employee's gross income for tax purposes, as required by Division of Administration, Policy and Procedure Memoranda Number 73.

2. Registered Nurses. There is an extreme shortage and competitive recruitment of employees in this category; therefore, housing is authorized as an employment incentive. This housing is a fully taxable benefit, and the fair market value will be included in the employee's gross income as a fringe benefit.

3. All Other Employees. Any employee is eligible to apply for state-owned housing when there is housing available. Housing assignments shall be based on title, function, and seniority of the employee. Employees in this category shall be required to pay the fair market value, utilities included.

4. The size quarters occupied is predicated on the employee's family composition and availability of quarters. Rental fees will be based on fair market value in applicable location, which will be adjusted annually by the home administrator, with the approval of the executive director.

5. Unauthorized use of quarters, such as renting space, conducting business ventures, or permitting anyone other than legal dependents or bona fide house guests to occupy quarters, is considered misuse of state property.

6. Multiple occupancy of quarters by more than one family is not authorized.

7. Visitors, who are guests of occupants, will be considered as guests for a limited period, generally not to exceed 90 days.

8. Live-in domestic help, e.g., maids, nurses, etc., is not permissible.

G. Termination of Quarters

1. Termination of state veterans' homes quarters will be accomplished when the occupant/employee is transferred, resigns, retires, is terminated, expires, or fails to maintain required living standards.

2. Termination of state veterans' homes quarters will be accomplished when it is confirmed that the occupant/employee is no longer residing in the quarters with his/her dependents.

3. Termination of quarters will be considered complete after a final inspection is conducted by the assistant home administrator, property control officer, and building maintenance superintendent in accordance with the standards outlined in the occupancy handbook.

H. Property Accountability. Quarters occupants will be required to sign an inventory form acknowledging receipt of the state property furnished by the state veterans' homes. The serviceability and accountability of the property will be verified during each semi-annual inspection. Reimbursement will be made for any damage or loss to state property resulting from the occupant's negligence.

I. Pets. In the interest of all occupants of state veterans' homes quarters, there will be no pets of any kind authorized.

J. Alcohol and Firearms. Alcohol and firearms are normally prohibited from the grounds of state facilities. The following exceptions are hereby granted for occupants of state veterans' homes housing:

1. possession and storage of firearms is permitted provided they are properly stored under lock and key;

2. firearms may not be carried or discharged on state veterans' homes grounds;

3. a list of firearms and serial numbers must be provided to the assistant home administrator for retention on file;

4. alcohol may be consumed in the immediate quarters area, but it is not authorized for consumption in any other area of the state veterans' homes grounds; and

5. under no circumstances will occupants of state veterans' homes housing serve alcoholic beverages to patients of the home.

K. Telephones. Telephone service will be an expense borne by the occupant. Under no circumstances will personal long distance calls be made at state veterans' homes expense.

L. Dietary Services. Employee occupants of state veterans' homes housing are authorized to consume meals in the homes' dietary department only during periods when they are actually on duty. Their dependents and guests are only authorized to consume meals in the dietary department on special occasions or during social functions, but will not be authorized to do so on a routine basis.

M. Fire Regulations. Occupants of state veterans' homes quarters are responsible for ensuring that fire regulations reflected in the occupancy handbook are strictly adhered to by dependents and guests. Occupants who cause fire damage as a result of noncompliance with provisions of fire regulations will be held monetarily liable for cost of damage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 21:945 (September 1995).

Chapter 11. Elderly Affairs

Subchapter A. State Agency on Aging

§1101. Office of Elderly Affairs

A. Authority, Organization and Purpose

1. Chapter 7 of Title 46 of the Louisiana Revised Statutes of 1950 (R.S. 46:931 et seq.) provides for the establishment and administration of the Office of Elderly Affairs (GOEA) within the Office of the Governor.

2. Executive Order MJF 99-14 established and provided for the operation of the Office of Community Programs to consolidate the following agencies and/or divisions within the Office of the Governor that provide services for the citizens and local governments of the state of Louisiana:

a. the Office of Elderly Affairs (R.S. 46:931, et seq.);

b. the Office of Disability Affairs (R.S. 46:2581 et seq.);

c. the Office of Indian Affairs (R.S. 46:2301, et seq.);

d. the Office of Municipal Affairs;

e. the Louisiana Interagency Coordinating Council for Child Net [R.S. 17:1979 and 36:4(R)];

f. the Office of Rural Development (R.S. 3:314, et seq.);

g. the Louisiana Abstinence Education Project (Executive Order No. MJF 98-11, as amended by Executive Order No. MJF 99-13);

h. the Louisiana State Troops to Teachers Placement Assistance Program (Memorandum of Agreement dated February 2, 1995);

i. the Office of Urban Affairs and Development (Executive Order No. MJF 96-47); and

j. the Office of Women's Services (R.S. 46:2521, et seq.).

3. GOEA serves as the focal point for the development and administration of public policy regarding Louisiana's elderly citizens. GOEA is the sole state agency designated by the governor and the legislature to develop and administer the state plan on aging. GOEA also administers several statewide programs including the Long

Term Care Assistance Program, the Adult Protective Services Program for the Elderly and the Long Term Care Ombudsman Program.

B. Powers and Responsibilities

1. GOEA has the following powers and duties under state law:

a. to administer the Older Americans Act and related programs;

b. to collect facts and statistics and make special studies of conditions pertaining to the employment, health, financial status, recreation, social adjustment or other conditions affecting the welfare of the aged;

c. to keep abreast of the latest developments in aging throughout the nation and to interpret such findings to the public;

d. to provide for a mutual exchange of ideas and information on the national, state, and local levels;

e. to conduct hearings and to subpoena witnesses;

f. to make recommendations to the governor and to the legislature for needed improvements and additional resources to promote the welfare of the aging in the state;

g. to coordinate the services of all agencies in the state serving the aging and require reports from such state agencies and institutions including carrying out the provisions of R.S. 46:935;

h. to adopt and promulgate rules and regulations deemed necessary to implement the provisions of the law in accordance with the Administrative Procedure Act;

i. to exercise the functions of the state relative to nutrition programs for the elderly and handicapped citizens of Louisiana;

j. to perform the functions of the state which are designed to meet the social and community needs of Louisiana residents 60 years of age or older, including but not limited to the provision of such comprehensive social programs as homemaker services, home repair and maintenance services, employment and training services, recreational and transportation services, counseling, information and referral services, protective services under R.S. 14:403.2, and health related outreach; but excluding the transportation program for the elderly administered by the Department of Transportation and Development under Section 16(b)(2) of the Federal Mass Transportation Act of 1964 as amended and other such programs and services assigned to departments of state government as provided in Title 36 of the Louisiana Revised Statutes;

k. to administer the Louisiana Senior Citizens Trust Fund;

l. to administer the Long Term Care Assistance Program;

m. to operate the Office of the State Long Term Care Ombudsman;

n. to serve as the "Adult Protection Agency" for any individual 60 years of age and over in need of adult protective services as provided in R.S. 14:403.2(E);

o. to administer all federal funds appropriated, allocated, or otherwise made available to the state for services to the elderly, whether by block grant or in any other form, with the exception of funds for programs administered by the Department of Social Services or the Department of Health and Hospitals, on August 15, 1995, and to distribute those funds in accordance with and consistent with R.S. 46:936;

p. to approve recommendations from any parish voluntary council on aging prior to the creation of a new state-funded senior center in the state, as provided in §1233 of this manual; and

q. to provide meeting space and staff support for the Executive Board on Aging [R.S. 46:934(G)].

2. Strategic Planning

a. In accordance with R.S. 39:31, GOEA shall engage in strategic planning and produce a strategic plan to guide ongoing and proposed activities for five years, to be updated at least every three years. A schedule will be provided by the Commissioner of Administration with guidance for the timely preparation, revision and submission of strategic plans.

b. Content of the Strategic PlanX

i. mission statements for each program funded through GOEA;

ii. goals that reflect the expected results the agency plans to achieve on behalf of the elderly;

iii. objectives that support each goal;

iv. strategies that GOEA will use to achieve its objectives;

v. measurable performance indicators for each objective, including at a minimum, indicators of input, output, outcome, and efficiency;

vi. statements identifying the principal clients and users of each program; and

vii. potential external factors beyond the control of GOEA that could affect the achievement of goals and objectives.

c. Each goal shall have the statutory requirement of authority.

d. Program evaluations shall be used to develop objectives and strategies.

e. GOEA shall maintain documentation as to the reliability and appropriateness of each performance indicator and the method used to verify the performance indicators. GOEA shall also indicate how each performance indicator will be used in GOEA's management decisions.

f. The strategic plan shall be used in the construction of the annual operational plan for budget development purposes. Information taken from the strategic plan or operational plan for inclusion in the executive budget or supporting documents shall be included at the discretion of the Commissioner of Administration.

C. Functions of the Governor's Office of Elderly Affairs

1. Administrative FunctionsX

a. to develop and follow written policies in carrying out its functions under state and federal laws and regulations;

b. to develop and enforce policies governing all aspects of programs operating under the Older Americans Act, whether operated directly or under contract;

c. to manage and control funds received from federal and state sources;

d. to recruit, train and supervise qualified staff to perform responsibilities; and

e. to procure necessary supplies, equipment and services.

2. Advocacy FunctionsX

a. to review, monitor, evaluate and comment on all federal, state and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions which affect or may affect older individuals and recommend any changes in these which GOEA considers to be appropriate;

b. to provide technical assistance and training to agencies, organizations, associations or individuals representing older persons;

c. to review and comment, upon request, on applications to state and federal agencies for assistance in meeting the needs of the elderly;

d. to consolidate and coordinate multiple state and federal resources to facilitate the development of comprehensive community-based services for the elderly; and

e. to develop financial resources for programs on aging beyond those allocated under the Older Americans Act.

3. Service Systems Development FunctionsX

a. to develop and administer the state plan on aging;

b. to be primarily responsible for the planning, policy development, administration, coordination, priority setting and evaluation of all state activities related to the objectives of the Older Americans Act;

c. to divide the state into distinct planning and service areas, in accordance with guidelines issued by the Administration on Aging;

d. to designate for each planning and service area after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging (AAA) for such area;

e. in consultation with area agencies on aging, in accordance with guidelines issued by the Administration on Aging, and using the best available data, to develop and publish, for review and comment, a formula for distribution within the state of funds received under Title III of the Older Americans act that takes into account:

i. the geographical distribution of older individuals in the state; and

ii. the distribution among planning and service areas of older individuals with greatest economic need and/or greatest social need, with particular attention to low-income minority older individuals;

f. to submit its formula developed under Subparagraph e of this Paragraph to the Administration on Aging for approval; and

g. to establish and follow appropriate procedures to provide due process to affected parties, if the state agency initiates an action or proceeding to:

i. revoke the designation of the AAA under §1109.G;

ii. designate an additional planning and service area in the state;

iii. divide the state into different planning and service areas; or

iv. otherwise affect the boundaries of the planning and service areas in the state;

h. to develop Elder Rights Protection Systems focused on protecting the rights of vulnerable older individuals who reside in the community and in institutional settings. It includes the provision of Long Term Care Ombudsman services; Legal Assistance Development; Elder Abuse, Neglect and Exploitation prevention.

D. Governor's Office of Elderly Affairs Administration

1. Staffing

a. GOEA shall be administered by an executive director, who shall be recommended by the Louisiana Executive Board on Aging to the governor to serve at his pleasure, subject to confirmation by the Senate. The executive director shall be qualified by education and experience to assume leadership of the State Agency on Aging.

b. The GOEA executive director shall employ an adequate number of qualified staff to carry out the duties and functions of the state agency as provided by law.

c. GOEA shall have within the state agency an Office of the State Long-Term Care Ombudsman, with a full-time state ombudsman and such other staff as are appropriate.

d. GOEA shall provide an individual who shall be known as a state legal services developer, and other personnel, sufficient to ensure:

i. state leadership in securing and maintaining legal rights of older individuals;

ii. state capacity for coordinating the provision of legal assistance;

iii. state capacity to provide technical assistance, training, and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons as appropriate; and

iv. state capacity to promote financial management services for older individuals at risk of conservatorship.

e. GOEA may contract with other parties for the performance of certain functions and responsibilities.

f. Subject to the requirements of the Louisiana Department of Civil Service:

i. GOEA will give preference to persons aged 60 or over for any staff positions (full-time or part-time) for which such persons qualify; and

ii. GOEA shall give special consideration to individuals with formal training in the field of aging (including an educational specialty or emphasis in aging and a training degree or certificate in aging) or equivalent professional experience in the field of aging for any staff positions (full-time or part-time) for which such individuals qualify.

g. All GOEA personnel matters shall be governed by state law and the rules of the Louisiana Department of Civil Service.

2. Policies

a. GOEA shall develop and enforce written policies in carrying out its functions under state and federal laws and regulations. These policies shall be developed in consultation with other appropriate parties within the state. GOEA shall keep its policies current, and revise them as necessary in accordance with the Louisiana Administrative Procedure Act.

b. GOEA shall:

i. draft proposed policies and/or policy changes;

ii. submit proposed policies and/or policy changes to the Louisiana Executive Board on Aging for review and comment;

iii. publish proposed policies/policy changes in the *Louisiana Register* in order to solicit public input;

iv. conduct public hearings to obtain oral and/or written comments from interested parties; and

v. consider all comments in establishing final policies.

c. GOEA shall take into account, in connection with matters of general policy arising in the development and administration of the state plan, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan.

d. GOEA shall establish and maintain a manual to which shall include current policies promulgated by the state agency in the *Louisiana Administrative Code*. GOEA shall make copies of said manual available to all GOEA contractors and subcontractors. Copies may be provided at cost.

3. Reports

a. GOEA shall submit to the U.S. Administration on Aging, the governor, and the legislature any reports that they require.

b. GOEA shall establish and maintain administrative records and reports for its total operation to satisfy legal requirements and for use as a management tool.

c. Program records and reports shall be reviewed periodically by appropriate staff, to evaluate the records' adequacy and continued usefulness.

4. Confidentiality and Disclosure of State Agency Information

a. The Governor's Office of Elderly Affairs shall ensure that any agency providing services with funds administered by GOEA shall not disclose any information about or obtained from an older person, in a form which identifies the person, without his informed, written consent or that of his authorized representative.

b. All information related to problems identified in the process of monitoring and evaluating area agencies on aging and/or service providers shall be considered confidential information until such time as problems are resolved or final action is taken in accordance with GOEA policy. Such information may be disclosed to persons or organizations outside GOEA only if authorized by the executive director.

c. In the conduct of monitoring the ombudsman program, access to files, minus the identity of any complainant or resident of a long term care facility, shall be available only to the executive director of the Office of Elderly Affairs and one other senior manager of the Office of Elderly Affairs designated by the executive director for this purpose. The confidentiality protections concerning any complainant or resident of a long term care facility as prescribed in Section 307(a)(12) of the Older Americans Act shall be strictly observed.

d. Subject to the confidentiality requirements of this Paragraph, the GOEA executive director will make available at reasonable times and places to all interested parties information and documents developed or received by GOEA in carrying out its responsibilities.

e. In administering the Elderly Protective Services Program, all information in case records regarding elderly

victims of abuse, neglect and exploitation shall be confidential as outlined in R.S. 14:403.2(E)(8).

5. Program Monitoring

a. GOEA shall monitor the performance of all programs and activities initiated under the Older Americans Act for quality and effectiveness in order to:

i. identify performance problems as a basis for determining an area agency's need for technical assistance and training;

ii. measure an area agency's progress toward developing a comprehensive and coordinated service delivery system in the planning and service area (PSA), and to guide the GOEA in providing resources and technical support to enhance the development of such systems;

iii. to ensure compliance with applicable federal and state laws, regulations and other requirements; and

iv. to ensure cost-effective use of available resources for the elderly.

b. Performance IndicatorsX

i. extent to which proposed service output (as specified in the area plan) is being provided, including:

(a). number of persons served, by service;

(b). units of service provided; and

(c). expenditures by source and service;

ii. extent to which each objective, and tasks related thereto, were completed as compared to the area plan;

iii. extent to which AAA responsibilities and requirements are being carried out;

iv. extent to which required services are being provided;

v. extent to which federal and state laws, regulations and other requirements are being followed; and

vi. extent to which the AAA is fostering the development of a comprehensive and coordinated service delivery system in the PSA, including:

(a). encouraging the development by other agencies of access services, community services, in-home services, and services to residents of care providing facilities, beyond those funded by the AAA; and

(b). providing for service management mechanisms which link clients with appropriate services and permit ease of movement by clients from one type of care and provider to another, as necessary.

c. Monitoring ProceduresX

i. review AAA program and fiscal reports relative to the performance indicators, and for the purposes stated in this Paragraph;

ii. conduct on-site performance evaluations of each AAA;

iii. share the results of all monitoring activities with the AAA governing body and director along with:

(a). recommendations for correcting problems; and

(b). remedial actions the state agency will take to assist the AAA and actions which must be taken by the AAA, including time frame for completion of such actions.

6. Program Evaluation

a. Program evaluation is designed to measure the extent to which the operation of programs resulted in the lessening of need for service for older persons. It is intended to support decision-making by the state and area agencies in the areas of resource allocation to services and program design, by showing which service delivery models are effective and result in program outcomes which are consistent with the goals of the Older Americans Act.

b. GOEA may carry out its evaluation responsibilities through or in consultation with institutions of higher learning, or other organizations with demonstrated competence in the field of evaluation research. Priority will be given to the evaluation of new programs and services as a basis for modification, expansion or termination.

c. Termination or suspension of the area plan, withholding funds, or other punitive actions may be effected by GOEA if the AAA fails to take actions and correct problems specified by GOEA.

7. Resource Development

a. GOEA shall identify resources potentially available for services for the aging at the federal and state levels, and from both public and private sources.

b. GOEA shall prepare applications, or facilitate such preparation on the part of AAAs or others, to secure identified funds.

c. GOEA shall provide information for use in justifying the allocation of funds for programs on aging, by such sources.

8. Coordination

a. Because state and federal funds administered by GOEA support only a small fraction of services available for the aging, and since one of the primary purposes of GOEA is to foster coordination among the many disparate programs for the elderly, the following activities shall be carried out:

i. identification of programs administered at the national and state level which impact on the well-being of older persons;

ii. establishment and use of common service nomenclatures to facilitate interagency communication and analysis;

iii. collection and analysis of information about the types of services allowable and actually provided, eligible/actual clientele, location of service providers/recipients, sources and amounts of expenditures by service;

iv. participation in joint planning and program design efforts at the state level for the purpose of:

(a). sharing of facilities and equipment (e.g., school buildings, community centers, transportation vehicles, etc.);

(b). centralizing functions common to several delivery programs for the aging (e.g., case management, information and referral, long term care ombudsman activities, etc.);

(c). collocating services in support of AAA focal point development;

(d). developing consensus among as many agencies as possible on a continuum of needed services, the geographic locations for such services, and assigning service development and delivery responsibilities among agencies; and

(e). entering into cooperative written agreements with the Louisiana Department of Health and Hospitals for the administration of the Adult Protective Services Program pursuant to R.S. 14:403.2, and with agencies administering Title XIX and Title XX of the Social Security Act, state transportation agencies, foundations, United Way agencies, and other private organizations for the purpose of carrying out these activities, and supplying copies of these interagency agreements to area agencies.

b. To carry out its responsibility to develop a comprehensive and coordinated service delivery system, GOEA shall make special efforts to coordinate with agencies administering the following programs:

i. the Job Training Partnership Act;

ii. Title II of the Domestic Volunteer Service Act of 1973;

iii. Titles XVI, XVIII, XIX, and XX of the Social Security Act;

iv. Sections 231 and 232 of the National Housing Act;

v. The United States Housing Act of 1937;

vi. Section 202 of the Housing Act of 1959;

vii. Title I of the Housing and Community Development Act of 1974;

viii. Title I of the Higher Education Act of 1965 and the Adult Education Act;

ix. Sections 3, 9, and 16 of the Urban Mass Transportation Act of 1964;

x. the Public Health Service Act including block grants under Title XIX of such Act;

xi. the Low-Income Home Energy Assistance Act of 1981;

xii. Part A of the Energy Conservation in Existing Buildings Act of 1976, relating to weatherization assistance for low income persons;

xiii. the Community Services Block Grant Act;

xiv. demographic statistics and analysis programs conducted by the Bureau of the Census under Title 13, United States Code;

xv. the Rehabilitation Act of 1973;

xvi. the Developmental Disabilities and Bill of Rights Act; and

xvii. the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, established under Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 [42 U.S.C. 3750-3766(b)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, R.S. 14:403.2, OAA Sections 203, 305, 307 and 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2199 (November 1999), LR 28:1016 (May 2002).

§1103. The Louisiana Executive Board on Aging

A. Composition, Appointment and Tenure

1. The Louisiana Executive Board on Aging, hereafter referred to as "the board," shall consist of 15 members appointed as follows:

a. the President of the Senate shall appoint five members, one from each of the five districts of the Public Service Commission;

b. the Speaker of the House shall appoint five members of Representatives, one from each of the five districts of the Public Service Commission; and

c. the governor shall appoint five members, one from each of the five districts of the Public Service Commission. Each appointment by the governor shall be submitted to the Senate for confirmation.

2. Qualifications

a. Members of the board shall have a recognized interest in and knowledge of the problems of aging. None of the members of the board shall be elected officials or paid employees of the state of Louisiana. Preference shall be given to persons 60 years of age and older.

b. A person is not eligible for appointment to the board if the person or the person's spouse either:

i. is employed by a business entity or other organization regulated by or receiving funds from GOEA; or

ii. owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving funds from GOEA.

3. Nominations and Appointments

a. Nominations for the board shall be solicited from:

i. the Louisiana Association of Councils on Aging, the Louisiana State Medical Society;

ii. the Louisiana State Bar Association;

iii. the National Association of Social WorkersXLouisiana Chapter;

iv. the American Association of Retired Persons;

v. the Louisiana Association of Business and Industry;

vi. the AFL-CIO;

vii. the Louisiana Geriatric Education Center;

viii. the Louisiana Interchurch Conference; and

ix. other entities as appropriate.

b. Appointments shall be made from the list of names submitted in accordance with §1103.A.1.

4. Terms of Office

a. The terms of office of members of the board shall be five years except that the appointing authority shall appoint the original members as follows:

i. five members for a term of one year;

ii. five members for a term of two years; and

iii. five members for a term of three years.

b. Vacancies shall be filled by appointment by the governor only for the remainder of the unexpired terms.

B. Functions of the Louisiana Executive Board on Aging

1. To advise and report to the GOEA executive director on matters of general importance and relevance to the planning, monitoring, coordination, and delivery of services to the elderly in Louisiana.

2. To advise the GOEA executive director on matters of policy and on all rules and regulations promulgated by the office.

3. To review and recommend the revocation of the charter of any parish voluntary council on aging for noncompliance with law, policies and/or regulations.

C. Organization of the Board

1. The board shall meet and organize immediately after appointment of the members and shall elect from its membership a slate of officers other than chairperson, whom the governor shall appoint. The board shall elect any officers, other than the chairperson, it deems necessary. The duties of such officers shall be those customarily performed by such officers.

2. The board shall meet at least once per quarter of the fiscal year, and as often thereafter as deemed necessary by the chairperson. A majority of members of the board shall constitute a quorum.

3. The board shall adopt rules for the transaction of its business and shall keep a record of is resolutions, transactions, findings, and determinations.

D. Duties and Responsibilities

1. The board shall adopt rules governing the functions of the Governor's Office of Elderly Affairs (GOEA), including rules that prescribe the policies and procedures followed by the board and GOEA in the administration of its programs, all in accordance with the Administrative Procedure Act.

2. The board shall review and make recommendations to the GOEA executive director on matters of general importance and relevance to the planning, monitoring, coordination, and delivery of services to the elderly of the state.

3. The board shall approve matters of policy and all rules and regulations promulgated by the board or GOEA which pertain to elderly affairs and voluntary parish councils on aging.

4. The board shall prepare and submit an annual report to the legislature and to the governor 60 days prior to the legislative session.

5. The board by rule or its order may delegate any portion of its rights, powers, and duties to the executive director of the office.

6. The board may recommend discharge of the GOEA executive director.

E. Compensation

1. Members shall serve without salary, but shall be reimbursed at the established per diem rate for attendance at board and committee meetings.

2. Members shall be reimbursed for actual travel and other expenses incurred while in the performance of their duties in accordance with the division of administration regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:933, R.S. 46:934 and OAA Sections 305(a)(1) and 307(a)(11).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2204 (November 1999).

§1105. State Plan on Aging

A. Definition. The state plan on aging is the document submitted to the Administration on Aging to obtain the state's allotment of federal funds allocated under the Older Americans Act of 1965, as amended. It identifies the actions which the Governor's Office of Elderly Affairs (GOEA) will take in carrying out federal and state responsibilities. GOEA shall not make expenditures under a new plan or amendment requiring approval until it is approved.

B. Content of the State Plan:

1. identification by the state of the sole state agency that has been designated to develop and administer the plan;

2. statewide program objectives to implement the requirements under Title III and Title VII of the Older Americans Act and any objectives established by the Administration on Aging through the rulemaking process;

3. a resource allocation plan indicating the proposed use of all Title III funds administered by GOEA, and the distribution of Title III funds to each planning and service area;

4. identification of geographic boundaries of each planning and service area and of area agencies designated for each planning and service area;

5. provision of prior federal fiscal year information related to low income minority and rural older individuals as required by Section 307 of the Older Americans Act; and

6. each of the provisions and assurances required in Sections 305 and 307 of the Older Americans Act, and provisions that the state meets the requirements under 45 CFR Part 1321;

7. the projected costs of providing services for older individuals residing in rural areas (including the cost of providing access to such services) for each fiscal year to which the plan applies;

8. the methods used to meet the needs for services for older individuals residing in rural areas in the fiscal year preceding the first year to which such plan applies;

9. a grievance procedure for older individuals who are dissatisfied with or denied services under Title III of the Older Americans Act.

C. Development and Amendment of the State Plan

1. The state plan may be developed for a two-, three-, or four-year period, determined by the state agency, with such annual updates and/or amendments as are necessary. GOEA shall use its own judgement as to the format to use for the plan, and how to collect information for the plan. The plan's resource allocation, including allotments to area agencies, shall be prepared annually and as available allotments change.

2. In the process of developing the state plan, GOEA shall reevaluate the configuration of planning and service areas (PSAs) in the state. Applications for PSA designation will be accepted in accordance with §1107.A.2 of this manual at that time.

3. GOEA shall amend the state plan whenever necessary to reflect:

a. new or revised federal statutes or regulations;

b. a material change in any law, organization, policy or state agency operation; or

c. information required annually by the Older Americans Act.

4. GOEA shall promulgate the state plan and all amendments in the *Louisiana Administrative Code* in accordance with the Administrative Procedure Act.

5. GOEA shall submit the state plan and all amendments requiring approval to the Administration on Aging.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:432, OAA Section 203(b), OAA Section 307, OAA Section 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2205 (November 1999), LR 28:1016 (May 2002).

§1107. Planning and Service Area Designation

A. General Rules

1. In accordance with Section 305 of the Older Americans Act (the Act), GOEA shall divide the state into distinct planning and service areas (PSAs) after considering the geographical distribution of individuals aged 60 and older in the state; the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal assistance; the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas; the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such areas; the distribution of older Indians residing in such areas; the distribution of resources available to provide such services or centers; the boundaries of existing areas within the state that were drawn for the planning or administration of supportive service programs; the location of units of general purpose local government within the state; and any other relevant factors.

2. Starting with the state plan on aging beginning October 1, 2000, GOEA shall accept applications for PSA designation received from eligible applicants on or before November 1 of the year immediately preceding the final year of the state plan period. Any designation so approved shall become effective on the first day of the next area plan and shall remain in effect throughout the duration of the approved area plan.

3. GOEA may include in any planning and service area such additional areas adjacent to the unit of general purpose local government, region, metropolitan area, or Indian reservation so designated as GOEA determines to be necessary for, and will enhance the effective administration of the programs authorized by Title III of the Older Americans Act.

4. GOEA may include the area covered by the appropriate economic development district involved in any planning and service area designated and may include all portions of an Indian reservation within a single planning and service area.

B. Eligible Applicants. The governing body of any unit of general purpose local government, region within the state recognized for areawide planning, metropolitan area, or Indian reservation may apply for its geographical area of jurisdiction to be a designated planning and service area.

C. Application Procedure for PSA Designation

1. Eligible applicants requesting PSA designation shall submit applications based upon a uniform format prescribed by GOEA. Each such application shall include:

a. a signed resolution by the governing body of the applicant organization authorizing the request for designation of the unit of general purpose local government, region within the state recognized for areawide planning, metropolitan area, or Indian reservation as a planning and service area;

b. a narrative and statistical description of:

i. the number of individuals aged 60 and older in the proposed PSA;

ii. the number of older individuals who have the greatest economic need (including low-income minority individuals) residing in the proposed PSA;

iii. the number of older individuals who have the greatest social need (including low-income minority individuals) residing in the proposed PSA;

iv. the number of older individuals who are Indians residing in the proposed PSA;

c. the incidence of need for supportive services, nutrition services, multipurpose senior centers, and legal assistance in the proposed PSA;

d. the distribution of resources available to provide such services or centers in the proposed PSA;

e. the boundaries of existing areas within the proposed PSA drawn for the planning or administration of supportive and/or nutrition services programs;

f. the location of units of general purpose local government within the proposed PSA; and

g. a list of multipurpose senior centers and agencies providing supportive and/or nutrition services in the proposed PSA including services supported by Title III of the Older Americans Act.

2. If the proposed PSA's boundaries are either a combination or subdivision of existing planning and service areas, the application shall address the basis of need for the merger or separation.

3. Applications from units of general purpose local government shall include a statement of whether the unit desires to exercise the right to first refusal of an area agency on aging designation. If the unit chooses not to exercise this right, the application shall include a statement of preference for another agency or organization to be the designated area agency on aging for the proposed PSA.

4. Applications for PSA designation shall be signed by the chief elected official representing the unit of general purpose local government, region within the State recognized for areawide planning, metropolitan area, or Indian reservation.

D. Criteria for Approval of PSA Designation Applications

1. The application must be received by GOEA within the time frame prescribed in §1107.A.2.

2. The application must be completed, including all required documentation and signatures. Incomplete applications may be returned and refused for reconsideration at the discretion of the GOEA executive director.

3. The application must clearly demonstrate that the designation of the proposed PSA is necessary for, and will enhance, the effective administration of the programs authorized by Title III of the Older Americans Act.

E. Procedure for Due Process to Affected Parties

1. GOEA shall approve or disapprove any application received under §1107.C.1.

2. Any applicant under §1107.B whose application for designation as a PSA is denied by GOEA may appeal the denial under the procedures specified in LAC 4:VII.1269.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2206 (November 1999), LR 25:2407 (December 1999).

§1109. Area Agency on Aging Designation

A. General Rules

1. The Governor's Office of Elderly Affairs (GOEA) shall designate a public or private nonprofit agency or organization as the area agency on aging (AAA) for each planning and service area (PSA) after consideration of the views offered by the unit or units of general purpose local government in each such PSA.

2. GOEA shall not designate any regional or local office of the state as an AAA.

3. Whenever GOEA designates a new AAA, GOEA shall give the right of first refusal to a unit of general purpose local government if such unit can meet the requirements of Sec. 305(c) of the Older Americans Act and the boundaries of such a unit and the boundaries of the PSA are reasonably contiguous.

4. If the unit of general purpose local government chooses not to exercise the right of first refusal, GOEA shall publicly solicit applications for designation as an area agency on aging and shall give preference to an established office on aging as defined in §1109.B.1.a.

5. GOEA shall take into account the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under the state plan when designating AAAs.

B. Eligible Applicants for AAA Designation

1. Any of the following may apply for designation as an AAA:

a. an established office on aging which is operating within the PSA. The term "established office on aging" means a public or private nonprofit agency/organization that has functioned for at least one year for the purpose of planning, developing or administering aging service programs. The agency/organization must be capable of

functioning effectively throughout the PSA designated by GOEA;

b. any office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an AAA by the chief elected official of such unit;

c. any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only in behalf of such combination for the purpose of serving as an AAA;

d. any other public or private nonprofit agency in a PSA, or any separate organizational unit within such agency, which is under GOEA's supervision or direction for this purpose and which can and will engage only in the planning or provision of a broad range of supportive services, or nutrition services within such PSA.

C. Application Procedure for AAA Designation

1. Eligible Applicants for AAA designation shall submit a written application in the format prescribed by GOEA.

2. Applications for AAA designation shall include:

a. the legal basis upon which the agency is organized;

b. a list of members serving on the governing body and the agencies/organizations they represent;

c. a copy of the agency's most recent audit;

d. a copy of the agency's current approved financial plan;

e. an organizational chart depicting the manner in which the agency's staff will be divided to fulfill its AAA responsibilities;

f. job descriptions reflecting the proposed AAA's intent to carry out the advocacy, planning, coordination, inter-agency linkages, information sharing, brokering, monitoring and evaluation functions;

g. assurances that the agency, once designated, shall provide for an adequate and qualified staff to perform all of the AAA functions prescribed in the Older Americans Act; and

h. such other information as GOEA deems necessary.

D. Criteria for Approval of Applications for AAA Designation

1. The application must be submitted in a timely manner, including all required documentation. Incomplete applications may be returned and refused for reconsideration at the discretion of the GOEA executive director.

2. The agency applying for AAA designation shall provide an opportunity for on-site review and assessment by GOEA to ensure that said organization has the capacity to perform the functions of an AAA.

3. Applications must demonstrate that the agency, if designated, will have the ability to fulfill the mission of an AAA.

E. Procedure for Due Process to Affected Parties

1. GOEA shall approve or disapprove any application received under §1109.C.1.

2. Any applicant under §1109.B whose application for designation as an AAA is denied by GOEA may appeal the denial under the procedures specified in LAC 4:VII.1267.

F. Duration of AAA Designation

1. The designated AAA shall function in that capacity for the duration of the area plan unless the AAA informs GOEA that it no longer wishes to carry out the responsibilities of an AAA or GOEA withdraws the designation as provided in §1109.G.

G. Withdrawal of AAA Designation

1. The Governor's Office of Elderly Affairs shall withdraw the AAA designation whenever GOEA, after reasonable notice and opportunity for a hearing, finds that:

a. the AAA does not meet the requirements of 45 CFR 1321; or

b. the plan or plan amendment is not approved; or

c. there is substantial failure in the provisions or administration of an approved area plan to comply with any provision of 45 CFR 1321 or the GOEA Policy Manual; or

d. activities of the AAA are inconsistent with the statutory mission prescribed in the Act or in conflict with the requirement that it function only as an AAA.

2. If GOEA withdraws the AAA's designation, it shall:

a. provide a plan for the continuity of AAA functions and services in the affected planning and service area; and

b. designate a new AAA in a timely manner.

3. If necessary to ensure continuity of service in a planning and service area, GOEA may, for a period up to 180 days after its final decision to withdraw the designation of an AAA:

a. perform the responsibilities of the AAA; or

b. assign the responsibilities of the AAA to another agency in the planning and service area.

4. The Assistant Secretary of the Administration on Aging may extend the 180-day period if GOEA:

a. notifies the Assistant Secretary in writing of its action;

b. requests an extension; and

c. demonstrates to the satisfaction of the Assistant Secretary a need for the extension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932, R.S. 46:935 and OAA Section 305(a)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2206 (November 1999).

Subchapter B. Area Agency on Aging

§1121. Definitions

*Administration on Aging (AoA)*Xan agency of the U.S. Department of Health and Human Services, Office of Human Development Services. It is the Federal focal point and advocate for older persons and their concerns.

*Area Agency on Aging (AAA)*Xan agency designated by the State agency on aging to develop and administer the area plan for a comprehensive and coordinated system of services for older persons in a planning and service area.

*Area Plan*Xthe application submitted by an AAA to receive Older Americans Act funds. Older Americans Act funds can be expended only under an area plan that has been approved by the State agency on aging.

*Assistive Technology*Xtechnology, engineering methodologies, or scientific principles appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations.

*Comprehensive and Coordinated System of Services*Xa system for providing all necessary supportive services, including nutrition services, in a manner designed to:

1. facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the geographic area served by such systems by any public or private agency or organization;

2. develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older individuals;

3. use available resources efficiently and with a minimum of duplication; and

4. encourage and assist public and private entities that have unrealized potential for meeting the service needs of older individuals to assist the older individuals on a voluntary basis.

*Contract*Xan award of financial assistance by the Governor's Office of Elderly Affairs to an eligible recipient.

*DHHS*Xthe United States Department of Health and Human Services.

*Direct Service*Xany activity performed to provide services directly to an individual older person by the staff of a service provider or an area agency.

*Director*Xthe director of the Governor's Office of Elderly Affairs.

*Disability*Xexcept when such term is used in the phrase *severe disability*, *developmental disabilities*, *physical or mental disability*, physical and *mental disabilities*, or *physical disabilities*, means a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in one or more of the following areas of major life activity:

1. self-care;
2. receptive and expressive language;
3. learning;
4. mobility;
5. self-direction;
6. capacity for independent living;
7. economic self-sufficiency;
8. cognitive functioning; and
9. emotional adjustment.

Governor's Office of Elderly Affairs (GOEA)Xthe focal point on aging for the state of Louisiana, also referred to as the State Unit on Aging (SUA), "State Agency on Aging," or "state agency."

*Greatest Economic Need*Xthe need resulting from an income level at or below the official poverty guideline as defined each year by the Office of Management and Budget and adjusted by the Secretary of DHHS in accordance with Subsection 673(2) of the Community Services Block Grant Act [42 U.S.C. 9902 (2)].

*Greatest Social Need*Xthe need caused by noneconomic factors, which include:

1. physical and mental disabilities;
2. language barriers; and
3. cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that:

a. restricts the ability of an individual to perform normal daily tasks; or

b. threatens the capacity of the individual to live independently.

*Information and Assistance*Xa service for older individuals that:

1. provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;

2. assesses the problems and capacities of the individuals;

3. links the individuals to the opportunities and services that are available; and

4. to the maximum extent practicable, ensures that the individuals receive the services needed, and are aware of the opportunities available, by establishing appropriate follow-up procedures.

*Low-Income Minority*Xa person whose income is below the official poverty guideline as defined each year by the Office of Management and Budget and adjusted by the Secretary of DHHS in accordance with Subsection 673(2) of the Community Services Block Grant Act [42 U.S.C. 9902 (2)] and who is designated as African American, Not of Hispanic Origin; Hispanic; American Indian or Alaskan Native; or Asian American/Pacific Islander.

*Minority*Xminority older persons are confined to the following designations.

*African American, Not of Hispanic Origin*Xa person having origins in any of the black racial groups of Africa.

*American Indian or Alaskan Native*Xa person having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

*Asian American/Pacific Islander*Xa person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, Samoa and the Hawaiian islands.

*Hispanic*Xa person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

*Native American*Xany person who is a member of an Indian tribe or any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

Older Americans Act (42 United States Code Section 3001 et seq.)Xfederal legislation, first passed in 1965, that authorizes grants to states for programs and services for the elderly.

*Outreach*Xinterventions initiated by an agency or organization for the purpose of identifying potential clients and encouraging their use of existing services and benefits.

*Planning and Service Area (PSA)*Xa geographic area of the state designated by the state agency for the purpose of planning, development, delivery, and overall administration of services under an area plan.

*Service Provider*Xan entity awarded a subcontract from an area agency to provide services under the area plan.

*Severe Disability*Xa severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that:

1. is likely to continue indefinitely; and

2. results in substantial functional limitation in three or more of the following areas of major life activity:

a. self-care;
b. receptive and expressive language;
c. learning;
d. mobility;
e. self-direction;
f. capacity for independent living;
g. economic self-sufficiency;
h. cognitive functioning; and
i. emotional adjustment.

*State Agency on Aging*Xthe single state agency designated to develop and administer the state plan on aging and to be the focal point on aging in the state (also referred to as the "State Unit on Aging" (SUA) or "state agency"). The Governor's Office of Elderly Affairs (GOEA) is the state agency for Louisiana.

*Subcontract*Xan award of financial assistance by an AAA to a service provider.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(a)(2)(A).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:70 (January 2000), LR 28:1017 (May 2002).

§1123. Purpose of the Area Agency on Aging

A. Area Agencies on Aging (AAAs) receive funds from the state agency on aging to plan, develop, coordinate and arrange for services in their respective planning and service areas (PSAs). As advocates, AAAs use Older Americans Act (OAA) funds to leverage state and local resources to expand and improve services. AAA's contract with public or private groups to provide services paid for using OAA funds. In some cases, the AAA may act as the service provider.

B. The AAA shall be the leader relative to all aging issues on behalf of all older persons in the PSA. This means the AAA shall carry out a wide range of functions related to advocacy, planning, coordination, inter-agency linkages, information sharing, brokering, monitoring and evaluation, designed to lead to the development or enhancement of comprehensive and coordinated community based systems in, or serving, each community in the PSA. These systems shall be designed to assist older persons in leading independent, meaningful and dignified lives in their own homes and communities as long as possible.

C. A comprehensive and coordinated community based system described in §1123.B shall:

1. have a visible focal point of contact where anyone can go or call for help, information or referral on any aging issue;

2. provide a range of options;

3. assure that these options are readily accessible to all older persons (the independent, semi-dependent and totally dependent) no matter what their income;

4. include a commitment of public, private, voluntary and personal resources committed to supporting the system;

5. involve collaborative decision-making among public, private, voluntary, religious and fraternal organizations and older people in the community;

6. offer special help or targeted resources for the most vulnerable older persons, those in danger of losing their independence;

7. provide effective referral from agency to agency to assure that information or assistance is received, no matter how or where contact is made in the community;

8. evidence sufficient flexibility to respond with appropriate individualized assistance, especially for the vulnerable older person;

9. have a unique character which is tailored to the specific nature of the community; and

10. be directed by leaders in the community who have the respect, capacity and authority necessary to convene all interested persons, assess needs, design solutions, track overall success, stimulate change and plan community resources for the present and for the future.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 302(l).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:71 (January 2000).

§1125. Area Agency on Aging Standards

A. Planning

1. The Area Agency on Aging (AAA) shall determine its objectives systematically after making a finding of need and determination of priorities within the PSA.

2. The AAA shall establish a mechanism to ensure that objectives are monitored and accomplished as set forth in the area plan.

3. Area agencies shall install a workable system for ongoing data collection in the PSA.

4. Area agencies shall implement a workable system for determining the needs of older persons within the PSA.

5. Area agencies shall establish a mechanism for determining and analyzing on an ongoing basis the existing services and resources available in the PSA to meet the needs of older persons and the extent to which such resources meet identified needs.

B. Leadership/Advocacy

1. The AAA shall act as the focal point in the PSA for activities which promote comprehensive and coordinated services for older persons.

2. The AAA shall operate a public information program in the PSA focusing on needs and concerns of seniors in the PSA.

C. Pooling/Coordination

1. The AAA shall establish linkages with public and private agencies in the PSA for the purpose of fostering comprehensive and coordinated services to older persons.

2. The AAA shall effect joint program agreements with other agencies in the PSA.

3. The AAA shall identify and tap potential resources to be directed toward inaugurating, expanding or improving services to older persons.

4. Each area agency on aging shall coordinate services described in OAA Sec. 321(a) of the Older Americans Act with other community agencies and voluntary organizations providing the same services. In coordinating the services, the

area agency on aging shall make efforts to coordinate the services with agencies and organizations carrying out intergenerational programs or projects.

5. Where possible, the AAA shall enter into arrangements with organizations providing day care services for children or assistance to older individuals caring for relatives who are children, and respite for families, so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families.

6. The AAA shall facilitate the coordination of community-based, long-term care services designed to enable older individuals to remain in their homes, by means including:

a. development of case management services as a component of the long-term care services, consistent with the requirements of Sec. 306(a)(8) of the Older Americans Act;

b. involvement of long-term care providers in the coordination of such services; and

c. increasing community awareness of and involvement in addressing the needs of residents of long-term care facilities.

7. The AAA shall establish procedures for coordination of services with entities conducting other Federal or federally assisted programs for older individuals at the local level, with particular emphasis on entities conducting programs described in Section 203(b) within the planning and service area.

D. Monitoring, Assessment and Provision of Technical Assistance

1. The AAA shall develop and employ a mechanism for regularly monitoring subcontracts under the area plan.

2. The AAA shall develop and implement systematic procedures for regular assessments of subcontracts under the area plan.

3. The AAA shall develop and implement a plan for providing technical assistance to subcontractors under the area plan and to other organizations in the PSA concerned with the needs of older persons.

E. Contracts Management

1. The AAA shall develop and issue standardized application kits and procedures for applications for funds under the Area Plan.

2. The AAA shall develop standardized procedures and criteria for review of applications for funds under the Area Plan.

3. Selection criteria and procedures for the award of subcontracts shall be published and disseminated to agencies applying for Title III funds.

4. The AAA shall maintain on file selection criteria and procedures used for the award of subcontracts.

5. The AAA shall consult with the advisory council before awarding subcontracts.

6. Where the AAA encounters delays in the review of proposals, applicants shall be notified.

7. The AAA shall establish and disseminate appeals procedures for subcontract proposals which are denied approval.

8. The AAA shall maintain documentation supporting all of its subcontracts.

9. Notifications of approval and disapproval of proposals shall be issued in writing and on a timely basis.

10. The AAA shall develop and implement procedures for amendments to subcontract awards.

11. Proposals of subcontractors which receive funds shall contain clearly defined objectives that are in keeping with those included in the approved area plan.

12. Subcontracts awarded shall define the relationship between the AAA and the subcontractor.

13. The AAA shall establish written procedures governing the management and operation of subcontracts which are in keeping with federal and state laws, regulations, policies and procedures. The procedures shall be communicated to agencies conducting subcontracts under the area plan.

14. Agencies conducting subcontracts under the area plan shall meet the requirements for licensure, if required.

15. Where there are multi-lingual/cultural older persons in the PSA, the AAA shall assure that the staff of subcontractors include multi-lingual/cultural personnel.

16. The AAA shall obtain documented assurance that information about consumers of services is maintained confidentially by subcontractors.

17. The AAA shall obtain documented assurance that subcontractors coordinate their services with the existing information and assistance services.

18. The AAA shall require subcontractors to provide evidence that services are accessible to older persons.

F. Fiscal Management

1. The AAA shall establish and implement fiscal management procedures to assure effective operation of the AAA programs.

2. The AAA shall establish and implement a system to monitor financial expenditures of subcontracts under the area plan.

3. The AAA shall maintain an accounting system which is in keeping with sound accounting procedures.

4. The AAA procurement practices shall be in keeping with federal, state and local practices.

5. Expenditures made under the area plan shall be in keeping with pertinent federal, state and local policies.

6. AAA program and financial records shall be maintained in conformance with federal and state regulations for reporting.

7. The AAA shall follow established property management policies and procedures.

8. The AAA shall have an internal audit plan which is in keeping with generally accepted auditing practices and federal and state regulations.

G. Establishing or Maintaining Information and Assistance Services. The AAA shall establish or maintain information and assistance services in sufficient numbers to assure that all older persons in the PSA have reasonably convenient access to such services.

H. Outreach

1. The AAA will use outreach efforts that will:

a. identify individuals eligible for assistance under this Act, with special emphasis on:

i. older individuals residing in rural areas;

ii. older individuals with greatest economic need (with particular attention to low-income minority individuals);

iii. older individuals with greatest social need (with particular attention to low-income minority individuals);

iv. older individuals with severe disabilities;

v. older individuals with limited English-speaking ability; and

vi. older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

b. inform the older individuals referred to in §1125.H.1.a.i-vi, and the caretakers of such individuals, of the availability of such assistance.

2. The AAA shall conduct an annual evaluation of the effectiveness of outreach conducted under §1125.H.1.

3. If there is a significant population of older Native Americans in the PSA of the area agency (at least 25 per parish), the AAA shall conduct outreach activities to identify elder Native Americans in such area and shall inform such older Native Americans of the availability of assistance under the Older Americans Act.

I. Staff Development

1. The AAA shall establish and implement a plan which provides for in-service training for all staff.

2. The AAA shall establish and implement a plan which provides that the staff of the subcontractors under the area plan receive training.

J. Civil Rights. The AAA shall develop and implement a system to ensure that benefits under the area plan are provided in a non-discriminatory manner as required under Title VI of the Civil Rights Act of 1964.

AUTHORITY NOTE: Promulgated in accordance with OAA Sections 306(a)(1), 306(a)(6)(i), 306(a)(7), 306(a)(12), and 321(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:72 (January 2000), LR 28:1017 (May 2002).

§1127. Area Agency on Aging Responsibilities

A. Advocacy Responsibilities:

1. to monitor, evaluate, and comment upon all policies, programs, hearings, and community actions which affect older persons;

2. to solicit comments from the public on the needs of older persons;

3. to represent the interests of older persons to public officials, and public and private agencies or organizations;

4. to consult with and support the state's long term care ombudsman program;

5. to coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for older persons;

6. to supply service providers under the area plan with copies of interagency agreements relative to services provided;

7. to facilitate the coordination of community-based, long term care services designed to retain individuals in their homes, and designed to emphasize the development of client-centered case management systems as a component of such services;

8. to identify the public and private nonprofit entities involved in the prevention, identification, and treatment of the abuse, neglect, and exploitation of older individuals, and based on such identification, determine the extent to which the need for appropriate services for such individuals is unmet; and

9. to ensure that case management is provided in a consistent manner throughout the PSA.

B. General Planning and Management Responsibilities:

1. to develop and administer an area plan for a comprehensive and coordinated service delivery system in the PSA, in compliance with all applicable laws and regulations;

2. to assess the kinds and levels of services needed by older persons in the PSA, and the effectiveness of the use of resources in meeting these needs;

3. to enter into contracts to provide all services funded under the plan, except as provided in Section 307(a)(10) of the Older Americans Act;

4. to provide technical assistance, monitor and evaluate the performance of all service providers under the plan;

5. to coordinate the administration of its plan with the federal programs specified in Section 203(b) of the Older Americans Act, and with other federal, state, and local

resources in order to develop the comprehensive and coordinated service system required by Section 306(a)(1) of the Older American's Act;

6. to conduct periodic evaluations of activities carried out under the area plan;

7. to establish an advisory council as required by Section 306(a)(6)(F) of the Older Americans Act to advise continuously the AAA on all matters relating to the development of the plan, the administration of the plan and operations conducted under the plan;

8. to give preference in the delivery of services under the area plan to older persons with the greatest economic and/or social need, as defined in Section 305(d)(2) of the Older Americans Act, with particular attention to low-income minority individuals;

9. to assure that older persons in the planning and service area have access to information and referral services;

10. to provide adequate and effective opportunities for older persons to express their views to the area agency on policy development and program implementation under the plan;

11. to identify older persons and inform them of the availability of services under the plan. These outreach efforts should have special emphasis on the rural elderly and the isolated urban elderly, and on those with greatest economic and/or social need;

12. to seek to involve the private bar in legal assistance activities;

13. to designate, where feasible, community focal points as provided in Section 306(a)(3) of the Older Americans Act;

14. to plan appropriate programs to meet identified needs of the elderly in the PSA. This includes:

a. determining which services will be funded and at what level;

b. identifying client target groups which will receive priority, in general and for specific services;

c. setting standards for service delivery;

d. developing a case management system to be used by service providers; and

15. to develop and maintain on file for review:

a. standards for use in the delivery of services;

b. a description of the interrelation among service providers funded by the AAA; and

c. methods for selecting persons with the greatest social and economic need to receive services;

16. to provide an opportunity for a hearing and issue a written decision to service providers or applicants to provide services whose application under an area plan is denied or whose contract is terminated or not renewed, except as provided in 45 CFR Part 74, Subpart M.

C. Eldercare/Case Management

1. AAAs may provide eldercare, as specified in LAC 4:VII.1241.

2. AAAs may provide one or more component of case management for a private entity, as specified in LAC 4:VII.1241.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306 and 45 CFR 1321.61(a)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:600 (June 1991), LR 18:1376 (December 1992), LR 26:73 (January 2000).

§1129. Area Agency on Aging Governing Body

A. Authority and Responsibilities

1. A governing body shall be responsible for all AAA activities, including the expenditure of funds awarded by GOEA.

2. The AAA governing body has the authority to:

a. appoint the director of the AAA;

b. determine personnel, organization, fiscal and program procedures subject to GOEA policies;

c. determine overall program plans and priorities for the AAA, including provisions for evaluating performance;

d. grant final approval on program proposals and budgets of service providers under the area plan;

e. assure compliance by all subcontractors with all rules, regulations, and GOEA policies;

f. supervise the extent and the quality of the participation of the elderly in the programs of the AAA and its subcontractors; and

g. determine the rules and procedures of the governing body subject to GOEA policies.

3. The governing body is responsible for securing financial resources beyond those allocated by GOEA.

4. Members of the governing body shall avoid conflicts between their personal interests and the interests of the AAA.

a. Conflicts of interest include situations wherein a member of the governing body:

i. is involved in a AAA decision or action regarding another entity in which the member or a member of his/her immediate family has a financial interest, is an employee, is a director or is a consultant; or

ii. discloses information relating to the business of the AAA which can be used by another entity to the detriment of the AAA.

b. Immediate family is defined as follows: husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law.

c. Other entities include any organization or individual which does business or seeks to do business with the AAA or competes with the AAA.

5. If a member of the AAA governing body is aware of any personal interest related to an issue that exists or is under consideration by the AAA, the individual shall immediately and prior to the discussion about or action on the issue:

a. disclose the existence of all personal interests; and

b. abstain from voting and/or attempting to influence the decision.

B. Composition

1. Former AAA board members shall not be employed as paid agency staff of the same area agency for a period of two years immediately following separation from the governing body.

2. Former AAA staff members shall not serve on the governing body of directors of the same area agency for a period of two years immediately following separation from employment, except where the governing body is composed of elected public officials (e.g., parish council or police jury).

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(c)(4) and Section 307(a)(11).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:600 (June 1991), LR 26:74 (January 2000).

§1131. Area Agency on Aging Advisory Council

A. Functions of the Advisory Council

1. The advisory council shall carry out advisory functions which further the AAA's mission of developing and coordinating community-based systems of services for all older persons in the PSA.

2. The advisory council shall advise the AAA relative to:

a. developing and administering the area plan;

b. conducting public hearings;

c. representing the interests of older persons; and

d. reviewing and commenting on all community policies, programs, and actions which affect older persons with the intent of assuring maximum coordination and responsiveness to older persons.

3. The advisory council shall follow operational procedures established by the AAA governing body.

B. Composition of the Area Agency Advisory Council

1. The advisory council shall include individuals and representatives of community organizations who will help to enhance the leadership role of the AAA in developing community-based systems of services.

2. The advisory council shall be made up of:

a. more than 50 percent older persons, including minority individuals who are participants or who are eligible to participate in Older Americans Act Title III programs;

b. representatives of older persons;

c. representatives of health care provider organizations, including providers of veterans' health care (if appropriate);

d. representatives of supportive services providers organizations;

e. persons with leadership experience in the private and voluntary sectors;

f. local elected officials; and

g. the general public.

3. Members of the AAA governing body shall not serve on the advisory council.

C. Review by Advisory Council. The AAA shall submit the area plan and amendments for review and comment to the advisory council before it is transmitted to the State agency for approval.

AUTHORITY NOTE: Promulgated in accordance with OAA Sec. 306 (a)(6)(F) and 45 CFR 1321.57.

HISTORICAL NOTE: Promulgated by the Office of the Governor's Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:599 (June 1991), LR 26:74 (January 2000).

