

SENATE BILL NO. 480

BY SENATOR WALSWORTH

1 AN ACT

2 To amend and reenact R.S. 36:4(B)(1)(b) and Chapter 17 of Subtitle III of Title 39 of the  
3 Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:1551 through 1554.1,  
4 1556 through 1558, 1561 through 1569.1, 1571 through 1572, 1581, 1586 through  
5 1587, 1593 through 1598, 1600 through 1608, 1611 through 1633, 1641 through  
6 1644, 1646, 1651 through 1658, 1661 through 1662, 1671 through 1673, 1676  
7 through 1679, 1681 through 1685, 1691 through 1692, 1695 through 1697, 1702  
8 through 1710, 1716, 1731 through 1736, and 1751 through 1755, and to repeal  
9 Chapter 16 of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950,  
10 comprised of R.S. 39:1481 through 1526, relative to the procurement code; to  
11 provide for procurement by public bodies, including provisions for a central  
12 purchasing agency, for procurement regulations, and for source selection for items  
13 to be purchased and methods for such purchases; to provide for definitions and  
14 access to procurement information; to provide for the authority and duties of the  
15 commissioner of administration with respect to procurement; to provide for certain  
16 appointments and qualifications; to provide for mandatory information requirements;  
17 to provide for bid procedures and for types of contracts; to provide for contract  
18 modification, termination, and contract clauses; to provide for legal and contractual  
19 remedies and for administrative appeals; to provide for cooperative purchasing; to  
20 provide with respect to conflicts with other provisions of law; to provide for changes  
21 in designations by the Louisiana State Law Institute; to provide for an effective date;  
22 and to provide for related matters.

23 Be it enacted by the Legislature of Louisiana:

24 Section 1. R.S. 36:4(B)(1)(b) is hereby amended and reenacted to read as follows:

25 §4. Structure of executive branch of state government

26 \* \* \*



1                   (2) To permit the continued development of procurement policies and  
2 practices.

3                   (3) To provide for increased public confidence in the procedures followed  
4 in public procurement.

5                   (4) To ensure the fair and equitable treatment of all persons who deal with  
6 the procurement system of this state.

7                   (5) To provide increased economy in state procurement activities by  
8 fostering effective competition.

9                   (6) To provide safeguards for the maintenance of a procurement system of  
10 quality and integrity.

11 §1553. Construction

12                   A. Supplementary general principles of law applicable. To the extent not  
13 inconsistent with the particular provisions of this Chapter, the principles of Louisiana  
14 law shall supplement its provisions.

15                   B. Obligation of good faith. Every contract or duty within this Chapter  
16 imposes an obligation of good faith in its performance or enforcement. "Good faith"  
17 means honesty in fact in the conduct or transaction concerned and the observance of  
18 reasonable commercial standards of fair dealing.

19 §1554. Application of this Chapter

20                   A. General application. This Chapter applies only to contracts solicited or  
21 entered into after the effective date of this Chapter unless the parties agree to its  
22 application to a contract entered into prior to the effective date.

23                   B. Application to state procurement. ~~Except as provided in Subsections C~~  
24 ~~and D below~~ **Unless otherwise exempted or excluded in this Section**, this Chapter  
25 shall apply to every expenditure of public funds irrespective of their source,  
26 including federal assistance monies except as otherwise specified in Subsection ~~(F)~~  
27 ~~below~~ **F of this Section**, by this state, acting through a governmental body defined  
28 herein, under any contract for supplies, services, ~~or~~ major repairs, **or personal,**  
29 **professional, consulting, or social services,** defined herein, except that this Chapter  
30 shall not apply to either grants or contracts between the state and its political

1 subdivisions or other governments, except as provided in Part VII  
 2 (~~Intergovernmental Relations~~) **of this Chapter, Intergovernmental Relations.**

3 Notwithstanding any other provision of this Chapter, the provisions of R.S. 38:2181  
 4 through R.S. ~~38:2316~~ **38:2318** shall govern the procurement of construction and the  
 5 selection of architects, engineers, and landscape architects by governmental bodies  
 6 of this state, and R.S. 38:2181 through R.S. ~~38:2316~~ **38:2318** shall not apply to any  
 7 procurement of supplies, services, or major repairs by the state ~~except that the~~  
 8 ~~provisions of R.S. 38:2301 shall be applicable to major repairs.~~

9 C. Procurement by the governor. Notwithstanding any other provisions of  
 10 this Chapter, the governor shall procure all materials, supplies, equipment, and  
 11 contractual services required for the governor's mansion, the cafeteria operated in the  
 12 state capitol, and similar agencies. The procurement shall, insofar as practicable, be  
 13 in accordance with the provisions of this Chapter.

14 D. Exclusions. (1) This Chapter shall not be construed to change, affect,  
 15 increase, or relieve the requirements of:

16 (a) R.S. 42:261 through R.S. 42:264, regarding the retaining and  
 17 employment of lawyers.

18 (b) ~~R.S. 39:1481 through R.S. 39:1526, regarding the procurement of~~  
 19 ~~professional, personal, consulting, and social services.~~

20 (c) ~~Repealed by Acts 1983, No. 306, §3.~~

21 (d) R.S. 23:3025, as regarding the purchase of products or services from  
 22 individuals who are blind.

23 (2) This Chapter shall not be applicable to the legislative and judicial  
 24 branches of state government or to any agency within the legislative branch of state  
 25 government.

26 (3) The office for citizens with developmental disabilities in the Department  
 27 of Health and Hospitals shall be exempt from the requirements of R.S. 39:1643 in  
 28 order to lease residential living options for mentally ~~retarded~~ **disabled** or  
 29 developmentally disabled individuals without carrying out the competitive sealed  
 30 bidding requirement of this Chapter.

1                   (4) This Chapter shall not be applicable to any hospital owned or operated  
2 by the state through the Department of Health and Hospitals for the purchase of  
3 supplies, materials, and equipment from a qualified group purchasing organization  
4 if the Department of Health and Hospitals, with the concurrence of the division of  
5 administration, has determined that the cost is less than the state procurement prices,  
6 and that it is in the best interest of the state to purchase the supplies, materials, and  
7 equipment from the qualified group purchasing organization.

8                   (5) This Chapter shall not be applicable to the purchase of any medical  
9 supplies or medical equipment from a qualified group purchasing organization if the  
10 commissioner of administration has determined that it is in the best interest of the  
11 state to purchase the medical supply or medical equipment from the qualified group  
12 purchasing organization. An annual report on the number, type, and volume of such  
13 procurements shall be made to the commissioner of administration, the speaker of  
14 the House of Representatives, and the president of the Senate.

15                   (6) The provisions of this Chapter shall not be applicable to the State Bond  
16 Commission in the solicitation of bids for printing of financial documents. However,  
17 the State Bond Commission shall obtain a minimum of three written or telefaxed  
18 bids from separate vendors which meet the criteria required by the State Bond  
19 Commission for printing of financial documents.

20                   (7) The provisions of this Chapter shall not be applicable to interinstitutional  
21 agreements between co-owners of intellectual property when one co-owner is a  
22 Louisiana regionally accredited college, technical school, or university.

23                   ~~§1502.1~~(8) Contracts awarded by an agency for the benefit of an industry,  
24 payment of which comes from self-generated funds received from that industry, are  
25 exempt from the requirements of this ~~Part~~ **Chapter** provided that any such contract  
26 is awarded through a competitive process.

27                   E.(1) Political subdivisions authorized to adopt this Chapter. The  
28 procurement of supplies, services, major repairs, and construction by political  
29 subdivisions of this state shall be in accordance with the provisions of Chapter 10 of  
30 Title 38 of the Louisiana Revised Statutes of 1950, except that all political

1 subdivisions are authorized to adopt all or any part of this Chapter and its  
2 accompanying regulations.

3 (2) Additionally, all political subdivisions which are not subject to this  
4 Chapter may adopt the provisions of R.S. ~~39:1598-139:1600(D)~~ and its  
5 accompanying regulations.

6 F. Compliance with federal requirements. Where a procurement involves the  
7 expenditure of federal assistance or contract funds, the procurement officer shall  
8 comply with such federal law and authorized regulations which are mandatorily  
9 applicable and which are not reflected in this Chapter.

10 G. Applicable to Department of Public Safety and Corrections.

11 ~~(1) Repealed by Acts 1999, No. 1164, §5.~~

12 ~~(2)~~ Because the prison enterprise system operates under the constraints of an  
13 income statement, the secretary of the Department of Public Safety and Corrections  
14 shall have the authority, notwithstanding any other provisions of law, to purchase for  
15 that system used agricultural and industrial equipment sold at public auction which  
16 shall result in savings to the correctional system, according to the following terms  
17 and conditions:

18 ~~(a)~~**(1)** The used agricultural and industrial equipment shall be purchased by  
19 the secretary within the price range set by the ~~director of state purchasing~~ **state chief**  
20 **procurement officer** in his statement of written approval for the purchase which  
21 must be obtained by the secretary prior to purchase.

22 ~~(b)~~**(2)** The secretary shall certify in writing to the ~~director of state purchasing~~  
23 **state chief procurement officer** all of the following:

24 ~~(i)~~**(a)** The price for which the used equipment may be obtained.

25 ~~(ii)~~**(b)** The plan for maintenance and repair of the equipment and the cost  
26 thereof.

27 ~~(iii)~~**(c)** The savings that will accrue to the state because of the purchase of  
28 the used equipment.

29 ~~(iv)~~**(d)** The fact that following the procedures set out in the Louisiana  
30 Procurement Code will result in the loss of the opportunity to purchase the

1 equipment.

2 H. Exemption for inmate canteens and the employee commissary of the  
3 Louisiana State Penitentiary. Whenever, for sound economic reasons and improved  
4 administrative procedures, the secretary of the Department of Public Safety and  
5 Corrections certifies in writing that it is not practical to comply with the provisions  
6 of this Chapter, the Department of Public Safety and Corrections may procure the  
7 various items for resale to inmates at the inmate canteens in state correctional  
8 facilities and the various items for resale to employees of the department at the  
9 employee commissary of the Louisiana State Penitentiary, without competitive  
10 sealed bidding as required in R.S. 39:1594 and without complying with the  
11 requirements of R.S. 39:1597. Any procurement pursuant to this Subsection is  
12 exempt from the provisions of R.S. 39:1611. Any contract entered into pursuant to  
13 this Subsection must have prior written approval of the commissioner of  
14 administration, the Joint Legislative Committee on the Budget, and the attorney  
15 general, who shall ~~only~~ approve the contract **only** if they determine in writing that  
16 it is in the best interest of the state to enter into the contract. All such information  
17 shall be of public record.

18 I. Plasmapheresis programs. All plasmapheresis programs operated for and  
19 participated in by inmates in correctional facilities under the jurisdiction of the  
20 Department of Public Safety and Corrections, or its designees or assignees, such as  
21 private contractors operating correctional facilities under contract with the  
22 department, shall operate only pursuant to a contract entered into independent of any  
23 other contracts for prison management or operation, and only pursuant to competitive  
24 sealed bids on an individual basis at each penal institution and other facility in  
25 accordance with this Chapter. Contracts presently in existence affecting all  
26 plasmapheresis programs on site and off site shall be excluded and shall remain in  
27 effect for the duration of the contract.

28 ~~§1482(A)~~ **J. This Chapter shall not apply to the following procurements:**

29 (1)(a) Professional services for engineering design contracts, construction  
30 contracts, or contracts for surveying pertaining to the maintenance and construction

1 of roads and bridges, flood control, integrated coastal protection, aviation, public  
 2 transportation, or public works entered into by the Department of Transportation and  
 3 Development as provided in Part XIII-A of Chapter 1 of Title 48 of the Louisiana  
 4 Revised Statutes of 1950.

5 (b) Consulting service contracts with appraisers, foresters, economists, right-  
 6 of-way agents, title abstractors, asbestos abatement inspectors, negotiators,  
 7 accountants, and cost consultants relating to acquisition of rights-of-way for  
 8 maintenance and construction projects entered into by the Department of  
 9 Transportation and Development.

10 (2) Grants or contracts or like business agreements between the state and its  
 11 political subdivisions or other governmental entities, or between higher education  
 12 boards and institutions under their jurisdiction, except this Chapter shall apply to  
 13 interagency contracts ~~as defined in R.S. 39:1490(C)~~, and to contracts or grants  
 14 between the state and its political subdivisions to procure social services.

15 ~~§1482(B)~~**K**. This Chapter shall not apply or affect licensed insurance agents  
 16 appointed as agents of record on policies insuring any of the state's insurable  
 17 interests. Nor shall it apply to or affect insurance consultants and actuaries when  
 18 used in lieu of agents of record, so long as fees paid do not exceed the commission  
 19 that would have been paid to ~~said~~ **the** agents of record.

20 ~~§1482(C)~~**L**. This Chapter shall not apply to those services performed by  
 21 architects, engineers, or landscape architects as provided for in ~~E.S.A. R.S. 38:2310-~~  
 22 **through** ~~38:2316~~ **38:2318**, nor shall the provisions of this Chapter affect or  
 23 otherwise limit the duties, functions, and jurisdiction of the Louisiana Architect  
 24 Selection Board, the Louisiana Engineer Selection Board, or the Louisiana  
 25 Landscape Architect Selection Board.

26 ~~§1482(E)~~**M**. This Chapter shall not apply to any contract or like business  
 27 agreement to purchase professional, personal, consulting, or contract services  
 28 required or utilized by the Louisiana Agricultural Finance Authority authorized  
 29 under the provisions of Chapter 3-B of Title 3 of the Louisiana Revised Statutes of  
 30 1950.

1                   ~~§1482(F)~~N.(1) This Chapter shall not apply to those personal, professional,  
 2 or social services provided to the clients of the Department of Health and Hospitals,  
 3 the Department of Children and Family Services, the office of special education  
 4 services within the Department of Education, provided that the expense for these  
 5 special education services is five thousand dollars or less per child, corrections  
 6 services within the Department of Public Safety and Corrections, or the office of  
 7 juvenile justice; **within the** Department of Public Safety and Corrections, in the  
 8 following circumstances:

9                   (a) When these services are accessed directly by clients through utilization  
 10 of medical vendor cards, with the clients arranging services with providers and  
 11 providers then billing the agency for payment.

12                   (b) When clients of a particular program area are guaranteed freedom of  
 13 choice in selection of a provider of services.

14                   (c) When personal and professional services are arranged on a case-by-case  
 15 basis by a worker as the need arises.

16                   (d) When social services are arranged on a case-by-case basis from a social  
 17 service provider qualifying under R.S. ~~39:1494.1(A)~~ **39:1619(B)**.

18                   (e) When the using agency arranging social services on a case-by-case basis  
 19 makes no guarantee of specific sums of monthly or annual payment or referrals of  
 20 clientele.

21                   (2) If personal, professional, or social services are provided for the primary  
 22 benefit of a single using agency provided for in ~~R.S. 39:1482(F)(1)~~ **Paragraph (1)**  
 23 **of this Subsection**, and ~~said~~ **the** agency exhibits budgetary and programmatic  
 24 control over the provider of the services, and the deliverables of the services are  
 25 intended solely for the benefit of the using agency, the provisions of this Chapter  
 26 shall apply.

27                   (3) This Chapter shall not apply to the use of professional services of  
 28 physicians who provide consultative examinations regarding applicants for disability  
 29 benefits under the Social Security ~~act~~ **Act** by the disability determinations services  
 30 of the Department of Children and Family Services.

1 (4) This Chapter shall not apply to the taking of Medicaid applications by  
 2 certified Medicaid enrollment centers for prospective Medicaid clients pursuant to  
 3 an agreement with the Department of Health and Hospitals and in accordance with  
 4 federal regulations.

5 ~~§1482(H)~~Q. This Chapter shall not apply to any contract or like business  
 6 agreement to hire professional, personal, consulting, or contract services required or  
 7 utilized by the State Market Commission under the provisions of Part I-D of Chapter  
 8 5 of Title 3 of the Louisiana Revised Statutes of 1950.

9 ~~§1482(I)~~P. This Chapter shall not apply to any contract for a court reporter  
 10 or expert witness utilized by a governmental body for the purpose of taking  
 11 depositions, giving expert testimony, or other related matters if such contract has a  
 12 total amount of compensation of less than five thousand dollars.

13 ~~§1482(J)~~Q. This Chapter shall not apply to any contract for the procurement  
 14 of individualized agreements for persons with developmental disabilities by the  
 15 Department of Health and Hospitals.

16 ~~§1482(K)~~R.(1) This Chapter shall not apply to contracts of an institution of  
 17 higher education or other agency of higher education, hereinafter collectively  
 18 referred to as "higher education entity", to which the ~~director of the office of~~  
 19 ~~contractual review~~ state chief procurement officer has delegated authority to  
 20 procure services with private grant funds or federal funds specifically provided for  
 21 such purpose.

22 (2) Procurements conducted by a higher education entity operating under  
 23 delegation of authority as provided herein shall be made in accordance with all  
 24 federal requirements necessary for the receipt and use of such private grant or federal  
 25 funds, particularly with regard to competitive bidding requirements for procurement  
 26 of research services. Further, in making such procurements, such entity may also  
 27 consider factors such as quality, reliability, expected life span, and compatibility  
 28 with existing equipment or research protocols, as permitted under federal guidelines.

29 §1554.1. Federal block grants

30 The provisions of this Part ~~Chapter~~ shall be applicable to any goods and

1 services procured with funds pursuant to the federally enacted community services  
2 block grant or community development block grant.

3 SUBPART B. DEFINITIONS

4 §1556. Definitions

5 As used in this Chapter, the words defined in this Section shall have the  
6 meanings set forth below, unless the context in which they are used clearly requires  
7 a different meaning or a different definition is prescribed for a particular Part or  
8 provision:

9 ~~§1752(1)~~**(1) "Agency"** as used in this ~~Part and in Part V of this Title~~  
10 **Chapter** shall have the same meaning ascribed to it as provided in R.S. 36:3(1).

11 ~~§1591(9)~~**(2)** "Assembled" means the process of putting together all  
12 component parts of an item of equipment by the manufacturer where the assembly  
13 plant is located within the territorial borders of the state of Louisiana. "Assembled"  
14 shall not mean the reassembly of parts packed for shipping purposes.

15 ~~(1)~~**(3)** "Business" means any corporation, partnership, individual, sole  
16 proprietorship, joint stock company, joint venture, or any other legal entity **through**  
17 **which business is conducted.**

18 **(4) "Central purchasing agency" means the office of state procurement.**

19 ~~(2)~~**(5)** "Change order" means a written order signed by the procurement  
20 officer, directing the contractor to make changes which the ~~changes clause of the~~  
21 contract authorizes the procurement officer to order without the consent of the  
22 contractor.

23 ~~(3)~~**(6)** "Chief procurement officer" means the ~~state director of purchasing~~  
24 **person holding the position created in R.S. 39:1562** and the directors of  
25 purchasing of the departments exempt from ~~central purchasing~~ **the office of state**  
26 **procurement** by R.S. 39:1572.

27 ~~§1484(A)(1.1)~~**(7)** "Claims adjuster" means an individual engaged in the  
28 investigation, evaluation, and negotiation of property, casualty, and worker's  
29 compensation insurance claims.

30 ~~§1484(A)(3)~~**(8)** "Competitive negotiation" means to negotiate for a contract

1 through a ~~Request for Proposal (R.F.P.)~~ **request for proposals** process or any other  
2 similar competitive selection process.

3 ~~(22)(9)~~ **"Sealed Competitive sealed** bidding" means the receipt of bids  
4 protected from inspection prior to bid opening. Bids may be received in any manner  
5 specified in the invitation for bids including receipt by mail, by direct delivery, or  
6 through any secure electronic interactive environment permitted by rule or  
7 regulation.

8 ~~§1484(A)(4)(a)(10)~~ "Consulting service" means work, other than  
9 professional, personal, or social service, rendered by either individuals or firms who  
10 possess specialized knowledge, experience, and expertise to investigate assigned  
11 problems or projects and to provide counsel, review, design, development, analysis,  
12 or advice in formulating or implementing programs or services, or improvements in  
13 programs or services, including but not limited to such areas as management,  
14 personnel, finance, accounting, planning, ~~data processing,~~ **information technology,**  
15 and advertising contracts, except for printing associated therewith.

16 ~~(b)~~ The term "consulting service" includes the procurement of supplies and  
17 services by a contractor without the necessity of complying with provisions of the  
18 Louisiana Procurement Code when such supplies and services are merely ancillary  
19 to the provision of consulting services under a contingency fee arrangement, even  
20 though the procurement of such supplies or services directly by a governmental body  
21 would require compliance with the Louisiana Procurement Code. Supplies or  
22 services ancillary to the provision of consulting services are those supplies or  
23 services which assist the contractor in fulfilling the objective of his contract when  
24 the cost for such supplies and services is less than the cost of providing consulting  
25 services, as determined by the using agency.

26 ~~(4)(11)~~ "Contract" means all types of state agreements, regardless of what  
27 they may be called, **including orders and documents purporting to represent**  
28 **grants, which are** for the purchase **or disposal** of supplies, services, ~~or~~ major  
29 repairs, **or any other item**. It includes awards and notices of award; contracts of a  
30 fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the

1 issuance of job or task orders; leases; letter contracts; and purchase orders. It also  
2 includes supplemental agreements with respect to any of the foregoing.

3 ~~(5)~~(12) "Contract modification" means any written alteration in  
4 specifications, delivery point, rate of delivery, period of performance, price, quantity,  
5 or other provisions of any contract accomplished by mutual action of the parties to  
6 the contract.

7 ~~(6)~~(13) "Contractor" means any person having a contract with a governmental  
8 body.

9 ~~§1701(1)~~(14) "Cooperative purchasing" means procurement conducted by or  
10 on behalf of more than one public procurement unit or by a public procurement unit  
11 with an external procurement activity or by a private procurement unit.

12 ~~§1591(1)~~(15) "Cost-reimbursement contract" means a contract under which  
13 a contractor is reimbursed for costs which are allowable and allocable in accordance  
14 with cost principles as provided for in regulations, and a fee, if any.

15 ~~§1522~~(16) For the purpose of this Chapter, the term "court" "**Court**" means  
16 the Nineteenth Judicial District located in Baton Rouge and, in the event of an appeal  
17 from such a court, the First Circuit Court of Appeal located in Baton Rouge.

18 ~~(7)~~(17) "Data" means recorded information, regardless of form or  
19 characteristic.

20 ~~(8)~~(18) "Debarment" means the disqualification of a person to receive  
21 invitations for bids or requests for proposals, or the award of any contract by any  
22 governmental body, for a specified period of time commensurate with the  
23 seriousness of the offense or the failure or the inadequacy of performance.

24 ~~(9)~~(19) "Designee" means a duly authorized representative of a person  
25 holding a superior position.

26 (20) "Electronic" means electrical, digital, magnetic, optical,  
27 electromagnet, or any other similar technology.

28 ~~§1484(A)(10)~~(21) "Employee" means an individual drawing a salary from a  
29 governmental body, whether elected or not, and any nonsalaried individual  
30 performing personal services for any governmental body.

1                   §~~1591(2)~~**(22)** "Established catalog price" means the price included in a  
2 catalog, price list, schedule, or other form that:

3                   (a) Is regularly maintained by a manufacturer or contractor.

4                   (b) Is either published or otherwise available for inspection by customers;  
5 ~~and,~~

6                   (c) States prices at which sales are currently or were last made to a significant  
7 number of buyers constituting the general buying public for the supplies or services  
8 involved.

9                   §~~1701(2)~~**(23)** "External procurement activity" means any buying organization  
10 not located in this state which, if located in this state, would qualify as a public  
11 procurement unit. An agency of the United States government is an external  
12 procurement activity.

13                   ~~(10)~~**(24)** "Governmental body" means any department, office, division,  
14 commission, council, board, bureau, committee, institution, agency, government  
15 corporation, or other establishment or official of the executive ~~or judicial branches~~  
16 **branch** of state government. **For purposes of procurement of personal,**  
17 **professional, consulting, and social services contracts, governmental shall not**  
18 **include the judicial branch of state government.**

19                   ~~1484(A)(11.1)~~**(25)** "Governmental entity" means any governmental unit  
20 which is not included in the definition of "governmental body" in R.S. 39:1484~~(11.1)~~  
21 **this Section.**

22                   ~~(11)~~**(26)** "Grant" means the furnishing by the state of assistance, whether  
23 financial or otherwise, to any person to support a program authorized by law. It does  
24 not include an award whose primary purpose is to procure an end product, whether  
25 in the form of supplies, services, or major repairs; a contract resulting from such an  
26 award is not a grant but a procurement contract.

27                   **(27) "Information technology", which includes telecommunications,**  
28 **means those commodities subject to the authority of the office of information**  
29 **technology in accordance with R.S. 39:15.3.**

30                   ~~(12)~~**(28)** "Installment-purchase contract" means a contract which is utilized

1 to procure supplies or equipment from a contractor where payment for the supplies  
 2 or equipment is made in a set of installment payments over a fixed period of time in  
 3 accordance with the provisions of the contract, and in which the contractor agrees to  
 4 deliver title of the property to the governmental body in accordance with the terms  
 5 and conditions of the contract.

6 §1591(3)(29) "Invitation for bids" means all documents, whether attached or  
 7 incorporated by reference, utilized for soliciting bids in accordance with the  
 8 procedures set forth in R.S. 39:1594.

9 §1490(C)(30) ~~As used in this Chapter, "interagency "~~**Interagency** contract"  
 10 means any contract in which each of the parties thereto is a "governmental body" as  
 11 defined in R.S. 39:1484(11) **this Section**.

12 §1701(3)(31) "Local public procurement unit" means any parish, city, town,  
 13 governmental body, and any other subdivision of the state or public agency thereof,  
 14 public authority, public educational, health, or other institution, and to the extent  
 15 provided by law, any other entity which expends public funds for the acquisition or  
 16 leasing of supplies, services, major repairs, and construction, and any nonprofit  
 17 corporation operating a charitable hospital.

18 ~~(13)~~(32) "Major repairs" means those repairs payable with funds appropriated  
 19 in the general appropriations act, except those funds transferred from the operating  
 20 budget of one governmental body to supplement and complete a project under  
 21 contract by the division of administration facility planning and control section.

22 ~~(14)~~(33) "May" denotes the permissive.

23 §1484(A)(13)(34) "Negotiation" means the formulation of a contractual  
 24 relationship ~~by either of the methods set forth in Sections 1494, 1495, and 1496 of~~  
 25 **through discussions as may be allowed under** this Chapter.

26 §1484(A)(14)(35) "Performance-based energy efficiency contract" means a  
 27 contract for energy efficiency services and equipment in which the payment  
 28 obligation for each year of the contract is either:

29 (a) Set as a percentage of the annual energy cost savings attributable to the  
 30 services or equipment under the contract, ~~or,~~

1 (b) Guaranteed by the person under contract to be less than the annual energy  
2 cost savings attributable to the services or equipment under the contract.

3 ~~(15)~~**(36)** "Person" means any business, individual, union, committee, club,  
4 or other organization or group of individuals.

5 ~~§1484(A)(16)~~**(37)** "Personal service" means work rendered by individuals  
6 which requires use of creative or artistic skills, ~~such as~~ **including** but not limited to  
7 graphic artists, sculptors, musicians, photographers, and writers, or which requires  
8 use of highly technical or unique individual skills or talents, ~~such as~~ **including** but  
9 not limited to paramedicals, therapists, handwriting analysts, foreign representatives,  
10 and expert witnesses for adjudications or other court proceedings. A "foreign  
11 representative" shall mean a person in a foreign country whose education and  
12 experience qualify such person to represent the state in such foreign country.

13 ~~(16)~~**(38)** "Practicable" means that which can be done or put into practice;  
14 feasible.

15 ~~§1701(4)~~**(39)** "Private procurement unit" means any ~~independent institution~~  
16 ~~of higher education in this state.~~ **regionally accredited independent college or**  
17 **university in the state that is a member of the Louisiana Association of**  
18 **Independent Colleges and Universities.**

19 ~~(17)~~**(40)** "Procurement" means the buying, purchasing, renting, leasing, or  
20 otherwise obtaining any supplies, services, or major repairs. It also includes all  
21 functions that pertain to the obtaining of any public procurement, including  
22 description of requirements, selection and solicitation of sources, preparation and  
23 award of contract, and all phases of contract administration.

24 ~~(18)~~**(41)** "Procurement officer" means any person authorized by a  
25 governmental body, in accordance with procedures prescribed by regulations, to  
26 enter into and administer contracts and make written determinations and findings  
27 with respect thereto. The term also includes an authorized representative acting  
28 within the limits of authority.

