

EXECUTIVE ORDER MJF 96-24

Submission of Public Funds Expenditures to the Office of Contractual Review

WHEREAS: Article VII, Section 14 of the Louisiana Constitution of 1974 (hereafter "Art. VII, §14") expresses the general prohibition that "the funds, credit, property or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private. Neither the state nor a political subdivision shall subscribe to or purchase the stock of a corporation or association or for any private enterprise.";

WHEREAS: Article VII, §14 also authorizes, for a public purpose, "Cooperative Endeavors" among the state and its political subdivisions or political corporations, and with the United States or its agencies, or any public or private association, corporation, or individual;

WHEREAS: R.S. 38:2193 mandates that, if the Attorney General is of the opinion that a contract of the state or any political subdivision violates Art. VII, §14, the Attorney General shall institute a civil proceeding to invalidate the contract if in his opinion such a proceeding is necessary for the assertion or protection of any right or interest of the state or political subdivision within the intendment of Art. VII, §14;

WHEREAS: since a cooperative endeavor agreement (hereafter "agreement") is a form of contract, it would be in the best interest of the state of Louisiana to have all such agreements reviewed by an arm of the state that is not a party to the agreement, prior to the agreement becoming effective, in order to limit the potential for litigation over the validity of the agreement;

WHEREAS: the best interest of the state of Louisiana is also served by monitoring the use of these agreements from both a legal and a budgetary perspective, and by providing a centralized record of these agreements; and

WHEREAS: the Division of Administration is charged with the responsibility for the state of Louisiana of overseeing the acquisition of supplies and services under contractual agreements and, therefore, has the expertise and necessary personnel to determine if these agreements are in violation of Art. VII, §14, or any procurement statutes or rules which regulate the manner in which the state and its agencies and political subdivisions must acquire supplies and services;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority

vested in me by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Each state entity within the Executive Branch shall submit all cooperative endeavor agreements which require the expenditure of public funds to the Division of Administration, Office of Contractual Review, for its review and approval.

SECTION 2: All agreements shall be submitted in accordance with the rules prescribed by the Office of Contractual Review. To the fullest extent possible, all agreements shall be submitted for review at least 45 days prior to the effective date of the agreement. The Office of Contractual Review shall review the agreement as expeditiously as possible and return it to the submitting state entity.

SECTION 3: All agreements shall be submitted with a "BA-22" or other appropriate budgetary form evidencing the availability of funds.

SECTION 4: All agreements must contain a provision which will condition its implementation on the availability of funds to fulfill the requirements of the agreement, and the approval of the Commissioner of the Division of Administration.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state or of any political subdivision thereof are authorized and directed to cooperate in implementing the provisions of this Order.

SECTION 6: The provisions of this Order shall be effective upon signature of the Governor and shall remain in effect until amended, modified, terminated or rescinded by the Governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State

of Louisiana, at the Capitol, in the City of Baton Rouge, on this 9th day of August, 1996.
M. J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
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