§1133. Area Plan

A. Purpose of the Area Plan. The area plan is the application submitted by an area agency to the state agency in order to receive funds. The area plan contains provisions required by the Older Americans Act and its implementing regulations and the Governor's Office of Elderly Affairs. It includes commitments that the area agency will administer activities so funded in accordance with all requirements. The area plan also contains a detailed statement of the manner in which the area agency is developing a comprehensive and coordinated system throughout the planning and service area for all allowable services. An area agency may receive contracts and enter into subcontracts under the Older Americans Act only under an approved area plan.

B. Duration and Format of the Area Plan. The AAA must submit to GOEA an area plan for its PSA for a two-, three-, or four-year period with such annual adjustments as may be necessary. The area plan shall be based upon a uniform format developed by GOEA for area plans within the state.

C. Content of the Area Plan

1. The area plan will specify:

a. conditions of older persons in the PSA;

b. current system of service delivery based on the most recently available data;

c. an assessment of current capacity in the PSA to perform service systems development activities;

d. the organization of the AAA;

e. composition and functions of the AAA advisory council;

f. goals and objectives for the conduct of the AAA functions described in this Section, and for the development and delivery of services for the aging. Service delivery objectives shall include, for each service, the projected numbers of persons to be served and standard units of service to be provided;

g. financial plan, showing projected expenditures by source (federal, state, and local) and service;

h. standard assurances for complying with applicable laws, regulations, and other directives; and

i. the AAA's approach to, plans for, and/or current involvement in eldercare, as defined in LAC 4:VII.1241.

2. Whenever the AAA plans to provide eldercare and/or to provide case management for a private entity, the area plan, or its amendment, shall include the provisions specified in LAC 4:VII.1241.D.

3. Each area plan shall designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations providing day care services for children or assistance to older individuals caring for relatives who are children, and respite for families, so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families as such focal point).

a. were officially designated as community action agencies or community action programs under Subsection 210 of the Economic Opportunity Act of 1964 (42 U.S.C. 2790) for fiscal year 1981, and did not lose the designation as a result of failure to comply with such Act; or

b. came into existence during fiscal year 1982 as direct successors in interest to such community action agencies or community action programs; and

c. meet the requirements under Subsection 675(c)(3) of the Community Services Block Grant Act [42 U.S.C. 9904(c)(3)].

D. Development and Amendment of the Area Plan

1. Area plans shall be developed for a two-, three-, or four-year period with annual updates and amendments as necessary. The plan's resource allocation, including allotments for services, shall be prepared annually and as available allotments change. The format of the area plan and instructions for its completion shall be prescribed by the Governor's Office of Elderly Affairs and issued separately.

2. Prior to the adoption of the content areas described in §1133.C of this manual, the area agency must conduct public hearings in accordance with a schedule established by the advisory council. The area agency must give at least 14 days' notice to older persons, public officials, and other interested parties of the times, dates and locations of the public hearings in each parish. The area agency shall prepare public hearing materials to provide information and serve as a basis for comments, recommendations and other input to the development of the area plan.

3. Public hearings on plan amendments will only include information relating to the part of the plan being amended.

4. In accordance with the state public meetings law, R.S. 42:4.1 et seq., the area agency, in holding public hearings, must give at least 14 days' notice to older persons in each parish, including the advisory council, public officials, and other interested parties of the times, dates, and locations of the public hearing(s) which will be held. Public hearings must be held at a time and location which permit older persons, public officials, and other interested parties a reasonable opportunity to participate. The area agency must submit the area plan and amendments for review and comment to the advisory council.

E. Review and Approval of the Area Plan and Amendments

1. The completed area plan will be submitted to GOEA for review and approval by a date specified by GOEA. The resource allocation plan describing the projected costs by source of funds and service, will be submitted annually as prescribed by GOEA.

2. The area plan must be amended if:

a. a new or amended state or federal statute or regulation requires a new provision, or conflicts with any existing plan provisions;

b. a U.S. or Louisiana Supreme Court decision changes the interpretation of a statute or regulation;

c. the AAA proposes to add, substantially modify, or delete any area plan objective(s); or

d. GOEA specifies additional circumstances under which area plan amendments are required.

3. Amendments must be documented on those area plan exhibits affected by the change and submitted to the state agency with a written rationale. Such proposed changes may not be executed until approved by GOEA.

4. The state agency shall approve an area plan which meets the requirements of this manual and the area plan format and guidelines issued.

5. A plan which is disapproved by the state agency shall be returned to the AAA along with a written reason for disapproval. At its discretion, the state agency may request that specific changes be made before resubmittal.

6. The AAA may appeal disapproval of its area plan or amendment in accordance with GOEA hearings and appeals procedures.

F. Management Plan. As part of a management plan the AAA will develop a work plan for attaining the objectives outlined in the area plan. The work plan shall be kept on file for review at the AAA office.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306, and Section 307.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:57 (January 1991), LR 18: 1376 (December 1992), LR 26:76 (January 2000), LR 28:1017 (May 2002).

§1135. Program Administration

A. Contract Development. The area agency is responsible for the translation of program designs into service delivery project proposals to be developed and carried out by service providers. In carrying out its service procurement responsibilities, the area agency shall adhere to Governor's Office of Elderly Affairs procurement procedures issued annually.

B. Capacity Building, Training and Technical Assistance. The area agency is responsible for the provision of consultation, training, and support to staff of service providers and other organizations to strengthen their administrative and service delivery capability.

C. Monitoring and Assessment of Service Providers

1. The area agency on aging shall monitor and assess all funded services provided under the area plan. Monitoring and assessment of service providers shall be conducted with documentation maintained on file at the area agency on aging office. Self-assessments shall be conducted where direct delivery has been authorized by the Governor's Office of Elderly Affairs. The purpose of these activities is to measure service delivery efficiency and effectiveness and to assure compliance with contractual agreements. Suggested corrective action outlined in the monitoring report shall be used as a tool for program planning and improvement. Personnel qualifications and staff utilization will be reviewed as part of this monitoring process.

2. Monitoring activities carried out by the area agency will be directed toward:

a. identifying performance problems as a basis for determining provider need for technical assistance and training;

b. measuring the provider's progress toward providing those services specified in the proposal, and placing an emphasis on older persons with the greatest social and economic need;

c. assuring compliance with applicable federal, state, and local law, regulations and other requirements; and

d. assuring cost-effective use of available resources for the elderly.

D. Program Evaluation. The area agency is responsible for evaluating programs for the aging, both those provided under the area plan and those offered by other organizations.

E. Contributions for Services under the Area Plan

1. The area agency shall assure that agencies providing supportive and nutrition services under the area plan shall afford participants the opportunity to contribute to the costs of the services provided. The participants shall determine for themselves what they are able to contribute toward the cost of the service. No eligible person shall be denied a supportive or nutrition service because of his failure to contribute.

2. The area agency shall ensure that the methods of receiving contributions from individuals by the agencies providing supportive or nutrition services under the area plan shall be handled in such a manner as to insure confidentiality.

3. The area agency shall assure that all contributions will be used to expand the services of the provider, and that nutrition services providers must use all contributions to increase the number of meals served, and/or to facilitate access to such meals. Providers of supportive services must use all contributions to increase supportive services.

F. Confidentiality and Disclosure of Information. The area agency shall ensure that information about or obtained from an older person, in a form which identifies the person, shall not be disclosed without the individual's informed, written consent or that of his authorized representative.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306 and Section 307(a)(13)(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:76 (January 2000).

§1137. Services to Special Populations

A. Low-Income Minority Individuals

1. The AAA shall include in each agreement made with a provider of any service under this title, a requirement that such provider will:

a. specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider;

b. to the maximum extent feasible, provide services to low-income minority individuals in accordance with their need for such services; and

c. meet specific objectives established by the AAA, for providing services to low-income minority individuals within the planning and service area.

2. The AAA shall set specific objectives for providing services to older individuals with greatest economic or social needs, include specific objectives for providing services to low-income minority individuals, and include proposed methods of carrying out the preference in the area plan.

3. The AAA shall include in each agreement made with a provider of any service under Title III of the Older Americans Act, a requirement that such provider will:

a. specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider;

b. to the maximum extent feasible, provide services to low-income minority individuals in accordance with their need for such services; and

c. meet specific objectives established by the AAA, for providing services to low-income minority individuals within the planning and service area.

4. The AAA will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals.

B. Native Americans. The AAA will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under Title III of the Older Americans Act, if applicable.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5) and 45 CFR 1321.39.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:77 (January 2000).

§1139. State Agency Approval of Area Agency on Aging Contracts

A. The AAA must submit all proposed subcontracts with profit making organizations under the area plan to the state agency for prior approval.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 212 and 45 CFR 1321.55.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:77 (January 2000).

§1141. Priority Services

A. General Rules

1. The AAA must allot the following minimum percentages of their funding under Title III-B of the Older Americans Act for the designated service categories:

a. services associated with access to services (transportation, outreach, information and assistance, and case management services): 30 percent;

b. in-home services, including supportive services for families of elderly victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction: 15 percent; and

c. legal assistance: 5 percent.

2. The area agency on aging shall report annually to the state agency in detail the amount of funds expended for each such category during the fiscal year most recently concluded.

3. GOEA shall waive the requirement in §1141.A.1 of this manual for any category of services described in such Paragraph if the AAA demonstrates to GOEA that services being furnished for such category in the area are sufficient to meet the need for such services in such area and had conducted a timely public hearing upon request.

4. If a waiver is issued by the Governor's Office of Elderly Affairs for any category of priority service, the area agency must assure that an adequate proportion of its supportive services funds are allocated to the remaining priority services categories.

B. Waiver Requirements

1. Before an AAA requests a waiver under §1141A.2 of this manual, the AAA shall conduct a timely public hearing in accordance with the provisions of this Paragraph. The AAA requesting a waiver shall notify all interested parties in the area of the public hearing and furnish the interested parties with an opportunity to testify.

2. The AAA shall prepare a record of the public hearing conducted pursuant to §1141.B.1 of this manual and shall furnish the record of the public hearing with the request for a waiver made to GOEA under §1141.A.3 of this manual.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2), Section 306(b)(2), and Section 307(a)(12).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 18:610 (June 1992), LR 26:77 (January 2000), LR 28:1017 (May 2002).

§1143. Service Procurement

A. General Rules for Services Funded under Title III of the Older Americans Act

1. AAAs use procurement contracts or subcontracts with service providers to provide all Title III services under their respective approved area plans except as provided in §1143.B of this manual.

2. GOEA shall be alert to organizational conflicts of interest or non-competitive practices among area agencies that may restrict or eliminate competition.

3. AAAs shall follow the service procurement guidance issued by GOEA.

4. GOEA shall evaluate AAA applications to provide direct services in order to determine whether direct delivery of such service(s) by an AAA using its own employees is necessary to assure an adequate supply of the service(s), or whether such service(s) of comparable quality can be provided more economically by the AAA.

5. In order to ensure objective contractor performance and eliminate unfair competitive advantage, GOEA shall review the documentation required in the service procurement guidance, including, but not limited to, standards, specifications, solicitations for proposals (SFPs) and/or evaluation criteria when deciding whether to authorize direct delivery of service(s) by an AAA.

B. Criteria for Direct Delivery of Services by an Area Agency

1. Area agencies may directly deliver information and assistance, and outreach.

2. For services not directly related to area agency on aging administrative functions, GOEA, after exploring alternatives, may authorize direct service delivery if the AAA:

a. demonstrates that it is necessary to directly deliver service(s) to ensure an adequate supply of the service; or

b. demonstrates that it can provide service(s) of comparable quality more economically than other providers.

3. GOEA's decision concerning AAA requests for authorization to provide direct services will be based on one of two tests: The Adequate Supply Test (when no proposals are received by the AAA in response to the SFP); or The More Economic Test Standard (when proposals are received).

C. Test Standards

1. Adequate Supply Test Standard

a. The Adequate Supply Test will require area agencies to demonstrate that service(s) are either not offered or are only partially available in the PSA.

b. The Adequate Supply Test will be met when the AAA provides documentation that it has not received any proposals to deliver the service(s) in all or a portion of the PSA after the AAA has:

i. advertised the availability of funds; and

ii. written to bona fide service providers, inviting them to submit proposals.

2. More Economic Test Standard

a. The More Economic Test will require an AAA to demonstrate that service(s) of comparable quality will be provided by the AAA at a unit rate at least 10 percent lower than the lowest responsible applicant's proposed unit rate.

b. The More Economic Test Standard will be met when the AAA's sealed Narrative Proposal substantiates that it meets the Service Delivery Standards in §1143.E of this manual in a manner comparable in quality to the lowest responsible applicant's proposal; and provides the service(s) at a unit rate which is at least 10 percent lower than the lowest responsible applicant's proposed unit rate. Unit rate is defined as the total expenditure of funds budgeted for the service divided by the number of units of service to be delivered.

c. In applying the More Economic Test, GOEA shall utilize the criteria used by the AAA in the preliminary evaluation of proposals received from other potential providers.

D. Standard Procedures

1. For services where direct delivery authorization is not requested the AAA governing body shall:

a. solicit proposals for service delivery and awards of financial assistance under procurement contract;

b. evaluate proposals received; and

c. award procurement contract(s) or financial assistance under contract to best applicant(s).

2. For each service the AAA desires to provide directly, the AAA governing body shall:

a. solicit proposals for service delivery and awards of financial assistance under procurement contract;

b. conduct a preliminary evaluation of all proposals received; and

c. provide sufficient documentation to GOEA to enable the state agency to make a determination of the necessity of direct service delivery by the AAA.

E. Service Delivery Standards

1. A person qualified by training and experience shall be designated to be responsible for the conduct of activities, including supervision of paraprofessional and volunteer staff.

2. There shall be adequate numbers of supervisory staff, trained and skilled in dealing with assessing the needs of older persons and assisting such persons to obtain needed services.

3. The service shall be provided in a timely manner to meet the individual needs of eligible participants.

4. There shall be an established system for follow-up on referrals.

5. There shall be an up-to-date file of community resources which will contribute to the well being of older persons.

6. Procedures shall be established for publicizing the service.

7. Linkages shall be planned with other services available under Title III Section 203 of the Older Americans Act.

8. There shall be a sound management system capable of furnishing timely and accurate fiscal and program reports.

9. There shall be a sufficient schedule of service delivery days. (Minimum: 250 service delivery days per contract year.)

10. Outreach shall be available to target older persons with the greatest social or economic need with particular attention to low-income minority individuals; older persons with severe disabilities; and older Native Americans [if there is a significant Native American population (at least 25 per parish) in the PSA], and rural elderly.

11. There shall be service delivery criteria for each service giving priority in the delivery of services to older individuals who are frail, homebound by reason of illness or incapacitating disability or otherwise isolated; and older individuals with the greatest social or economic need (with particular attention to low-income minority individuals).

12. There shall be a system established for the re-evaluation of clients receiving services.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(8)(c), 307(a)(10), OMB Circular A-110.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:621 (June 1885), LR 11:1078 (November 1985), LR 16:503 (June 1990), LR 18:610 (June 1992), LR 26:77 (January 2000), LR 28:1017 (May 2002).

Subchapter C. Councils on Aging

§1151. Establishment of Parish Councils on Aging

A. Issuance of Charters. Charters for the establishment of parish voluntary councils on aging (hereafter referred to as "council on aging") are issued by the Secretary of State upon the approval of applications by the Governor's Office of Elderly Affairs (GOEA) pursuant to R.S. 46:1602. Immediately upon issuance of the charter by the Secretary of State, each council on aging is authorized to receive public funds from any governmental or political subdivision. Such funds shall be subject to audit by GOEA and the legislative auditor, or his duly appointed representative.

B. Governance

1. The functions of each council on aging shall comply with the objectives of state laws and shall be governed by the policies and regulations established by the Office of Elderly Affairs. Copies of such policies and regulations shall be furnished to each council on aging by GOEA prior to their effective date.

2. Each council on aging shall be voluntary as to its membership and as to all plans, programs and activities, and each shall be non-profit making and politically non-partisan and non-factional and shall be non-sectarian.

3. When GOEA determines, as a result of monitoring activities or reports from any source, that a council on aging, through action or inaction of its governing body, is jeopardizing the welfare of the citizens of that parish, or is in violation of the requirements of this policy manual or other state regulations, the following steps shall be taken.

a. GOEA shall require a meeting with the governing body to discuss the issues in question.

b. GOEA may require additional written information and/or records from the council on aging.

c. GOEA shall issue written guidelines and/or recommendations for the council on aging in order to remedy the issues under question.

d. GOEA shall provide technical assistance, as requested by the council on aging and deemed appropriate by GOEA, in order to facilitate resolution of those issues.

e. In the event that a council on aging refuses to follow GOEA's guidelines and/or recommendations to resolve said issues, GOEA may institute procedures to revoke that council on aging's charter.

C. Duties and Functions

1. Each council on aging shall:

a. collect facts and statistics and make special studies of conditions pertaining to the employment, financial status, recreation, social adjustment, mental and physical health or other conditions affecting the welfare of the aging people in the parish;

b. keep abreast of the latest developments in these fields of activity throughout the state and nation;

c. interpret its findings to the citizens of the parish;

d. provide for a mutual exchange of ideas and information on the parish and state level;

e. conduct public meetings to make recommendations for needed improvements and additional resources;

f. promote the welfare of aging people when requested to do so;

g. coordinate and monitor the services of other local agencies serving the aging people of the parish;

h. assist and cooperate with the Governor's Office of Elderly Affairs; and

i. make recommendations relevant to the planning and delivery of services to the elderly of the parish.

2. Each council on aging may appoint subcommittees to undertake such special studies as it authorizes and may appoint to such subcommittees persons qualified in any field of activity relating to the welfare of aging people.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:87.2(E), 46:932(8), 46:1601, 46:1602, 46:1605.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1467 (August 1999).

§1153. Membership

A. General Membership

1. Membership in the council on aging shall be open, without restriction, to residents of the parish who have reached the age of majority. Membership applications shall be made available at the council on aging office. Membership fees shall not be charged.

2. Each council on aging shall conduct an annual membership drive. The membership rolls shall be closed two weeks prior to the annual meeting required in §1161.C of this manual.

3. A current list of the general membership shall be maintained at the council on aging office.

B. Board of Directors

1. The board of directors (the board) shall be composed of no less than 11 members and no more than 21 with provisions in the by-laws for staggered terms of office. By-laws shall specify the exact number of board members. If at any time the board membership is less than 11 members, the board shall not be considered a legally constituted board. The remaining members shall fill the vacancy in accordance with §1153.B.4. of this manual.

2. Members of the board shall be elected by the general membership of the council on aging. Ballots shall be prepared from the list of nominees submitted by the Board Development Committee. The presiding officer shall allow ample time for nominations and shall recognize all nominations, including those from the floor, before declaring

the nominations closed. All nominations from the floor shall be added to the ballot. Voting shall be conducted by secret ballot. Ballots shall be counted in full view of the general membership. If no nominations are received from the floor, board members may be elected by acclamation.

3. Members of the board shall be elected for terms of three years with approximately one-third elected each year. The word "year" is defined as the period from the date of the annual meeting of one year to the date of the annual meeting of the following year, inclusive. Each board member shall serve until a replacement is appointed or his/her successor is elected.

4. Whenever a position on the board becomes vacant during the year, the board shall elect a temporary replacement within 60 days. The replacement shall serve until the next annual meeting, at which time a successor shall be elected by the membership to fill the vacancy for the remainder of the unexpired term. A person elected to fill an unexpired term for at least 18 months shall be considered to have occupied the position for a full term.

5. General Requirements

a. There shall be parish wide representation on the board.

b. Members of the board must have the knowledge and expertise in the areas of business and financial management needed to manage the affairs of the council on aging.

c. Members of the board shall reside in the parish throughout their tenure.

d. Not more than one-half of the board membership may be elected officials.

6. Restrictions

a. Any member of the board who shall have served as such for two consecutive full terms shall be ineligible for re-election for a period of one year immediately following the expiration of such second full term.

b. Former council on aging staff members shall not serve on the board of the same agency for a period of two years immediately following separation from employment.

c. Former council on aging board members shall not serve as paid agency staff of the same agency for a period of two years immediately following separation from the board.

d. Except for the staff director, who may be an ex-officio member with the a voice in discussions but with no vote, paid staff members are prohibited from serving on the board.

e. Immediate family members shall not serve on the board at the same time. Immediate family is defined as follows: husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8), 46:1602, 46:1603.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1468 (August 1999).

§1155. Council on Aging Board of Directors

A. Responsibilities of the Board of Directors

1. The board shall assure the availability of funds required for the council on aging to function. Additionally, the board shall be responsible for accountability of expenditures of funds.

2. The board shall establish policies governing all aspects of the council on aging's operations. These policies shall be in compliance with state and federal laws and regulations. Additionally, they shall comply with the policies established by the Governor's Office of Elderly Affairs and shall be maintained as a matter of record. The board shall be responsible for enforcement of these policies.

3. The board shall employ a paid full-time executive director, who shall be qualified by education and/or experience to perform duties which include, but are not limited to the following:

a. planning and program development;

b. evaluation of programs and operation;

c. resource development and fund raising;

d. fiscal management and budgeting;

e. supervision of day-to-day operation;

f. community relations;

g. personnel management; and

h. training and staff development.

4. The board shall delegate the responsibilities listed in Sections 1157 and 1159 of this manual to the executive director. The executive director shall perform his/her duties in accordance with policies established by the board. The executive director shall review and report to the board and others, as appropriate, on programs, operations, facilities, equipment, and emergency arrangements.

5. The board shall establish written procedures for hearing employee grievances. These procedures shall provide for an appeal of disciplinary actions by the executive director.

6. The board shall ensure that any employee who runs for public office takes a leave of absence for the period of time (s)he is actively involved in the campaign. An employee shall be considered actively involved in the campaign from the time (s)he qualifies as a candidate to the time the votes are tabulated. If elected, the employee shall either resign of be terminated from employment.

7. The board shall ensure that immediate family members are not employed by the council on aging in direct supervisory relationships. Immediate family is defined as follows: husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law.

B. Offices of the Board of Directors

1. Officers of the board of directors shall be elected by the board members in accordance with the Open Meetings Law.

a. The minimum offices of the board shall be president/chairperson; vice-president/vice-chairperson; and secretary/treasurer; or secretary and treasurer. The duties of each office are defined below.

i. *President/Chairperson*Xthe president/chairperson shall preside at all meetings of the board and shall perform such other duties as may be assigned by the board.

ii. *Vice-President/Vice-Chairperson*Xat the request of the president/chairperson, the vice president/vice-chairperson shall perform the duties and exercise the powers of the president/chairperson or in his/her absence or disability. The vice-president/vice-chairperson shall perform such duties as may be assigned by the board.

iii. The secretary shall have general charge over all the board's records. The secretary shall keep complete minutes of all meetings of the board and executive committee. The secretary shall serve all notices required by the corporate laws of the state of Louisiana and the by-laws of the council on aging. The secretary shall prepare and submit the Annual Report required in §1161.D of this manual. The secretary shall be responsible for maintaining the official membership roll of the council on aging. The secretary shall have the usual powers and duties of a secretary and shall perform such other duties as may be assigned by the board.

iv. The treasurer shall have the usual powers and duties of a treasurer. The treasurer shall be responsible for all funds, property and securities of the board subject to state and federal law and/or regulations. The treasurer shall present a quarterly financial statement to the board to include a comparison of income and expenditures with respect to the annual budget. The treasurer must properly account for and report to the board annually regarding all assets of the council on aging. The treasurer shall prepare and submit such reports as are required by law. The treasurer shall perform such other duties as may be assigned by the board.

b. The by-laws may provide for additional officers, and must spell out the duties and responsibilities of all additional officers.

2. Each officer shall be elected by the members of the board at the first regular meeting of the board. The first regular meeting of the board shall be held immediately following adjournment of the annual meeting.

3. The term of office for each office shall be one year. Officers may serve no more than two consecutive terms in the same office. Terms shall begin when officers are elected.

4. The board shall elect from among its members, an officer to fill any office vacated between elections within 30 days, or at its next scheduled meeting, whichever comes first. The officer so elected shall serve for the remainder of the unexpired term. An unexpired term so filled shall not be considered a term of office as defined in Paragraph 3 of this Subsection.

C. Committees

1. Standing Committees

a. The board shall establish the following standing committees: Executive Committee, Board Development Committee, Personnel Committee and Finance Committee. Elections and appointments shall be done annually. The members of the standing committees shall be named at the first meeting of the board following the annual meeting.

b. To the extent feasible, all members of the board shall be appointed to at least one standing committee.

c. The duties and responsibilities of standing committees established by the board shall include but not be limited to the following.

i. The Executive Committee shall be composed of the officers and such other persons as the board designates. The executive committee may have the authority to make decisions as delegated by the board. Recommendations developed by the executive committee shall be brought before the full board for its actions at the next meeting of the board.

ii. The Board Development Committee shall be elected by the board and shall elect its own chairperson. This committee shall nominate temporary replacements to be elected by the board to fill vacancies on the board; present a slate of nominees for the board to be voted upon by the general membership at the annual meeting; and develop a slate of nominees for officers to be presented to the board at the first meeting following the annual meeting. Biographical information will be obtained by this committee on each individual being considered for nomination.

iii. The Personnel Committee shall be appointed by the board president/chairperson. This committee shall interview and recommend candidates for the executive director's position; and recommend salaries and adjustments for the executive director. It shall develop personnel policies which ensure compliance with all pertinent federal and state laws and regulations pertaining to labor standards including employee rights, compensation, insurance, retirement, social security and other benefits. It shall hear appeals of disciplinary actions by the executive director. Its recommendations shall be presented to the full board for approval.

iv. The Finance Committee shall consist of the treasurer and members appointed by the board president/chairperson. The treasurer shall serve as chairperson. This committee shall develop fund raising activities; prepare and submit the budget for the following fiscal year for approval by the board; and submit financial reports and amendments to the budget for the current fiscal year.

2. Ad Hoc Committees. The board may designate such other committees as it deems necessary. Members shall be appointed by the board president/chairperson. Ad hoc

committees shall meet at the call of their chairperson and shall submit a written report to the board at the end of their assignment.

D. Meetings of the Board of Directors

1. Regular Meetings. Regular meetings of the board shall be held at least quarterly according to a schedule determined by the board.

2. Special Meetings. Special meetings may be called by the chairperson; the executive committee; one-third of the board members; or 25 credentialized members of the council on aging. The purpose of the meeting shall be stated in the request. Except in the cases of emergency, at least 24 hours notice shall be given.

3. Parliamentary Authority. All board meetings shall be conducted in accordance with the current edition of *Robert's Rules of Order*, provided the rules are not inconsistent with these policies or statutory regulation.

4. Open Meetings Law. Meetings of the board shall be conducted in accordance with R.S. 42:1 et seq., the Open Meetings Law.

5. Notice. Notice of board meetings shall be given by regular mail to each member at least five days before the date designated for such meetings. The notice shall specify the place, date, time and business to be brought before the board.

6. Quorum

a. The presence of a simple majority of the number of board members stated in the by-laws shall be necessary to constitute a quorum at any meeting of the full board to transact business. An act of a simple majority of the directors attending a meeting when a quorum is present shall be an act of the board.

b. The quorum for conducting business by all committees shall be a simple majority of the membership of each committee. The passage of any motion or resolution shall be by simple majority voice vote of those present.

7. Voting Procedures. Voting by the board shall be conducted by voice vote of "yea" or "nay." No member will vote by proxy. Each member is to have one vote. All votes made by members of the board shall be recorded by member's name in the minutes of the meeting and as required by the Louisiana Open Meetings Law (R.S. 42:5 et seq.).

E. Conflict of Interest

1. All board members shall avoid conflicts between their personal interests and the interests of the council.

a. Conflicts of interest include situations wherein a board member:

i. is involved in a council decision or action regarding another entity in which the member or a member of his/her immediate family has a financial interest, is an employee, is a director or is a consultant; or

ii. discloses information relating to the business of the council which can be used by another entity to the detriment of the council.

b. Other entities include any organization or individual which does business or seeks to do business with the council or competes with the council.

c. Immediate family is defined as follows: husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law.

2. If a board member is aware of any personal interest related to an issue that exists or is under consideration by the council, the individual shall immediately and prior to the discussion about or action on the issue:

a. disclose the existence of all personal interests; and

b. abstain from voting and/or attempting to influence the decision.

3. The president/chairperson, after reviewing the matter with the executive committee, shall have the authority to determine whether a conflict of interest exists.

F. Removal of Board Member or Officer

1. Reasons for Removal. Any board member or officer may be removed from the board, after a hearing, for the following reasons:

a. failure to perform duties;

b. conduct which is injurious to the council on aging or its purposes;

c. absence from two consecutive regular meetings of the board without a valid reason. The secretary shall mail a letter of notification after a member has missed two regular meetings.

2. Notice of Removal. Any officer or member proposed to be removed shall be entitled to at least five days notice in writing, of the meeting at which such removal is to be voted upon. Such notice shall be sent by registered mail, and shall include the reason(s) for the proposed removal. The officer or member proposed to be removed shall be entitled to appear and be heard at such meeting, and may present such witnesses and make such defense as he/she deems proper.

3. Process of Removal. Any officer or member may be removed from office by the affirmative vote of two-thirds of the board members present at any regular meeting or special meeting called for that purpose. The board may declare a seat vacant or void the election of a board member.

AUTHORITY NOTE: Promulgated in accordance with R.S.46:932(8), 46:1605.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1469 (August 1999), amended LR 25:2407 (December 1999).

§1157. Administrative and Personnel Responsibilities

A. Administrative Responsibilities

1. Administrative records and reports shall be established and maintained on the council on aging's total operation to satisfy legal requirements and for use as a management tool. These should include:

a. written records of all policies set forth by the governing body;

b. minutes of meetings of the board;

c. minutes of committee meetings, including records of major decisions;

d. personnel records;

e. fiscal records;

f. correspondence;

g. safety, fire inspection, public health inspection, and related reports;

h. accident reports and procedures;

i. statistical information;

j. annual reports, reflecting fiscal and program activity of the council on aging; and

k. historical records, clippings, and other documents.

2. Administrative records and reports should be reviewed periodically by appropriate staff to evaluate their adequacy and continued usefulness.

3. An appropriate policy, consistent with administrative and legal requirements, should be established for retaining records and reports.

B. Personnel Responsibilities

1. Personnel Management

a. Staffing. A council on aging shall have a staffing pattern that clearly defines the positions necessary to implement the organization's goals and objectives and specifies appropriate relationships among all levels of administration and supervision.

b. Staff Supervision

i. A council on aging should have a formal system of staff supervision for paid and volunteer personnel to help improve their performance and develop their abilities. Supervision should include regular individual conferences and staff meetings.

ii. A council on aging should have a development program for paid and volunteer staff to encourage participation in educational and training opportunities that will enhance their skills and job performance.

c. Staff Training

i. Councils on Aging shall provide training for staff and volunteers who are assigned to record keeping. Such training should include:

(a). information about the council on aging's system of record keeping (for example, types of records and reports and how they are used);

(b). training for computer-based information systems, if used by the council on aging; and

(c). instruction about procedures to ensure confidentiality of participants and staff.

2. Personnel Policies, Practices and Procedures

a. Personnel policies shall be written in a handbook or other suitable form and provided to staff, board members, and, as appropriate, other agencies. Procedures and criteria in the following areas should be included as applicable:

i. recruitment, hiring, probation, dismissal;

ii. insurance;

iii. leave, vacation, holidays, other benefits;

iv. retirement;

v. grievances and disciplinary actions;

vi. performance appraisal and promotion;

vii. salary ranges and increases;

viii staff development and training;

ix. channels for staff communication with management;

x. family leave, if agency meets Family Medical Leave Act (FMLA) requirements;

xi. protection from discrimination based on age, race, sex, sexual preference, disability, and religious preference;

xii. protection from sexual harassment; and

xiii Equal Employment Opportunity.

b. Hiring practices shall be consistent with requirements of government laws and regulations.

c. Job Descriptions

i. There shall be a written job description for each staff and volunteer position.

ii. Each job description shall state at a minimum:

(a). position title;

(b). qualifications;

(c). duties and responsibilities;

(d). scope of authority; and

(e). lines of communication for supervision and reporting.

iii. Each staff member and volunteer shall be given a copy of his or her job description, and it must be discussed at the time of employment or job assignment.

iv. Management shall annually review each job description with staff and revise it as appropriate.

d. An employee record shall be maintained, and should contain at least the following:

i. application for employment, including a résumé;

ii. letters of reference;

iii. job description;

iv. letters of employment;

v. record of compensation, promotion, and salary adjustments;

vi. evaluation and commendations;

vii. disciplinary actions; and

viii correspondence on personnel matters.

e. Each employee's performance shall be evaluated regularly, according to an established procedure. Performance appraisals should include:

i. a written performance appraisal based on objective and job-related criteria;

ii. review of the appraisal in a face-to-face interview; and

iii. opportunity for written dissent to be part of the personnel record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8), 46:1605.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1471 (August 1999).

§1159. Fiscal Responsibility

A. Fiscal Planning

1. A council on aging's financial operation shall be based on sound planning and prudent management of all resources.

2. The budget shall specify and allocate all anticipated income, from all sources, and all projected expenditures related to services regardless of the funding source.

3. Procedures shall be established and records kept so that a cost analysis of services and activities can be made and the results used in the planning process and in evaluation.

B. Accountability and Reporting

1. Regular fiscal reports disclosing the council on aging's full financial condition shall be prepared. These reports shall include balance sheets, statements of income and expense, and cumulative and comparative budgets. Fiscal reports shall be submitted to the Governor's Office of Elderly Affairs (GOEA) and made available to the public on request.

2. The accounting records of the council on aging shall be audited annually within 180 days of Fiscal Year close by a Certified Auditor or Certified Public Accountant whose report shall be rendered to the board and sent to GOEA as required.

3. The audit report shall be submitted to the board and the executive director and made available to the public on request.

4. Reports related to income provided for special purposes (grants, contracts, special projects, etc.) shall be prepared and submitted to GOEA as required.

5. Each council on aging annually shall file with GOEA a financial statement for the previous year of all receipts and disbursements of funds allocated pursuant to R.S. 46:1606. Such statement shall be filed no later than 30 days after the close of each fiscal year.

C. Legal and Administrative Requirements

1. A council on aging's financial operation shall conform to all applicable legal and administrative requirements.

2. Budgeting, accounting, and financial reporting practices shall conform to generally accepted accounting principles.

3. Budgeting, accounting, and financial reporting practices shall conform to requirements of a council on aging's funding sources.

D. Management Procedures

1. Accurate and complete bookkeeping records shall be maintained.

2. A council on aging or its board shall have an internal control system consisting of written procedures for:

a. centralized cash control, including recording cash receipts and expenditures, depositing cash, separation of cash handling from record-keeping, and periodic checks of petty cash and other cash funds;

b. purchasing, including an approval system for all purchases, names of persons authorized to contract or purchase for the council on aging, obtaining competitive price quotes or bids, and separation of ordering and receiving functions;

c. storage and inventory control; and

d. bonding of persons who handle the council on aging's funds.

E. Risk Protection

1. A council on aging shall have a risk protection program (insurance coverage) that:

a. meets legal requirements;

b. is adequate to preserve the council on aging's assets; and

c. compensates claimants for reasonable claims.

2. Administrative staff or board members shall procure information on insurance needs and available types of protection. Such information should be reviewed by the board or the executive director at least annually.

3. A council on aging shall have insurance policies covering:

a. loss from fire, theft, vandalism, and natural disasters;

b. comprehensive general liability;

c. vehicle insurance;

d. liability for use of private automobiles by paid or volunteer staff on official business;

e. workers' compensation; and

f. liability for acts of volunteers.

F. Compensation. The members of the board shall receive no per diem or other compensation for their services.

G. Travel Reimbursement. Members of the board may receive reimbursement for in-parish travel for the purpose of attending meetings of the board or any committee. At the option of the board, board members may receive reimbursement for out-of-parish travel conducted in connection with business of the board. Such travel shall receive prior approval of the board at a regularly scheduled meeting. State travel regulations shall govern the rate of reimbursement.

H. Bonding. A fidelity bond shall be maintained by the council on aging to cover all board officers, all board members authorized to sign checks, and all council on aging employees who handle cash or other funds administered by the board.

I. Bank Accounts. The board shall designate all authorized check signers through passage of a resolution. All checks issued by the council on aging shall have two signatures. At least one of the signatures shall be that of a duly authorized board member. The bookkeeper or person preparing the checks shall not be authorized to sign checks.

J. Ownership and Transfer of Property

1. Acquisition. Assets derived from funds administered by the council on aging are assets of the council on aging.

2. Disposition. In the event of the dissolution of the council on aging, no assets shall be used to benefit any private person, corporation, or group. GOEA shall ensure that such assets are transferred to a unit of government or to another private non-profit agency holding a 501(3)(c) Certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8), 46:1606.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1472 (August 1999).

§1161. General Requirements

A. Council on Aging By-Laws

1. By-laws shall be reviewed and updated as necessary, at least every two years. A copy of each council on aging's by-laws or a "Board of Directors By-laws Certification Form" (HCBS1A02) shall be sent to the Governor's Office of Elderly Affairs by July 31 of each year. Revisions must be accompanied by a copy of the by-laws and GOEA Form (HCBS1A01), "Evaluation of Board of Directors By-laws" Form (HCBS1R01) and forwarded to GOEA within 30 days of the revision.

2. By-laws shall contain procedures for amendment. Due notice of not less than 14 days shall be given to all board members and the public. Proposed changes in the by-laws shall not be voted on at the meeting at which they are presented for consideration, but shall be laid over to the next regularly scheduled board meeting unless a special meeting is called for that purpose.

B. Membership List. The secretary shall maintain a list of the board members using GOEA Form HCBS1C01 and HCBS1C02. The list shall be available at all regular and special meetings of the membership. Only those members who have been identified as current members will be permitted to vote at meetings of the general membership.

C. Annual Meeting

1. There shall be an annual meeting of the general membership of the council on aging for the purpose of nominating and electing board members, receiving reports, and conducting any other business that may arise.

2. The Annual Meeting shall be advertised in the official parish journal 21 days in advance. Notices shall be posted at all council on aging activity sites for at least seven days immediately prior to the meeting.

3. Those members of the council on aging present at the annual meeting and who have been credentialed by the secretary shall constitute a quorum.

D. Annual Report. An annual report shall be prepared at least two weeks prior to the annual meeting. It shall include a list of board members; a comprehensive financial statement that identifies all revenues, expenses, sources of funding and ending balances; a summary of activities conducted pursuant to §1151.C, including findings and recommendations of subcommittees appointed by the council on aging during the most recently completed state fiscal year. Copies of the annual report shall be provided to GOEA. Copies shall be made available to the general public and may be provided at cost.

E. Ethics

1. Purchases

a. Funds administered by the council on aging shall be neither obligated nor expended for the purchase or rental of goods, space, or services if any of the following persons has a substantial interest in the purchase or rental unless it is documented that it is the cheapest or sole source, and the person who has an interest plays no part in making the decision:

i. a board member;

ii. the executive director or assistant director;

iii. any employee who has responsibility for procurement of goods, space or services;

iv. anyone who is a member of the immediate family of a board member or employee referred to above; or

v. any individual referred to above, who has a direct or indirect financial or executive interest in any

contract or transaction with the council on aging shall disclose such interest to the board.

b. The individual concerned shall not participate in discussion or vote relating to the subject of their interest.

F. Coercion. Neither the board nor the executive director shall impose upon any employee or prospective employee of the council on aging any conditions of employment, either expressed or implied, which are not job related in terms of qualifications, duties and responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1601 and R.S. 46:1602.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1473 (August 1999).

§1163. Dissolution of Councils on Aging

A. The Governor's Office of Elderly Affairs, with approval of the governor, and upon review and recommendation of the Louisiana Executive Board on Aging, may revoke the charter of any council on aging for noncompliance with law, policies and/or regulations.

B. Any council on aging may be dissolved and surrender its charter upon a decision to do so reached by a majority vote of the total membership of the board. Upon revocation or surrender of the charter, a council on aging shall cease to function under the provisions of Chapter 16 of the Louisiana Revised Statutes.

C. Within 60 days of the revocation or surrender of a charter, GOEA shall accept applications from any group of five or more citizens of the parish for a new charter. The application shall set forth the names, addresses, and occupations of the persons who are to serve as the charter members and such other information as required by Chapter 16 of the Louisiana Revised Statutes. Charter members in the council on aging shall consist of those persons who associate themselves together, and receive an original charter. Not more than half of the charter membership of a council on aging shall be elected officials.

D. Immediately upon receipt of an application, GOEA shall make such examination and investigation as it deems advisable. After the application has been approved by the executive director of GOEA, it shall be transmitted to the Secretary of State, who is authorized to issue a charter which thereafter shall constitute authority of the council on aging to function in the parish for which the charter was issued in accordance with the provisions of Chapter 16 of the Louisiana Revised Statutes.

E. Immediately upon issuance of the charter by the Secretary of State, the newly established council on aging will be authorized to receive public funds from any governmental or political subdivision. Such funds shall be subject to audit by GOEA and the legislative auditor, or his duly appointed representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1602 and R.S. 46:1606

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1473 (August 1999).

Subchapter D. Service Provider Responsibilities

§1171. Scope of Requirements

A. This Subchapter outlines the requirements that full service providers must meet to receive federal and/or state funds through the Governor's Office of Elderly Affairs (GOEA). These requirements will serve as the basis for proposal/program evaluation by the state and area agencies on aging and for the monitoring and assessment of full service supportive and/or nutrition services providers and state-funded senior center operators, including parish councils on aging.

B. A "full service provider" is one that administers a service in its entirety. A full service provider may either:

1. perform all functions necessary to deliver a service using its own staff; or

2. subcontract with one or more separate entities to perform a single function or a combination of related functions that are essential to service delivery (e.g., assessment and screening of participants, client tracking, vehicle maintenance, food preparation, meals delivery, etc.). The entity with whom the full service provider subcontracts is considered a "component service provider."

C. The term "full service provider" also applies to area agencies on aging authorized to deliver services directly as set forth in §1143.B of this manual.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.17 and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:860 (May 1999).

§1173. Advisory Role of Older Persons to Full Service Providers

A. Full service providers shall have written policies aimed at achieving participation by older adults who will:

1. inform and advise the governing body and program administrator about participant and community needs;

2. advise the governing body by making recommendations about agency operations and program;

3. represent the participants to inform and advise the governing body and staff on specific issues and problems; and/or

4. provide feedback about participant satisfaction with current services and activities.

B. Full service providers may have advisory committees for a variety of special or ongoing purposes, such as fund raising, designing of facilities or program planning. The relationship of such committees to the staff and governing body should be clearly explained.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.17 and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:860 (May 1999).

§1175. Administrative and Personnel Responsibilities

A. Administrative Responsibilities

1. The governing body of a full service provider shall designate a chief administrator/director and delegate to him or her responsibility for the overall management of the service or program. A full service provider's administrative roles and responsibilities shall be clearly defined.

a. The chief administrator/director is responsible for:

i. development of a work plan;

ii. planning and program development;

iii. evaluation of program and operation;

iv. resource development and fund raising;

v. fiscal management and budgeting;

vi. supervision of day-to-day operation;

vii. community relations;

viii. involvement of older adults in planning and operation;

ix. personnel management;

x. training and staff development; and

xi. reviewing and reporting to governing body and others, as appropriate, on program, operation, facility, and equipment emergency arrangements.

b. These responsibilities may be delegated and shared as appropriate.

c. When a full service provider is part of a larger agency, the chief administrator/director shall have a defined relationship with:

i. the larger agency's governing body;

ii. the larger agency's administrative staff;

iii. any relevant advisory committee of the larger agency or governing body; and

iv. any other entity within the larger agency or governing body with responsibility for the full service provider.

2. In a multi-site operation, there shall be a manager on site (site manager) with clearly defined responsibilities for the program, day-to-day operation and other duties as delegated. The relationship of the site manager to the chief administrator/director and the governing body shall be clearly defined.

B. Personnel Responsibilities

1. Staffing

a. There shall be a sufficient number of personnel to implement the activities and services planned to meet the full service provider's goals and objectives, and to ensure adequate staffing for the number of persons served and the frequency of service provided.

b. A full service provider shall have a staffing pattern that clearly defines the positions necessary to implement the full service provider's goals and objectives and specifies appropriate relationships among all levels of administration and supervision.

c. A full service provider shall make use of human resources in the community to supplement its personnel by making written agreements with other agencies for mutual referrals, shared staff, and collocation of services.

d. Ethnic and racial makeup of full service providers= staff should reflect the ethnic and racial makeup of the community's older adults in order to encourage their participation.

e. Staff shall be competent to meet job description requirements and provide quality services.

f. Full service provider staffs shall create an atmosphere that acknowledges the value of human life, affirms the dignity and self-worth of the older adult, and maintains a climate of respect, trust, and support. Within this atmosphere, staff creates opportunities for older adults to apply their wisdom, experience, and insight, and to exercise their skills.

g. Full service providers staff shall encourage participants' personal growth by:

i. developing warm, friendly relationships;

ii. respecting individual needs, interests, rights, and values;

iii. encouraging responsible assumption of obligations;

iv. assisting with personal problems and coping skills; and

v. supporting participant involvement in decision making.

2. Staff Supervision and Training

a. A full service provider shall have a formal system of staff supervision for paid and volunteer personnel to help improve their performance, develop their abilities, and ensure staff-participant relationships. Supervision shall include regular individual conferences and staff meetings.

b. A full service provider shall have a development program for paid and volunteer staff to encourage participation in educational and training opportunities that will enhance their skills and job performance.

3. Personnel Policies, Practices and Procedures

a. Policies governing personnel administration, rights, and responsibilities shall be established by the governing body and maintained as a matter of record.

b. Personnel policies shall be written in a handbook or other suitable form and provided to staff, governing body, and, as appropriate, other agencies. Procedures and criteria in at least the following areas should be included:

i. recruitment, hiring, probation, dismissal;

ii. insurance;

iii. leave, vacation, holidays, other benefits;

iv. retirement;

v. grievances and disciplinary actions;

vi. performance appraisal and promotion;

vii. salary ranges and increases;

viii. staff development and training;

ix. channels for staff communication with management;

x. family leave, if agency meets Family Medical Leave Act (FMLA) requirements;

xi. protection from discrimination based on age, race, sex, sexual preference, disability, and religious preference; and

xii. protection from sexual harassment.

c. Hiring practices shall be consistent with requirements of funders and of government laws and regulations.

d. Each employee's performance shall be evaluated regularly, according to an established procedure. Performance appraisals should include:

i. a written performance appraisal based on objective and job-related criteria;

ii. review of the appraisal in a face-to-face interview; and

iii. opportunity for written dissent to be part of the personnel record.

4. Volunteers

a. A full service provider should attempt to recruit and involve volunteers of all ages from service, civic, and religious organizations and from the general community.

b. The relationship between paid and volunteer workers shall be clearly defined and understood by all staff.

c. Written policies governing volunteers should include:

i. a system of recruitment;

ii. clear definition of volunteer responsibilities;

iii. orientation, training, opportunities for sharing skills, learning new skills, and for accepting new responsibility;

iv. a channel for volunteer input into program implementation, development, and planning;

v. opportunity for public recognition of volunteer contributions;

vi. ongoing formal and informal performance appraisal; and

vii. a formal method of termination and grievance procedures.

5. Job Descriptions

a. There shall be a written job description for each staff and volunteer position.

b. Each job description shall state at a minimum:

i. position title;

ii. qualifications;

iii. duties and responsibilities;

iv. scope of authority; and

v. lines of communication for supervision and reporting.

c. Each staff member and volunteer shall be given a copy of his or her job description, and it must be discussed at the time of employment or job assignment.

d. Management shall annually review each job description with staff and revise it as appropriate.

6. Emergency Arrangements

a. Emergency arrangements shall be made by the administrator, in consultation with the fire department and other relevant agencies, for dealing with personal emergencies at the service delivery site and on trips, such as:

i. serious illness or injury that occurs at the service delivery site;

ii. fire;

iii. power failure; and

iv. natural disaster.

b. A written record of any emergency shall be filed with the administrator/director, whether or not there is apparent injury or property damage.

c. Written emergency plans shall be posted in conspicuous places throughout the service delivery site. Plans shall include:

i. telephone numbers for fire department, police, ambulance, hospital emergency room, local civil defense or disaster office;

ii. steps to be taken in case of an emergency;

iii. location of first aid and other supplies; and

iv. evacuation instructions.

d. Periodic drills shall be scheduled and carried out:

i. fire drills shall be held at least four times a year; and

ii. first aid training and drills, including such techniques as cardiopulmonary resuscitation and the Heimlich maneuver, shall be held regularly.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.17 and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:860 (May 1999).

§1177. Fiscal Responsibility

A. Fiscal Planning

1. A full service provider=s financial operation shall be based on sound planning and prudent management of all resources.

2. Budget preparation shall be a part of the annual planning process and shall anticipate the resources needed to fulfill the full service provider=s goals, and objectives.

3. The budget shall be prepared by administrative staff or governing body, as appropriate, with input from program staff and participants, and be approved by governing body.

4. The budget shall be based on a thorough consideration of the resources required to carry out each of the full service provider=s activities and services.

5. The budget shall specify and allocate all anticipated income, from all sources, and all projected expenditures related to services regardless of the funding source.

6. The budget shall be used as a fiscal control tool to monitor income and use of resources.

7. Procedures shall be established and records kept so that a cost analysis of services and activities can be made and the results used in the planning process and in evaluation.

B. Accountability and Reporting

1. Regular fiscal reports disclosing the full service provider=s full financial condition shall be prepared. These reports shall include balance sheets, statements of income and expense, and cumulative and comparative budgets.

2. Fiscal reports shall be submitted to the governing body or its designated authority and made available to participants, funders, and the public on request.

3. The audit required by GOEA shall be performed annually by an independent accountant.

4. The audit report shall be submitted to the governing body and the administrator and made available to funders, participants, and the public on request.

5. Reports related to income provided for special purposes (grants, contracts, special projects, etc.) shall be prepared and submitted to funding sources as required.

6. In-kind contributions shall be recorded and documented in conformance with income source regulations.

C. Legal and Administrative Requirements

1. A full service provider's financial operation shall conform to all applicable legal and administrative requirements.

2. Budgeting, accounting, and financial reporting practices shall conform to generally accepted accounting principles.

3. Budgeting, accounting, and financial reporting practices shall conform to requirements of a full service provider=s funding agencies.

D. Management Procedures

1. Accurate and complete bookkeeping records shall be maintained.

2. A full service provider or its governing body shall have an internal control system consisting of written procedures for:

a. centralized cash control, including recording cash receipts and expenditures, depositing cash, separation of cash handling from record-keeping, and periodic checks of petty cash and other cash funds;

b. purchasing, including an approval system for all purchases, names of persons authorized to contract or purchase for the full service provider, obtaining competitive price quotes or bids, and separation of ordering and receiving functions;

c. storage and inventory control;

d. bonding of persons who handle the full service provider's funds.

E. Risk Protection

1. A full service provider shall have a risk protection program (insurance coverage) that:

a. meets legal requirements;

b. is adequate to preserve the full service provider's assets;

c. compensate claimants for reasonable claims.

2. Administrative staff or governing body shall procure information on insurance needs and available types of protection. Such information should be reviewed by the governing body or its designated authority at least annually.

3. A full service provider shall have insurance policies covering:

a. loss from fire, theft, vandalism, and natural disasters;

b. general liability;

c. vehicle insurance;

d. liability for use of private automobiles by paid or volunteer staff on official business;

e. liability for acts of volunteers;

f. workers= compensation.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7) and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:862 (May 1999).

§1179. Target Groups

A. Preference shall be given to providing services to older individuals with greatest economic and older individuals with greatest social need, with particular attention to low-income minority individuals.

1. The term *greatest economic need* is defined as the need resulting from an income level at or below the poverty threshold established by the Bureau of the Census.

2. The term *greatest social need* means the need caused by non-economic factors, which include physical and mental disabilities, language barriers, cultural or social isolation including that caused by racial or ethnic status, which restrict an individual's ability to perform normal daily tasks or threaten his capacity to live independently.

B. Full service providers shall attempt to provide services to low-income minority individuals at least in proportion to the number of low-income minority older persons in the population services by the provider.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(a)(2)(E), CFR 1321.11 and 45 CFR 1321.65.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:863 (May 1999).

§1181. Facility Standards

A. Visibility

1. Full service providers shall make use of facilities that are visible and easily recognized. The facility's external appearance should be attractive and appropriate to its use.

2. Identification signs shall be attractive, and in large lettering, shall make clear the purpose of the facility.

B. Location

1. Full service providers shall make use of facilities that promote effective program operation and that provide for the health, safety, and comfort of participants, staff and community. The following factors should be given consideration in choosing a service delivery site:

a. accessibility to the maximum number of people;

b. proximity to other services and facilities;

c. convenience to public or private transportation, or location within comfortable walking distance for participants;

d. parking space;

e. avoidance of structural barriers and difficult terrain;

f. safety and security of participants and staff.

2. When appropriate, a full service provider shall make arrangements to offer activities and services at various locations in its service area.

C. Accessibility

1. Access to and movement within the facility shall be barrier-free for handicapped older adults, in conformance with the requirements of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and other applicable law.

2. There should be adequate parking space available to accommodate participants and staff. Parking areas shall be clearly marked with space reserved for handicapped vehicles and multi-passenger vehicles.

D. Design

1. The facility should be comfortable and conducive to participant use.

a. Heating, cooling, and ventilation system(s) should permit comfort able conditions without excessive fan noise and drafts.

b. Illumination levels in all areas should be adequate, and to the extent possible, shall compensate for visual losses through use of natural light, window location, and higher levels of illumination.

c. Transmission of sound should be controlled through acoustical ceiling surfaces, partitions between activity areas, and isolation of noisy rooms such as the kitchen.

d. If smoking is permitted, space shall be provided for smokers that does not interfere with the comfort of nonsmokers.

2. The facility should be adequate in size and designed to house contract/subcontract related activities and services, in accordance with applicable laws and regulations.

a. Spaces for group activities should be large enough to avoid crowding and shall be located and designed so that meetings and other programs may be conducted without undue interruption.

b. Areas for counseling and other individual services should be designed to provide privacy.

c. There should be sufficient private office space to permit staff and volunteers to work effectively and without undue interruption.

d. There should be adequate storage space for program and operating supplies.

e. There shall be sufficient toilet facilities, equipped for use by mobility-limited persons.

f. The design should ease participants' movement throughout the facility and encourage involvement in activities and services.

E. Equipment and Furnishings

1. Equipment to be used by participants should be selected for comfort and safety and shall compensate for visual and mobility limitations and other physical disabilities. For example, when possible, the facility shall be equipped with the following:

a. extra wide, lightweight, automatic doors;

b. hallways wide enough for wheel chairs;

c. handrails in hallways;

d. ramps; and

e. bathrooms designed for frail or disabled individuals (easily used: sinks, soap dispensers, toilet flush controls, toilet paper dispensers, grab bars, door hardware not requiring tight grasping or twisting).

2. Furniture arrangement shall promote interaction, permit private conversation and facilitate observation of activities by participants.

3. The facility should be decorated and furnished in an appealing manner.

F. Responsibility

1. A full service provider=s governing body shall have full responsibility for full service provider's facilities, grounds, and equipment. This responsibility may be delegated to a committee or to a designated staff member.

2. Participants should be involved in the design of facilities and selection of equipment and furniture.

3. The governing body or its designee, should seek advice from individuals with expertise in designing facilities and selecting equipment for use by older people and from full service providers with experience in these areas.

4. When a facility is rented or shared, when space in several facilities is used, or when a full service provider rents its own space, the governing body shall have written agreements with all relevant parties, concerning time of use, maintenance and repairs, equipment use, security and safety, liability, and insurance. Such facilities shall conform to all requirements of these standards.