29 ~~1484(A)(18)(a)~~**(42)** "Professional service" means work rendered by an  
30 independent contractor who has a professed knowledge of some department of

1 learning or science used by its practical application to the affairs of others or in the  
2 practice of an art founded on it, which independent contractor shall include but not  
3 be limited to lawyers, doctors, dentists, psychologists, certified advanced practice  
4 nurses, veterinarians, architects, engineers, land surveyors, landscape architects,  
5 accountants, actuaries, and claims adjusters. A profession is a vocation founded upon  
6 prolonged and specialized intellectual training which enables a particular service to  
7 be rendered. The word "professional" implies professed attainments in special  
8 knowledge as distinguished from mere skill. For contracts with a total amount of  
9 compensation of fifty thousand dollars or more, the definition of "professional  
10 service" shall be limited to lawyers, doctors, dentists, psychologists, certified  
11 advanced practice nurses, veterinarians, architects, engineers, land surveyors,  
12 landscape architects, accountants, actuaries, claims adjusters, and any other  
13 profession that may be added by regulations adopted by the office of ~~contractual~~  
14 ~~review~~ **state procurement** of the division of administration.

15 (b) ~~For the period beginning July 1, 2008, and ending June 30, 2009,~~  
16 ~~"professional service" shall include work rendered by an educational consultant~~  
17 ~~which is procured by the Department of Education through a contract which has a~~  
18 ~~maximum amount of compensation of two hundred fifty thousand dollars and a term~~  
19 ~~of no longer than twelve months. Regardless of the number of contracts, the~~  
20 ~~aggregate total compensation to be paid to any contractor for contracts authorized~~  
21 ~~pursuant to this Subparagraph shall not exceed two hundred fifty thousand dollars.~~  
22 ~~Any contract entered into pursuant to this Subparagraph shall contain specific~~  
23 ~~measurable objectives and goals for achievement, and shall be available for public~~  
24 ~~inspection for a period of at least thirty days prior to the execution of the contract.~~  
25 ~~For purposes of this Subparagraph "educational consultant" shall mean a person who~~  
26 ~~holds an earned doctorate degree in education from a postsecondary institution~~  
27 ~~accredited by a regional accrediting organization which is recognized by the United~~  
28 ~~States Department of Education. The provisions of this Subparagraph shall be null,~~  
29 ~~void, and of no effect on July 1, 2009.~~

30 §1701(5)**(43)** "Public procurement unit" means either a local public

1 procurement unit or a state public procurement unit.

2 §1591(4) "Purchase description" means specifications or any other document  
3 describing the supplies, services, or major repairs to be procured.

4 ~~(19) "Purchase request" means that document whereby a using agency~~  
5 ~~requests that a contract be obtained for a specified need, and may include, but is not~~  
6 ~~limited to, the technical description of the requested item, delivery schedule,~~  
7 ~~transportation, criteria for evaluation of solicitees, suggested sources of supply, and~~  
8 ~~information supplied for the making of any written determination and finding~~  
9 ~~required by this Chapter.~~

10 ~~(20)~~**(44)** "Purchasing agency" means any governmental body which is  
11 authorized by this Chapter or its implementing regulations, or by way of delegation  
12 from the state ~~director of purchasing~~ **chief procurement officer**, to contract on its  
13 own behalf rather than through the central contracting authority of the ~~central~~  
14 ~~purchasing agency~~ **office of state procurement**.

15 ~~(21)~~**(45)** "Qualified group purchasing organization" means a service  
16 organization, whether for profit or not, with a membership of at least fifteen hospitals  
17 within the United States, which contracts with suppliers for supplies and materials  
18 used in hospitals and makes such contracts available to its members.

19 §1591(5)~~(46)~~ "Request for proposals" means all documents, whether attached  
20 or incorporated by reference, utilized for soliciting proposals in accordance with the  
21 procedures set forth in R.S. 39:1595, R.S. 39:1596, R.S. 39:1597, or R.S. 39:1598  
22 **this Chapter**.

23 §1591(6)~~(47)~~ "Resident business" means one authorized to do and doing  
24 business under the laws of this state, which either:

25 (a) Maintains its principal place of business in the state; ~~or,~~

26 (b) Employs a minimum of two employees who are residents of the state.

27 §1591(7)~~(48)~~ "Responsible bidder or ~~offeror~~ **proposer**" means a person who  
28 has the capability in all respects to perform the contract requirements and the  
29 integrity and reliability which will assure good faith performance.

30 §1591(8)~~(49)~~ "Responsive bidder" means a person who has submitted a bid

1 under R.S. 39:1594 which conforms in all substantive respects to the invitation for  
2 bids, including the specifications set forth in the invitation.

3 §1598.1(A)(2)(50) For purposes of this Subpart, "reverse **Reverse** auction"  
4 means a competitive online solicitation process on the Internet for materials,  
5 supplies, services, products, or equipment in which vendors compete against each  
6 other online in real time in an open and interactive environment.

7 ~~(22) "Sealed bidding" means the receipt of bids protected from inspection~~  
8 ~~prior to bid opening. Bids may be received in any manner specified in the invitation~~  
9 ~~for bids including receipt by mail, by direct delivery, or through any secure~~  
10 ~~electronic interactive environment permitted by rule or regulation.~~

11 ~~(23)(51) "Services" means the furnishing of labor, time, or effort by a~~  
12 ~~contractor, not involving the delivery of a specific end product other than reports~~  
13 ~~which are merely incidental to the required performance **whose primary purpose**~~  
14 ~~**is to perform an identifiable task rather than to furnish an end item of supply.**~~

15 **(a) Services include but are not limited to the following:**

16 **(i) Maintenance, overhaul, repair, servicing, rehabilitation, salvage,**  
17 **modernization, or modification of supplies, systems, or equipment.**

18 **(ii) Routine recurring maintenance of immovable property.**

19 **(iii) Housekeeping services.**

20 **(iv) Operation of government owned equipment, immovable property,**  
21 **and systems.**

22 **(v) Information technology services.**

23 **(b) This ~~The~~ term "services" shall not include:**

24 ~~(a)(i) Employment agreements or collective bargaining agreements.~~

25 ~~(b)(ii) Personal, professional, consultant, **consulting**, or social services as~~  
26 ~~provided by R.S. 39:1481 through R.S. 39:1526 **defined in this Chapter.**~~

27 ~~(c)(iii) Services performed by lawyers as provided by R.S. 42:261 through~~  
28 ~~R.S. 42:264.~~

29 ~~(d)(iv) Services performed by an architect, engineer, or landscape architect~~  
30 ~~as provided by R.S. 38:2310 through R.S. 38:2314.~~

1                   ~~(24)~~**(52)** "Shall" denotes the imperative.

2                   **(53) "Signature" means a manual or electronic signature. "Electronic**  
 3                   **signature" means an electronic sound, symbol, or process attached to or**  
 4                   **logically associated with a record and executed or adopted by a person with the**  
 5                   **intent to sign the record.**

6                   §~~1484(A)(22)~~**(54)** "Social service" means work rendered by any person, firm,  
 7                   corporation, organization, governmental body, or governmental entity in furtherance  
 8                   of the general welfare of the citizens of Louisiana, including but not limited to the  
 9                   objectives provided for in ~~Subsection B of this Section~~ **R.S. 39:1619(A).**

10                  §~~1651(B)~~**(55)** As used in this Part, the term "specification" **"Specification"**  
 11                  means any description of the physical or functional characteristics, or of the nature  
 12                  of a supply, service, or major repair. It may include a description of any requirement  
 13                  for inspecting, testing, or preparing a supply, service, or major repair for delivery.

14                  ~~(25) "State director of purchasing" means the person holding the position~~  
 15                  ~~created in R.S. 39:1562, as the head of the central purchasing office of Louisiana.~~

16                  **(56) "State chief procurement officer" means the person holding the**  
 17                  **position created in R.S. 39:1562 as head of the central purchasing agency of**  
 18                  **Louisiana.**

19                  §~~1701(6)~~**(57)** "State public procurement unit" means the central purchasing  
 20                  agency and any other purchasing agency of this state.

21                  §~~1484(A)(23)~~**(58)** "Supplemental agreement" means any contract  
 22                  modification which is accomplished by the mutual action of the parties.

23                  ~~(26)~~**(59)** "Supplies" means all property, including but not limited to  
 24                  equipment, **materials**, insurance, and leases on ~~real~~ **immovable** property excluding  
 25                  land or a permanent interest in land.

26                  ~~(27)~~**(60)** "Suspension" means the disqualification of a person to receive  
 27                  invitations for bids or requests for proposals, or the award of a contract by the state,  
 28                  for a temporary period pending the completion of an investigation and any legal  
 29                  proceedings that may ensue because a person is suspected upon probable cause of  
 30                  engaging in criminal, fraudulent, or seriously improper conduct or failure or

1 inadequacy of performance which may lead to debarment.

2 (~~28~~)(**61**) "Using agency" means any governmental body of the state which  
3 utilizes any supplies, services, or major repairs purchased under this Chapter.

4 (~~29~~)(**62**) "Written" or "in writing" means the product of any method of  
5 forming characters on paper, other materials, or viewable screen, which can be read,  
6 retrieved, and reproduced, including information that is electronically transmitted  
7 and stored.

8 SUBPART C. RECORDS; PUBLIC ACCESS

9 §1557. Public access to procurement information

10 Procurement information shall be a public record to the extent provided in  
11 Chapter 1 of Title 44 of the Louisiana Revised Statutes of 1950 and shall be  
12 available to the public as provided in such statute.

13 §1557.1. Change orders; recordation

14 Each change order to a contract which adds an amount of ten percent or more  
15 of the original contract amount and which additional amount is at least ten thousand  
16 dollars or all change orders to a contract aggregating to an amount of twenty percent  
17 or more of the original contract amount and which additional amount is at least ten  
18 thousand dollars shall be recorded by the governmental body which entered into the  
19 contract in the office of the recorder of mortgages in the parish where the work is to  
20 be done or where the entity is domiciled not later than thirty days after the date of the  
21 change order which requires that the recordation take place. In addition, the original  
22 contract shall be recorded together with the amendments or other revisions if not  
23 previously recorded. The provisions of this Section shall not apply to the office of  
24 facility planning and control, and the office of state ~~purchasing~~ **procurement**.

25 §1558. Determinations

26 Written determinations and findings required by this Chapter shall be retained  
27 in an official contract file in the central purchasing agency or purchasing agency or  
28 by the governmental body administering the contract.

29 PART II. PURCHASING ORGANIZATION

30 SUBPART A. DIVISION OF ADMINISTRATION

1 §1561. Authority and duties of the commissioner of administration

2 A. Except as otherwise provided in this Chapter, the commissioner of  
3 administration, hereinafter referred to as "the commissioner," shall have the authority  
4 and responsibility to promulgate regulations, consistent with this Chapter, governing  
5 the procurement, management, and control of any and all supplies, services, ~~and~~  
6 major repairs, **and personal, professional, consulting, or social services** required  
7 to be procured by the state. However, the commissioner shall not require by rule or  
8 regulation any policy or management board of public higher education or any  
9 institution under their jurisdiction to prepare or submit a monthly report on items  
10 purchased from state contracts or on contract item usage to the ~~Division of~~  
11 ~~Administration~~ **division of administration**. The quarterly report listing purchases  
12 for under five thousand dollars and the annual report for purchases above five  
13 thousand dollars on all items purchased from state contracts shall be sufficient to  
14 meet the requirements of this Chapter.

15 B. The commissioner **or his designee** shall consider and decide matters of  
16 policy within the provisions of this Chapter including those referred to him by the  
17 state ~~director of purchasing~~ **chief procurement officer**. The commissioner **or his**  
18 **designee** shall have the power to audit and review the implementation of the  
19 procurement regulations and the requirements of this Chapter.

20 SUBPART B. CENTRAL PURCHASING AGENCY

21 §1562. Central purchasing agency; creation

22 There is hereby created, within the division of administration, the ~~Central~~  
23 ~~Purchasing Agency~~ **central purchasing agency**, headed by the State Director of  
24 Purchasing, hereinafter referred to as "the ~~director~~" **state chief procurement officer**.

25 §1563. Appointment and qualifications

26 The ~~director~~ **state chief procurement officer** shall be in the classified  
27 service of the state and shall be appointed in accordance with the provisions of  
28 Article X, Section 7 of the Louisiana Constitution of 1974. The ~~director~~ **state chief**  
29 **procurement officer** shall have had a minimum of eight years experience in the  
30 large scale procurement of supplies, services, or ~~construction,~~ **personal,**

1            **professional, consulting, or social services**, involving specification development,  
 2            the preparation of bid proposals and bid evaluation and award, including at least  
 3            three years of supervisory experience. Preference shall be given to such experience  
 4            in governmental purchasing.

5            §1564. Authority of the state ~~director of purchasing~~ **chief procurement officer**

6            A. Central procurement officer of the state. The ~~director~~ **state chief**  
 7            **procurement officer** shall serve as the central procurement officer of the state.

8            B. Power to adopt rules. Consistent with the provisions of this Chapter, the  
 9            ~~director~~ **state chief procurement officer** may adopt rules governing the internal  
 10            procedures of the central purchasing agency.

11            C. Duties. Except as otherwise specifically provided in this Chapter, the  
 12            ~~director~~ **state chief procurement officer** shall, within the limitations of regulations  
 13            promulgated by the commissioner:

14            (1) Procure or supervise the procurement of all supplies, services, ~~and~~ major  
 15            repairs, **and personal, professional, consulting, and social services** needed by the  
 16            state.

17            (2) Exercise supervision over all inventories of warehoused supplies  
 18            belonging to the state.

19            (3) Establish and maintain programs for the inspection, testing, and  
 20            acceptance of supplies, services, and major repairs.

21            **(4) To provide for contractual forms and specifications to be used in the**  
 22            **confection of all contracts provided for in this Chapter.**

23            §1565. Duties of the attorney general

24            The attorney general shall be the chief legal adviser to the ~~director~~ **state chief**  
 25            **procurement officer**.

26            §1566. Appointment of assistants and other employees; delegation of authority by  
 27            the state ~~director of purchasing~~ **chief procurement officer**

28            Subject to the provisions of the Article X, Section 7 of the Louisiana  
 29            Constitution of 1974, the ~~director~~ **state chief procurement officer** may employ and  
 30            supervise such assistants and other persons as may be necessary and may delegate

1 authority to such designees or to any governmental body as the ~~director~~ **state chief**  
 2 **procurement officer** may deem appropriate within the limitations of state law and  
 3 the state procurement regulations.

4 §1567. Reporting requirements

5 **A.** The ~~director~~ **state chief procurement officer** shall prepare any reports  
 6 that the commissioner of administration may deem necessary and shall deliver such  
 7 reports to such recipients as the commissioner may designate. As provided in R.S.  
 8 44:1 et seq., such reports shall be available to the public upon request. However,  
 9 nothing in this Section shall require any policy or management board of public  
 10 higher education or any institution under their jurisdiction to prepare or submit a  
 11 monthly report on items purchased from state contracts or on contract item usage to  
 12 the ~~director~~ **state chief procurement officer**. The quarterly report listing purchases  
 13 for under five thousand dollars and the annual report for purchases above five  
 14 thousand dollars on all items purchased from state contracts, shall be sufficient to  
 15 meet the requirements of this Section.

16 ~~§1489~~ **B.** The ~~director~~ **state chief procurement officer** shall prepare such  
 17 reports as he finds necessary for the proper conduct of his duties, to include an  
 18 annual report of all professional, personal, consulting, social services, and other  
 19 contracts over which the office of ~~contractual review~~ **state procurement** has power  
 20 and authority under the provisions of this Chapter or through administrative rules and  
 21 regulations. The annual report shall be compiled on a fiscal year basis and consist,  
 22 at a minimum, of summary descriptive and statistical data regarding the number and  
 23 amounts of such contracts by type of service. The annual report shall be submitted  
 24 to the president of the Senate and speaker of the House of Representatives not later  
 25 than January first of the year following the end of the fiscal year for which the report  
 26 is prepared.

27 ~~§1517(A)~~**C.(1)** When for any reason collusion is suspected among any  
 28 offerers **proposers**, a written ~~notice~~ **report** of the facts giving rise to such suspicion  
 29 shall be transmitted to the ~~director of contractual review~~ **state chief procurement**  
 30 **officer** and the attorney general.

1            ~~B.(2)~~ All documents involved in any procurement in which collusion is  
 2 suspected shall be retained until the ~~Office~~ office of ~~Contractual Review~~ state  
 3 procurement gives notice that they may be destroyed. All retained documents shall  
 4 be made available to the commissioner of administration or his designee upon  
 5 request.

6            ~~§1493D.~~ The using agencies shall cooperate with the office of ~~contractual~~  
 7 ~~review~~ state procurement in the preparation of statistical data concerning the  
 8 acquisition, usage, and disposition of all professional, personal, consulting, and  
 9 social services, and may employ trained personnel, as necessary, to carry out this  
 10 function. All using agencies shall furnish such reports as the office of ~~contractual~~  
 11 ~~review~~ state procurement may require concerning usage and needs, and the office  
 12 of ~~contractual review~~ state procurement shall have authority to prescribe forms to  
 13 be used by the using agencies in the reporting of professional, personal, consulting,  
 14 and social services.

15            ~~§1658~~§1568. Mandatory information requirement for contracts let without  
 16 competition under the authority of an executive order related to  
 17 Hurricane Katrina or Rita

18            A. The provisions of this Section shall apply to any contract for state  
 19 procurement of goods or services which is subject to the provisions of this Chapter,  
 20 hereinafter referred to as "state procurement law", which contract is let without  
 21 competition pursuant to an executive order issued by authority granted under the  
 22 Louisiana Homeland Security and Emergency Assistance and Disaster Act, which  
 23 order grants exceptions to the requirements of state procurement law. Such  
 24 provisions shall apply to contracts which have been or will be let without  
 25 competition pursuant to executive orders related to Hurricane Katrina or Rita which  
 26 granted exceptions to the requirements of state procurement law.

27            B.(1) For any contract subject to the provisions of this Section, the  
 28 information cited in Subparagraphs (a) through (d) of this Paragraph shall be  
 29 submitted by the primary contractor to the office of state purchasing procurement.  
 30 The following information shall be submitted, in a format to be determined by such

1 agencies, no later than forty-five days after the effective date of the contract, or  
2 forty-five days after June 29, 2006, whichever is later:

3 (a) The name of the primary contractor.

4 (b) The amount of the contract.

5 (c) The name of each subcontractor.

6 (d) The amount of each subcontract.

7 (2) Any change in subcontractors, or in the amount of a subcontract which  
8 exceeds twenty-five percent in the aggregate of the original subcontracted amount,  
9 shall necessitate the submission of updated information as required in Paragraph (1)  
10 of this Subsection.

11 (3) The primary contractor for each contract subject to the provisions of this  
12 Section shall be notified of the requirements of this Section by the contracting state  
13 agency. Such notification shall be made no later than ten days after June 29, 2006  
14 for contracts which are currently in effect. Otherwise, the notification shall be made  
15 prior to execution of the contract.

16 C. The office of state ~~purchasing~~ **procurement** shall maintain a listing or  
17 registry of all information reported to it pursuant to the provisions of this Section.

18 D. Failure to submit all of the information required as provided in Subsection  
19 B of this Section shall be grounds for debarment. It shall be unlawful for any person  
20 to intentionally fail to submit such information, which failure is hereby deemed to  
21 be a violation of the duty to provide the mandatory information. Whomever violates  
22 such provisions of Subsection B of this Section shall be fined in an amount not to  
23 exceed one-half of the contract amount and imprisoned for not more than six months,  
24 or both.

25 E. The provisions of this Section shall not be subject to suspension pursuant  
26 to the authority granted to the governor by R.S. 29:721 et seq., the Louisiana  
27 Homeland Security and Emergency Assistance and Disaster Act.

28 ~~§1613~~**§1568.1**. Use of other types of contracts

29 Subject to the limitations of R.S. 39:1611 and ~~R.S. 39:1612~~, any type of  
30 contract, including brand name and multiple award contracts, which will promote the

1 best interests of the state may be used, provided that the chief procurement officer  
 2 must make a written determination justifying the type of contract used. An annual  
 3 report on the number, type, and volume of such procurements shall be made to the  
 4 commissioner or cabinet department head within ninety days after the end of the  
 5 fiscal year.

6 ~~§1517.1~~**§1568.2.** The Road Home Program; reporting on certain contract payments,  
 7 subcontractors, and performance **for professional, personal,**  
 8 **consulting, or social services contracts**

9 Notwithstanding any other provision of law to the contrary, the division of  
 10 administration, office of community development, shall report monthly to the  
 11 Legislative Audit Advisory Council with respect to the contract between the office  
 12 of community development and ICF Emergency Management Services dated June  
 13 30, 2006, as amended. The report shall contain information relating to  
 14 subcontractors, inclusive of subcontractors of subcontractors, payments made to any  
 15 contractor or subcontractor, the value of the contract, contractor performance in the  
 16 achievement of goals and objectives of the contract, and any penalties which have  
 17 been assessed for insufficient performance. The information shall be compiled by the  
 18 office of community development and delivered to the Legislative Audit Advisory  
 19 Council on a monthly basis, on a date to be established by the chairman of the  
 20 council. The commissioner of administration shall consult with the chairman of the  
 21 Legislative Audit Advisory Council to develop the format in which the information  
 22 will be presented to the council.

23 ~~§1518~~**§1569.** Reports of procurement actions **related to professional, personal,**  
 24 **consulting, and social services contracts**

25 A. A written report shall be compiled annually, within one hundred twenty  
 26 days after the close of the fiscal year, of contracts made under ~~Sections 1494, 1495~~  
 27 **R.S. 39:1617, 1620,** and ~~1496~~ **1621** of this Chapter during that preceding fiscal year.  
 28 The report shall (1) name each contract; (2) state the amount and type of each  
 29 contract; (3) describe the services purchased by each contract, and (4) include, as  
 30 attachments, copies of all determinations and findings required to be made by

1 provisions of this Part and implementing rules and regulations.

2 B.(1) A central file or listing of all architects, engineers, clerk of the works,  
3 attorneys, including bond attorneys or counsel, and public relations persons or firms  
4 employed or retained by each state agency, board, commission, or department,  
5 including nonbudget units shall be compiled and updated annually, within one  
6 hundred twenty days after the close of the fiscal year, of contracts made during that  
7 preceding year. Each such list shall be kept separately by profession and shall  
8 contain information relative to such employment or retention, including a detailed  
9 description of the nature of services rendered to the agency, the extent and duration  
10 of such services, the amount of the fee or other compensation paid in return for such  
11 services, and any other information deemed pertinent by the commissioner of the  
12 division of administration.

13 (2) Notwithstanding ~~the any other~~ provisions of ~~R.S. 39:1482~~ **this Chapter**,  
14 each state agency, board, commission, or department, including nonbudget units,  
15 shall forward on an annual basis on forms to be supplied by the office of ~~contractual~~  
16 ~~review~~ **state procurement**, a report containing the data and information on all  
17 professional services retained or employed which are required to be listed in a central  
18 listing as provided in **Paragraph (1) of this** Subsection ~~B of this Section~~.

19 C. The reports required by this Section shall be retained as public records.

20 ~~§1500~~**§1569.1**. Contract administration

21 A. Upon entering into a professional, personal, consulting, or social service  
22 contract, the using agency shall have full responsibility for the diligent  
23 administration and monitoring of the contract. The ~~director of the office of~~  
24 ~~contractual review~~ **state chief procurement officer** may require the using agency  
25 to report at any time on the status of any such outstanding contracts to which the  
26 using agency is a party.

27 B. After completion of performance under a professional, personal,  
28 consulting, or social service contract, the using agency shall prepare a final report on  
29 the contract which shall include an evaluation of contract performance and an  
30 assessment of the utility of the final product. This report shall be delivered to the

1 ~~director of the office of contractual review~~ **state chief procurement officer** within  
 2 sixty days after completion of performance and shall be retained in the official  
 3 contract file. Reports not submitted to the office of ~~contractual review~~ **state**  
 4 **procurement** within the sixty-day period shall be delinquent. The report shall  
 5 include at least the following:

6 (1) The name of the agency official or officials responsible for monitoring  
 7 the contract and for final agency acceptance of the contract deliverables.

8 (2) The contractor, contract amount, contract cost basis, and contract  
 9 timetable which shall reflect both the proposed and actual work initiation and  
 10 completion dates.

11 (3) Any contract modifications.

12 (4) A listing of the contract deliverables, inclusive of specific products and  
 13 services, and whether all such deliverables were satisfactorily and timely completed.

14 (5) An itemization of any problems encountered with respect to the  
 15 execution of the contract.

16 (6) An assessment of the utility of the contract deliverables.

17 C. Final evaluation reports required by this Section for contracts in amounts  
 18 of two hundred fifty thousand dollars or greater shall also be submitted to the  
 19 legislative auditor.

20 D. No contract **for professional, personal, consulting, or social services**  
 21 shall be entered into by a using agency with any contractor for which a delinquent  
 22 final evaluation report remains outstanding for a contract with such using agency.

23 ~~§1615(A)~~**E. A report of all multiyear contracts shall be provided to the**  
 24 **Joint Legislative Committee on the Budget no later than ninety days after the**  
 25 **end of each fiscal year.**

#### 26 SUBPART C. CENTRALIZATION OF PUBLIC PROCUREMENT

27 §1571. Centralization of procurement authority

28 Except as otherwise provided in this Subpart, all rights, powers, duties, and  
 29 authority relating to the procurement of supplies, services, and major repairs now  
 30 vested in or exercised by any state governmental body under the several statutes

1 relating thereto are hereby transferred to the central purchasing agency.

2 §1572. Exemptions

3 A. Exemption from central purchasing **agency** and **procurement** regulations  
4 of commissioner. Procurement of the following items or by the following  
5 governmental bodies shall not be required **to be conducted** through the central  
6 purchasing agency **and shall not be required to follow the procurement**  
7 **regulations of the commissioner or the office of state procurement**, but shall  
8 nevertheless be subject to the requirements of this Chapter and such regulations as  
9 may be promulgated by the head of such governmental body:

10 (1) The Department of Transportation and Development, for procurement  
11 of materials, **services**, and supplies that will become a component part of any road,  
12 highway, bridge, or appurtenance thereto, ~~and~~.

13 (2) Textbooks, scientific and laboratory equipment, teaching materials,  
14 teaching devices, and teaching supplies procured by the Department of Education.

15 B. Exemptions from central purchasing only. **Unless otherwise provided**  
16 **in R.S. 39:1554, exemptions from central purchasing do not apply to**  
17 **professional services, personal services, consulting services, social services,**  
18 **information technology, or vehicle acquisition.** Unless otherwise ordered by  
19 regulation of the commissioner with approval of the governor, the following  
20 governmental bodies shall not be required to conduct procurement through the  
21 central purchasing agency, but shall nevertheless be subject to the requirements of  
22 this Chapter and the regulations promulgated by the commissioner:

23 (1) Louisiana State University System.

24 (2) Southern University System.

25 (3) ~~Board of Trustees of State Colleges and Universities~~ **University of**  
26 **Louisiana** System.

27 (4) Special schools and other institutions under the supervision of the State  
28 Board of Elementary and Secondary Education.

29 (5) ~~Department of Education for items other than those exempted in~~  
30 ~~Paragraph A(2) of this Section.~~

1                   ~~(6)~~ The office of the state bond commission in the Department of the  
2 Treasury for printing only.

3                   ~~(7)~~(6) Louisiana Community and Technical College System.

4                   C. Use of central purchasing by exempt agencies. A governmental body  
5 exempted from centralized purchasing may use the central purchasing facilities  
6 whenever the best interests of such governmental body and the state may be served.

7                   SUBPART D. STATE PROCUREMENT REGULATIONS

8                   §1581. State procurement regulations

9                   A. Regulations. Regulations promulgated by the commissioner in accordance  
10 with the Administrative Procedure Act shall govern all procurements by all  
11 governmental bodies except for:

12                   (1) Regulations promulgated by the secretary of the Department of  
13 Transportation and Development governing procurement by that department, for  
14 procurement of materials and supplies that will become a component part of any  
15 road, highway, bridge, or appurtenance thereto.

16                   (2) Regulations promulgated by the State Superintendent of Education  
17 governing the procurement of textbooks, scientific and laboratory equipment,  
18 teaching materials, teaching devices, and teaching supplies by the Department of  
19 Education.

20                   B. Exempted departments. Secretaries of departments exempted under  
21 Subsection A of this Section shall promulgate regulations for the purposes set forth  
22 in accordance with the Administrative Procedure Act. Such regulations shall not be  
23 inconsistent with the provisions of this Chapter.

24                   C. ~~Power to promulgate regulations shall not be delegated. The~~  
25 ~~commissioner or secretary shall not delegate his power to promulgate regulations.~~

26                   **Delegation of power to promulgate regulations. The secretary shall not delegate**  
27 **his power to promulgate regulations. The commissioner may delegate his power**  
28 **to promulgate regulations to the state chief procurement officer.**

29                   D. Regulations shall not change existing contract rights. No regulation shall  
30 change any commitment, right, or obligation of the state or of a contractor under a

1 contract in existence on the effective date of such regulation.