G. Safety

1. The facility shall be designed, constructed, and maintained in compliance with all applicable federal, state, and local building safety and fire codes, including the Occupational Safety and Health Act.

2. The full service provider shall make arrangements, as necessary, for the security of participants in the facility.

3. The facility shall be free of hazards, such as high steps and steep grades. Where necessary, arrangements shall be made with local authorities to provide safety zones for those arriving by motor vehicle and adequate traffic signals for pedestrian crossings.

4. The exterior and interior of the facility shall be safe and secure, with adequate lighting, paved exterior walkways, all stairs and ramps equipped with handrails.

5. Bathrooms and kitchens shall include safety features appropriate to their special uses (such as nonskid floors, bacteria-free carpets, kitchen fire extinguishers).

6. Procedures for fire safety shall be adopted and shall include provision for fire drills, inspection and maintenance of fire extinguishers and smoke detectors, periodic inspection, and training by fire department personnel.

H. Maintenance and Upkeep

1. There shall be sufficient maintenance and housekeeping personnel to assure that the facility is clean, sanitary, and safe at all times.

2. The full service provider should contract for repair, maintenance, regular painting, and redecorating services as appropriate.

3. Maintenance and housekeeping shall be carried out on a regular schedule and in conformity with generally accepted standards, without interfering with programs.

4. Provision shall be made for frequent, safe, sanitary disposal of trash and garbage. The full service provider shall adhere to local laws regarding recycling.

5. Provision shall be made for regular pest control.

6. Sufficient budget shall be provided for equipment maintenance, repair, and replacement.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.5(e) and CFR 1321.11.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:863 (May 1999).

§1183. Civil Rights

A. Civil Rights Act of 1964

1. All full service providers shall provide written assurance of compliance with Title VI and VII of the Civil Rights Act of 1964. Public agencies must have an affirmative action program that complies with federal regulations containing required standards for a merit system of personnel administration.

2. Participants (Title VI). Full service providers shall ensure that no distinction is made on the grounds of race, color, sex or national origin in providing to individuals any services, financial and/or other benefits financed in whole or part using federal and/or state funds.

3. Employees (Title VII). Full service providers shall not discriminate against employees or applicants due to age, race, color, religion, sex or national origin.

B. Rehabilitation Act of 1973, as Amended

1. All full service providers shall take affirmative action pursuant to Executive Order 11246 and the Rehabilitation Act of 1973, as amended, to provide for a positive posture in employing and upgrading persons without regard to race, color, religion, sex, age, national origin or handicap. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer; recruitment; layoff or termination; compensation; and selection for training.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.5(c) and CFR 1321.11.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:864 (May 1999).

§1185. Political Activity

A. Full service providers shall not use federal and/or state funds to urge any elector to vote for or against any candidate or proposition on an election ballot nor shall such funds be used to lobby for or against any proposition or matter having the effect of law being considered by the legislature or any parish or municipal governing authority. This provision shall not prevent the normal dissemination of factual information relative to a proposition on any election ballot or a proposition or matter having the effect of law being considered by the legislature or any parish or municipal governing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932 and CFR 1321.11.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:865 (May 1999).

§1187. Outreach and Coordination Requirements

A. Outreach

1. Each full service provider shall conduct outreach activities that assure that the maximum number of eligible individuals may have an opportunity to receive services.

B. Coordination

1. Each full service provider shall ensure that services funded through GOEA are coordinated with other appropriate services in the community, and that these services do not constitute an unnecessary duplication of services provided by other sources.

2. Each full service provider shall assist participants in taking advantage of benefits under other programs.

3. With the consent of the older person, or his or her representative, each full service provider shall bring to the attention of appropriate officials for follow-up, conditions that place the older person, or the household of the older person, in imminent danger.

4. Where feasible and appropriate, each full service provider shall arrange for the availability of services to older persons in weather related emergencies.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(5)(B), Section 307(a)(13)(E), Section 307(a)(20)(A), Section 307(a)(17), Section 306(a)(6)(H), and Section 306(a)(6)(K), CFR 1321.11 and 45 CFR 1321.65.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:865 (May 1999).

§1189. Records and Reports

A. Participant Records and Reports

1. Full service providers shall establish and maintain appropriate participant records, using standardized forms to obtain information about the participants and record the participants' involvement in activities conducted under the contract/subcontract. These records may include:

a. background (general) information (for example: name, address, sex, birth date, emergency phone numbers);

b. interests and skills;

c. attendance information;

d. volunteer activities; and

e. case reports, including referral and follow-up instructions.

2. These records shall be used to:

a. help serve individual participants appropriately;

b. prepare reports;

c. meet planning, evaluation, and legal requirements; and

d. maintain accountability to GOEA.

3. Participant records and reports shall be reviewed periodically by appropriate staff, to evaluate their adequacy and continued usefulness and to assure that they protect the confidentiality of participants.

B. Program Records and Reports

1. Full service providers shall maintain a system of records on activities conducted under the contract/subcontract in order to document current operations, meet funding requirements, promote community support, and guide planning. These records shall include at least the following:

a. descriptions of services and activities provided;

b. unduplicated rosters of persons served;

c. number of persons served, by type of service and activity;

d. number of units (for example, units of referrals, meals served, interview hours, socialization hours) of each type of service and activity; and

e. participant assessment of services and activities.

2. Program reports shall be submitted to the funding agency in the form prescribed.

3. Full service providers should prepare an annual report providing an overview of the full service provider's program and operation, and shall distribute it or make it available to governing body, staff, volunteers, funders, public officials, and the general public.

4. Program records and reports shall be reviewed periodically by appropriate staff, to evaluate the records' adequacy and continued usefulness.

C. Administrative Records and Reports

1. Administrative records and reports shall be established and maintained on the full service provider's total operation to satisfy legal requirements and for use as a management tool. These shall include:

a. written records of all policies set forth by the governing body;

b. minutes of governing body meetings;

c. minutes of advisory committee meetings, including records of major decisions;

d. personnel records;

e. fiscal records;

f. correspondence;

g. safety, fire inspection, public health inspection, and related reports;

h. accident reports and procedures;

i. statistical information;

j. annual reports, reflecting fiscal and program activity of the center; and

k. historical records, clippings, and other documents.

2. An employee record shall be maintained, and should contain at least the following:

a. application for employment, including a résumé;

b. letters of reference;

c. job description;

d. letters of employment;

e. record of compensation, promotion, and salary adjustments;

f. evaluation and commendations;

g. disciplinary actions; and

h. correspondence on personnel matters.

3. Administrative records and reports shall be reviewed periodically by appropriate staff to evaluate their adequacy and continued usefulness.

4. An appropriate policy, consistent with administrative and legal requirements, should be established for retaining records and reports.

D. Confidentiality

1. All records and reports that contain personal or other sensitive information about participants, staff, and volunteers shall be kept confidential.

2. Procedures to ensure confidentiality shall include:

a. provision for secure storage of confidential records, whether in paper or computer files;

b. limiting access to confidential records to persons with a demonstrable need to know the information they contain;

c. protecting the identity of individuals in reports or other documents through use of such devices as coding or generalization of information;

d. obtaining permission of the individual through a release of information form before data contained in confidential records is released to persons or agencies outside the full service provider.

E. Staff Training

1. Full service providers shall provide training for staff and volunteers who are assigned to record keeping that includes:

a. information about the full service provider's system of record keeping (for example, types of records and reports and how they are used);

b. training for computer-based information systems, if used by the full service provider; and

c. instruction about procedures to ensure confidentiality of participants and staff.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(4) and CFR 1321.11.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:865 (May 1999).

§1191. Confidentiality and Disclosure of Information

A. No information about an older person, or obtained from an older person by a full service provider or the state or area agencies, shall be disclosed by the provider or agency in a form that identifies the person without the informed consent of the person or of his or her legal representative, unless the disclosure is required by court order, or for program monitoring by authorized federal, state, or local monitoring agencies. Such consent must be in writing and shall be dated within one year of the release of information.

B. Nothing in this Section shall preclude the reporting of suspected abuse or neglect under the Louisiana Adult Protective Services Law.

C. The confidentiality protections concerning any complainant or resident of a long term care facility as prescribed in Section 712 of the Older Americans Act and §1229 of this manual shall be strictly adhered to.

D. A legal assistance provider is not required to reveal any information that is protected by attorney client privilege.

E. All information containing client information no longer needed for record keeping purposes shall be shredded, burned or disposed of in a form in which identifying information cannot be extracted.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.11 and CFR 1321.51.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:866 (May 1999).

§1193. Financial Resource Development

A. A full service provider's administrative staff and governing body shall seek additional resources to increase program support and ensure program funding.

B. Fund-raising activities conducted by contractor/ subcontractor-sponsored groups (for example, advisory committees, RSVP, etc.) shall be approved by the governing body.

C. If any fees for services, supplies, and activities are charged, the fees shall be reasonable and equitable.

D. Membership dues shall not be allowed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7) and CFR 1321.11.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:866 (May 1999).

§1195. Contributions for Older Americans Act Title III Services

A. Opportunity to Contribute

1. Each Older Americans Act Title III service provider shall:

a. provide each participant an opportunity to voluntarily contribute to the cost of the service;

b. protect the privacy of each older person with respect to his or her contributions;

c. establish appropriate procedures to safeguard and account for all contributions; and

d. use all supportive and nutrition services contributions collected in each parish to expand supportive and nutrition services respectively in that parish.

B. Contribution Schedules

1. Older Americans Act Title III service providers may develop a suggested contribution schedule for services provided. In developing a contribution schedule, the provider shall consider the income ranges of older persons in the community and the provider's other sources of income.

C. Failure to Contribute

1. Means tests may not be used for any service supported with Older Americans Act funds. A service provider shall not deny any older person a service because the older person will not or cannot contribute to the cost of the service.

D. Contributions as Program Income

1. Contributions made by Older Americans Act Title III participants are considered program income. Such funds shall be used in accordance with §1197.C of this manual.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(13)(C), and 45 CFR 1321.67.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:866 (May 1999).

§1197. Program Income

A. General

1. GOEA contractors and subcontractors are encouraged to earn income to defray program costs. Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with contract funds, from the sale of merchandise or items fabricated under the contract, and from payments of

principal and interest on loans made with contract funds. Program income does not include interest on contract funds, rebates, credits, discounts, refunds, etc. and interest earned on any item.

B. Definition of Program Income

1. *Program Income* refers to gross income received by the contractor or subcontractor directly generated by a contract supported activity, or earned only as a result of the contract agreement during the contract period. "During the contract period" is the time between the effective date of the contract and the ending date of the contract reflected in the final financial report. Costs incidental to the generation of program income may be deducted from gross income to determine program income.

2. Voluntary contributions made by Older Americans Act Title III participants and state funded senior participants are considered program income.

3. Income from royalties and license fees for copyrighted material, patents, and inventions developed by a contractor or subcontractor is program income only if the revenue is specifically identified in the contract agreement as program income.

C. Use of Program Income

1. Older Americans Act Title III Program Income

a. Each service provider shall use program income to expand supportive and nutrition services respectively.

2. Senior Center Program Income

a. All state funded senior center program income other than that which is designated for Older Americans Act services shall be used to expand senior center activities.

3. Service providers shall follow the addition alternative in 45 CFR 92.25(g)(3). Program Income shall be added to the federal and state funds committed to the contract agreement. However, state and federal funds can only be applied to net expenditures. Net expenditures are calculated by subtracting all program income collected from total allowable costs.

4. All program income collected must be used for current period expenses unless GOEA authorizes deferral to a later period.

5. Proceeds from the sale of real property purchased using program income will be handled in accordance with the provisions of 45 CFR 92.31 and 92.32 as provided in §1199 of this manual.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7), 45 CFR 1321.67, 45 CFR 1321.73 and 45 CFR 92.25.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 12:366 (June 1986), LR 25:867 (May 1999).

§1199. Property Control and Disposition

A. Applicability

1. This Section applies to all property, as defined below, purchased wholly or partially with Governor's Office of Elderly Affairs (GOEA) funds. In instances where GOEA policy is more restrictive than Federal Regulations, Title 45, Part 74, Subpart O, GOEA policy supersedes. Any provision of this Section which conflicts with above federal regulations is void. This Section is intended to provide guidance for the most common property situations and to specify areas where GOEA policy is more restrictive than Title 45, Part 74, Subpart O. Any property definitions or situations not covered by this Section are subject to Title 45, Part 74, Subpart O.

B. Definitions

*Equipment*Xtangible personal property with an acquisition cost equal to or greater than $1,000 and a useful life of more than one year. All such property must be tagged.

*Personal Property*Xproperty of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence such as patents, copyrights, etc.).

*Property*Xreal property, personal property, equipment, and supplies.

*Real Property*Xland, including improvements, structures, and appurtenances thereto.

*Recipient*Xall recipients, including sub-recipients, of GOEA funds.

*Supplies*Xtangible personal property other than equipment.

C. Required Records and Reporting for Property Inventory

1. All recipients are required to maintain and update property records which include the following information on all tangible property which meets the definition of equipment in Subsection B of this Section:

a. identification or tag number;

b. manufacturer's serial or model number;

c. description of property;

d. location of property;

e. acquisition cost and date;

f. source of funds or program(s); and

g. information on replacement, transfer, or disposition.

2. Gifts of moveable property must be given a fair market value as agreed upon between the donor and head of the receiving agency and recorded in the inventory if the fair market value is $1,000 or more.

3. Agencies which are eligible to receive federal surplus property must place on inventory all items acquired from federal surplus which would ordinarily be classified as moveable property and which have an acquisition cost of $1,000 or more. The acquisition date will be the acquisition date by the agency and the acquisition cost will be the actual cost incurred by the GOEA contractor or subcontractor.

NOTE: There are federal regulations regarding accountability for federal surplus property. Service providers should contact the Federal Surplus Property Section for information regarding these regulations.

4. The head of the agency, at his/her discretion, may include items such as computers, electronic calculators, desks, file cabinets and other property having an acquisition cost of less than $1,000 in the inventory.

5. The updated inventory must be submitted annually to GOEA with final fiscal reports of the contract/grant period. This inventory must reflect all property purchased with GOEA funds under the current or previous contract(s). If property was disposed of during the current period, such property and related disposition information must be included on this inventory. Subsequent inventories will exclude such property.

D. Replacement of Equipment

1. Equipment may be exchanged for replacement equipment without prior approval from Governor's Office of Elderly Affairs. Such replacement can be made by trade-in or by selling old equipment and applying the proceeds toward the acquisition cost of replacement equipment. In either case, the transaction must be one which a prudent person would make in like circumstances.

2. If additional funds are needed to purchase replacement equipment, the value of the replacement equipment is computed by adding the additional outlay plus the proceeds from the sale of old equipment or the trade-in value given for old equipment.

E. Disposition or Transfer of Property/Equipment for Continuing Grants/Programs

1. Request for Instructions

a. Real Property

i. When real property is no longer needed for the originally authorized purpose, the recipient will request disposition instructions from GOEA as stated in Paragraph 2 of this Subsection.

b. Equipment

i. Equipment with a unit acquisition cost of less than $5,000 may be retained, sold, or otherwise disposed of without prior approval from GOEA. Any proceeds from the sale of such equipment must be properly documented, accounted for, and applied as other revenue for GOEA funded or supported programs.

ii. Equipment with a unit acquisition cost equal to or greater than $5,000 or real property can be disposed of only with prior approval from GOEA. When such property becomes surplus to the recipient's need or is no longer to be used for GOEA funded or supported programs, the recipient must submit a written request for disposition instructions as stated in Paragraph 2 of this Subsection.

2. Disposition Instructions

a. The written request for disposition instructions must include the following information:

i. property description (tag number, acquisition cost and date, source of funds used to purchase, check number and date, etc.);

ii. condition of property (odometer reading, repairs needed, working order, etc.); and

iii. reason for disposal.

b. Disposition instructions from GOEA will provide for one of the following alternatives.

i. Transfer of Title. Recipient will transfer title and property to GOEA or designee. Recipient will be paid for any transfer fees or related costs. If property was not purchased wholly with GOEA funds, recipient will be paid for the non-GOEA share based on current market value. AAA's may transfer equipment covered by this Part within their PSA provided the above transfer guidelines are followed.

ii. Sale of Property. Recipient will sell property in a manner which provides for competition to the extent practicable and which maximizes the return, and proceeds (or GOEA share) will be remitted to GOEA. Recipient may retain the greater of $100 or 10 percent of proceeds from the sale of equipment to cover disposition costs. Recipient may retain a portion of proceeds from sale of real property to pay for actual and reasonable selling expenses. Recipient may request permission to retain net proceeds from the sale of equipment and to apply such proceeds toward allowable costs of GOEA funded or supported programs.

iii. Retention of Title. Recipient may retain the property after remitting to GOEA an amount equal to the current market value of the property GOEA share of such value if property was not purchased wholly with GOEA funds.

F. Disposition of Property upon Expiration or Termination of Grant/Program

1. Specific disposition instructions for all property other than supplies must be obtained from GOEA.

2. The following guidelines apply for unused supplies exceeding $5,000 in total aggregate fair market value and not needed for any program currently funded by GOEA.

a. Recipient may retain such supplies and remit to GOEA its share of the market value.

b. Recipient may sell such supplies and remit to GOEA its share of proceeds from the sale.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7), 45 CFR Subtitle A, Part 92.31 and 92.32 and 45 CFR Part 74 Subpart O.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 18:610 (June 1992), LR 25:867 (May 1999), LR 28:50 (January 2001).

§1201. Purchasing

A. Applicability. This Section covers all purchases of supplies, equipment or services by Governor's Office of Elderly Affairs (GOEA) recipients under allowable cost funding. Older Americans Act Title III service procurement and professional service procurement are not covered by this Section.

B. Governor's Office of Elderly Affairs Purchasing Policy

1. GOEA recipients shall make positive efforts to utilize small businesses and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts utilizing federal and state funds. Agencies shall maintain a list of small or minority-owned businesses to be contacted for potential purchases. The following organizations may be contacted for information:

a. Louisiana Office of Minority Business Enterprise;

b. Louisiana Office of Women's Business Enterprise;

c. Small Business Administration;

d. Louisiana Minority Business Development Authority (LAMBDA); and

e. Louisiana Department of Commerce.

2. GOEA recipients are encouraged to utilize state contracts in making purchases. GOEA can provide a listing of State Purchasing personnel and telephone numbers to contact for price, vendor, and contract number information. Normally a local vendor will be listed on state contract. The use of state contract(s) eliminates all need for bidding and advertisements.

3. Governor's Office of Elderly Affairs recipients are subject to R.S. 38 for all public works construction. Reference is to be made to such title as required.

C. Methods of Purchasing

1. Small Purchases. Any procurement not exceeding $10,000 shall be made in accordance with the small purchase procedures in Subsection D of this Section. Those purchases defined in Paragraph 7 of Subsection D of this Section shall be deemed small purchases regardless of price. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section.

2. Competitive Sealed Bidding. Purchases exceeding $10,000 shall be by competitive sealed bidding.

D. Small Purchase Procedures

1. For purchases equal to or less than $500, no competitive bidding is required.

2. Purchases over $500 but less than or equal to $2,000 shall be made by soliciting three price quotations except in cases of emergency. (Emergencies shall be documented.) The quotations may be solicited by telephone, facsimile, or other means. Whenever possible, at least one of the bona fide, qualified bidders shall be a certified economically disadvantaged business. Agency files shall document and list all solicited bidders and each bidder's contact person, summarize bid responses, indicate the awarded bid, and state the reason any lower bid was rejected. If no bid was solicited from a certified economically disadvantaged business, agency files shall contain a written explanation of why such a bid was not solicited. Agency files should also contain written confirmation of the bid from the successful bidder.

3. Purchases over $2,000 But Less Than or Equal To $10,000

a. Purchases over $2,000 but less than or equal to $10,000 shall not be made except by soliciting price quotations either written or by facsimile from at least five bona fide qualified bidders. Whenever possible, at least two of the bona fide, qualified bidders shall be certified economically disadvantaged businesses. Solicitations shall allow for bids to be accepted for a minimum period of 10 calendar days.

b. All solicitations shall include the closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, ship-to location, terms and conditions, and other information sufficient for a supplier to make an acceptable bid.

c. Precautionary measures shall be taken to safeguard the confidentiality of bid responses prior to the closing time for receipt of bids. No bid shall be evaluated using criteria not disclosed in the solicitation.

d. Agency files shall document and list all solicited bidders and each bidder's response, summarize bid responses, indicate the awarded bid, and state the reason why any lower bid was rejected. If fewer than two bids were solicited from certified economically disadvantaged businesses, agency files shall contain a written explanation of why two bids were not solicited.

4. No purchase where the estimated cost is over $10,000 shall be made except by advertising in accordance with Subsection E of this Section and sending out written invitations for bids to at least eight bona fide qualified bidders.

5. Automotive, Machinery and Equipment Parts. Repairs and parts associated with repairs for automobiles and machinery shall be obtained by either:

a. the use of an authorized dealerXa dealer certified by the manufacturer to perform maintenance on their equipment; or

b. obtaining competitive bids as indicated above.

6. Exceptions to minimum competitive requirements include:

a. federal government surplus property;

b. textbooks, newspapers, subscriptions, or foreign publications, and membership;

c. all public utilities;

d. all services provided by local government (Example: garbage pick-up); and

e. parcel services, including but not limited to Federal Express, United Parcel Service, Airborne Express, and Express Mail.

7. Quotations should be obtained from at least three bona fide, qualified bidders where possible in the purchase of perishable foods. When possible, at least one of the bona fide, qualified bidders shall be a certified economically disadvantaged business.

E. Competitive Sealed Bidding Process

1. Invitation for Bids. Competitive sealed bidding shall be initiated by the issuance of an invitation for bids containing a description of the supplies, services, or major repairs to be procured and all contractual terms and conditions applicable to the procurement.

2. Public Notice

a. Written public notice of the invitation for bids shall be given at least 10 days prior to the date set forth therein for the opening of bids. If the amount of the purchase is $10,000 or more, such notice shall be mailed to persons in a position to furnish the supplies, services, or major repairs required, as shown by its records, and by advertising.

b. The advertisements or written notices shall contain general descriptions of the supplies, services, or major repairs for which bids are wanted and shall state:

i. the names and locations of the departments or institutions for which the purchases are to be made;

ii. where and how specifications and quotation forms may be obtained; and

iii. the date and time not later than which bids must be received and will be opened.

c. Each advertisement shall be published in the official journal of parish government.

3. Bid Opening. Bids shall be opened publicly, in the presence of one or more witnesses, at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and open to public inspection.

4. Bid Evaluation. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, and criteria affecting price such as life cycle or total ownership costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.

5. Correction or Withdrawal of Bids. Patent errors in bids or errors in bids supported by clear and convincing evidence may be corrected, or bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders, and such actions may be taken only to the extent permitted under regulations.

6. Award

a. The contract shall be awarded, with reasonable promptness, by written notice to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. Award shall be made by unconditional acceptance of a bid without alteration or correction, except as authorized in this Subsection.

b. Responsive bidder means a person who has submitted a bid which conforms in all substantive respects to the invitation for bids, including the specifications set forth in the invitation.

c. The term *responsible bidder* means a person who has the capability in all respects to perform the contract requirements and the integrity and reliability which will assure good faith performance.

F. Responsibility of Bidders and Offerors

1. A reasonable inquiry to determine the responsibility of a bidder or offeror may be conducted. The unreasonable failure of a bidder or offeror to promptly supply information in connection with such an inquiry may be grounds for a determination of nonresponsibility with respect to such bidder or offeror.

2. Whenever the board of directors proposes to disqualify the lowest bidder on bids of more than $10,000, the board shall do the following:

a. give written notice of the proposed disqualification to such bidder and include in the written notice all reasons for the proposed disqualification; and

b. give such bidder who is proposed to be disqualified, a reasonable opportunity to be heard at an informal hearing at which such bidder is afforded the opportunity to refute the reasons for the disqualification.

G. Specifications

1. All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the needs of the state, and shall not be unduly restrictive. A specification may be drafted which describes a product which is proprietary to one company only where:

a. no other kind of specification is reasonably available for the state to describe its requirements; or

b. there is a requirement for specifying a particular design or make of product due to factors of compatibility, standardization, or maintainability; or

c. such specification includes language which specifically permits an equivalent product to be supplied. Such specification shall include a description of the essential characteristics of the product; or

d. such specification is determined to be in the best interest of the state as provided for by R.S. 39:1613.

2. Except in §1201.G.1.b, whenever such proprietary specifications are used, the specifications shall clearly state that they are used only to denote the quality standard of supplies, services, or major repairs desired, and that they do not restrict bidders to the specific brand, make, manufacturer, or specification named; that they are used only to set forth and convey to prospective bidders the general style, type, character, and quality of supplies, services, or major repairs desired; and that equivalent supplies, services, or major repairs will be acceptable.

H. Contract Clauses

1. Contract Clauses. Agencies may include clauses providing for equitable adjustments in prices, time for performance, or other purchase contract provisions, as appropriate, covering the following subjects:

a. the unilateral right of the agency to order, in writing, changes in the work within the general scope of the contract in any one or more of the following:

i. drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the agency in accordance therewith;

ii. method of shipment or packing; or

iii. place of delivery;

b. the unilateral right of the agency to order, in writing, temporary stopping of the work or delaying of performance; and

c. variations between estimated quantities of work in a contract and actual quantities.

2. Additional Contract Clauses. Agencies may include clauses in state contracts providing for appropriate remedies and covering the following subjects:

a. liquidated damages, as appropriate;

b. specified excuses for delay or nonperformance;

c. termination of the contract for default;

d. termination of the contract in whole or in part for the convenience of the state; and

e. manufacturers' design drawings shall be supplied in duplicate for all state buildings, to the appropriate state agency at the conclusion of contract.

3. In the event any contractor fails to fulfill or comply with the terms of any contract, the agency may award the contract to the next lowest responsible bidder, subject to acceptance by that bidder, and charge the difference in cost to the defaulting vendor.

4. Escalation Clause. Bid specifications may contemplate a fixed escalation or de-escalation in accordance with the United States Bureau of Labor Statistics, Consumer Price Index and Wholesale Price Index. Bids based on specifications which are subject to a recognized escalation index shall be legal and valid.

I. Reporting of Suspected Collusive Bidding or Negotiations

1. Notification to the Governor's Office of Elderly Affairs. When, for any reason, collusion is suspected among any bidders or offerors, a written notice of the relevant facts shall be transmitted to the Governor's Office of Elderly Affairs.

2. Retention of All Documents. All documents involved in any procurement in which collusion is suspected shall be retained for a minimum of six years, or until the Governor's Office of Elderly Affairs gives written notice that they may be destroyed, whichever period is shorter. All retained documents shall be made available to the Governor's Office of Elderly Affairs upon request and proper receipt therefor.

J. Emergency Procurement

1. Conditions for Use. The board of directors may make or authorize others to make emergency procurements when there exists an imminent threat to the public health, welfare, safety, or public property under emergency conditions, as defined in accordance with regulations.

2. Written Quotations. Every effort shall be made to obtain quotations from three or more vendors when supplies, services, or major repairs are to be purchased on an emergency basis, except for standard equipment parts for which prices are established. Immediate purchasing shall be discouraged as much as is practicable. When supplies, services, or major repairs are urgently required, and time does not permit the obtaining of written quotations, the agency may obtain quotations by telephoning or otherwise.

3. Determination Required. The board of directors shall make a written determination of the basis of the emergency that includes the facts and circumstances leading to the conclusion that such procurement was necessary, as well as a written determination detailing the steps taken prior to selecting a particular contractor and the basis for the final selection. The written determination shall be included in the contract file, either prior to contracting or as soon thereafter as practicable.

K. Appeals Procedure

1. Applicability. This Section applies to controversies between the agency and supplier which arise under or by virtue of a contract between them or in connection with the solicitation or award of a contract. Protests with respect to a solicitation shall be submitted, in writing, prior to the opening of bids. Protests with respect to the award of a contract shall be submitted, in writing, within 60 days after bid opening or 14 days after contract award, whichever is later.

2. Authority. The agency is authorized, prior to the commencement of an action in court concerning the controversy, to settle and resolve, with the approval of the Governor's Office of Elderly Affairs, a controversy described in §1201.K.1. This authority shall be exercised in accordance with regulations.

3. Decision. If such a claim or controversy is not resolved by mutual agreement, the agency shall promptly issue a decision in writing. The decision shall:

a. state the reasons for the action taken; and

b. inform the contractor of its rights to administrative and judicial review, as provided in this Subsection.

4. Notice of Decision. A copy of the decision under §1201.K.3 shall be mailed or otherwise furnished immediately to the contractor.

5. Finality of Decision. The decision under §1201.K.3 shall be final and conclusive, unless the decision is fraudulent.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7).
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 18:611 (June 1992), LR 25:1474 (August 1999).

§1203. Applicable Laws and Standards

A. Service providers shall comply with all state licensing standards, all applicable accrediting standards, any applicable federal standards and all applicable state and federal laws as well as Governor's Office of Elderly Affairs policies, procedures, and rules.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1231.9(e)(3).
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1476 (August 1999).

§1207. Monitoring by the Governor's Office of Elderly Affairs

A. Service providers shall make available, as deemed necessary by the Governor's Office of Elderly Affairs, all records pertaining to any project funded through the Governor's Office of Elderly Affairs.

B. GOEA shall be permitted to audit, examine and make excerpts from invoices, materials, payroll, records of personnel, conditions of employment and other data relating to matters covered by the subcontract.

C. The Governor's Office of Elderly Affairs' representative shall be allowed to visually inspect the service provider's facilities and equipment and to interview participants.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(8).
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1476 (August 1999).

§1209. Eldercare/Case Management

A. Title III subcontractors may provide eldercare, as specified in LAC 4:VII.1241.

B. Title III subcontractors may provide one or more components of case management for a private entity, as specified in LAC 4:VII.1241.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2) and Section 307(a)(5).
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:1376 (December 1992).

Subchapter E. Uniform Service Requirements

1215. Service Recipient Priorities and Eligibility Requirements

A.1. Persons who are 60 years of age or older may receive services provided using Older Americans Act and state senior center funds.

2. No one is entitled to services by virtue of age alone. GOEA's uniform intake and assessment instrument shall be used to determine the order in which older individuals will be served.

3. Persons age 60 and over who are frail, homebound by reason of illness or incapacitating disability, or otherwise isolated, shall be given priority in the delivery of services.

B. As stated in §1179 of this manual, preference shall be given to providing services to older individuals with greatest economic and older individuals with greatest social need, with particular attention to low-income minority individuals. Service providers shall attempt to provide services to low-income minority individuals at least in proportion to the number of low-income minority older persons in the population services by the provider.

C. Means tests shall not be used for any service supported with Older Americans Act Title III funds or state senior center funds. Moreover, service providers shall not deny any older person a service because the older person will not or cannot contribute to the cost of the service.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 102(29), Section 102(30), Section 305(a)(2)(E), Section 306(a)(1), Section 307(a)(24), and 45 CFR 1321.65 and 1321.69.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:868 (May 1999), LR 28:1016 (May 2002).

§1217. Uniform Definitions of Services for the Aging

A. Uniform definitions of supportive and nutrition services issued by the Governor's Office of Elderly Affairs GOEA shall be employed by all providers.

B. These definitions shall be used for record keeping, accounting and reporting purposes, as prescribed in this manual and through other requirements issued by GOEA.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 211 and Section 307(a).
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:869 (May 1999).

§1219. Title III-B Supportive Services and Senior Centers

A. Part B of Title III of the Older Americans Act authorizes the distribution of federal funds to the State Agency on Aging by formula for supportive services and senior centers. Funds authorized under Title III-B are for the purpose of assisting the state and its area agencies to develop or enhance for older persons comprehensive and coordinated community based systems as described in 45 CFR 1321.53(b) throughout the state.

B. GOEA shall award Title III-B funds to designated area agencies according to the formula determined by the state agency. All funds awarded to area agencies under Title III-B are for the purpose of assisting area agencies to develop or enhance comprehensive and coordinated community based systems for older persons in, or serving, communities throughout the planning and service area. Except where a waiver is granted by the state agency, area agencies shall award these funds by contract to community services provider agencies and organizations.

C. The term *supportive services* refers to those services listed in Section 321(a) of the Older Americans Act.

D. Title III-B funds may be used for the acquisition, alteration, or renovation of existing facilities, including mobile units, and, where appropriate, construction of facilities to serve as multipurpose senior centers.

E. Title III-B funds may be used for the purpose of assisting in the operation of multipurpose senior centers and meeting all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 321 and 45 CFR 1321.63.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:869 (May 1999).

§1223. Title III-C Nutrition Services

A. Definitions of Nutrition Services

1. Congregate Meals. A congregate meal is a meal provided at an Older Americans Act (OAA) Title III-C Program "nutrition site" as described in Subsection F.2 of this Section. Congregate meals shall provide a minimum of one-third of the 1989 Recommended Dietary Allowances (RDAs) for men over 51 years or Adequate Intake (AI) for men ages either 50 to 70 years of age or 70, whichever is the higher requirement, as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council. Congregate meals may be hot, cold, or a combination of both. Congregate meals must be provided at least once a day, five or more days per week, no less than 250 days per year (except in sites located in rural areas where such frequency is not feasible and a lesser frequency is approved by the state agency).

2. Home-Delivered Meals. A home-delivered meal is a meal served in the home to an individual who meets the criteria in Subparagraph B.2.a of this Section. Home delivered meals shall provide a minimum of one-third of the 1989 Recommended Dietary Allowances (RDAs) for men over 51 years or Adequate Intake (AI) for men ages either 50 to 70 years of age or 70, whichever is the higher requirement as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council. Home delivered meals may consist of hot, cold, frozen, dried, canned, or medical foods. Home-delivered meals shall be available to participants five or more days per week, no less than 250 days per year (except in rural areas where such frequency is not feasible and a lesser frequency is approved by the state agency).

3. Nutrition Education. Nutrition Education is a program to promote better health by providing accurate and culturally sensitive nutrition, physical fitness, or health (as it relates to nutrition) information and instruction to participants or participants and care givers in a group or individual setting overseen by a dietitian or individual of comparable expertise.

4. Outreach. The term *outreach* is defined as an intervention initiated by an agency or organization for the purpose of identifying potential clients and encouraging their use of existing services and benefits.

B. Participant Eligibility

1. Congregate Nutrition Services

a. Eligible participants include:

i. persons aged 60 or older, and their spouses, regardless of age. Preference must be given to clients who are economically and/or socially needy;

ii. handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided.

b. Nutrition services providers may offer nutrition services to elderly guests (age 60 and above) on the same basis as meals are provided to regular participants.

c. Guests who have not attained age 60 may receive congregate meals, provided no eligible participant age 60 or older is denied a meal. Guests under age 60 must pay the full cost of the meal. This payment shall not be considered program income, but as reimbursement of expenses.

d. Each area agency shall establish procedures that will allow nutrition services providers the option to offer a meal, on the same basis as meals are provided to participants, to individuals providing volunteer services during the meal hours, and to individuals who reside at home with and accompany disabled older individuals who are eligible Title III participants.

2. Home-Delivered Nutrition Services

a. Eligible participants include:

i. persons age 60 or older who are homebound by reason of illness, incapacitating disability, or are otherwise isolated;

ii. the spouse residing with the recipient, regardless of age or condition, may receive a home-delivered meal if, according to criteria determined by the AAA, receipt of the meal is in the best interest of the homebound older person.

b. Each area agency must establish procedures for nutrition projects to ensure that participants receiving home-delivered meals shall be selected and prioritized using GOEA's Uniform Intake and Assessment Instrument. The minimum criteria for determination of need are that the participant must be unable to leave home without assistance and have no one available to provide assistance in the preparation and consumption of a meal. Preference must be given to clients who are economically and/or socially needy. However, no criteria that disqualifies an eligible participant from receiving nutrition services shall be established.

C. USDA Entitlement

1. The United States Department of Agriculture (USDA) provides USDA food, cash, or a combination of food and cash for nutrition services providers. The Governor's Office of Elderly Affairs will distribute cash received from USDA to area agencies for nutrition services based on each agency's proportion of the total number of eligible meals served in the state. The Louisiana Department of Agriculture contracts directly with the nutrition services provider for the distribution of USDA food.

2. A meal served in Title III-C programs is eligible for USDA support, regardless of the funding source, if it meets the following three criteria.

a. The meal served provides a minimum of one-third of the 1989 Recommended Dietary Allowance (RDAs) established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.

b. The meal is served to an individual who is eligible for a meal as specified in Subsection B of this Section.

c. The meal is served by an agency which has received a contract from an area agency on aging or the Governor's Office of Elderly Affairs to provide meals.

3. Area agencies must spend USDA cash for buying only United States agricultural commodities and food.

4. The requirements of 7 CFR Part 250 for participation in the USDA program govern all USDA commodity transactions for the elderly nutrition program. The nutrition services provider must establish procedures for any USDA food made available and must assure appropriate and cost effective arrangements for the transportation, storage and use of the food. The Area Agency on Aging should require the inclusion of USDA regulatory mandates in contracts/grants with Title III-C providers and subcontractors.

D. Selection of Nutrition Services Providers. An area agency may make awards for congregate and home-delivered nutrition services to a provider that furnishes either or both type(s) of service.

1. Nutrition Services Providers. The area agency must award funds for the provision of nutrition services through a competitive process in compliance with guidelines established by the Governor's Office of Elderly Affairs.

2. Home-Delivered Meals Providers. To the extent feasible, in making awards for home-delivered meals, an area agency must give preference to public, private nonprofit, and voluntary organizations which:

a. have demonstrated an ability to provide home-delivered meals efficiently and reasonably; and

b. have furnished assurances to maintain efforts to solicit voluntary support and not to use the funds received under this Part to take the place of funds from non-federal sources.

E. Special Staffing Requirements

1. Area Agency on Aging

a. Each area agency on aging must employ a Louisiana licensed dietitian/nutritionist (LDN) full-time, part-time or as a consultant.

b. Responsibilities of the dietitian/nutritionist shall include, but not be limited to:

i. review menus and nutritional analyses;

ii. at a minimum, annual on-site review of nutrition sites;

iii. monitoring provision of regular nutrition education activities and development of programs to be used by staff;

iv. providing technical assistance to nutrition site staff;

v. training nutrition personnel;

vi. reviewing and monitoring special diets;

vii. monitoring USDA commodity utilization;

viii. making field checks of home-delivered meals;

ix. reviewing layouts and plans for kitchens to be constructed with GOEA funds; and

x. quarterly on-site assessments of kitchen facilities. This assessment shall include, but not be limited to:

(a). general sanitation;

(b). review of standardized recipes and good production records to insure that adequate food amounts are used for the portions ordered; and

(c). review of all products used to insure that minimum standards of bid specifications are met.

2. Service Providers. Each nutrition service provider must employ an adequate number of qualified staff to assure satisfactory conduct of services.

F. Minimum Standards

1. The area agency shall assure that each nutrition service provider employs mechanisms to insure sound financial management. The area agency must develop a policy which assures that each congregate nutrition provider shall:

a. have a site director who is responsible for activities at the site;

b. assure that in case of employees paid with Title III-C funds, the site director and other related staff shall be limited to four hours per day for services directly related to serving meals;

c. serve an average of at least 20 meals per day at each congregate site or a number that is determined to be cost effective and a lesser number is approved by the state agency;

d. serve meals at least five days per week, no less than 250 days per year (except in sites located in rural areas where such frequency is not feasible and a lesser frequency is approved by the state agency);

e. make special provisions as necessary for the service of meals to eligible handicapped individuals;

f. provide meals during emergencies where feasible in accordance with menus approved annually by GOEA;

g. post emergency procedures, (e.g., fire, storms, etc.);

h. have available to the public a copy of written policy for determining who is eligible to receive home-delivered meals; and

i. have a copy of the written policy for determining transfer of participants from home-delivered status to congregate status and back as required for health, weather, transportation, or other reasons;

j. post emergency procedures (e.g., fire, storms, etc.); and

k. each area agency shall establish procedures that will include the option of offering a meal, on the same basis as meals are provided to elderly participants, to individuals providing volunteer services during the meal hours, and to individuals with disabilities who reside at home with and/or accompany older individuals who are eligible under the Older Americans Act.

2. Nutrition sites shall be located in as close proximity to the majority of eligible individuals= residences as feasible, with particular attention upon multipurpose senior centers, schools, churches, or other appropriate community facilities, preferably within walking distance where possible, and where appropriate, transportation to such sites is furnished. Emphasis shall be placed on locating sites in areas having high concentrations of economic or social needy older individuals.

3. The area agency must develop procedures that will assure a quarterly inspection of each nutrition site by appropriate staff.

4. The area agency shall maintain on file supporting documentation of food temperatures, routes, delivery, etc., for each site. Food temperatures must be recorded at nutrition sites when food is placed in holding equipment and again immediately before service. These records must be maintained on file for one year.

5. The area agency shall assess all Title III-C Nutrition Program participants using GOEA's Uniform Intake and Assessment Instrument for all nutrition participants. At a minimum, each client=s record should include:

a. the participant's name;

b. address;

c. telephone number;

d. date of birth;

e. sex; and

f. emergency information.

6. The area agency shall develop and utilize a system for documenting C-1 and C-2 meals served and discarded.

7. The area agency shall establish procedures to accurately project daily meal counts in order to minimize discarded meals.

8. Exceptions to the assurances in Paragraph 1 of this Subsection must be approved in writing by the Governor's Office of Elderly Affairs.

G. Sanitary Code. The Governor's Office of Elderly Affairs has adopted the Louisiana Sanitary Code (Chapter VII Eating and Drinking Establishments) as policy to be followed for congregate and home-delivered nutrition services.

H. Reassessment for Home Delivered Meals. Each home-delivered meals provider must reassess the need for home-delivered meals and other nutrition services in accordance with GOEA uniform intake and assessment procedures.

I. Food Procurement. All food procurement must be transacted in accordance with the purchasing requirements stated in §1201.C.1 of this manual.

J. Food Stamp Program. Nutrition services providers must assist participants in taking advantage of benefits available to them under the food stamp program. Nutrition services providers must coordinate their activities with agencies responsible for administering the food stamp program to facilitate participation of eligible older persons in the program.

K. Food Requirements

1. In purchasing food, and preparing and delivering meals, nutrition services providers must preserve nutritional value and food safety.

2. Nutrition services providers may make special menus available, to meet the particular dietary needs arising from the health, religious requirements, and/or ethnic backgrounds of eligible individuals. In determining feasibility and appropriateness, a nutrition services provider must consider the following factors:

a. whether there are sufficient numbers of persons who need the special menus to make their provision practical; and

b. whether the food and skills necessary to prepare the special menus are available.

L. Food Preparation. All staff employed in the preparation of food shall be under the supervision of a person who will ensure the application of hygienic techniques and practices in food handling, preparation, and service. This supervisory person shall consult the dietitian for advice and consultation as necessary.

M. Meals Packaging and Packing Standards

1. All meals packaged at the food preparation centers or nutrition sites must be individually packaged first (before congregate meals are served), packed in secondary NSF-approved insulated food carriers with tight fitting lids, and transported immediately.

2. Hot food items must be transported in NSF-approved insulated carriers. Any exceptions must be approved by this office. Cold items must be transported in an insulated carrier. Styrofoam carriers are not acceptable.

3. All hot bulk food sent from the food preparation center(s) to nutrition sites must be packed with tight fitting lids and transported immediately.

4. Cold and hot food must be packaged and packed separately. Divided containers must be used for hot food. Appropriate individual containers with tight fitting lids must be used for all cold food. "Sandwich" type bags which can be sealed may be used for bread. Bread must not be placed on top of other food. All food delivery equipment and carriers must be sanitized daily.

N. Delivery of Home-Delivered Meals. Home-delivered nutrition service providers may use various methods of delivery; however, the following standards shall apply.

1. Title III-C funds may be used to provide additional daily meals to participants. These meals may be delivered hot, chilled, frozen, dried, canned, or as supplemental foods within a satisfactory storage life. Proper storage and heating facilities must be available in the home, and the participant should be able to consume the meal(s) either by himself or with available assistance. Directions for properly preparing chilled, frozen, dried, or canned foods shall be provided to the participant.

2. Each delivery route must be clearly established, in writing, or delineated on a map or diagram.

3. Meals must be delivered in the order in which they are packaged. Volunteers must not open carrier and rearrange the meals.

4. Each meal must be received at the participant's home by an individual.

5. Nutrition funds can be used to pay for volunteer mileage at the applicable rate for home-delivered meals only.

O. Maximum Holding Time. The maximum allowable time interval between preparation and delivery to participants is six hours for congregate and home-delivered meals.

P. Food Safety. All foods used in the program must meet standards of quality, sanitation, and safety applicable to foods that are processed commercially. No food which is prepared, frozen, or canned in the home may be used.

Q. Menu Standards

1. Menus prepared for the nutrition program must:

a. be accompanied by nutrient calculations using computer software based on *Bowes and Church=s Food Values of Portions Commonly Used*, *USDA Handbook Number 8*, or other appropriate nutrient data base;

b. be certified in writing by the licensed dietitian/nutritionist whose services are utilized by the provider as providing one-third of the current Recommended Dietary Allowances (RDAs) for men over 51 years or Adequate Intake (AI) for men ages either 50 to 70 years of age or 70, which ever is the higher requirement;

c. incorporate the dietary guidelines of the U.S. Department of Agriculture:

i. the total fat content, based on total calories, must not exceed 35 percent of the meal. The sodium content of the meal must fall within the range of a "NO ADDED SALT" diet (no more than 1,000-1,300 milligrams of sodium per meal). High fiber foods should be included in meals;

ii. sodium and fat restrictions may be waived for emergency meals only;

d. be reviewed and approved by the Governor's Office of Elderly Affairs for nutritional adequacy at least four weeks prior to use;

e. be posted in a conspicuous location in each congregate meal site, as well as each preparation area, with serving dates indicated;

f. be adhered to, subject to seasonal availability of food items as well as availability of USDA donated food;

g. be designed to utilize fresh fruits and vegetables when they are in season; and

h. be kept on file for at least one year with any changes noted in writing at the provider level.

2. Service providers shall use the following menu pattern.

a. Meat or Meat Alternate Group. A serving shall consist of 3 ounces of cooked, edible meat, fish or fowl; eggs; or cheese. Meat alternates such as cooked dried beans are encouraged in order to increase fiber and lower fat content of meals. (One-fourth cup of cooked beans or peas is equivalent to 1 ounce of the meat requirement.)

b. Vegetable and Fruit Group. Two 1/2 cup servings shall be provided. This shall include all vegetable juices, all fruits, and all full strength fruit juices. Fruit used as a dessert should not be counted toward the suggested two servings of vegetables and fruits. A minimum of four high fiber selections per week shall be provided, for example: fruits and vegetables, peas, beans, tossed salads, etc.

c. Bread or Bread Alternate Group. One serving shall be provided of enriched or whole-grain bread, biscuits, muffins, rolls, sandwich buns, cornbread, or other hot breads. Bread alternates may include enriched or whole-grain cereals or cereal products, such as spaghetti, macaroni, rice, dumplings, pancakes, and waffles.

d. Dessert Group. One 1/2 cup serving shall be provided. All fruit, full strength fruit juices, and simple desserts, such as puddings, gelatin desserts, ice cream, ice milk, and sherbet; cake, pie, cookies, and similar foods, are also included.

e. Milk Group. One-half pint of 2 percent, 1 percent or 1/2 percent milk shall be provided. Coffee, tea, decaffeinated beverages, soft drinks and fruit flavored drinks may be served but cannot be used to substitute for the milk requirement.

3. Vitamins and/or mineral supplements shall not be provided with nutrition services funds.

R. Use of Nutrition Contributions. Nutrition services providers shall use all contributions to increase the number of meals served by the provider, to facilitate access to such meals, and to provide other supportive services directly related to nutrition services.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(13), Section 313, and Section 336.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 15:384 (May 1989), LR 16:505 (June 1990), LR 24:1930 (October 1998), LR 28:1016 (May 2002).

§1225. Legal Assistance Program

A. Purpose

1. The purpose of Legal Assistance is to assist older individuals in securing their rights, benefits and entitlements. To the extent practicable, legal assistance provided under Title III must be in addition to any legal assistance already being provided to older persons in the planning and service area.

B. Definition

*Legal Assistance*Xprovision of legal advice, counseling and representation by an attorney or other person acting under the supervision of an attorney.

C. Eligibility Requirements for Providers

1. An area agency must contract with a provider which is either:

a. an organization which receives funds under the Legal Services Corporation Act; or

b. an organization which has a legal services program or the capacity to develop one.

2. An area agency may award funds to the legal assistance provider(s) who most fully meets the following standards:

a. has staff with expertise in specific areas of law affecting older persons, such as public benefit, institutionalization and alternatives to institutionalization;

b. demonstrates the capacity to provide effective administrative and judicial representation in areas of law affecting older persons;

c. demonstrates the capacity to provide support to other efforts on behalf of the elderly, such as the long term care ombudsman program;

d. demonstrates the capacity to deliver legal assistance to institutionalized, isolated, or homebound individuals effectively;

e. demonstrates the capacity to provide legal assistance in the principal language spoken by clients in areas where a significant number of clients do not speak English as their principal language;

f. has offices and/or outreach sites which are convenient and accessible to older persons in the community or has the capacity to develop such sites;

g. demonstrates the capacity to provide legal assistance in a cost effective manner; and

h. demonstrates the capacity to obtain other resources to provide legal assistance to older persons.

D. Provider objectives:

1. to provide legal assistance to eligible participants;

2. to make efforts to involve the private bar in legal assistance provided under Title III, including groups within the private bar which furnish legal assistance to older persons on a pro bono or reduced fee basis;

3. if not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Service Corporation projects in the PSA in order to concentrate the use of funds provided under Title III on individuals with the greatest social or economic need. In carrying out this requirement, legal assistance providers may not use a means test or require older persons to apply first for services through a Legal Services Corporation project; and

4. to adopt a procedure approved by the area agency for affording public access to the Older Americans Act and applicable federal regulations and state and local guidelines; the provider's written policies, procedures, guidelines; the names and addresses of the members of its governing body; and other materials that the provider determines should be disclosed.

E. Restricted Provider Activities

1. Employees of legal assistance providers shall not engage in any of the following activities:

a. providing legal assistance in fee-generating cases;

b. pursuing any outside practice of law if the director of the provider determines that the practice is inconsistent with a staff attorney's full-time responsibilities;

c. attempting to affect the results of any election;

d. attempting to coerce an employee of any provider to contribute anything of value for a political purpose;

e. running for public office;

f. attempting to influence legislative or administrative bodies;

g. assisting in voter registration; or

h. participating in civil disturbances.

2. Details concerning the restrictions in §1225.E.1 are included in 45 CFR 1321.73.

F. Case Priorities

1. An area agency on aging may set priorities for the categories of cases in order to concentrate on older persons in greatest economic or social need. Such cases should be related to income, health care, long term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.

2. A legal assistance provider may not require an older person to disclose information about his income or resources as a condition for providing legal assistance.

3. A legal assistance provider may ask about an older person's financial circumstances as a part of the process of providing legal advice, counseling, and representation, or for the purpose of identifying additional resources and benefits for which he/she may be eligible.

G. Support for Research, Technical Assistance, and Related Efforts. The Governor's Office of Elderly Affairs shall, to the extent feasible, support and encourage legal research, technical assistance, training, information dissemination, and other activities designed to help agencies, organizations, institutions, and private law firms that are providing, developing, or supporting pro bono or reduced fee legal assistance to older individuals.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(15), and Section 307(a)(18).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:869 (May 1999), LR 28:1016 (May 2002).

§1227. Information and Assistance Service Requirements

A. The purpose of information and assistance is to encourage and assist older individuals to use the facilities and services available to them.

B. Definition of Information and Assistance

*Information and Assistance Service*Xa service for older individuals that:

a. provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;

b. assesses the problems and capacities of the individuals;

c. links the individuals to the opportunities and services that are available;

d. to the maximum extent practicable, ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate follow up procedures; and

e. serves the entire community of older individuals, particularly older individuals with greatest social need, and older individuals with greatest economic need.

C. Each area agency on aging shall provide for information and referral assistance services in sufficient numbers to ensure that all older persons within the planning and service area covered by the area plan have reasonably convenient access to the service.

D. The Governor's Office of Elderly Affairs shall establish and maintain information and assistance services in sufficient numbers to assure that all older individuals in the state who are not furnished adequate information and assistance services under Subsection C of this Section will have reasonably convenient access to such services.

E. Information and assistance services providers shall:

1. maintain current information with respect to the opportunities and services available to older persons;

2. develop current lists of older persons in need of services and opportunities;

3. employ, where feasible, a specially trained staff to assess the needs and capacities of older individuals, to inform older persons of opportunities and services which are available, and assist older persons in taking advantage of opportunities and services; and

4. develop and maintain records of its transactions for the purpose of:

a. measuring utilization and effectiveness of its efforts;

b. identifying gaps in the service structure; and

c. assisting in state and parish planning.

F. Information and assistance service providers shall place particular emphasis on linking services available to older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction, and the caretakers of individuals with such disease or disorders.

G. In areas in which a significant number of older persons do not speak English as their principal language, service providers shall provide information and assistance services in the language spoken by the older persons.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(9), and Section 306(a)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:869 (May 1999).

§1229. Office of the Long Term Care Ombudsman

A. Purpose. The purpose of the Louisiana Office of the Long Term Care Ombudsman (sometimes referred to in this Section as "the office") is to ensure that residents of long term care facilities receive the quality of life to which they are entitled.

B. Definitions. For purpose of this Section, *Long Term Care Facility*X

1. a skilled nursing facility (SNF), as defined in §1861(j) of the Social Security Act;

2. a nursing facility as defined in Section 1919(a) of the Social Security Act;

3. a nursing home as defined in Section 1098(3) of the Social Security Act;

4. any nursing home or adult residential care home licensed by the state or required to be licensed by the state under the terms of R.S. 40:2009.12, and R.S. 40:2151-2163.

C. Functions of the Office of the State Long Term Care OmbudsmanX

1. to investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to action, inaction, or decisions of providers or their representatives, of long-term care services, of public agencies, or of social services agencies, which may adversely affect the health, safety, welfare, or rights of such residents;

2. to promote the development of citizen organizations to participate in the ombudsman program;

3. to prepare an annual report containing data and findings regarding the types of problems experienced by and complaints received from or on behalf of individuals residing in long-term care facilities, and to provide policy, regulatory, and legislative recommendations to solve such problems, resolve such complaints, and improve the quality of care and life in long-term care facilities;

4. to analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies with respect to long-term care facilities and services in Louisiana, and recommend any changes in such laws, regulations, and policies deemed by the office to be appropriate;

5. to provide information to public agencies, legislators, the general public, the media and others, as deemed necessary and feasible by the office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities;

6. to provide for the training of the office staff, including volunteers and other representatives of the office in:

a. federal, state, and local laws, regulations, and policies with respect to long-term care facilities in the state;

b. investigative techniques; and

c. such other matters as the state deems appropriate;

7. to coordinate ombudsman services with the protection and advocacy systems for individuals with disabilities established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.), under the Protection and Advocacy of Mentally Ill Individuals Act of 1986 (42 U.S.C.10801 et seq.); and under the Protection and Advocacy of Individual Rights (29 U.S.C. 794(e));

8. to include any area or local ombudsman entity designated by the State Long Term Care Ombudsman; and

9. to coordinate services with state and local law enforcement agencies and courts of competent jurisdiction.

D. Program Structure

1. State Level

a. The Governor's Office of Elderly Affairs shall operate an Office of the State Long Term Care Ombudsman and shall carry out through the office a long-term care ombudsman program which provides a state ombudsman who will, on a full-time basis, carry out such activities as necessary to perform the functions of the ombudsman program specified in §1229.C.

b. Other staff may be added, as necessary, to implement the program. Specific program functions may be contracted.

c. The office and its representatives shall be free from any conflicts of interest which might compromise the program's efforts to investigate impartially and resolve complaints.

2. Substate Level

a. Designation of Local Ombudsman Entities

i. The state long term care ombudsman shall designate as local ombudsman entities public or private nonprofit agencies or organizations which have the capacity to perform the duties set forth in §1229.D.2.c of this Section.

ii. The state long term care ombudsman shall not designate as a local ombudsman entity any agency or organization for which such designation would create a conflict of interest.

iii. The Governor's Office of Elderly Affairs (GOEA) shall contract with agencies or organizations designated by the state long term care ombudsman to operate the state's ombudsman program at the substate level.

iv. The contract between GOEA and the local ombudsman entity shall specify the service area covered by the local ombudsman entity and the responsibilities of each party. It shall contain assurances regarding the performance of the local ombudsman entity and provisions for termination of designation.

v. A local ombudsman entity which cannot meet all designation requirements or which is experiencing substantial problems may be granted a provisional designation, provided that the local ombudsman entity has provided a plan for corrective action acceptable to the state long term care ombudsman, including a timetable for meeting requirements.

vi. Designations of local ombudsman entities shall be renewed annually. If a designated local ombudsman entity wishes to be considered for renewal, it shall provide written notice to the state long term care ombudsman at least 90 days prior to the end of the contract year.

vii. The state long term care ombudsman may de-designate a local ombudsman entity or terminate a designation for cause. The terms and conditions for this procedure shall be included in the contract with the local ombudsman entity.

b. The state ombudsman shall designate each local ombudsman entity. Any representative (as defined in R.S. 40:2010.1) of an entity so designated (whether an employee or an unpaid volunteer) shall be treated as a representative of the office for purposes of this Section.

c. At a minimum, each local ombudsman entity shall:

i. employ or contract with a certified ombudsman who shall be paid to serve as an ombudsman coordinator for all facilities within the service area;

ii. submit for approval by the State Long Term Care Ombudsman a written plan of visitation which provides for regular visitation to each facility in the service area by program personnel. Every facility must be visited by a certified ombudsman at least once per month, except that skilled nursing facilities located in hospitals and rehabilitations centers not otherwise licensed as long-term care facilities must be visited a minimum of once every six months and adult residential care homes must be visited at least quarterly unless conditions warrant more frequent visitation. The plan of visitation shall be incorporated into the contract with GOEA;

iii. investigate, record, and resolve problems and complaints;

iv. record and report information on complaints and observed problems;

v. advertise the existence and function of the designated local entity and the office; and

vi. advise the public about, or arrange for the availability of, current state, local, and federal inspection reports, statements of deficiency, and plans for correction for individual long term care facilities in the service area.

d. The amount of funds to be allocated for each designated local ombudsman entity shall be determined by the Governor's Office of Elderly Affairs.

e. Program personnel at the designated local level are:

i. ombudsman coordinator;

ii. ombudsman; and

iii. long term care visitor.

f. No person shall use the title *Ombudsman* or *Ombudsman Coordinator*, or investigate any complaint filed with the office unless the individual has completed and maintained certification.

g. No person shall use the title *Long Term Care Visitor* unless he has completed orientation training and fulfills the responsibilities in §1229.E.4.b of this Section.

E. Personnel Qualifications and Responsibilities

1. State Long Term Care Ombudsman

a. Qualifications. The state ombudsman shall fulfill the State Civil Service position requirements for long term care ombudsman.

b. Responsibilities. The duties of the state ombudsman shall be those set forth in §1229.D.1.a.

2. Ombudsman Coordinator

a. Qualifications

i. The ombudsman coordinator:

(a). must have met all qualifications of an ombudsman;

(b). must have successfully completed one year of service as an ombudsman;

(c). must have completed the coordinator training session(s) conducted by the state ombudsman or his/her designee within three months of accepting the position; and

(d). must possess administrative, supervisory, and public relations skills.

ii. College credit may be substituted for the service requirement at the discretion of the state ombudsman.

b. ResponsibilitiesX

i. to establish a focal point for receiving and processing complaints;

ii. to investigate and resolve complaints;

iii. to recruit, train, and supervise ombudsmen and long term care visitors. This shall include meeting with all ombudsmen and long term care visitors at least once a quarter and visiting with each ombudsman in his assigned facility at least once a year;

iv. to explain the program to the community, including long term care facilities;

v. to assure that residents, responsible parties, and concerned members of the public know how to contact the state ombudsman and the ombudsman assigned to the facilities;

vi. to visit in each long term care facility within the service area at least once a year;

vii. to assure that all personnel within the designated local entity adhere to the policies of the office and the designated entity;

viii. to coordinate the program with agencies within the PSA serving long term care facilities;

ix. to encourage residents in self-advocacy;

x. to promote community involvement with long term care facilities;

xi. to promote the development of citizen organizations to participate in the ombudsman program;

xii. to attend ombudsman training. At least once a year this will include a meeting of ombudsman coordinators with the state ombudsman;

xiii. to maintain ombudsman certification;

xiv. to report to the office, as required by the Governor's Office of Elderly Affairs;

xv. to refer problems that are not resolved to the state ombudsman;

xvi. to adhere to the policies and procedures of the office;

xvii. to introduce new trainees, ombudsmen, and long term care visitors to administrators of assigned facilities and explain their roles.

3. Ombudsman

a. Qualifications

i. An ombudsman must possess the following qualifications:

(a). graduation from high school or equivalency;

(b). two years of experience in working with people;

(c). recommendation by his designated ombudsman entity; and

(d). successful completion of ombudsman certification training program.

ii. Comparable experience may be substituted for the educational requirement at the discretion of the state ombudsman.

b. ResponsibilitiesX

i. to work through the ombudsman program;

ii. to devote at least two hours per week to fulfilling responsibilities listed in §1229.E.3.b.iii-vii in assigned long term care facilities. The assigned facility(ies) will be one in which no relative (spouse, child, parent, grandparent, sister, brother, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, or daughter-in-law) of the ombudsman resides or serves as an employee or has financial interest;

iii. to serve as a liaison between residents, their families, and facility personnel and facility administration;

iv. to encourage residents in self-advocacy;

v. to investigate and resolve complaints;

vi. to refer problems that are not resolved to the ombudsman coordinator;

vii. to record visits and complaints on the appropriate reporting forms;

viii. to promote community involvement with long term care facilities;

ix. to adhere to the policies and procedures of the office;

x. to meet with the ombudsman coordinator at least once a quarter;

xi. to meet with long term care visitors assigned to his facility(ies) at least once a month;

xii. to assist the ombudsman coordinator in publicizing the existence of the ombudsman program and assuring that residents, responsible parties, and concerned members of the public know how to contact the state ombudsman and the ombudsman assigned to the facilities;

xiii. to maintain ombudsman certification.

4. Long Term Care Visitors

a. QualificationsX

i. experience in working with people;

ii. ability to be observant;

iii. ability to be impartial;

iv. completion of the orientation training sponsored by his local designated ombudsman entity.

b. ResponsibilitiesX

i. to work through the designated ombudsman entity;

ii. to visit residents in each assigned facility in accordance with the plan of visitation in Subsection B.2.e.ii of this Section;

iii. to assist the ombudsman coordinator in publicizing the existence of the ombudsman program and assuring that residents, responsible parties, and concerned members of the public know how to contact the state ombudsman and the ombudsman assigned to the facilities;

iv. to observe the care in long term care facilities;

v. to meet regularly with the ombudsman or ombudsman coordinator;

vi. to report monthly to the ombudsman assigned to his LTC facility on the status of the residents in his facility and refer problems to the ombudsman or ombudsman coordinator;

vii. to attend at least six hours of training a year on topics related to nursing homes, aging, managed care and the ombudsman program.

F. Ombudsman Certification

1. *Certification*Xthe mechanism whereby the office delegates the functions and responsibilities stated in R.S. 40:2010(0)-40:2010(5) to local program representatives.

2. Certification Process

a. Upon successful completion of the certification program, a trainee will become a certified ombudsman. The state ombudsman shall notify the trainee, in writing, and shall issue an identification card. A copy of the letter shall be sent to the designated ombudsman program and the AAA.

b. The ombudsman shall be assigned to a long term care facility(ies) by the state ombudsman after consultation with the ombudsman, and the ombudsman coordinator. The administrator of the long term care facility where the ombudsman is assigned shall be so informed by the state ombudsman.

c. Individuals certified by nursing home ombudsman programs in other states can request the state ombudsman to consider their previous experience. The individual must submit a letter from the state ombudsman which describes the training program and verifies that the individual left the program in good standing. The individual will need to attend certification training on these topics:

i. regulatory system;

ii. rights of nursing home residents;

iii. Medicaid;

iv. complaint investigation and resolution; and

v. ombudsman policies and procedures.

d. To complete Louisiana's certification requirements, the individual must pass the examination.

3. Training

a.i. Individuals shall be certified as ombudsmen upon successful completion of the ombudsman certification training program. The training program consists of four components:

(a). an orientation program;

(b). a 26-hour training program;

(c). an examination; and

(d). an internship in a long term care facility.

ii. The state ombudsman or his designee shall conduct the certification program. Trainees must meet the minimum personnel qualifications specified in §1229.E.3.a.

b. Required training includes, but is not limited to, the following topics:

i. long term care ombudsman program;

ii. the process of aging;

iii. the institutionalized elderly;

iv. nursing homes;

v. board and care homes;

vi. state and federal regulatory systems;

vii. rights of residents;

viii. community resources;

ix. Medicaid and Medicare;

x. complaint resolution;

xi. ombudsman policies and procedures;

xii. investigative techniques; and

xiii. managed care.

c. Certification must be renewed annually. Renewal is based on successful completion of at least 15 contact hours of in-service training each year and on adherence to ombudsman policies and procedures. At least six hours of this training must be sponsored by the office. The remainder may be earned by attending any relevant training, subject to the conditions described below. If requirements for the current year have been met, hours earned during the final quarter of a calendar year may be carried over to the following year.

d. Training programs not sponsored by the office will be eligible for in-service credit provided that:

i. the topic is related to ombudsman work;

ii. the course or training is approved, in advance, by the state ombudsman; and

iii. the course or training must be at least one hour in length.

e. In order to receive credit for such courses an ombudsman may either attend a program which has already been approved by the state ombudsman or must submit, in advance, a written request for approval of a particular program. Requests for approval must include:

i. brief description of training;

ii. who is conducting or sponsoring the training;

iii. when and where it is being held; and

iv. who the trainers/speaker are (if available).

f. Ombudsmen must provide evidence of attendance at any outside training and may be required to submit a written report of the training.

g. Recertification will be done on a calendar year basis. It is the responsibility of each designated local ombudsman entity to monitor at least the following activities to assure eligibility for recertification:

i. number of visits per month;

ii. number of hours per month;

iii. number of cases handled per month; and

iv. number of in-service hours completed per quarter.

h. Newly certified ombudsmen shall not be required to earn in-service hours during the first year or partial year following their initial certification. Instead, they shall be required to attend training sessions conducted by the ombudsman coordinator on the following topics:

i. problem resolution;

ii. resident rights; and

iii. assertiveness/communication;

iv. this training shall be conducted in accordance with guidelines and materials prepared by the state long term care ombudsman. This training must be completed within the first six months following certification. As of the beginning of the calendar year following initial certification, regular in-service training requirements will apply.

4. Examination

a. Written and/or oral examination will be administered to assess the trainee's knowledge of the long term care system, of long term care residents, and of the problem-solving process. The examination will be evaluated on a "pass/conditional pass/fail" basis.

b. If a trainee receives a "conditional pass," the state ombudsman, in conjunction with the trainee, will identify additional activities or training which must be successfully completed to obtain a "pass" rating.

c. If a trainee fails the examination, the state ombudsman, in conjunction with the trainee, will identify additional training and activities to prepare the trainee for successful completion of the next written examination.

d. Each trainee may take the examination no more than three times, without repeating the classroom component of the training. All attempts must be made within one year of the completion of the classroom component of the training. The recommendation of the coordinator and the permission of the state ombudsman are required before a trainee can repeat the classroom component.

5. Internship

a. Prerequisites. A passing score on the written examination must be attained prior to the internship. In conjunction with the training program, each trainee will be required to spend 12 hours visiting in a long term care facility. Previous experience may not be substituted. The internship must extend over a minimum of three weeks and must be completed within two months of passing the certification examination.

b. PurposeX

i. to familiarize the trainee with a long term care facility;

ii. to provide an opportunity for the trainee to develop and/or refine skills in relating to residents and facility staff; and

iii. to provide friendly visiting for residents.

c. Introduction. A prerequisite to visiting with the residents is an initial meeting with the facility administration. That meeting is to discuss the purpose of the internship and the facility's policies.

d. Evaluation. From two to four hours of the internship will be supervised by the state ombudsman or his designee. Evaluation forms to assess the internship will be completed by the long term care facility administrator and the state ombudsman or his designee. The internship will be evaluated on a "pass/conditional pass/ fail" basis. If a trainee receives a "conditional pass," the state ombudsman, in conjunction with trainee, will identify additional activities which must be successfully completed to attain a "pass" rating. The internship may be evaluated only twice.

6. Leave of Absence

a. Individuals who are unable to fulfill their program responsibilities due to extended illness, family problems, or other unforeseen circumstances may request a leave of absence. A written request must be submitted to the state ombudsman with a specified time period for the leave. If granted, ombudsman responsibilities will be suspended until the leave is concluded.

b. A formal leave of absence is not required for absences of two weeks or less. Such absences should be recorded by the local ombudsman entity and should not total more than six weeks in a calendar year.

7. Revocation. Certification may be revoked by the state ombudsman if ombudsman policies and procedures are violated. An ombudsman shall receive written notification that certification is to be revoked 10 working days before revocation. The ombudsman may appeal the decision to the director of the Governor's Office of Elderly Affairs prior to the date of revocation. If certification is revoked, the appropriate long term care facility administrator shall be so informed, in writing, by the state ombudsman.

G. Complaints

1. The ombudsman is responsible for receiving complaints relating to residents of long term care facilities and taking necessary action to investigate and resolve those complaints.

2. The ombudsman may receive complaints by phone or through written or in-person contact with complainant(s).

3. Each complaint case will be assigned a number and be documented on the complaint log sheet developed by the Governor's Office of Elderly Affairs.

4. The ombudsman shall contact pertinent parties to the complaint either by phone, mail, or in person in order to gain details of the complaint. The investigation shall be initiated within five working days of receipt of the complaint to determine the validity of the complaint.

5. In the process of resolving complaints, the ombudsman shall encourage residents to resolve complaints themselves. If the ombudsman is asked to act on behalf of a resident, the ombudsman shall seek to resolve the problem

within the long term care facility by contacting the administrator or staff of the facility. If a referral to another agency is appropriate, the ombudsman shall make such a referral with the permission of the complainant. Referrals to agencies outside of his PSA will go through the state ombudsman. Referrals to an office of a state agency within the PSA must be reported to the state ombudsman within one working day of the referral. The ombudsman shall follow up on referrals to other agencies. The complainant shall be kept informed by the ombudsman of the status of the complaint and may choose to stop the investigation or resolution process at any time.

H. Access

1. Facilities

a. Representatives of the Office of the State Ombudsman shall have immediate access to any resident of a long-term care facility. The representative shall notify the administrator, or the person in charge, of his/her presence upon entry into the facility. The representative shall respect any resident's desire for privacy. The representative shall perform his/her duties in the manner least disruptive of patient care and activities.

b. Long term care visitors shall notify the administrator, or the person in charge, of their presence upon entry into a long term care facility. The visitor shall respect any resident's desire for privacy.

2. Records. Records may be reviewed only with the written consent of the resident or the resident's legal representative. The ombudsman may review those portions of a resident's records which are relevant to resolving a specific problem. If a resident is unable to consent to such review and has no legal representative, the ombudsman shall have access to the resident's medical and social records.

I. Confidentiality

1. All investigatory files, complaints, responses to complaints, and all other information related to any complaint or investigation maintained by the ombudsman program shall be considered confidential information, in accordance with R.S. 40:2010(5).

2. All information retained by or developed by any representative of the office pertaining to complaints shall be considered confidential.

3. All complaint files maintained by the office and any of its representatives shall be secured in a locked file cabinet.

4. In monitoring the ombudsman program, access to files, minus the identity of any complainant or resident of a long-term care facility, shall be available only to the director of GOEA and one other senior manager of GOEA designated by the director of GOEA for this purpose.

5. Files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless:

a. such complainant or resident, or the individual's legal representative, consents in writing to such disclosure; or

b. such disclosure is required by court order.

6. The confidentiality and disclosure procedures do not preclude the ombudsman's use of otherwise confidential information in the files for preparation and disclosure of statistical, case study, and other data, provided the ombudsman does not disclose the identity of persons otherwise protected in this Section.

J. Reporting

1. The Governor's Office of Elderly Affairs has established a statewide uniform reporting system to collect and analyze information on complaints and conditions in long term care facilities for the purpose of identifying and resolving significant problems.

2. The state ombudsman will submit the data collected pursuant to §1229.J.1 to the director of the Governor's Office of Elderly Affairs for recommendations to the governor and to the Department of Health and Hospitals, Bureau of Health Standards.

3. All local designated entities shall utilize the report forms developed by the Governor's Office of Elderly Affairs to report their activities. Such reports are to be submitted monthly to the Governor's Office of Elderly Affairs.

K. Ombudsman Advisory Council

1. Membership/Officers/Vacancies/Compensation

a. The council shall consist of the following persons:

i. the chairman of the Ombudsman Committee of Citizens for Quality Nursing Home Care or his/her designee;

ii. the director of the Advocacy Center for the Elderly and Disabled or his/her designee;

iii. the director of the Louisiana Nursing Home Association or his/her designee;

iv. the director of the Louisiana Association of Homes and Services for the Aging or his/her designee;

v. the president of the Louisiana Council on Aging Directors Association or his/her designee;

vi. the chairman of the American Association of Retired Persons (AARP) State Legislative Committee or his/her designee;

vii. the manager of the Health Standards Section, Department of Health and Hospitals or his/her designee;

viii. the chairman of the Aging Advisory Board or his/her designee;

ix. four additional persons selected by the state ombudsman. These at-large members shall serve for two-year terms, except that the initial appointments shall consist of two persons who shall serve for two years, and two persons who shall serve for one year.

b. The council shall elect a chairman and such other officers as it sees fit.

c. If a vacancy occurs in an at-large position, the state ombudsman shall appoint a member to fill that position for the remainder of the unexpired term.

d. Advisory Council members shall receive no compensation.

2. Meetings. The Ombudsman Advisory Council shall meet quarterly. Seven members shall constitute a quorum. The council shall keep a record of its proceedings.

3. Duties and Functions

a. The Ombudsman Advisory Council shall provide information and advice to the state ombudsman and the director of GOEA on matters of policy and rules and regulations pertaining to the Office of the State Ombudsman and on matters of relevance to the quality of life of nursing home residents.

b. The council may submit recommendations or reports on matters concerning the needs of nursing home residents or the operation of the Ombudsman Program.

L. Complaints against Ombudsmen

1. For purposes of this policy the following definitions apply.

*Complaint*Xany allegation of wrongdoing or misconduct by an ombudsman. Complaints may be submitted orally or in writing.

*Grievance*Xa formal complaint alleging misconduct. Grievances must be submitted in writing. Decisions rendered regarding grievances may be appealed.

*Misconduct*Xany action by an ombudsman which is detrimental to the welfare of a resident or residents or which is directly in violation of the laws and regulations governing the ombudsman program, including §307 of the Older Americans Act, R.S. 40:2010(1) et seq., and LAC 4:VII.1229.

2. Complaints

a. The Office of the State Ombudsman shall act upon any complaint regarding the conduct of an ombudsman in carrying out his/her duties.

b. Complaints against Ombudsmen

i. Complaints against ombudsmen should be directed to the local coordinator.

ii. Upon receipt of a complaint, the coordinator shall notify the ombudsman and his/her immediate supervisor of the complaint; conduct an investigation to determine whether the complaint is valid; advise the complainant and the ombudsman of the findings; and take appropriate action to remedy the situation.

iii. If a complaint is found to be valid and appears to constitute misconduct, the coordinator shall notify the state ombudsman of the findings within five working days of the completion of the investigation.

iv. If a coordinator fails to respond to or act upon a complaint within 30 days, the person filing the complaint may refer the complaint to the state ombudsman.

c. Complaints about a Coordinator

i. Complaints about a coordinator should be directed to the state ombudsman. Upon receipt of a complaint, the state ombudsman shall:

(a). notify the coordinator and his/her immediate supervisor of the complaint;

(b). conduct an investigation to determine whether the complaint is valid;

(c). advise the following persons of the findings:

(i). the complainant;

(ii). the coordinator, and

(iii). the director and/or other supervisory staff of the local designated ombudsman entity; and

(d). take appropriate action to remedy the situation.

ii. If the state ombudsman fails to respond to or act upon a complaint within 30 days, the person filing the complaint may refer the complaint to the director of the Office of Elderly Affairs.

d. The state ombudsman may request the coordinator's supervisor and/or director of the local designated entity to assist in the investigation of a complaint if his/her involvement does not violate confidentiality requirements.

3. Grievances

a. Any person who has direct knowledge of actions which may constitute misconduct, as defined in §1229.L.1.a, may file a grievance.

b. Grievances must:

i. specify the alleged misconduct and include, to the degree possible, dates; times; locations; and witnesses;

ii. state relief sought; and

iii. be submitted within one year of the date of the alleged misconduct.

c. Grievances Involving an Ombudsman

i. Grievances involving an ombudsman must be submitted to the local coordinator.

ii. Upon receipt of the grievance, the coordinator shall submit a copy of the grievance to the state ombudsman, the ombudsman named in the grievance, and his/her supervisor; request that the ombudsman submit a written response within 10 working days; inform the ombudsman and the complainant of the date by which a decision shall be issued; investigate the allegation stated in the grievance; consider the relief sought by the complainant; and issue a written decision.

iii. The coordinator's decision shall inform the state ombudsman, the ombudsman, and his/her immediate supervisor, and the complainant of the findings of the investigation; the actions, if any, that will be taken as a result of the investigation; and the provisions for appealing the decision, in accordance with §1229.L.

iv. If a coordinator fails to respond to or act upon a grievance within 30 days, either the complainant or the person filing the grievance may refer the grievance to the state ombudsman for appropriate action.

d. Grievances against a Coordinator

i. Grievances against a coordinator must be submitted to the state ombudsman.

ii. Upon receipt of the grievance, the state ombudsman shall:

(a). submit a copy of the grievance to the coordinator and his/her immediate supervisor;

(b). request that the coordinator submit a written response within 10 working days;

(c). inform the coordinator and the complainant of the date by which a decision shall be issued;

(d). investigate the allegation stated in the grievance;

(e). consider the relief sought by the complainant; and

(f). issue a written decision.

e. The state ombudsman may request the director and/or other supervisory staff of the local designated ombudsman entity to assist in the investigation of a grievance if their involvement does not violate confidentiality.

f. The state ombudsman's decision shall inform the coordinator, his/her immediate supervisor, and the complainant of the findings of the investigation; the actions, if any, that will be taken as a result of the investigation; and the provisions for appealing the decision in accordance with §1229.L.

g. If the state ombudsman fails to respond to or act upon a grievance within 30 days, the complainant or the person named in the grievance may refer the grievance to the director of the Office of Elderly Affairs for appropriate action.

4. Remedial Actions

a. If an ombudsman is found to have engaged in misconduct, the state ombudsman or the local coordinator shall take appropriate remedial action.

b. The coordinator is authorized to take the following actions:

i. issue a written reprimand; and/or

ii. require attendance at or completion of supplementary or in-service training; or

iii. refer the grievance to the state ombudsman with a recommendation for facility reassignment or revocation of certification.

c. The state ombudsman may:

i. issue a written reprimand;

ii. require attendance at or completion of supplementary or in-service training; or

iii. take any other appropriate remedial action.

d. In determining appropriate remedial action, the following factors, at a minimum, shall be considered:

i. the nature of the misconduct;

ii. the degree to which the misconduct caused harm to a resident or residents;

iii. the degree to which the misconduct damages the effectiveness of the ombudsman or the local designated entity;

iv. the ombudsman's previous record of service; and

v. the legal limits of the state ombudsman's or the local coordinator's authority.

e. This policy in no way restricts the right of a designated local entity to take any personnel action it deems appropriate under its own internal personnel policies.

5. Appeals

a. Decisions rendered by a coordinator in response to a grievance may be appealed to the state ombudsman by the person filing the grievance or the ombudsman named in the grievance. An appeal must be submitted, in writing, within 30 days of receipt of the written decision and must state the basis on which the appeal is requested.

b. Upon receipt of an appeal pursuant to §1229.L.5.a, the state ombudsman will:

i. review the written decision rendered by the coordinator;

ii. conduct further investigation, if necessary; and

iii. issue a written decision to confirm and support, modify, or repeal the coordinator's decision.

6. Hearings. Decisions rendered by the state ombudsman in response to a grievance may be appealed to the director of the Office of Elderly Affairs. This appeal must be in the form of a request for a hearing as outlined in LAC 4:VII.1273.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:2010.4 and OAA Section 307(a)(12).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:35 (January 1985), LR 11:1078 (November 1985), LR 13:742 (December 1987), LR 15:379 (May 1989), LR 17:600 (June 1991), repromulgated LR 17:661 (July 1991), amended LR 18:267 (March 1992), LR 24:1928 (October 1998), LR 28:1018 (May 2002).

§1231. Senior Community Service Employment Program

A. Purpose. The purpose of the Senior Community Service Employment Program is to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are 55 years or older and who have poor employment prospects, and in order to foster individual economic self-sufficiency and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors.

B. Program Administration

1. This program is funded by the U.S. Department of Labor. The Governor's Office of Elderly Affairs administers the program in the southeastern portion of Louisiana through three subgrantees. The balance of the state is served under the administration of seven national contractors:

a. Green Thumb;

b. the National Council on Aging;

c. the National Council of Senior Citizens;

d. the National Association of Hispanic Elderly;

e. the U.S. Forest Service;

f. the American Association of Retired Persons; and

g. the National Indian Council on Aging.

2. Slots are distributed by parish according to an equitable distribution formula. All organizations administering the Senior Community Service Employment Program are expected to comply with the distribution formula. The formula was developed by the sponsoring organizations and is reviewed annually by that group.

C. Definitions

*Enrollee*Xan individual who is eligible to receive services, and is paid wages for engaging in community service employment under a project.

*Grantee*Xan eligible organization which has entered into an agreement with the U.S. Department of Labor.

*Host Agency*Xa public agency or a private non-profit organization, other than a political party or any facility used or to be used as a place for sectarian religious instruction or worship and is exempt under 501(c)(3) of IRS Code, which provides a work site and supervision for an enrollee.

*Project*Xan agreement between the project sponsor and an eligible organization which provides for the employment of eligible individuals and the delivery of services.

*Project Sponsor*Xan eligible organization which has entered into an agreement with the U.S. Department of Labor.

*Subgrantee*Xan eligible organization which has a contractual agreement with the grantee to deliver services on the local level. Potential providers are required to show proof of IRS classification 501(c)(3).

*Subproject*Xan eligible organization which has a contractual agreement with the project sponsor to deliver services on the local level. Potential providers are required to show proof of IRS classification 501(c)(3).

*Unsubsidized Employment*Xemployment in the public or private sector where the former Senior Community Service Employment Program enrollee is not a participant in a federally funded employment and training program or in a volunteer position.

D. Eligible Applicants for Subproject Status:

1. agencies of the state;

2. parish councils on aging;

3. area agencies on aging;

4. units of local government (other than political organizations);

5. federal establishments and agencies;

6. nonprofit organizations; and

7. Indian tribes.

E. Application Procedure. Organizations must submit an application in the form designated by the grantee to be considered for subgrantee status.

F. Program Description

1. Enrollees are selected according to income guidelines, residence and age. Enrollment priorities shall be:

a. eligible individuals with greatest economic need;

b. eligible individuals age 60 and older; and

c. eligible individuals seeking re-enrollment.

2. Enrollees shall be offered a physical examination prior to participation in the program. Physical examinations are furnished at no cost to the enrollees and are offered only as a fringe benefit. When an enrollee objects to a physical examination, a written statement or waiver must be properly documented and signed.

3. As soon as possible after completion of enrollee's orientation and training, the subgrantee, in conjunction with the grantee, shall assign the enrollee to useful part-time community service employment in non-profit host agency. Subgrantees shall continually work toward placing enrollees in unsubsidized employment, thereby creating additional opportunities for persons to enroll. The goal for placement is 20 percent of the number of enrollees.

4. A community service employment enrollee should not exceed 1,300 hours, including paid hours for orientation, training, sick leave and vacation, during the 12-month period beginning with the date of enrollment.

5. Enrollees shall not be required to work more than 20 hours during one week. Shorter hours may be authorized by the subgrantee by means of a written agreement with the enrollee.

6. Enrollees shall work normal business hours, be enrolled at a work site near their home, and have proper supervision.

7. Community service employment of an enrollee shall not result in the displacement of currently employed workers.

G. Monitoring of the Governor's Office of Elderly Affairs Subprojects

1. Subgrantees funded through the Governor's Office of Elderly Affairs shall submit monthly and/or quarterly program reports to the Governor's Office of Elderly Affairs by the tenth working day of each month. Reports shall reflect current enrollment, placements, follow-ups and include a narrative description of activities conducted during the month.

2. Monthly financial reports shall be submitted by the subgrantee in the form designated by the Governor's Office of Elderly Affairs.

3. The Governor's Office of Elderly Affairs shall conduct biennial assessments to ensure that its subgrantees are performing in accordance with Senior Community Service Employment Program rules and regulations.

H. Project Termination. The grantee has the authority to terminate any of its contracts with a subgrantee which is not operating in accordance with Senior Community Service Employment Program rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 501, 20 CFR Part 674 and 20 CFR Part 89.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 24:1766 (September 1998), LR 28:1018 (May 2002).

§1233. State Funded Senior Center Operation

A. Definitions

1. A senior center is a community focal point where older adults come together for services and activities that reflect their experience and skills, respond to their diverse needs and interests, enhance their dignity, support their independence, and encourage their involvement in and with the center and the community. Senior centers offer services and activities within the center and link participants with resources offered by other agencies. Senior center programs consist of a variety of individual and group services and activities. Senior centers also serve as a resource for the entire community for information on aging, support for family care givers, training professional and lay leaders and students, and for development of innovative approaches to addressing aging issues.

2. A senior center satellite is an activity site which meets less than minimum standards required for a senior center and is under the direction of a Governor's Office of Elderly Affairs (GOEA) Contractor/Subcontractor.

B. Mission of a Senior Center. The mission of a senior center is to promote the physical, emotional, and economic well-being of older adults and to promote their participation in all aspects of community life.

C. Participant Eligibility. All Louisiana residents who are at least 60 years old, and their spouses are eligible to receive services through state funded senior centers.

D. Minimum Requirements for State Funded Senior Center

1. A state funded senior center shall serve as a focal point for older adults in the community. It shall be a source of public information, community education, advocacy, and opportunities for older adults.

2. A state funded senior center shall be staffed by qualified personnel, paid and volunteer, capable of implementing its program.

3. A state funded senior center must have or provide access to the following services:

a. nutrition services;

b. transportation;

c. information and assistance;

d. education and enrichment; and

e. wellness.

4. A state funded senior center shall serve an average of at least 20 participants per day or a lesser number that is determined to be cost effective and is approved by the state agency.

5. A state funded senior center shall operate at least four hours a day, four days a week (except in sites located in rural areas where such frequency is not feasible and a lesser frequency is approved by the state agency).

E. State Funded Senior Center Standards

1. A state funded senior center shall have written goals, objectives and action plans for each contract period. Goals and objectives must be based on the senior center mission and on the needs and interests of older adults in its community or service area. These statements shall be used to guide the character and direction of the senior center's operation and program.

2. A state funded senior center shall participate in cooperative community planning and establish service delivery arrangements with other community agencies and organizations.

3. A state funded senior center shall have clear administrative and personnel policies and procedures that contribute to the effective management of the senior center's operation.

4. A state funded senior center shall provide a broad range of group and individual activities and services to respond to the needs and interests of older adults in its community or service area.

5. A state funded senior center shall have appropriate and adequate arrangements to evaluate and report on its operation and program.

6. A state funded senior center shall practice sound fiscal planning and management, financial record keeping, and reporting as required by GOEA.

7. A state funded senior center shall keep complete records required to plan, operate, and review its program.

8. A state funded senior center shall use facilities that promote effective program operation and that provides for the health, safety, and comfort of participants, staff and community.

9. A state funded senior center shall provide a written description of available services and activities for distribution to potential participants.

F. Distribution of State Funds for Senior Centers

1. Funds appropriated by the state legislature for the operation of senior centers will be included in the total budget of the Governor's Office of Elderly Affairs (GOEA) and allocated to the designated recipients for distribution. Designated recipients may request GOEA to channel their state funds for senior centers through the area agency on aging. Such requests must be accompanied by a resolution adopted by the recipient's governing body.

2. Each parish Council on Aging board of directors shall review and provide a written resolution recommending approval/disapproval of each request for state funding for the operation of new senior centers within their respective parishes. In reviewing requests for state funding, PCOAs shall follow the guidance issued by GOEA.

3. GOEA shall provide an opportunity for a hearing and issue a written decision to any applicant for state senior center funding whose request is not recommended by the parish Council on Aging board of directors within their respective parishes. Hearings will be conducted in accordance with GOEA hearing procedures. GOEA shall be alert to conflicts of interest or noncompetitive practices that may restrict or eliminate competition among state funded senior center operators. GOEA shall approve requests for funding whenever, in the judgement of GOEA, the applicant demonstrates that a new facility is needed and that the proposed facility meets the criteria in Subsection G of this Section.

4. GOEA shall incorporate all new senior centers recommended for state funding in the state agency's annual budget request. Funding must be appropriated by the state Legislature.

G. Criteria for State Funded Senior Center Providers

1. agreement by the applicant agency to operate senior center programming on a nonprofit basis;

2. established capacity on the part of the applicant agency to provide senior center programming or similar services to the elderly population in an effective and efficient manner;

3. location of said facility in an area where a high concentration of elderly reside and are under-served with respect to this type program activity;

4. assurance of accessibility of senior center facility to the elderly, including a plan for transportation to and from center activities and a plan for assuring accessibility of the facility to the handicapped;

5. capacity for securing additional community resources, whether cash or in kind, to increase program support and to assure ongoing program funding;

6. commitment to fostering active and meaningful involvement of the elderly population in both the senior center and the larger community, to include emphasis on elderly participation in center program planning, and the development of opportunities for volunteer service by older persons, both within and outside the center; and

7. demonstrated sound fiscal responsibility, incorporation of proper accounting methods, a reasonable budget for proposed operation of the agency, and assurances that required fiscal reporting will be conducted in a timely fashion, as prescribed by the Governor's Office of Elderly Affairs.

H. Limitation on Use of Facilities

1. State funded senior centers may not be used for sectarian worship. This does not preclude counseling by ordained ministers or fellowship meetings for those who would voluntarily participate. No participant may be forced to participate in any religious activity or denied the benefit of services due to his personal beliefs.

I. Nepotism

1. Staff Relationships

a. State funded senior centers may not employ immediate family members in direct supervisory relationships. Immediate family is defined as follows: husband, wife, father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister, sister-in-law, son, son-in-law, daughter, daughter-in-law, grandfather, grandmother.

2. Purchases

a. State funded senior centers may neither obligate nor expend funds administered by the Governor's Office of Elderly Affairs for the purchase or rental of goods, space, or services if any of the following persons has a substantial interest in the purchase or rental unless it is documented that it is the cheapest or sole source, and the person who has an interest plays no part in making the decision:

i. a member of the governing body;

ii. the director or assistant director;

iii. any employee who has responsibilities for the procurement of goods, space or services; or

iv. anyone who is a member of the immediate family of a board member or employee referred to above.

J. Senior Center Program Income

1. State funded senior center program income shall be used in accordance with Paragraph 2 of Subsection C of §1197 of this manual.

K. Monitoring and Assessment of State Funded Senior Centers

1. GOEA shall monitor all state funded senior centers through on-site visits and/or review of program and financial reports.

2. GOEA shall conduct annual assessments of all state funded senior centers operated by parish councils on aging that are designated area agencies on aging.

3. GOEA Contractors shall conduct annual assessments of each senior center operated by one of its Subcontractors. Reports of these assessments shall be submitted to GOEA annually in the form prescribed by GOEA.

4. When a state senior center funds recipient elects to contract its state senior center funds through the designated area agency on aging, the area agency shall conduct annual reviews of senior center activities and services. Reports of the annual reviews shall be submitted to GOEA in the form prescribed by GOEA.

L. Evaluations of State Funded Senior Centers

1. GOEA shall conduct an annual evaluation of state funded senior center activities and services. Results of this evaluation shall be used in the budget planning process for the next program year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932 and R.S. 43:1119.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 15:384 (May 1989), LR 25:870 (May 1999).

§1235. Federally Funded Multipurpose Senior Centers

A. Definition and Standards

1. *Multipurpose Senior Center*Xa community or neighborhood facility for the organization and provision of a broad spectrum of services including health, social, and nutritional activities for older persons.

2. The minimum standards for a multipurpose senior center shall be as provided in §1233.C of this manual.

B. Multipurpose Senior Center Grants

1. By April 1, each year, awards for Older Americans Act (OAA) Title III funds for multipurpose senior centers may be made by area agencies on aging to public or private nonprofit agencies for the following purposes:

a. acquiring, altering, leasing, or renovating a facility, including a mobile facility, for use as a multipurpose senior center;

b. constructing a facility, including a mobile facility: for use as a multipurpose senior center, subject to the provision of Older Americans ActXTitle III Regulations;

c. all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

2. The area agency must ensure that communities wishing to develop a multipurpose senior center provide seniors the opportunity to have input into the development of plans and proposals.

3. Area agencies shall submit all renovation, acquisition, and construction grants to the state agency for prior approval before awarding funds.

4. Each area agency shall monitor, at least annually, the utilization of multipurpose senior centers and maintain records reflecting the grants awarded and a period of commitment.

C. Approval of Renovation, Acquisition, and Construction Grant Applications

1. The area agency must provide the following assurances in its request for approval of renovation, acquisition, and construction grant applications:

a. for not less than 10 years after acquisition, or not less than 20 years after the completion of construction, the facility will be used for the purpose for which it is to be acquired or constructed, unless for unusual circumstances the commissioner waives the requirement of Paragraph 307(a)(14) of the Act;

b. sufficient funds will be available to meet the nonfederal share of the cost of acquisition or construction of the facility;

c. sufficient funds will be available, when acquisition or construction is completed, for effective use of the facility for the purpose for which it is being acquired or constructed;

d. the facility will not be used, and is not intended to be used, for sectarian instruction or as a place for religious worship;

e. in the case of purchase or construction, there are no existing facilities in the community suitable for leasing as a multipurpose senior center;

f. the plans and specifications for the facility are in accordance with regulations relating to minimum standards of construction, promulgated with particular emphasis on securing compliance with the requirements of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968; and

g. any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the facility will be paid wages at rates not less than those prevailing for similar work in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276A-5, commonly known as the Davis-Bacon Act, and the Secretary of Labor shall have, with respect to the labor standards specified in this Subparagraph, the authority and functions set forth in reorganization plan numbered 14 of 1950 (15 F.R. 3176; 64 State. 1267), and Section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

2. In making awards for multipurpose senior center activities, the area agency shall ensure:

a. that the facility complies with all applicable state and local health, fire, safety, building, zoning, and sanitation laws, ordinances, or codes; and

b. the technical adequacy of any proposed alteration or renovation of a multipurpose senior center assisted under Title III, by requiring that any alteration or renovation of a multipurpose senior center that affects the load bearing members of the facility is structurally sound and complies with all applicable local or state ordinances, laws, or building codes.

3. Renovation, acquisition, and construction grant application proposals shall be thoroughly prepared with detailed floor plans drawn to scale, and the appropriate documentation relative to programming at the facility must meet handicap accessibility requirements, fire and safety codes, and be approved by the health department and dietitian (if nutrition program involved).

D. Reporting Requirements

1. By July 31 each year, the area agency must submit to the state agency a report of:

a. all new renovation, acquisition, or construction grants and awards to support multipurpose senior center programming; and

b. a list of facilities being monitored in the planning and service area.

2. If any facility ceases to be used as a multipurpose senior center, the area agency must notify the state agency within 30 days.

3. Recipients of awards must immediately file the following Notice of Record with the appropriate unit of local government upon purchase or completion of construction of the facility.

> This is to serve as notice to all potential sellers, purchasers, transferors, and recipients of a transfer of the real property described below as to the federal government's reversionary interests as set forth in Section 312 of the Older Americans Act of 1965, as amended, 42 U.S.C. 3030b, which have arisen as a result of (grantee's name) receipt and use of Department of Health and Human Services' grant funds in connection with the purchase or construction of said property. The property to which this notice is applicable is (address) and identified as Parcel (insert appropriate number(s)) in the books and records of (insert appropriate name of local unit of government's recording agency). Said real property is also described as: (insert description provided in survey). Further information as to the federal government's interests referred to above can be obtained from: (name and address of Area Agency on Aging).

a. After the notice has been recorded, the grantee shall provide the Area Agency on Aging with a copy. The area agency shall provide the state agency with a copy.

E. Recapture of Payments

1. If within 10 years after acquisition, or within 20 years after the completion of construction, of any facility for which funds have been paid under Title III of the Act:

a. the owner of the facility ceases to be a public or nonprofit private agency or organization; or

b. the facility ceases to be used for the purposes for which it was acquired (unless the commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so) the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

2. Renovated multipurpose senior centers must be utilized for at least five years, or the funds which have been paid under Title III must be returned to the state agency.

3. In returning recaptured funds, the state shall use procedures that are ordinarily used in an audit disallowance.

F. Waiver of Repayment

1. Under certain circumstances, area agencies may request a waiver of the repayment of funds from the state agency. The written request should include an historical background of the senior center and a description of the nature of the circumstances that led the area agency to request a waiver. Information provided should include the total OAA funds awarded, an estimate of the total federal share of the center's value when it ceased to be used for program purposes, and the date at which circumstances made a waiver advisable. The area agency must provide assurances that the repayment amount will be used for services or programs to benefit the elderly. Appropriate documentation which supports the request for a waiver should be either submitted with the request or made available as needed.

2. GOEA, if it deems necessary, will forward the request to the Commissioner of the Administration on Aging (AoA) through the AoA Regional Office. The AoA regional program director will review the request and forward it, with a recommendation, to the commissioner. If the commissioner determines that there is justification for releasing the applicant or other owner from the obligation to return the federal funds, the commissioner will inform the state, in writing, that a waiver has been granted. If a waiver is not justified, the commissioner will notify the state, in writing, that a waiver has been denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932,45 CFR 1321.75, OAA Sec. 307, 312, and 321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:735 (July 1992).

§1237. Long-Term Care Assistance Program

A. Purpose. The Louisiana Long-Term Care Assistance Program (the program) is designed to help defray the expenses incurred by individuals and families as a result of the rising cost of long-term care services resulting from expanded facility requirements mandated by federal law.

B. Definitions. As used in this Section, the following terms shall have the following meanings.

*Agency*Xthe Office of Elderly Affairs in the Office of the Governor.

*Director*Xthe executive director of the Office of Elderly Affairs.

*Gross Income*Xadjusted gross income, as provided by the federal income tax return.

*Long-Term Care*Xcare rendered to a resident of a facility licensed and certified by the Department of Health and Hospitals as a nursing home in accordance with R.S. 40:2009(3) et seq., or as an intermediate care facility for the mentally retarded in accordance with R.S. 28:421 et seq.

*Net Income*Xgross income less:

a. any nonreimbursed health care expenses, including long-term care services, personal care attendants, adaptive medical equipment, and other medical services recognized under state law;

b. federal and state taxes paid including income, property, and inheritance taxes; and

c. any health insurance premiums paid.

C. Administration of the Program

1. The Louisiana Long-Term Care Assistance Program shall be administered by the Office of Elderly Affairs. The program shall be subject to the availability, appropriation, and allocation of funds for the program.

2. The agency may seek private grants, federal funds, and any other revenue source for the operation of the program.

3. The agency may engage a fiscal intermediary to assist in the management and administration of the program.

4. The agency shall adopt and promulgate such rules and regulations as are necessary to administer the program.

D. Eligible Participants

1. Participation in the program shall be limited to residents of the state of Louisiana who meet all of the following criteria:

a. the individual is a patient in a facility licensed as: a nursing home in accordance with R.S. 40:2009(3) et seq., or licensed as an intermediate care facility for the mentally retarded in accordance with R.S. 28:421 et seq.;

b. the individual has a net income for the prior calendar year of less than $60,000 or a joint net income of less than $120,000;

c. the individual does not qualify for any other federal or state health care assistance program which provides for the payment of expenses for long-term care; and

d. the individual is not fully reimbursed for required long-term care services by health care insurance, as determined by the agency.

2. Medicaid Benefits

a. Applicants for Medicaid shall not receive benefits in this program until written notification of ineligibility is received by the agency.

b. Participants shall immediately notify the agency upon application for Medicaid benefits. Payments shall be suspended until written notification of determination of Medicaid eligibility is received by the agency.

c. If Medicaid benefits are denied, and all other eligibility requirements are met, payments shall be made retroactively to the month benefits under this program ceased.

d. If a participant qualifies for Medicaid benefits, and Medicaid benefits are subsequently discontinued, the person may reapply for benefits under this program.

E. Program Benefits

1. In accordance with R.S. 40:2802(c), the benefits under the program shall be established by the Commissioner of Administration, with an upper limit of $350 per participant per month. The rate shall be set by the commissioner with oversight by the Senate and House Committee on Health and Welfare, through rules and regulations.

2. Reimbursement payments shall be made on a monthly basis to eligible participants at the facilities where they reside. Payments shall not be forwarded to any other address. Where the participant has moved, the check shall be returned to the Office of Elderly Affairs.

3. Participants who move from one facility to another shall immediately notify the Office of Elderly Affairs of the change in address to prevent interruption of reimbursement.

F. Application for Reimbursement

1. Any individual residing in a long-term care facility, as defined in §1237.C, may request reimbursement of medical expenses by making application to the Office of Elderly Affairs.

2. Approved application forms shall be made available through nursing homes, ICF-MR facilities, and the Office of Elderly Affairs.

G. Eligibility Determinations

1. The agency shall provide written notification to each applicant found to be ineligible within 30 days of receipt of application.

2. Those applicants found to be eligible will begin receiving reimbursements within 30 days of receipt of application.

3. Reimbursements shall be retroactive for a maximum time period of six months prior to the date the completed application is received by the Office of Elderly Affairs.

4. Prior to making a final determination, the agency shall return applications which are incomplete or questionable (e.g., expenses reported exceed all income) for additional information.

5. Redetermination of Eligibility

a. If an applicant is determined ineligible for benefits under this program because (s)he does not meet the requirements in §1237.D.1, and the applicant's circumstances change, the applicant may reapply in accordance with §1237.F.

b. A redetermination of eligibility for this program shall be made based upon the current financial status of the applicant.

H. Appeal Procedures

1. Applicants for reimbursement of incurred medical expenses shall be afforded the right to appeal any adverse decision on the basis of additional information or administrative error. The appeal must be in the form of a request for a hearing as outlined in LAC 4:VII.1275.

2. The agency shall make every effort to resolve disputes informally prior to proceeding with a formal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2802(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November 1992), amended LR 19:627 (May 1993), LR 24:1765 (September 1998), LR 25:871 (May 1999).

§1239. Adult Protective Services for the Elderly

A. Overview of Elderly Protective Services

1. Purpose. The purpose of Elderly Protective Services (EPS) is to protect adults who cannot physically or mentally protect themselves and who are harmed or threatened with harm through action or inaction by themselves or by the individuals responsible for their care or by other persons.

2. Goal and Objectives

a. The goal of Elderly Protective Services is to assure that adults in need of protection are able to maintain the highest quality of life in the least restrictive environment appropriate to their individual capabilities and life style and wishes.

b. The objectives of Elderly Protective Services are:

i. to prevent, remedy, halt, or hinder abuse and neglect;

ii. to maintain a careful balance between protecting an adult from abuse and/or neglect and preserving his/her personal freedom and dignity;

iii. to assure the maximum possible degree of self-determination for the adult;

iv. to maintain the adult in the least restrictive living environment appropriate for his/her needs;

v. to secure referral or admission to appropriate alternative living arrangements if all efforts to maintain the adult in his/her own home fail.

3. Philosophy

a. The following principles are basic to the delivery of Elderly Protective Services:

i. adult abuse, neglect, and exploitation are primarily social problems, and their resolution should be sought initially through the provision of social services;

ii. services which support and strengthen the informal support system (family and caretakers) are vital to the protection of adults who are at risk of abuse, neglect, and exploitation;

iii. a client has the right to make decisions on his/her own behalf unless it is clearly evident to EPS that he/she is unable to do so, or until the court grants that responsibility to another individual;

iv. proper protection of an adult may require an APS worker to advocate for the right of the adult to make his/her own choice, even where there is a community or family request for the agency to intervene.

4. Client Rights

a. The elderly protective services client, if mentally able, has the right to:

i. receive voluntary protective services if he/she requests or consents to these services;

ii. participate in all decisions regarding his/her welfare;

iii. choose the least restrictive alternative that meets his/her needs;

iv. refuse medical treatment if it conflicts with his/her ethical values, and/or religious beliefs and practices;

v. withdraw from or refuse consent for protective services if the law has not been broken and the elderly client has the capacity to refuse services.

5. Framework for Elderly Protective Services

a. The principles of family based services provide the framework for elderly protective services. Family based services are designed to provide the maximum services to a family at the time of crisis to prevent the breakup of the family unit. This approach to the delivery of social services focuses on families rather than individuals. Services in this context are intended to strengthen and maintain families and prevent family dissolution and out of home placement of the adult.

b. Elderly protective services assist families in regaining or maintaining family autonomy while at the same time assuring the protection of individuals.

c. It is recognized that while adults who live alone may not have families, significant others may, when appropriate, be considered as part of the family unit within the context of family-based services.

6. Definitions

*Abandonment*Xthe withdrawal of support, care, or responsibility for an elderly adult without intending to return.

*Abuse*Xthe infliction of physical or mental injury on an adult by other parties including, but not limited to, such means as sexual abuse, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered.

*Adult*Xany individual 18 years of age or older or an emancipated minor.

*Capacity to Consent*Xthe ability to understand and appreciate the nature and consequences of making decisions concerning one=s person, including but not limited to provisions for health or mental health care, food, shelter, clothing, safety, or financial affairs. This determination may be based on assessment or investigative findings, observation, or medical or mental health evaluations.

*Caregiver*Xany person or persons, either temporarily or permanently responsible for the care of an elderly person.

*Caregiver Neglect*Xthe inability or unwillingness of the caregiver to provide for basic needs (food, clothing, medicine, etc.) of an elderly person.

*Collateral*Xan individual, other than a family member, caretaker, or subject of the investigation who may have information about the case. Collaterals may include family members, neighbors, witnesses, physicians, and other medical personnel, law enforcement officials, and others.

*Coordinating Counsel*Xaccording to R.S. 14:403.2 EPS is to form regional coordinating counsels to maximize community input into program operations.

*Curator (Guardian)*Xan individual appointed by the court to manage the affairs and/or person of the interdict.

*Elderly*Xterm used to refer to an individual 60 years of age or older.

*Elderly Protection Agency*Xthe Office of Elderly Affairs in the Office of the Governor (GOEA) for any individual 60 years of age or older in need of elderly protective services as provided in this Section. The Department of Health and Hospitals is the Adult Protection Agency for any individual between the ages of 18 and 59 years of age in need of adult protective services as provided in this Section.

*Exploitation*Xthe illegal or improper use or management of an elderly person's assets, or property, or the use of an elderly person's power of attorney or guardianship for one's own profit or advantage.

*Extortion*Xthe acquisition of a thing of value from an unwilling or reluctant adult by physical force, intimidation, or abuse of legal or official authority.

*Incompetency*Xjudicial finding, based on satisfactory evidence, of a person's inability to manage his/her affairs and/or person.

*Interdict (Ward)*Xan individual for whom a curator has been appointed.

*Interdiction (Guardianship)*Xa judicial proceeding which authorizes a court, upon petition, to appoint a curator (guardian) for a person found to be incapable of managing his/her person, estate, or property because of mental deficiency, deviation or physical infirmity. (In accordance with the Civil Code Articles 389-426.)

*Neglect*Xthe failure by a care giver responsible for the adult's care or by other parties to provide the proper or necessary support or medical, surgical, or any other care necessary for his/her well-being.

*Physical Abuse*Xthe injury, unreasonable confinement, intimidation, or cruel punishment of an adult with resulting physical harm or pain.

*Protective Services*Xinclude but are not limited to:

i. conducting investigations and assessments of complaints of possible abuse, neglect, or exploitation to determine if the situation and condition of the adult warrant further action;

ii. preparing a social services plan utilizing community resources aimed at remedying abuse, neglect, and exploitation;

iii. case management to assure stabilization of the situation;

iv. referral for legal assistance to initiate any necessary extrajudicial remedial action.

*Provisional Curator*Xan individual appointed by the court to manage the affairs and/or person of the interdict. The authority of the provisional curator expires 30 days after the date of appointment or when a curator is appointed. (In accordance rev Civil code Articles 389-426.)

*Regional Office*Xone of the seven EPS Region offices located throughout the state. Region 1, New Orleans; Region 2, Baton Rouge; Region 3, Lafayette; Region 4, Lake Charles; Region 5, Alexandria; Region 6, Monroe; Region 7, Shreveport.

*Self-Neglect*Xthe failure, either by the adult's action or inaction, to provide the proper or necessary support or medical, surgical or any other care necessary for his/her own well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall for that reason alone be considered to be self-neglected.

*Sexual Abuse*Xthe involvement of an adult who is determined to be an unwilling participant or is in a state of diminished physical and/or mental capacity in any sexual act or situation.

7. Legal Basis

a. R.S. 14:403.2 provides the statutory authority for elderly protective services. The intent of the law is to authorize the least possible restriction on the exercise of personal and civil rights consistent with the adult's need for services and to require that due process be followed in imposing such restrictions.

b. The major areas covered by R.S. 14:403.2 include:

i. responsibilities of the Elderly Protection AgencyXGOEA is responsible for the provision of elderly protective services to persons age 60 or older. These services shall include a prompt investigation and assessment;

ii. reportingXany person having cause to believe that an adult's physical or mental health or welfare has been, or may be further, adversely affected by abuse, neglect, or exploitation shall report to the adult protection agency or to any local or state law enforcement agency.

iii. immunityXno cause of action shall exist against:

(a). any person who, in good faith, makes a report, cooperates in an investigation by an agency, or participates in judicial proceedings authorized under the provisions of the law; or

(b). any caseworker who, in good faith, conducts an investigation or makes an investigative judgment or disposition;

iv. consent to serviceXprotective services may not be provided in cases of self neglect to any adult who does not consent to such service or who, having consented, withdraws such consent based on the functional capacity of the individual.

B. Confidentiality

1. For purposes of elderly protective services, confidentiality is defined as the protection of social and other information concerning an adult, his/her family and his/her situation which is disclosed to the EPS program/worker by the elder, the reporter and/or collaterals. The intent of confidentiality is to prevent information and/or records concerning an elder from being released to persons who have no legitimate need for or right to such information and/or records.