2 E. Incorporation of required clauses into contracts by operation of law only  
3 with consent of both parties. No clause which is required by regulation to be  
4 included shall be considered to be incorporated by operation of law in any state  
5 contract without the consent of both parties to the contract to such incorporation;  
6 provided, however, that the parties to the contract may give such consent to  
7 incorporation by reference at any time after the contract has been entered into and  
8 without the necessity of consideration passing to either party.

9 SUBPART E. COORDINATION, TRAINING, AND EDUCATION

10 §1586. Relationship with using agencies

11 The commissioner and the ~~director~~ **state chief procurement officer** shall  
12 maintain a close and cooperative relationship with the using agencies. The ~~director~~  
13 **state chief procurement officer** shall afford each using agency reasonable  
14 opportunity to participate in and make recommendations with respect to matters  
15 affecting such using agency. Any using agency may at any time make  
16 recommendations to the commissioner or the ~~director~~ **state chief procurement**  
17 **officer**, and the commissioner or ~~director~~ **state chief procurement officer** may at  
18 any time make recommendations to any using agency.

19 §1587. Procurement advisory council; other advisory groups

20 A. Procurement advisory council. The commissioner may establish a  
21 Procurement Advisory Council. If created, such council, upon adequate public  
22 notice, shall meet at least once a year for the discussion of problems and  
23 recommendations for improvement in the procurement process. When requested by  
24 the commissioner, the procurement advisory council may conduct studies, research,  
25 and analyses and make such reports and recommendations with respect to such  
26 subjects or matters within the jurisdiction of the commissioner. The procurement  
27 advisory council shall consist of such qualified persons as the commissioner may  
28 deem desirable.

29 B. Other advisory groups. The ~~director~~ **state chief procurement officer**  
30 may appoint advisory groups to assist with respect to specifications and procurement

1 in specific areas and with respect to any other matters within the authority of the  
2 ~~director~~ **state chief procurement officer**.

3 C. Drug procurement advisory council. The commissioner shall establish  
4 a Drug Procurement Advisory Council which shall be composed of persons from the  
5 division of administration and from using agencies of drugs procured by the division  
6 and persons qualified in the fields of medicine and pharmacy. The council shall  
7 advise the commissioner with respect to the procurement of drugs for any using  
8 agency by generic contract, as further provided in R.S. ~~39:1594.~~**39:1601**.

9 PART III. SOURCE SELECTION AND CONTRACT FORMATION

10 ~~SUBPART A. DEFINITIONS~~

11 ~~§1591. Definitions of terms used in this Part~~

12 (1) ~~"Cost-reimbursement contract" means a contract under which a contractor~~  
13 ~~is reimbursed for costs which are allowable and allocable in accordance with cost~~  
14 ~~principles as provided for in regulations, and a fee, if any.~~

15 (2) ~~"Established catalog price" means the price included in a catalog, price~~  
16 ~~list, schedule, or other form that:~~

17 (a) ~~Is regularly maintained by a manufacturer or contractor.~~

18 (b) ~~Is either published or otherwise available for inspection by customers, and~~

19 (c) ~~States prices at which sales are currently or were last made to a significant~~  
20 ~~number of buyers constituting the general buying public for the supplies or services~~  
21 ~~involved.~~

22 (3) ~~"Invitation for bids" means all documents, whether attached or~~  
23 ~~incorporated by reference, utilized for soliciting bids in accordance with the~~  
24 ~~procedures set forth in R.S. 39:1594.~~

25 (4) ~~"Purchase description" means specifications or any other document~~  
26 ~~describing the supplies, services, or major repairs to be procured.~~

27 (5) ~~"Request for proposals" means all documents, whether attached or~~  
28 ~~incorporated by reference, utilized for soliciting proposals in accordance with the~~  
29 ~~procedures set forth in R.S. 39:1595, R.S. 39:1596, R.S. 39:1597, or R.S. 39:1598.~~

30 (6) ~~"Resident business" means one authorized to do and doing business under~~

1 the laws of this state, which either:

2 (a) ~~Maintains its principal place of business in the state; or~~

3 (b) ~~Employs a minimum of two employees who are residents of the state.~~

4 (7) ~~"Responsible bidder or offeror" means a person who has the capability in~~  
 5 ~~all respects to perform the contract requirements and the integrity and reliability~~  
 6 ~~which will assure good faith performance.~~

7 (8) ~~"Responsive bidder" means a person who has submitted a bid under R.S.~~  
 8 ~~39:1594 which conforms in all substantive respects to the invitation for bids,~~  
 9 ~~including the specifications set forth in the invitation.~~

10 (9) ~~"Assembled" means the process of putting together all component parts~~  
 11 ~~of an item of equipment by the manufacturer where the assembly plant is located~~  
 12 ~~within the territorial borders of the state of Louisiana. "Assembled" shall not mean~~  
 13 ~~the reassembly of parts packed for shipping purposes.~~

14 SUBPART B: A. METHODS OF SOURCE SELECTION

15 §1593. Methods of source selection

16 ~~A.~~ Unless otherwise authorized by law, all state contracts shall be awarded  
 17 by competitive sealed bidding, pursuant to R.S. 39:1594, except as provided in R.S.  
 18 39:1593.1 and R.S. 39:1595 through 1598 **one of the following methods:**

19 **(1) R.S. 39:1594, competitive sealed bids.**

20 **(2) R.S. 39:1595, competitive sealed proposals.**

21 **(3) R.S. 39:1596, small purchases.**

22 **(4) R.S. 39:1597, sole source.**

23 **(5) R.S. 39:1598, emergency procurements.**

24 **(6) R.S. 39:1600, other procurement methods:**

25 **(a) Unstable market conditions.**

26 **(b) Group purchasing organizations.**

27 **(c) Used equipment.**

28 **(d) Reverse auctions.**

29 **(e) Negotiation of noncompetitive contracts.**

30 B. Notwithstanding any other provisions of this Section to the contrary and

1 ~~in accordance with rules and regulations promulgated by the commissioner in~~  
 2 ~~accordance with the Administrative Procedure Act, the directors of state purchasing~~  
 3 ~~or directors of purchasing at a college or university, with the approval of the~~  
 4 ~~commissioner, may procure by solicitation requiring written response from at least~~  
 5 ~~three bona fide bidders under the provisions of this Subsection, when it is determined~~  
 6 ~~that market conditions are unstable and the competitive bid process is not conducive~~  
 7 ~~for best pricing for products, supplies and other materials. The provisions of this~~  
 8 ~~Subsection shall be applicable only if the value of the contract is fifty thousand~~  
 9 ~~dollars or less and only after sufficient documentation is provided to the~~  
 10 ~~commissioner by the director to substantiate the unstable market.~~

11 ~~C.(1) Notwithstanding any other provision of this Section to the contrary,~~  
 12 ~~with the approval of the commissioner and the written determination by the director~~  
 13 ~~of state purchasing that the best interests of the state would be served, a competitive~~  
 14 ~~request for proposals process as provided in this Subsection may be used in the~~  
 15 ~~following circumstances:~~

16 ~~(a) For the procurement of supplies, services, or major repairs, including but~~  
 17 ~~not limited to the procurement of high technology acquisitions or of complex~~  
 18 ~~services:~~

19 ~~(b) Through a contract with a group purchasing organization, for the~~  
 20 ~~procurement of medical and laboratory supplies and medical equipment required for~~  
 21 ~~the purpose of diagnosis or direct treatment of a patient by a health care provider in~~  
 22 ~~a hospital or clinical setting, provided the commissioner determines the total cost to~~  
 23 ~~be less than the state procurement prices and in the best interest of the state:~~

24 ~~(2)(a)(i) For a contract to be let under the provisions of this Subsection, the~~  
 25 ~~agency shall give adequate public notice of the request for proposals by advertising~~  
 26 ~~in the official journal of the state at least thirty days before the last day that proposals~~  
 27 ~~will be accepted. In addition, the agency shall mail written notice to persons, firms,~~  
 28 ~~or corporations who are known to be in a position to furnish the required services at~~  
 29 ~~least thirty days before the last day that proposals will be accepted.~~

30 ~~(ii) All requests for proposals shall be advertised through a centralized~~

1 electronic interactive environment administered by the division of administration as  
2 provided in this Section. The advertisement or written notice required by this Section  
3 shall contain the name and address of the using agency and shall establish the  
4 specific date, time, and place by which the request for proposals must be received.

5 (b) The request for proposals shall clearly state the technological or other  
6 outcome desired from the procurement of the technological or complex systems  
7 and/or services, if applicable, and shall indicate the relative importance of price and  
8 other evaluation factors, the criteria to be used in evaluating the proposals, and the  
9 time frames within which the work must be completed.

10 (c) Written or oral discussions shall be conducted with all responsible  
11 offerers who submit proposals determined in writing to be reasonably susceptible of  
12 being selected for award. Discussions shall not disclose any information derived  
13 from proposals submitted by competing offers. Discussions need not be conducted:

14 (i) If prices are fixed by law or regulation, except that consideration shall be  
15 given to competitive terms and conditions.

16 (ii) If time of delivery or performance will not permit discussions.

17 (iii) If it can be clearly demonstrated and documented from the existence of  
18 adequate competition or accurate prior cost experience with the particular service  
19 that acceptance of an initial offer without discussion would result in fair and  
20 reasonable prices and the request for proposals notifies all offerers of the possibility  
21 that award may be made on the basis of the initial offers.

22 (d)(i) Award shall be made to the responsible offerer whose proposal is  
23 determined in writing by the agency to be the most advantageous to the state, taking  
24 into consideration review of price and the evaluation factors set forth in the request  
25 for proposals.

26 (ii) A request for proposals or other solicitation may be cancelled or all  
27 proposals may be rejected only if it is determined, based on reasons provided in  
28 writing, that such action is taken in the best interest of the state.

29 (e) Each contract entered into pursuant to this Subsection shall contain as a  
30 minimum:

1                    ~~(i) Description of the work to be performed and/or objectives to be met, when~~  
2                    ~~applicable.~~

3                    ~~(ii) Amount and time of payments to be made.~~

4                    ~~(iii) Description of reports or other deliverables to be received, when~~  
5                    ~~applicable.~~

6                    ~~(iv) Date of reports or other deliverables to be received, when applicable.~~

7                    ~~(v) Responsibility for payment of taxes, when applicable.~~

8                    ~~(vi) Circumstances under which the contract can be terminated either with or~~  
9                    ~~without cause.~~

10                  ~~(vii) Remedies for default.~~

11                  ~~(viii) A statement giving the legislative auditor the authority to audit records~~  
12                  ~~of the individual(s) or firm(s).~~

13                  ~~(f)(i) Upon entering into a contract, the using agency shall have full~~  
14                  ~~responsibility for the diligent administration and monitoring of the contract. The~~  
15                  ~~director of state purchasing may require the using agency to report at any time on the~~  
16                  ~~status of any such outstanding contracts to which the using agency is a party. After~~  
17                  ~~completion of performance under a contract, the using agency shall evaluate contract~~  
18                  ~~performance and the utility of the final product. This evaluation shall be delivered~~  
19                  ~~to the director of state purchasing within one hundred twenty days after completion~~  
20                  ~~of performance and shall be retained in the official contract file.~~

21                  ~~(ii)(aa) No contract shall be valid, nor shall the state be bound by the contract,~~  
22                  ~~until it has first been executed by the head of the using agency, or his designee,~~  
23                  ~~which is a party to the contract and the contractor and has been approved in writing~~  
24                  ~~by the director of state purchasing.~~

25                  ~~(bb) In cases where the head of the using agency wants to delegate authority~~  
26                  ~~to one or more of his subordinates to sign contracts on behalf of the agency, this~~  
27                  ~~delegation shall be made in accordance with regulations of the commissioner and~~  
28                  ~~shall be subject to the approval of the director of state purchasing.~~

29                  §1594. Competitive sealed bidding **bids**

30                  A. Conditions for use. Contracts exceeding the amount provided by R.S.

1 39:1596 shall be awarded by competitive sealed bidding **unless otherwise provided**  
2 **in this Chapter.**

3 B. Invitation for bids. Competitive sealed bidding shall be initiated by the  
4 issuance of an invitation for bids containing a description of the supplies, services,  
5 or major repairs to be procured and all contractual terms and conditions applicable  
6 to the procurement.

7 C. Public notice.

8 (1) Adequate public notice of the invitation for bids shall be given at least  
9 ten days prior to the date set forth therein for the opening of bids on all matters  
10 except those made for housing of state agencies, their personnel, operations,  
11 equipment, or activities pursuant to R.S. 39:1643, for which such notice shall be  
12 given at least twenty days prior to the opening of bids. Notice shall be in writing and  
13 to persons in a position to furnish the supplies, services, or major repairs required,  
14 as shown by its records, and by advertising if the amount of the purchase is  
15 twenty-five thousand dollars or more.

16 (2) The advertisements or written notices shall contain general descriptions  
17 of the supplies, services, or major repairs for which bids are wanted and shall state  
18 **all of the following:**

19 (a) The names and locations of the departments or institutions for which the  
20 purchases are to be made.

21 (b) Where and how specifications and quotation forms may be obtained, ~~and,~~

22 (c) The date and time not later than which bids must be received and will be  
23 opened.

24 (3) Each advertisement shall be published in the official journal of the state.  
25 In the case of any purchase to meet the needs of a single budget unit the  
26 advertisement shall be published also in a newspaper of general circulation printed  
27 in the parish in which the budget unit is situated or, if there is no newspaper printed  
28 in the parish, in a newspaper printed in the nearest parish, ~~that~~ **which** has a general  
29 circulation in the parish in which the budget unit is situated.

30 (4) Evidence of agency, corporate, or partnership authority shall be required

1 for submission of a bid to the division of administration or **purchasing agencies of**  
2 the state of Louisiana. The authority of the signature of the person submitting the bid  
3 shall be deemed sufficient and acceptable if any of the following conditions is met:

4 (a) The signature on the bid is that of any corporate officer listed on the most  
5 current annual report on file with the secretary of state, or the signature on the bid  
6 is that of any member of a partnership or partnership in commendam listed in the  
7 most current partnership records on file with the secretary of state.

8 (b) The signature on the bid is that of an authorized representative of the  
9 corporation, partnership, or other legal entity and the ~~bid is accompanied by~~ **bidder**  
10 **submits or provides upon request** a corporate resolution, certification as to the  
11 corporate principal, or other documents indicating authority which are acceptable to  
12 the public entity, **including registration on an electronic Internet database**  
13 **maintained by the public entity.**

14 (c) The corporation, partnership, or other legal entity has filed in the  
15 appropriate records of the secretary of state in which the public entity is located, an  
16 affidavit, resolution, or other acknowledged or authentic document indicating the  
17 names of all parties authorized to submit bids for public contracts. Such document  
18 on file with the secretary of state shall remain in effect and shall be binding upon the  
19 principal until specifically rescinded and canceled from the records of the respective  
20 offices.

21 (5) All bids shall be advertised by a using agency through a centralized  
22 electronic interactive environment administered by the division of administration as  
23 provided in this Section. The advertisement or written notice required by this Section  
24 shall contain the name and address of the using agency and shall establish the  
25 specific date, time, and place by which the bids must be received.

26 D. Bid opening. Bids shall be opened publicly in the presence of one or more  
27 witnesses at the time and place designated in the invitation for bids. Each bid,  
28 together with the name of the bidder, shall be recorded and open to public inspection.

29 E. Bid evaluation.

30 (1) Bids shall be evaluated based on the requirements set forth in the

1 invitation for bids, which may include criteria to determine acceptability such as  
 2 inspection, testing, quality, workmanship, delivery, and suitability for a particular  
 3 purpose, and criteria affecting price such as life cycle or total ownership costs. The  
 4 invitation for bids shall set forth the evaluation criteria to be used. No criteria ~~may~~  
 5 **shall** be used in bid evaluation that are not set forth in the invitation for bids.

6 (2) For bids made for housing of state agencies, their personnel, operations,  
 7 equipment, or activities pursuant to R.S. 39:1643, the criteria for evaluation shall be  
 8 included in the invitation for bids and shall include, at a minimum, the following:

- 9 (a) Location of the proposed space.
- 10 (b) Condition of the proposed space.
- 11 (c) Suitability of the proposed space for the advertiser's needs.
- 12 (d) Timeliness of availability of the proposed space.

13 F. Correction or withdrawal of bids. Patent errors in bids or errors in bids  
 14 supported by clear and convincing evidence may be corrected, or bids may be  
 15 withdrawn, if such correction or withdrawal does not prejudice other bidders, and  
 16 such actions may be taken only to the extent permitted under regulations.

17 G. Award. The contract shall be awarded with reasonable promptness by  
 18 written notice to the lowest responsive and responsible bidder whose bid meets the  
 19 requirements and criteria set forth in the invitation for bids. Award shall be made by  
 20 unconditional acceptance of a bid without alteration or correction except as  
 21 authorized in this ~~Part~~ **Chapter**.

22 H. Resident business preference. In state contracts awarded by competitive  
 23 sealed bidding, resident businesses shall be preferred to nonresident businesses  
 24 where there is a tie bid and where there will be no sacrifice or loss in quality.

25 I. Exemption.

26 (1) Purchases of goods manufactured by or services performed by severely  
 27 handicapped individuals in state-operated and state-supported sheltered workshops  
 28 as defined in ~~R.S. 39:1595.4~~ **R.S. 39:1604.4** shall be exempt from the provisions of  
 29 this Section. This exemption shall also apply to goods and services procured by  
 30 purchase order directly from a central nonprofit agency contracting under ~~R.S.~~

1           ~~39:1595.4~~ **R.S. 39:1604.4** to assist qualified sheltered workshops; any purchase order  
 2           shall be issued directly to the central nonprofit agency for all goods and services  
 3           within the exemption provided under this Subsection.

4                     (2) Purchases of raw materials and supplies used in the manufacturing  
 5           process by the Department of Public Safety and Corrections, division of prison  
 6           enterprises, with the approval of the ~~director of state purchasing~~ **state chief**  
 7           **procurement officer**, shall be exempt from the provisions of this Section and shall  
 8           be procured through the use of written bids.

9           ~~§1593(C)~~ **§1595. Competitive sealed proposals**

10                    **A.**(1) Notwithstanding any other provision of this Section to the contrary,  
 11           with the approval of the commissioner and the written determination by the ~~director~~  
 12           ~~of state purchasing~~ **state chief procurement officer** that the best interests of the  
 13           state would be served, a competitive request for proposals process as provided in this  
 14           Subsection may be used in the following circumstances:

15                    (a) For the procurement of supplies, services, or major repairs, including but  
 16           not limited to the procurement of high technology acquisitions or of complex  
 17           services.

18                    (b) Through a contract with a group purchasing organization, for the  
 19           procurement of medical and laboratory supplies and medical equipment required for  
 20           the purpose of diagnosis or direct treatment of a patient by a health care provider in  
 21           a hospital or clinical setting, provided the commissioner determines the total cost to  
 22           be less than the state procurement prices and in the best interest of the state.

23                    **(c) The approval and written determination requirements of this**  
 24           **Paragraph shall not apply to a request for proposals for professional, personal,**  
 25           **consulting, or social services.**

26                    (2)~~(a)~~(i) For a contract to be let under the provisions of this Subsection, the  
 27           agency shall give adequate public notice of the request for proposals by advertising  
 28           in the official journal of the state at least thirty days before the last day that proposals  
 29           will be accepted. In addition, the agency shall mail written notice to persons, firms,  
 30           or corporations who are known to be in a position to furnish the required services at

1 least thirty days before the last day that proposals will be accepted.

2 ~~§1503(A)~~**B.** Requests for proposals

3 (1) For consulting service contracts with a total maximum compensation of  
4 fifty thousand dollars or more, except for such contracts entered into by the  
5 Department of Transportation and Development, adequate public notice of the  
6 request for proposals shall be given by advertising in the official journal of the state  
7 and in one or more newspapers of general circulation in the state at least once. The  
8 advertisement shall appear at least thirty days before the last day that proposals will  
9 be accepted. When available, advertisements shall be placed in those national trade  
10 journals which serve the particular type of contractor desired. In addition, written  
11 notice shall be provided to persons, firms, or corporations who are known to be in  
12 a position to furnish such services, at least thirty days before the last day that  
13 proposals will be accepted.

14 (2) For social service contracts not qualifying under R.S. ~~39:1494.1(A)~~  
15 **39:1619(B)**, adequate public notice of the request for proposals shall be given by  
16 advertising in the official journal of the state, in the official journal of the parish in  
17 which the services are to be performed and such other newspapers, bulletins, or other  
18 media as are appropriate in the circumstances. Such advertisements shall appear at  
19 least once in the official journal of the state and once in the official journal of the  
20 parish. If the services are to be performed in or made available to residents of a  
21 multiparish area, advertising in the official journal of the state and in one or more  
22 newspapers of general circulation in the state at least once shall be sufficient to meet  
23 this requirement. In all cases, the advertisement shall appear at least fourteen days  
24 before the last day that the proposals will be accepted. In addition, written notice  
25 shall be provided to persons, firms, or corporations who are known to be in a  
26 position to furnish such services, at least fourteen days before the last day that  
27 proposals will be accepted. This last requirement is subject to reasonable limitation  
28 at the discretion of the using agency.

29 (3) For consulting service contracts entered into by the Department of  
30 Transportation and Development with a total maximum compensation of fifty

1 thousand dollars or more, adequate public notice of the request for proposals shall  
 2 be given by advertising in the official journal of the state at least once. The first  
 3 advertisement shall appear at least fifteen days before the last day that proposals will  
 4 be accepted. In addition, written notice shall be provided to persons, firms, or  
 5 corporations who are known to be in a position to furnish such services, at least  
 6 fifteen days prior to the last day that proposals will be accepted.

7 (4) All requests for proposals shall be advertised ~~by a using agency~~ through  
 8 a centralized electronic interactive environment administered by the division of  
 9 administration as provided in this Section. The advertisement or written notice  
 10 required by this Section shall contain the name and address of the using agency and  
 11 shall establish the specific date, time, and place by which the request for proposals  
 12 must be received.

13 ~~§1503(B)~~**(5)** The Request for Proposals **requests for proposals:**

14 **(a) For consulting, social, and professional services not otherwise exempt**  
 15 **by law or regulation** shall indicate the relative importance of price and other  
 16 evaluation factors, shall clearly define the tasks to be performed under the contract,  
 17 the criteria to be used in evaluating the proposals and the time frames within which  
 18 the work must be completed.

19 **(b) For all others, it shall clearly state the technological or other outcome**  
 20 **desired from the procurement of the supplies, services, or major repairs, if**  
 21 **applicable, and shall indicate the relative importance of price and other**  
 22 **evaluation factors, the criteria to be used in evaluating the proposals, and the**  
 23 **time frames within which the work must be completed.**

24 ~~§1503(D)~~**(6)** Written or oral discussions shall be conducted with all  
 25 responsible ~~offerers~~ **proposers** who submit proposals determined in writing to be  
 26 reasonably susceptible of being selected for award. Discussions shall not disclose  
 27 any information derived from proposals submitted by competing ~~offerers~~ **proposers**.  
 28 Discussions need not be conducted:

29 ~~(1)(a)~~ ~~With respect to prices, where such~~ **If** prices are fixed by law or  
 30 regulation, except that consideration shall be given to competitive terms and

1 conditions;~~or,~~

2 ~~(2)(b) Where~~ **If** time of delivery or performance will not permit discussions;

3 ~~or,~~

4 ~~(3)(c) Where~~ **If** it can be clearly demonstrated and documented from the  
 5 existence of adequate competition or accurate prior cost experience with ~~that~~ **the**  
 6 particular service that acceptance of an initial offer without discussion would result  
 7 in fair and reasonable prices, and the ~~Request for Proposals~~ **request for proposals**  
 8 notifies all ~~offerers~~ **proposers** of the possibility that award may be made on the basis  
 9 of the initial offers.

10 ~~€. (7)(a)~~ Award shall be made to the responsible ~~offerer~~ **proposer** whose  
 11 proposal is determined in writing by the ~~head of the~~ using agency to be the most  
 12 advantageous to the state, taking into consideration **review of** price and the  
 13 evaluation factors set forth in the ~~Request for Proposals~~ **request for proposals**.

14 ~~§1504(b)~~ A request for proposals or other solicitation may be cancelled or  
 15 all proposals may be rejected only if it is determined, based on reasons provided in  
 16 writing, that such action is taken in the best interest of the state.

17 ~~§1593(C)(2)(d)(ii)(8)~~ A request for proposals or other solicitation may be  
 18 cancelled or all proposals may be rejected only if it is determined, based on reasons  
 19 provided in writing, that such action is taken in the best interest of the state.

20 ~~§1593(C)(2)(e)(9)~~ Each contract entered into pursuant to this Subsection  
 21 shall contain as a minimum:

22 ~~(i)(a)~~ Description of the work to be performed ~~and/or~~ **or** objectives to be  
 23 met, when applicable.

24 ~~(ii)(b)~~ Amount and time of payments to be made.

25 ~~(iii)(c)~~ Description of reports or other deliverables to be received, when  
 26 applicable.

27 ~~(iv)(d)~~ Date of reports or other deliverables to be received, when applicable.

28 ~~(v)(e)~~ Responsibility for payment of taxes, when applicable.

29 ~~(vi)(f)~~ Circumstances under which the contract can be terminated either with  
 30 or without cause.

1                    ~~(vii)~~**(g)** Remedies for default.

2                    ~~(viii)~~**(h)** A statement giving the legislative auditor the authority to audit  
3 records of the ~~individual(s) or firm(s)~~ **individual or firm**.

4                    **(i) Performance measurements.**

5                    **(j) Monitoring plan.**

6                    ~~(f)~~~~(t)~~**(10)(a)** Upon entering into a contract, the using agency shall have full  
7 responsibility for the diligent administration and monitoring of the contract. The  
8 ~~director of state purchasing~~ **state chief procurement officer** may require the using  
9 agency to report at any time on the status of any such outstanding contracts to which  
10 the using agency is a party. After completion of performance under a contract, the  
11 using agency shall evaluate contract performance and the utility of the final product.  
12 This evaluation shall be delivered to the ~~director of state purchasing~~ **state chief**  
13 **procurement officer or his designee or the director of purchasing at a college or**  
14 **university, as applicable,** within one hundred twenty days after completion of  
15 performance and shall be retained in the official contract file.

16                    ~~(ii)~~~~(aa)~~**(b)(i)** No contract shall be valid, nor shall the state be bound by the  
17 contract, until it has first been executed by the head of the using agency, or his  
18 designee, which is a party to the contract and the contractor and has been approved  
19 in writing by the ~~director of state purchasing~~ **state chief procurement officer or his**  
20 **designee or the director of purchasing at a college or university, as applicable.**

21                    ~~(bb)~~**(ii)** In cases where the head of the using agency wants to delegate  
22 authority to one or more of his subordinates to sign contracts on behalf of the agency,  
23 this delegation shall be made in accordance with regulations of the commissioner and  
24 shall be subject to the approval of the ~~director of state purchasing~~ **state chief**  
25 **procurement officer.**

26                    ~~§1502(E)~~**(11)** Requests for proposals shall not be required for "interagency  
27 contracts" as defined in R.S. ~~39:1490(C)~~ **39:1556(29)**.

28                    ~~§1502(F)~~**(12)** Notwithstanding the provisions of this Chapter, all relevant  
29 federal statutes and regulations shall be followed by the using agency in procuring  
30 services. The burden of complying with these federal statutes and regulations shall

1 rest with the using agency and shall be documented in the contract record submitted  
2 to the office of ~~contractual review~~ **state procurement**.

3 ~~§1502.~~**§1595.1.** Validity of professional, personal, consulting, and social service  
4 contracts

5 A. No contract shall be valid, nor shall the state be bound by the contract,  
6 until it has first been executed by the head of the using agency, or his designee,  
7 which is a party to the contract and the contractor, and has been approved in writing  
8 by the ~~director of the office of contractual review~~ **state chief procurement officer**.

9 B. In cases where the head of the using agency wants to delegate authority  
10 to one or more of his subordinates to sign contracts on behalf of the agency, this  
11 delegation ~~must~~ **shall** be made in accordance with regulations of the office of  
12 ~~contractual review~~ **state procurement** and shall be subject to the approval of the  
13 office of ~~contractual review~~ **state procurement**.

14 §1596. Small purchases

15 Procurements not exceeding the amounts established by executive order of  
16 the governor may be made in accordance with small purchase procedures prescribed  
17 by such executive order, except that procurement requirements shall not be  
18 artificially divided so as to constitute a small purchase under this Section.