2. When making a determination regarding release of the elderly case information, the following criteria shall be considered:

a. has the elder, or his/her legally authorized representative consented to the release of the information;

b. if the answer to §1239.B.2.a is no, is the release required by law (such as referral to a district attorney in a case of physical abuse);

c. if the elder lacks the capacity to consent and has no legally authorized representative, will the release of the information directly benefit the adult, facilitate treatment, or prevent or ameliorate the abuse/neglect/exploitation problem?

3. If the answer to any of the questions in Paragraph 2 of this Subsection is yes, the information may be released. If there are any questions regarding whether information should be released, the information shall not be released without supervisory and/or legal consultation with the GOEA staff attorney.

4. To obtain confidential information (written medical or psychiatric reports, etc.), from sources outside GOEA, a release form, signed by the adult or his/her representative, is necessary. The signed release form is also necessary before any written case information may be sent to any agency/organization outside GOEA.

C. Intake

1. Intake. The intake process includes those activities whereby reports concerning the abuse, neglect, and/or exploitation of adults are received, evaluated for appropriateness, and either accepted or not accepted for investigation. All intake information shall be documented on Form EPS-1.

2. Eligibility for Elderly Protective Services. To be eligible to receive protective services through GOEA the adult must be:

a. age 60 or older; and

b. alleged to be abused/neglected/financially exploited by a care giver or others; or

c. alleged to be unable to provide for his/her own well being which results in danger to his/her own health and/or safety; and/or

d. alleged to be unable to protect him/herself from abuse/neglect/financial exploitation.

3. Types of Abuse/Neglect Accepted for Investigation:

a. physical or mental abuse;

b. care giver neglect;

c. exploitation;

d. extortion;

e. self neglect;

f. sexual abuse;

g. abandonment.

4. Determining Whether a Report Is Accepted for Investigation. In order for a report to be accepted for investigation, the adult must meet eligibility criteria described in §1239.C.2 and must be an alleged victim of at least one of the types of abuse/neglect/exploitation listed in §1239.C.3.

5. Case Name. The case name shall be the name of the adult who is the subject of the report. If more than one adult in the same family are subjects, the case name shall be the name of the older adult.

6. Categories of Protective Services Reports

a. Initial. The first report of abuse/neglect of an adult. This report initiates the investigation.

b. Subsequent. A report of another incident of abuse/neglect involving the same adult while the case is open which alleges a type of abuse/neglect different from the Initial Report. The EPS worker responsible for the case shall investigate all Subsequent Reports as if they were Initial Reports.

c. Additional Information. A report which provides information regarding an open case which does not involve a different type of abuse/neglect.

d. Nonaccepted. A report which does not meet the criteria for acceptance of a case.

7. Nonacceptance of a Report

a. When a report is not accepted for investigation, the EPS worker shall advise the reporter of the reason for nonacceptance and will provide the following, as appropriate:

i. consultation and direct referrals for other services;

ii. referral to a law enforcement agency or to the district attorney;

iii. referral to the appropriate agency for investigation if the client is not within the jurisdiction of the EPS program.

b. If a report is not accepted for investigation, the action taken on the report must be documented on Form EPS-1.

D. Investigation Procedures

1. Priorities for Investigation of Cases. Cases accepted for investigation shall be prioritized as high, medium and low according to the severity of factors of abuse/neglect based on information provided by the reporter and other sources. The priority level of the case determines the time frame and agency commitment of staff and resources for the investigation. Investigation of low and medium priority cases may be limited if all EPS workers in a regional office have 35 active cases in any one month period.

2. Definitions of Priority Levels

a. High Priority. Allegations of abuse/neglect/ exploitation which include any one or more of the following examples of conditions will constitute a high priority case. The examples are not all inclusive. These cases will be served first. The alleged victim:

i. has severe and functionally limiting physical disability;

ii. has severe and functionally limiting mental illness or mental confusion;

iii. is totally dependent on others for income/financial resources which are being misused;

iv. lives in a structurally unsound home with severe health and/or safety violations;

v. requires immediate medical attention for abuse/neglect;

vi. is the victim of sexual abuse;

vii. is subject to unrestricted access by an alleged perpetrator;

viii. is totally dependent on others for basic necessities of life, which are not being provided.

b. Medium Priority. Any one or more of the following factors will constitute a medium priority case. The alleged victim:

i. has moderate physical disability/requires prosthesis or hands-on assistance to be ambulatory;

ii. has periodic confusion and impaired reasoning abilities;

iii. is partially dependent on others for financial resources and/or management;

iv. lives in a home with some structural or safety problems which pose moderate risk;

v. lacks adequate supervision of basic needs, which, if left unchecked, will endanger health and well being;

vi. has minor injury or injuries;

vii. has psychological symptoms due to neglect and/or abuse;

viii. is in a situation, which, while not critical, is very likely to get worse without intervention;

ix. is partially dependent on others for basic necessities of life.

c. Low Priority. Any one or more of the following factors will constitute a low priority case. These cases will be served if all higher priority cases have been investigated and if staff and resources are available. The alleged victim:

i. is ambulatory;

ii. has minimal physical disability;

iii. has minimal mental disability/mild retardation-occasional mild confusion;

iv. is financially independent;

v. lives in a home which meets minimal standards;

vi. is able to care for his/her basic needs;

vii. has minor injury or injuries, or minor signs of neglect.

3. Time Frames for Investigation

a. High Priority Cases. Investigation shall be initiated within eight work-day hours of receipt of the report.

i. Life-Threatening Situation. A life-threatening situation is one in which the adult is in immediate danger of death or serious bodily harm. Investigation shall be initiated, or appropriate crisis-intervention measures begun, immediately upon receipt of the report.

ii. Non-Life-Threatening Situation. Investigation shall be initiated within eight work-day hours of receipt of the report.

b. Medium Priority Cases. Investigation shall be initiated within three working days of receipt, as long as investigation of high priority cases is not delayed.

c. Low Priority Cases. Investigation of cases which are considered low priority shall be initiated after investigations for all high and medium priority reports have been initiated.

4. Determination of Appropriate EPS Regional Office to Investigate the Report.

a. The EPS Regional Office responsible for the investigation shall be the one which serves the parish in which the adult normally resides.

b. If the adult's residence changes to another region before completion of the investigation, the original EPS worker will be responsible for the case unless it is determined that distances between offices are too great.

5. Purpose of the Investigation

a. The purpose of the investigation is to determine whether the adult alleged to be abused, neglected, exploited, or unable to care for himself is in need of protective services, and if so, to identify what services are needed to provide the protection.

b. The determination of need for protective services may be based upon problems identified in the report, or it may be based upon problems the APS worker identifies during the investigation, or both.

6. Time Frame. The investigation shall be completed and a decision made regarding disposition of the case within 45 calendar days of the date the initial report was received. If this time frame cannot be met, the reasons must be documented in the case record.

7. Report to the District Attorney. A report shall be sent to the district attorney on all cases where it appears after investigation that an adult has been abused and neglected by a third party or parties and that the problem cannot be remedied by EPS through extrajudicial means. A list of services which are available to ameliorate the abuse and neglect situation shall be provided in the report. Such reports shall be reviewed and approved by the EPS Program Manager or his/her designee prior to referral.

8. Exceptions to EPS Investigation Procedures

a. Not Accepted for Investigation

i. Spouse Abuse. Allegations of spouse abuse will not be accepted for investigation, unless the adult meets the criteria for eligibility as described in §1239.C.2. Reporters who allege spouse abuse for adults not eligible for adult protective services shall be referred to local law enforcement agencies or to battered women's shelters, if appropriate.

ii. Licensed and Certified Nursing Facilities (includes all Title XIX Facilities). Allegations of abuse/neglect of an adult who resides in a nursing facility shall not be accepted for investigation except as provided below. Reporters will be referred to the Department of Health and Hospitals, Bureau of Health Standards, Baton Rouge, LA and/or to the State Long Term Care Ombudsman Program. The exception to this rule is in cases where a resident of a nursing facility is alleged to be abused or exploited by someone visiting the facility or while visiting outside the facility.

iii. Mental Health and Mental Retardation Facilities. Allegations of abuse/neglect of an adult who resides in a facility, group home, or hospital operated by the Division of Mental Health or Mental Retardation/Developmental Disabilities shall not be accepted for investigation. Reporters shall be referred to the appropriate regional level offices.

b. Accepted for Investigation

i. Adult Residential Care Home. Allegations of abuse/neglect of an adult who resides in a board and care home will be accepted for investigation. Such reports should also be reported to the Department of Social Services, Division of Licensing, and the State Long-Term Care Ombudsman Program.

E. Services

1. Service Assessment. When a decision has been made that a case is valid, and the adult consents to services or lacks the ability to make a competent decision, a service assessment shall be conducted and a plan developed.

2. Service Plan

a. Development. The service plan is the basis for the activities that the EPS worker and service providers will undertake. The focus of the service plan is time limited and it is expected that involvement of the EPS worker in the case will not exceed three months. Therefore, time frames for service delivery which require EPS worker participation should take this limitation into consideration.

b. Participation of the Adult. All aspects of the service plan shall be developed with the ongoing participation and involvement of the mentally competent adult. For other adults, the following situations may apply.

i. When the adult has a legally appointed curator (guardian), that person is the spokesperson for the adult.

ii. When the adult has an informal (nonlegal) representative, usually a family member (not an alleged perpetrator), this person should participate in the development of the service plan.

iii. When the adult appears to be mentally incapacitated but does not have either a legal or nonlegal representative, the APS worker should obtain as much participation as is feasible and practical, dependent upon the adult's current situation.

F. Complaints against Elderly Protective Services (EPS)

1. For purposes of this policy the following definitions apply.

a. *Complaint*Xany allegation of wrongdoing of misconduct by EPS. Complaints may submitted orally or in writing.

b. *Misconduct*Xany action by an Elderly Protective Services Investigator which is considered detrimental to the welfare of an elderly person that is in violation of laws and regulations that govern the EPS Program, including Section 721 of the Older Americans Act, R.S. 14:403.2 et seq., and LAC 4:VII.1229.

2. Any complaint or allegation of misconduct should be referred to the EPS Regional Supervisor who will subsequently investigate these complaints. Following the Regional Supervisor=s investigation of said complaint, the information will be forwarded to the EPS Director for review and disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:327 (March 1993), amended LR 20:543 (May 1994), LR 24:1763 (September 1998).

§1241. Eldercare/Case Management

A. Scope

1. This Section governs area agencies on aging and Title III subcontractors under area plans that enter into contracts to provide eldercare, as defined in Subsection B of this Section.

2. This Section also applies to arrangements that area agencies and Title III subcontractors may have with private entities to provide case management as defined in §1241.B.

B. Definitions

*Access/Intake/Screening*Xmarketing and initial contact with the area agencies from the individual and/or the company requesting case management services.

*Assessment*Xa face-to-face evaluation, utilizing a standardized assessment tool, to determine the individual's needs and resources.

a. The assessment provides some or all of the following information regarding the individual:

i. functional level;

ii. cognitive status;

iii. health status;

iv. current living arrangement; and

v. use of formal and informal support system.

b. There are three possible assessments that can be conducted for a private entity:

i. an underwriting assessment;

ii. a benefits assessment; and

iii. a care plan assessment.

*Business Firm*Xa private entity.

*Care Plan Implementation/Coordination*Xassessing and coordinating the appropriate services (services delivery) and assisting the individual to make the necessary financial arrangements to implement an individual's plan of care.

*Care Planning*Xdetermining, with the individual, the appropriate and available mix of formal and informal services and resources to meet the individual's long term care needs, and developing a plan of care to meet those needs.

*Case Management*Xa service with several components, which collectively make up case management. The components of case management include a combination of some or all of the following:

a. access/intake/screening;

b. assessment;

c. care planning;

d. care plan implementation/coordination; and

e. continued care management.

*Continued Care Management*Xthe monitoring, reassessment, and discharge or termination component of case management. More specifically this includes:

a. monitoring the service delivery, quality of care provided, and status of the individual;

b. reassessing the individual's cognitive status, health status, and functional level as they relate to the care provided and making appropriate changes as needed; and

c. closing the case once an individual no longer requires case management due to depletion of insurance coverage; death; or improved health, whereby case management services are no longer required.

*Eldercare*Xa service provided to a business firm on behalf of its older employees, retirees, or employees who have care giver responsibilities for elderly relatives. The service most often includes a form of enhanced information and referral, but may extend to other types of services and/or programs, as determined by the employer. Typically, eldercare benefits are provided through a contract under which the business firm, or an intermediary, makes third party payments to an area agency on aging (or other agency or organization) to provide directly or to arrange for the provision of specified services and/or programs to a defined group of corporate employees on behalf of their older relatives.

C. Services Authorized

1. Eldercare

a. Area agencies may provide the following services under eldercare contracts only under an approved area plan:

i. services directly related to area agency on aging administrative functions, as defined in §1143.B.1 of this manual;

ii. services the state agency has authorized the area agency to provide directly during the contract period.

b. Title III subcontractors may provide any service in the GOEA Taxonomy under eldercare contracts, subject to applicable licensure requirements, only under an approved area plan.

2. Case Management for a Private Entity. Area agencies and/or Title III subcontractors may provide one or more components of case management, as defined in §1241.B, for a private entity, only under an approved area plan.

D. Area Plan Requirements for the Provision of Eldercare and/or Case Management for a Private Entity

1. Whenever the area agency and/or one or more of its Title III subcontractors plans to provide eldercare, and/or case management for a private entity, the area plan, or its amendment, shall:

a. specify whether the area agency intends to provide the service(s) directly or whether a Title III subcontractor under the area plan intends to provide the service(s);

b. specify what service is to be provided under each contract; and

c. provide the following assurances:

i. services shall not conflict with, or prevent the area agency from accomplishing its mission under the Older Americans Act and Title III regulations;

ii. the area agency shall continue to fully and effectively comply with its responsibilities to target its Title III resources and services to older persons in the greatest economic or social need, with particular attention to low income minority older persons;

iii. the area agency or Title III subcontractors under an area plan shall not enter into any agreement with a business firm which would restrict the area agency from providing services to older persons and those who support them, or would prohibit a service provider from entering into agreements with other corporations to provide similar services or benefits;

iv. the business firm shall pay the full cost associated with the services being provided under the contract. This includes any start-up costs, administrative costs, overhead costs or any other costs that are involved in providing the service(s);

v. revenues and expenditures under the contract shall be accounted for separately from Older Americans Act funds and other public funds;

vi. each area agency on aging shall disclose to the state agency on aging the provisions and terms of all proposed contracts to provide eldercare and/or case management as defined in §1241.B, as required by the state agency.

2. The information shall be provided in the format prescribed by the state agency.

E. Restrictions

1. This Subsection applies to the referrals that might be made by the staff of an information and referral provider or a case manager under an eldercare contract.

2. Older persons referred to an Older Americans Act funded service provider under an eldercare contract shall not be given any special consideration by service providers.

3. Older persons referred for services funded under the Older Americans Act shall be subject to the same criteria that would apply to any other potential recipient of service.

4. An exception to the restriction in §1241.E.2, above, can be made in those instances where the business firm, under contract, has agreed in the contract to pay the full cost of any service(s) rendered by the area agency on aging or provided by a service provider under an area plan.

F. Monitoring and Assessment Responsibilities

1. The state agency shall monitor and assess the area agency/agencies for compliance with all of the provisions of this Section. Corporate contracts will be monitored by the state agency as part of the annual program review process.

2. The area agency shall monitor and assess the Title III subcontractors for compliance with all of the provisions of this Section.

G. Failure to Comply. Substantial failure of an area agency on aging or Title III subcontractor to fulfill all of the provisions of this Section shall be grounds for termination of the Title III contract or subcontract.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2) and Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:1376 (December 1992).

§1243. Frail Elderly Program

A. Intent

1. The Frail Elderly Program (hereafter referred to as "the program") is designed to provide home and community services to persons 60 years of age or older who have some degree of functional impairment. Such impairment shall be determined by the comprehensive assessment conducted in accordance with §1243.C.

2. In areas served by a voluntary council on aging which agrees to participate, the program shall be administered by the council, subject to the rules and regulations promulgated by the Office of Elderly Affairs (hereafter referred to as "the office").

3. Participating councils on aging shall aggressively market these services to the community and expand their service capabilities to meet the need of frail older people.

B. Objectives. The program has three objectives:

1. to provide services to eligible participants who are in need and are willing to pay for such services;

2. to ensure that eligible participants who are able to pay for all or a portion of the cost of a service are allowed to do so; and

3. in the process of implementing the above two objectives, to utilize additional resources to expand services and reduce the number of people on waiting lists.

C. Eligibility. Eligibility for the program shall be determined on the basis of the assessment conducted, using the intake/assessment instrument developed by the office. No person shall receive services under this program without such services being authorized on the basis of the comprehensive assessment results.

D. Funding

1. Funding for the program shall be provided by that portion of appropriations from the state general fund to the parish voluntary councils on aging not needed to match the federal Older Americans Act or other matching fund programs.

2. The office shall establish fees for each service provided under the program. Persons eligible for the program shall be assessed an appropriate fee, on a sliding scale, based upon the person's ability to pay. Clients not required to pay shall be informed of service costs, and shall be allowed to voluntarily contribute to the cost.

3. In this program, it shall be considered that state funds are expended first. While participating councils on aging will be allowed to keep a "reserve" fund, the amount of such fund shall be limited. Maintaining a large cash surplus would be inconsistent with the intent. Therefore, a high percentage of collected fees shall be utilized to provide additional services. Funds remaining unexpended at year end will be considered as fee revenue.

4. All fee revenue generated by the program shall be utilized only for the purpose of increasing the provision of any of the services allowed under this program to eligible persons.

E. Service Definitions. Uniform definitions of services in the Frail Elderly Program shall be developed by the office and employed by all participating councils on aging as provided in LAC 4:VII.1217.

F. Reporting

1. Participating councils on aging shall submit reports to the office as required.

2. The office shall report annually to the legislature on the implementation of the Frail Elderly Program, as required by R.S. 46:937.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:937.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1422 (November 1993), repromulgated LR 20:48 (January 1994).

§1245. Family Caregiver Support Program

A. Purpose. The purpose of the Family Caregiver Support Program (hereafter referred to as "this program") is to provide multifaceted systems of support services for family caregivers and for grandparents or older individuals who are relative caregivers.

B. Definitions

*Activities of Daily Living*Xthe term *activities of daily living* includes eating, dressing, bathing, toileting, transferring in and out of bed/chair and walking.

*Adult Day Care/Adult Day Health*Xprovision of personal care for dependent adults in a supervised, protective, congregate setting during some portion of a 24-hour day. Services offered in conjunction with day care/adult day health typically include social and recreational activities, training, counseling, meals for adult day care and services such as rehabilitation, medications assistance and home health aide services for adult day health.

*Case Management*Xassistance either in the form of access or care coordination in circumstances where the older person and/or their caregivers are experiencing diminished functioning capacities, personal conditions or other characteristics which require the provision of services by formal service providers. Activities of case management include assessing needs, developing care plans, authorizing services, arranging services, coordinating the provision of services among providers, follow-up and reassessment, as required.

*Child*Xan individual who is not more than 18 years of age.

*Client*Xfor purposes of this program, the term *client* refers to the caregiver.

*Family Caregiver*Xan adult family member, or another individual, who provides uncompensated in-home and community care to an older individual who needs supportive services.

*Grandparent or Older Individual who is a Relative Caregiver*Xa grandparent or stepgrandparent of a child, or a relative of a child by blood or marriage, who is 60 years of age or older and:

a. lives with the child; and

b. is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and

c. has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

*Group Respite*Xestablished social-model adult day service programs designed to provide a temporary break in the tasks of caregiving and offer information, education and other supportive services. They also attempt to improve patients' cognitive and social abilities by providing a secure environment and opportunities to socialize.

*In-Home Respite*Xpersonal care provided in the home of the qualifying individual in order to provide a brief period of relief or rest for the client.

*Individual Counseling*Xthe term *individual counseling* refers to services of a state licensed professional designed to increase the client's capability to care for the qualifying individual. These services are meant to provide short term training or therapy to develop critical skills. Persons providing this service must be licensed in the specific area in which training or consultation is being provided The areas covered include, but shall not be limited to the following: social work, psychology, professional counseling, nursing, food and nutrition, occupational therapy, physical therapy, and speech pathology and audiology.

*Information and Assistance*Xa service for older individuals that:

a. provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;

b. assesses the problems and capacities of the individuals;

c. links the individuals to the opportunities and services that are available; and

d. to the maximum extent practicable, ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate follow-up procedures.

*Institutional Respite*Xtemporary, alternative living arrangements for older persons in a hospital, nursing home or other licensed facility on an intermittent, occasional or emergency basis.

*Material Aid*Xissuing assistive devices and other goods (e.g., walkers, wheelchairs, fans, commodities, personal hygiene items).

*Mental Retardation and Related Developmental Disabilities*X

a. a diagnosis of metal retardation. Mental retardation refers to significantly sub-average general intellectual function existing concurrently with deficits in adaptive behavior and manifested prior to age 22; or

b. a severe, chronic disability which is attributable to mental retardation, cerebral palsy, epilepsy or autism; or any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment of services similar to those required for these persons; the disability:

i. is manifested before the person reaches age 22;

ii. is likely to continue indefinitely;

iii. results in substantial functional limitations in three or more of the following areas of major life activity: self-care; understanding and use of language; learning; mobility; self-direction; capacity for independent living; economic self-sufficiency; and

iv. reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated, except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

*Older Individual*Xan individual who is 60 years of age or older.

*Personal Care*Xa service that provides personal assistance, stand-by assistance, supervision or cues for persons with the inability to perform one or more of the following activities of daily living: eating, dressing, bathing, toileting, transferring in and out of bed/chair or walking. Generally, tasks are limited to those dealing with personal hygiene, meal preparation and eating, household services for the recipient and accompanying the recipient to and from medical appointments.

*Qualifying Individual*Xthe older individual or child receiving the care provided by the family caregiver or the grandparent or older individual who is a relative caregiver.

*Sitter Service*Xa service provided in a home setting to ensure the health and safety of the qualifying individual. It includes observing, conversing, providing food for the qualifying individual, etc.

C. Support Services

1. Funds allocated under this program for services provided by an area agency on aging, or entity that such agency has contracted with, shall be expended in the categories listed below. All appropriate state licensing requirements must be met.

*Assistance*Xservices that involve individual one-on-one contact to assist caregivers in gaining access to the services (i.e., information and assistance or case management);

*Counseling/Support Programs/Groups*Xprovision of advice, guidance and instruction to caregivers in an individual or group setting to assist the caregivers in making decisions and solving problems relating to their caregiving roles (e.g., individual counseling, organization of support groups, or training);

*Information*Xactivities that involve a contact with several current or potential clients/caregivers with current information on opportunities and services available to the individuals within their communities services (e.g., public education);

*Respite Care*Xtemporary or periodic services for frail elderly or individuals with developmental disabilities including adult day care/adult day health, group respite, In-home respite and institutional respite. These services must be provided for periods of at least four hours and not more than 72 hours per visit and shall be limited to a maximum of 96 hours per calendar year per qualifying individual; and

*Supplemental Services*Xpersonal care, sitter service or material aid to support the needs of caregivers.

2. The services provided under this program shall supplement, and not supplant, replace, or substitute for any services described in Paragraph 1 of this Subsection provided by GOEA or other State agency or unit of general purpose local government (including an area agency on aging) using Federal, State, or local funds on or before November 12, 2000, which was one day before the date of enactment of Title III-E.

3. Area agencies may use not more than 10 percent of the funds allocated under this program to provide the support services listed in Paragraph 1 of this Subsection to grandparents and older individuals who are relative caregivers.

4. No more than 20 percent of the funds allocated under this program shall be dedicated to supplemental services. An area agency on aging, or entity that such agency has contracted with, may use other funds to provide additional supplemental services.

5. Of the funds not expended pursuant to Paragraph 3 of this Subsection, at least 40 percent shall be reserved for respite services.

6. Direct payment to family caregivers shall not be allowed in this program.

D. Participant Eligibility and Priority Requirements

1. Eligibility Criteria

a. Services shall be provided to:

i. family caregivers, as defined in Subsection B of this Section; and

ii. grandparents or older individuals who are relative caregivers, as defined in Subsection B of this Section.

b. Services specified in Subparagraphs d and e of §1245.C.1 of this manual, shall be provided to a family caregiver who is providing care to an older individual who is determined to be functionally impaired because the individual:

i. is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

ii. due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

2. An area agency on aging, or entity that such agency has contracted with, shall give priority for services to older individuals with greatest social and economic need, (with particular attention to low-income older individuals) and older individuals providing care and support to persons with mental retardation and related developmental disabilities.

3. No one shall be entitled to receive the maximum services allowed. Service plans shall be based upon individual client needs. Services shall be provided as permitted by available funding.

E. Participant Selection Criteria. Participants in this program shall be selected using guidelines established by the Office of Elderly Affairs.

F. Coordination with Service Providers. Each area agency on aging shall coordinate the activities of the agency, or entity that such agency has contracted with, with the activities of other community agencies and voluntary organizations providing the types of services described in §1245.C.

G. Accountability

1. The area agency shall collect data and maintain records relating to this program in the format specified by GOEA. The area agency shall furnish the records to the Office of Elderly Affairs in the prescribed time frame. These records will enable the Office of Elderly Affairs to monitor program administration and compliance, and to evaluate and compare the effectiveness of this program.

2. The area agency shall prepare and submit to GOEA reports on the data and records required under Paragraph 1, including information on the services funded under this program.

3. The area agency on aging, or entity that such agency has contracted with shall comply with standards established by the state agency to assure the quality of services provided with assistance made available under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, Sections 371, 372, 373, and 374 of the Older Americans Act of 1965, as amended (P. L. 106-501); and 42 U.S.C. 6001.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 27:1518 (September 2001).

Subchapter F. Hearing Procedures

§1265. General Hearing Provisions

A. Purpose. The Governor's Office of Elderly Affairs (GOEA) shall provide the opportunity for a hearing, on request, to area agencies on aging submitting plans under Title III of the Older Americans Act, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan; and to any unit of general purpose local government, region within the state recognized for area wide planning, metropolitan area, or Indian reservation that applies for designation as a planning and service area when GOEA initiates certain types of action or proceedings. This Section specifies the timing and procedures for the hearings.

B. Definitions

*Act*Xthe Older Americans Act (42 United States Code Section 3001 et seq.).

*Administration on Aging*Xan agency of the U.S. Department of Health and Human Services, Office of Human Development Services. It is the Federal focal point and advocate for older persons and their concerns.

*Area Agency on Aging*Xthe agency designated by the Governor's Office of Elderly Affairs in a planning and service area to develop and administer the area plan for a comprehensive and coordinated system of services for older persons.

*Area Plan*Xthe document submitted by an area agency to the Governor's Office of Elderly Affairs in order to receive contracts from the Governor's Office of Elderly Affairs.

*Assistant Secretary for Aging*Xthe head of the Administration on Aging.

*Contract*Xan award of financial assistance by the Governor's Office of Elderly Affairs to an eligible recipient.

*Director*Xthe director of the Governor's Office of Elderly Affairs.

*Governor's Office of Elderly Affairs*Xthe single state agency designated to develop and administer the state plan and be the focal point on aging in the state of Louisiana.

*Hearing Examiner*Xan impartial person designated to preside at the hearing and render a proposed final decision.

*Interested Person*Xany person who has a justifiable and clearly identifiable interest in the decision being appealed.

*Party*Xany petitioner or the area agency or the Governor's Office of Elderly Affairs which proposed or decided the action being appealed.

*Person*Xan individual, partnership, corporation, association, governmental agency or subdivision, or public or private organization of any character.

*Petitioner*Xany person who has a right to a hearing under these rules and has filed a written request for a hearing.

*Planning and Service Area*Xa geographic area of the state that is designated by the state agency for the purpose of planning, development, delivery, and overall administration of services under an area plan.

*Service Provider*Xan entity that is awarded a subcontract from an area agency to provide services under the area plan.

*State Agency*Xthe single state agency designated to develop and administer the state plan and to be the focal point on aging in the state.

C. General Procedures for Hearing

1. Decisions Unresolved on Effective Date of These Rules. These rules shall be applicable to all cases involving actions in which the petitioner has filed a request for hearing within 30 days of the receipt of the notice of such action, and a hearing has not yet been held or informal disposition or arrangements made as specified in §1265.C.4.

2. Computation of Time. In computing any record of time prescribed by these rules, or by any applicable statute, the period shall begin on the day after the event or act cited in the rule or statute and conclude on the last day of the computed period, unless the last day be a Saturday, Sunday, or a legal holiday, in which case the period concludes on the next day which is neither a Saturday, Sunday, nor a legal holiday.

3. Representation of Petitioner. Any party may be assisted by an attorney at law authorized to practice law before the Supreme Court of the state of Louisiana. Any party may appear personally or be represented by an employee or officer, or other person authorized by the party to represent the party.

4. Informal Disposition. Informal disposition or arrangements may be made of any matters under these rules by written agreement between petitioner and the area agency or the Governor's Office of Elderly Affairs proposing or deciding the action that resolves the issue(s) that led to the hearing.

D. Incorporation of Administrative Procedure Act. There is hereby incorporated as a part of these rules, to the extent same be applicable and pertinent, the provisions of R.S. 49:951 et seq., the Administrative Procedure Act, as amended.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(b)(1), Section 307(a)(5) and 45 CFR 1321.43(e).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:2207 (November 1999).

§1267. Hearing Procedures for Area Agencies

A. Purpose. The purpose of this Section is to establish procedures that Governor's Office of Elderly Affairs (GOEA) will follow to provide due process to affected AAAs whenever GOEA initiates particular types of action or proceedings.

B. Right to a Hearing. GOEA shall provide affected AAAs reasonable notice and opportunity for a hearing whenever GOEA initiates an action or proceeding to:

1. revoke the designation of an AAA;

2. designate an additional planning and service area in the state;

3. divide the state into different planning and service areas; or

4. otherwise affect the boundaries of the planning and service areas in the state.

C. Notice of Proposed Action

1. The Governor's Office of Elderly Affairs shall issue a written notice to the area agency which shall include:

a. a statement of the proposed action;

b. a short and plain statement of the reasons for the proposed action and the evidence on which the proposed action is based; and

c. a reference to the particular Sections of statutes, regulations, and rules involved.

2. The notice shall be sent by registered or certified mail, return receipt requested.

D. Request for Hearing

1. The request for hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the proposed action.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the proposed action is appealed and all grounds upon which petitioner refutes the basis of the proposed action. The request must include:

a. the dates of all relevant actions;

b. the names of individuals or organizations involved in the proposed action;

c. a specific statement of any Section of the Act or regulations believed to have been violated;

d. a certified copy of the minutes or resolution in which petitioner's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of the quorum of the governing body of the agency or organization; and

e. a request for a transcript of the hearing, if desired.

E. Notice of Hearing

1. Upon receipt of a request for hearing the director shall, within 10 days, set a date for the hearing.

2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner and interested persons which shall include:

a. a statement of time, date, and location of the hearing;

b. a statement of the legal authority and jurisdiction under which the hearing is to be held;

c. a reference to the particular Sections of statutes, regulations, and rules involved; and

d. a short and plain statement of the reasons for the proposed action that is being appealed and the evidence on which the proposed action is based.

3. Petitioner and other parties shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

F. Hearing Examiner. The director or his designated representative shall be the hearing examiner and preside at the hearing subject to the provisions of R.S. 49:960. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the Governor's Office of Elderly Affairs or petitioner.

G. Rules of Evidence

1. In hearings, under these rules, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.

2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of the Governor's Office of Elderly Affairs specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of the Governor's Office of Elderly Affairs and its staff may be utilized in evaluating the evidence.

6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

H. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or their representatives shall be governed by R.S. 49:960.

I. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956(5)-(8).

J. Hearing

1. Petitioner shall open and present its evidence to establish its position on the matters involved. Interested persons shall follow and present their evidence; then the

Governor's Office of Elderly Affairs shall present its evidence. Petitioner may thereafter present rebuttal evidence only, such evidence to be confined to issues raised in petitioner's opening presentation and Governor's Office of Elderly Affairs following presentation or that of others. Petitioner shall be given the opportunity to offer final argument, but no additional presentation of evidence.

2. The hearing shall be completed within 120 days of the date the request for hearing was received.

K. Transcript. The proceedings of the hearing shall be transcribed on request of any party or person. The cost of transcription will be borne by the person requesting the transcript, unless otherwise provided by law. The Governor's Office of Elderly Affairs may require a deposit in the form of a certified check or cashier's check in an amount reasonably determined by the Governor's Office of Elderly Affairs to be adequate to cover all costs of transcription. In the event that transcription is not requested, the Governor's Office of Elderly Affairs, at its option, may produce a summary record of the proceedings of the hearing; provided that if such a summary record is produced by Governor's Office of Elderly Affairs, it shall provide the area agency with notice of the fact that such summary record was prepared and with the opportunity to copy or inspect same.

L. Final Decision

1. All final decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. The area agency shall comply with the final decision. A copy of the decision shall be sent immediately to the parties by registered or certified mail, return receipt requested.

2. Procedures for rehearing and appeal shall be governed by R.S. 49:959 and 965.

M. Record. The record in a hearing under these rules includes:

1. all pleadings, motions, and intermediate rulings;

2. evidence received or considered, or a resume thereof if not transcribed, except matters so obvious that a statement of them would serve no useful purpose;

3. a statement of matters officially noted;

4. offers of proof, objections and rulings on them;

5. proposed findings and exceptions; and

6. any decision, opinion, or report by the hearing examiner presiding at the hearing.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:2208 (November 1999).

§1269. Hearing Procedures for Applicants for Planning and Service Area Designation

A. Purpose. The Governor's Office of Elderly Affairs is required to provide an opportunity for a hearing to any qualified applicant for designation as a planning and service area (PSA) whose application is denied by the Governor's Office of Elderly Affairs.

B. Right to a Hearing. The Governor's Office of Elderly Affairs shall provide an opportunity for a hearing, and issue a written decision to any unit of general purpose local government; region within the state recognized for purposes of areawide planning which includes one or more such units of general purpose local government; metropolitan area; or Indian reservation whose application for designation as a planning and service area is denied.

C. Request for Hearing

1. The request for a hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the adverse decision.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the Governor's Office of Elderly Affairs decision is appealed and all grounds upon which petitioner refutes the basis of the adverse decision. The request must include:

a. the dates of all relevant actions;

b. the names of individuals or organizations involved in the action;

c. a specific statement of any Section of the Act or regulations believed to have been violated;

d. a certified copy of the minutes or resolution in which the applicant's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of a quorum of the governing body of the agency or organization; and

e. a request for a transcript of hearing, if desired.

3. Petitioners shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

D. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 days, set a date for the hearing.

2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner, which shall include:

a. a statement of time, date, location, and nature of the hearing;

b. a statement of the legal authority and jurisdiction under which the hearing is to be held;

c. a reference to the particular Section of statutes, regulations, and rules involved; and

d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based.

3. If the Governor's Office of Elderly Affairs is unable to state in detail the evidence and reasons for the decision at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished not less than three days prior to the date set for the hearing.

4. Petitioner shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

E. Hearing Examiner. The director or his designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:960. The hearing examiner shall conduct the hearing in an orderly fashion and in accordance with the procedures outlined herein. It is the responsibility of the hearing examiner to fully consider information relevant to the complaint and draft a fair decision based on such information.

F. Rules of Evidence. The rules of evidence for hearings held under §1269 of this manual shall be as provided in §1267.G.

G. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his representative shall be governed by R.S. 49:960, the Administrative Procedure Act.

H. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (5)-(8) of the Administrative Procedure Act.

I. Hearing. The procedure to be followed for hearings held under §1269 shall be as provided in §1267.J.

J. Transcript. The rules governing transcripts for hearings held under §1269 shall be as provided in §1267.J.

K. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested.

L. Rehearing. Procedures for rehearings shall be governed by R.S. 49:959.

M. Record. The record in a hearing under this Section shall consist of the materials listed in §1267.M.

N. Appeal to Assistant Secretary for Aging. Any eligible applicant for PSA designation, whose application has been denied, and who has been provided a written decision by the GOEA, may appeal the denial to the Assistant Secretary for Aging in writing within 30 days following receipt of the state agency's decision. Such appeal shall be governed by the procedures outlined in the federal regulations issued by the Assistant Secretary for Aging.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(b)(1), (4), and 45 CFR 1321.47.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:2210 (November 1999).

§1271. Hearing Procedures for Service Providers and Applicants

A. Purpose. The Governor's Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to service providers or applicants to provide services whose application under an area plan is denied or whose contract is terminated or not renewed.

B. Right to a Hearing. Any service provider or applicant to provide services whose application under an area plan is denied or whose contract is terminated or not renewed, except as provided in 45 CFR Part 74, Subpart M, may request a hearing by GOEA on such action after all hearing procedures of the area agency on aging (AAA) have been exhausted.

C. Request for Hearing

1. A petitioner must request the hearing from GOEA within 30 days following receipt of the AAA's final action letter.

2. The request for the hearing shall be in writing and must state with specificity all grounds upon which petitioner refutes the basis of the action. The notice must include:

a. a copy of the AAA's action letter;

b. the dates of all relevant actions;

c. the names of individuals and organizations involved in the action appealed;

d. a citation of any provision of the Older Americans Act or accompanying regulations believed to have been violated by the AAA in taking the action appealed; and

e. a certified copy of the resolution by which, or of minutes of the meeting at which, the petitioner's governing body authorized the appeal; and

f. designation of one or more persons to represent it during the appeal, both by majority vote of a quorum of the governing body.

D. Submission of Hearing

1. The AAA, upon written request from GOEA, shall furnish copies of the following documents to the GOEA:

a. the minutes of the meeting of the AAA's governing body at which the subject action was considered and taken;

b. the minutes of the meeting of the AAA's advisory council at which the subject action was considered and recommended;

c. area agency memoranda, staff reports, and evaluations relevant to the action appealed;

d. the criteria used in awarding the contract involved in the hearing; and

e. the petitioner's application for the contract involved in the hearing.

2. No additional evidence may be admitted on the hearing unless the director of GOEA requests it or schedules an evidentiary hearing under §1271.E.

E. Evidentiary Hearing

1. If the director of GOEA determines that a hearing involves a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, he/she may schedule a hearing to take testimony. The director shall provide all parties at least 10 working days notice of the date, place, and time of the hearing. Said notice shall be sent by registered or certified mail, return receipt requested. The notice shall include a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

2. The director may serve as the hearing examiner, or may appoint an impartial hearing examiner to preside at the hearing. The hearing examiner shall have the powers described in §1267.F.

3. The rules of evidence described in §1267.G shall apply to an evidentiary hearing under this Section.

4. The hearing examiner shall make a record of the evidentiary hearing in accordance with §1267.M.

5. The rules pertaining to evidence, ex parte consultations, depositions, hearings and transcripts shall be as provided in Subsections G, H, I, J, and K of §1267, respectively.

F. Final Decision

1. The director shall decide all hearings under this rule but may direct a GOEA employee to make an initial review and recommend a decision.

2. The director shall decide the hearing solely on the basis of the record. The director shall not substitute his/her judgment for that of the AAA as to the weight of the evidence on matters committed to the AAA's discretion. The director shall affirm the action heard unless it is unlawful, arbitrary, or not reasonably supported by substantial evidence in the record.

3. The director shall render a final decision on the hearing in writing within 120 days after receipt of the notice of appeal. The director shall send a copy of the final decision to each party by registered or certified mail, return receipt requested, within three days after it is rendered.

G. Rehearing. Procedures for rehearing and appeal shall be governed by R.S. 49:959 and 965.

H. Record. The record for the hearing under this rule shall consist of the material listed in §1267.M.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 26:79 (January 2000).

§1273. Hearing Procedures for Persons Filing Grievances with the Office of the State Long Term Care Ombudsman

A. Right to a Hearing. The Governor's Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to any person filing a formal grievance with the Office of the State Ombudsman pursuant to §1229.L.3.b. or to the ombudsman against whom the grievance was filed, whenever either party disagrees with the decision rendered by the State Ombudsman pursuant to LAC 4:VII.1229 L.3.f or L.5.b.iii.

B. Request for Hearing

1. A request for hearing must be received by GOEA within 30 days following petitioner's receipt of the notice of the State Ombudsman's decision.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the State Ombudsman's decision is appealed. The request must include:

a. the dates of all relevant actions;

b. the names of individuals or organizations involved in the action;

c. a specific statement of any laws or regulations believed to have been violated; and

d. all grounds upon which petitioner refutes the State Ombudsman's decision.

C. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 working days, set a date for the hearing.

2. GOEA shall issue a written notice to the petitioner and other interested persons which shall include:

a. a statement of time, date, exact physical location (to include street address and city), and nature of the hearing;

b. a statement of the legal authority and jurisdiction under which the hearing is to be held;

c. a reference to the particular Section of statutes, regulations, and rules involved;

d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based; and

e. a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

3. Petitioner shall be given no less than 10 working days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

D. Hearing Examiner

1. The director or his/her designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:950 et seq. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the State Ombudsman or the petitioner.

2. The hearing examiner shall conduct the hearing in accordance with the procedures outlined herein and render a fair decision. In rendering his/her decision, the hearing examiner shall consider:

a. all information relevant to the complaint;

b. the provision of Section 307 (a) (12) of the Older Americans Act which requires the State Ombudsman or his/her representatives to "investigate and resolve complaints made by or on behalf of older individuals who are residents of long term care facilities relating to action, inaction or decisions...which may adversely affect the health, safety, welfare or rights of such residents"; and

c. R.S. 2010.4 (D), which states, "No representative of the Office of the State Ombudsman will be liable under state law for the good faith performance of official duties as defined by state and federal laws and regulations."

E. Rules of Evidence

1. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.

2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of GOEA's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of GOEA and its staff may be utilized in evaluating the evidence.

6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

F. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his/her representative shall be governed by R.S. 49:950 et seq. the Administrative Procedure Act.

G. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (5)-(8) of the Administrative Procedure Act.

H. Hearing. The procedure to be followed for hearings held under §1273 shall be as provided in Subsection 1267.J.

I. Transcript. The rules governing transcripts for hearings held under §1273 shall be as provided in Subsection 1267.K.

J. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested. A copy of the decision shall also be sent to any other persons directly affected by the decision.

K. Rehearing and Appeal. Procedures for rehearings and appeals shall be governed by R.S. 49:959 and 965.

L. Record. The record in a hearing under this Section shall consist of the materials listed in §1267.M.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.11(a), published in the Federal Register/Vol. 53, No. 169/Wednesday, August 31, 1988.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:265 (March 1992), amended LR 26:80 (January 2000).

§1275. Hearing Procedures for Persons Filing Appeals in the Long Term Care Assistance Program

A. Right to a Hearing. The Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to any applicant for reimbursement of incurred medical expenses whose application is denied and who files an appeal in accordance with LAC 4:VII.1237.H.1.

B. Request for Hearing

1. A request for hearing must be received by GOEA within 30 days following applicant's receipt of the written notification of adverse decision from the agency.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the agency's decision is appealed. The request must include:

a. the basis upon which petitioner refutes the agency's decision (i.e., additional information or administrative error); and

b. a specific statement of the suspected administrative error; and/or

c. additional information which the agency should consider in rendering a decision, including, but not limited to the following:

i. dates of all relevant actions; and

ii. the names of individuals, agencies or organizations who may be able to substantiate the petitioner's claim.

C. Administrative Review of Adverse Decision

1. Upon receipt of a request for a hearing pursuant to §1275.B, the administrator of the Long Term Care Assistance program (the program) shall investigate the allegation stated in the request; consider the additional information provided by the petitioner; and issue a written decision within 30 days.

2. The written decision shall inform the petitioner of the findings of the investigation, the actions to be taken, if any, as a result of the investigation, and the provisions for appealing the decision to the director.

3. If the administrator of the program fails to respond or to act upon an appeal within 30 days, or if dissatisfied with the results of the administrative review, the petitioner may refer the request for a hearing to the director.

D. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 working days, set a date for the hearing.

2. GOEA shall issue a written notice to the petitioner and other interested persons which shall include:

a. a statement of time, date, location, and nature of the hearing;

b. a statement of the legal authority and jurisdiction under which the hearing is to be held;

c. a reference to the particular Section of statutes, regulations, and rules involved;

d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based; and

e. a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

3. Petitioner shall be given no less than 10 working days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

E. Hearing Examiner

1. The director or his/her designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:950 et seq. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the administrator of the program or the petitioner.

2. The hearing examiner shall conduct the hearing in accordance with the procedures outlined herein and render a fair decision.

F. Rules of Evidence

1. In hearings, under these rules, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.

2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of GOEA's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of GOEA and its staff may be utilized in evaluating the evidence.

6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the

conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

G. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his/her representative shall be governed by R.S. 49:950 et seq., the Administrative Procedure Act.

H. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (A)(5)-(8) of the Administrative Procedure Act.

I. Hearing. The procedure to be followed for hearings held under §1275 shall be as provided in §1267.J.

J. Transcript. The rules governing transcripts for hearings held under §1275 shall be as provided in §1267.K.

K. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested. A copy of the decision shall also be sent to any other persons directly affected by the decision.

L. Rehearing and Appeal. Procedures for rehearings and appeals shall be governed by R.S. 49:959 and 965.

M. Record. The record in a hearing under this Section shall consist of the materials listed in §1267.M.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2802(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November 1992), amended LR 26:81 (January 2000).

Subchapter G. Drug Testing for Employees

§1281. Definitions

*Controlled Substance*Xa drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substance Act (21 U.S.C. 812).

*Designer (Synthetic) Drugs*Xthose chemical substance that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

*Employee*Xunclassified, classified, and student employees, student interns, and any other person having an employment relationship with the agency, regardless of the appointment type (e.g., full time, part time, temporary, etc.).

*Illegal Drug*Xany drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

*Reasonable Suspicion*Xbelief based upon objective an articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

*Safety-Sensitive and Security-Sensitive Positions*Xall positions with duties that may either authorize or require the operation or maintenance of a public vehicle, or the supervision of such an employee. All positions with duties that may require responsibility for or access to confidential or classified information.

*Under the Influence*Xfor the purposes of this policy, a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical in maintaining balance. A professional opinion or a scientifically valid test can establish a determination of influence.

*Workplace*Xany location on agency property including all property, offices and facilities (including all vehicles and equipment) whether owned, leased or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

AUTHORITY NOTE: Promulgated in accordance with Executive Order MFJ 98-38 and R.S.49:1015 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Office Elderly Affairs, LR 28:2510 (December 2002).

§1283. Policy Provisions

A General Provisions

1. It shall be the policy of the Governor's Office of Elderly Affairs to maintain a drug-free workplace and a workforce free of substance abuse. Employees are prohibited from reporting for work or performing work for the Agency with the presence of illegal drugs, controlled substances, or designer (synthetic) drugs in their bodies at the initial testing levels and confirmatory testing levels or above the levels as established in the contract between the state of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty, or on call for duty.

2. The agency will procure employee drug testing services through the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws.

B. To assure maintenance of a drug-free workforce, it will be the policy of the Governor's Office of Elderly Affairs to implement a program of drug testing under the following conditions.

1. Reasonable Suspicion. Any employee will be required to submit to a drug test if there is a reasonable suspicion (as defined in this policy) that the employee is using drugs.

2. Post-Accident. Each employee involved in an accident which occurs during the course of employment will be required to submit to a drug test if the accident:

a. involves circumstances leading to a reasonable suspicion of the employee's drug use;

b. results in a fatality; or

c. results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

C. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or has a rehabilitation agreement with the agency following an incident involving substance abuse will be required to submit to random drug testing once every six months until the agency receives documented proof of a release from treatment by the physician or program director.

D. Pre-Employment. Each prospective employee, appointee, and all other persons beginning an employment relationship with the agency will be required to submit to drug screening at the time and place designated by the agency representative who administers the drug testing program, following a job offer contingent upon a negative drug-testing result. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

E. Safety-Sensitive and Security-Sensitive Positions. These positions are identified within the agency by the appointing authority of the Governor's Office of Elderly Affairs and determined to be safety or security-sensitive after consultation with Louisiana Department of Justice.

F. Appointments and Promotions. Each employee who is offered a safety-sensitive or security-sensitive position (as defined in this policy) may be required to pass a drug test before being placed in such a position, whether through appointment or promotion.

G. Random Testing. Every employee in a safety-sensitive or security-sensitive position will be required to submit to drug testing as required by the appointing authority, who will periodically call for a sample of such employees, selected at random by a computer-generated selection process, and require them to report for testing. All such testing will, if practicable, occur during the selected employee's work schedule.

H. Confidentiality. All information, interviews, reports, statement, memoranda, and/or test results received by the executive agency through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

I. Drug Test Failures. Pursuant to R.S. 49:1008, if a prospective employee tests positive for the presence of drugs in the initial drug screening, the positive drug test result shall be the cause of the prospective employee's elimination from consideration for employment or appointment.

1. Pursuant to R.S. 49:1011, the Office of Elderly Affairs will afford an employee whose drug result is certified positive by the medical review officer, the opportunity to undergo rehabilitation without termination of employment. All rehabilitation must be programs that are approved and listed by the Officer of Alcohol and Drug Abuse for state agencies.

2. An employee whose drug tests results are certified positive will be required to take 30 days leave either as annual (A) or sick (B) leave. All rehabilitation services or assistance will be conducted at the employee's expense. The employer is not responsible for the expenses accrued.

3. Failure to submit to drug testing or rehabilitation services may be reason for termination of employment with agency.

4. The Office of Elderly Affairs is committed to maintaining workplace free of harassment and intimidation for all its employees, and will not tolerate inappropriate actions regarding drug testing and confidential drug testing information. This includes conduct, which has the purpose or effect of substantially interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.

J. Responsibility. The Executive Director of the Governor's Office of Elderly Affairs is responsible for the overall compliance with this policy and will submit to the Office of the Governor, through the Commissioner of Administration, a report on the policy and drug testing program, describing process, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.

K. Violation of the Policy. Violation of this policy, including refusal to submit to drug testing when properly ordered to do so, will result in actions up to and including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.

AUTHORITY NOTE: Promulgated in accordance with Executive Order MFJ 98-38 and R.S. 49:1015 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Office Elderly Affairs, LR 28:2510 (December 2002).

Chapter 13. State Plan on Aging

§1301. State Plan on Aging

A. To receive funding from the Older Americans Act the State Agency on Aging must have an approved State Plan on Aging. This plan must be on file with the Administration on Aging and be available for public review. At the minimum, the plan must include:

1. identification by the state of the sole state agency that has been designated to develop and administer the plan;

2. statewide program objectives to implement the requirements under Title III of the Act and any objectives established by the commissioner through the rulemaking process;

3. a resource allocation plan indicating the proposed use of all Title III funds administered by the state agency and the distribution of Title III funds to each planning and service area;

4. identification of the geographic boundaries of each planning and service area and of area agencies on aging;

5. prior federal fiscal year information related to low income minority and rural older individuals;

6. all assurances and provisions as outlined in the Older Americans Act and regulations, as well as the following assurances:

a. preference is given to older persons in greatest social or economic need in the provision of services under the plan;

b. procedures exit to ensure that all services under this part are provided without use of any means tests;

c. all services provided under Title III meet any existing state and local licensing, health and safety requirements for the provisions of those services;

d. older persons are provided opportunities to voluntarily contribute to the cost of services;

e. other such assurances as are needed for compliance with the Act, regulations, other applicable federal law, state statutes, and/or state policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1610 (August 2000), LR 30:1695 (August 2004).

§1303. Development of the State Plan

A The state agency will develop a state plan according to the following:

1. elect to utilize a one-, two-, three-, or four-year format for the state plan;

2. develop a data profile on the older Louisianans from available census data;

3. conduct statewide needs assessment activities including, but not limited to, public hearings;

4. assurances for state and area agencies on aging as set forth by the Older Americans Act;

5. goals and objectives;

6. publicize public hearing(s) giving dates, times, locations to public officials and other interested parties for their participation;

7. conduct public hearings and incorporate written and verbal comments into the revised plan, as appropriate;

8. submit final revised plan for approval by the governor;

9. submit approved plan from the governor to the Administration on Aging Regional Office for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 15:263 (April 1989), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1611 (August 2000), LR 30:1696 (August 2004).

§1305. Intrastate Funding Formula

A. Intrastate Funding Formula

1. The following is a descriptive summary of the current Intrastate Funding Formula's assumptions and goals, and the application of the definitions of greatest economic or social need and a demonstration of the allocation of funds, pursuant to the formula, to each PSA.

2. Descriptive Statement

a. The current intrastate funding formula for the distribution of Older Americans Act Title III funds in Louisiana provides for a base allocation by parish. The following factors are considered in the distribution of funds remaining after base allocations are made: population aged 60 and over; population aged 60 and over below the Bureau of the Census poverty threshold; population aged 75 and over; and land area in square miles. Each of these factors is derived by dividing the planning and service area total by the state total.

b. Population aged 60 and over, and land area in square miles is assigned weights of one each. Population aged 60 and over below the Bureau of the Census poverty threshold is assigned a weight of nine-tenths. Population aged 75 and over is assigned a weight of one-tenth. The sum of these four factors is three.

c. Those elderly in greatest economic need are defined as persons aged 60 and older whose incomes are at or below the poverty threshold established by the Bureau of the Census. Those elderly in greatest social need are defined as persons aged 60 and over who have needs based on noneconomic factors such as social isolation caused by living in remote areas, or who are especially vulnerable due to the heightened possibility of frailty among elderly aged 75 and older. Other social needs are those, which restrict an elderly individual's ability to perform normal daily tasks, or which restrict his or her ability to live independently; they can be caused by racial or ethnic status, or language barriers. The intrastate funding formula accounts for these individuals by not allocating funds solely on the basis of population. The land area in square miles factor is included to compensate area agencies serving predominantly rural areas for the special problems encountered by sparse populations who may be spread over large geographical areas. The four funding factors combine to meet the special needs of socially and economically needy elderly, urban elderly and rural elderly.

d. The base funding allocation of $12,000 per parish is established on the assumption that this amount represents a minimum allocation for the administration of Older Americans Act programs. There is an increasing need to provide a continuum of care for the very old (aged 75 and older) as this segment of the population gets larger each year. Funding limitations dictate that this group is given special emphasis.

3. Numerical Statement of the Intrastate Funding Formula

a. Base Allocation per PSA: $12,000 per parish

b. Formula Allocation per PSA:

	Factors	Weight
i.	PSA 60+Population / State 60+Population	1.0
ii.	PSA 60+Population below Poverty Threshold / State 60+Population below Poverty Threshold	0.9
iii.	PSA Land Mass in Square Miles / State Land Mass in Square Miles	1.0
iv.	PSA 75+Population / State 75+Population	0.1
v.	Sum	3.0

4. $$\text{PSA FORMULA} = \frac{\text{(i) X 1 + (ii) X 0.9 + (iii) X 1 + (iv) X 0.1}}{3}$$

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1611 (August 2000), LR 30:1696 (August 2004).

§1307. - §1323. Reserved.

Chapter 17. Women's Services

§1700. Preface

A. Act 43 of 1968 created a Women's Division and a Louisiana Commission on the Status of Women within the Louisiana Department of Labor.

B. Act 253 of 1972 created a Bureau on the Status of Women, which was established within the Division of Human Services of the Louisiana Health, Social and Rehabilitation Services Administration.

C. The operations of the agency have been carried out under a number of titles, including the Bureau for Women and the Women's Advocacy Bureau.

D. In July 1984 the Department of Health and Human Resources, through administrative action, elevated the Women's Advocacy Bureau to a Division of Women's Services.

E. Act 772 of 1985 created an Office of Women's Services in the Office of the Governor, transferring all powers, duties, and responsibilities from the Division of Women's Services in the Department of Health and Human Resources into the Office of Women's Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2127(B), R.S. 36:251 et seq. and R.S. 46:1751-1767.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Women's Advocacy Bureau, LR 12:677 (October 1986).

Subchapter A. Teen Parent Center

§1701. Fee Schedule for the Teen Parent Center Program

A.1. The Department of Health and Human Resources, Women's Advocacy Bureau, has adopted a fee schedule for the Teen Parent Center program, as mandated by federal regulations, as published in the *Federal Register*, Vol. 47, Number 40, Monday March 1,1982, pg. 8682.

2. In accordance with Title XX of the Public Health Services Act (42 U.S.C. 3002) administered through United States Government, Department of Health and Human Services, Office of Adolescent Pregnancy Programs, all Teen Parent Center clients must be charged a fee for services provided. In accordance with the act, the following policy is being adopted. The policy and fee schedule are as follows.

B. Fee Policy. All persons receiving services from the Teen Parent Center shall be assessed a fee for each service received. The intake and initial assessment are not considered services. The fee for each service is based on the actual cost to the program incurred in the provision of that service.

C. Fee Adjustment Schedule

1. The fee adjustment schedule is designed to provide for proportional payment for each service based on the family's ability to pay. Three variable figures are utilized in figuring the schedule:

a, state median income as promulgated annually by the Secretary of the United States Department of Health and Human Services;

b. family size;

c. cost of service provided.

2. Persons whose gross family income is less than one-half the current state median income adjusted for family size will not be responsible for payment of services. Persons whose gross family income is more than 150 percent of the current state median income adjusted for family size will be charged the full cost of services provided. Between these two levels, fees will be adjusted in accordance with the following formula.

Gross Family Income as a Percent of Median Income Adjusted for Family Size	Fees as a Percent of Cost
50-55 percent	4 percent
55-60 percent	5 percent
60-65 percent	6 percent
65	8 percent
70	10 percent
75	12 percent
80	14 percent
85	17 percent
90	20 percent
95	23 percent
100	26 percent
105	30 percent
110	35 percent
115	40 percent
120	45 percent
125	52 percent
130	60 percent
135	70 percent
140	80 percent
145	90 percent
150	100 percent

D. Program Services

1. Program services are divided into two general categories: (a) Basic Services, and (b) Employment Services. Each of the two large groups are subdivided into the individual services that may be provided to clients. The following is a listing of the groupings and the codes assigned to each service for recording purposes.

Basic Services	Codes
Individual Counseling/referrals	100
Group Counseling/referrals	1002
Family Counseling/referrals	1003
Educational Workshop Sessions	1004

Employment Services	Codes
Job Preparation Workshop Sessions	2001
Employment Counseling	2002
Employment Referrals (beyond first five)	2003
Job Placement	2004

E. Determination of Fees/Income Verification

1. All clients whose gross family income is above the minimum indicated on the fee adjustment schedule shall pay a fee for each service provided. The determination of fees will be made during the intake procedures or as soon as

verification of income information is obtained. In the case of clients who are unemancipated minors, the income information is to be obtained (or verified if provided by minor) from the parents or legal guardian. This can be done by telephone; however, the record should reflect the name of the person providing the information. If income information cannot be obtained by telephone, the Income Verification Form is given to the applicant, completed by the parents or legal guardian, and returned to the center. The intake worker will use the fee adjustment schedule to determine the fee once this information is received. The parents will then be informed of the fee by the intake worker. The completed intake form and/or the income verification form will become a part of the permanent record, and a ledger card will be given to the secretary/fee clerk, noting the fee rate.

F. Collection of Fees

1. During the intake procedure the client and the parent or guardian of the client will be informed that fees will be paid upon delivery of service. In the case of an emancipated minor who is responsible for his own debts, only the client will be informed of the fee collection. The clients will be instructed to see the secretary/fee clerk prior to leaving the center. The secretary/fee clerk will note payment on the client's ledger card or bill the client in the event that payment is not received. Billing will occur on a monthly basis.

2. All fees collected will be held by the secretary/fee clerk in a locked box until delivery to the Women's Advocacy Bureau accountant. This shall be the first working day of the month or when $50 is accumulated, whichever comes first.

G. Waiver of Fees

1.a. It is imperative that clients understand that no services will be refused due to inability to pay. The following circumstances warrant fee waiver:

i. lack of income over last three months;

ii. payment of unusually high medical bills; or

iii. death of income provider.

b. This information will be obtained during the intake and noted on the Fee Determination Form and on the client's ledger card.

Teen Parent Center Fee Adjustment Schedule											
Percent Median Income	Annual Gross Family Income By Number In Family								% of Cost Paid	Basic Service	Employment Counseling and Job Placement
	2	3	4	5	6	7	8	9+			
50	5,614	6,935	8,256	9,576	10,897	12,218	13,718	15,218	4	2.00	2.00
55	6,175	7,628	9,081	10,534	11,987	13,440	14,940	16,440	5	2.00	2.00
60	6,736	8,322	9,907	11,492	13,077	14,662	16,162	17,662	6	3.00	3.00
65	7,298	9,015	10,732	12,449	14,166	15,884	17,384	18,884	8	3.00	4.00
70	7,859	9,708	11,558	13,407	15,256	17,105	18,605	20,105	10	5.00	5.00
75	8,421	10,402	12,383	14,365	16,346	18,327	19,827	21,327	12	5.00	6.00
80	8,982	11,095	13,209	15,322	17,436	19,549	21,049	22,549	14	6.00	6.00
85	9,543	11,789	14,034	16,280	18,525	20,771	22,271	23,771	17	7.00	8.00
90	10,105	12,482	14,860	17,237	19,615	21,993	23,493	24,993	20	9.00	9.00
100	11,227	13,869	16,511	19,153	21,795	24,436	25,936	27,436	26	11.00	12.00
105	11,789	14,563	17,337	20,110	22,884	25,658	27,158	28,658	30	13.00	14.00
110	12,350	15,256	18,162	21,068	23,974	26,880	28,380	29,880	35	15.00	16.00
115	12,912	15,950	18,988	22,026	25,064	28,102	29,602	31,102	40	17.00	18.00
120	13,473	16,643	19,813	22,983	26,153	29,324	30,824	32,324	45	19.00	21.00
125	12,034	17,337	20,639	23,941	27,243	30,545	32,045	33,545	52	22.00	24.00
130	14,596	18,030	21,464	24,899	28,333	31,767	33,267	34,767	60	26.00	28.00
135	15,157	18,723	22,290	25,886	29,423	32,980	34,489	35,989	70	30.00	32.00
140	15,718	19,417	23,115	26,814	30,512	34,211	35,711	37,211	80	34.00	37.00
145	16,280	20,110	23,941	27,772	31,602	35,433	36,933	38,433	90	39.00	41.00
150	16,841	20,804	24,767	28,729	32,692	36,054	38,154	39,654	100	43.00	46.00

2. In the event that the client refused to pay or is unable to pay, the Payment Agreement Form is completed. The ledger card will reflect the client's ability or willingness to pay. If no payment can be collected, no billing will be necessary. For clients whose circumstances provided for them to pay less than the required amount, they will be billed for the full amount with all payments received recorded on the ledger card.

H. Changes in Fees. The client is to be informed that the secretary should be notified of any change which may later occur in income, employment, or family composition which might result in a change in the adjusted fee. The secretary shall also conduct a periodic check every 90 days with each client to determine any change in factors, including cost changes, which would cause change in the fee and adjusted fee. The counselor assigned to the case is also responsible for notifying the secretary of such changes as they occur. The secretary is to adjust the fee appropriately in accordance with the fee adjustment schedule. The adjusted fee must be approved by the center director and is indicated by her initial on the ledger card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2127(B), R.S. 36:251 et seq. and R.S. 46:1751-1767.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Women's Advocacy Bureau, LR 9:618 (September 1983).

Subchapter B. Family Violence Program Minimum Standards

§1720. Policy and Governance

A. Basic Considerations. These standards emphasize the role of the governing body in setting policy, identifying need, developing a strategy to address needs and evaluating the effectiveness and efficiency of the organization. The role of the governing body and the executive director are clearly differentiated; staff do not govern and the governing body does not administer the day-to-day activities. The governing body establishes policies and the staff, at the direction of the executive director, implements programs reflecting those policies. A clear governance structure is in place.

B. Standards

1. The purpose of the program is clearly stated and compatible with the philosophy of the OWS/LCADV.

2. The program functions in accordance with its stated purpose.

3. The program has a designated governing authority.

4. The governing authority is accountable for the program. It ensures the program's compliance with the charter and with relevant federal, state and local laws and regulations.

5. Members of the governing authority and any advisory body to the governing authority are chosen in a manner that assures a broad base of knowledge and participation in the governance of the program. There is a rotation mechanism to ensure a balance of new members and seasoned members.

6. The governing authority and any advisory body operate in accordance with acceptable practice.

a. The governing authority designates a person to act as executive director and delegates sufficient authority to this person to manage the program. An annual performance evaluation is conducted by the governing authority.

7. The governing authority establishes policies for the efficient and effective operation of the program.

8. The program takes a leadership role in identifying and addressing needs of family violence survivors and their children.

9. The program sets goals and objectives for its management; service delivery; and systems change functions, developing plans to achieve them.

10. The program evaluates the effectiveness and efficiency of its management, service delivery and systems change functions.

11. The program has documentation of its authority to operate under state law. There will be either a charter, partnership agreement, constitution, articles of association, or by-laws.

12. The program has documents identifying the governing body's addresses; their terms of membership; officers; and officers' terms.

13. The program has written minutes of formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

14. The program informs designated representatives of the Office of Women's Services prior to initiating any substantial changes in the program, services or physical plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:528 (April 2001).

§1721. Contract Requirements

A. Basic Considerations. These standards emphasize legal and contractual issues which the program is required to meet and are identified in the contract. These standards are not inclusive of all the requirements under the contract. It should be noted that the contract contains an over-arching provision which specifies that compliance with the OWS quality assurance standards is required.

B. Standards

1. The program is legally authorized to contract.

2. The program provides services required in the contract. These services include but are not limited to emergency shelter or referrals, 24-hour hot line; crisis, advocacy, support and group counseling; and support services.

3. The program services comply with the OWS program philosophy.

4. The program does not accept reimbursement from clients unless their grant specifically authorizes them to do so.

5. The program submits accurate and timely reports and budget revisions in the required manner.

6. The program retains books, records or other documents relevant to their contract for five years after final payment.

7. The program obtains an annual audit within six months of ending of fiscal year and submits same to OWS.

8. The program agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974; Title IX of the Education Amendments of 1972; the Age Act of 1972; and the contractor agrees to abide by the requirements of the Americans with Disabilities Act of 1990.

9. The program acknowledges OWS as a funding agent on its program stationery, written material and when providing information about the program.

10. The program informs applicants or recipients of service of their right to a fair hearing in the event of denial, reduction, or termination of a service or the program's failure to act upon a request for service within a reasonable period of time.

11. The program restricts the use or disclosure of information concerning services, applicants or recipients obtained in connection with the performance of the contract to purposes which provide a benefit to survivors. The survivor is informed of any request for information and signs a voluntary consent before the information is made available.

12. The program does not use funds as direct payment to survivors or dependents.

13. The program imposes no income eligibility standards on individuals receiving assistance.

14. The program has procedures in place to insure confidentiality of records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:529 (April 2001).

§1722. Social Change

A. Basic Considerations. These standards address the program's education and advocacy efforts to ensure that survivors, their children, and those at risk of family violence, are protected and treated compassionately. The overall goal is to create an effective response system in the community and to change cultural attitudes and institutional practices that perpetuate violence. It is important to remember, however, that standards can only address the issues for which the organization can be accountable. The program cannot be held accountable for whether a social change occurs. The program can be held accountable for their efforts to educate and advocate in the hope that change will result.

B. Standards

1. The program identifies those systems and organizations throughout its service area which affect the prevention and treatment of family violence.

2. The program evaluates the practices of those systems and organizations to determine which are harmful or ineffective.

3. The program prioritizes the community systems, organizations and institutions which need to be impacted first and develops a plan which defines strategies to change harmful or ineffective practices, reinforce helpful practices, and intervene where there are no established practices or policies. The plan is adopted by the board on an annual basis and is updated as necessary. The plan could be developed in collaboration with a local coordinating council or task force.

4. The program conducts public education sessions targeted to personnel employed by community systems organizations.

5. The program works collaboratively with those community systems used by family violence survivors which may include establishing safe and independent lives. The goal is to change institutional practices that place survivors at risk.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:529 (April 2001).

§1723. Foundational

A. Basic Considerations. These standards address the issues and concerns which apply across all areas of the organization and program implementation. They provide basic guidelines to assure the highest ethical standards with regard to behaviors of staff, volunteers (including boards of directors and advisory boards), and the guarantee of confidentiality. These standards ensure that informed and skillful assistance is provided to family violence survivors in an empowering, non-victim blaming way, determining the extent of danger and proper ways to prepare for future safety.

B. Standards

1. Ethics

a. Family violence programs abide by an accepted code of ethics that ensures excellence in service delivery and professionalism among family violence advocates when working with survivors and representing the program.

b. Programs are equal opportunity employers. No person is discriminated against seeking employment, or while employed, on the basis of age, sex, race, color, disability, national origin, religion, veteran status, marital status, sexual orientation, abuse status (i.e., battered or formerly battered), or parenthood.

c. Program employees do not discriminate in the provision of services or use of volunteers on the basis of any status described above. No program discriminates or retaliates against any employee who exercises her/his rights under any federal or state anti-discrimination law.

2. Confidentiality

a. Confidentiality of Facilities

i. When it is the policy of a family violence program to keep the location of their shelter or other facilities confidential, the program employees and volunteers are prohibited from disclosing information regarding the location of those facilities except in the following specific cases:

(a). to medical, fire, police personnel or agencies, when their presence is necessary to preserve the health and safety of survivors, employees, or volunteers at the facility;

(b). to vendors and others with whom programs have business relationships on a need-to-know basis. The executive director or designee ensures that written agreements are executed by representatives of such businesses pledging to keep the location of the facility confidential;

(c). to any other person when necessary to maintain the safety and health standards in the facility. The executive director or designee may disclose the location of the confidential facility for the purpose of official fire inspections, health department inspections, and other inspections and maintenance activities necessary to assure safe operation of the facility;

(d). to supportive individuals of a shelter resident who have been approved as a part of case management, who have been prescreened by staff, and who have signed an agreement to keep the address and location of the facility confidential. Staff ensures that the individual's presence at the facility does not violate the confidentiality of other shelter residents at the facility;

(e). confidential, written records of services provided by staff members, and/or volunteers are maintained. These records indicate the types of services provided; the individual or family to whom services were provided, the dates of service provision, the content and outcome of the interaction(s); the staff and/or volunteer providing the service(s); and provisions for future or on-going services.

b. Confidentiality of Survivor Information

i. Information received by family violence programs about survivors is confidential. Records on survivors are kept in locked files to assure confidentiality. Employees and volunteers are prohibited from disclosing survivor information except in very limited circumstances. Employees and volunteers are prohibited from releasing information about survivors to other employees and volunteers of the same family violence program except in the event of a specific need-to-know. A staff member or volunteer is considered to have a need to know when their work relates directly to the survivor for whom information is available.

ii. Confidential information may be released after a survivor signs a statement authorizing the release. The survivor should be informed about:

(a). to whom the information will be released (name of person or agency);

(b). a date by which the information will be forwarded to the person or entity to whom it will be released;

(c). the purpose for which this information is being released to this person or entity;

(d). the specific information that will be released; and

(e). the right to withdraw permission at any time.

iii. Staff and volunteers report information about any suspected abuse or neglect of a child or dependent adult according to the Louisiana Child and Adult Protection statutes.

(a). Regardless of a person's status as a family violence survivor, staff and volunteers are required to report suspected abuse of a child or dependent adult.

(b). After the filing of a program initiated abuse report, family violence staff must cooperate with the Child or Adult Protective Services regarding the investigation of the abuse report. This includes assisting the protective services staff in gaining access to the survivor and child(ren) in a manner that maintains the confidentiality of the non-reported survivor receiving services from the family violence program. This, however, does not compel the following:

(i). violating the confidentiality of survivor/children who are not named in the abuse report as a victim or perpetrator of the abuse reported;

(ii). releasing information not directly relevant to the reported abuse.

c. Medical Emergency

i. Program staff and volunteers can release confidential information about a survivor during a medical emergency.

(a). Released information is relevant to the preservation of the health of an adult survivor or such a survivor's minor child in the event the survivor is not able to authorize the release or the survivor cannot be found in a timely manner.

(b). Released information is limited to the medical emergency.

(c). Released information is limited to the medical personnel or institution treating the adult survivor or minor child.

d. Fire Emergency

i. Where a fire exists, information that would otherwise be confidential may be disclosed to fire fighting personnel if such disclosure is necessary to preserve the health and safety of survivors, employees, or volunteers of the family violence program.

(a). Released information is limited to the fire emergency.

(b). Released information is limited to emergency fire and safety personnel treating the adult survivor or minor child.

e. Threats of Harm

i. Any form of firearm or weapon in the facility is prohibited even when locked in a locker at the facility. Program staff will include in their assessment for services appropriate questions to identify those survivors who possess firearms or other weapons and assist them in making arrangements for someone else to keep them while they are receiving services.

ii. Should a survivor pose a risk of harm to self or others, this information can be reported to an appropriate agency/individual. Program personnel will competently assess whether this disclosure is appropriate and necessary. Disclosure of this otherwise confidential information can be made to:

(a). licensed medical or mental health personnel or facilities, law enforcement personnel;

(b). identified, intended victim(s);

(c). the parent(s) of minor children making the threat.

Information released must be limited to that which is directly pertinent to the threatening situation.

f. Violence, Threatened Violence, or Other Crime by Survivor

i. In the event a survivor engages in or threatens to commit a violent act or other crime on the premises of a family violence program facility, such may be reported to law enforcement personnel. Program personnel will competently assess the circumstances and will disclose information only if deemed appropriate and necessary. Released information must be pertinent to the threatening situation.

g. Search and Arrest Warrants Meeting Specific Criteria

i. Family violence program employees and volunteers release otherwise confidential information in specific circumstances:

(a). when law enforcement personnel present a criminal arrest warrant which names the individual and alleges that the individual is located at the program, or its street address;

(b). when law enforcement present a search warrant that specifies the individual or the object of the search and alleges that the individual or object of the search is located at the program, or its street address.

h. Subpoenas

i. The executive director or designee of each family violence program is the only person authorized to respond to subpoenas for the program, employee, former

employee, or volunteer. Should a process server present him/herself at the family violence program, he/she is directed to the administrative offices where the executive director or designee may be found. Identity of the shelter location cannot be confirmed to the process server.

ii. Regardless of what type of subpoena and regardless of whether the subpoena is for an appearance for a deposition or for an appearance at court, the executive director or her designee should advise whoever issued the subpoena of the provisions of the R.S. 46:2124.1 which is the privileged communications and records statute for family violence programs.

iii. If a survivor who is residing in the shelter has not given written permission for the program staff or volunteers to acknowledge that she is in fact a resident of that shelter, the person shall advise the process server that the identity of shelter residents is confidential but that in an effort to be of assistance that they:

(a). obtain the name of the person to whom the document is directed;

(b). document the type of subpoena being served, i.e., subpoena for deposition, subpoena duces tecum, subpoena to appear at a court hearing, etc.;

(c). obtain the name and telephone number of person requesting the subpoena (attorney, judge);

(d). obtain the date, time, and where to appear;

(e). obtain the name and telephone number of process server; and

(f). refer above information to the survivor (if known) or to the executive director or her designee or other appropriate person as dictated by policy of program.

i. Civil Child Custody Orders, Custody Papers, "Child Pick-up" Orders, Service of Process and Other Law Enforcement Documents

i. These documents do not in and of themselves present grounds for violation of survivor confidentiality. As described above, any such order or document must be accompanied by a criminal arrest warrant or a search warrant designating the program as the location to be searched and a description of who or what the search is authorized to produce. The executive director or designee is the only person authorized to respond to civil child custody orders, custody papers, "child pick-up" orders, service of process and other law enforcement documents.

j. Involuntary Commitment Orders

i. The statutorily protected privilege of confidentiality belongs to survivors, who have a right to know if legal documents have been issued that are addressed to or about them. Staff does not reveal that a survivor is in shelter or otherwise receiving program services. In the event of the attempted enforcement of a civil involuntary commitment order, staff, while maintaining privilege, makes every attempt to identify the name of the person trying to serve the order and any other relevant information. Staff then notifies the named survivor(s), when possible, of the order and the additional information.

k. Confidentiality Regarding Deceased Persons

i. Family violence programs maintain confidentiality of records after the person is deceased. Records of the deceased person belong to the family violence program and programs are under no legal obligation to release them. Further, programs have no legal authority to release records unless ordered by a judge or if the deceased person has signed a release prior to her death. If, however, breaching confidentiality would assist in the prosecution of the perpetrator of violence, the executive director or a designee shall seek the counsel of an attorney prior to releasing information.

l. Confidentiality of Minors

i. Except for the reporting of suspected child abuse and neglect or when a child is assessed to be of danger to her/himself or others, program staff is under no legal obligation to violate the confidence of a child.

m. Religious Activities

i. Organized religious activities by an outside group or individual or staff within a shelter or non residential domestic violence program are prohibited. Survivor-directed initiatives for religious activities shall not be prohibited but must not take place in common, community shelter or program areas. However, staff who work directly with survivors are encouraged to be aware of the survivor as a whole person. Such staff will include the survivor's spiritual as well as physical, mental and emotional well being as a necessary part of their work with the survivor.

Survivors are not prohibited from considering their rabbi, priest, pastor, shaman, or any other member of an organized religion, as an ally who may visit the survivor under the same guidelines as any other ally.

3. Safety Planning

a. Family violence programs provide 24 hour per day staff to assist survivors of family violence with determining levels of danger/lethality and assist them to develop a personalized plan for safety.

b. Safety planning includes a danger/lethality assessment to determine the survivor's immediate level of danger, completed by trained advocates and documented in case notes or on a standardized form developed for the purpose of danger assessment.

c. Interim assessments are made during the shelter stay or nonresidential service.

d. Assessments screen for stalking and contain planning alternatives for stalking.

e. Safety planning meets the needs of the caller, i.e., a survivor wanting to leave, a survivor intending to stay, survivor with children and pets.

f. Safety planning is a continued process during a shelter stay or advocacy participation, especially at periods of increased risks, i.e., filing of court documents, court hearings, or any strategic move by the survivor or perpetrator.

g. Safety plans are survivor-directed, and staff facilitated/guided.

h. Safety plans are produced in a manner that allows for customization for individuals' specialized needs.

i. Safety planning contains emergency response protocols for use during in-progress emergency and in anticipation of an impending emergency. Minimum steps to assist survivors in determining existing options are provided to plan for the following:

i. getting help or getting away;

ii. accessing transportation;

iii. accessing a linkage to outside helpers;

iv. protocols for the safety of children and pets;

v. securing belongings;

vi. determining a safe, alternative escape location;

vii. getting assistance from the family violence program.

j. Documentation of safety planning includes but is not limited to:

i. a logged note indicating that safety planning was offered during hotline calls;

ii. case notes or a standardized form indicating safety planning was offered during initial residential and outreach intake services;

iii. case notes or a standardized form indicating safety planning was offered on a regular basis and especially during changes in a survivor's plans or in event of a significant occurrence affecting the survivor, survivor's children or the batterer. Examples: the survivor's court appearances, resumption of or beginning new job, an order for visitation of children by the batterer, a batterer being served stay away orders or being released from jail after an arrest involving the survivor and/or children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:530 (April 2001).

§1724. Program Administration and Service Delivery

A. Basic Considerations. These standards encompass the overall practices and procedures that the program needs to ensure that survivors receive the services they are eligible for, interested in and in need of. Also, that those services are delivered in a manner which is survivor centered, non-judgmental, culturally sensitive and protects the dignity and right to self determination of the survivor. These standards include procedures for documentation of services, incident reporting, and grievance procedures addressing the relationship between philosophy and practice.

B. Standards.

1. General Administration

a. The executive director exercises full responsibility for the day-to-day management of the organization.

b. Staff is responsible for implementing policies.

c. The program maintains an internal structure for efficient and effective administration.

d. The service delivery plan fulfills the program's mission.

e. Services are survivor centered, non-judgmental, culturally sensitive and strive to empower persons served.

f. The organization measures the efficiency and effectiveness of its management function.

g. Programs are conducted in accord with applicable professional, ethical and legal principles.

h. Service statistics are maintained and used in accord with acceptable practices.

i. The program identifies the area and population it serves in its brochures and reports.

j. The program recognizes and respects the autonomy, dignity and rights of program participants.

k. Relevant goals, objectives and plans are established for service delivery management.

l. The program seeks to serve persons who need its services and works to eliminate barriers to the provision of quality service to those who seek service.

m. The program provides access to crisis information and shelter 24 hours a day.

n. The program conducts intake services in accordance with acceptable practices.

o. The program conducts orientation for persons to be served. Persons is defined to include adults and children.

p. The program has a system for case management. It regularly plans, monitors and assesses the progress of each person served.

q. The program designs communal living policies which stress non-violence, are fair and survivor centered. Policy enforcement balances the rights of survivors with the need to ensure safety for survivors who choose not to follow policy.

r. The program works collaboratively with other family violence programs throughout the state and in other states as appropriate to meet the safety and security needs of survivors.

2. Assessing for Appropriate Services

a. Within initial contacts with survivors, staff assesses for the following:

i. eligibility for support and intervention services;

ii. immediate safety;

iii. batterer's potential for lethality;

iv. closely analyze batterer dynamics in same sex relationships to assure the person requesting services is the survivor, rather than the perpetrator;

v. special delivery needs based on a disability;

vi. special needs based on the requirements of a person's self-identified religious, cultural, ethnic, geographic or other affiliation(s);

vii. other appropriate services.

3. Appointments and Availability of Services

a. Intervention staff, whether shelter or nonresidential, is provided during times when most survivors need to access and receive services.

b. Survivors are informed of the process by which they may gain access, informally and by appointment, to advocates within the program in which they are receiving services.

c. At the time appointments are made, staff assists individual survivors in developing a safety plan, as necessary, for traveling to and from appointments.

4. Grievance Policy and Procedures

a. The program develops, and exercises the use of, when appropriate, a written grievance policy to be given to every survivor upon admission to services. The procedures shall include, but not be limited to:

i. procedures to follow in the event a survivor believes they have been denied services;

ii. procedures to follow in the event a survivor is dissatisfied with the quality of services;

iii. procedures to follow in the event a survivor is dissatisfied with behaviors of a staff person.

5. Incident Reports

a. The organization provides a written policy to assure serious incidents are properly reconciled. Individual reports will be written for any injuries, accidents, unusual events or circumstances involving staff, volunteers, visitors, vendors, or survivors. Staff are informed regarding what would constitute each. Provisions are made for evaluation of severity of the incident and any follow-up actions needed.

6. Community Relations

a. The program is readily identifiable and visible among its potential users, peer organizations and appropriate publics. Public relations and public education materials are available in other languages for any ethnic group with a presence in the community and the geographic area served and for special needs populations.

b. Policies for community relations and fund development are comprehensive and practical.

c. Relevant goals objectives and plans are established for community relations and fund development.

d. Community relations and fund development are conducted in accordance with applicable professional and ethical and legal principles.

e. The program uses designated personnel to implement its policies and procedures for community relations and financial development.

f. The program follows acceptable practices for public disclosure.

g. The program has accurate statistical data relevant to its services readily available.

h. The program conducts a public education program that raises the community's awareness of the causes, implications and the appropriate community response to family violence.

i. The program conducts a public relations program that projects an accurate positive image throughout its service area and raises the community's understanding of and support for its services.

j. The public education and public relations efforts reflect the program's philosophy and that philosophy is consistent with that of the OWS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:532 (April 2001).

§1725. Facility, Safety, Security and Health

A. Basic Considerations. These standards encompass the overall practices and procedures that the program employs to ensure that the facility and grounds that the program rents or owns are appropriately accessible, functional, attractive, safe and secure for the persons served, visitors, employees and volunteers. They ensure that the program meets legal requirements regarding access, safety and health as well as acceptable standards of cleanliness and functionality.

B. Standards

1. All facilities meet ADA standards.

2. Policies for the management of facilities are comprehensive and practical.

3. The program adheres to all applicable zoning, building, fire, health and safety codes and laws of the state and of the community in which the organization is located. Programs are annually monitored by the Office of Public Health and the State Fire Marshall.

4. Relevant goals, objectives and plans are established for building and grounds, safety and health.

5. The program uses designated personnel to implement its policies and procedures relative to facility, safety and health.

6. Comprehensive evaluations are conducted on a regular basis to measure the efficiency and effectiveness of the operations and maintenance of buildings and grounds, safety and health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:533 (April 2001).

§1726. Financial Management and Fund Development

A. Basic Considerations. These standards stress that Generally Accepted Accounting Practices (GAAP) with regular internal and external reports and audits, are the foundation for prudent management of capital, endowment and operating income and expenses. It is the role of the governing body to ensure financial accountability and that the bulk of the program's resources are used to meet service needs.

B. Standards

1. Policies for financial management are comprehensive and practical.

2. Relevant goals, objectives and plans are established for financial management and long term financial stability.

3. Financial management is conducted in accordance with applicable professional, ethical and legal principles. Generally accepted accounting procedures and practices are implemented as required by the terms of the contract.

4. The program uses or contracts with designated and appropriately qualified personnel to implement its policies and procedures for financial management.

5. The program provides bonding of staff responsible for financial resources. It is recommended that the program provide and maintain adequate liability coverage for the governing body.

6. The program prepares financial statements that clearly and fairly present the organization's financial position.

7. The governing body adopts and the executive director implements comprehensive budgets in accordance with acceptable practices.

8. The governing body continuously reviews and analyzes its financial position.

9. The governing body adopts and regularly reviews salary range schedules and adheres to minimum wage laws.

10. The program prudently manages its operating, endowment and capital funds.

11. The program has sufficient cash flow to meet its operating needs

12. The program maintains adequate cash reserves.

13. The program does not enter into any agreement, written or otherwise, where public funds are paid, or committed to be paid, for services or goods, to any member of the governing body, staff, or members of the immediate family of said governing body or staff, or to any entity in which the foregoing have any direct or indirect financial interest, or in which any of the foregoing serve as an officer or employee, unless the services or goods are provided at a competitive cost or under terms favorable to the program. The program maintains written disclosures of any and all financial transactions in which a member of the governing body, staff, or their immediate family is involved.

C. Fund Development

1. The program has a long and short range fund development plan.

2. The program conducts a fund development program which secures sufficient funds to cover its operating and capital needs.

3. The program builds and maintains adequate financial reserves.

4. The governing body initiates and actively supports fund development efforts.

5. The program comprehensively evaluates community relations and fund development programs to measure efficiency and effectiveness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:534 (April 2001).

§1727. Staff and Volunteer Management

A. Basic Considerations. These standards encourage strong professional values. They assume that written policies and consistent practice are the cornerstone of a quality human resource system.

B. Standards

1. Policies for the management of staff and volunteers are comprehensive and practical.

2. Relevant goals, objectives and plans are established for staff and volunteer administration.

3. The administration of staff and volunteers is in accordance with applicable professional, ethical and legal principles.

4. The program employs sufficient staff and delegates sufficient authority to ensure the responsibilities the program undertakes are adequately carried out.

5. Comprehensive performance evaluations are conducted to measure the efficiency and effectiveness of staff and volunteer administration.

6. The program promulgates personnel policies that attract and retain qualified personnel.

7. A comprehensive manual containing all personnel policies is maintained, kept current, and made available to all staff.

8. The personnel policies provide for hours, leave and benefits that are designed to attract and retain qualified staff.

9. The program establishes written qualifications for all positions and employs persons who meet or exceed those qualifications.

10. Acceptable practices are followed for recruiting, hiring and assigning staff. Responsibility for hiring is clearly defined.

11. A written employee grievance policy is provided.

12. Acceptable screening practices which serve to protect the program and its clientele are clearly defined and followed. Employers, staff, or others responsible for the actions of one or more persons who have been given or have applied to be considered for a position of supervisory or disciplinary authority over children, with the permission of said person, will have a criminal history records check conducted (R.S. 15:587.1).

13. The program recruits a diverse staff which is reflective of the community and geographic area in which the program is located.

14. Acceptable practices are followed for orientation, development and training of staff. Training content is compatible with OWS and LCADV's statement of philosophy. Forty hours of family-violence related training is required for staff. Sixteen hours of orientation for new staff is required plus 20 hours of training in the first year. Experienced staff accompany new employees at all times and they are not given sole responsibility for working with survivors until orientation is complete.

15. Acceptable practices are followed in supervising and evaluating staff. Clear times of supervision and reporting are established.

16. Acceptable practices are followed in terminating employment of staff. Responsibility for terminating employment is clearly defined.

17. A job classification system and salary ranges are maintained to attract and retain qualified personnel.

18. Comprehensive and current job descriptions are available for all staff positions.

19. A comprehensive confidential personnel record is maintained for each staff member.

20. Staff providing direct services are provided opportunities for debriefing to prevent burnout in an on-going forum, such as weekly staffing, maintenance or supervision meetings.

21. The program determines the need for volunteer services and utilizes the services of volunteers as appropriate.

22. The program adopts policies that attract and retain qualified volunteers.

23. A comprehensive volunteer manual containing all volunteer polices and practices is maintained, kept current and made available to volunteers. This manual includes policies and procedures regarding recruitment, screening, training, supervision and/or dismissal of volunteers used to provide both direct and non-direct services. The manual clarifies the roles and contributions of volunteers to the program's provision of service, with specific detail addressing how, when, where and the frequency with which volunteers will be used.

24. Comprehensive and current job descriptions are available for volunteer positions.

25. A comprehensive, confidential personnel record is maintained for each volunteer which includes, but is not limited to a signed confidentiality statement and a record of trainings completed by the volunteer.

26. The volunteer policies provide for hours, benefits and recognition that are designed to attract and retain qualified volunteers.

27. Acceptable practices are followed in recruiting, screening and assigning volunteers. Screening practices serve to protect the program and its clients.

28. Acceptable practices are followed in the orientation and training of volunteers. The organization must provide volunteers with 20 hours of training. Training content is compatible with OWS and LCADV's statements of philosophy.

29. Acceptable practices are followed in the supervision, evaluation and termination of the participation of volunteers.

30. Volunteers are qualified for their responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:534 (April 2001).

§1728. Eligibility

A. Basic Considerations. These standards assure equal provision of services to family violence survivors and their dependents.

B. Standards

1. Persons eligible for the services of family violence programs include, but are not limited to family violence survivors, their legal dependents, and those that are or have been in danger of being emotionally, physically or sexually abused and meet the following criteria:

a. adults, legally emancipated minors, or minors granted permission for services by a parent, guardian, judge's order or caretakers of eligible persons;

b. in the event of non-emancipated minors seeking services for themselves, programs shall acquire parental permission prior to providing applicable services;

c. those eligible under the above definition who are/have been abused, or who believe they are in imminent danger of being abused, by their current or former intimate partner;

d. those eligible above who have no safe place to go;

e. those eligible above who willingly agree to abide by program guidelines;

f. those with the ability to take primary care of themselves and their dependents within a communal living facility.

2. Programs provide services regardless of race, religion, color, national origin, gender, age (within above guidelines), mental or physical disability, sexual orientation, citizenship, immigration status, marital status or language spoken.

3. Programs provide services to male survivors who are eligible through collaboration with other organizations.

4. No minor dependent males or females with their parent or guardian are denied access to services on site. Survivors and their dependents may become ineligible if there is evidence that supports a history of violence and the refusal to follow safety guidelines either for themselves or others to cause the environment to become unsafe. Programs may apply to OWS for exemptions because of facility restrictions. Limited exemptions may be given on a case by case basis on presentation of a workable plan.

C. Special Needs and Circumstances

1. Alcohol or drug abuse and addictions: Family violence programs do not withhold services to persons using alcohol or drugs, off the program property, solely based upon the use of the alcohol or substance. Programs provide a written policy demonstrating how repetitive substance/ alcohol use, or the demonstration of behaviors incongruent with community living, may affect continued stay in a facility or the limitations of other services available.

2. In cases where survivors require assisted living, eligibility is not withheld, but services made available through coordinated efforts between family violence program staff and other identified service providers.

D. Length of Stay (Emergency Shelter/Safe Home)

1. Programs offer safe shelter for a minimum of six weeks. Survivors are informed of the minimum length of stay and any criteria which may impact or shorten this stay.

2. Extensions of length of stay are contingent upon the survivor's progress toward meeting self-identified goals.

3. Reasons for denial of extensions requested by a survivor are documented in the case file and shared with the survivor in sufficient time for her to make other safe arrangements if necessary.

E. Repetitive Admissions

1. No program shall place a limit on the number of admissions to shelter without the presence of at least one of the ineligibility criteria.

F. Ineligibility

1. In some instances, applicants and current survivors may be denied services. Programs inform survivors seeking residential services of these instances as soon as possible in order for them to make a more enlightened decision about choosing to come to shelter, instead of waiting until intake when they have already risked leaving their abuser.

G. Criteria

1. The extent to which these criteria affect the long-term or future eligibility for services must be evaluated and documented on a case-by-case basis.

a. Not an adult or emancipated minor, or granted permission.

b. Active suicidal or homicidal behaviors.

c. Previously been disqualified from services.

2. In the event the program cannot admit new survivors due to capacity, every effort is made to secure and facilitate admission to safe alternate accommodations. This placement may include, but not be limited to hotel/motels, safe homes, LCADV/OWS sister shelters, homeless shelters, or other facilities which can be safely and confidentially provided.

3. If, prior to admission, a person is determined ineligible for shelter services, information and referrals are made for other appropriate services.

4. If, after admission, a person is determined to be ineligible for services, program staff:

a. refers the person(s) to appropriate services elsewhere;

b. assists the person(s) with accessing transportation, if possible, to receive the services.

5. Programs maintain written protocols outlining the location(s) and methods by which shelter, advocacy/ counseling, and other services are delivered to eligible adult and minor male survivors needing services.

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HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:535 (April 2001).

§1729. Residential Services

A. Basic Considerations. These standards assure family violence programs provide appropriate and quality services to survivors of family violence and their children in an empowering, non-blaming way.

B. Standards

1. General

a. Family violence shelters provide access, admittance and residence in temporary shelter for survivors of family violence and their children 24 hours a day, every day of the year.

b. Shift coverage provides on-site staff coverage 24 hours a day, seven days a week when a survivor is in residence at the shelter and/or when the hotline is answered at the shelter facility.

c. Regardless of the shift requirements, the first priority of the staff is to be responsive and accessible to a resident or hotline caller.

d. A family violence program provides a back up system for use during emergencies. A supervisor or designee is available "on call" by way of pager or in some manner of contact that allows for immediate response. Each program establishes a protocol that defines criteria and steps for using the back-up system.

e. Family violence programs provide a record of individual and group supervision for shelter employees. Supervision is implemented no less than monthly for part-time employees (20 or less in a week) and biweekly for full-time employees. Documentation of supervision for volunteers is recorded and implemented as if they were part time employees.

f. Documentation of staff/volunteer supervision reflects the fact that the supervision took place and a listing of general subject(s) covered in the session is in the personnel or volunteer's file. In the event of problems related to staff performance, documentation is performed according to the program's personnel policies.

g. Procedures for adequate staff communication to provide continuity of service for survivors, including a regular review of any problem areas to resolve, will be developed and implemented.

2. Shelter Services

a. Every survivor is provided:

i. emergency shelter which is structurally safe and accommodates the particular security concerns of family violence survivors. The method of providing this security needs to be documented and this knowledge made available to survivors;

ii. confidentially of stay at shelter. This is documented in a form and signed by the survivor during intake;

iii. emergency food, clothing, and hygiene items free of charge to adult survivors and their children. When medical services are needed the program helps survivors access services.

b. Advocacy/intervention services, including safety planning for the shelter stay and travel outside the shelter, are available and offered 24 hours a day, every day of the year, with trained advocates on site to provide face-to-face emergency services.

c. Family violence shelters ensure that staff members:

i. have immediate face-to-face contact with a new survivor admitted to shelter to help determine emergency needs, orient them to the shelter facility and procedures;

ii. conduct a formal face-to-face intake process with a new survivor upon admission to shelter and answer any questions the survivor may have. During this time the staff gives the survivor a copy of shelter guidelines and education material on family violence, being very sensitive to the survivor's ability to read and understand. The staff person doing the intake is trained on discipline guidelines for children in the shelter and how to assist the mother on following these guidelines through appropriate discipline techniques;

iii. sign a written agreement with each survivor about services to be provided by the shelter, which include but are not limited to:

(a). program services, its staff and volunteers;

(b). confidentiality agreements, including records;

(c). house guidelines, rights and privacy matters;

d. House guidelines are written in positive and respectful language, including those guidelines posted throughout the house. The purposes of the guideline is for protection, safety or health. Guidelines are limited to the most crucial of situations and reflect the intent to show that the shelter facility is the survivor's home. (OWS with the assistance of LCADV will review program guidelines and offer suggestions.) House guidelines include only those items under the following three categories.

i. Safety

(a). around confidentiality issues (confidentiality of staff and survivors and program locations, etc.);

(b). around security issues (possession of weapons, locked doors, etc.); and

(c). around physical safety (threats or acts of violence including discipline of children, etc.).

ii. Group Living

(a). programs encourage cooperation between survivors in communal living;

(b). programs make every reasonable effort to keep a survivor eligible for services regardless of her ability or willingness to participate in daily upkeep of the shelter facility and to adhere to the health and safety guidelines.

iii. Respect for Self and Others. Demerit and warning systems are not used.

iv. Survivors constitutional right to privacy in their person, property, communications, papers and effects is respected at all times by programs. Survivors are not under any circumstances subjected to unwarranted or unreasonable searches conducted by shelter staff of the survivors person, room, or property. However, circumstances may arise at a shelter where some sort of search may be necessary to protect the health or safety of other survivors or staff.

e. All survivors residing in the shelter for more than 72 hours are provided with an individualized service plan. The survivor plan reflects assistance to survivor's needs. Programs design service plans to facilitate revision in the event circumstances change. This plan includes:

i. release of information agreements;

ii. an individual or family plan of self-defined goals and actions to address needed services to maintain safety and create self-sufficiency;

iii. list of guidelines for children in the shelter;

iv. length of stay polices.

f. A protocol is developed by each program for safe travel of all survivors. All protocols contain a provision for survivor travel to the shelter for intake. Further, the protocol reflects survivors need for local travel whether provided by themselves, the program or public/private carriers.

3. Discharge of Survivors

a. Family violence shelters establish a length of stay policy that is flexible and that balances the needs of survivors and the program's ability to meet those needs. Length of stay policy cannot be shorter than six weeks.

b. Shelters document the attempt to provide an exit interview with each survivor prior to their departure. Minimum categories of exit interview include, but are not limited to, an assessment of program services, treatment by staff (respectful, helpful, available), knowledge of staff in the areas of dynamics of family violence, children's services, safety planning, and goal planning. This is to be completed by survivor through use of a survivor friendly survey. The exit interview provides for a revision of the survivor's safety plan (inclusive of children's safety issues) and linkage to outreach and/or follow up services provided by the program and other community resources. These items are listed in detail on an exit interview form. The exit interview survey and form must be approved by OWS and LCADV.

c. Involuntary Discharge. Shelters must make every effort to work with a survivor in order for them to remain in shelter, except for situations which compromise the safety of others such as:

i. the use of violence or threats of violence;

ii. the use of behavior that repeatedly disrupts the ability of other survivors/children to receive safe and effective services;

iii. possession of illegal substances;

iv. possession of firearms, stun-guns, knives or any other weapon that may be used or by accident to threaten a life;

v. active suicidal or homicidal behaviors;

vi. violating the confidentiality of another resident.

d. An individual service plan/contract is developed with the survivor and appropriate documentation placed in the survivor's file which demonstrates attempts to assist the survivor and/or her children with problematic/disruptive behaviors.

i. Example A. A survivor is drinking alcohol and returning to the shelter intoxicated. Once sobriety is established, the program staff addresses this problem with the survivor and offer to develop a contract or service plan regarding this situation, such as requiring the survivor to attend AA meetings and assisting the survivor to those meetings. If the contract is not followed or the situation reoccurs, then steps to find other resources for the survivor are offered. If this is not accepted, the survivor may be asked to leave. The contract and service plan are documented in survivor's file to reflect the process of offering assistance.

ii. Example B. A survivor's child's behavior is repeatedly disruptive or destructive. A worker addresses this problem with the survivor/parent and offers suggestions to remedy this by developing a plan which may include alternate resources such as a parental support group or referrals to other appropriate child service providers in the community.

e. Survivors may be asked to leave under the following circumstances:

i. credible threats to others, with intent to harm;

ii. unresolved disruptive or abusive behavior; or

iii. if the safety of the shelter is compromised by their continued presence.

4. Re-Entry

a. Shelters do not discriminate against a survivor by limiting the number of times of re-entry or by requiring a time limit between re-entry. Programs do not maintain a "no re-admit" list; however, it is permissible to "not admit at this time" if a survivor is not currently appropriate. This information is documented in survivor's file. Reentry status reflects the survivor's need and behaviors at the current time and is not based on past situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:536 (April 2001).

§1730. Intervention Services

A. Basic Considerations. These standards assure quality intervention services provided within family violence programs.

B. Standards

1. General

a. The first priority of the staff is immediate response and accessibility for a hotline caller.

b. A family violence program provides a back up system for use during emergencies. A supervisor or designee is available "on call" by way of pager or in some manner of contact that allows for immediate response. Each program establishes a protocol that defines criteria and steps for using the back-up system.

c. Family violence programs keep a record of individual and group supervision for shelter employees. Supervision is implemented no less than monthly for part-time employees (20 or less in a week) and biweekly for full-time employees. Documentation of supervision for volunteers is recorded and implemented as if they were part time employees.

d. Documentation of staff/volunteer supervision reflects the fact that the supervision took place and a listing of general subject(s) covered in the session in the personnel or volunteer's file. In the event of problems related to staff performance, documentation is performed according to the program's personnel policies.

e. A protocol is developed by each program for safe travel of survivors. Protocols contain a provision for survivor travel to the shelter for intake. Further, the protocol reflects survivors need for local travel whether provided by themselves, the program or public/private carriers.

f. Programs document the attempt to provide an exit interview with each survivor prior to their departure. Minimum categories of exit interview include, but are not limited to, an assessment of programs, services, treatment by staff (respectful, helpful, available), knowledge of staff in the areas of dynamics of family violence, children's services, safety planning, and goal planning. This is completed by the survivor through use of a survivor friendly survey. The exit interview provides for a revision of the survivor's safety plan (inclusive of children's safety issues) and linkage to outreach and/or follow up services provided by the family violence program and other community resources. These items are listed in detail on an exit interview form. The exit interview survey and form is approved by OWS and LCADV.

g. Advocacy, case management and counseling services of family violence programs are empowerment-based and survivor directed. Empowerment-based intervention refers to survivor-directed interventions or services in which the survivor or recipient of services receives the support and assistance of trained staff who provide safety planning, assistance with meeting physical and emotional needs, education regarding the dynamics of domestic violence and living skills based on a case by case assessment. Empowerment also means allowing the survivor to make her own life choices within the basic eligibility guidelines of the program without coercion or threat of loss of services provided by the program.

h. Participation in intervention services shall be voluntary.

i. Methodology

i. Intervention services are provided in a manner best suited for individual survivors.

ii. The methods selected is provided only with approval of survivors.

iii. Family violence shelters/nonresidential services and outreach services include individual and group intervention services.

iv. Sessions are provided, as appropriate, to individual survivors.

v. Shelter residents are notified in writing that they have at least one hour per day, five days per week of individual sessions available to them at their request. Such sessions are provided by staff trained in techniques of individual, one-on-one intervention and focus on issues of safety planning for the survivor and dependents, physical and emotional needs assessment, planning for meeting those needs, education on the dynamics of family violence and knowledge of community resources with phone numbers provided and available for survivors and children.

vi. Group sessions for survivors and their dependents (separately) are provided, as appropriate, no less than once a week.

vii. Shelters provide developmentally appropriate, multi-age play groups for children on a daily basis during the week. Child care is provided during the parent's initial intake and individual and group sessions if play groups are not available during that time.

j. Restricted Methods

i. Couples counseling, in any form, is not provided by family violence programs.

ii. Family counseling that includes the presence of an alleged batterer is not provided by a family violence program.

iii. Mediation services are not provided or accommodated by family violence programs.

iv. Batterer Intervention Services are not allowed to take place on or near the premises of the family violence program. Furthermore, individual staff is not allowed to work with both survivors and batterers. Job descriptions for individual family violence program staff working with survivors and their dependents do not include work with the abusers. No staff whose responsibility it is to provide direct services to survivors, or to supervise or direct programs for survivors, is allowed to participate in or lead batterer intervention program services. These two programs remain entirely separate so that it is apparent to survivors that there is no conflict of interest within the program or staff. This does not, however, preclude staff from overseeing, for the purposes of holding accountable, batterer intervention program services.

k. Types of Intervention Services

i. Advocacy is defined as the performance of direct intervention in behalf of and with the permission of survivors, to further goals and objectives initiated by the survivor.

(a). Advocacy contacts addressed to individuals or groups not directly employed by the family violence program are not initiated without the survivor's direct permission. Proof of permission is provided by program staff by the recording of such on an approved Release of Confidential Information Form.

(b). Advocates provide only information necessary to achieve the goal of each individual advocacy contact.

ii. Counseling is defined as any individual or group interaction facilitated by program staff for the purpose of addressing emotional needs of adult or child users of services.

(a). Crisis Counseling

(b). Peer Counseling

(c). Supportive Counseling

(d). Educational Counseling

iii. Case Management is defined as any individual or group interaction facilitated by program staff for the purpose of assisting survivors with assessing needs, setting priorities, goal setting, implementing objectives, locating resources, or performing any activities pertaining to the accomplishment of goals. Case management is based upon survivor-identified goals and not a standardized or 'cookie cutter' formula. Case management shall reflect, at least the following:

(a). identify and prioritize survivor's needs, including safety planning;

(b). identify resources available to survivors;

(c). develop goals and objectives specific to the survivors' own goals and record these in a program-approved service plan;

(d). staff internal and external referrals to assist in goal/objective achievement;

(e). correlation with survivor's length of stay, if in a shelter;

(f). progression toward completion of survivor's goals and objectives;

(g). adaptation to survivor's changing needs, as appropriate.

l. Provision of Services

i. Each survivor in a shelter will be assigned a resident-advocate/counselor. This staff person is available to meet with the survivor daily, Monday through Friday. Daily face-to-face interaction with the survivor is made available to her in order to check on her safety and other needs and to offer to schedule a meeting time. If the survivor works, the survivor's advocate/counselor may contact survivor via telephone or visiting at workplace if this is desirable and chosen by the survivor.

ii. In the event that a advocate/counselor is sick or on vacation, it is that advocate/counselor's responsibility to make sure that another staff member meets with the survivor on that day. This is documented in the survivor's file.

iii. Empowerment advocacy does not mean the advocate/counselor sits and waits for the survivor to come to her office. Many times survivors of family violence need assistance to ask for the things they need and need to have this modeled for them. This is the advocate/counselor's responsibility to daily offer and model empowerment to survivors.

m. Appointments and Availability of Services

i. Intervention staff, whether shelter or nonresidential, is provided during times when most survivors need to access and receive services. Survivors are informed of the process by which they may gain access, informally and by appointment, to advocates within the program in which they are receiving services.

ii. At the time appointments are made, staff assists individual survivors in developing a safety plan, as necessary, for traveling to and from appointments.

2. Documentation

a. Documentation for Advocacy, Counseling and Case Management contains at least:

i. demographic data;

ii. lethality assessment;

iii. history of abuse;

iv. safety plan;

v. description of the abuser;

vi. individualized service plan;

vii. children's assessment (if children in the family);

viii. notification of exceptions to confidentiality, advising survivors of advocate's duty to release confidential information in the following circumstances:

(a). report child abuse;

(b). protect against danger to self or others;

(c). summon emergency services;

(d). maintenance of safety and health standards of shelter facilities;

ix. release of liability form;

x. informed consent to release confidential information form(s);

xi. exit interview.

b. Documentation for advocacy contains at least:

i. demographic data and appropriate releases of information as needed; and

ii. document dates of advocacy and contact.

c. Documentation for Case Notes reflects the following:

i. notes are entered in chronological order;

ii. notes have full signature of advocate/ counselor;

iii. entries are made immediately after all survivor contact;

iv. white-out is not used;

v. only necessary facts are recorded;

vi. notes do not contain any diagnosis or clinical assessments;

vii. notes on one survivor do not include other survivor names;

viii. errors are corrected by drawing one line through it, write "error;" and

ix. initial; then continue with note.

3. Computer Generated Case Notes

a. In the event of the use of computer-generated case notes or survivor records, it is the responsibility of each family violence program to assure confidentiality of information. Each program must maintain a written policy and accompanying procedures that reflect security measures. These contain, but are not necessarily limited to:

i. a generalized policy stating the responsibility of all staff and volunteers to assure survivor confidentiality;

ii. a standardized protocol for creating and securing computerized survivor data on all computers including portable laptops;

(a). stating which data entries are allowable and those which are not;

(b). outlining use and storage of disks;

(c). outlining the uses and protection of hard-drive storage (including protocols for use of passwords);

(d). outlining the use and methods of network systems storage;

(e). outlining protocols for the creation, routing and storage of hardcopy materials generated from computer-based records. Further, programs provide the following:

(i). access to computerized confidential records is protected by the use of appropriate software and passwords;

(ii). protocols for timely download or deletion of survivor-related information is provided when computers are shared without use of passwords;

(iii). in the event a protocol includes use of a computer's recycle bin, staff are required to delete the information from the recycle bin as a final step in the process of deleting confidential files.

4. Support Groups

a. Interactive group sessions are topic oriented, or informational and educational, and conducted in a process that is survivor-directed, and facilitated by qualified trained program staff/volunteers.

b. Family violence programs highly recommend that the adult survivors attend a minimum of three support groups while residing in a shelter or when being seen individually in non-resident advocacy. The unwillingness for this to occur by the survivor may not be used as a reason to remove survivors from programs. Also, children of adult survivors may not be restricted from attending children's group if the mother refuses support group, although the mother may be required to remain at the program while her child is in group.

c. Family violence programs provide at least one weekly group for adult survivors while providing at the same time, a multi-age play group for the children of the adult survivors. If the children's group is not always possible, then at the very minimum, appropriate child care is provided during the adult survivor's group.

d. Support group attendance is documented in each survivor's file to include, date of group, topic of discussion, any factual information pertinent to the survivor and signed by the group facilitator.

e. Family violence shelters are encouraged to provide support groups to residents and non-residents, including former residents.

f. Support group services provide understanding and support, which includes, but is not limited to:

i. active and reflective listening;

ii. addressing the needs identified by those attending group session;

iii. building self-esteem;

iv. problem solving;

v. recognition that survivors are responsible for their own life decisions and that batterers are responsible for their violent behavior.

g. Support group services provide education and information that includes, but is not limited to:

i. how batterers maintain control and dominance;

ii. the role of society in perpetuating violence against women;

iii. the need to hold batterers accountable for their actions;

iv. the social change necessary to eliminate violence against women, including discrimination based on race, gender, sexual orientation, disabilities, economic or educational status, religion or national origin.