19 §1597. Sole source procurements

20 A contract may be awarded for a required supply, service, or major repair  
21 without competition when, under regulations, the chief procurement officer or his  
22 designee above the level of procurement officer determines in writing that there is  
23 only one source for the required supply, service, or major repair item.

24 §1598. Emergency procurements

25 A. Conditions for use. The chief procurement officer or his designee above  
26 the level of procurement officer may make or authorize others to make emergency  
27 procurements when there exists an imminent threat to the public health, welfare,  
28 safety, or public property under emergency conditions as defined in accordance with  
29 regulations.

30 B. Written quotations. Every effort shall be made to obtain quotations from

1 three or more vendors when supplies, services, or major repairs are to be purchased  
 2 on an emergency basis, except for standard equipment parts for which prices are  
 3 established. Immediate purchasing shall be discouraged as much as is practicable.  
 4 When supplies, services, or major repairs are urgently required and time does not  
 5 permit the obtaining of written quotations, the procurement officer may obtain  
 6 quotations by telephoning or otherwise, but such quotations shall be made on the  
 7 relative purchase requisitions. So far as practicable, quotations shall be secured from  
 8 institutions of the state as provided by law.

9 C. Determination required. The ~~Chief Procurement Officer~~ **chief**  
 10 **procurement officer** shall make a written determination of the basis of the  
 11 emergency that includes the facts and circumstances leading to the conclusion that  
 12 such procurement was necessary as well as a written determination detailing the  
 13 steps taken prior to selecting a particular contractor and the basis for the final  
 14 selection. The written determination shall be included in the contract file either prior  
 15 to contracting or as soon thereafter as practicable.

16 ~~§1593(B)~~**§1600. Other procurement methods**

17 **A. Unstable market conditions**

18 Notwithstanding any other provisions of this ~~Section~~ **Chapter** to the contrary  
 19 and in accordance with rules and regulations promulgated by the commissioner in  
 20 accordance with the Administrative Procedure Act, the ~~directors of state purchasing~~  
 21 **state chief procurement officer** or ~~directors~~ **director** of purchasing at a college or  
 22 university, with the approval of the commissioner, may procure by solicitation  
 23 requiring written response from at least three bona fide bidders under the provisions  
 24 of this ~~Subsection~~ **Section**, when it is determined that market conditions are unstable  
 25 and the competitive bid process is not conducive for best pricing for products,  
 26 supplies and other materials. The provisions of this ~~Subsection~~ **Section** shall be  
 27 applicable only if the value of the contract is fifty thousand dollars or less and only  
 28 after sufficient documentation is provided to the commissioner by the director to  
 29 substantiate the unstable market.

30 ~~§1593.1B~~. **Group purchasing**

1           ~~A.(1)~~ The Louisiana State University Health Sciences Center may contract  
 2 with a group purchasing organization through a competitive request for proposals  
 3 process for medical and laboratory supplies and medical equipment required for the  
 4 purpose of diagnosis or direct treatment of a patient by a health care provider in a  
 5 hospital or clinic setting.

6           ~~B.(2)~~ Prior to the award of such contract, the proposed contract shall be  
 7 approved by the commissioner of administration provided ~~he determines the total~~  
 8 ~~cost to be less than the state procurement prices~~ **the Louisiana State University**  
 9 **Health Sciences Center makes a written determination that prices from the**  
 10 **group purchasing organization are fair market prices** and that the contract is in  
 11 the best interest of the state.

12           ~~C.(3)~~ No later than sixty days after a purchasing agency submits a proposed  
 13 contract to the commissioner for approval, the commissioner shall notify the  
 14 purchasing agency in writing as to whether the proposed contract has been approved  
 15 or rejected. If the commissioner does not timely notify the purchasing agency of his  
 16 decision, the request for approval on the proposed contract shall be deemed to have  
 17 been approved. The commissioner shall not unreasonably withhold his approval.

18           §1645.~~C.~~ **Procurement of used Used** equipment

19           ~~A.(1)~~ Any agency covered by this Chapter may procure any equipment  
 20 which is used or which has been previously purchased by an individual or  
 21 corporation where the agency proposing to make such procurement can present  
 22 satisfactory information to the procurement officer to illustrate that the procurement  
 23 of said equipment is cost effective to the state.

24           ~~B.(1)(2)(a)~~ The used equipment shall be purchased by the head of the  
 25 agency, college, or university, within the price range set by the ~~director of state~~  
 26 ~~purchasing~~ **state chief procurement officer**, or the directors of purchasing at  
 27 colleges and universities, in a statement of written approval for the purchase which  
 28 must be obtained by the head of the agency, college, or university, prior to the  
 29 purchase.

30           ~~(2)(b)~~ The head of the agency, college, or university, shall certify in writing

1 to the ~~director of state purchasing~~ **state chief procurement officer**, or the directors  
2 of purchasing at colleges and universities, all of the following:

3 ~~(a)~~**(i)** The price for which the used equipment may be obtained.

4 ~~(b)~~**(ii)** The plan for maintenance and repair of the equipment and the cost  
5 thereof.

6 ~~(c)~~**(iii)** The savings that will accrue to the state because of the purchase of  
7 the used equipment.

8 ~~(d)~~**(iv)** The fact that following the procedures set out in the Louisiana  
9 Procurement Code will result in the loss of the opportunity to purchase the  
10 equipment.

11 ~~§1598.1~~**D.** Reverse auction

12 ~~A.~~**(1)** Notwithstanding the provisions of Subpart ~~B~~ **A** of this Part, with the  
13 approval of the ~~state director of purchasing~~ **state chief procurement officer** and the  
14 determination of the head of the using agency that the best interests of the state  
15 would be served and that electronic online bidding is more advantageous than other  
16 procurement methods provided in this Chapter, a reverse auction may be utilized for  
17 the acquisition of materials, supplies, services, products, or equipment.

18 ~~B.~~**(2)** Prior to the implementation of this ~~Subpart~~ **Subsection**, the state  
19 ~~director of purchasing~~ **chief procurement officer** shall develop policies, procedures,  
20 and promulgate regulations, in accordance with the Administrative Procedure Act.  
21 Such policies and procedures may require that:

22 ~~(1)~~**(a)** Vendors shall register before the opening date and time, and as part  
23 of the registration, require that the vendors agree to any terms and conditions and  
24 other requirements of the solicitation.

25 ~~(2)~~**(b)** Vendors shall be prequalified prior to placing bids and allow only  
26 bidders who are prequalified to submit bids.

27 ~~(3)~~**(c)** The solicitation shall designate an opening date and time and the  
28 closing date and time. The closing date and time may be fixed or remain open  
29 depending on the nature of the item being bid.

30 ~~(4)~~**(d)** At the opening date and time, the using agency shall begin accepting

1 online bids and continue accepting bids until the bid is officially closed. Registered  
 2 bidders shall be allowed to lower the price of their bid below the lowest bid posted  
 3 on the Internet until the closing date and time.

4 ~~(5)~~(e) Bidders' identities shall not be revealed during the bidding process;  
 5 only the successively lower prices, ranks, scores, and related bid details shall be  
 6 revealed.

7 ~~(6)~~(f) All bids shall be posted electronically and updated on a real-time basis.

8 ~~(7)~~(g) The using agency shall retain the right to cancel the solicitation if it  
 9 determines that it is in the agency's or the state's best interest.

10 ~~(8)~~(h) The using agency shall retain its existing authority to determine the  
 11 criteria that shall be used as a basis for making awards.

12 ~~E.~~(3) Adequate public notice for the purchase of materials, supplies,  
 13 services, or equipment using a reverse auction shall be given as follows:

14 ~~(1)~~(a) The advertisement or notice shall be published one time in the official  
 15 journal of the state at least twenty days before the opening date of the reverse  
 16 auction.

17 ~~(2)~~(b) In the case of any purchase to meet the needs of a single budget unit,  
 18 the advertisement shall be published also in a newspaper of general circulation  
 19 printed in the parish in which the budget unit is situated, or, if there is not a  
 20 newspaper printed in the parish, in a newspaper printed in the nearest parish that has  
 21 a general circulation in the parish in which the budget unit is situated.

22 ~~§1499E.~~ Negotiation **of noncompetitive contracts.**

23 The head of the using agency or the agency procurement officer shall  
 24 negotiate with the highest qualified persons for ~~all contracts~~ **sole source or**  
 25 **emergency procurements or** for professional, personal, or those consulting services  
 26 for less than fifty thousand dollars, or those social services qualifying under R.S.  
 27 ~~39:1494.1(A)~~ **39:1619(B)** at compensation which the head of the using agency  
 28 determines in writing to be fair and reasonable to the state. In making this  
 29 determination, the head of the using agency shall take into account, in the following  
 30 order of importance, the professional or technical competence of ~~offerers~~ **proposers,**

1 the technical merits of ~~offers~~ **proposals**, and the compensation for which the services  
 2 are to be rendered, including fee. Negotiation of consulting services for fifty  
 3 thousand dollars or more or social services not qualifying under R.S. ~~39:1494.1(A)~~  
 4 **39:1619(B)** shall be conducted in accordance with ~~Part H, Subpart B~~ **R.S.**  
 5 **39:1595(B)** hereof.

6 ~~§1594.1~~**§1601**. Contracts for drugs

7 Multisource generic drug contracts shall be used for the procurement of drugs  
 8 approved by the Federal Drug Administration and listed in the Federal Drug  
 9 Administration Prescription Drug Products with Therapeutic Equivalence  
 10 Evaluations Compendium and Supplements for all using agencies. Such contracts  
 11 shall be competitively bid at the lowest available price. However, a brand name  
 12 contract may be used if there is only one source of supply for a particular drug or if  
 13 the using agency certifies to the chief procurement officer that a justifiable medical  
 14 reason exists for the use of a particular brand name drug. The chief procurement  
 15 officer shall seek the advice of the Drug Procurement Advisory Council on all such  
 16 requests other than declared emergencies.

17 ~~§1594.2~~**§1602**. Right to reject bids from Communist countries

18 In awarding contracts for supplies, any public entity is authorized to reject  
 19 the lowest bid if received from a bidder domiciled in a Communist country, or if the  
 20 supplies are manufactured in a Communist country, including but not limited to ~~the~~  
 21 ~~Soviet Union~~ **Russia**, China, North Korea, and Vietnam, and to award the contract  
 22 to the next lowest bidder, provided this Section shall not apply to any country having  
 23 established trade relations agreements or approvals from the government of the  
 24 United States.

25 ~~§1594.3~~**§1603**. Limitations on consultants competing for contracts

26 A. Any person contracting with an agency for the purposes of developing  
 27 bidding documents, requests for proposals, or any other type of solicitation related  
 28 to a specific procurement shall be prohibited from bidding, proposing, or otherwise  
 29 competing for award of that procurement. Such persons shall further be prohibited  
 30 from participating as subcontractors related to the award of that procurement.

1 B. For the purposes of this Section, the following activities shall not be  
2 considered "developing bidding documents, requests for proposals, or any other type  
3 of solicitation":

- 4 (1) Architectural and engineering programming.
- 5 (2) Master planning.
- 6 (3) Budgeting.
- 7 (4) Feasibility analysis.
- 8 (5) Constructability review.
- 9 (6) Furnishing specification data or other product information.
- 10 (7) Any other services that do not establish selection qualifications or  
11 evaluation criteria for the procurement of an architect or engineer.

12 ~~§1595~~**§1604**. Preference for all types of products produced, manufactured,  
13 assembled, grown, or harvested in Louisiana; exceptions

14 A. As used in this Section, the following terms shall have the following  
15 meanings ascribed to them:

- 16 (1) "Meat" and "meat product" means beef, veal, pork, mutton, poultry, and  
17 other meats, and products made from those meats.
- 18 (2) "Other products" includes "other meat", "other meat products", "other  
19 seafood", and "other seafood products" and means products which are produced,  
20 manufactured, grown, processed, and harvested outside the state.
- 21 (3) "Seafood" means crawfish, catfish, other fish, shrimp, oysters, crabs,  
22 underutilized species, and other seafood and freshwater food.
- 23 (4) "Processed" means the alteration of any raw product altered from its  
24 original state to enhance its value or render it suitable for further refinement or  
25 marketing.

26 B. Notwithstanding any other provision of this Section to the contrary, each  
27 procurement officer, purchasing agent, or similar official who procures or purchases  
28 agricultural or forestry products, including meat, seafood, produce, eggs, paper or  
29 paper products under the provisions of this Chapter shall procure or purchase  
30 Louisiana products provided all of the following conditions are met:

1 (1) The bidder certifies in the bid submitted that the product meets the criteria  
2 of a Louisiana product.

3 (2) The product is equal to or better than equal in quality to other products.

4 (3) The cost of the Louisiana product shall not exceed the cost of other  
5 products by more than ten percent, except as otherwise provided in this Chapter as  
6 a specific exception.

7 C. In order to qualify as Louisiana products for the purpose of this Section,  
8 the following products shall meet the following requirements:

9 (1) Produce shall be produced in Louisiana and produce products shall be  
10 produced and processed in Louisiana.

11 (2) Eggs shall be laid in Louisiana and egg products shall be processed from  
12 eggs laid in Louisiana.

13 (3) Meat and meat products shall be processed in Louisiana from animals  
14 which are alive at the time they enter the processing plant.

15 (4)(a) Seafood shall be:

16 (i) Harvested in Louisiana seas or other Louisiana waters;~~or,~~

17 (ii) Harvested by a person who holds a valid appropriate commercial fishing  
18 license issued under R.S. 56:1 et seq.

19 (b) Products produced from such seafood shall be processed in Louisiana.

20 (5) Domesticated catfish shall be processed in Louisiana from animals which  
21 were grown in Louisiana.

22 (6) Paper and paper products shall be manufactured or converted in  
23 Louisiana. For the purposes of this Paragraph, "manufactured" shall mean the  
24 process of making a product suitable for use from raw materials by hand or by  
25 machinery, and "converted" shall mean the process of converting roll stock into a  
26 sheeted and fully packaged product in a full-time converting operation. For paper  
27 supplied in wrapped reams, each carton and each individual ream shall be clearly  
28 labeled with the name of the manufacturer or converter and the location within  
29 Louisiana where such paper is manufactured or converted. For paper and paper  
30 products supplied in bulk or in other forms, the smallest unit of packaging shall be

1 clearly labeled with the name of the manufacturer or converter and the location  
2 within Louisiana where such paper or paper product is manufactured or converted.

3 (7) All other agricultural or forestry products shall be produced,  
4 manufactured, or processed in Louisiana.

5 D. Notwithstanding any other provision of this Section to the contrary, each  
6 procurement officer, purchasing agent, or similar official who procures or purchases  
7 products under the provisions of this Chapter shall procure or purchase meat and  
8 meat products which are further processed in Louisiana under the grading and  
9 certification service of the Louisiana Department of Agriculture and Forestry and  
10 which are equal in quality to other meat and meat products, provided the cost of the  
11 further processed meat and meat products does not exceed the cost of other meat or  
12 meat products by more than seven percent.

13 E. Notwithstanding any other provision of this Section to the contrary, each  
14 procurement officer, purchasing agent, or similar official who procures or purchases  
15 products under the provisions of this Part shall procure or purchase domesticated or  
16 wild catfish which are processed in Louisiana but grown outside of Louisiana and  
17 which are equal in quality to domesticated or wild catfish which are processed  
18 outside of Louisiana provided the cost of the domesticated or wild catfish which are  
19 processed in Louisiana does not exceed the cost of the domesticated or wild catfish  
20 which are processed outside of Louisiana by more than seven percent.

21 F. Notwithstanding any other provision of this Section to the contrary, each  
22 procurement officer, purchasing agent, or similar official who procures or purchases  
23 products under the provisions of this Part shall procure or purchase produce  
24 processed in Louisiana but grown outside of Louisiana and which is equal in quality  
25 to produce processed and grown outside of Louisiana, provided the cost of the  
26 produce processed in Louisiana does not exceed the cost of the produce processed  
27 outside of Louisiana by more than seven percent.

28 G. Notwithstanding any other provision of this Section to the contrary, each  
29 procurement officer, purchasing agent, or similar official who procures or purchases  
30 products under the provisions of this Chapter shall procure or purchase eggs or

1           crawfish which are further processed in Louisiana under the grading service of the  
2           Louisiana Department of Agriculture and Forestry and which are equal in quality to  
3           other eggs or crawfish, provided the cost of the further processed eggs or crawfish  
4           does not exceed the cost of other eggs or crawfish by more than seven percent.

5           H. Except as otherwise provided in this Section, each procurement officer,  
6           purchasing agent, or similar official who procures or purchases materials, supplies,  
7           products, provisions, or equipment under the provisions of this Chapter may  
8           purchase such materials, supplies, products, provisions, or equipment which are  
9           produced, manufactured, or assembled in Louisiana, as defined in R.S. 38:2251(A),  
10          and which are equal in quality to other materials, supplies, products, provisions, or  
11          equipment, provided that all of the following conditions are met:

12           (1) The cost of such items does not exceed the cost of other items which are  
13          manufactured, processed, produced, or assembled outside the state by more than ten  
14          percent.

15           (2) The vendor of such Louisiana items agrees to sell the items at the same  
16          price as the lowest bid offered on such items.

17           (3) In cases where more than one bidder offers Louisiana items which are  
18          within ten percent of the lowest bid, the bidder offering the lowest bid on Louisiana  
19          items is entitled to accept the price of the lowest bid made on such items.

20          I. Notwithstanding any other provision of this Section to the contrary, such  
21          preferences shall ~~only~~ apply **only** to bidders whose Louisiana business workforce is  
22          comprised of a minimum of fifty percent Louisiana residents.

23          J. Notwithstanding any other provision of this Section to the contrary, ~~such~~  
24          preference **the preference provided in Subsection H of this Section** shall not apply  
25          to Louisiana products whose source is a clay which is mined or originates in  
26          Louisiana, and which is manufactured, processed or refined in Louisiana for sale as  
27          an expanded clay aggregate form different than its original state. No provision of this  
28          Subsection shall affect the preferences applicable to brick manufacturers.

29          K. The provisions of this Section shall not apply to treated wood poles and  
30          piling.

1           ~~§1595.1~~**§1604.1**. Preference in awarding contracts

2           A. In the awarding of contracts by any public entity, except contracts for the  
3 construction, maintenance, or repair of highways and streets, and contracts financed  
4 in whole or in part by contributions or loans from any agency of the United States  
5 government, where both in-state and out-of-state vendors are bidding, in-state  
6 vendors shall be given a preference in the same manner that any of the out-of-state  
7 vendors would be given on a comparative bid in their own state. If one party to a  
8 joint venture is qualified under this Section as a vendor domiciled in Louisiana, this  
9 qualification shall extend to all parties to the joint venture. For the purpose of this  
10 Section, a foreign corporation which was qualified to do business in the state of  
11 Louisiana in the manner required by law more than six months prior to the  
12 advertising of bids on a contract shall be considered to be a vendor domiciled in the  
13 state of Louisiana for the purpose of awarding the contract.

14           B. For purposes of determination of the lowest responsible bidder, when  
15 letting contracts where bids are received from in-state vendors and out-of-state  
16 vendors, local sales and use taxes shall be excluded from the bid.

17           C. The provisions and requirements of this Section shall not be waived by  
18 any public entity.

19           ~~§1595.2~~**§1604.2**. Preference in letting contracts for public work

20           A.(1) In the letting of contracts for public work by any public entity, except  
21 contracts financed in whole or in part by contributions or loans from any agency of  
22 the United States government:

23           (a) Preference shall be given to contractors domiciled in the state of  
24 Louisiana over contractors domiciled in a state that provides for a preference in favor  
25 of contractors domiciled in that state over contractors domiciled in the state of  
26 Louisiana for the same type of work; ~~and,~~

27           (b) Contractors domiciled in the state of Louisiana are to be granted the same  
28 preference over contractors domiciled in such state favoring contractors domiciled  
29 therein with a preference over contractors domiciled in the state of Louisiana in the  
30 same manner and on the same basis and to the same extent that such preference may

1 be granted in letting contracts for the same type of work by such other state to  
2 contractors domiciled therein over contractors domiciled in the state of Louisiana.

3 (2) If one party to a joint venture is qualified under this Section as a  
4 contractor domiciled in Louisiana, this qualification shall extend to all parties to the  
5 joint venture.

6 (3) For the purpose of this Section, a foreign corporation that has qualified  
7 to do business in the state of Louisiana in the manner required by law more than six  
8 months prior to the advertising for bids on a contract for public work shall be  
9 considered to be a contractor domiciled in the state of Louisiana for the purpose of  
10 letting the contract ~~for such public work.~~

11 B. The provisions and requirements of this Section shall not be waived by  
12 any public entity.

13 ~~§1595.3~~**§1604.3**. Preference in awarding contracts for certain services

14 In the awarding of contracts by any public entity, for services to organize or  
15 administer rodeos and livestock shows, where state-owned facilities will be used to  
16 house or contain such activities, and where both in-state and out-of-state vendors are  
17 bidding, in-state vendors shall be given preference, provided such services are equal  
18 in quality and do not exceed in cost by more than ten percent those services available  
19 from outside the state.

20 ~~§1595.4~~**§1604.4**. Preference for goods manufactured, or services performed, by  
21 sheltered workshops; definitions; coordinating council

22 A. Every governmental body shall give a preference in its purchasing  
23 practices to goods manufactured and services performed by severely handicapped  
24 individuals in state-operated and state-supported sheltered workshops.

25 B. The provisions of this Section shall not be construed to limit or otherwise  
26 affect the provisions of R.S. 23:3024 and 3025 regarding the sheltered industries  
27 program for individuals who are blind.

28 C. There is hereby created within the Department of Health and Hospitals  
29 a council whose function shall be to coordinate and facilitate the carrying out of  
30 provisions of this Section. The membership of this council shall be determined by

1 the secretary of the Department of Health and Hospitals. It shall have authority to  
2 designate and contract with a central nonprofit agency to assist sheltered workshops  
3 in submitting applications for the selection of suitable goods and services, to  
4 facilitate the allocation of orders among qualified sheltered workshops, and  
5 otherwise to assist the council in performing its functions.

6 D. The Department of Health and Hospitals may adopt, promulgate, and  
7 enforce such rules and regulations as are necessary and appropriate to implement the  
8 provisions of this Section. The regulations shall be promulgated in accordance with  
9 the Administrative Procedure Act, R.S. 49:950 et seq.

10 E. For the purposes of this Section, the following terms are defined as  
11 follows:

12 (1) "Direct labor" means all labor involved in the manufacture of goods or  
13 the performance of services except for supervision, instruction, administration, and  
14 shipping.

15 (2) "Goods manufactured and services performed by severely handicapped  
16 individuals" means goods and services for which not less than seventy-five percent  
17 of the man-hours of direct labor required for manufacture or performance is provided  
18 by severely handicapped individuals.

19 (3) "Qualified nonprofit agency for the severely handicapped" means an  
20 agency that:

21 (a) Is incorporated under the Louisiana Nonprofit Corporation Law and  
22 operated in the interests of severely handicapped individuals, and the income of  
23 which does not inure in whole or in part to the benefit of any shareholder or other  
24 private individual, ~~and~~.

25 (b) Complies with any applicable occupational health and safety standards  
26 provided by the statutes or regulations of this state or of the United States.

27 (4) "Severely handicapped individuals" means individuals with a physical,  
28 mental, or substance abuse disability which constitutes a substantial obstacle to their  
29 employment and is of such a nature as to prevent an individual from engaging in  
30 normal competitive employment.

1 (5) "Sheltered workshop" means a facility designed to provide gainful  
2 employment for severely handicapped individuals who cannot be absorbed into the  
3 competitive labor market or to provide interim employment for such individuals  
4 when employment opportunities for them in the competitive labor market do not  
5 exist.

6 (6) "State-operated sheltered workshop" means a sheltered workshop staffed  
7 by state agency personnel.

8 (7) "State-supported sheltered workshop" means a sheltered workshop funded  
9 in whole or in part by the state and staffed by personnel from a qualified nonprofit  
10 agency for the severely handicapped.

11 ~~§1595.5~~**§1604.5**. Preference for items purchased from Louisiana retailers

12 A. When purchasing items at retail, every procurement officer under the  
13 provisions of this Chapter or other person acting as purchasing agent shall purchase  
14 items from a retail dealer located in the state of Louisiana which items are equal in  
15 quality to items purchased from a retail dealer located outside the state, provided the  
16 cost of items purchased from a retail dealer located in this state does not exceed by  
17 more than ten percent the cost of items purchased from a retail dealer located outside  
18 the state.

19 B. A retail dealer shall qualify for the preference if the dealer can show that  
20 he has paid Louisiana corporate income, corporate franchise, and inventory taxes or  
21 any combination thereof during the previous twelve-month period.

22 C. Retailers domiciled in the state of Louisiana are to be granted the same  
23 preference over retailers domiciled in the state favoring retailers domiciled therein  
24 with a preference over retailers domiciled in the state of Louisiana in the same  
25 manner and on the same basis and to the same extent that such preference may be  
26 granted in purchasing items of the same type by such other state to retailers  
27 domiciled therein over retailers domiciled in the state of Louisiana.

28 ~~§1595.6~~**§1604.6**. Preference for steel rolled in Louisiana

29 A. When purchasing steel, every person acting as purchasing agent for any  
30 agency, board, commission, department, or other instrumentality of the state or of

1 a parish, municipality, or other unit of local government, including a levee board,  
 2 drainage district, school board, or special district, shall purchase steel rolled in this  
 3 state which is equal in quality to steel rolled outside the state, provided the cost of  
 4 steel rolled in this state does not exceed by more than ten percent the cost of steel  
 5 which is rolled outside the state.

6 B. The provisions of this Section shall not apply when sufficient quantities  
 7 of steel rolled in Louisiana are not available.

8 ~~§1595.7~~§1604.7. Preference for items manufactured in the United States; definitions

9 A. This Section may be cited as the "Procurement of Domestic Products  
 10 Act".

11 B. As used in this Section, the following definitions shall apply:

12 (1) "Manufactured in the United States" means produced by a process in  
 13 which the manufacturing, final assembly, processing, packaging, testing, and any  
 14 other process that adds value, quality, or reliability to assembled articles, materials,  
 15 or supplies, occur in the United States.

16 (2) "United States" means the United States and any place subject to the  
 17 jurisdiction of the United States.

18 C. In the event a contract is not entered into for products purchased under the  
 19 provisions of R.S. 39:1595, each procurement officer, purchasing agent, or similar  
 20 official who procures or purchases materials, supplies, products, provisions, or  
 21 equipment under the provisions of this Chapter may purchase such materials,  
 22 supplies, products, provisions, or equipment which are manufactured in the United  
 23 States, and which are equal in quality to other materials, supplies, products,  
 24 provisions, or equipment, provided that all of the following conditions are met:

25 (1) The cost of such items does not exceed the cost of other items which are  
 26 manufactured outside the United States by more than five percent.

27 (2) The vendor of such items agrees to sell the items at the same price as the  
 28 lowest bid offered on such items.

29 (3) In cases where more than one bidder offers items manufactured in the  
 30 United States which are within five percent of the lowest bid, the bidder offering the

1 lowest bid on such items is entitled to accept the price of the lowest bid made on  
2 such items.

3 (4) The vendor certifies that such items are manufactured in the United  
4 States.

5 D. The office of state ~~purchasing~~ **procurement** may promulgate rules and  
6 regulations for the implementation of this Section in accordance with the  
7 Administrative Procedure Act.

8 SUBPART ~~C.~~ **B.** CANCELLATION OF INVITATIONS

9 FOR BIDS OR REQUESTS FOR PROPOSALS

10 ~~§1599~~ **§1605**. Cancellation of invitations for bids or requests for proposals

11 An invitation for bids, a request for proposals, or other solicitation may be  
12 cancelled, or all bids or proposals may be rejected, only if it is determined in writing  
13 by the chief procurement officer or his designee that such action is taken in the best  
14 interests of the state.

15 SUBPART ~~D.~~ **C.** QUALIFICATIONS AND DUTIES

16 ~~§1601~~ **§1606**. Responsibility of bidders and ~~offerers~~ **proposers**

17 A. A reasonable inquiry to determine the responsibility of a bidder or ~~offerer~~  
18 **proposer** may be conducted. The unreasonable failure of a bidder or ~~offerer~~  
19 **proposer** promptly to supply information in connection with such an inquiry may  
20 be grounds for a determination of nonresponsibility with respect to such bidder or  
21 ~~offerer~~ **proposer**.

22 B. Whenever the ~~Chief Procurement Officer, Commissioner~~ **chief**  
23 **procurement officer, commissioner**, or head of a governmental body with such  
24 authority proposes to disqualify the lowest bidder on bids of \$5,000 **five thousand**  
25 **dollars** or more such individual shall:

26 ~~1)~~ **(1)** Give written notice of the proposed disqualification to such bidder and  
27 include in the written notice all reasons for the proposed disqualification; ~~and,~~

28 ~~2)~~ **(2)** Give such bidder who is proposed to be disqualified, a reasonable  
29 opportunity to be heard at an informal hearing at which such bidder is afforded the  
30 opportunity to refute the reasons for the disqualification.