5. Court/Legal Advocacy

a. Family violence programs providing court advocacy assist survivors in receiving self-identified interventions and actions sought from the civil and/or criminal justice systems.

b. Court advocacy is provided by qualified, trained staff members or volunteers.

c. Family violence programs providing court advocacy services:

i. assure that appropriate staff and volunteers have a working knowledge of current Louisiana laws pertaining to family violence, as well as the local justice system's response to family violence, including court rules, in each parish services are provided;

ii. strictly monitor and prohibit staff members and volunteers from practicing law or providing legal representation if they are not properly certified to engage in such a legal practice;

iii. maintain a current list of local criminal and civil justice agencies and contact persons in each parish where services are provided;

iv. maintain a current referral list of local attorneys, including pro bono resources, who are sensitive and familiar with legal issues and orders of protection, for representation in civil and criminal cases, with contact person identified in each parish where services are provided;

v. train and offer assistance to the criminal and civil justice system within the parishes served, in order to build a working relationship and institute a law enforcement protocol involving family violence.

d. Family violence programs that provide court advocacy services provide the services in shelter and nonresidential settings.

e. Court advocates are responsible for documenting services provided and the outcome of those services in each survivor's file. If volunteers provide services, court advocates obtain the necessary information and document.

6. Children's Services

a. Programs have on staff a child advocate/counselor who is trained in a minimum of the following areas:

i. the developmental stages of childhood, including physical, social, cognitive, and emotional stages;

ii. developmentally appropriate process;

iii. a working knowledge of family violence and its effects on children (including the ways that mothers are often revictimized by the child welfare and educational system, etc.);

iv. assertive discipline techniques;

v. non-violent conflict resolution;

vi. the warning signs of child abuse;

vii. appropriate methods for interviewing children who have disclosed abuse;

viii. how the child welfare system works and their role as "mandated reporters."

b. Child Services include but are not limited to:

i. at shelters, child advocates conduct a child intake interview with the mother of the child(ren) within 48 hours of shelter arrival. Nonresidential programs conduct a child intake as soon as possible after the survivor's initial contact with the program. Intake forms are completed by the mother. Intake forms include areas of concern the mother has for each child, physical needs of the child, social or educational needs of the child, education level of the child, any learning disabilities or diagnoses, medications the child is on and what they are for, any child abuse suspected or documented, type of discipline used in the home and its effectiveness, check list for problem areas, such as, weight, eating, sleeping, hygiene, motor skills, language skills, bedwetting, handling conflict, relationship with adults and with other children;

ii. at the intake interview, the child advocate discusses child guidelines in detail, including discipline guidelines, offers help and guidance in following the guidelines, discusses child services offered. This information is documented in the survivor's record. If programs offer booklets giving this information, they can be given in addition to the required face-to-face interview with the mother;

iii. child advocates provide a physical and social assessment of each child within the first 72 hours of shelter and make appropriate referrals and appointments to meet the areas of need. In nonresidential programs the assessment follows the initial intake;

iv. child advocates have a face-to-face meeting with each child or sibling group within 48 hours of shelter following the child intake interview. In this meeting the child advocate introduces herself, lets the child(ren) know she is there to help them in any way she can, provides a tour of the shelter, talks about the guidelines of the shelter, and the discipline guidelines. Some programs may provide shelter books which cover this material, but this does not replace the face-to-face meeting with the child(ren);

v. child advocates and trained volunteers conduct a daily (M-F) two hour playgroup for children from the ages of 3-11. In nonresidential programs playgroups are held at the time that survivors are in support groups. This playgroup is a time to allow children to play in a safe, structured environment. The playgroup is to be based on a developmentally-appropriate philosophy. While the playgroup is planned and facilitated by the child advocate, the child directs her/his own progress in the group. This is to empower the child, offering the child a safe and appropriate place to say "no" and to learn consistency, structure, and non-violent conflict resolution;

vi. goals of the playgroup are: breaking the "conspiracy of silence," how to protect oneself, to have a positive experience, strengthening self-esteem and self-image;

vii. each child with the assistance of the child advocate develops a personalized safety plan. The plan addresses living at the shelter and also if the mother returns to the perpetrator. Both safety plans are done as soon as possible because no one knows when the mother may return. This is documented in the mother's file;

viii. child advocates may conduct a weekly education group for the mothers, including education on developmental stages and discipline techniques. Group attendance and topic to be discussed are documented in each survivor's file;

ix. child advocates are available to meet with each mother at least once a week in an individual session. This is a time when mothers can share problems they are having and get assistance with the solutions. Methods of parenting education are respectful and non-victim blaming of the adult survivor;

x. if at all possible, each child or sibling group is given an exit interview. In this interview child(ren) can assess child services and staff in some type of developmentally appropriate way. Safety planning and discussion of transition period are discussed. Exit interview is documented in survivor's file.

7. Crisis Line or Hotline

a. Family violence programs operate a 24-hour a day, seven day a week crisis line answered by a qualified, trained staff or volunteer.

b. Hotline numbers are listed in the local telephone book and widely distributed in areas served by the FV program.

c. Hotlines are answered using the name of the family violence program.

d. Hotlines are answered by trained staff or volunteers of the programs. The use of commercial or mechanical answering services is prohibited. Volunteers are not allowed to make final determinations about shelter eligibility.

e. Programs have a minimum of two telephone lines, one of which is the designated hotline.

f. Hotlines have call block, to safe guard against caller ID and *69 services. Local telephone companies can assist with needed information and services.

g. When holding/transferring calls:

i. staff completes initial assessment as to immediate danger before putting caller on hold;

ii. callers on hold are checked back with within two minutes;

iii. prioritize calls through safety and lethality assessment.

h. Staff/volunteers answering hotline calls are in a place that is quiet, free of distractions, and confidential; a private office if possible.

i. If a professional, or third party, calls on behalf of a survivor of family violence generalized information may be given about family violence and program services and requirements, but the staff person or volunteer must talk directly with the survivor regarding a personalized safety plan, danger/lethality assessment and shelter, or other services, and eligibility.

j. Hotline services include, but are not limited to:

i. crisis intervention;

ii. assessment of caller's safety and needs;

iii. emergency protocols (i.e., calling 911; is batterer present or within hearing);

iv. lethality/danger assessment;

v. FV education;

vi. information or referrals to available community resources;

vii. an appropriate form documenting each hotline call, the services offered and/or referrals made, and a plan of action, including information received in calls from professionals or third parties.

k. When using administrative and outreach phones:

i. anyone answering the telephone has a working knowledge of how to screen and assist hotline callers and the requirements of the crisis line, i.e., restrictions about being placed on hold, etc.;

ii. after-hours, weekends and holidays, administrative and outreach phones are answered by devices that clearly direct callers to the hotline.

l. Prior to receiving calls, hotline staff complete family violence training approved by OWS and LCADV.

m. If either party is using a cell or mobile phone, the caller is made aware that confidentiality cannot be guaranteed. Family violence programs do not use mobile remote phones for crisis lines because of confidentiality. This does not preclude digital phones that are confidential.

n. If call forwarding is used to assure staffing of the service, it is the responsibility of the program staff to assure safety and confidentiality. Some issues to be addressed through written protocols when calls are forwarded to non-program locations:

i. the potential for family member to answer or pick-up (by way of an extension line) a hotline call;

ii. the potential of a personal answering machine to pick-up on an incoming call;

iii. the potential for calls to be routed to a cellular telephone that is answered by an advocate/volunteer in public place;

iv. the potential of staff's/volunteer's personal telephone lines to be traced or identified through "caller ID" or other features.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:538 (April 2001).

§1731. Transitional Living/HOUSING Program

A. Basic Considerations. These standards assure family violence programs offering transitional living/housing as part of their service delivery plan provide appropriate and quality services to survivors of family violence and their children in an empowering, non blaming way. Service provided through the transitional living/housing program is not an activity but a process that involves the survivor in goal setting, case management, needs assessment, resource identification and staff/survivor interaction.

B. Standards

1. Persons eligible for transitional living/housing are survivors of family violence who have some affiliation with the family violence program providing housing either in a residential or non-residential capacity, have left an abusive relationship and meet the following criteria.

a. The resident has a willingness to work or enroll in a continuing education or job training/readiness program.

b. The resident agrees to a criminal history check to ensure that there are no pending legal issues that pose a threat to the other residents.

2. Programs offering transitional living/housing develop and implement formal screening procedures that include the following:

a. application process;

b. screening process:

i. direct service staff approval;

ii. administrative approval;

c. verification process (verification of status should be given to applicant in writing):

i. accepted/ready for housing;

ii. accepted/added to waiting list;

iii. conditional acceptance (to include explanation);

iv. denied.

3. Programs offering transitional living/housing establish rental agreements with eligible survivors entering the program to include the following:

a. written agreement for transitional living/housing;

b. deposits (when applicable);

c. move in date;

d. guidelines for housing and transitional living;

e. visual inspection and inventory (if applicable) of housing site.

4. The grievance procedure reflects OWS Standards and individual program policy. Grievance procedures are provided, in writing, to each resident.

5. Programs provide comprehensive supportive service/case management that is survivor directed and includes appropriate referrals to alternate resources, safe living arrangements, safety planning, child care, children's activities, individual and group/support counseling, assistance with housing and public assistance programs, legal advocacy, life skill development and staff/survivor interaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:542 (April 2001).

Subchapter C. Programs for Victims of Family Violence Fund

§1737. Guidelines for Application of Additional Marriage License Fees

A. Introduction. The Programs for Victims of Family Violence Fund was established by Acts 60 and 61 of the first Extraordinary Session, 1983 Louisiana Legislature, for the purpose of providing supplemental funding for family violence programs. Act 1056 of the 1986 Louisiana Legislature provides for the collection of additional marriage license fees by the clerk of court in each parish for deposit into the Programs for Victims of Family Violence Fund effective September, 1986. The amount of the additional fee will be $12.50 per marriage license. The fees will accumulate in the fund each fiscal year to be appropriated by the legislature for the following fiscal year. After the accumulated fees are appropriated by the legislature, the Office of Women's Services is authorized to make allocations from the fund to local family violence programs. The maximum allowable amount of monies available for distribution during any fiscal year to a program serving any parish or parishes will be the amount of fees collected in that parish or parishes during that fiscal year. Any monies generated by the fees collected in a parish, which have not been allocated for family violence services during that fiscal year, will remain to the credit of the parish and will be available for distribution to local family violence programs serving that parish.

B. Definitions

*Family or Household Members*Xspouses, former spouses, or children of either or both such persons.

*Family Violence*Xany assault, battery, or other physical abuse which occurs between family or household members, who reside together or who formerly resided together.

C. Eligible Organizations

1. In order to be eligible to apply for funds under the Programs for Victims of Family Violence Fund, the applicant organization must, at a minimum, meet the following criteria:

a. must have the primary purpose of providing assistance to victims of family violence or operate a program whose primary purpose is providing assistance to family violence victims;

b. must be locally administered by a public or private nonprofit organization;

c. must provide services that include, but are not limited to, the following:

i. counseling for victims or their spouses;

ii. around-the-clock shelter which provides safe refuge and temporary lodging for victims of family violence and their minor, unmarried children, or referral to such a shelter;

iii. support programs that assist victims of family violence in obtaining needed medical, legal, or other services and information;

iv. educational programs relating to family violence in order to increase community awareness.

2. Must meet minimum health, safety, and program standards adopted by the Office of Women's Services. (Copies of standards available through Office of Women's Services, Box 94095, Baton Rouge, LA 70804-9095.)

3. Must demonstrate that it has received or can expect to receive funding equal to 20 percent of its anticipated cost of operation from the area served by the program. In-kind contributions may be evaluated and included as part of the required local funding.

D. Allowable Costs

1. The costs incurred for the provision of services to victims of family violence would include the following categories:

a. the payment of salaries and fringe for personnel working in the program;

b. the payment of travel expenses for personnel to conduct program business;

c. the payment of rent, utilities, food, supplies, and other general operating expenses of the program;

d. the purchase of equipment and essential furniture for the program;

e. the payment of indirect costs for administration of the family violence grant and for professional consultation services.

2. Line item changes may be made only with prior approval from the Office of Women's Services. The clerk of court may retain five percent of the fees collected in the parish for administrative costs prior to deposit into the fund. The Office of Women's Services will retain five percent of the amount appropriated from the fund for administrative costs.

3. State funds may not be used to urge any elector to vote for or against any candidate or proposition on an election ballot, or to lobby for or against any proposition or matter having the effect of law being considered by the legislature or any local governing authority.

E. Application Process

1. Notification of the availability of funds for family violence programs for each fiscal year will be given through the Office of Women's Services.

2. Application packets will be sent to all existing family violence program providers and all persons/organizations who have made past inquiries regarding funding. Interested potential applicants may request application packets from the Office of Women's Services, Box 94095, Baton Rouge, LA 70804-9095.

3. The application packet will be mailed within five working days of receipt of request.

4. The applications must be received by the Office of Women's Services by June 1 of each year.

5. All applications will be evaluated and prioritized according to the stated criteria for evaluation. During the evaluation process, applicants may be contacted by the Office of Women's Services to review and negotiate the application and proposed budget.

6. Applicants will be notified by the Office of Women's Services as to the final decision within 60 days of receipt of the application.

7. The contracts will be signed, and distribution of funds will begin within 45 days of final approval of the contract.

AUTHORITY NOTE: Promulgated in accordance with ,R.S. 46:2121.1(1) R.S. 46:2126, R.S. 45:2127 and R.S. 46:2128.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 13:238 (April 1987), amended LR 14:230 (April 1988), LR 15:268 (April 1989), LR 16:302 (April 1990), LR 17:479 (May 1991).

§1741. General Provisions

A. The OWS Microenterprise Program will help families achieve self-sufficiency through the development of comprehensive microenterprise development opportunities as a strategy for moving parents on public assistance into self-employment and work thereby breaking the cycle of dependence on public assistance and moving families out of poverty. A microenterprise is a sole proprietorship, partnership or family business which has fewer than five employees. It is small enough to benefit from loans under $25,000 and generally too small to access the commercial banking sector.

B. OWS will collaborate with DED in the implementation of this program according to mutually agreed upon terms. OWS's program design will encourage collaboration and partnerships between Community-Based Organization (CBO's), Community Development Corporations (CDC's), Small Business Development Centers (SBDC's) and other institutions as a vehicle for efficiency, reducing costs, and providing high quality, comprehensive services.

AUTHORITY NOTE: Promulgated in accordance with Act 12 of the 2001 Special Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 28:1019 (May 2002).

§1743. Eligibility and Verification

A. Eligibility for OWS Microenterprise Development Program shall be determined by verifying eligibility for FITAP, KCSP, food stamps, CCAP, Medicaid, LaChip, SSI or Free or Reduced School Lunch. If a family does not meet the definition of need, but appears to be eligible for one of the qualifying programs, the family should be referred to the appropriate agency. Upon being determined eligible for one of the qualifying programs, the family meets the definition of needy. Verification includes but is not limited to: Notices of Eligibility (as detailed in the following examples and provided to practitioner agency by the program participant), a copy of current SSI check, a documented phone call to certifying agency, written documentation from certifying agency, and electronic data exchange, if available.

B. Eligibility may also be determined by verifying that earned income levels fall at or below 200 percent of the federal poverty level. Contractors can use the TANF-EZ form to record information for eligibility determination. Examples of documented verification can include, but are not limited to: Notice of eligibility for FITAP, KCSP, Food Stamps, CCAP, Medicaid, LaChip, SSI or Free or Reduced School Lunch or most recent employment pay stub that verifies income, letter from employer stating wages, letter of termination from employment, or copy of most recent tax return. Verification documentation must be provided within three days of application of services. Sub-Contractors shall be responsible for determining the TANF eligibility.

C. Documentation of each eligibility determination (approval or denial) must be maintained by and made available in accordance with Section VIII.B.3. Once eligibility is established, it is valid for a period of one year. However, funding of services will not extend past September 30, 2002.

AUTHORITY NOTE: Promulgated in accordance with Act 12 of the 2001 Special Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 28:1019 (May 2002).

§1747. General Provisions

A. These programs will encourage the formation and maintenance of two-parent families by providing training and crisis services to assist women and children living in a "special needs" situation, family violence, in order to promote their safety, self-sufficiency and the opportunity to develop healthy non-violent two-parent families.

1. Rural Outreach. Designed to create new services, create coordinated community response teams, and develop a Rural Project Assistance Program for financial assistance.

2. Children's Services. Designed to create, increase and enhance children's services as outlined in the Office of Women's Services Quality Assurance Standards.

3. Domestic Violence Training for the Department of Social Services. Designed to provide Office of Family Support and Office of Community Services staff members with the ability to recognize and refer clients that may be in a domestic violence situation as it relates to their specific job duties.

4. Law Enforcement Training. Designed to create an advisory task force of law enforcement groups, provide training for law enforcement groups, and to provide resource/referral information to law enforcement training participants to take back their communities.

AUTHORITY NOTE: Promulgated in accordance with Act 12 of the 2001 Special Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 28:1018 (May 2002).

§1749. Guidelines for Eligibility

A. There are no eligibility guidelines for training projects. Eligibility for Rural Project and Children's Project includes a family with parent/caretaker relative and child. Eligibility is valid if a child has been removed from the home due to domestic violence.

AUTHORITY NOTE: Promulgated in accordance with Act 12 of the 2001 Special Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 28:1018 (May 2002).

Chapter 19. Rural Development

§1901. Projects or Activities

A. The Office of Rural Development (ORD) provides financial assistance to local units of government throughout the state mitigating the effects of natural and economic emergencies and funding units of local government projects essential to community well-being.

B. Municipalities with populations of less than 35,000 and parishes with populations of less than 100,000 inhabitants will be considered rural for the purposes of this program.

C. The ORD applies the following guidelines to any project or activity funded.

1. All projects or activities funded must be related to rural development revitalization of a rural area, as defined in R.S. 3:313.

2. All funds shall be used to mitigate the rapid deterioration or assist the improvement of rural health, education, agri-business, transportation, public facilities, tourism, infrastructure, or other defined purposes essential to the socioeconomic well-being and quality of life of Louisiana's rural areas.

3. Projects or activities should further enhance community services and broaden rural employment opportunities whenever possible.

4. Projects or activities should further the provisions of the Rural Development Law, R.S. 3:311-323.

5. At the start of each fiscal year, the executive director shall determine the equal funding level for all eligible parishes, which includes villages, towns and cities within each parish as well as the parish government, based on the total amount budgeted as aid to local governments for rural development grants. The ORD shall make awards to all parishes throughout the year up to that equal funding level.

6. In cases where the eligibility of the parish is limited (parishes over 100,000 in population with eligible unincorporated areas or eligible municipalities), the parish shall be funded to the maximum of those eligible levels so long as the amount does not exceed the amount to which rural parishes are eligible.

7. Parish governments may request funding for projects that serve a parish-wide area or an unincorporated area within the parish. In cases where a parish's application is for funding a project that is not parish-wide in scope and is designed to benefit an incorporated area within the parish, the governing body of the parish must submit a resolution of support for the project stating that determination.

8. Municipal governments (villages, towns, cities) may not exceed the total funding level as outlined in the ORD application guidelines for rural development grant funds for any fiscal year by having a parish government submit an application to fund a project within the corporate limits of a village, town or city, unless the project is a service that extends beyond the corporate limits and serves an adjoining portion of the parish or unless the project is in response to an emergency officially declared, as defined by state law (R.S. 38:2211 et seq.).

9. Grants approved by the ORD are expected to be completed within one year from the date of signing of the letter of commitment by the executive director of ORD. Extensions will be limited to two on each grant and an extension must be approved, in writing, by the executive director of ORD.

10. Rural development funds are not intended for salary only projects or ongoing salaried positions.

11. All invoices submitted for reimbursement must be in original form and marked by vendor to identify the invoice as expenses related to the approved ORD grant using the grant number furnished by ORD at the time of issuing the approved letter of commitment.

12. There shall not be awarded to any Local Governmental Agency (LGA), municipal or parish, an additional grant if a previous grant to that LGA is still open past a period of 24 months.

13. Changes or amendments to an application must be in writing and must be approved by the executive director, in writing. If the change in an application is so great that it goes from one category to another, the request must include a new abstract and a new budget and must be accompanied by a new resolution of support from the LGA's governing body.

14. Multi-parish regional projects are not intended to be funded by ORD funds, however, if each parish in a region agrees to fund a project that meets the criteria of the ORD grants, with the agreement of its local governing authority and the legislative delegation of that region, the total amount of the regional grant shall be prorated to each parish in that region. The prorated amount shall come out of the total allocated to each participating parish for that fiscal year.

15. A regional project may be funded, provided the legislature appropriates funding for a named regional project above the general appropriation for the ORD. *Regional* is defined as more than one municipality collaborating on a project parish-wide or more than one parish.

D. The director of the ORD shall develop an application procedure satisfying the purposes, intentions, and the implications of regulatory provisions contained in the Rural Development Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 24:1290 (July 1998).

§1903. Application Process

A. Rural development applications are available from the Office of Rural Development to all who request them. All requests for information may be submitted via mail to the Office of Rural Development, Box 94004, Baton Rouge, LA 70804-9004.

B. Municipalities, parish governments, school boards, other units of government, and special districts are eligible to apply for rural development funds. All applicants must be authorized by law to perform governmental functions and be provided governmental body support, and must be subject to state audit.

C. Current population figures are used to determine the eligibility for funding of municipalities based on appropriations by the legislature. The funding is outlined in the ORD application guidelines for rural development grant funds.

D. Funds from this program cannot be used to pay consulting fees charged to a unit of government for the preparation of the application, for administrative costs by agents of the project sponsor or any third party, or for previously created debt.

E. Grant recipients are required to maintain an audit trail verifying that all funds received under this program were used to fulfill the criteria for funding.

F. Payment shall be made to the Local Governmental Agency which is the project sponsor upon production of invoices and approval of the LGA's request for payment by ORD, according to the agreed terms of a signed and executed letter of commitment.

G. Project funds shall be spent only for the project as described in the grant application designated by the same number as the project award. Changes in the project description and extension of the agreed time for completion must be made in writing, subject to the approval of ORD.

H. Use of grant funds for any project other than that described in the grant application or amended application, or in violation of any terms of the application or letter of commitment/agreement, will be grounds for ORD to terminate the agreement and revoke the funds for the project.

I. All invoices related to the project are the responsibility of the LGA project sponsor, and must be submitted to and approved by ORD before the funds will be released to the LGA, which remains responsible for payment to its vendors in the project.

J. The LGA as project sponsor will agree to hold harmless the State of Louisiana, Office of the Governor, and Office of Rural Development as a term and condition of the letter of commitment/agreement.

K. ORD will de-obligate funds from any unexpended amount, whether by failure to start a project in the agreed upon time frame in the letter of commitment or by unexpended funds in an officially closed project, and from revoked grant awards.

L. Failure of the LGA project sponsor to abide by any article of the local agency assurances section of the grant application or of the letter of commitment/agreement, including state audit procedures, federal and state laws, state ethical rules and policy guidelines of the ORD, shall result in revocation of the grant award and the responsibility of the LGA project sponsor to repay project funds released to it by ORD up to the full amount of the grant award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 24:1291 (July 1998).

Chapter 21. Racing Commission

Subchapter A. Substance Abuse and Drug-Free Workplace Program

§2101. Philosophy

A. The Louisiana State Racing Commission (LRC) is totally committed to deterring substance abuse or use which imperils the health and well-being of our employees and the citizens of this state. To accomplish this, the LRC hereby adopts these Substance Abuse and Drug-Free Workplace rules which will enhance the safety and welfare of our employees, increase overall productivity and the quality of our service to the public, preserve property and equipment, promote public safety, reduce absenteeism and job-related accidents which, in turn, will improve the image and reputation of the LRC and its employees.

B. The LRC's philosophy is consistent with the state of Louisiana's long-standing commitment to establishing a drug-free workplace. To deter the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the state of Louisiana recently issued Executive Order 98-38 providing for the promulgation, by executive agencies, of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees in accordance with R.S. 49:1001 et seq. The LRC fully supports these actions and is committed to a drug-free workplace.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:33 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2183 (October 2002).

§2103. Applicability

A. These rules apply to domicile employees, field auditors and appointees of the LRC, as well as potential employees and appointees to those positions.

B. Following a job offer, potential employees and potential appointees will be required to submit to pre-employment drug testing. All employees/appointees are subject to post-accident/incident, reasonable suspicion and return-to-duty/rehabilitation monitoring drug and alcohol testing. Employees who incumber safety-sensitive positions and applicants who apply for safety-sensitive positions are subject to both random and pre-selection drug and alcohol testing. Finally, prior to being reassigned, temporarily detailed, promoted or demoted to a safety-sensitive position, an employee is required to undergo drug and alcohol testing. A list of the safety-sensitive positions within the LRC is contained within §2121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:33 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2183 (October 2002).

§2105. Requirements

A. To maintain a safe and productive work environment, all LRC employees are required to:

1. report for duty in the physical and emotional condition which maximizes his/her ability to perform assigned tasks in a competent and safe manner;

2. promptly and cooperatively submit to drug/alcohol testing when required by a supervisor or appointing authority;

3. notify a supervisor on the first scheduled workday following any arrest or conviction for DWI, drug or drug-related offense which occurs on or off duty.

B. The LRC prohibits the use, abuse and presence of unauthorized alcohol, illegal or unauthorized drugs, and other prohibited substances in the bodies of its employees while on duty, scheduled on-call or engaged in LRC business, on or off LRC/state premises. The presence of unauthorized alcohol, illegal or unauthorized drugs, and other prohibited substances in a state vehicle while on or off duty is also prohibited.

1. The presence of alcohol is indicated by a confirmed blood alcohol concentration of 0.05 percent or more by weight based upon grams of alcohol per 100 cubic centimeters of blood.

2.a. Illegal or unauthorized drugs include:

i. any drug which is not legally obtainable;

ii. any drug which is legally obtainable, but has been illegally obtained;

iii. prescription drugs not being used in accordance with the prescription; or

iv. any substance which affects the employee's ability to safely and competently perform assigned duties.

b. Controlled dangerous substances are listed in schedule I, II, III, IV and V of R.S. 40:964.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:33 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2183 (October 2002).

§2107. Drug/Alcohol Testing

A. All employees may be required to submit to drug and/or alcohol testing as a condition of employment, as a condition of continued employment, or as a condition of promotion, demotion, reassignment or detail to a safety-sensitive position. Whether announced or unannounced, tests will be administered under the following circumstances.

1. Pre-Employment. Drug tests are required of all prospective employees and appointees of the LRC. Each prospective employee/appointee shall be required to submit to drug screening at the designated time and place following a job offer. Pursuant to R.S. 49:1008, a prospective employee/appointee testing positive for the presence of a prohibited substance shall be eliminated from consideration for employment/appointment. Additionally, applicants for safety-sensitive positions listed in §2121 shall be required to submit to alcohol testing. Applicants who test positive for the presence of alcohol shall be eliminated from consideration for employment.

2. Post-Accident/Incident. An employee may be subject to drug testing following an on-duty accident where there is a reasonable suspicion that the employee was under the influence of drugs or alcohol. *Reasonable suspicion* is a belief, based upon reliable, objective and articulable facts derived from direct observation of specific physical and behavioral characteristics (behavior, speech, appearance, odor), which causes a prudent person to suspect that an employee has engaged in drug or alcohol use. Only an appointing authority shall require an employee to submit to post-accident/incident testing. Generally, this decision will be based upon the recommendation of supervisory personnel at the scene who have objectively and thoroughly reviewed the circumstances of the accident/incident. The supervisor will fully document the facts upon which the recommendation for testing is made. Any employee directly involved in an on-duty accident shall be required to submit to drug and alcohol testing if:

a. the accident involves circumstances giving rise to a reasonable suspicion that the accident may have involved the employee's drug or alcohol use and the employee's action or inaction may have been a causative factor;

b. the accident meets the criteria of §2107.A.2.a and results in or causes the release of hazardous waste as defined by R.S. 30:2173(2) or hazardous materials as defined by R.S. 32:1502(5); or

c. the accident results in a fatality or serious bodily injury.

NOTE: When post-accident/incident testing is ordered, an LRC representative shall transport the individual being tested to and from the testing site. Under no circumstances should any employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.

3. Random. Random alcohol and drug testing is required of all employees holding safety-sensitive positions as listed in §2121. Such testing shall be periodic and unannounced, and employee selection therefor shall be by a computer-generated random selection process. All such testing shall, unless impracticable, occur during the employee's normal work hours.

4. Promotion/Reassignment/etc. to Safety-Sensitive Position. Current employees are required to undergo drug and alcohol testing prior to being reassigned, temporarily detailed, promoted or demoted to a safety-sensitive position as defined in §2121. An offer of promotion, reassignment, detail or demotion will be withdrawn if a positive drug or alcohol test result is reported, and employees are further subject to disciplinary action as specified in these rules.

5. Reasonable Suspicion. An employee shall be required to submit to drug and alcohol testing when he/she exhibits behavior or appearance that is characteristic of drug or alcohol use. The decision to test will be by an appointing authority based upon reliable, objective and articulable facts derived from direct observation of the employee's physical appearance, behavior, speech, body odor or physical manifestations. The observation must be made by supervisory personnel (two, if possible) who shall record, in writing, the observations leading to the recommendation for testing.

NOTE: When reasonable suspicion testing is ordered, an LRC representative shall transport the individual being tested to and from the testing site. Under no circumstances should any employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.

6. Return-to-Duty/Rehabilitation Monitoring. Any employee who retains his/her job following a violation of these rules shall be required, at his/her own expense, to undergo and complete any and all treatment recommended by a certified substance abuse professional. Any such employee shall be subject to periodic drug/alcohol testing. Further, any employee who voluntarily or, as a condition of continued employment, participates in an alcohol/substance abuse rehabilitation program, shall be subject to random drug/alcohol testing for a minimum of one year or longer as determined by the treating substance abuse professional. Any such employee shall be required to certify, in writing, his/her understanding and acceptance of such a rehabilitation agreement as a condition of returning to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:34 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2183 (October 2002).

§2109. Drug Testing Procedures

A. Drug testing pursuant to this policy shall be for the presence of marijuana, opiates, cocaine, amphetamine/methamphetamine and phencyclidine (PCP) in accordance with R.S. 49:1001, et seq. Testing shall be performed by a contractor chosen by the Office of State Purchasing, Division of Administration. At a minimum, the testing procedure shall assure:

1. that all specimens for drug testing are collected, stored, transported and tested in compliance with United States Department of Health and Human Services (DHHS) guidelines (and applicable federal and state regulations) to ensure integrity of the testing process;

2. urine specimens will be collected with emphasis upon the privacy rights of the employee. Direct observation of the employee during collection of the urine specimen will be allowed only under the following conditions:

a. when there is specific, articulable reason to believe that the individual may alter or substitute the specimen;

b. when the individual has provided a urine specimen which falls outside the acceptable temperature range;

c. when the last urine specimen provided by the individual was verified by the medical review officer as adulterated; or

d. when collection site personnel observe conduct or behavior indicating an attempt to substitute/adulterate the sample or otherwise alter the integrity of the collection process;

NOTE: In all instances in which direct observation is deemed appropriate, the designated LRC representative shall review and concur, in advance, with any decision by collection site personnel to obtain a specimen under direct observation. This representative shall maintain, in a confidential record, the full name of the reporting collection site personnel and the specific facts relied upon to approve the direct observation. The record shall be signed by the LRC representative. All direct observations shall be conducted by same gender collection site personnel.

3. the split sample collection methodology must be used in accordance with R.S. 49:1006.D, with both the primary and split specimens properly stored and transported to the testing laboratory. The primary urine sample will be analyzed for the presence of marijuana, opiates, amphetamines/methamphetamine, cocaine and phencyclidine (PCP);

4. appropriate chain of custody forms shall be utilized to ensure the integrity of each urine specimen by tracking its handling, storage and transportation from point of collection to final disposition;

5. testing shall be performed by laboratories certified for forensic urine drug testing by the U.S. Department of Health and Human Services and in strict compliance with DHHS Guidelines;

6. the dual testing procedure shall be used for all samples. Each primary sample that tests positive for a prohibited substance shall be subject to an additional, more precise confirmatory test (gas chromatography/mass spectrometry);

7. all positive test results (those which exceed federally established cut-off levels as set forth in 49 CFR 40, Section 40.29), shall first be reported by the testing laboratory to the LRC's qualified medical review officer (MRO). The MRO is a licensed physician knowledgeable of substance abuse who has received specialized training in interpreting and evaluating test results in conjunction with an individual's medical history and other relevant biomedical information. The MRO will review the collection procedure, chain of custody and testing methodology before contacting the employee/appointee/applicant to rule out the possibility of error or that medications, medical history or any other condition caused the positive test result;

8. if the test is confirmed to be positive by the MRO, the employee may, within 72 hours of notification from the MRO, request, in writing, directly to the MRO, that the split specimen (initially collected but separated and stored during the collection process) be tested in a different DHHS certified laboratory. This split sample testing shall be allowed if timely requested and performed at the employee's expense;

9. once a positive test is confirmed and reported to the LRC by the MRO, an employee in a safety-sensitive position will be prohibited from performing safety-sensitive functions. A request for testing of the split sample will not delay any such employee's removal from performing safety-sensitive functions; and

10. if testing of the split specimen results in a negative result, the MRO will cancel the positive result of the initial test. All doubts shall be resolved in favor of the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:35 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2184 (October 2002).

§2111. Alcohol Testing Procedures

A. Evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration will be used by certified breath alcohol technicians to determine the presence of alcohol in the employee's system.

B. The employee will be advised of the results of the breath-screening test. No further testing will be required if the test results are negative. If the screening test is positive for the presence of alcohol, a confirmation test will be performed within 20 minutes, but not less than 15 minutes of completion of the screening test. If the confirmatory test indicates a blood alcohol concentration of 0.05 percent or more by weight based upon grams of alcohol per 100 cubic centimeters of blood, the results will be reported as positive to the LRC's designated representative.

C. An employee occupying a safety-sensitive position will be immediately removed from performing safety-sensitive functions in the event of a positive alcohol test.

D. Positive test results will also be reported to the appointing authority whenever an employee refuses to complete or sign the breath alcohol confirmation testing form, provide breath or an adequate amount of breath (excluding medical inability), or fails to cooperate with the testing procedure in any way that prevents completion of the test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:35 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2185 (October 2002).

§2113. Enforcement

A. The use of illegal drugs, unauthorized alcohol and other controlled or unauthorized substances will not be tolerated. Substance abuse endangers the health and well-being of our employees, prevents quality service to the public and is inconsistent with the LRC's mission. While the LRC's position is firm, the LRC will resolve any reasonable doubt regarding the testing procedure or results in the employee's favor.

B. Disciplinary action will be taken after a complete and thorough review of the applicable data in accordance with Chapter 12 of the Civil Service Rules. Employees will be provided pre-deprivation notice and a meaningful opportunity to respond prior to the imposition of disciplinary action.

C. Penalty for a First Positive Test. A first positive test (drug or alcohol) will result in disciplinary action up to and including the possibility of termination. Factors to be considered in determining the appropriate sanction include, but are not limited to, the employee's work history, length of service, current job performance and the existence of prior disciplinary action. At a minimum, the first-time offender will remain off from work at least 30 calendar days. For any such period, the first 10 workdays will be a suspension, without pay. For the remaining 20 days, the employee will be permitted to use annual, sick or compensatory leave, if available. During this 30-day period, the employee shall obtain a substance abuse evaluation and commence any recommended rehabilitative treatment. Refusal to participate in the evaluation/treatment process, at the employee's expense, will result in termination.

D. Termination will be the recommended penalty for the following violations:

1. second positive drug test result or confirmed blood alcohol level above the applicable thresholds;

2. refusal to submit to a drug or alcohol test;

3. failure to cooperate in any way which prevents the completion of a drug or alcohol test;

4. submission of an adulterated or substitute sample for testing;

5. buying, selling, dispensing, distributing or possessing unauthorized alcohol or any illegal or unauthorized substance while on duty, in a state vehicle or on LRC/state premises; and

6. operating a state vehicle or personal vehicle while on duty under the influence of drugs or alcohol where testing administered by an authorized official confirms a violation of these rules.

E. Suspension will be the recommended penalty for the following violations:

1. failure to notify a supervisor of an off-duty arrest or conviction of DWI or drug-related offense at the beginning of the next scheduled workday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:36 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2185 (October 2002).

§2115. Confidentiality/Employee Rights

A. All drug and alcohol testing results and records (including all information, interviews, reports and statements) are considered confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceeding, except in an administrative or disciplinary proceeding or civil litigation where drug use by the tested individual is relevant. Exceptions to these confidentiality provisions are limited to written employee consent; federal agencies when licensure or certification actions are required; to a decision-maker in arbitration, litigation or administrative proceedings arising from a positive drug test; and as otherwise required by law.

B. In compliance with R.S. 49:1011, any employee, upon learning of a confirmed positive test result, shall, upon written request, have the right of access, within seven working days, to records and other documentation relating to the drug testing process and any records relating to the results of any relevant certification, review, suspension/revocation proceedings of the testing facility.

C. Employees should know that statistical records and reports of drug testing are maintained by the LRC, contract physicians and drug testing laboratories. This information is aggregate data and is used to monitor compliance and to assess the effectiveness of the drug testing program.

D. The LRC has no interest in informing law enforcement authorities of a positive drug test. However, nothing contained in these rules will be construed to preclude the delivery of any illegal drug, controlled dangerous substance, or other substance prohibited by this policy, discovered in/on LRC/state property, or upon the person of an LRC employee, to law enforcement officials. Likewise, any employee engaged in the sale, attempted sale, distribution or transfer of illegal drugs or controlled substances while on duty or on LRC/state property shall be referred to appropriate law enforcement authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:36 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2186 (October 2002).

§2117. Employee Assistance Program

*Editor's Note: The Louisiana Racing Commission has been moved from the Department of Economic Development and has its own Human Resources Division.

A. Early recognition and treatment of drug abuse or dependency are essential to successful rehabilitation. Employees experiencing a substance abuse problem are encouraged to seek assistance from the LRC's Employee

Assistance Program (EAP) coordinator within the *Human Resources Division of the Department of Economic Development. Any such involvement will be held in strict confidence, but employees should know that supervisors and appointing authorities (who need to know) will be kept abreast of the employee's treatment and leave needs.

B. Employees referred to the EAP coordinator by supervisory personnel or who, as a condition of continued employment, participate in a substance abuse rehabilitation program will be subject to the return-to-duty/rehabilitation monitoring testing set forth in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:36 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2186 (October 2002).

§2119. General Provisions

A. The LRC reserves the right to have a licensed physician, of its own choosing and at its own expense, determine if use of prescription medication produces effects which impair the employee's performance or increase the risk of injury to the employee or others. In such case, the LRC will modify the employee's customary job duties or work activities for the period the employee is unable to safely perform his/her customary job duties. Alternatively, the employee may be required/permitted to use accrued leave.

B. Although the substance abuse testing defined in these rules is restricted to five specified drugs and alcohol, the LRC reserves the right to require employees to submit to additional testing, if warranted. Such tests will only be administered when post-accident or reasonable suspicion testing produce negative results and the employee's behavior clearly indicates impairment or other indicia of substance use. Separate samples will be collected for these additional tests and the testing process will fully comply with DHHS regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:37 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2186 (October 2002).

§2121. Safety-Sensitive Positions

A. There are no safety sensitive positions in the LRC at this time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:37 (January 2000), repromulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:2186 (October 2002).

Title 4
ADMINISTRATION
Part IX. Telecommunications

Chapter 1. General Provisions

§101. Title

A. These rules shall be known as the administrative rules and regulations of the Office of Telecommunications Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1623 (September 1999).

§103. Authority

A. These rules are adopted pursuant to R.S. 39:140-143 and R.S. 39:1751-1755.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1623 (September 1999).

§105. Purpose

A. The purpose is to establish overall policy and define areas of responsibility for the provision and management of coordinated telecommunications services to support the programs of the executive branch of state government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1623 (September 1999).

§107. Scope

A. These rules apply to the executive branch of state government as defined in R.S. 36:3(1) and any and all entities, state or non-state, approved to utilize state telecommunications systems and telecommunications services. All groups may be referred to collectively hereafter as agency or agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1624 (September 1999).

Chapter 3. State Agencies' Responsibilities

§301. General

A. All agencies must comply with the requirements and standards stated in these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1624 (September 1999).

§303. Telecommunications Coordinator

A. All agencies shall appoint one or more representatives to be designated as the agency telecommunications coordinator(s). The telecommunications coordinator shall be recognized by the Office of Telecommunications Management as the agency's authorized representative for approving and coordinating telecommunications activity. Communications concerning policy and operating procedures will be directed to agencies through their respective telecommunications coordinator(s).

B. Training designed to instruct the Telecommunications Coordinator on the procedural aspects of interfacing with the Office of Telecommunications Management and the design and operation of various telecommunications systems will be furnished by the Office of Telecommunications Management upon request by agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1624 (September 1999).

§305. Telecommunications Problem Reporting

A. It is the agency's responsibility to report all repair problems to the Office of Telecommunications Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1624 (September 1999).

Chapter 5. Approval of Non-State Entity Use of State Telecommunications Services

§501. General

A. Non-state entities may be allowed to use state telecommunications services under particular circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1624 (September 1999).

§503. Approval Criteria

A. When one of the following criteria is met and upon approval of the Office of Telecommunications Management, non-state entities may use state telecommunications services. The non-state entities shall be either:

1. political subdivisions created by statute;

2. state credit unions;

3. Blind Services approved operators in state buildings;

4. the working press with offices in the State Capitol;

5. private educational institutions in the state of Louisiana with classes from kindergarten through twelfth grade, and colleges and universities, when requesting access to the LaNet Wide Area Network for educational and/or research purposes; or

6. any non-state entity working in cooperation with the Louisiana Department of Labor=s efforts to comply with the federal Workforce Investment Act of 1998 (Public Law 105-220).

B. A non-state entity may be required to supply documentation or evidence of its creation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1624 (September 1999).

§505. Charges

A. The non-state entities being allowed to use the state provided services will be charged the same rates as state agencies and must pay for the service within 30 days of receipt of the Office of Telecommunications Management invoice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1624 (September 1999).

§507. Availability and Usage Constraints

A. The use of the state services by the non-state entities shall not preclude any state agency from use of those services. The non-state entity's use of these services should not result in any additional unreimbursed cost to the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1625 (September 1999).

Chapter 7. Telecommunications Service Standards

§701. General

A. The state of Louisiana will utilize a statewide, consolidated concept of providing telecommunications services which are most cost effective and best meet the overall needs of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1625 (September 1999).

§703. Local Service Standards

A. The Office of Telecommunications Management will determine the means of providing telecommunications services to be used within a given metropolitan area. The selection of the service will be based on the best overall service alternative for that area. Agencies will be provided service through this metropolitan service vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1625 (September 1999).

§705. Long Distance Network Service Standards

A. The Office of Telecommunications Management will determine the means for providing long distance telephone service for each individual metropolitan area. State agencies will be provided service through this metropolitan service vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1625 (September 1999).

§707. Telecommunications Building Access Standards

A. In general, telecommunications access to state-owned buildings shall be made through an as-needed competitive procurement activity that includes provisions and requirements for building access as a part of the state's needs to acquire telecommunications services. This Section is not applicable to those telecommunications service providers that have existing access facilities in state-owned buildings. In special cases where a telecommunications service provider is building out its network and desires access to a new or existing state-owned building in that process, this Section shall apply.

B. When determined by the Office of Telecommunications Management and with the concurrence of the agency/owner to be in the best interest of the state, building access and space in state-owned buildings may be made available to telecommunications service providers. It is the state's intention to provide access to the building through a state-owned and state-provided conduit system.

C. The Office of Telecommunications Management shall be responsible for developing a standard building access agreement. The Office of Telecommunications Management shall be responsible for developing installation standards and guidelines for use by telecommunications service providers. The Office of Telecommunications Management shall coordinate the processing of all requests by telecommunications service providers for building access. The telecommunications service provider shall be responsible for initiating a written request for building access to the Office of Telecommunications Management that contains specific details of accommodation requirements and types of services offered. The agency/owner shall be responsible for sending all requests from telecommunications service providers to the Office of Telecommunications Management. Each building access agreement shall be signed by the agency/owner and the telecommunications service provider and approved by the Office of Telecommunications Management.

D. The criteria for accommodation shall be first come/first served, reasonable availability of space, a demonstrated need for the type of service to be provided, and safety considerations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140-141, 143, R.S. 39:1751-1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 28:2350 (November 2002).

Chapter 9. Telecommunications Use

§901. General

A. All agencies are responsible for devising, implementing, and enforcing cost controls related to telephone usage and informing employees of such policies to preclude unnecessary and unauthorized charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1625 (September 1999).

§903. Authorized Use

A. State telecommunications systems and telecommunications services are provided for the conduct of state business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1625 (September 1999).

§ 905. Receiving Collect Telephone Calls

A. Collect calls shall not be accepted on state telephones.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1625 (September 1999).

§907. Calls Billed as a Third Number Call to State Telephone Numbers

A. Third number calls billed to state telephones are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1625 (September 1999).

§909. LINC Management Reporting

A. LINC management reporting shall be provided by the Office of Telecommunications Management to agency management when available to assist in monitoring and controlling the usage of long distance service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1625 (September 1999).

§911. Agency Usage Policy

A. Agency policy concerning telephone usage must be consistent with this Chapter and should be appropriate for the particular needs of each agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1625 (September 1999).

Chapter 11. Telecommunications Service Requests

§1101. Submission

A. All agency requests for telecommunications systems and/or telecommunications services must be submitted on the appropriate forms to the Office of Telecommunications Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1625 (September 1999).

Chapter 13. Telecommunications Charges

§1301. Charges for Services

A. The specific charges for each line of service provided will be published in the Office of Telecommunications Management's *Catalog of Services*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1626 (September 1999).

Chapter 15. Directory Requirements

§1501. Responsibilities

A. The Office of Telecommunications Management will be responsible for the coordination and publication of all directory information for state telephone users. Respective agency telecommunications coordinators will be responsible for initiating directory listing changes and for verifying accuracy prior to publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1626 (September 1999).

Chapter 17. Telecommunications Procurement

§1701. Tariffs

A. When determined by the Office of Telecommunications Management to be in the best interest of the state and when available, general subscriber tariffs and related special billing assemblies may be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1626 (September 1999).

§1703. Contract Contents

A. The request for proposals, or the invitation to bid, and its addenda with the vendor's response shall be incorporated into the final contract consummated with that vendor. In the event of ambiguity, the order of precedence will be the contract, the request for proposals or the invitation to bid, and the vendor's response.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1626 (September 1999).

§1705. Multi-Year Contract Use

A. Multi-year contract use must be justified and approved in writing. Such justification shall identify and consider all cost factors relevant to that contract. The multi-year method of contracting may be used in, but shall not be limited to, the following situations:

1. utility-type contracts; or

2. when it has been determined that vendors could provide lower unit prices over a longer period of time due to increased volume or lower production costs; or

3. when the cost and burden of contract solicitation, award, and administration of the procurement may be reduced; or

4. when the cost and burden of contract conversion or service implementation are excessive; or

5. when the Commissioner of Administration deems the use of a multi-year contract to be in the best interest of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1626 (September 1999).

Chapter 19. Vendor Responsibilities

§1901. General

A. All vendor contact for sales and service of telecommunications systems and telecommunications services shall be with the Office of Telecommunications Management and not directly with agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1626 (September 1999).

§1903. Bid Notification

A. It is each vendor's responsibility to notify the State Purchasing Office of its desire to receive notification of state telecommunications bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1626 (September 1999).

§1905. Telecommunications Contracts

A. Vendors shall not enter into any contract with any state agency for telecommunications systems or telecommunications services without prior written approval from the Office of Telecommunications Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1626 (September 1999).

Chapter 21. Waiver of Regulations

§2101. Commissioner's Authority to Waive Regulations

A. The Commissioner of Administration may waive in writing, upon the recommendation of the Office of Telecommunications Management, any provision in these rules when the best interest of the state will be served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), amended LR 17:267 (March 1991), LR 25:1627 (September 1999).

Title 4
ADMINISTRATION
Part XI. Office of Electronic Services

Chapter 1. Definition of the Louisiana Data Base

§101. Policy

A. The Louisiana Data Base consists of the official databases and related information services required to support the policy, planning, and administrative needs of the state. This includes needs of state government personnel, as well as needs for access to official state databases and services by local government, the business community, and private citizens. The Louisiana Data Base may incorporate databases outside state government that are determined to be sources of official information for state policy, planning, or administration.

B. The Louisiana Data Base is defined in a catalog that contains relevant information identifying the existence, location, scope, format, access, and other information as determined by the commission and electronic information services required to support the policy, planning, and administrative needs of the state. The catalog is hosted on a commission data server; however, each database and service identified in the catalog is hosted by, and remains the responsibility of, the provider of the database or service. The catalog will be available electronically to all users; however, the entry identifying the database will not include any information declared confidential or otherwise exempt from disclosure as a public record by law or that is protected by a valid license agreement or contract and no access shall be provided to such information through the Louisiana Data Base. The catalog entry will contain a notation as prescribed by the commission that the data is confidential or otherwise protected from further disclosure.

C. The Louisiana Data Base is driven by the policy, planning, and administrative needs of the state. It incorporates both current and historical information. Its structure supports the inclusion in its catalog of, and access to, databases for recurring, ongoing information needs as well as predictable and random ad hoc information requests. Its design is flexible to support dynamic, changing information needs. To ensure that the Louisiana Data Base remains a viable resource for policy, planning and administration, the commission will continuously evaluate the state's needs through personal contact and surveys. The Louisiana Data Base will also permit its users to electronically record their problems, comments, suggestions and satisfaction.

D. Information services that increase usability are valuable components of the Louisiana Data Base. Value-added services such as geographic reference, format translation, and electronic commerce are evaluated, based on user need, to determine if they are appropriate for inclusion in the Louisiana Data Base.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292, 294, and 296.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2611 (November 2000).

§103. Purpose

A. To define the Louisiana Data Base, to specify criteria for its content and associated information services, and to define procedures for its establishment, operation, and maintenance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000).

§105. Applicability

A. Applies to all agencies, organizations, entities, and individuals, either within or outside Louisiana state government, who are involved in the establishment, use, operation, or maintenance of the Louisiana Data Base.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000).

§107. Procedure

A. Establishment. The Louisiana Data Base is initially established by creating the central catalog and implementing the electronic capability to logically access databases and information services that reside at the provider locations. Thereafter, the database is populated incrementally with official databases and information services following a four-step process.

1. The first step is identification of candidate databases and services for incorporation in the Louisiana Data Base. This step is generally user driven and is based on nominations from personal interviews, surveys, electronic feedback, legislation review, and ad-hoc inputs.

2. Next, nominations from the first step are analyzed and evaluated to determine if they address the policy, planning, and administration needs of the state and whether they can be made available to all departments and branches of state government. Where legislation mandates information responsibility for specific areas, such as Consensus Estimating Conferences, the Commission will

coordinate the determination of official information and sources with those legislated entities. The final analysis activity is to develop a work plan to integrate catalog information for the nominations that qualify as official databases and services into the Louisiana Data Base.

3. The third step involves obtaining formal approval to proceed and commitment of resources from the provider. This approval and commitment is based on the contents of the work plan developed in the analysis step.

4. The approved work plan is then executed, integrating the catalog information for the approved databases and information services into the Louisiana Data Base catalog and providing access to the data bases and information services.

B. Operation. The components of the Louisiana Data Base include the central catalog and access to the individual databases and services distributed, maintained, and provided by the providers. The commission is responsible for operation of the electronic catalog, and each provider is responsible for operation of its respective databases and services. Operations may be performed under the provisions of service agreements executed between the Louisiana Data Base Commission and each provider.

C. Maintenance. Each database and service cataloged in the Louisiana Data Base is maintained by the respective provider. The Commission maintains the catalog with a focus on uniformity, accuracy, format, and timeliness; however, each provider is responsible for supplying the commission catalog updates to reflect changes to its database or service in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292, 294, and 296 and R.S. 39:21.1, 21.2, 21.3, and 21.4.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000).

§109. Definitions

*Catalog*Xan electronic index that contains information that defines the databases and information services contained in the Louisiana Data Base.

*Commission*Xthe Louisiana Data Base Commission.

*Consensus Estimating Conferences*Xsix forecasting conferences established by the Louisiana Legislature under R.S. 39:2 and R.S. 39:21 to provide for official information to be universally used across state government for budget and planning purposes. The six conferences are Economic Estimating, Demographic Estimating, Education Estimating, Criminal Justice Estimating, Health and Social Services Estimating, and Transportation Estimating.

*Current Data*Xdata that are updated to reflect the most recent actions or status.

*Geospatial*Xthe geographic location and extent of an individual, agency, organizational, or physical entity or event.

*Official Data*Xa database that has been identified by the designated entity as the best possible source for information determined to qualify for incorporation in the Louisiana Data Base catalog.

*Official Information*Xdata, forecasts, estimates, analyses, studies, and other information adopted by the principals of a Consensus Estimating Conference.

*Provider*Xan agency, organization or entity that owns a database or service that is incorporated in and made available to users of the Louisiana Data Base.

*User*Xany individual who physically accesses the Louisiana Data Base on behalf of himself or another person, agency, organization, or entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:294 and R.S. 39:2 (10), (31), (41), and (43).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000).

§111. Responsibility

A. The commission has overall responsibility for establishing and maintaining the Louisiana Data Base catalog and providing access to the included databases and information services. The commission achieves its objectives for the Louisiana Data Base through cooperative efforts with other entities who have a vested interest in the Louisiana Data Base or the benefits it provides. Following is the allocation of responsibilities for establishing and maintaining the Louisiana Data Base.

1. The commission is responsible for:

a. determination of the data needs for state policy, planning and administration;

b. selecting the contents to be included in the Louisiana Data Base;

c. providing the catalog and the capabilities for users to access the catalog to discover relevant databases and services;

d. providing capabilities to link to access specific provider databases and services using the electronic catalog;

e. determination of appropriate value-added services that improve use of the database or enhance the analytical tools available to users;

f. providing specific direction for establishment, maintenance and use of the Louisiana Data Base;

g. reporting database use information;

h. collection of and response to user feedback;

i. ensuring that official data is accessible to all departments and branches of state government;

j. providing for the uniformity, accuracy, format, and timeliness of the catalog.

2. The Office of Data Base Commission is responsible for:

a. providing technical and administrative support to the Louisiana Data Base Commission for performance of all commission responsibilities;

b. establishment, operation and maintenance of the catalog on behalf of the commission;

c. providing technical support to providers as required for establishment and maintenance of their components of the Louisiana Data Base;

d. providing technical support to users regarding use of the Louisiana Data Base.

3. Providers are responsible for:

a. providing access to their databases and information services that are determined to be official data and services for state policy, planning and administration;

b. operating and maintaining the currency and accuracy of their components of the Louisiana Data Base;

c. ensuring that the information regarding its databases and services contained in the catalog is current and accurate.

4. Consensus Estimating Conferences and other officially designated entities are responsible for:

a. determination of the information needs and official databases for their respective areas of responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292, 294, and 296 and R.S. 39:21.1, 21.2, 21.3, and 21.4.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000).

Title 4
ADMINISTRATION
Part XIII. Statewide Reporting Accounting Policy

Chapter 1. Collection Policy and Procedure

§101. Introduction

A. Overview

1. The following policies and procedures are presented in a broad format to be used by state agencies/departments within the Executive branch of government, including colleges and universities, to create their own detailed, agency-specific procedures, subject to approval by the Cash Management Review Board.

2. Implementation of these policies and procedures are mandated by Act 904 of Regular Session 2001 which enacts Subpart E of Part II of Chapter I of Title 39 of the Louisiana Revised Statutes, to be comprised of R.S. 39:88.1 through 39:88.4, and cited as the "Louisiana Collection and Procedure Act." Its purpose is to provide a comprehensive collection policy and procedure for collection of obligations due to the state be established for use by all state agencies.