1           ~~§1505B~~C. Except as otherwise provided by law, information furnished by  
 2           ~~an offerer~~ **a proposer** pursuant to this Section may not be disclosed outside of the  
 3           user agency or the ~~Office of Contractual Review~~ **office of state procurement**  
 4           without prior written ~~consent of~~ **notice to** the ~~offerer~~ **proposer**.

5           ~~§1602. Prequalification of suppliers~~

6           ~~Prospective suppliers may be prequalified for particular types of supplies and~~  
 7           ~~services.~~

8           ~~§1506. §1607.~~ Prequalification of offerers **bidders and proposers**

9           The ~~Office of Contractual Review~~ **office of state procurement** may provide  
 10          for prequalification of offerers **bidders and proposers** as responsible prospective  
 11          contractors ~~for consulting services~~. Solicitation mailing lists of potential contractors  
 12          ~~of such services~~ shall include but shall not necessarily be limited to such prequalified  
 13          offerers **bidders and proposers**. Prequalification shall not foreclose a written  
 14          determination (a) between the time of the receipt of offers **bid or proposal** and the  
 15          making of an award that a prequalified offerer **bidder or proposer** is not responsible  
 16          or (b) that ~~an offerer~~ **a bidder or proposer** who is not prequalified at the time of  
 17          receipt of offers **bid or proposals** is responsible.

18          ~~§1603~~**§1608**. Cost or pricing data

19          A. Contractor certification. A contractor shall submit cost or pricing data  
 20          and shall certify that, to the best of its knowledge and belief, the cost or pricing data  
 21          submitted was accurate, complete, and current as of a mutually determined specified  
 22          date prior to the date of:

23                 (1) Pricing of any contract awarded by other than competitive sealed bidding,  
 24                 as provided in R.S. 39:1594, or small purchase procedures, as provided in R.S.  
 25                 39:1596, where the total contract price is expected to exceed an amount established  
 26                 by regulations; or

27                 (2) Pricing of any change order or contract modification which is expected  
 28                 to exceed an amount established by regulations.

29          B. Price adjustment. Any contract, change order, or contract modification  
 30          under which a certificate is required shall contain a provision that the price to the

1 state, including profit or fee, shall be adjusted to exclude any significant sums by  
 2 which the procurement officer finds that such price was increased because the  
 3 contractor-furnished cost or pricing data was inaccurate, incomplete, or not current  
 4 as of the date agreed upon between the parties.

5 C. Cost or pricing data not required. The requirements of this Section need  
 6 not be applied to contracts:

7 (1) Where the contract price is based on adequate price competition;

8 (2) Where the contract price is based on an established catalog price or  
 9 market prices established by an analysis of commercial items sold in ~~substantial~~  
 10 ~~quantities~~ to the general public;

11 (3) Where contract prices are set by law or regulation; ~~or,~~

12 (4) In exceptional cases where it is determined in writing in accordance with  
 13 regulations that the requirements of this Section may be waived, and the reasons for  
 14 such waiver are stated in writing.

15 ~~SUBPART E:~~ D. TYPES OF CONTRACTS

16 §1611. Cost-plus-a-percentage-of-cost contracts

17 The cost-plus-a-percentage-of-cost system of contracting shall not be used.

18 §1612. Cost-reimbursement contracts

19 A. Determination required prior to use. No cost-reimbursement prime  
 20 contract may be made unless it is determined in writing in accordance with  
 21 regulations that such contract is likely to be less costly to the state than any other  
 22 type of contract or that it is impracticable to obtain supplies, services, or major  
 23 repairs of the kind or quality required except under such a contract.

24 B. Reimbursement of costs. All cost-reimbursement contracts shall contain  
 25 a provision that only costs recognized as allowable in accordance with cost principles  
 26 set forth in regulations will be reimbursable.

27 ~~§1511C.~~ §1511C. Prior notice requirement concerning use of cost-reimbursement  
 28 type subcontract. Each contractor under a cost-reimbursement type contract shall  
 29 give notice, as provided for in the contract, before entering into (1) a  
 30 cost-reimbursement type subcontract or (2) any other type of subcontract involving

1 more than ten thousand dollars or ten percent of the estimated cost of the prime  
2 contract.

3 ~~§1512~~**§1613**. Reimbursement of costs **for professional, personal, consulting, and**  
4 **social services contracts**

5 A. All cost-reimbursement type contracts shall contain a provision that  
6 only costs recognized as allowable in accordance with cost principles set forth in  
7 rules and regulations, issued pursuant to Part IV ~~hereof~~ **of this Chapter** will be  
8 reimbursable.

9 B. Payments may be made to the contractor **for professional, personal,**  
10 **consulting, and social services contracts** in advance of services being performed  
11 if the following conditions are met:

12 (1) The using agency has submitted, in writing, to the ~~Division of~~  
13 ~~Administration,~~ **division of administration,** office of ~~contractual review~~ **state**  
14 **procurement,** a certification that an advance is necessary in order to provide the  
15 services at the lowest total cost and that there is no other ~~cost-effective~~ **cost-**  
16 **effective** source of such advance funding. The certification shall include a  
17 narrative setting out the facts which necessitate the advance funding.

18 (2) The advance is approved by the ~~director of the office of contractual~~  
19 ~~review~~ **state chief procurement officer.**

20 (3) Except as may be otherwise provided by law, the amount of such  
21 advance shall be limited to a sum not to exceed twenty percent of the total  
22 contract amount, excluding travel advances which shall be governed by applicable  
23 regulations.

24 (4) The contractor is a nonprofit corporation.

25 C. If local matching funds are available to fund the advance, no state  
26 monies shall be advanced through the contract.

27 D. If federal funds are used for the advance, federal regulations and  
28 statutes shall govern the use and amounts of advance payments made.

29 E. Interagency contracts as defined in R.S. ~~39:1490(C)~~ **39:1556(29)** are  
30 exempt from the provisions of Subsections B and C of this Section.

1 F. The provisions of this Section shall not be construed to authorize  
2 payments in advance of services to be performed pursuant to a professional  
3 service contract.

4 G. State funds may be expended to fund the advance only in the same  
5 fiscal year in which the funds are appropriated.

6 §1614. Approval of accounting system

7 Except with respect to firm fixed-price contracts, no contract type shall be  
8 used unless it has been determined in writing by the chief procurement officer or  
9 his designee that:

10 (1) The proposed contractor's accounting system will permit timely  
11 development of all necessary cost data in the form required by the specific  
12 contract type contemplated; ~~and,~~

13 (2) The contractor's accounting system is adequate to allocate costs in  
14 accordance with generally accepted accounting principles.

15 §1615. Multiyear contracts

16 A. Specified Period. Unless otherwise provided by law, a contract for  
17 supplies or services may be entered into for periods of not more than five years,  
18 if funds for the first fiscal year of the contemplated contract are available at the  
19 time of contracting. Payment and performance obligations for succeeding fiscal  
20 years shall be subject to the availability and appropriation of funds therefor. No  
21 contract shall be entered into for more than one year unless the length of the  
22 contract was clearly stated in the specifications. Any lease or similar agreement  
23 affecting the allocation of space in the state capitol shall have the prior approval  
24 of the Legislative Budgetary Control Council if it extends for more than one year.  
25 A report of all multiyear contracts shall be provided to the Joint Legislative  
26 Committee on the Budget no later than ninety days after the end of each fiscal  
27 year.

28 B. Determination prior to use. Prior to the utilization of a multiyear  
29 contract **for supplies, services, or major repairs**, it shall be determined in  
30 writing:

1 (1) That estimated requirements cover the period of the contract and are  
2 reasonably firm and continuing; ~~and.~~

3 (2) That such a contract will serve the best interests of the state by  
4 encouraging effective competition or otherwise prompting economies in state  
5 procurement.

6 A written resume of the supportive underlying facts for the foregoing  
7 determinations shall be included in the determination, and the resume shall state  
8 the estimated savings to be obtained by entering into a multiyear contract.

9 C. Termination due to unavailability of funds in succeeding years. When  
10 funds are not appropriated to support continuation of performance in a subsequent  
11 year of a multiyear contract **for supplies, services, or major repairs**, the  
12 contract for such subsequent year shall be terminated. When a contract is  
13 terminated under these conditions, no additional funds shall be paid to the  
14 contractor as a result of such action.

15 D. Educational institutions excepted. (1) An educational institution may  
16 enter into a multiyear nonexclusive contract, not to exceed ten years, with a  
17 vendor who has made a gift to the institution of equipment utilized for promoting  
18 products and university activities at a cost to the vendor in excess of fifty  
19 thousand dollars. Further, for this exception to be applicable, the contract shall  
20 cover products for resale within the institution.

21 (2) The state superintendent of education may enter into a multiyear  
22 contract, not to exceed ten years, with any public or private agency to act as the  
23 depository in the state for school books.

24 E. With respect to all multiyear contracts **for supplies, services, or major**  
25 **repairs**, there shall be no provisions for a penalty to the state for the cancellation  
26 or early payment of the contract.

27 F. The Department of Environmental Quality may enter into a multiyear  
28 contract, not to exceed seven years, for the operation of privately operated vehicle  
29 emission inspection facilities pursuant to R.S. 30:2054(B)(8). The secretary shall  
30 seek and consider proposals for an enhanced inspection maintenance program to

1 be implemented no sooner than January 1, 1995, from contractors proposing to  
2 implement currently evolving, cost-effective technologies, presenting minimal  
3 public inconvenience, designed to bring Louisiana into compliance with federal  
4 ambient air quality standards and meeting EPA required program standards.

5 ~~§1514(A)~~C.(1) Unless otherwise provided in the statutes making  
6 appropriations therefor, a contract for professional, personal, consulting, or social  
7 services may be entered into for periods of not more than five years, except that:

8 (a) Contracts for management of food services at public universities and  
9 colleges, contracts of retirement systems for investment management services and  
10 investment advisory services, contracts for electronic disbursement services for  
11 child support payments, contracts for prisoner dialysis, and contracts for central  
12 banking services for the state may be entered into for periods of up to five years.

13 (b) Contracts for electronic benefits issuance system services as required  
14 under R.S. 46:450.1 may be entered into for periods of up to ten years. The  
15 contracts shall be for an initial contract period of six years with the state having  
16 two options for two-year extensions up to a maximum of ten years.

17 (c) Contracts for national norm-referenced testing or other testing services  
18 which are to be used as part of the school and district accountability system as  
19 provided in R.S. 17:10.1 et seq. may be entered into for a period of up to twelve  
20 years. Modifications to existing contracts may be made in order to ensure the  
21 acquisition and usage of the most current tests offered by the contractor.

22 (d)(i) Contracts or amendments to existing contracts issued to institutions  
23 of higher education under the authority of grants or joint agreements between the  
24 Board of Regents and federal agencies for research, educational, or infrastructure  
25 development activities, and contracts or amendments to existing contracts issued  
26 by such institutions under the authority of grants or joint agreements issued by  
27 federal agencies or private grants, may be entered into for a period corresponding  
28 to the performance period of the grant or agreement.

29 (ii) Contracts or amendments to existing contracts issued to institutions of  
30 higher education under the authority of the Board of Regents to award grants for

1 educational and research purposes with funds available from the Louisiana  
2 Quality Education Support Fund, the Louisiana Fund, and the Health Excellence  
3 Fund may be entered into for periods of not more than six years. However, such  
4 contracts may be extended beyond the six-year limit up to an additional two years  
5 provided no additional costs are incurred.

6 (e) Contracts for the administration of the Medicaid early periodic  
7 screening diagnosis and treatment program (EPSDT), primary care case  
8 management (PCCM), and home and community-based services waivers may be  
9 entered into by the Department of Health and Hospitals for periods of up to five  
10 years.

11 (2) Any such contract may be cancelled by the governmental body,  
12 provided the governmental body gives thirty days notice of such cancellation. If  
13 funds for the first fiscal year of the contemplated contract are available at the time  
14 of contracting, payment and performance obligations for succeeding fiscal years  
15 shall be subject to the availability of funds therefor.

16 ~~§1514(B)~~H. Prior to the utilization of a multi-year contract **for**  
17 **professional, personal, consulting, or social services**, it shall be determined in  
18 writing by the commissioner of administration that (1) estimated requirements  
19 cover the period of the contract and are reasonably firm and continuing and (2)  
20 such a contract will serve the best interests of the state by encouraging effective  
21 competition or otherwise promoting economies in state procurement.

22 ~~§1514(C)~~I. When funds are not appropriated or otherwise made available  
23 to support continuation of performance in a subsequent year of a multi-year  
24 contract **for professional, personal, consulting, or social services**, the contract  
25 for such subsequent year shall be cancelled and the contractor shall be reimbursed  
26 in accordance with the terms of the contract for the reasonable value of any  
27 nonrecurring costs incurred but not amortized in the price of the services delivered  
28 under the contract. The cost of cancellation may be paid from (1) appropriations  
29 currently available for performance of the contract; (2) appropriations currently  
30 available for procurement of similar services and not otherwise obligated, or (3)

1 appropriations made specifically for the payment of such cancellation costs.

2 §~~1514(D)~~J. Except for those contracts provided in Subparagraph  
 3 ~~(A)(G)~~(1)(a) through (e) of this Section, any contract **for professional, personal,**  
 4 **consulting, or social services** entered into for a period of not more than five years  
 5 but for a period of more than three years as authorized by this Section shall be  
 6 subject to prior approval of the Joint Legislative Committee on the Budget.

7 §1616. Installment-purchase contract

8 The central purchasing agency may, on behalf of any governmental body,  
 9 enter into contracts for the installment purchase of supplies or equipment,  
 10 including but not limited to data processing equipment and telecommunications  
 11 equipment, procured under ~~the Louisiana Procurement Code~~ **this Chapter** and  
 12 any other applicable laws on the procurement of supplies or equipment, in  
 13 accordance with the following provisions:

14 (1) All installment-purchase contracts shall be entered into utilizing the  
 15 requisite procedures applicable to the particular supply or equipment being  
 16 procured.

17 (2) The term of such contract shall not exceed the economic life to the  
 18 item or items being procured, which shall be established by the central purchasing  
 19 agency and shall be set forth in the invitation to bid or request for proposal, but  
 20 in no case shall the term of the contract exceed five years.

21 (3) Each contract shall contain an annual appropriation dependency clause  
 22 which shall provide that the continuation of the contract is contingent upon the  
 23 continuation of an appropriation of funds by the legislature to fulfill the  
 24 requirements of the contract. If the legislature fails to appropriate sufficient  
 25 monies to provide for the continuation of the contract or if a veto or reduction of  
 26 appropriation of funds necessitates the discontinuance of the contract, the contract  
 27 shall terminate on the last day of the fiscal year for which funds were  
 28 appropriated, in accordance with R.S. 39:1615(C).

29 (4) Such contracts shall also conform to any other requirements which  
 30 may be established by the central purchasing agency through rules and

1 regulations, promulgated in accordance with law.

2 ~~§1494~~§1617. Professional service contracts

3 Contracts for professional services may be awarded without the necessity  
4 of competitive bidding or competitive negotiation.

5 ~~§1521.1~~§1618. Contractual attorney's fees; affidavit

6 Each attorney hired on a contractual basis for professional services shall  
7 submit his fee by sworn affidavit. The affidavit shall contain a detailed statement  
8 of the number of hours actually worked, giving the dates and time of day, and a  
9 description of the work performed. No contract fee shall be paid unless submitted  
10 by affidavit as provided herein.

11 **§1619. Social service contracts**

12 ~~§1484(B)~~ **A. Social services include:**

13 (1) Rehabilitation and health support include services rendered by a  
14 contractor with special knowledge or service available to assist individuals attain  
15 or maintain a favorable condition of physical and mental health. These services  
16 include but are not limited to:

- 17 (a) Health-related counseling.
- 18 (b) Alcohol or drug abuse training and treatment.
- 19 (c) Training to support emergency medical services.
- 20 (d) Services to support family planning.
- 21 (e) Counseling, delinquency prevention.
- 22 (f) Genetic disease evaluation and counseling.
- 23 (g) Community-based medical support services.
- 24 (h) Evaluation and training for physically/mentally handicapped.
- 25 (i) Other services in support of same.

26 (2) Habilitation and socialization include services rendered by a contractor  
27 with special knowledge to assist specified client groups to enhance their  
28 self-sufficiency or alleviate their dependency or isolation from the community.  
29 These services include but are not limited to:

- 30 (a) Day care.

- 1 (b) Work and training.
- 2 (c) Early intervention for the mentally ~~retarded~~ **disabled**, developmentally  
3 delayed, or physically handicapped.
- 4 (d) Transportation for service access.
- 5 (e) Homemaker, home management, and housing improvement services.
- 6 (f) In-home and out-of-home respite care.
- 7 (g) Socialization services for low income and other special needs groups.
- 8 (h) Nursing home ombudsman.
- 9 (i) Nutritional, employment, case management, senior center activities, or  
10 other services to aid independent living by the elderly.
- 11 (j) Training and community planning services for same.
- 12 (3) Protection for adults and children include services rendered by a  
13 contractor to provide therapeutic intervention for adults or children who are in  
14 danger or threatened with danger of physical or mental injury, neglect,  
15 maltreatment, extortion, or exploitation, including victims of family violence.  
16 These services include but are not limited to:
- 17 (a) Community planning for neglect/abuse.
- 18 (b) Adoption.
- 19 (c) Substitute care.
- 20 (d) Education and training.
- 21 (e) Crisis intervention type services.
- 22 (f) Emergency shelter for victims of rape/family violence or services in  
23 support of same.
- 24 (g) Training and evaluation services for same.
- 25 (4) Improvement of living conditions and health include services rendered  
26 by an authorized contractor with special knowledge or services available to assist  
27 individuals to attain or maintain favorable conditions in which to live. These  
28 services include but are not limited to:
- 29 (a) Distribution of foodstuffs either purchased or that are made available  
30 from government-owned commodities.

1 (b) Determining the needs of the poor, and development of programs to  
2 distribute the available resources.

3 (c) Determining the needs of the poor and identifying programs to  
4 alleviate these poverty conditions.

5 (d) Providing services to respond to the educational/employment needs of  
6 eligible individuals in the communities needing these services. The primary  
7 purpose of this service is to provide the participating individuals with the skills  
8 necessary for them to advance socially, academically, and occupationally.

9 (e) Providing training and evaluation of services for any of the above  
10 services.

11 (5) Evaluation, testing, and remedial educational services for exceptional  
12 handicapped or learning disabled nonpublic school students include services  
13 rendered by a contractor with special knowledge or services available to provide  
14 special educational and related services for exceptional or handicapped students  
15 voluntarily enrolled in approved nonpublic schools of Louisiana who are not  
16 otherwise provided with such services through either their local school program  
17 or through other services afforded to them by local school boards or other public  
18 agencies. These services include but are not limited to:

19 (a) Identification, assessment, appraisal, and evaluation of exceptional or  
20 handicapped children.

21 (b) Development of individualized educational programs.

22 (c) The providing of instructional and supportive services to such eligible  
23 students in accordance with the provisions of R.S. 17:1941; et seq. and P.L.  
24 94-142 and their regulations.

25 ~~§1494.1(A)~~**B**. Contracts for social services may be awarded without the  
26 necessity of competitive bidding or competitive negotiation only if the ~~director of~~  
27 ~~the office of contractual review~~ **state chief procurement officer** determines that  
28 any one of the following conditions is present. The using agency shall document  
29 the condition present and such documentation shall be part of the contract record  
30 submitted to the office of ~~contractual review~~ **state procurement**.

1 (1) The services are available only from a single, or sole, source (~~sole~~  
2 ~~source~~). Sole source procurement shall be determined by the ~~director of the office~~  
3 ~~of contractual review~~ state chief procurement officer. A contract shall also be  
4 considered as sole source if a request for proposals is issued in accordance with  
5 R.S. ~~39:1503~~ 39:1595(B) and only one or no proposals are received.

6 (2) The state legislature has made an appropriation for that particular  
7 contractor or contractors via the appropriation bill or other statutes.

8 (3) A quasi-public ~~and/or~~ or nonprofit corporation, such as a parish  
9 voluntary council on aging, an area agency on aging, an association of ~~retarded~~  
10 mentally disabled citizens or equivalent, an organization serving children, youth,  
11 and/or families, or an organization promoting independence from public  
12 assistance has been established in coordination with the state to provide the  
13 particular service involved in the contract.

14 (4) Local matching funds of greater than ten percent of the contract  
15 amount are required to be contributed by the contractor. Such matching funds may  
16 be in the form of cash, certified expenditures or in-kind contributions, where  
17 applicable to the funding source.

18 (5) The nature of the services being provided necessitates that a continuity  
19 of contractors be maintained as in but not limited to therapeutic and crisis support  
20 to clients and employment and training programs.

21 (6) An emergency exists which will not permit the delay in procurement  
22 necessitated by the request for proposal procedure given in R.S. ~~39:1503~~  
23 39:1595(B). Such emergency shall be determined by the ~~director of the office of~~  
24 ~~contractual review~~ state chief procurement officer.

25 (7) The total contract amount is less than two hundred fifty thousand  
26 dollars per twelve-month period. Service requirements shall not be artificially  
27 divided so as to exempt contracts from the request for proposal process.

28 (8) The contract is with another governmental entity or governmental  
29 body.

30 (9) Funds are specifically designated by the federal government for a

1 particular private or public contractor or political subdivision.

2 (10) The contract is with a social service contractor who supplies services  
3 under a contract in existence as of November 30, 1985, as long as such contractor  
4 continues to supply substantially the same services and the using agency certifies:

5 (a) The services are satisfactory.

6 (b) They intend to continue contracting with that contractor.

7 ~~§1494.1(B)C.~~ If none of the conditions given in ~~R.S. 39:1494.1(A)~~  
8 **Subsection B of this Section** are determined by the ~~director of the office of~~  
9 ~~contractual review~~ **state chief procurement officer** to be present in a contract for  
10 social service, then that contract shall be awarded through a request for proposal  
11 process in accordance with R.S. ~~39:1503~~ **39:1595(B)** under rules and regulations  
12 issued by the office of ~~contractual review~~ **state procurement**.

13 ~~§1482.A(2)D.~~ Grants or contracts or like business agreements between the  
14 state and its political subdivisions or other governmental entities, or between  
15 higher education boards and institutions under their jurisdiction, except this **This**  
16 Chapter shall apply to interagency contracts as defined in R.S. ~~39:1490(C)~~  
17 **39:1556(29)**, and to contracts or grants between the state and its political  
18 subdivisions to procure social services.

19 ~~§1495~~**§1620**. Personal service contracts

20 Contracts for personal services may be awarded without the necessity of  
21 competitive bidding or competitive negotiation.

22 ~~§1496~~**§1621**. Consulting service contracts

23 A. Contracts for consulting services which have a total maximum amount  
24 of compensation less than fifty thousand dollars **for a twelve-month period** may  
25 be awarded without the necessity of competitive bidding or competitive  
26 negotiation.

27 B. Contracts for consulting services which have a total maximum amount  
28 of compensation of fifty thousand dollars or more **for a twelve-month period**  
29 shall be awarded through a request for proposal process under rules and  
30 regulations issued by the office of ~~contractual review~~ **state procurement**. Service

1 requirements shall not be artificially divided so as to exempt contracts from the  
2 request for proposal process.

3 C.(1) All contracts for consulting services which have a total maximum  
4 amount of compensation of one hundred forty thousand dollars or more may be  
5 entered into with the assistance of a procurement support team as provided herein,  
6 and in accordance with guidelines promulgated and published by the office of  
7 ~~contractual review~~ **state procurement**.

8 (2) For each such consulting contract the office of ~~contractual review~~ **state**  
9 **procurement** may establish a procurement support team which shall include one  
10 or more representatives from each of the following:

11 (a) The office of ~~contractual review~~ **state procurement**.

12 (b) The using agency initiating the contract.

13 (c) The office of the attorney general.

14 (d) The ~~Legislative Fiscal Office~~ **legislative fiscal office**.

15 (3) Participation of the procurement support team must include, at a  
16 minimum, assistance in development or review of the request for proposals,  
17 evaluation of responses received to the request for proposals, and formulation of  
18 recommendations to be submitted to the ~~director of the office of contractual~~  
19 ~~review~~ **state chief procurement officer** concerning the final contract.

20 ~~§1496.1~~ **§1622**. Performance-based energy efficiency contracts

21 A. Any state agency as defined in R.S. 39:2 may enter into a performance-  
22 based energy efficiency contract for services and equipment as provided in this  
23 Section. The commissioner of administration shall adopt and promulgate rules and  
24 regulations necessary to implement the provisions of this Section, which rules  
25 shall be consistent with the Energy Management Act of 2001. Any such rules and  
26 regulations shall be adopted and promulgated only after the review and approval  
27 of the Joint Legislative Committee on the Budget. The commissioner of  
28 administration shall submit the proposed rules and regulations to the Joint  
29 Legislative Committee on the Budget thirty days prior to the review and approval  
30 of such rules and regulations by the committee.

1                   B. The contract shall be considered a consulting services contract under  
2 the provisions of this Chapter. Performance-based energy efficiency contracts  
3 shall be awarded through a request for proposal process under the provisions of  
4 this Chapter and specifically the provisions of Subsection E of this Section.

5                   C.(1) Notwithstanding the requirements of R.S. 39:1514(A), any  
6 performance-based energy efficiency contract entered into shall be for a period  
7 equal to the lesser of twenty years or the average life of the equipment installed  
8 by the performance contractor and shall contain a guarantee of energy savings.  
9 The guarantee of energy savings shall, at a minimum, ensure a total annual  
10 savings sufficient to fully fund any financing arrangement entered into to fund the  
11 contract. In addition, any performance-based energy efficiency contract shall  
12 contain the following clause:

13                   "The continuation of this contract is contingent upon the appropriation of  
14 funds by the legislature to fulfill the requirements of the contract. If the legislature  
15 fails to appropriate sufficient monies to provide for the continuation of the  
16 contract, the contract shall terminate on the last day of the fiscal year for which  
17 funds have been appropriated. Such termination shall be without penalty or  
18 expense to the agency, board, or commission except for payments which have  
19 been earned prior to the termination date."

20                   (2) Any contract entered into pursuant to this Section shall include the  
21 total units of energy saved, the method, device or financial arrangement to  
22 establish a firm amount for the savings, the cost per unit of energy, and, if  
23 applicable, the basis for any adjustment in the stated cost for the term of the  
24 contract, and for each energy saving measure included in the contract, provide the  
25 following:

26                   (a) Detailed scope of work.

27                   (b) Price to be paid by the state agency as the initial cost.

28                   (c) Annual energy cost savings.

29                   (d) Annual maintenance savings including any maintenance and  
30 operational savings associated with installation; including but not limited to,

1 services, parts, materials, labor, and equipment.

2 (e) Annual new maintenance cost including operating expenses added as  
3 a result of new equipment installed or services performed by the contractor.

4 (f) Total annual savings by adding annual energy cost savings to annual  
5 maintenance savings minus any annual new maintenance costs.

6 (3) No payment shall be made by a state agency pursuant to a contract  
7 entered into in accordance with this Section, until there is compliance with  
8 Paragraph (2) **of this Subsection**. However, Paragraph (2) **of this Subsection** and  
9 this Paragraph shall not invalidate nor require the reissuance of a request for  
10 proposal for which notice was given pursuant to this Chapter prior to June 17,  
11 2004.

12 D. When calculating "annual energy cost savings attributable to the  
13 services or equipment" installed pursuant to a performance-based energy  
14 efficiency contract as defined in R.S. 39:1484(14), maintenance savings shall be  
15 included. "Maintenance savings" means operating expenses eliminated and future  
16 capital replacement expenditures avoided as a result of new equipment installed  
17 or services performed by the performance contractor.

18 E.(1) Prior to award of any performance-based energy efficiency contract,  
19 the response to the requests for proposals shall be evaluated as follows:

20 (a) A state agency that seeks to enter into a contract pursuant to this  
21 Section shall conduct an initial evaluation of proposals submitted to it. Such  
22 evaluation shall be consistent with the provisions of this Chapter, except that a  
23 state agency shall not make a final selection from among submitted proposals.

24 (b) A state agency shall forward the results of its evaluation of each such  
25 proposal to the commissioner of administration. The commissioner of  
26 administration may select an independent third-party evaluation consultant to  
27 review and evaluate the submitted proposals. The consultant shall submit the  
28 result of his evaluation to the ~~Energy Efficiency Procurement Support Team~~  
29 **energy efficiency procurement support team** and to the commissioner of  
30 administration. The ~~Energy Efficiency Procurement Support Team~~ **energy**

1 efficiency procurement support team shall review the evaluation of the  
2 independent third-party evaluation consultant. Upon completion of such review,  
3 the ~~Energy Efficiency Procurement Support Team~~ energy efficiency  
4 procurement support team shall submit its recommendation to the  
5 commissioner of administration. The commissioner of administration shall review  
6 the evaluation of the independent third-party evaluation consultant and the  
7 recommendation of the ~~Energy Efficiency Procurement Support Team~~ energy  
8 efficiency procurement support team and shall notify the agency as to whether  
9 it may proceed with negotiation of the contract in accordance with the provisions  
10 of this Chapter. The commissioner of administration may require that the  
11 consultant selected pursuant to this Section participate on behalf of the agency in  
12 the negotiation of the contract. Upon the completion of the negotiation of the  
13 contract by the agency, the commissioner of administration shall review the  
14 negotiated contract. If the commissioner of administration approves the contract  
15 then the contract shall be submitted by the commissioner of administration to the  
16 Joint Legislative Committee on the Budget for review and approval.

17 (c) Notwithstanding any other provision of this Chapter, no proposer shall  
18 be selected pursuant to this Section nor shall any contract be awarded pursuant to  
19 this Section, except by the approval of both the commissioner of administration  
20 and the Joint Legislative Committee on the Budget.

21 (d) An independent third-party evaluation consultant shall have no direct  
22 conflict of interest as to the agency, the proposals which the consultant is to  
23 evaluate, or to any proposer. Prior to the selection of such consultant, the  
24 legislative auditor shall certify that the consultant has no direct conflict of interest  
25 as to the agency, the proposals which the consultant is to evaluate, or to any  
26 proposer.

27 (e) The provisions of Subparagraphs (a) through (d) of this Paragraph shall  
28 not be applicable when the requests for proposals or the proposed contract was  
29 received by the division of administration prior to January 1, 2004.

30 (2) The legislative auditor shall conduct performance audits of

1 performance-based energy efficiency contracts. The legislative auditor shall  
2 establish a written schedule for execution of such performance audits, and the  
3 schedule shall be posted on the website of the legislative auditor no later than  
4 February first of each year. Such schedule shall provide for periodic audits during  
5 the term of such contracts and for an audit upon the completion of any such  
6 contract. The legislative auditor shall coordinate with the commissioner of  
7 administration to develop a description of information to be included as part of  
8 each performance audit. The results of any such performance audits shall be  
9 published no later than thirty days prior to the commencement of each Regular  
10 Session of the Legislature. Audits shall be conducted on each performance-based  
11 energy efficiency contract in effect on and after January 1, 2010.

12 (3)(a)(i) In order to fund the cost of the evaluation, review, approval,  
13 oversight, and performance audits as provided in this Section, the request for  
14 proposal for the award of a performance-based energy efficiency contract shall  
15 require the proposer to pay a sum not to exceed two and one-half percent of the  
16 total value of the performance-based energy efficiency contract at the time that  
17 a contract is executed by that proposer.

18 (ii) Notwithstanding the provisions of Item (i) of this Subparagraph, where  
19 a request for proposal or a proposed contract is exempt from the application of  
20 Subparagraphs (a) through (d) of Paragraph (1) of this Subsection, the proposer  
21 shall be required to pay a sum not to exceed one percent of the total value of the  
22 performance-based energy efficiency contract at the time that a contract is  
23 executed by that proposer.

24 (b) The determination of the sum to be paid shall be made by the  
25 commissioner of administration according to the rules and regulations adopted  
26 pursuant to this Section.

27 (c) The "Energy Performance Contract Fund", hereinafter referred to as  
28 the "fund", is hereby created in the state treasury. After compliance with the  
29 provisions of Article VII, Section 9(B) of the Constitution of Louisiana relative  
30 to the allocation of monies to the Bond Security and Redemption Fund, the

1 treasury shall deposit into the fund an amount equal to the amount collected  
 2 pursuant to Subparagraphs (a) and (b) of this Paragraph. The monies in the fund  
 3 shall be used only to fund the requirements of this Section and the rules  
 4 promulgated pursuant thereto. Monies in the fund shall be invested in the same  
 5 manner as monies in the state general fund and any interest earned on the  
 6 investment of monies in the fund shall be credited to the fund. Unexpended and  
 7 unencumbered monies in the fund at the end of the fiscal year shall remain in the  
 8 fund.

9 F. For the purposes of this Section, any appropriation to an agency shall  
 10 not be deemed an appropriation of funds by the legislature to fulfill the  
 11 requirements of a performance-based energy efficiency contract awarded on or  
 12 after January 1, 2010, unless and until such contract has been approved in  
 13 accordance with the provisions of this Section.

14 G. For the purposes of this Section, the ~~Energy Efficiency Procurement~~  
 15 ~~Support Team~~ **energy efficiency procurement support team** shall consist of an  
 16 attorney chosen jointly by the speaker of the House of Representatives and the  
 17 president of the Senate from the legislative services staff of the House of  
 18 Representatives or the staff of the Senate and one or more representatives chosen  
 19 by each of the following: the ~~Division of Administration~~ **division of**  
 20 **administration**, facility planning and control; the using agency initiating the  
 21 procurement action; and the ~~Legislative Fiscal Office~~ **legislative fiscal office**. At  
 22 least four members, one from each office or agency designated, must be present  
 23 to constitute a quorum. The ~~Energy Efficiency Procurement Support Team~~ **energy**  
 24 **efficiency procurement support team** shall evaluate the submitted proposal in  
 25 accordance with guidelines to be published by the ~~Division of Administration~~  
 26 **division of administration**.

27 ~~§1497~~**§1623**. Certification by using agency

28 A. Upon seeking approval to enter into a proposed professional, personal,  
 29 consulting, or social service contract valued in excess of five thousand dollars, an  
 30 individual or individuals specifically designated by the head of the using agency

1 for such purpose shall certify to the ~~director of the office of contractual review~~  
 2 **state chief procurement officer** that:

3 (1) Either no employee of that agency is both competent and available to  
 4 perform the services called for by the proposed contract or the services called for  
 5 are not the type readily susceptible of being performed by persons who are  
 6 employed by the state on a continuing basis.

7 (2) The services are not available as a product of a prior or existing  
 8 professional, personal, consulting, or social service contract.

9 (3) The requirement for consultant and social services contracts, when  
 10 applicable, have been publicized pursuant to R.S. ~~39:1503~~ **39:1595(B)**.

11 (4) The using agency has developed and fully intends to implement a  
 12 written plan providing for:

13 (a) The assignment of specific using agency personnel to a monitoring and  
 14 liaison function.

15 (b) The periodic review of interim reports or other indicia of performance  
 16 to date.

17 (c) The ultimate use of the final product of the services.

18 (5) The cost basis for the proposed contract.

19 (6) A description of the specific objectives or deliverables associated with  
 20 the proposed contract and the monitoring plan therefor.

21 (7) Methods to be used to measure and determine contract performance.

22 B. In addition to the certifications required in Subsection A herein, for  
 23 any proposed professional, personal, consulting, or social service contract that  
 24 exceeds fifty thousand dollars and has a term of more than six months, a cost-  
 25 benefit analysis shall be conducted which indicates that obtaining such services  
 26 from the private sector is more cost-effective than providing such services by the  
 27 using agency itself or by an agreement with another state agency, to include both  
 28 a short-term and long-term analysis. The ~~office of contractual review~~ **state chief**  
 29 **procurement officer** shall promulgate, as necessary, rules and regulations  
 30 relative to the form and content of a cost-benefit analysis.

1                   ~~§1498~~**§1624**. Approval of contract; penalties

2                   A. Before approving a proposed contract for professional, personal,  
3 consulting, or social services, the ~~director of the office of contractual review~~ **state**  
4 **chief procurement officer** or an assistant shall have determined that:

5                   (1) All provisions of R.S. ~~39:1497~~ **39:1623** have been complied with.

6                   (2) The using agency has statutory authority to enter into the proposed  
7 contract.

8                   (3) The contract will not establish an employer/employee relationship  
9 between the state or the using agency and any prospective contractor.

10                  (4) No current state employee will engage in the performance of the  
11 proposed contract except as provided for in R.S. ~~39:1498.2~~ **39:1626**.

12                  (5) No using agency has previously performed or contracted for the  
13 performance of tasks which would be substantially duplicated under the proposed  
14 contract without appropriate written justification.

15                  (6) There has been appropriated or otherwise lawfully made available and  
16 ready for expenditure sufficient monies for payment of the services called for in  
17 the contract, at least for the applicable fiscal year.

18                  (7) The contracting using agency has specified the purpose, duration,  
19 specific goals and objectives, measures of performance, and a plan for monitoring  
20 the services to be provided under the contract.

21                  (8) The using agency has a written plan for the monitoring of the contract  
22 and such monitoring plan has been submitted in accordance with rules and  
23 regulations adopted by the office of ~~contractual review~~ **state procurement**.

24                  (9) The provisions of R.S. 12:25(E) have been complied with, if the  
25 contract is with a business corporation, the provisions of R.S. 12:205(E) have  
26 been complied with, if the contract is with a nonprofit corporation, or the  
27 provisions of R.S. 12:304(A)(11) have been complied with, if the contract is with  
28 a foreign corporation.

29                  B. Any corporation which fails to make complete disclosure of  
30 ownership, directors, and officers as required by law shall be required, as a

1 penalty, to refund any funds received by that corporation from the state for the  
2 contract.

3 ~~§1498.1~~**§1625**. Contract content

4 Each contract for professional, personal, consulting, or social services  
5 entered into by a governmental body as defined in R.S. ~~39:1484(11)~~ **39:1556(23)**  
6 shall contain as a minimum: description of the work to be performed and  
7 objectives to be met; amount and time of payments to be made; description of  
8 reports or other deliverables to be received, when applicable; date of reports or  
9 other deliverables to be received, when applicable; responsibility for payment of  
10 taxes, when applicable; circumstances under which the contract can be terminated  
11 either with or without cause; remedies for default; and a statement giving the  
12 legislative auditor the authority to audit records of the ~~individual(s) or firm(s)~~  
13 **individual or firm**.

14 ~~§1498.2~~**§1626**. Professional, personal, and consulting service contracts with state  
15 employees

16 A. State agency personnel in the medical, nursing or allied health fields,  
17 state employees who are qualified to serve as interpreters for the deaf, faculty  
18 members of public institutions of higher education, and state employees selected  
19 to serve as instructors in the paralegal studies course of the division of continuing  
20 education at a state college or university may be employed by other state agencies  
21 through a contract for professional, personal, consulting, or social services in  
22 accordance with rules and regulations adopted by the office of ~~contractual review~~  
23 **state procurement**. No such faculty member, except those who are also  
24 employed by private firms, may contract for the design or redesign of a  
25 state-owned facility in which the services of a professional architect or engineer,  
26 or both, are required.

27 B. Additionally, each professional, personal, consulting, and social  
28 service agreement between a governmental body as defined in R.S. ~~39:1484(11)~~  
29 **39:1556(23)** and a faculty member of any state college or state university shall be  
30 subject to the policies and procedures promulgated by each respective state

1 college and university and the management boards having authority over the  
 2 respective institution of higher education in which the faculty member is a  
 3 member and the Board of Regents. Notwithstanding any other provision of law,  
 4 each such agreement shall be subject to the written approval of the president of  
 5 the college or university which employs the faculty member, and written  
 6 notification of agreement and approval shall be given to the appropriate  
 7 management board.

8 C. The list of occupations exempted in this Section from the provision of  
 9 R.S. ~~39:1498(4)~~ **39:1624(A)(4)** may be increased by rules adopted by the office  
 10 of ~~contractual review~~ **state chief procurement officer**.

11 D. Notwithstanding any other provisions of law to the contrary, the  
 12 Louisiana School for the Deaf is hereby authorized to enter into professional,  
 13 personal, consulting, and social services contracts with an employee of the school  
 14 to provide sign language and interpreting services which are independent of the  
 15 employee's assigned duties and regular work hours, and for which compensation  
 16 may be paid.

17 E. Notwithstanding any other provisions of law to the contrary, the  
 18 Louisiana Commission for the Deaf is hereby authorized to enter into  
 19 professional, personal, consulting, and social services contracts with an employee  
 20 of the commission to provide sign language and interpreting services which are  
 21 independent of the employee's assigned duties and regular work hours, and for  
 22 which compensation may be paid; however, such contract is authorized only if a  
 23 person who is not an employee of the commission is unavailable for such services.

24 ~~PART III:~~ **SUBPART E.** CONTRACT MODIFICATIONS

25 AND TERMINATION

26 ~~§1519~~**§1627.** Modification of contracts

27 The office of ~~contractual review~~ **state procurement** may adopt and  
 28 promulgate rules and regulations permitting or requiring the insertion in contracts  
 29 for the procurement of professional, personal, consulting, and social services  
 30 appropriate clauses to enable the state to effect desired changes and modifications

1 to such contracts.

2 ~~§1520~~**§1628**. Termination of contracts

3 A. The office of ~~contractual review~~ **state procurement** may adopt and  
4 promulgate rules and regulations relating to the termination of contracts for the  
5 procurement of professional, personal, consulting, and social services for the  
6 default of the contractor.

7 B. The office of ~~contractual review~~ **state procurement** is authorized to  
8 issue rules and regulations relating to the termination of contracts for the  
9 procurement of professional, personal, consulting, and social services for the  
10 convenience of the state.

11 SUBPART F. INSPECTION OF PLANT AND AUDIT OF RECORDS

12 ~~§1621~~**§1629**. Right to inspect plant

13 The state may, at reasonable times, inspect the part of the plant or place  
14 of business of a contractor or any subcontractor which is related to the  
15 performance of any contract awarded or to be awarded by the state.

16 ~~§1622~~**§1629.1**. Right to audit records

17 A. Audit of persons submitting cost or pricing data. The state may, at  
18 reasonable times and places, audit the books and records of any person who has  
19 submitted cost or pricing data pursuant to R.S. ~~39:1603~~ **39:1608** to the extent that  
20 such books and records relate to such cost or pricing data.

21 B. Contract audit. The state shall be entitled to audit the books and  
22 records of a contractor or any subcontractor under any negotiated contract or  
23 subcontract other than a firm fixed-price contract to the extent that such books and  
24 records relate to the performance of such contract or subcontract. Such books and  
25 records shall be maintained by the contractor for a period of five years from the  
26 date of final payment under the prime contract and by the subcontractor for a  
27 period of five years from the date of final payment under the subcontract.

28 SUBPART G. DETERMINATIONS AND REPORTS

29 ~~§1625~~**§1630**. Finality of determinations

30 The determinations required by R.S. ~~39:1595(A)~~,<sup>†</sup> ~~R.S. 39:1595(E)~~,<sup>†</sup> ~~R.S.~~

1 39:1597, R.S. 39:1598(C), R.S. ~~39:1599~~ **39:1605**, R.S. ~~39:1601~~ **39:1606**, R.S.  
 2 ~~39:1603(C)~~ **39:1608(C)**, R.S. 39:1612(A), R.S. ~~39:1613~~ **39:1568.1**, and R.S.  
 3 39:1614 are final and conclusive unless they are clearly erroneous, arbitrary,  
 4 capricious, or contrary to law.

5 ~~§1627~~**§1630.1**. Record of certain procurement actions

6 The chief procurement officer shall retain all contracts made under R.S.  
 7 39:1597 or R.S. 39:1598 for a minimum of six years.

#### 8 SUBPART H. INSURANCE

9 §1631. Direct purchase of insurance

10 Notwithstanding ~~the provisions of R.S. 22:1171 or any other law to the~~  
 11 ~~contrary, the state may purchase insurance policies covering any property or~~  
 12 ~~insurable interests or activities of the state directly from insurers or underwriters,~~  
 13 ~~without the necessity for signature or countersignature of such policies as~~  
 14 ~~provided by R.S. 22:1171, and in lieu thereof such policy shall be signed by an~~  
 15 ~~official or designated representative of the company issuing the policy. The~~  
 16 ~~insurers or underwriters making such direct sales to the state shall reduce the~~  
 17 ~~policy premiums by the amount of the commissions, which would have been paid,~~  
 18 ~~as required by R.S. 22:1171, but for the provisions of this Section. However, if~~  
 19 ~~any such insurance policy is purchased in accordance with the provisions of R.S.~~  
 20 ~~22:1171, the agent may credit any portion of the commission to the state, through~~  
 21 ~~the division of administration. The state shall be advised of the amount of any~~  
 22 ~~such rebate at the time the agent furnishes a bid for such policy to the state, and~~  
 23 ~~the amount of such rebate shall be taken into consideration in determining the cost~~  
 24 ~~of such policy.~~

25 §1632. Splitting of commissions prohibited

26 It shall be unlawful for an agent to split, pass on, or share with any person,  
 27 group, organization, or other agent, except the state of Louisiana, all or any  
 28 portion of the commission derived from the sale of insurance to the state; except  
 29 that on policies involving properties or exposure in more than one geographic area  
 30 of the state, said commission may be split, shared, or passed on if authorized in

1 writing by the commissioner of administration. In any such instance where the  
2 sharing of a commission on state insurance is authorized, it shall be only with a  
3 bona fide insurance agent. Whoever violates the provisions of this Section shall,  
4 upon conviction, be fined not less than one thousand dollars nor more than five  
5 thousand dollars and shall be imprisoned for not more than two years.

6 §1633. Authorization constitutes public record

7 Such written authorization as required by R.S. 39:1632 ~~above~~ shall  
8 constitute a public record as defined in Chapter 1 of Title 44 of the Louisiana  
9 Revised Statutes of 1950.

10 SUBPART I. ACQUISITION OF HOUSING SPACE

11 §1641. Budget for acquisition of housing space and leases by budget units

12 A. Contracts and agreements by and in name of state agencies. All  
13 contracts and agreements for the lease or rental of space for the housing of state  
14 agencies, their personnel, operations, equipment, or activities shall be made in the  
15 name of and by the authorized representative or representative body of the state  
16 agency but shall be made and entered into only with the approval of the  
17 commissioner of administration. The cost of such housing shall be provided for  
18 in and defrayed from the budgets of the using agencies.

19 B. Contracts and agreements by and in name of the state, executed by the  
20 commissioner.

21 (1) When a contract or agreement for the lease or rental of space for the  
22 housing of state agencies, their personnel, operation, equipment, or activities,  
23 shall pertain to more than one building or facility or shall pertain to a building or  
24 facility which is to house more than one state agency, their personnel, operation,  
25 equipment, or activities, such contract or agreement may be made in the name of  
26 the state and executed by the commissioner of administration, rather than in the  
27 name of and by an authorized representative or a representative body of the state  
28 agency or agencies to be housed in such building or buildings or facility or  
29 facilities.

30 (2) The commissioner of administration shall allocate space to one or more

1 state agencies in the building or buildings or facility or facilities to which such  
 2 contract or agreement pertains and shall allocate the cost of such housing to or  
 3 among such using agency or agencies, which cost shall be provided for in and  
 4 defrayed from the budgets of the using agency or agencies. The commissioner  
 5 shall determine the amount of the allocations of the costs of such housing to the  
 6 various agencies using such building or buildings and facility or facilities in such  
 7 manner so that the aggregate of the amount so allocated equals the total cost of  
 8 such housing.

9 C. Definition of "agency." The definition of "agency" stated in ~~R.S.~~  
 10 ~~39:2(1)~~ **R.S. 39:2(2)** shall be the sole definition of the term "state agency"  
 11 employed in connection with the acquisition of housing space in this and  
 12 following Sections, and the fact that an agency is supported by fees or taxes  
 13 collected by, or dedicated to, the agency or which otherwise receives its operating  
 14 funds through means other than direct appropriations, shall not be a test as to  
 15 whether this Section shall be applicable to an agency of the state.

16 D. Applicability. The provisions of this Subpart shall be applicable to all  
 17 agencies meeting the definition of ~~R.S. 39:2(1)~~ **R.S. 39:2(2)** established by the  
 18 laws of Louisiana.

19 §1642. Uniform space standards; inventory and evaluation of budget unit space  
 20 utilization

21 A. Uniform space standards. The division of administration shall prepare  
 22 and utilize a uniform set of standards for determining space needs for state  
 23 agencies. These standards shall also provide for a uniform method of measuring  
 24 square footage or other measurements used as the basis for lease payments or  
 25 other charges.

26 B. Inventory of state space. The division of administration shall conduct  
 27 and maintain a complete inventory of state space, both owned and leased.

28 C. Evaluation of space utilization. The division of administration shall  
 29 evaluate the utilization of all leased space on a continuing basis to determine the  
 30 feasibility of locating state agencies in buildings to be purchased and/or

1 constructed by the state.

2 §1643. Advertisement and award of lease bids

3 A. Every lease for the use of five thousand square feet or more of space  
4 in a privately owned building entered into by a state agency as lessee shall be  
5 awarded pursuant to R.S. 39:1594 in accordance with the conditions for use set  
6 forth in that Section and only after evaluation of the bids in accordance with the  
7 specific criteria contained in the invitation for bids as authorized by R.S.  
8 39:1594(E)(2). No such lease shall extend beyond a period of ten years.

9 B. The ten-year limitation shall not be applicable to the management  
10 boards created under Article VIII, Sections 6 and 7 of the 1974 Louisiana  
11 Constitution.

12 §1644. Amendment of leases

13 A.(1) An existing lease for office or warehouse space may be renegotiated  
14 with the present lessor, but only after the division of administration has entered  
15 into a competitive negotiation process involving discussions with at least three,  
16 unless there are less than three, ~~offerers~~ **proposers** who submit written proposals.  
17 Such proposals shall be solicited by advertising as in R.S. 39:1594(C).

18 (2) If it is determined by the commissioner of administration or his  
19 designee, after the evaluation of these proposals and discussions with the current  
20 lessor, that to renew the present lease would be in the best interest of the state, the  
21 renewal of an existing lease may be renegotiated or the commissioner may enter  
22 into a lease with one of these ~~offerers~~ **proposers** if determined to be in the state's  
23 best interest. In making such a determination the commissioner, or his designee,  
24 shall take into consideration, over the duration of the lease, rental rates, the  
25 amount of funds necessary to relocate, any geographical considerations particular  
26 to that state program, the amount of disruption to state business that may be  
27 incurred in moving to a new location, and any other relevant factors presented.

28 B. Any lease for office or warehouse space for under five thousand square  
29 feet may be amended up to but not to exceed a maximum of four thousand nine  
30 hundred ninety-nine square feet.

1 C. Existing leases for office or warehouse space between a single state  
2 agency, a single lessor and affecting a single building or buildings immediately  
3 adjacent to each other which leases have different termination dates, may be  
4 renegotiated by the division of administration to perfect a single lease for the  
5 whole of the office or warehouse space utilized under the existing leases. The  
6 renegotiated lease shall not extend beyond the termination date of the latest  
7 existing lease, nor shall the price per square foot paid under the new lease result  
8 in a total payment in excess of the total of the combined payments under the  
9 preexisting leases.

10 D. In the event alterations or modifications of space currently under lease  
11 are required to meet changed operating requirements, a lease may be amended.  
12 Such lease amendment may, with approval of the division of administration,  
13 provide an adjustment in monthly lease payments not to exceed twenty-five  
14 percent of the original annual lease price per square foot, sufficient to reimburse  
15 the lessor for paying for the leasehold improvements; provided, however, that any  
16 adjustment in monthly lease payments shall also require the approval of the Joint  
17 Legislative Committee on the Budget and the continuance of an adjustment in  
18 excess of the current lease shall be further contingent on the appropriation of  
19 funds therefor in the following fiscal year.

20 E. A lease may be amended, with approval of the division of  
21 administration, to provide an adjustment in monthly lease payments not to exceed  
22 ten percent of the original annual lease price per square foot and not to exceed ten  
23 thousand dollars per year.

24 ~~Subpart K~~ J. ACQUISITION OF MOTOR VEHICLES

25 §1646. Acquisition of motor vehicles; minimum requirements for fuel efficiency;  
26 exceptions

27 A. Any purchase or lease of a motor vehicle by an agency which is  
28 covered by this Chapter shall be made in accordance with the provisions of this  
29 Subpart. Such vehicles shall have, at the time of acquisition, a fuel efficiency  
30 rating of no less than eighteen miles per gallon for city driving and no less than

1 twenty-eight miles per gallon for highway driving, or a combined city/highway  
2 average of twenty-four miles per gallon.

3 B. For purposes of this Subpart, "motor vehicle" shall include the  
4 following vehicles as they are specified or defined in administrative rule or  
5 regulation prescribed by the commissioner of administration pursuant to Part XIII  
6 of Chapter 1 of Title 39 of the Louisiana Revised Statutes of 1950: alternative fuel  
7 vehicle, sedan, and station wagon.

8 C. For purposes of this Subpart, "motor vehicle" shall not include the  
9 following:

10 (1) A vehicle to be used by law enforcement personnel, certified first  
11 responders and emergency personnel when required for the performance of their  
12 duties, or a vehicle used in the conduct of military activities.

13 (2) A vehicle to be used by any state employee when written authorization  
14 for such purchase has been provided by the department head to the commissioner  
15 of administration and approved by him, or a vehicle to be used by an employee  
16 of a political subdivision of the state when the governing authority of the political  
17 subdivision authorizes such purchase.

18 PART IV. SPECIFICATIONS

19 §1651. Duties of the commissioner of administration

20 ~~A.~~ The commissioner shall promulgate regulations governing the  
21 preparation, maintenance, and content of specifications for supplies, services, and  
22 major repairs required by the state.

23 §1651.1. Shrimp specifications

24 Notwithstanding any other provision of law to the contrary, regulations  
25 promulgated by the commissioner of administration or other purchasing entity,  
26 governing the purchase or use of shrimp shall require that the bid specify the  
27 count size of such shrimp and not specify size as "jumbo", "extra large",  
28 "medium", "small" or any other similar term or nomenclature used in the  
29 shrimping industry.

30 §1652. Duties of the chief procurement officer

1           The chief procurement officer shall prepare, issue, revise, and monitor the  
2 use of specifications for required supplies, services, and major repairs.

3           §1653. Exempted items

4           Specifications for supplies, services, or major repairs exempted pursuant  
5 to R.S. 39:1572 may be prepared by a purchasing agency in accordance with the  
6 provisions of this Part and regulations promulgated hereunder by the head of the  
7 governmental body granted authority to promulgate regulations by R.S. 39:1581.

8           §1654. Relationship with using agencies

9           The ~~director~~ **state chief procurement officer** shall obtain advice and  
10 assistance from personnel of using agencies in the determination of needs and  
11 development of specifications and may delegate in writing to a using agency the  
12 authority to prepare and utilize its own specifications, subject to regulations.

13           §1655. Maximum practicable competition

14           A. All specifications shall seek to promote overall economy for the  
15 purposes intended and encourage competition in satisfying the needs of the state,  
16 and shall not be unduly restrictive. A specification may be drafted which  
17 describes a product which is proprietary to one company only ~~where~~ **when one**  
18 **of the following applies:**

19           (1) No other kind of specification is reasonably available for the state to  
20 describe its requirements; ~~or,~~

21           (2) There is a requirement for specifying a particular design or make of  
22 product due to factors of compatibility, standardization, or maintainability; ~~or,~~

23           (3) Such specification includes language which specifically permits an  
24 equivalent product to be supplied. Such specification shall include a description  
25 of the essential characteristics of the product.

26           (4) Such specification is determined to be in the best interest of the state  
27 as provided for by R.S. ~~39:1613~~ **R.S. 39:1568.1.**

28           B. Except in ~~Paragraph (2)~~ **as provided in Paragraph (A)(2)** of this  
29 Section, whenever such proprietary specifications are used, the specifications  
30 shall clearly state that they are used only to denote the quality standard of

1 supplies, services, or major repairs desired and that they do not restrict bidders to  
 2 the specific brand, make, manufacturer, or specification named; that they are used  
 3 only to set forth and convey to prospective bidders the general style, type,  
 4 character, and quality of supplies, services, or major repairs desired; and that  
 5 equivalent supplies, services, or major repairs will be acceptable.

6 §1656. Escalation clause

7 Bid specifications may contemplate a fixed escalation or ~~deescalation~~ **de-**  
 8 **escalation** in accordance with **a recognized price index. Such index may**  
 9 **include but not be limited to** the United States Bureau of Labor Statistics,  
 10 Consumer Price Index and Wholesale Price Index. Bids based on specifications  
 11 which are subject to a recognized escalation index shall be legal and valid.

12 §1657. Specifications prepared by architects and engineers

13 The requirements of this Part regarding the purposes and  
 14 nonrestrictiveness of specifications shall apply to all specifications, including but  
 15 not limited to those proposed by architects, engineers, designers, and draftsmen  
 16 for public contracts.