3. Act 904 of Regular Session 2001 states: "The Commissioner of Administration shall prescribe and cause to be implemented a comprehensive collection policy and procedure to be used in all state agencies. … The policy and procedures manual shall include rules and regulations to assist state agencies in the identification and collection of delinquent accounts. … Each state agency shall comply with the provisions of collection policy and procedure manual and is authorized to establish and maintain internal controls not inconsistent with the provisions included in the manual. The Cash Management Review Board shall oversee the development of and implementation of the collection policies and procedures manual in each state agency and is authorized to adopt rules and regulations in furtherance of this responsibility."

B. Purpose

1. To establish guidelines for accounts that are considered to be uncollectible.

2. To establish authoritative approval process for uncollectible accounts to be written off for financial reporting purposes only.

3. To establish guidelines for agencies/departments to use for implementation of internal control policy and procedure of accounts receivable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2346 (November 2002).

§103. Accounts Receivable Process Overview and Objectives

A. Billing Process Overview and Objectives

1. To provide accurate and timely billing for amounts owed to the state.

2. To provide a means of tracking accounts receivable.

3. To provide billing capabilities for various types of receivables.

4. To provide the capabilities of monitoring the aging of accounts receivable, creating customer billings and statements based on the age of the receivable.

5. To provide internal control procedures and accountability.

6. Detailed policies and procedures are stated in the Control Agencies Policies and Procedures Manual under Chapter 13.4 and 13.5, Accounts Receivable Recognition Overview and Recording Revenue Recognition Overview.

B. Billing Event Overview and Objective

1. Recording of the billing event will be performed by the agency/department. Agency/department will initiate the data entry, obtain approvals and process the billing.

2. Invoices and statements are printed at the agency/department location and sent to the customer on a timely basis. Agency/department shall provide statements at least monthly.

3. Once a receivable has been incurred, an invoice should be prepared and sent to debtor on a timely basis.

4. Agency/department are responsible to track their own receivables. Keep records of and all correspondences pertaining to the account.

5. The agency/department will obtain complete and accurate information on each debtor in the event of default.

6. Each month a report is prepared to review the accounts for further action. The agency/department shall provide a report relating to accounts that are over 30 days, 60 days, 90 days, and older.

7. Agency/department shall inform and notify the debtor of additional fees, charges, and cost that may be incurred for failure to pay a debt:

a. fee that will be charged for NSF checks;

b. interest on unpaid balance per month;

c. attorney or collection agency fees;

d. late penalty fees.

8. Agency/department whose collections are based on taxpayers' records, and therefore do not issue invoices, are not subject to Paragraphs 1, 2, and 3 above.

C. Billing Receipts Overview and Objective

1. Agency/department receives the money. Credit the appropriate customer's account.

2. Compliance with R.S. 39:372 and the Louisiana Constitution Article VII, Section 9 (A) requires "all monies received by the state or by any state board, agency, or commission shall be deposited immediately upon receipt in the State Treasury, except for certain listed therein." ("Immediately" is defined as within 24 hours of receipt. The State Treasury cash management practices require state-depositing entities to deposit receipts in the state's central depository account or designated regional depository accounts. The depositing agency is responsible for revenue classification in the accounting system.)

3. Detailed policies and procedures are stated in the Control Agencies Policies and Procedures Manual under Chapter 6, Cash Receipts.

D. Accounting Procedures Overview and Objective

1. Agency/department should maintain a proper segregation of duties such as opening the mail, recording the receipt, and maintaining the accounts receivable records. If not feasible, implement supervisory review and controls.

2. A monthly aged trial balance of all accounts should be checked and verified that the amount equals the balance in the general ledger, if applicable.

3. Obtain all necessary information on the debtor in the event of default such as:

a. current home and work address and phone number;

b. Social Security and/or federal employer identification number;

c. name of address of nearest relative or guardian;

d. date of birth;

e. credit references;

f. any other relevant information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2346 (November 2002).

§105. Collection Process Overview, Objective, and Policy Guidelines

A. The following procedures are very general and broad for the purposes of identifying area of concerns and general concentration.

1. Collection Process Objectives

a. To establish and implement a collection policy and procedure that the Cash Management Review Board has approved.

b. To identify delinquent accounts.

c. To pursue delinquent accounts by creating collection letters that are tailored to the agency/department's need.

d. To apply late charges and interest to delinquent accounts.

e. To interface with other software to enhance the intercepting of payments.

f. To provide an updated customer account balance for any collection activity:

i. payments or NSF checks.

g. To provide the ability to write off uncollectible accounts with proper authority and documentation, debt is still owed to the state.

h. To establish and maintain internal controls.

2. Collection Process

a. Begins when the debt is recognized or the service is completed. The agency/department shall provide an invoice or statement in a timely manner to the debtor.

b. Different messages would appear on the statement according to the status of the account to remind the customer of the amount owed to the state, any payments and/or adjustments made since the last printed statement.

c. Apply interest and/or late charges as statutorily prescribed.

d. With the proper documentation and approval, write off from the financial statements any account that is deemed uncollectible after following the procedures outlined in §107.B. The debt is still owed to the state.

3. Collection Follow-Up Procedures

a. Policies and procedures are established and implemented at the agency/department that were approved by the Cash Management Review Board.

b. Send a minimum of one follow-up billing statement to debtor. The scheduled billing cycle shall be designated by agency/department.

c. Send second billing statement to debtor with a warning (dunning) message explaining the action that will be taken within a scheduled billing cycle from the first statement.

d. Third billing statement notifies the debtor that the account has been forwarded to a collection agency or attorney general's office within a scheduled billing cycle from the second statement.

e. Course of Action after the Third Billing Statement

i. Discontinue service and notify debtor by letter that service has been discontinued, if applicable to the agency/department.

ii. The agency/department will continue to collect amounts by all available meansXprivate collection agency, debt offset, etc.

f. Further Action (Discretion of agency/department policies and procedures approved by Cash Management Review Board)

i. Agency/department's secretary or undersecretary may approve the account to be written off or continue to collect (agency's discretion).

ii. Agency/department may continue its collection process or assign the account to a collection agency.

iii. Follow-up with the Attorney General's office or collection agency on the status of the account.

g. If appropriate, contact past due customers by telephone at any time during the collection process to ensure collection.

4. Allowance for Doubtful Accounts

a. Each agency/department should establish an allowance for doubtful accounts to ensure that the agency/department's receivables are not overstated for financial reporting purposes.

b. The allowance method used shall be established by the agency/department with the Cash Management Review Board approval. However, the amount should be based upon historical data or other pertinent information relative to the receivable. Sound accounting theory must be used at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2347 (November 2002).

§107. Write-Off of Uncollectible Accounts Process Overview, Objective, and Policy Guidelines

A. Write-Off Objectives

1. To establish and implement a collection policy and procedure that the Cash Management Review Board has approved.

2. An authorization to write-off an account does not constitute a forgiveness of indebtedness.

3. Debtor remains obligated to the state.

4. Write-off authorizes a state agency to:

a. transfer an account to a dormant file;

b. discontinue incurring the expense involved in collecting the account;

c. discontinue reporting the amount as a receivable on the general ledger.

5. To encourage proper write-offs on a fiscal year end basis.

6. The agencies/departments will have the ability to write-off an account from their financial statements when it is evident that it is uncollectible.

7. To establish and authorize the board and/or committee within each state agency/department to recommend any write offs when the accounts are deemed uncollectible:

a. the board and/or committee shall be managerial level personnel within the appropriate department.

8. Detailed policies and procedures are stated in the Control Agencies Policies and Procedures Manual under Chapter 13XAccounts Receivable.

B. Write-Off Process

1. Agency/department must request an account to be written off through their respective board/committee.

2. Amounts over a specific designation require additional approval from the agency/department's secretary or undersecretary as recommended by the committee.

3. The request to write off a receivable by the agency/department must include the following information:

a. the name and address of the debtor;

b. the age of the account;

c. the nature of the amounts owed;

d. the collection efforts that have been made;

e. any other pertinent information to give a full understanding of the request such as debtor's employment status, debtor financial status, debtor's accessibility, etc.

4. Approved write-off must be reported on the quarterly accounts receivable report and retained in a dormant file and removed from current records.

5. For payments received on an account written-off, record the amount received as revenue, do not re-establish the receivable.

C. Write-Off Criteria

1. The amount is deemed uncollectibleXage of the account.

2. The write-off will not prejudice the position of the state.

3. All reasonable collection efforts have been exhaustedXprivate collection agency, attorney general's office and/or state's debt offset process.

4. The debtor cannot be located or a discharge of bankruptcy has occurred.

5. The applicable statute of limitations for collection of debt has expired.

6. The debtor is deceased and there is no estate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2348 (November 2002).

§109. Debt Intercept or Offset Process Overview, Objective, and Policy Guidelines

A. Warrant Intercept

1. Vendor/debtor is receiving a payment from the state, a request is made by a state agency to intercept the payment for a past due amount, the system automatically applies the payment to the past due amount, and the difference is sent to the vendor.

2. State legislation will be required to enforce this type of intercept.

B. Revenue Recapture

1. Past due amounts can be recaptured through tax refund.

2. Other means of recapture are lottery or gaming winnings.

3. Both recapture programs are administered through the Department of Revenue.

C. Offsets

1. Current offset allowed by R.S. 47:299.2 against income tax refunds are specifically used by:

a. Department of Justice Collections Section;

b. Louisiana Student Financial Assistance Commission's Student Loan Collection Section;

c. Division of Support Enforcement of the Office of Family Support in the Department of Social Services and any other office or facility of DSS;

d. Department of Health and Hospitals;

e. Department of Public Safety and Corrections;

f. Department of Labor.

2. Offset program could be greatly expanded to include other state agencies/departments and all tax refunds, not just income taxes, unemployment benefits, or any other payments made by the state.

3. Additional legislation will be required to expand the offset program.

D. Garnishments, liens, and judgments:

1. when such measures are deemed cost effective;

2. used by most state agencies/departments through private collection firms or Attorney General's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2348 (November 2002).

§111. Quarterly Reporting of Accounts Receivable Overview and Policy Guidelines

A. Objectives

1. To establish a report that shows each state agency/department's accounts receivable balances and activities during the quarter as mandated by R.S 39:79.

2. To establish guidelines and procedures for the quarterly reporting as stated by Memorandum SA 96-45.

3. To ensure the quarterly reports are consistent and as accurate as possible.

4. To have uniformity of reporting for all state agencies/departments.

5. To ensure the timely reporting of the quarterly report as stated by Memorandum SA 96-45.

B. Procedures for Quarterly Reporting

1. Quarterly Activity (Form AR-1):

a. gross receivables and debt at end of quarter;

b. estimated uncollectible for the quarter;

c. net receivable for the quarter;

d. write-offs for the quarter.

2. Aging of Receivables (Form AR-12):

a. current receivables-do not include those past due;

b. past due receivables: 1-30 days;

c. past due receivables: 31-90 days;

d. past due receivables: 181 days-1 year;

e. past due receivables: over one year;

f. total receivables past due;

g. total gross receivable;

h. total gross receivables must equal gross receivables and debt at end of quarter reported on Form AR-1.

3. Collections Activity for Receivables over 180 days (Form AR-3):

a. amount over 180 days past due;

b. collections within the agency;

c. collections with attorney general's office;

d. collections with private collection firm;

e. collections–other (specify the type);

f. collections–under protest;

g. amount over 180 days past due must equal 181 days-one year and over one year total amount reported on Form AR-2.

4. Write-Off Disclosure (Form AR-4):

a. number of accounts, if applicable;

b. amount of the write-offs;

c. reason for the write-off;

d. the total write-off must equal write-off disclosure reported on Form AR-1.

5. Annual Comparison of Receivables (Form AR-5)

a. Major revenue source;

b. amount past due–prior year ending balance;

c. amount past due–current year ending balance;

d. increase/decrease;

e. percentage of change;

f. explanation given for each comparison variance on the bottom of the page designated as "Explanation" for each category.

C. Accounts Receivable Quarterly Reports

1. Quarterly reports starting with September 30, 2000 is available on OSRAP website:

http://www.state.la.us /osrap/index.htm

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2349 (November 2002).

Title 4
ADMINISTRATION
Part XV. Information Technology

Chapter 1. General Provisions

§101. General

A. Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 39:15.1-6 in Act 772 of the 2001 Regular Session, the Chief Information Officer (CIO) and the Office of Information Technology (OIT) was established to manage and direct the following information technology initiatives:

1. overseeing and implementing a state master information technology plan;

2. establishing/directing the implementation of IT standards, architecture, and guidelines for hardware and software systems, contractual arrangements, consolidation of services, and system management;

3. reviewing, coordinating, and standardizing IT planning, procurement, and budgeting;

4. implementing strategic IT planning, review, and operation;

5. measuring and assessing the performance of IT systems, including the creation of benchmarks and the establishment of accountability;

6. overseeing/coordinating the centralization of technology, including consolidation, outsourcing, and sharing statewide government IT resources and services;

7. assuring compatibility and connectivity of Louisiana's information systems;

8. facilitating and fostering innovative emerging technologies that provide cost-effective solutions for government operation;

9. reviewing/overseeing IT projects and systems for compliance with statewide strategies, goals, and standards;

10. ensuring that statewide IT applications are not duplicated by individual state agencies in the executive branch;

11. facilitating/fostering the identification of state data policy and planning needs; and

12. charging respective user agencies for the cost of IT services provided by OIT.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002), repromulgated LR 28:1954 (September 2002).

Chapter 3. State Agencies Responsibilities

§301. General

A. All agencies under the authority of Act 772 must comply with the policies and guidelines promulgated by the Office of Information Technology.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002), repromulgated LR 28:1955 (September 2002).

§303. Information Technology Coordination

A. All departments shall designate one representative to serve as the Information Technology Coordinator, unless otherwise approved by the CIO. The Information Technology Coordinator shall be recognized by the Office of Information Technology as the agency's authorized representative for coordinating with OIT.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002), repromulgated LR 28:1955 (September 2002).

Chapter 5. Policy and Guidelines

§501. General

A. It is the intent of the Office of Information Technology to develop formal IT policies, standards and guidelines relative to information technology activities including but not limited to the following:

1. implementing of IT standards for hardware, software, and consolidation of services;

2. reviewing and coordinating IT planning, procurement, and budgeting;

3. providing oversight for centralization/consolidation of technology initiatives and the sharing of IT resources;

4. assuring compatibility and connectivity of Louisiana's information systems;

5. providing oversight on IT projects and systems for compliance with statewide strategies, goals, and standards.

B. The policies, standards and guidelines of the Office of Information Technology will be promulgated via Information Technology Bulletins.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002), repromulgated LR 28:1955 (September 2002).

§503. Policy Distribution

A. The official method of publishing/distributing OIT policies, standards and guidelines will be via the OIT website at: www.doa.state.la.us/oit.

B. Other electronic delivery systems will be utilized as appropriate to notify agencies of adopted policies and guidelines.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002), repromulgated LR 28:1955 (September 2002).

Title 4
ADMINISTRATION
Part XVII. Records Management Policies and Practices

Chapter 1. Agency Records Management Officer Designation

§101. Designation

A. In compliance with R.S. 44:411, on or before July 1 of each state fiscal year, the chief executive officer of each agency, as defined by R.S. 44:402 shall designate a records management officer to act as liaison between the division and the agency on all matters related to records management for the term of one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:951 (June 2003).

§103. Process

A. Each agency shall communicate their records management officer designation by completing Form SS ARC 940 Records Management Officer Designation Form, (including signature of the chief executive officer and the date the designation was signed) and submitting the completed form to the state archivist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:951 (June 2003).

§105. Responsibilities of an Agency Records Management Officer

A. Each agency should select a records management officer who:

1. can communicate effectively with agency personnel and with the division's personnel;

2. has adequate knowledge of how your agency is organized and its operations;

3. has the ability to work with the agency's information services section on records management issues related to electronic records created and maintained by the agency;

4. has the authority to oversee the records management program of the agency, including:

a. the development and implementation of an agency retention schedule;

b. the compliance with division and legal requirements for agency records;

c. the temporary storage of records at the state records center (if necessary) or the transfer of records for permanent storage with the state archives (if required or requested);

d. and the processing of disposal requests and destruction of agency records as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:951 (June 2003).

§107. Changes in Records Management Officer Designees

A. Agencies wishing to change their agency's designee before their designation period has expired, must notify the state archivist within 30 days of such a change by completing Form SS ARC 940 and noting "AMENDMENT" on top of the page.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:952 (June 2003).

Chapter 3. Retention Schedule Development

§301. Definitions

A. Unless otherwise defined in this Chapter, the definitions for key terms in this Chapter are provided in R.S. 44:402.

*Approved Retention Schedule*Xa retention schedule which has been approved by the state archivist or his designee.

*Records Series*Xa group of related or similar records, regardless of medium, that may be filed together as a unit, used in a similar manner, and typically are evaluated as a unit for determining retention periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:952 (June 2003).

§303. Records Inventory

A. To facilitate the development of agency retention schedules in compliance with R.S. 44:411, each agency shall:

1. review the functions and activities of their agency;

2. develop a list of records produced, received and maintained by the agency;

3. identify the inclusive dates, the medium and volume of records maintained for each record series held by the agency. This provision may be facilitated by agencies

completing a records Management Inventory Form (SS ARC 960) for each record series to document their decision process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:952 (June 2003).

§305. Writing the Retention Schedule

A. Each agency shall submit a draft retention schedule to the state archives for review and approval. In developing the draft, each agency will:

1. conduct adequate research to determine the length of time each record series needs to be maintained based on their administrative, legal, fiscal, and any historical/informational value. Legal citations should be included if statutes or rules exist, on either the state or federal level, the retention of certain records series;

2. develop specific retention and disposition instructions for each records series, including transference of inactive records to an appropriate records storage facility, the maintenance of long-term or permanent records within the agency, and/or transfer of custody of permanent records to the state archives control;

3. develop a draft retention schedule, using form number SS ARC 932, providing a brief description of the records series, suggested retention periods for each records series, recommended disposition instructions for non-permanent records, a notation for any records series that contains confidential information at the time of its creation in the remarks section and any citations used to formulate the retention value, if applicable. In the event that a subset of records are "declared" confidential due to pending investigation or similar event, a list of the records series involved should be transmitted to the state archives within 30 days of the declaration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:952 (June 2003).

§307. Retention Schedule Maintenance

A. Each agency shall review its retention schedule annually to identify any record series requiring an addition, amendment or deletion to the agency's approved schedule. Each agency shall submit an amended SS ARC 932 noting any changes to its existing retention schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:952 (June 2003).

§309. Retention Schedule Renewal

A. An agency schedule, once approved by the state archives will be valid for five years from the date of approval. Ninety days prior to the five year anniversary of a schedule's approval, each agency shall submit their schedule for renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:952 (June 2003).

Chapter 5. Storage of Records in State Records Center

§501. Definitions

A. For the purpose of this Chapter the following definitions apply.

*Approved Records Center Box*Xa box that is 1.2 cubic feet in size, with dimensions of 15" x 12" x 10" and having no lids (fan fold tops only).

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:952 (June 2003).

§503. Eligibility

A. In accordance with R.S. 44:408, the State Records Center may accept records from state agencies when they meet the following criteria.

1. The records are scheduled on an approved Records Retention Schedule.

2. The records belong to an office of the state executive or legislative branches of Louisiana government.

3. The records are considered inactive (not from current operational year).

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:953 (June 2003).

§505. Packing Instructions

A. Each box containing eligible records (as listed above) must comply with the following requirements.

1. The records are boxed in an approved records center box.

2. The records in each box are from the same records series with the same retention value.

3. The records should be packed in the same order as they are filed in the agency.

4. Boxes should not contain mixed media (i.e., microfiche with paper records).

5. Approximately 1 inch of space should be left in each box to facilitate retrieval.

6. Records should not be placed on top of other records in the box.

7. The approximate weight of each box should not exceed 35 pounds.

8. Packing tape is discouraged. If utilized, it may only be used to reinforce the bottom of the box.

9. To further protect the records in case of fire, agencies are strongly encouraged to pack their boxes with the records facing the long (15 inch) side of the box. If records being packed are letter-sized (8 1/2" x 11") the remaining space in the back of the box, may include additional records with the records facing the short side (12 inch) end of the box.

10. Boxes should not contain hanging file folders, three ring binders or binder clips.

11. If boxes contain records in a media other than paper (i.e., microfilm, audio/video tapes), the media type should be noted on the transmittal within the description of contents section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:953 (June 2003).

§507. Labeling Instructions

A. Each agency must assign a unique agency box number to each box to be transferred by affixing the number to the upper right hand corner of the narrow end of the box (the end of the box) and may include a brief descriptor for the records (i.e., 1997, FY2002, A-F, #1001-2500, etc.) to the left of the agency box number. This box number (and descriptor) must correspond to an entry made on the agency's transmittal forms submitted for the box.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:953 (June 2003).

§509. Disposal Date Cycles

A. Records stored in the state records center must be assigned one of two disposal cycles. Assignment should be made based on the following criteria.

1. July Cycle. Records that are retained based on fiscal year retention periods or meet their retention period between January 1 and June 30 during a given year.

2. January Cycle. Records that are retained based on calendar year retention periods or meet their retention period between July 1 and December 31 during a given year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:953 (June 2003).

§511. Records Transmittal

A. Prior to the delivery of records to the State Records Center for storage, an agency must provide the records center with completed Records Transmittal and Receipt forms (SS ARC 103), which will serve as an inventory sufficiently detailed to enable the records center to retrieve any record needed by the agency for reference.

1. A separate transmittal form (SS ARC 103) should be completed for each disposal date (i.e., January or July of a given year).

2. For each box, the agency should include the minimum information on their transmittal forms:

a. agency box number;

b. beginning and ending dates for the records in the box;

c. a brief meaningful description of the contents of the box (i.e., Employees A-E, Batch 151-210);

d. a notation if the records are on a media other than paper;

e. a notation if any of the records contain confidential information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:953 (June 2003).

§513. Arranging Transfer

A. After completing the transmittal forms for the boxes to be stored at the State Records Center, the agency shall mail or fax the transmittals to the State Records Center at least two weeks prior to the date of transfer the agency is requesting. The State Records Center will contact the agency's records officer to finalize the delivery date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:953 (June 2003).

§515. Delivery of Records

A. In general, delivery dates will be set on a first-come, first-serve basis. The State Records Center reserves the right to postpone or rearrange delivery dates or accept records of an agency in special circumstances or emergency situations, if the State Records Center staff or the records management officer statewide determine such an action is necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:953 (June 2003).

§517. Ownership and Access

A. Records stored at the State Records Center remain property of the agency depositing them at the State Records Center. Only the depositing agency's designated employees and to a limited extent, State Records Center personnel will be provided access to records stored in the State Records Center. Any requests to see an agency's records from non-authorized parties will be forwarded to the agency for written approval. A written approval must include the name of the person, the records center box number for the records being requested and the signature of the agency's records officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:954 (June 2003).

§519. Requesting Stored Records

A. An agency may request access to or check out their agency's records by following the following procedures.

1. The agency must contact the State Records Center by either mail, fax, phone or e-mail requesting access to or checking out a file(s) or box(es) by listing the records center box number for the boxes being requested and providing the file name(s) if particular files are being requested.

2. Requests will be processed on a first-come, first-serve basis. In the event that an agency has a true emergency, the State Records Center will try to accommodate a request for expedited service.

3. The State Records Center will contact the agency's Records Officer when the records in question are ready for review or pick-up. Upon arrival to the State Records Center, agency personnel will be required to show proper identification before access to the records will be granted.

4. Records being checked out from the State Records Center require a signed check out invoice by the employee checking out the records.

5. Once the agency checks out a record, the responsibility to return the record to the State Records Center belongs to the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:954 (June 2003).

§521. Disposal of Records

A. Twice a year the State Records Center will generate disposal requests for agency records that have met their retention periods. Such disposal requests will be forwarded to the agency records officer for agency disposal approval. The agency will have 45 days to respond to the request. The State Records Center reserves the right to return to the agency any records listed on the disposal request after the allotted 45 days has lapsed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:954 (June 2003).

§523. Agency Disposal Approval

A. Once the agency receives the disposal request, the agency records officer must ascertain if any of the records listed on the request require further retention or are required for pending or on-going litigation. The records officer should consult with the agency's legal counsel if there are any legal holds that require the records being retained for a longer duration.

1. If the records are not needed for any legal or administrative need, the agency records management officer shall sign the statement indicating that in consultation with the agency's legal counsel the records are no longer needed by the agency and may be destroyed.

2. If any record is still required by the agency, they may designate the records to be retained by noting the new disposal date requested and the reason for the extended retention. The agency may request the records be transferred back to their custody if they do not wish the records to remain in the state records center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:954 (June 2003).

§525. Archival Review

A. Prior to the destruction of any records in the State Records Center, the state archives will review each disposal request for possible archival records. In the event that the state archives wishes to retain some records for archival review, the state archives will notify the agency which agency records they are transferring to the archives acquisition section for processing. Once transferred to the state archives the ownership of the record will transfer from the agency to the state archives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:954 (June 2003).

Chapter 7. Transferring Records for Inclusion in Archives Collection

§701. General

A. In accordance with R.S. 44:411, agency shall secure written approval from the state archivist (or his designee) prior to the disposing of any records of the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:954 (June 2003).

§703. Eligibility

A. In accordance with R.S. 44:401, the state archives may accept records from state agencies according to the following criteria:

1. the records are scheduled on an approved Records Retention Schedule;

2. the records have been determined to be of historical value or mandated by law to be kept as permanent records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:954 (June 2003).

§705. Packing Instructions

A. For records that easily fit into archive box, each box containing eligible records as listed in §703 must comply with the following requirements.

1. The records are boxed in an approved archival box.

2. The records in each box are from the same records series with the same retention value.

3. The records should be packed in the same order as they are filed in the agency.

4. Boxes should not contain mixed media (i.e., microfiche with paper records).

5. The approximate weight of each box should not exceed 35 pounds.

6. Taping of printed descriptions to the box and use of packing tape is prohibited.

7. To further protect the records in case of fire, agencies are strongly encouraged to pack their boxes with the records facing the long (15 inch) side of the box. If records being packed are letter-sized (8 1/2" x 11") the remaining space in the back of the box, may include additional records with the records facing the short side (12 inch) end of the box.

8. Boxes should not contain hanging file folders, three ring binders or binder clips;

9. If boxes contain records in a media other than paper (i.e., microfilm, audio/video tapes), the media type should be noted on the transmittal within the description of contents section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:955 (June 2003).

§707. Non-Standard Sized Packing Instructions

A. Prior to sending records that exceed 8 1/2" x 14", the submitting agency should contact the archives acquisitions section for further instructions on how to pack such records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:955 (June 2003).

§709. Labeling Instructions

A. For boxes donated or sent to the state archives for permanent storage:

1. the agency must assign a unique agency number to each box to be transferred by affixing the number on one of the long sides of the box;

2. a brief descriptor for the records (i.e., Dept of State, Correspondence 6/1/00X12/31/00; Bd of EthicsXCampaign Finance Reports #98-04 through #98-100) under the box number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:955 (June 2003).

§711. Archives Transmittal Form Required

A. Prior to the delivery to the state archives, the submitting agency must provide completed archives transmittal forms, which will serve as an inventory, sufficiently detailed, to enable archives staff to retrieve records as they are needed.

1. On each transmittal form, the agency shall include:

a. name and address of agency;

b. the records officer name and official title within the agency;

c. contact information (phone and e-mail address) for the records officer;

d. any restrictions that exist for the records included on the particular form;

e. the total number of boxes/items to be transferred;

f. signature of transmitting records officer and date signed by officer;

g. page number and total number of pages of transmittal (i.e., Page 1 of 5).

2. For each box or item, agency shall include on the transmittal:

a. title of records series as it appears on the agency's approved retention schedule;

b. more that one box may be listed on an archival transmittal form.

3. Submission and the acceptance of an archives transmittal form from an agency or donor by the state archives constitutes an Act of Donation to the state archives by the agency or donor, and transfers all rights and ownership of the records to the state archives.

4. The state archives will return a signed copy of the archival transmittal form signed by the receiving archivist after the transmittal has been processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:955 (June 2003).

§713. Arranging Transfer

A. After completing the archival transmittal forms for the items to be transferred to the state archives, the agency or donor shall transmit the forms at least one week prior to the date of transfer requested by the agency or donor. The state archives, after reviewing the forms, will contact the agency's or donor's contact listed on the transmittal to finalize the delivery date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:955 (June 2003).

§715. Delivery of Records

A. In general, delivery dates will be set on a first-come, first-served basis. The state archives reserves the right to postpone or rearrange delivery dates or accept records of an agency in special circumstances or emergency situations, if the archives staff or records management officer statewide determine such an action is necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:955 (June 2003).

§717. Long Term Records Storage

A. Records transferred to the state archives for permanent or long-term storage remain property of the agency depositing them with the state archives. Only the depositing agency's designated employees and to a limited extent, archives staff, will be provided access to records stored with the state archives. Any requests to see an agency's records from non-authorized parties (including public records requests) will be forwarded to the owner agency for written approval. Written approval must include the name of the person authorizing the access, the person access is being granted and the archives storage box number(s) in which the record(s) is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:955 (June 2003).

§719. Requesting Stored Records

A. An agency may request access to or check out their agency's records by following the following procedures.

1. The agency must contact the state archives by either mail, fax, phone or e-mail requesting access to or checking out a file(s) or box(es) by listing the agency box number for the boxes being requested and providing the file name(s) if particular files are being requested.

2. Requests will be processed on a first-come, first-served basis. In the event that an agency has a true emergency, the state archives will try to accommodate a request for expedited service.

3. The state archives will contact the agency's records officer when the records in question are ready for review or pick-up. Upon arrival to the state archives, agency personnel will be required to show proper identification before access to the records will be granted.

4. Records being checked out from the state records center require a signed check out invoice by the employee checking out the records.

5. Once the agency checks out a record, the responsibility to return the record to the state archives belongs to the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:956 (June 2003).

Chapter 9. Destruction of Public Records

§901. General

A. In accordance with R.S. 44:411, agency shall secure written approval from the state archivist (or his designee) prior to the disposing of any records of the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:956 (June 2003).

§903. Scheduled Records

A. Agencies wishing to dispose of records listed on their agency's approved retention schedule shall submit to the state archivist or his designee, Form SS ARC 930 (Request for Authority to Dispose of Records). Form SS ARC 930 must have the signature of either the agency's:

1. records officer as designated in LAC 4:XVII, Chapter 1; or

2. the chief executive officer; or

3. the general counsel for the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:956 (June 2003).

§905. Non-Scheduled Records

A. Agencies wishing to dispose of records not listed on their agency's approved retention schedule shall submit to the state archivist or his designee, Form SS ARC 930 (Request for Authority to Dispose of Records) and a completed Records Management Inventory Form for each non-scheduled series listed on the disposal request. Form SS ARC 930 must have the signature of either the agency's:

1. records officer as designated in LAC 4:XVII, Chapter 1; or

2. the chief executive officer; or

3. the general counsel for the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:956 (June 2003).

§907. Destruction Authorization

A. Once a disposal request has been received by the state archivist (or his designee), the agency will be notified within 30 days of receipt that:

1. their disposal request has been approved;

2. their disposal request has been denied along with an explanation why approval was not granted;

3. their disposal request contains records that should be transferred to the state archives for possible inclusion in the state archives; or

4. their disposal request requires more research and requires an additional 30 days to issue a response to the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:956 (June 2003).

§909. Legal Hold Policy

A. Each agency is required to develop and implement an internal process for placing legal holds on records that are involved in state or federal investigations and/or litigation. Agencies should submit their policy within 30 days of creation to the state archives. The policy should address:

1. the agency's internal disposal approval process;

2. which employees are notified of a legal hold, when they are told and how they are told;

3. who is responsible for contacting possible third party vendors who may house records or data covered under a legal hold;

4. what steps should be taken by notified employees to safeguard records or data covered under a legal hold;

5. the agency's legal hold forms (including file level notice sheets) and instructions for any legal hold form/release forms created by the agency to implement the plan;

6. who within the agency has legal authority to lift the legal hold once the litigation or investigation has concluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:956 (June 2003).

§911. Disposal Methods

A. Once approval for disposal has been granted, an agency should dispose of the agency records in a manner acceptable to the level of confidentiality the record requires.

1. If a records series contains no information considered confidential in nature, an agency may use any acceptable disposal method including:

a. landfill;

b. recycling;

c. shredding;

d. incineration;

e. maceration;

f. pulverization.

2. If a records series contains information considered confidential in nature, an agency may use any of the following disposal methods:

a. shredding;

b. incineration;

c. maceration;

d. pulverization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:957 (June 2003).

§913. Certificate of Destruction

A. Agencies shall document the destruction of their records by maintaining a Certificate of Destruction for all records requiring destruction approval from the state archives. Such destruction certificate shall consist of either:

1. the current state archives certificate of destruction form (SS ARC 933) along with the approved destruction request from the state archives; or

2. an equivalent document that records the date the records were destroyed, the method of destruction, the approved Authority to Dispose of Records Form and the signature of at least one witness to the destruction or removal of the records. In the event that a recycling company is used for destruction, the date the records are transferred to the recycler for destruction will constitute the destruction date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:957 (June 2003).

Chapter 13. Electronic Records

Subchapter A. Agency Responsibilities

§1301. Definitions

A. For the purpose of this Chapter the following definitions apply.

*Agency Record*Xa record as defined by R.S. 44:402.

*Electronic Mail (E-mail)*Xa system that enables an agency to compose, transmit, receive and manage text and/or graphic electronic messages and images across networks and through gateways connecting other local area networks.

*Long-Term Record*Xa record with a total retention requirement of over 10 years but less than permanent.

*Permanent*Xa record with a total retention of life of the agency and/or the state and intended to be maintained in perpetuity.

*Short-Term Record*Xa record with a total retention requirement of 10 years of less.

*Transitory*Xtransitory records are records that have limited or no administrative value to the agency and are not essential to the fulfillment of statutory obligations or to the documentation of agency functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:957 (June 2003).

§1303. General

A. The head of each agency must ensure:

1. that a program is established for the management of state records created, received, retained, used, transmitted, or disposed of on electronic media;

2. that the management of electronic state records are integrated with other records and information management records management programs of the agency;

3. that electronic records management objectives, responsibilities and authorities are incorporated into pertinent agency directives and policies;

4. that procedures are established for addressing records management requirements, including, retention, access and disposition requirements;

5. that training is provided for users of electronic records systems, in the operation, care, and handling of the information, equipment, software and media used in the systems;

6. that documentation is developed and maintained about all electronic state records in a manner adequate for retaining, reading, or processing the records and ensuring their timely, authorized disposition; and

7. that a security program for electronic state records is established.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:957 (June 2003).

Subchapter B. State Archives Imaging Policy

§1305. Imaging System Survey; Compliance

A. In accordance with R.S. 44:413, each agency shall complete a state archives imaging system survey and provide any amendments to their survey in a timely manner when original information provided is no longer accurate.

1. Survey Information. Each agency shall provide the following information to the state archives:

a. a listing of all records series maintained/managed by the system being surveyed;

b. the hardware and software being used (including model and version numbers) including total storage capacity;

c. the type and density of media being used by the system (magnetic, WORM, etc.);

d. the type and resolution of images being produced (TIFF class 3 or 4, and dpi);

e. the agency's quality control procedures for image production and maintenance;

f. the agency's back up procedures for the system and where (on-site, off-site) and how many sets of images exist;

g. the agency's migration plan for purging images from the system that have met their retention period.

2. Initial Survey Implementation. Any agency with an imaging system in operation before June 1, 2003 shall submit their survey response to the state archives by no later than July 31, 2003.

3. New Systems. In addition to completing the Imaging System Survey, any agency implementing an imaging system on or after June 1, 2003, must contact the state archives prior to implementation to ensure that a retention schedule, approved by the state archives, is in place and that the system can comply with their schedule's requirements.

4. Amending Imaging Survey Response. In the event that any changes in the initial information providing on an agency's Imaging Survey response, the agency shall submit an amendment to their survey response within 90 days of the change occurring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:957 (June 2003).

§1307. Acceptable Means of Records Preservation

A. In accordance with R.S. 44:410, electronic digitizing (imaging) is an acceptable means for records preservation for the maintenance of short-term agency records, as defined in LAC 4:XVII.1301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:958 (June 2003).

§1309. Short-Term Records

A. Agencies utilizing imaging for the creation and maintenance of short term records, may use imaging without maintaining the original or a microfilm copy of the original provided that:

1. the records series has been included on the agency's retention schedule submitted to and approved by the state archivist or his designee;

2. a quality control inspection of the images is conducted prior to the destruction of the original source documents to ensure the visibility and accessibility;

3. the proper approval has been secured from the state archives prior to the destruction of the original source documents;

4. the records series maintained on imaging systems are stored in such a manner as to comply with the retention requirements (i.e., like retentions on the same optical disk or subdirectory).

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Office of the Secretary of State, Division of Archives, LR 29:958 (June 2003).

§1311. Long-Term and Permanent Records

A. In accordance with R.S. 44:410, agencies utilizing imaging for the creation and maintenance of long term and/or archival records, may use imaging for administrative purposes provided that for preservation purposes the agency either:

1. maintain the original source documents for the retention period listed on the agency's retention schedule; or

2. produce a microfilm back up of the records and store the microfilm with the state archives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Office of the Secretary of State, Division of Archives, LR 29:958 (June 2003).

Subchapter C. Electronic Mail (E-mail) Guidelines

§1321. Series Retention of E-Mail

A. E-mail should be retained based on content not on media type or storage limitations. Agencies should not encourage employees to unilaterally discard e-mail because of artificial limits on e-mail box capacities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Office of the Secretary of State, Division of Archives, LR 29:958 (June 2003).

§1323. E-Mail Is Not a Records Series

A. E-mail should not be treated as a single record series for retention scheduling purposes. E-mail should be incorporated into existing records series maintained by an agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Office of the Secretary of State, Division of Archives, LR 29:958 (June 2003).

§1325. Types of E-Mail

A. There are two broad categories of e-mail: record and non-record, based on their administrative and retention requirements.

1. Transitory. Transitory records are records that have limited or no administrative value to the agency and are not essential to the fulfillment of statutory obligations or to the documentation of agency functions.

a. Examples. Transitory information can include the following: unsolicited and junk e-mails not related to agency work, listserv and other e-mail broadcast lists that require subscription (including newspapers), reminders for meetings and events (i.e., cake in the conference room, staff meeting moved from 2 p.m. to 3 p.m.), personal non-work related e-mails received by employees.

b. Retention. There is no retention requirement for transitory messages. Public officials and employees receiving such communications may delete them immediately without obtaining approval from the state archives.

2. Record. Electronic mail records are records that have administrative value to the agency or are required to be maintained under state or federal law for a specified amount of time.

a. Retention. The retention requirement for e-mail records must follow suit with records with similar content found in other media (i.e., paper, film, electronic image). In the event that the content of the message does not fit into an existing record series on an approved retention schedule, the e-mail should be maintained in a manner consistent with R.S. 44:36 and should added to the agency's approved retention schedule if the series is expected to remain active.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Office of the Secretary of State, Division of Archives, LR 29:958 (June 2003).

§1327. Maintenance of Electronic Mail

A. Records created using an e-mail system may be saved for their approved retention period by one of the following.

1. Print message and file in appropriate hard copy file.

2. Place in folders and save on personal network drive or C: drive.

3. Save to removable disk (including CD-ROM). 3.5" disks are not recommended for retention periods of more than one year due to the instability of this medium.

4. Transfer to an automated records management software application.

5. Managed at the server by an automated classification system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:959 (June 2003).

§1329. User Responsibilities

A. It is the responsibility of the user of the e-mail system, to manage e-mail messages according to their agency's retention schedule.

1. It is the responsibility of the sender of e-mail messages within the agency's e-mail system and recipients of messages from outside the agency to retain the messages for the approved retention period.

2. Names of sender, recipient, date/time of the message, as well as any attachments must be retained with the message. Except for listserv mailing services, distribution lists must be able to identify the sender and recipient of the message.

3. User responsibilities may be mitigated by the use of a server level automated classification system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:959 (June 2003).

§1331. Agency Responsibilities

A. Each agency should adopt and disseminate to their employees an agency electronic mail (e-mail) proper use policy. The policy should include:

1. defining official use and set limits on personal use of electronic messaging (similar to limitations that exist for telephone, fax, and personal mail);

2. prohibiting the use of electronic messaging system to promote the discrimination (on the basis or race, color, national origin, age, martial status, sex, political affiliation, religion, disability or sexual preference), promotion of sexual harassment, or to promote personal, political, or religious business or beliefs;

3. prohibiting employees from sending electronic messages under another employee's name without authorization;

4. prohibiting the altering of electronic messages, including any attachments;

5. agency process for storing and maintaining electronic messages for the duration of the message's retention period;

6. notice that users of an agency's electronic messaging system should not expect a right of privacy and that electronic messages may be monitored for compliance and abuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:959 (June 2003).

§1333. Use of Records Management Application (RMA) Software

A. Agencies may use records management application (RMA) software to manage records in digital form. RMA software categorizes and locates records and identifies records that are due for disposition. RMA software also stores, retrieves, and disposes of the electronic records that are stored in its repository. Agencies should use RMA software that complies with DoD 5015.2-STD, "Design Criteria Standard for Electronic Records Management Software Applications," as issued by the U.S. Department of Defense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:959 (June 2003).

Chapter 15. Microfilm Policy

§1501. General

A. This policy applies to the microfilming of any agency record that is to be maintained solely in microfilm format and to all microfilm which is created or maintained for the full retention period of the record as a security copy of an agency record. This policy does not apply to convenience film.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:959 (June 2003).

§1503. Definitions

A. The following words and terms, when used in this Chapter, have the following meanings, unless the context clearly indicates otherwise. Terms not defined in these Sections have the meanings defined in the R.S. 44:402.

*Aperture Card*Xcard with a rectangular opening(s) into which 16mm/35mm microfilm frames can be inserted, mounted, or pre-mounted.

*Batch*Xa quantity of chemicals or film which has been prepared at one time, and which has been identified through labeling or through other means by the manufacturer as a batch or lot.

*CAD (Computer Assisted Design)*Xa method of creating microimages by computer-driven laser.

*Convenience Film*Xmicrofilm copies of records created only for convenience of use and considered non records under R.S. 44:1.

*Declaration by the Camera Operator*Xa target photographed on film following the filmed records that provides identification of beginning and ending records on the film; signature of the camera operator; date the declaration was filmed; and reduction range, if more than one ratio has been used.

*Diazo*Xa photographic film containing one or more photosensitive layers composed of diazonium salts in a polymeric material which react with coupler(s) to form an azo dye image after film processing.

*Duplicate Microfilm*Xa microfilm copy made from the original or master negative. Can be silver, diazo or vesicular film.

*Essential Record*Xany agency record necessary to resume or continue an agency's business; to recreate its legal and financial status; and to preserve the rights of the agency, its employees, and its clients.

*Microfilm*Xroll microfilm, microfiche, computer output microfilm (COM), and all other formats produced by any method of microphotography or other means of miniaturization on film.

*Microfilm Container*Xgeneric term for any enclosure in close or direct contact with film such as a reel, can, bag, folder, sleeve (sheath), jacket, envelope, window mount or mat, slide mount, carton, cartridge, cassette, and aperture card.

*Microfilming*Xthe methods, procedures, and processes used to produce microfilm.

*Original Microfilm*Xfirst generation of film produced when records are filmed.

*Silver Original*Xfirst generation silver-gelatin film or other archival quality film.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:959 (June 2003).

§1505. Access to Referenced Standards and Practices

A. The copyrighted standards and recommended practices issued by the American National Standards Institute (ANSI) and/or the Association for Information and Image Management (AIIM) listed in this Chapter are considered best practice and each agency should strive to meet their minimum requirements for all microfilming of state records. A copy of each of the standards mentioned in this rule will be on file upon adoption of this rule and available for public inspection by appointment, during regular working hours at the Louisiana State Archives Building, 3851 Essen Lane, Baton Rouge, LA 70809. The standards are distributed by and available from the Association for Information and Image Management (AIIM), Suite 1100, 1100 Wayne Avenue, Silver Spring, MD 20910-5699.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:960 (June 2003).

§1507. Retention Schedule Compliance

A. Microfilming of records must be in compliance with an approved agency retention schedule except, if an agency does not have an approved retention schedule, a microfilming needs assessment must be completed by the state archives to determine if filming is justified.

1. For microfilm maintained as roll film, no more than one record series is permitted on each roll of microfilm.

2. Original records that have been microfilmed may be destroyed or source documents that have been filmed prior to the expiration of their retention periods if the microfilm complies with this policy and in accordance with R.S. 44:36 and R.S. 44:39.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:960 (June 2003).

§1509. Use of Original Microfilm

A. After the completion of production tests and quality inspection, original microfilm must not be unwound and used for any purpose except:

1. to produce duplicate copies of the film;

2. to carry out periodic inspection of stored original film;

3. to expunge records required by law;

4. to destroy records when retention period has been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:960 (June 2003).

§1511. Annual Report Requirement

A. All agency microfilm produced in house by an agency or by an outside vendor shall make an annual report to the state archives in the form of letter or report and shall include:

1. equipment used by agency or vendor;

2. records series annually filmed by agency;

3. total number of:

a. 100' 16 mm reels;

b. 215' 16 mm, reels;

c. 35 mm reels;

d. microfiche;

e. jackets;

f. aperture cards;

g. images filmed;

h. duplicate reels produced;

4. the method(s) and/or vendor used to process agency microfilm;

5. the location of the original film produced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:960 (June 2003).

§1513. State Centralized Microfilm Unit

A. In accordance with R.S. 44:415, all agencies shall contract with the state archives for microfilming services. If the state archives is unable to meet the agency's needs, the state archives can grant permission for the agency to contract with a private vendor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:960 (June 2003).

§1515. Film Requirement

A. Film with a polyester base must be used for records having a retention period of 10 years or more. Any film type may be used for records having a retention period of less than 10 years, provided the microfilmed record will last for the required retention period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:960 (June 2003).

§1517. Film Production

A. The records to be filmed must be arranged, identified, and indexed for filming so an individual document or series of documents can be located on the film. In instances where records are not self-indexing (i.e., not in a readily identifiable numeric or alphabetic sequence) an index must be maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:961 (June 2003).

§1519. Image Marking

A. Any use of image marking should comply with standard ANSI/AIIM MS8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:961 (June 2003).

§1521. Targets

A. Whenever possible, targets must all face the same direction as the records being microfilmed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:961 (June 2003).

§1523. Image Sequence

A. Image sequence on roll microfilm must be at a minimum:

1. leaders with a minimum of 3 feet (36 inches) of blank film;

2. density target and resolution target;

3. title page (including agency of record);

4. records series identification page;

5. records on film;

6. declaration by camera operator;

7. density target and resolution target;

8. trailer with a minimum of 3 feet (36 inches) of blank film.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:961 (June 2003).

§1525. Retake Sequence

A. Filming sequence for retakes and additions on all microfilm must be:

1. title target identifying the retake or addition records;

2. the retake or addition records; and

3. declaration of the camera operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:961 (June 2003).

§1527. Splices

A. Retakes and additions can be spliced either before the density and resolution targets at the beginning of the film or after the density and resolution targets at the end of the film. Retakes and additions can be on another roll of film if cross-indexed to the original roll on the title target and the container label of the retake.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:961 (June 2003).

§1529. Inspection

A. Original processed microfilm must be visually inspected according to the following procedures.

1. A visual inspection of microfilm within two weeks of creation must be completed to verify legibility.

2. Film of essential records or records having a retention period of 10 years or more must be inspected image by image.

3. Film of non-essential records having a retention period of less than 10 years must be inspected at least every 10 feet of each roll or every third microfiche.

4. Images of documents must be uniformly placed on the film and must be free of any defects in the filming area that would interfere with the documents being read.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:961 (June 2003).

§1531. Cameras and Ancillary Equipment

A. It is recommended that camera equipment be calibrated, tested, or otherwise inspected and adjusted at least twice annually or more often if required to comply with manufacturer's specifications or recommended operating and maintenance procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:961 (June 2003).

§1533. Storage of Original Microfilm

A. Original film should be stored in a separate building from where duplicate copies or the original record are housed. In addition, films of different generic types, such as silver-gelatin, diazo, and vesicular films, should not be stored in the same storage room/vault or in rooms sharing common ventilation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:961 (June 2003).

§1535. Storage of Original Microfilm at State Archives

A. Original film of original records at the state archives must be placed in an archives vault on a different floor than the original records or duplicate film. Films of different generic types, should not be stored in the same vault.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:961 (June 2003).

§1537. Storage Environment

A. Original microfilm must be stored in a storage room or vault that:

1. offers protection from fire, water, steam, structural collapse, unauthorized access, and other potential hazards;

2. is equipped with a fire alarm and fire suppression system;

3. has adequate temperature and humidity controls:

a. for original film of records with a retention of 10 years or more, temperature must not exceed 72 degrees Fahrenheit, and a constant relative humidity of 45 percent must be maintained with a maximum variation of plus/minus 5.0 percent relative humidity in a 24-hour period;

b. for original film of records with a retention period of 10 years or less, the maximum temperature must not exceed 77 degrees Fahrenheit, and a relative humidity range between 20 percent and 60 percent must be maintained with a maximum variation of plus/minus 5.0 percent relative humidity in a 24-hour period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:961 (June 2003).

§1539. Containers and Storage Housing

A. Storage housing materials must be noncombustible and non-corrosive. Microfilm containers for original microfilm must:

1. be used for processed microfilm to protect the film and facilitate identification and handling;

2. be chemically stable materials such as non-corrodible metals (anodized aluminum or stainless steel), peroxide-free plastics, and acid-free paper to ensure no degradation is caused to the images;

3. stored in a closed housing or may be stored on open shelves or racks if the film is in closed containers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:962 (June 2003).

§1540. Container Labels

A. Labels must include:

1. whether the film is original microfilm or a duplicate, including generation number if known;

2. identification number;

3. name of agency;

4. records series title;

5. inclusive dates of records;

6. the beginning and ending records; and

7. retakes/additions, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:962 (June 2003).

§1541. Inspection of Stored Original Microfilm

A. Inspection of stored original microfilm may be conducted in accordance with the following standards:

1. ANSI IT9.11;

2. ANSI/AIIM MS45; and

3. ANSI/NAPM IT9.1.

B. When inspection is done, the sample of microfilm to be inspected for each storage room or vault, if more than one, must be 1/1000th of the total volume of stored microfilm or at least 100 microforms (rolls, jackets, microfiche, aperture cards, COM, etc.), whichever is greater. Sampling procedures must be established that will assure that all parts of the group of microfilm are represented.

C. Inspection must be conducted every five years. Microfilm that has been stored under temperature and/or humidity conditions other than those specified in this policy must be inspected every two years.

D. Containers used to store the film must be inspected for evidence of rust, corrosion, or other deterioration and replaced, if needed.

E. Original microfilm must be inspected on a light box with rewinds or comparable equipment which will not scratch the film.

F. If deterioration is found, a more extensive inspection must be conducted to locate all deteriorating film.

G. Any deteriorating film must immediately be removed from the storage area and the problem corrected before returning the film to storage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:962 (June 2003).

§1543. Computer Output Microfilm (COM)

A. All policies for COM are the same as other microfilm formats, except:

1. the COM original must be wet processed silver-gelatin film for essential records and records with a retention of 10 years or more;

2. the following standards for production, testing, and inspection of COM are recommended:

a. ANSI/AIIM MS1;

b. ANSI/AIIM MS5;

c. ANSI/AIIM MS28;

d. ANSI/AIIM MS39;

e. ANSI/AIIM MS43; and

f. ANSI/NAPM IT9.17.

B. If bar coding is used, the procedures in technical report AIIM TR12 should be followed.

C. The COM original must be visually inspected every 10 feet.

D. Eye-legible titling information must include the following:

1. name of agency;

2. records series title;

3. date(s) of records; and

4. starting and/or ending indexing information.

E. A reduction ratio not exceeding 48:1 must be used.

F. Adherence image sequence for filming, mentioned in this policy is not required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:962 (June 2003).

§1545. Jacketing

A. All policies for jacketed microfilm are the same as other microfilm formats, except:

1. original microfilm may be placed in a jacket, if there is a security copy stored in the same fashion as original microfilm;

2. jacket header information should include a record identifier (name, number). If no security copy exists, the following must be included in the jacket header information:

a. name of agency;

b. records series title;

c. date(s) of records; and

d. starting and/or ending indexing information.

B. Header information must be created with a black carbon-type ribbon or ink that will not bleed, spread, or transfer.

C. Microfilm jackets should comply with ANSI/AIIM MS11.

D. The procedures in AIIM TR11 are recommended for the jacketing of film.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:962 (June 2003).

§1547. Aperture Card/CAD Systems

A. Film produced by aperture card/CAD systems are the same as other microfilm formats, except:

1. original microfilm and enclosure should pass the photographic activity test criteria outlined in the standard ANSI IT9.2;

2. a density test and a resolution test must be conducted on a sample of original microfilm at a minimum of once every 250 cards or every 1,000 images, whichever is greater;

3. aperture cards must have the following information on label headings:

a. name of agency;

b. records series title;

c. date(s) of records; and

d. unique identifier.

B. Adherence image sequence for filming, mentioned in this policy is not required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:963 (June 2003).

§1549. Expungements

A. Such action must comply with statutory law.

1. If roll film is spliced, the following information must be inserted in place of the expunged record(s):

a. a start of expungement target;

b. replacement documents for documents that were expunged (if necessary);

c. an expungement certificate containing the following information;

d. the number of the district court ordering the expungement;

e. the signature, printed name, and title of the custodian of expunged records;

f. the date of expungement.

B. Images on film must not be expunged by punching holes through film, by using opaque, by blotting images with ink-type pen, or by using chemical means such as potassium dichromate (bleach) on film emulsion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:963 (June 2003).

§1551. Destruction of Microfilmed Records

A. Microfilmed records must be destroyed only in accordance with R.S. 44:411(A)(2). Microfilmed records scheduled for destruction must be disposed of in a manner that ensures protection for any sensitive or confidential information. Destruction of records on a roll of microfilm containing multiple records series must be done by destroying the whole roll of film at the time the records on the film that have the longest retention period are eligible for destruction or, if filmed prior to the effective date of these standards, by deleting the section of the film containing records eligible for destruction and splicing the film. If the film is spliced, a destruction notice containing the following information must be inserted in place of the deleted records:

1. the records series title and the inclusive dates of the records;

2. the signature and printed name of the agency records management officer (RMO) approving deletion of the records;

3. the date of the deletion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:963 (June 2003).

§1553. Documentation and Record Keeping

A. Microfilm Production

1. Agency records management officer (RMO) must require documentation to be maintained that identifies titles of records filmed, dates records filmed, disposition of records after filming, dates film processed, disposition of film, reduction ratio used, records series contained on each microfilm, and equipment on which each microfilm was filmed and processed. The documentation must be retained until final disposition of all microfilm documented in the log or equivalent.

B.1. The following information must be recorded for each inspection of stored microfilm:

a. the quantity and identification of microfilm inspected;

b. the condition of the microfilm, including description of any deterioration;

c. any corrective action required;

d. the date(s) of inspection and signed certification of inspector; and

e. the date any corrective action was completed.

2. The inspection log of stored microfilm must be maintained by year and within each year numerically according to microfilm identifier or number.

C. Agency microfilm programs must be reviewed yearly by the agency records management officer (RMO) for compliance with R.S. 44, Chapter 5, and this policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:405.
HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, Division of Archives, LR 29:963 (June 2003).

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