17 ~~§1659~~**§1658**. Purchase of prostheses, orthoses, prosthetic services, and orthotic  
 18 services by a state agency from an accredited facility

19 Notwithstanding any other provision of law to the contrary, regulations  
 20 promulgated by the commissioner of administration or other purchasing entity  
 21 governing the purchase of prostheses, orthoses, prosthetic services, or orthotic  
 22 services shall require that such services shall be purchased only from an  
 23 accredited facility as provided in R.S. 40:1300.281; however, nothing in this  
 24 Section shall prohibit a licensed occupational therapist or a licensed physical  
 25 therapist from practicing within his scope of practice. In addition, the provisions  
 26 of this Section shall not apply to a licensed optometrist, ophthalmologist,  
 27 podiatrist, or orthopedist.

28 PART V. MODIFICATION AND TERMINATION OF CONTRACTS

29 FOR SUPPLIES, SERVICES, AND MAJOR REPAIRS

30 §1661. Contract clauses; administration

1           A. Contract clauses. Regulations may permit or require the inclusion of  
2 clauses providing for equitable adjustments in prices, time for performance, or  
3 other contract provisions, as appropriate, ~~covering~~ **including but not limited to**  
4 the following subjects:

5           (1) The unilateral right of the state to order in writing changes in the work  
6 within the general scope of the contract in any one or more of the following:

7           (a) Drawings, designs, or specifications, if the supplies to be furnished are  
8 to be specially manufactured for the state in accordance therewith;

9           (b) Method of shipment or packing; ~~or,~~

10          (c) Place of delivery.

11          **(d) Security for contract performance.**

12          **(e) Insurance requirements including as appropriate but not limited**  
13 **to general liability, automobile coverage, workers' compensation, and errors**  
14 **and omissions.**

15          **(f) Beginning and ending dates of the contract.**

16          **(g) Maximum compensation to be paid the contractor.**

17          (2) The unilateral right of the state to order in writing temporary stopping  
18 of the work or delaying of performance; ~~and,~~

19          (3) Variations between estimated quantities of work in a contract and  
20 actual quantities.

21          **(4) Manufacturers' design drawings shall be supplied in duplicate for**  
22 **all state buildings, to the appropriate state agency at the conclusion of**  
23 **contract.**

24           B. Additional contract clauses. Regulations may permit or require the  
25 inclusion in state contracts of clauses providing for appropriate remedies and  
26 ~~covering~~ **including but not limited to** the following subjects:

27           (1) Liquidated damages as appropriate.

28           (2) Specified excuses for delay or nonperformance.

29           (3) Termination of the contract for default, and

30           (4) Termination of the contract in whole or in part for the convenience of

1 the state.

2 ~~(5) Manufacturers' design drawings shall be supplied in duplicate for all~~  
 3 ~~state buildings, to the appropriate state agency at the conclusion of contract.~~

4 C. In the event any contractor fails to fulfill or comply with the terms of  
 5 any contract, the chief procurement officer may award the contract to the next  
 6 lowest responsible bidder subject to acceptance by that bidder and charge the  
 7 difference in cost to the defaulting vendor.

8 ~~D. Regulations may permit or require the inclusion in state contracts of~~  
 9 ~~clauses relative to reverse auctions pursuant to the implementation of the~~  
 10 ~~provisions of R.S. 39:1598.1.~~

11 ~~§1521~~**§1662**. Cost principles rules and regulations required

12 The ~~Office of Contractual Review~~ **state chief procurement officer** shall  
 13 issue rules and regulations setting forth cost principles which shall be used: (1) as  
 14 guidelines in the negotiation of (a) equitable adjustments for state directed  
 15 changes or modifications in contract performance and (b) settlements of contracts  
 16 which have been terminated; (2) to determine the allowability of incurred costs  
 17 for the purpose of reimbursing costs under contract provisions which provide for  
 18 the reimbursement of costs, and (3) as appropriate in any other situation where the  
 19 determination of the estimated or the incurred costs of performing contracts may  
 20 be required.

21 PART VI. LEGAL AND CONTRACTUAL REMEDIES

22 SUBPART A. PRE-LITIGATION RESOLUTION

23 OF CONTROVERSIES

24 §1671. Authority to resolve protested solicitations and awards

25 A. Right to protest. Any person who is aggrieved in connection with the  
 26 solicitation or award of a contract **issued by the applicable chief procurement**  
 27 **officer** shall protest to the chief procurement officer. Protests with respect to a  
 28 solicitation shall be submitted in writing at least two days prior to the opening of  
 29 bids on all matters except housing of state agencies, their personnel, operations,  
 30 equipment, or activities pursuant to R.S. 39:1643 for which such protest shall be

1 submitted at least ten days prior to the opening of bids. Protests with respect to the  
2 award of a contract shall be submitted in writing within fourteen days after  
3 contract award.

4 B. Authority to resolve protests. The chief procurement officer or his  
5 designee shall have authority, prior to the commencement of an action in court  
6 concerning the controversy, to settle and resolve a protest of an aggrieved person  
7 concerning the solicitation or award of a contract. This authority shall be  
8 exercised in accordance with regulations.

9 C. Decision. If the protest is not resolved by mutual agreement, the chief  
10 procurement officer or his designee shall, within fourteen days, issue a decision  
11 in writing. The decision shall:

12 (1) State the reasons for the action taken; ~~and,~~

13 (2) Inform the protestant of its right to administrative and judicial review  
14 as provided in this ~~Part~~ **Chapter**.

15 D. Notice of decision. A copy of the decision under Subsection C of this  
16 Section shall be mailed or otherwise furnished immediately to the protestant and  
17 any other party intervening.

18 E. Finality of decision. A decision under Subsection C of this Section  
19 shall be final and conclusive unless **one of the following applies:**

20 (1) The decision is fraudulent; ~~or,~~

21 (2) The person adversely affected by the decision has timely appealed  
22 administratively to the ~~Commissioner~~ **commissioner** in accordance with R.S.  
23 39:1683.

24 F. Stay of procurements during protests. In the event of a timely protest  
25 under Subsection A of this Section, the state shall not proceed further with the  
26 solicitation or with the awarding of the contract unless the chief procurement  
27 officer makes a written determination that the awarding of the contract is  
28 necessary without delay to protect the substantial interests of the state. Upon such  
29 determination by the chief procurement officer, no court shall enjoin progress  
30 under the award except after notice and hearing.

1           G. Award of costs to protestants. In addition to any other relief, when the  
 2 protest is administratively or judicially sustained and the protesting bidder or  
 3 ~~offerer~~ **proposer** should have been awarded the contract but is not, the protesting  
 4 bidder or ~~offerer~~ **proposer** shall be entitled to the reasonable costs incurred in  
 5 connection with the solicitation, including bid ~~or proposal~~ preparation costs other  
 6 than attorney's fees, provided that any administrative determination of such costs  
 7 shall be subject to the written concurrence of the attorney general.

8           H. Promulgation of regulations. The ~~state director of purchasing~~ **state**  
 9 **chief procurement officer** is hereby authorized to promulgate regulations relative  
 10 to protests, in accordance with the Administrative Procedure Act, to implement  
 11 the provisions of R.S. ~~39:1598.1~~ **39:1600(D)**.

12 ~~§1501~~**§1671.1**. Resolution of disputes between the ~~director of the office of~~  
 13 ~~contractual review~~ **state chief procurement officer** and using  
 14 agencies

15           If a dispute arises between the ~~director of contractual review~~ **state chief**  
 16 **procurement officer** and a using agency as to any items required to be certified  
 17 by the using agency to the ~~director~~ **state chief procurement officer** pursuant to  
 18 R.S. ~~39:1497~~ **39:1623** and R.S. ~~39:1494.1~~ **39:1619(B)**, or any items that must be  
 19 determined by the ~~director~~ **state chief procurement officer** pursuant to the  
 20 provisions of R.S. ~~39:1498~~ **39:1624**, either the ~~director~~ **state chief procurement**  
 21 **officer** or the using agency may request the commissioner of administration to  
 22 make a final determination on the matter.

23 §1672. Authority to debar or suspend

24           A. Applicability. This Section applies to a debarment for cause from  
 25 consideration for award of contracts or a suspension from such consideration  
 26 during an investigation where there is probable cause for such a debarment.

27           B. Authority. After reasonable notice to the person involved and  
 28 reasonable opportunity for that person to be heard, the chief procurement officer  
 29 shall have authority to suspend or debar a person for cause from consideration for  
 30 award of contracts, provided that doing so is in the best interests of the state. The

1 causes for debarment are set forth in Subsection C of this Section. The chief  
 2 procurement officer may suspend a person from consideration for award of  
 3 contracts if he determines that there is probable cause to believe that such person  
 4 has engaged in any activity which might lead to debarment. The suspension shall  
 5 not be for a period exceeding six months. The authority to debar or suspend shall  
 6 be exercised in accordance with regulations.

7 C. Causes for debarment. The causes for debarment include the following:

8 (1) Conviction for commission of a criminal offense as an incident to  
 9 obtaining or attempting to obtain a public or private contract or subcontract, or in  
 10 the performance of such contract or subcontract;

11 (2) Conviction under state or federal statutes of embezzlement, theft,  
 12 forgery, bribery, falsification or destruction of records, receiving stolen property,  
 13 or any other offense indicating a lack of business integrity or business honesty  
 14 which currently, seriously, and directly affects responsibility as a state contractor;

15 (3) Conviction under state or federal antitrust statutes arising out of the  
 16 submission of bids or proposals;

17 (4) Violation of contract provisions, as set forth below, of a character  
 18 which is regarded by the chief procurement officer to be so serious as to justify  
 19 debarment action:

20 (a) Deliberate failure without good cause to perform in accordance with  
 21 the specifications or within the time limit provided in the contract; ~~or,~~

22 (b) A recent record of failure to perform or of unsatisfactory performance  
 23 in accordance with the terms of one or more contracts; provided that failure to  
 24 perform or unsatisfactory performance caused by acts beyond the control of the  
 25 contractor shall not be considered to be a basis for debarment.

26 (5) Any other cause the chief procurement officer determines to be so  
 27 serious and compelling as to affect responsibility as a state contractor, including  
 28 debarment by another governmental entity for any cause listed in regulations; ~~and,~~

29 (6) Violation of the ethical standards set forth in Chapter 15 of Title 42.

30 D. Decision. The chief procurement officer shall issue a written decision

1 to debar or suspend. The decision shall:

2 (1) State the reasons for the action taken; ~~and,~~

3 (2) Inform the debarred or suspended person involved of its rights to  
4 administrative and judicial review as provided in this ~~Part~~ Chapter.

5 E. Notice of decision. A copy of the decision under Subsection D of this  
6 Section shall be mailed or otherwise furnished immediately to the debarred or  
7 suspended person and any other party intervening.

8 F. Finality of decision. A decision under Subsection D of this Section  
9 shall be final and conclusive unless one of the following applies:

10 (1) The decision is fraudulent; ~~or,~~

11 (2) The debarred or suspended person has timely appealed  
12 administratively to the commissioner in accordance with R.S. 39:1684.

13 SUBPART B. LEGAL AND CONTRACTUAL

14 REMEDIES FOR PROFESSIONAL, PERSONAL,

15 CONSULTING, AND SOCIAL SERVICES CONTRACTS

16 ~~§1523~~§1672.1. Applicability of Part

17 This Part applies only to those contracts solicited and entered into after the  
18 effective date of this Chapter, unless the parties agree in writing to its application  
19 to a contract entered into prior to that effective date.

20 ~~§1524~~§1672.2. Authority of the commissioner of administration

21 Prior to the institution of any action in a court concerning any contract,  
22 claim or controversy, the commissioner of administration with the concurrence  
23 of the attorney general is authorized to compromise, pay, or otherwise adjust the  
24 claim by or against or a controversy with a contractor relating to a professional,  
25 personal, consulting, or social service contract entered into with the state under  
26 their respective authority, including a claim or controversy based on breach of  
27 contract, mistake, misrepresentation, or other cause for contract modification or  
28 rescission. Nothing herein shall limit the authority of the commissioner of  
29 administration, pursuant to rules and regulations to issue, negotiate, or accept  
30 changes in the terms and conditions of a contract. When authorized, such

1           compromise, payments, or adjustments shall be promptly paid; however, subject  
 2           to any limitations or conditions imposed by rule or regulation, the commissioner  
 3           of administration shall charge back all or any portion of such payments to the  
 4           department or departments for whose benefit the contract was let.

5           ~~§1525~~**§1672.3**. Action on contract claims

6                         This Section applies to a claim by or controversy between the state and a  
 7           contractor arising out of a contract for professional, personal, consulting, or social  
 8           services. If such a claim or controversy is not resolved by mutual agreement, the  
 9           commissioner of administration, or his designee, shall promptly issue a decision  
 10          in writing. A copy of that decision shall be mailed or otherwise furnished to the  
 11          contractor, shall state the reasons for the action taken, and shall inform the  
 12          contractor of his right to judicial relief as provided in this **Part Subpart**. The  
 13          decision shall be final and conclusive unless fraudulent, or unless the contractor  
 14          institutes suit pursuant to ~~R.S. 39:1526~~ **this Subpart**. If the commissioner of  
 15          administration, or his designee, does not issue a written decision within one  
 16          hundred twenty days after written request for a final decision, or within such  
 17          longer period as may be established in writing by the parties to the contract, then  
 18          the contractor may proceed as if an adverse decision had been received.

19          ~~§1526~~**§1672.4**. Jurisdiction; actions in certain cases

20                         A. The Nineteenth Judicial District Court, subject to appeal or review by  
 21          the First Circuit Court of Appeal or by the supreme court, as otherwise permitted  
 22          in civil cases by law and the state constitution, shall have jurisdiction over any  
 23          claims arising out of a request for proposal or award of a contract, any  
 24          controversies involving the state, or any other matters in connection with a  
 25          petition for review of a decision made pursuant to this Chapter, following the  
 26          exhaustion of administrative remedies as provided by law or regulation.

27                         B. In any action by a contractor based upon any express or implied  
 28          contract or breach thereof, no action shall be maintained based upon any contract  
 29          or any act of any state officer which the officer is not authorized to make or do by  
 30          the laws of this state, unless the contractor, acting in good faith and without actual

1 or constructive knowledge of the lack of authorization, has commenced  
 2 performance under the apparent contract. In that event, the court may (1) cancel  
 3 the contract and reimburse the contractor only for the actual expenses incurred in  
 4 performing the work already performed or (2) where the best interests of the state  
 5 require, allow the performance of the contract to continue.

6 **SUBPART C. LEGAL AND CONTRACTUAL**  
 7 **REMEDIES FOR CONTRACTS OTHER THAN PROFESSIONAL,**  
 8 **PERSONAL, CONSULTING, AND SOCIAL SERVICES**

9 §1673. Authority to resolve contract and breach of contract controversies **other**  
 10 **than professional, personal, consulting, and social services**  
 11 **contracts**

12 A. Applicability. This Section applies to controversies between the state  
 13 and a contractor and which arise under or by virtue of a contract between them.  
 14 This includes without limitation controversies based upon breach of contract,  
 15 mistake, misrepresentation, or other cause for contract modification or rescission.  
 16 Any contractor who seeks a remedy with regard to such controversy shall file a  
 17 complaint with the chief procurement officer.

18 B. Authority. The chief procurement officer or his designee is authorized,  
 19 prior to the commencement of an action in court concerning the controversy, to  
 20 settle and resolve, with the approval of the attorney general, a controversy  
 21 described in Subsection A of this Section. This authority shall be exercised in  
 22 accordance with regulations.

23 C. Decision. If such a claim or controversy is not resolved by mutual  
 24 agreement, the chief procurement officer or his designee shall promptly issue a  
 25 decision in writing. The decision shall **do all of the following:**

26 (1) State the reasons for the action taken; ~~and,~~

27 (2) Inform the contractor of its right to administrative and judicial review  
 28 as provided in this ~~Part~~ **Subpart**.

29 D. Notice of decision. A copy of the decision under Subsection C of this  
 30 Section shall be mailed or otherwise furnished immediately to the contractor.

1 E. Finality of decision. The decision under Subsection C of this Section  
2 shall be final and conclusive unless **one of the following applies**:

3 (1) The decision is fraudulent;~~or,~~

4 (2) The contractor has timely appealed administratively to the  
5 commissioner in accordance with R.S. 39:1685.

6 F. Failure to render timely decision. If the chief procurement officer or  
7 his designee does not issue the written decision required under Subsection C of  
8 this Section within sixty days after written request for a final decision, or within  
9 such longer period as may be agreed upon by the parties, then the contractor may  
10 proceed as if an adverse decision had been received.

11 **SUBPART ~~B~~D. SOLICITATIONS OR AWARDS**

12 **IN VIOLATION OF LAW**

13 §1676. Applicability of this Subpart

14 The provisions of this Subpart apply where it is determined  
15 administratively, or upon administrative or judicial review, that a solicitation or  
16 award of a contract is in violation of law.

17 §1677. Remedies prior to an award

18 If it is determined prior to award that a solicitation or proposed award of  
19 a contract is in violation of law, then the solicitation or proposed award shall be  
20 cancelled.

21 §1678. Remedies after an award

22 If it is determined after an award that a solicitation or award of a contract  
23 is in violation of law, then:

24 (1) If the person awarded the contract has not acted fraudulently or in bad  
25 faith:

26 (a) The contract may be ratified and affirmed, provided it is determined  
27 in writing by the commissioner that doing so is in the best interests of the state  
28 and the law violation had no significant effect on the outcome of the contract  
29 award; or

30 (b) The contract may be terminated and the person awarded the contract

1 shall be compensated for the actual expenses reasonably incurred under the  
2 contract prior to the termination, provided that any administrative determination  
3 of such costs shall be subject to the written concurrence of the attorney general.

4 (2) If the person awarded the contract has acted fraudulently or in bad  
5 faith, the contract shall be declared null and void.

6 §1678.1. Damages

7 A. Damages recoverable by any aggrieved person in any action brought  
8 pursuant to the provisions of R.S. 39:1671 or otherwise asserted at law, shall be  
9 limited exclusively to reasonable costs incurred in connection with the solicitation  
10 including bid preparation costs other than attorney's fees.

11 B. Except as provided in Subsection E of this Section and R.S.  
12 39:1678(1), damages recoverable by any contractor under any contract entered  
13 into pursuant to the provisions of this Chapter, shall be limited exclusively to the  
14 actual expenses reasonably incurred in performance of the contract.

15 C. The provisions of R.S. 49:965.1 shall not apply to actions instituted  
16 pursuant to the provisions of this Chapter.

17 D. Any administrative determination of costs or expenses recoverable by  
18 a contractor or aggrieved person under Subsections A and B of this Section shall  
19 be subject to the written concurrence of the attorney general.

20 E. In no event shall damages awarded by the chief procurement officer,  
21 his designee, any hearing officer or any court include attorney's fees or any  
22 incidental, indirect, special, or consequential damages, including but not limited  
23 to loss of use, revenue or profit whether reasonably certain or not.

24 §1679. Violations; penalties

25 A. No person shall intentionally violate the Louisiana Procurement Code  
26 or any rule or regulation promulgated by the commissioner of administration with  
27 respect to purchasing.

28 B. Any person who intentionally violates such law, rule or regulation shall  
29 be fined not more than five hundred dollars, or imprisoned for not more than six  
30 months, or both.

1           SUBPART ~~EE~~. ADMINISTRATIVE APPEALS PROCEDURES

## 2           §1681. Authority of the commissioner of administration

3           The commissioner of administration shall have the authority to review and  
 4           determine any appeal by an aggrieved person from a determination by the state  
 5           ~~director of purchasing~~ **chief procurement officer** or his designee which is  
 6           authorized by R.S. 39:1671, R.S. 39:1672, or R.S. 39:1673.

## 7           §1682. Exempted departments

8           The secretary who is vested with authority to promulgate regulations by  
 9           R.S. 39:1581 shall have, within his department, the same authority and  
 10          responsibilities to review and determine appeals of decisions of the chief  
 11          procurement officer of his department as are vested in the commissioner of  
 12          administration by this Subpart.

## 13          §1683. Protest of solicitations or awards

14          A. Scope. This Section applies to an appeal addressed to the commissioner  
 15          of a decision under R.S. 39:1671(C).

16          B. Time limitation on filing an appeal. The aggrieved person shall file an  
 17          appeal within seven days of receipt of a decision under R.S. 39:1671(C).

18          C. Decision. On any appeal under Subsection A of this Section, the  
 19          commissioner shall decide within fourteen days whether the solicitation or award  
 20          was in accordance with the constitution, statutes, regulations, and the terms and  
 21          conditions of the solicitation. Any prior determinations by the ~~director~~ **state chief**  
 22          **procurement officer** or his designee shall not be final or conclusive.

23          D. Notice of decision. A copy of the decision under Subsection C of this  
 24          Section shall be mailed or otherwise furnished immediately to the protestant or  
 25          any other party intervening.

26          E. Finality of decision. A decision under Subsection C of this Section  
 27          shall be final and conclusive unless **one of the following applies:**

28                 (1) The decision is fraudulent; ~~or,~~

29                 (2) The person adversely affected by the decision has timely appealed to  
 30          the court in accordance with R.S. 39:1691(A).

1 §1684. Suspension or debarment proceedings

2 A. Scope. This Section applies to a review by the commissioner of a  
3 decision under R.S. 39:1672.

4 B. Time limitation on filing an appeal. The aggrieved person shall file its  
5 appeal with the commissioner within fourteen days of the receipt of a decision  
6 under R.S. 39:1672(D).

7 C. Decision. The commissioner shall decide within fourteen days  
8 whether, or the extent to which, the debarment or suspension was in accordance  
9 with the constitution, statutes, regulations, and the best interests of the state, and  
10 was fair. Any prior determination by the ~~director~~ **state chief procurement**  
11 **officer** or his designee shall not be final or conclusive.

12 D. Notice of decision. A copy of the decision under Subsection C of this  
13 Section shall be mailed or otherwise furnished immediately to the debarred or  
14 suspended person or any other party interviewing.

15 E. Finality of decision. A decision under Subsection C of this Section  
16 shall be final and conclusive unless **one of the following applies**:

17 (1) The decision is fraudulent;~~or,~~

18 (2) The debarred or suspended person has timely appealed an adverse  
19 decision of the Commissioner to the court in accordance with R.S. 39:1691(B).

20 §1685. Contract and breach of contract controversies

21 A. Scope. This Section applies to a review by the commissioner of a  
22 decision under R.S. 39:1673.

23 B. Time limitation on filing an appeal. The aggrieved contractor shall file  
24 its appeal with the commissioner within fourteen days of the receipt of the  
25 determination under R.S. 39:1673(C).

26 C. Decision. The commissioner shall decide within fourteen days the  
27 contract or breach of contract controversy. Any prior determination by the  
28 ~~director~~ **state chief procurement officer** or his designee shall not be final or  
29 conclusive.

30 D. Notice of decision. A copy of the decision under Subsection C of this

1 Section shall be mailed or otherwise furnished immediately to the contractor.

2 E. Finality of decision. A decision under Subsection C of this Section  
3 shall be final and conclusive unless **one of the following applies**:

4 (1) The decision is fraudulent;~~or,~~

5 (2) The contractor has timely appealed an adverse decision of the  
6 commissioner to the court in accordance with R.S. 39:1691(C).

7 ~~SUBPART D~~. ACTIONS BY OR AGAINST THE STATE; PRESCRIPTION

8 §1691. Actions by or against the state in connection with contracts

9 A. Solicitation and award of contracts. The Nineteenth Judicial District  
10 Court shall have exclusive venue over an action between the state and a bidder,  
11 offerer, or contractor, prospective or actual, to determine whether a solicitation  
12 or award of a contract is in accordance with the constitution, statutes, regulations,  
13 and the terms and conditions of the solicitation. Such actions shall extend to all  
14 kinds of actions, whether for monetary damages or for declaratory, injunctive, or  
15 other equitable relief.

16 B. Debarment or suspension. The Nineteenth Judicial District Court shall  
17 have exclusive venue over an action between the state and a person who is subject  
18 to a suspension or debarment proceeding, to determine whether the debarment or  
19 suspension is in accordance with the constitution, statutes, and regulations. Such  
20 actions shall extend to actions for declaratory, injunctive, or other equitable relief.

21 C. Actions under contracts or for breach of contract. The Nineteenth  
22 Judicial District Court shall have exclusive venue over an action between the state  
23 and a contractor who contracts with the state, for any cause of action which arises  
24 under or by virtue of the contract, whether the action is on the contract or for a  
25 breach of the contract or whether the action is for declaratory, injunctive, or other  
26 equitable relief.

27 D. Limited finality for administrative determinations. In any judicial  
28 action under this Section, factual or legal determination by employees, agents, or  
29 other persons appointed by the state shall have no finality and shall not be  
30 conclusive, notwithstanding any contract provision, regulation, or rule of law to

1 the contrary, except to the extent provided in: R.S. ~~39:1625~~ **39:1630**, R.S.  
 2 39:1671(E), R.S. 39:1672(F), R.S. 39:1673(E), R.S. 39:1683(E), R.S. 39:1684(E),  
 3 and R.S. 39:1685(E).

4 E. Writs or appeals; district court decisions. Any party aggrieved by a  
 5 final judgment or interlocutory order or ruling of the Nineteenth Judicial District  
 6 Court may appeal or seek review thereof, as the case may be, to the Court of  
 7 Appeal, First Circuit or the Supreme Court of Louisiana, as otherwise permitted  
 8 in civil cases by law and the constitution.

9 §1692. Commencement of actions

10 A. Protested solicitations and awards. Any action under R.S. 39:1691(A)  
 11 shall be commenced within fourteen days after receipt of the decision of the  
 12 commissioner under R.S. 39:1683(C).

13 B. Debarments and suspension for cause. Any action under R.S.  
 14 39:1691(B) shall be commenced within sixty days after receipt of the decision of  
 15 the commissioner under R.S. 39:1684(C).

16 C. Actions under contracts or for breach of contract controversies. Any  
 17 action under R.S. 39:1691(C) shall be commenced within sixty days after receipt  
 18 of the decision of the commissioner under R.S. 39:1685(C).

19 SUBPART ~~EG.~~ DELINQUENT PAYMENT PENALTIES

20 §1695. Late payment to business; penalty paid by state agency

21 A. If a state agency without reasonable cause fails to make any payment  
 22 due within ninety days of the due date prescribed by contract, to a business  
 23 awarded a contract with the state agency to supply equipment, supplies, materials,  
 24 or textbooks, or to provide services, the state agency shall pay, in addition to the  
 25 payment, interest on the amount due at the rate established pursuant to ~~Civil Code~~  
 26 ~~Article 2924(B)(3)~~ **the judicial interest rate referenced in R.S. 13:4202(B)** per  
 27 year, from the ninety-first day after the due date prescribed by the contract. In  
 28 applying this Section to a claim related in any way to an entitlement program,  
 29 payment for claims shall be due ninety days after a claim is received by the state.

30 B. If it is determined by the state agency that additional evidence of the

1 validity of the claim for payment is required, such evidence shall be requested  
 2 within ten working days from the date the bill is received by the state agency. In  
 3 instances where additional evidence is required, the bill shall be reviewed and  
 4 payment or rejection made within thirty days from receipt of the evidence  
 5 requested in the office of the paying agency.

6 C. Any penalty required to be paid by a state agency pursuant to this  
 7 Section shall be disbursed upon warrants drawn by the state agency upon that  
 8 agency's operating expenses budget.

9 §1696. Reporting requirements

10 A. Whenever a state agency is required by R.S. 39:1695 to pay a penalty,  
 11 it shall be presumed that the fault is that of the head of the state agency and, in  
 12 such cases, the head of the state agency shall submit to the Joint Legislative  
 13 Committee on the Budget at its next regular meeting following the payment of  
 14 such a penalty a report on the actions taken to correct the problem.

15 B. Any state agency which requests that the legislature make a  
 16 supplemental appropriation for the agency shall identify at the time of the request  
 17 what part of the amount is necessitated because of any penalties imposed by R.S.  
 18 39:1695.

19 §1697. Disputed claims

20 A. In cases where a state agency states that payment is late due to  
 21 reasonable cause, and said claim is disputed by the business owed payment, upon  
 22 the request of a representative of the business the Joint Legislative Committee on  
 23 the Budget shall determine whether or not the circumstances constitute  
 24 "reasonable cause" as used in R.S. 39:1695.

25 B. No state agency shall be required to pay a penalty if it has submitted  
 26 a warrant to the state treasurer at least thirty days prior to the due date prescribed  
 27 by the contract.

28 PART VII. INTERGOVERNMENTAL RELATIONS

29 ~~SUBPART A. DEFINITIONS~~

30 ~~§1701. Definitions of terms used in this Part~~

1                   (1) ~~"Cooperative purchasing" means procurement conducted by or on~~  
 2 ~~behalf of more than one public procurement unit or by a public procurement unit~~  
 3 ~~with an external procurement activity or by a private procurement unit.~~

4                   (2) ~~"External procurement activity" means any buying organization not~~  
 5 ~~located in this state which, if located in this state, would qualify as a public~~  
 6 ~~procurement unit. An agency of the United States government is an external~~  
 7 ~~procurement activity.~~

8                   (3) ~~"Local public procurement unit" means any parish, city, town,~~  
 9 ~~governmental body, and any other subdivision of the state or public agency~~  
 10 ~~thereof, public authority, public educational, health, or other institution, and to the~~  
 11 ~~extent provided by law, any other entity which expends public funds for the~~  
 12 ~~acquisition or leasing of supplies, services, major repairs, and construction, and~~  
 13 ~~any nonprofit corporation operating a charitable hospital.~~

14                   (4) ~~"Private procurement unit" means any independent institution of higher~~  
 15 ~~education in this state.~~

16                   (5) ~~"Public procurement unit" means either a local public procurement unit~~  
 17 ~~or a state public procurement unit.~~

18                   (6) ~~"State public procurement unit" means the central purchasing agency~~  
 19 ~~and any other purchasing agency of this state.~~

20                   SUBPART B.A. COOPERATIVE PURCHASING

21                   §1702. Cooperative purchasing authorized; participation in federal General  
 22                   Services Administration vendor list

23                   A.(1) Any public procurement unit may either participate in, sponsor,  
 24                   conduct, or administer a cooperative purchasing agreement for the acquisition of  
 25                   any supplies, services, major repairs, or construction with one or more public  
 26                   procurement units or external procurement activities or one or more private  
 27                   procurement units in accordance with an agreement entered into between the  
 28                   participants. Such cooperative purchasing may include but is not limited to joint  
 29                   or multi-party contracts between public procurement units and open-ended state  
 30                   public procurement unit contracts which are made available to local public

1 procurement units.

2 (2) Any public procurement unit may procure materials, supplies, and  
 3 equipment from federal General Services Administration supply schedules in  
 4 accordance with rules and regulations which may be adopted by the central  
 5 purchasing agency of the division of administration. Such purchases need not  
 6 comply with the competitive bidding requirements of this Chapter. However, such  
 7 materials, supplies, or equipment shall not be purchased at a price higher than the  
 8 price of the same item listed on any available state ~~purchasing~~ **procurement**  
 9 contract.

10 (3) Any public procurement unit may procure materials, supplies,  
 11 equipment, and services related to homeland security from federal General  
 12 Services Administration supply schedules. Such purchases shall:

13 (a) Utilize a Louisiana distributor.

14 (b) Use the competitive ordering procedures of the federal General  
 15 Services Administration.

16 (c) Receive prior approval from the director of the Governor's Office of  
 17 Homeland Security and Emergency Preparedness, or his designee.

18 B.(1) A private procurement unit acquiring supplies through cooperative  
 19 purchasing shall acquire such supplies for its own use and not for the purpose of  
 20 resale in competition with private enterprise.

21 (2) A private procurement unit shall certify to the vendor with each order  
 22 that the supplies covered thereby are to be acquired for its own use and not for the  
 23 purpose of resale in competition with private enterprise and shall provide a copy  
 24 of such certification to the ~~Central Purchasing Agency~~ **central purchasing**  
 25 **agency** within the ~~Division of Administration~~ **division of administration**.

26 (3) Upon certification by the ~~Commissioner of Administration~~  
 27 **commissioner of administration** that the purchase of one or more types of  
 28 supplies by a private procurement unit under this Section may adversely affect the  
 29 interests of the state by impeding the ability of the ~~Division of Administration~~  
 30 **division of administration** to attract responsible bidders for such supplies, the

1 governor shall have the authority to limit or eliminate the right of a private  
2 procurement unit to purchase such types of supplies to the extent necessary to  
3 eliminate the adverse affect on the state.

4 C. No use shall be made of federal General Services Administration  
5 supply schedules under the provisions of this Section without the participation of  
6 a Louisiana licensed dealer or distributor.

7 §1703. Sale, acquisition, or use of supplies by a public procurement unit

8 Any public procurement unit may sell to, acquire from, or use any supplies  
9 belonging to another public procurement unit or external procurement activity  
10 independent of the requirements of Part III of this Chapter or of Title 38.

11 §1704. Cooperative use of supplies or services

12 Any public procurement unit may enter into an agreement, independent  
13 of the requirements of Part III of this Chapter or Title 38, with any other public  
14 procurement unit or external procurement activity for the cooperative use of  
15 supplies or services, under the terms agreed upon between the parties.

16 §1705. Joint use of facilities

17 Any public procurement unit may enter into agreements for the common  
18 use or lease of warehousing facilities, capital equipment, and other facilities with  
19 another public procurement unit or an external procurement activity under the  
20 terms agreed upon between the parties.

21 §1706. Supply of personnel, information, and technical services

22 A. Supply of personnel. Any public procurement unit is authorized, in its  
23 discretion, upon written request from another public procurement unit or external  
24 procurement activity, to provide personnel to the requesting public procurement  
25 unit or external procurement activity. The public procurement unit or external  
26 procurement activity making the request shall pay the public procurement unit  
27 providing the personnel the direct and indirect cost of furnishing the personnel,  
28 in accordance with an agreement between the parties.

29 B. Supply of services. The informational, technical, and other services  
30 of any public procurement unit may be made available to any other public

1 procurement unit or external procurement activity provided that the requirements  
2 of the public procurement unit tendering the services shall have precedence over  
3 the requesting public procurement unit or external procurement activity. The  
4 requesting public procurement unit or external procurement activity shall pay for  
5 the expenses of the services so provided, in accordance with an agreement  
6 between the parties.

7 C. State information services. Upon request, the chief procurement  
8 officer may make available to public procurement units the following services,  
9 among others:

- 10 (1) Standard forms.
- 11 (2) Printed manuals.
- 12 (3) Product specifications and standards.
- 13 (4) Quality assurance testing services and methods.
- 14 (5) Qualified products lists.
- 15 (6) Source information.
- 16 (7) Common use commodities listings.
- 17 (8) Supplier prequalification information.
- 18 (9) Supplier performance ratings.
- 19 (10) Debarred and suspended bidders lists.
- 20 (11) Forms for invitations for bids, requests for proposals, instructions to  
21 bidders, general contract provisions, and other contract forms; and
- 22 (12) Contracts or published summaries thereof, including price and time  
23 of delivery information.

24 D. State technical services. The state, through the chief procurement  
25 officer may provide the following technical services, among others:

- 26 (1) Development of products specifications.
- 27 (2) Development of quality assurance test methods, including receiving,  
28 inspection, and acceptance procedures.
- 29 (3) Use of state product testing and inspection facilities; and
- 30 (4) Use of state personnel training programs.

1 E. Fees. The chief procurement officer may enter into contractual  
2 arrangements and publish a schedule of fees for the services provided under  
3 Subsections C and D of this Section.

4 §1707. Use of payments received by a supplying public procurement unit

5 All payments from any public procurement unit or external procurement  
6 activity received by a public procurement unit supplying personnel or services  
7 shall be available to the supplying public procurement unit as authorized by law.

8 §1708. Public procurement units in compliance with code requirements

9 Where the public procurement unit or external procurement activity  
10 administering a cooperative purchase complies with the requirements of this  
11 Chapter, any public procurement unit participating in such a purchase shall be  
12 deemed to have complied with this Chapter. Public procurement units may not  
13 enter into a cooperative purchasing agreement for the purpose of circumventing  
14 this Chapter.

15 §1709. Review of procurement requirements

16 To the extent possible, the chief procurement officer shall collect  
17 information concerning the type, cost, quality, and quantity of commonly used  
18 supplies, services, major repairs, or construction being procured or used by state  
19 public procurement units. The chief procurement officer may also collect such  
20 information from local public procurement units.

21 §1710. Local governing authorities; purchases from local vendors, payment of  
22 certain costs

23 When a local governing authority purchases an item at the state bid price  
24 through a local vendor, the local governing authority may pay to the local vendor  
25 the costs for shipping, preparation, and delivery of the item, provided that these  
26 costs shall not exceed the state bid price by seven percent on purchases up to ten  
27 thousand dollars, five percent on purchases over ten thousand dollars and up to  
28 twenty thousand dollars, and three percent on purchases over twenty thousand  
29 dollars.

30 SUBPART ~~E~~**B**. CONTRACT CONTROVERSIES

1 §1716. Contract controversies

2 Under a cooperative purchasing agreement, controversies arising between  
3 an administering public procurement unit and its bidders, ~~offerers,~~ **proposers,** or  
4 contractors shall be resolved in accordance with Part VI of this Chapter, where the  
5 administering public procurement unit is a state public procurement unit or  
6 otherwise subject to Part VI.

7 PART VIII. ASSISTANCE TO SMALL AND DISADVANTAGED

8 BUSINESSES AND WOMEN OWNED BUSINESSES

9 §1731. Short title

10 The provisions of this Part shall be known and may be cited as the  
11 Louisiana Small Business Procurement Act.

12 §1732. Definitions of terms used in this Part

13 As used in this Part, the following words and phrases shall have the  
14 meaning ascribed to them in this Section, except as otherwise may be provided  
15 or unless a different meaning is plainly required by the context:

16 (1) "Small business" means a small business as defined by the Small  
17 Business Administration of the United States Government which for purposes of  
18 size eligibility or other factors meets the applicable criteria set forth in 13 Code  
19 of Federal Regulations, Part 121, as amended, and which has its principal place  
20 of business in Louisiana.

21 (2) "Dominant in its field of operation" means exercising a controlling or  
22 major influence in a business activity in which a number of businesses are  
23 engaged. In determining if a business is dominant, the following criteria, among  
24 others, shall be considered: number of employees; volume of business; financial  
25 resources; competitive status or position; ownership or control of materials,  
26 processes, patents, license agreements, and facilities; sales territory; and nature  
27 of business activity.

28 (3) "Affiliate or subsidiary of a business dominant in its field of  
29 operation" means a business which is at least twenty percent owned by a business  
30 dominant in that field of operation, or by partners, officers, directors, majority

1 shareholders, or their equivalent of a business dominant in that field of operation.

2 (4) "Socially or economically disadvantaged person" means a person who  
3 has been deprived of the opportunity to develop and maintain a competitive  
4 position in the economy because of social or economic disadvantage. This  
5 disadvantage may arise from cultural, social or economic circumstances or  
6 background or physical location.

7 (5) "Women owned business" means a business that is at least ~~51~~ **fifty-**  
8 **one** percent owned by a woman or women who also control and operate it.  
9 "Control" in this context means exercising the power to make policy decisions.  
10 "Operate" in this context means being actively involved in the day-to-day  
11 management. In determining whether a business is ~~51~~ **fifty-one** percent owned  
12 by a woman or women, the percent ownership of the woman or women shall not  
13 be diminished because she is part of a community property regime.

14 (6) "Services" means the furnishing of labor, time, or effort by a  
15 contractor, not involving the delivery of a specific end product other than reports  
16 which are merely incidental to the required performance. This term shall include  
17 those services covered by **this** Chapter ~~16 of Title 39 of the Louisiana Revised~~  
18 ~~Statutes of 1950~~ and services performed by an architect, engineer, or landscape  
19 architect as provided by Part VII of Chapter 10 of Title 38 of the Louisiana  
20 Revised Statutes of 1950. This term shall not include collective bargaining  
21 agreements.

22 §1733. Procurement from small businesses

23 A. ~~Set-aside~~ **Set-aside**. The commissioner of the division of  
24 administration shall for each fiscal year designate and set aside for awarding to  
25 small businesses, an amount not to exceed ten percent of the value of anticipated  
26 total state procurement of goods and services excluding construction. The  
27 commissioner shall divide the procurements so designated into contract award  
28 units of economically feasible production runs in order to facilitate offers or bids  
29 from small businesses. In making his annual designation of ~~set-aside~~ **set-aside**  
30 procurements the commissioner shall attempt to vary the included procurements

1 so that a variety of goods and services produced by different small businesses  
2 shall be set aside each year. The failure of the commissioner to set aside  
3 particular procurements shall not be deemed to prohibit or discourage small  
4 businesses from seeking the procurement award through the normal solicitation  
5 and bidding processes.

6 B. Contract procedure. The commissioner shall establish a contract  
7 procedure in accordance with law, for the awarding of a procurement contract  
8 under the ~~set-aside~~ **set-aside** program established in this Part. Surety bonds  
9 guaranteed by the federal small business administration shall be acceptable  
10 security for a construction award under this Part.

11 C. Responsibility of bidder or offerer. Before making a ~~set-aside~~ **set-**  
12 **aside** award, the commissioner shall evaluate whether the small business  
13 scheduled to receive the award is able to perform the ~~set-aside~~ **set-aside** contract.  
14 This determination shall include consideration of production and financial  
15 capacity and technical competence.

16 D. Preference to disadvantaged persons. At least ten percent of the value  
17 of the procurements designated for ~~set-aside~~ **set-aside** awards shall be awarded,  
18 if possible to businesses owned and operated by socially or economically  
19 disadvantaged persons. In the event small businesses owned and operated by  
20 socially or economically disadvantaged persons are unable to perform at least ten  
21 percent of the ~~set-aside~~ **set-aside** awards, then the commissioner shall award the  
22 balance of the ~~set-aside~~ **set-aside** contracts to other small businesses.

23 E. Preference to women. At least ten percent of the value of the  
24 procurements designated for ~~set-aside~~ **set-aside** awards shall be awarded, if  
25 possible, to businesses owned and operated by women. In the event small  
26 businesses owned and operated by women are unable to perform at least ten  
27 percent of the ~~set-aside~~ **set-aside** awards, then the commissioner shall award the  
28 balance of the ~~set-aside~~ **set-aside** contracts to other small businesses.

29 F. Award of contracts after unsuccessful ~~set-aside~~ **set-aside** procedures.  
30 In the event that the provisions of this Part do not operate to extend a contract

1 award to a small business, the award shall be placed pursuant to the existing  
2 solicitation and award provisions established by law. The commissioner shall  
3 thereupon designate and set aside for small businesses additional state  
4 procurements corresponding in approximate value to the contract unable to be  
5 awarded pursuant to the provisions of this Part.

6 G. Conflict with other code provisions. All laws and rules pertaining to  
7 solicitations, bid evaluations, contract awards, and other procurement matters  
8 shall apply as consistent to procurements set aside for small businesses. In the  
9 event of conflict with other rules, the provisions of this Part shall govern.

10 §1734. Assistance to small businesses

11 The commissioner of administration and the executive director of the  
12 Louisiana division of minority and women's business enterprise in the Department  
13 of Economic Development shall publicize the provisions of the set-aside program,  
14 attempt to locate small businesses able to perform set-aside procurement awards,  
15 and encourage participation. When the commissioner of administration  
16 determines that a small business is unable to perform under a set-aside contract,  
17 he shall so inform the secretary of economic development, who shall assist the  
18 small business in attempting to remedy the causes of the inability to perform a  
19 set-aside award. In assisting the small business, the executive director of the  
20 Louisiana division of minority and women's business enterprise, in cooperation  
21 with the commissioner of administration, shall use any management or financial  
22 assistance programs that may be available by or through the Louisiana division  
23 of minority and women's business enterprise or other state or governmental  
24 agencies.

25 §1735. Determination of disadvantaged

26 The commissioner of administration shall promulgate regulations, rules,  
27 standards, and procedures for certifying that small businesses and small  
28 businesses owned and operated by socially or economically disadvantaged  
29 persons are eligible to participate under the requirements of R.S. 39:1733 and  
30 1734. The procedure for determination of eligibility may include ~~self certification~~

1            **self-certification** by a business, provided that the commissioner retains the ability  
2            to verify a ~~self-certification~~ **self-certification**. The commissioner shall  
3            promulgate other regulations and rules as may be necessary to carry out the duties  
4            set forth in this Part.

5            §1736. Reports

6            The commissioner of administration shall submit an annual report to the  
7            governor and the legislature, with a copy thereof going to the Louisiana division  
8            of minority and women's business enterprise, indicating the progress being made  
9            toward the objectives and goals of this Part during each fiscal year. This report  
10           shall include the following information:

11                    (1) The total dollar value and number of potential set-aside awards  
12                    identified during this period and the percentage of total state procurement this  
13                    figure reflects.

14                    (2) The number of small businesses identified by and responding to the  
15                    set-aside contracts actually awarded to small businesses, with appropriate  
16                    designation as to the total number and value of set-aside contracts awarded to  
17                    each small business, and the total number of small businesses that were awarded  
18                    set-aside contracts.

19                    (3) The total dollar value and number of set-aside contracts awarded to  
20                    small businesses owned and operated by economically or socially disadvantaged  
21                    persons, with appropriate designation as to the total number and value of set-aside  
22                    contracts awarded to each small business, and the percentages of the total state  
23                    procurements the figures of total dollar value and the number of set asides reflect.

24                    (4) The total dollar value and number of set-aside contracts awarded to  
25                    small businesses owned and operated by women, with appropriate designation as  
26                    to the total number and value of set-aside contracts awarded to each small  
27                    business, and the percentages of the total state procurements the figures of total  
28                    dollar value and the number of set asides reflect.

29                    (5) The number of contracts which were designated and set aside but  
30                    which were not awarded to a small business, the estimated total dollar value of

1 these awards, the lowest offer or bid on each of these awards made by the small  
2 business, and the price at which these contracts were awarded pursuant to the  
3 normal procurement procedures.

4 PART IX. TELECOMMUNICATIONS PROCUREMENT

5 §1751. Application

6 A. The provisions of this Part shall be applicable to any agency, as  
7 defined in R.S. 36:3(1), within the executive branch of state government with  
8 respect to the procurement of all telecommunications systems and  
9 telecommunications services. However, nothing provided in this Part shall be  
10 construed to preempt the authorities granted to the higher education boards in  
11 Article VIII of the Constitution of Louisiana.

12 B. The office of telecommunications management shall, subject to the  
13 provisions of this Part, have sole authority and responsibility for defining the  
14 specific telecommunications systems and telecommunications services to which  
15 the provisions of this Part shall be applicable. Rules and regulations shall be  
16 promulgated as may be necessary to carry out the provisions of this Part.

17 §1752. Definitions

18 For the purposes of this Part, the following words and phrases shall be  
19 defined as follows:

20 (1) "Agency" as used in this Part and in Part V of Chapter 1 of this Title  
21 shall have the same meaning ascribed to it as provided in R.S. 36:3(1).

22 (2) "Competitive sealed bidding" means a method of procurement which  
23 strictly follows the requirements set forth in this Chapter except for such  
24 variations as are specifically established in this Part.

25 (3) "Local area network" means a limited distance data processing/  
26 communications network or system used to link computers and peripheral  
27 devices.

28 (4) "Multi-year contracts" are contracts for a term of more than one year,  
29 not to exceed ten years.

30 (5) "Procurement" means the selling, buying, purchasing, renting, leasing,

1 or otherwise obtaining telecommunications systems, telecommunications services,  
2 or their related software as well as all activities engaged in, resulting in, or  
3 expected to result in the selling, buying, purchasing, renting, leasing, or otherwise  
4 obtaining telecommunications systems, telecommunications services, or their  
5 related software by the state or its agencies.

6 (6) "Software" means computer programs and documentation essential to  
7 and necessary for a telecommunications system or telecommunications service to  
8 perform productive operations.

9 (7) "Telecommunications service contract" means a contract for the  
10 procurement of telecommunications services to include but not be limited to long  
11 distance, pay telephone, radio paging, and utility-type services such as local dial  
12 tone.

13 (8) "Telecommunications systems", which shall include  
14 telecommunications equipment and related services, and "telecommunications  
15 services" are limited to the equipment and services and means to provide:

16 (a) Telecommunications transmission facilities and services.

17 (b) Voice telecommunications systems and services.

18 (c) Local area network systems and services.

19 (d) Wide area network systems and services.

20 (e) Video systems and services, except those video systems and services  
21 specifically reserved to the Louisiana Educational Television Authority pursuant  
22 to R.S. 17:2501.

23 (f) Wireless systems and services to include but not be limited to cellular  
24 and personal communications systems.

25 (g) Radio systems, to include but not be limited to two-way radio systems;  
26 however, the operational abilities and priorities of two-way communications of  
27 the departments in the executive branch shall not be impeded.

28 (h) Intercom and electro-mechanical paging systems.

29 (i) Any and all systems and services based on emerging and future  
30 telecommunications technologies relating to Subparagraphs (a) through (h) of this

1 Paragraph.

2 (9) "Telecommunications systems contract" means a contract for the  
3 procurement of telecommunications systems including equipment and related  
4 services to include but not be limited to installation and maintenance.

5 (10) "Telecommunications systems lease contract" means a contract  
6 between a supplier of telecommunications systems and the division of  
7 administration, office of telecommunications management, or the procuring  
8 agency, through which telecommunications systems may be procured for a term  
9 which shall not exceed ten years. The contract may be either an operating lease,  
10 installment purchase, or a financed lease without a balloon payment.

11 (11) "Telecommunications transmission facility" means any transmission  
12 medium, switch, instrument, wiring system, or other facility which is used, in  
13 whole or in part, to provide any transmission.

14 (12) "Utility" means any telecommunications service provided by the  
15 office of telecommunications management and used in the essential operations of  
16 a state agency, such as local dial tone, wide area network, and local area network.

17 (13) "Wide area network" means a data processing/communications  
18 network or system generally utilizing common carrier facilities to link  
19 geographically dispersed local area networks to other local area networks or  
20 computer systems.

21 §1753. Types of contracts permitted

22 A. The types of contracts permitted in the procurement of  
23 telecommunications systems and telecommunications services are defined in this  
24 Part, and the provisions of this Part supplement the provisions of R.S. 39:1551  
25 through 1736.

26 B. The office of telecommunications management, through the state  
27 purchasing office, may, on behalf of any state agency, enter into  
28 telecommunications systems contracts in accordance with the following  
29 provisions:

30 (1) Contracts of this type shall be entered into through a request for

1 proposals as defined in this Part. An invitation to bid format may be utilized with  
2 written approval from the director of the office of telecommunications  
3 management.

4 (2) The term of such contracts shall not exceed five years.

5 C. The office of telecommunications management, through the state  
6 purchasing office, may on behalf of any state agency, enter into  
7 telecommunications services contracts in accordance with the following  
8 provisions:

9 (1) Contracts of this type shall be entered into through a request for  
10 proposals as defined in this Part. An invitation to bid format may be utilized with  
11 written approval from the director of the office of telecommunications  
12 management.

13 (2) The term of such contracts shall not exceed ten years.

14 D. The office of telecommunications management, through the state  
15 purchasing office, may on behalf of any state agency, enter into a  
16 telecommunications systems lease contract for an operating lease, installment  
17 purchase, or financed lease for telecommunications systems in accordance with  
18 the following provisions:

19 (1) All contracts of this type shall be entered into through a request for  
20 proposals as defined in this Part.

21 (2) The justification of such contracts must be approved by the office of  
22 telecommunications management prior to issuance of a request for proposals.  
23 Such justification shall identify and consider all cost factors relevant to that  
24 contract.

25 (3) The term of such contracts shall not exceed ten years, except financed  
26 contracts shall be for a term not to exceed the economic life of the system or ten  
27 years, whichever is less.

28 (4) Upon the advance written approval of the office of telecommunications  
29 management, state agencies may extend operating leases of telecommunications  
30 systems on a month-to-month basis for a period not to exceed one calendar year

1 for the stated lease prices.

2 E. Notwithstanding the provisions of R.S. 39:1615 to the contrary, the use  
3 of a multi-year contract for telecommunications systems and telecommunications  
4 services shall be in accordance with rules and regulations and under the following  
5 conditions:

6 (1) The director of the office of telecommunications management shall  
7 approve in writing the use of a multi-year contract over one year, not to exceed  
8 three years.

9 (2) The ~~director of the state purchasing office~~ **state chief procurement**  
10 **officer** shall approve in writing the use of a multi-year contract over three years,  
11 not to exceed five years.

12 (3) The commissioner of administration, or his designee, shall approve in  
13 writing the use of a multi-year contract over five years.

14 §1754. Methods of procurement

15 A. The office of telecommunications management, through the state  
16 purchasing office, may procure telecommunications systems and  
17 telecommunications services by a request for proposals to conform with the  
18 following requirements:

19 (1) Public notice of the request for proposals shall be the same as for an  
20 invitation to bid as provided in R.S. 39:1594(C).

21 (2)(a) The request for proposals shall indicate the relative importance of  
22 all evaluation factors and shall clearly define the work, service, or solution to be  
23 provided under the contract, the functional specifications, the criteria to be used  
24 in evaluating the proposals, and the time frames within which the work must be  
25 completed or the service provided.

26 (b) For telecommunications systems lease contracts, the request for  
27 proposals shall require that proposals contain a declaration as to the maximum  
28 price for which the system may be purchased following the termination of the  
29 lease contract. No other basis of evaluation shall be used except that set out in the  
30 request for proposals.

1                   (3) The office of telecommunications management shall evaluate all  
2 proposals to determine the proposal most advantageous to the state, taking into  
3 consideration all evaluation criteria set forth in the request for proposals, and shall  
4 make a recommendation of award to the state purchasing office.

5                   (4) The office of telecommunications management may request that the  
6 state purchasing office reject all proposals when it is deemed that such action is  
7 in the best interest of the state.

8                   B. The office of telecommunications management may procure  
9 telecommunications systems and telecommunications services in accordance with  
10 the law or regulations, or both, which govern the state purchasing office, the  
11 division of administration.

12 §1755. General provisions

13                   The following general provisions shall apply to all procurements under  
14 this Part:

15                   (1) No contracts entered into shall have an initial effective date earlier  
16 than the date on which such contract receives approval as required by this Part.

17                   (2) All changes, modifications, and amendments to any contract  
18 hereunder shall be approved in advance by the office of telecommunications  
19 management and the state purchasing office, in addition to any other approvals  
20 required by law.

21                   (3) Where written proposals or bids are submitted by vendors, the  
22 proposal or bid of the successful vendor shall be incorporated into the final  
23 contract consummated with that vendor.

24                   (4) All contracts must contain the following annual appropriation  
25 dependency clause: "The continuation of this contract is contingent upon the  
26 continuation of an appropriation of funds by the Legislature to fulfill the  
27 requirements of the contract. If the Legislature fails to appropriate sufficient  
28 monies to provide for the continuation of a contract or if such appropriation is  
29 reduced by the veto of the governor or by any means provided in the  
30 appropriations act to prevent the total appropriations for the year from exceeding

1 revenues for that year or for any other lawful purpose and the effect of such  
2 reduction is to provide insufficient monies for the continuation of the contract, the  
3 contract shall terminate on the last day of the fiscal year for which funds were  
4 appropriated."

5 (5) The provisions of this Part shall, with respect to the procurement of  
6 telecommunications systems or telecommunications services, supersede  
7 specifications of any contradictory or conflicting provisions of the following  
8 statutes: R.S. 38:2211 et seq. with respect to awarding of public contracts, and  
9 R.S. 39:1551 through 1736. ~~The provisions of this Part do not relate to the~~  
10 ~~procurement of services covered by R.S. 39:1481 through 1526.~~

11 Section 3. Chapter 16 of Subtitle III of Title 39 of the Louisiana Revised Statutes  
12 of 1950, comprised of R.S. 39:1481 through 1526, is hereby repealed.

13 Section 4. The Louisiana State Law Institute is hereby authorized and requested  
14 to review all statutes which contain the name of the office of contractual review and the  
15 office of state purchasing, changed in this Act, and in all locations it deems appropriate  
16 change said references to the office of state procurement.

17 Section 5. The Louisiana State Law Institute is hereby authorized and requested  
18 to review all statutes which refer to Chapter 16 of Subtitle III of Title 39 of the Louisiana  
19 Revised Statutes of 1950 or Chapter 16 of Title 39 of the Louisiana Revised Statutes of  
20 1950, changed in this Act, and in all locations it deems appropriate change said references  
21 to Chapter 17 of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950.

22 Section 6. Prior to January 1, 2015, the commissioner of administration shall take  
23 action necessary to implement this Act on January 1, 2015, including promulgation of  
24 necessary rules under the authority of the commissioner of administration or on behalf of  
25 the office of state procurement and the state chief procurement officer in accordance with  
26 the Administrative Procedure Act.

27 Section 7. (A) Sections 1 through 5 of this Act shall become effective on January  
28 1, 2015.

29 (B) Section 6 of this Act and this Section shall become effective upon signature  
30 of this Act by the governor or, if not signed by the governor, upon expiration of the time

1 for bills to become law without signature by the governor, as provided by Article III,  
2 Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and  
3 subsequently approved by the legislature, this Section and Section 6 of this Act shall  
4 become effective on the day following such approval.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_