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Emergency Rules

DECLARATION OF EMERGENCY Commissioner of Agriculture

Notice is hereby given that implementation of the provisions of Part IV of Chapter 21 of Title 3 of the Louisiana Revised Statutes of 1950, which became effective on January 1, 1983, has created an economic emergency affecting persons in the pesticides industry, in that said Part requires certification prior to engaging in certain activities regulated under the Part and also prohibits certification of applicators and others in the absence of Rules and Regulations adopted by the Commissioner of Agriculture. Therefore, in order to assure that qualified individuals will be able to apply for and receive certification as private and commercial applicators of pesticides, agricultural consultants, and pesticides salespersons, the Commissioner of Agriculture has adopted the following Rules and Regulations for certification of such persons on an emergency basis:

1. All certifications of private and commercial applicators of pesticides, agricultural consultants, and pesticides salespersons issued under prior law are continued in effect until expiration of the time for which the prior certifications were issued.

2. The form of examinations for certification of private and commercial applicators, agricultural consultants, and pesticides salespersons shall be the same as that administered under prior law until changed by the Commissioner of Agriculture.

3. The minimum score necessary for successful completion of examinations for certification as private or commercial applicators of pesticides, agricultural consultants, and pesticides salespersons shall be 70 points.

4. Examinations for certification for private applicators of pesticides and for pesticides salespersons will be given upon request of the applicant at Baton Rouge at the office of Pesticides and Environmental Programs, 9181 Interline Boulevard; at any district office of the Department of Agriculture; or at the office of the County Agent in any parish of the state. There is no cost to the applicant for examination for certification as a private applicator of pesticides. The fee for examination for pesticides salespersons shall be \$5.

5. Examinations for certification for commercial applicators of pesticides will be given upon request of the applicant at Baton Rouge at the above location or in any district office of the Department of Agriculture. The cost to applicants for certification as commercial applicators of pesticides shall be \$5 when the examination is given in the Baton Rouge office and \$15 when the examination is given in a district office. The additional cost for examination in a district office is necessitated primarily by the cost of mailing examinations from Baton Rouge to the district office by certified mail. The examination fee is non-refundable.

6. Examinations for certification as agricultural consultants will be given to qualified applicants after approval of the Advisory Commission on Pesticides in the Baton Rouge office only. The cost to applicants for certification as agricultural consultants shall be \$5. The examination fee is non-refundable.

7. As required under R.S. 3:3251 (B), a fee of \$5 shall be charged for issuance of a certificate to all individuals who successfully complete the examination for certification as a commercial applicator of pesticides, an agricultural consultant, or a pesticides salesperson. No fee shall be required for issuance of a certificate to

a private applicator of pesticides or for a local, state, or federal government employee in any category of certification.

8. A list of the locations and telephone numbers of district offices of the Department of Agriculture may be secured by telephone request at 504/925-3763 or by written request to Harry Calhoun, Director, Pesticides and Environmental Programs, Department of Agriculture, Box 44153, Baton Rouge, LA 70804.

Bob Odom
Commissioner

DECLARATION OF EMERGENCY Department of Agriculture Agricultural Commodities Commission

In accordance with the emergency provisions of the Administrative Procedure Act (LSA 49:953 B), the Louisiana Agricultural Commodities Commission, established in the Department of Agriculture under Act 563 of 1982, adopted a minimum number of Emergency Rules necessary to implement the provisions of Act 563, which becomes effective on January 1, 1983, and continue the regulation of the warehouse and grain industry on an orderly basis. These Emergency Rules were necessitated by the termination of existing law and the establishment of new requirements under Act 563. These Emergency Rules were adopted at the organizational meeting of the Commission on December 14, 1982, at the State Capitol, Baton Rouge, Louisiana, and provide as follows:

Emergency Rules

1. Form of Warehouse Receipts

The Commission approved and adopted the current form of warehouse receipts now used by the State Warehouse Commission and provided that all warehouses having a supply of State Warehouse Commission warehouse receipt forms may continue to issue such receipt forms until their supply is exhausted.

2. Continuation of Current Assessments

A. The following assessments shall be collected by licensed grain dealers when commodities are purchased from producers and by licensed warehouses when commodities are removed from storage:

Rough rice	\$.005 per hundredweight
Sugar	\$.005 per hundredweight
Corn	\$.003 per bushel
Soybeans	\$.003 per bushel
Oats	\$.003 per bushel
Milo or sorghum	\$.003 per bushel
Wheat	\$.003 per bushel
Cotton	\$.10 per bale, 1st 5,000 bales \$.05 per bale, all over 5,000 bales
Canned/frozen fruits/ juices/vegetables	\$.015 per case/carton
Molasses/syrup	\$.05 per 100 gallons
Oil	\$.10 per 100 gallons
Pecans	
Shelled	\$.01 per 30 lb. carton
Unshelled	\$.20 per 130 lb.
Peppers	
Barrels	\$.24 per barrel
Cisterns	\$.20 per cistern

B. The assessments collected as provided above by licensed grain dealers and licensed warehouses shall be due to the Commissioner of Agriculture on a monthly basis, no later than the fifteenth day of each month.

C. Each licensed grain dealer and each licensed warehouse shall file a report of all assessments collected, on forms to be furnished by the Louisiana Department of Agriculture, at the same time as the assessments are due.

3. Procedures for initial licensing of warehouses during the period January 1, 1983, through June 30, 1983

A. Interim license to expire June 30, 1983

(1) Warehouse licenses issued under prior law which expire during the period January 1, 1983, through June 30, 1983, may be renewed for a period from the expiration date of the old license through June 30, 1983, without full compliance with all requirements set forth in Rule 6.0 of the Commission's proposed Rules and Regulations.

(2) No license issued during the stated interim for which the applicant has failed to provide all information required under proposed Rule 6.0 will be valid after June 30, 1983.

(3) No license shall be issued for the period expiring June 30, 1983, unless the applicant has posted bond with the Commission in the amounts required under Act 563 of 1982 and secured provisional stock insurance in the amounts required under Act 563 of 1982.

(4) The interim license shall state on its face that the license will expire as of June 30, 1983.

(5) The fee for issuance of an interim license shall be the same as the fee for issuance of an annual license, or \$100.

B. Initial license for a period of more than one year

(1) Warehouse licenses issued under prior law which expire during the period January 1, 1983, through June 30, 1983, may be renewed from date of expiration of the existing license through June 30, 1984, by compliance with all requirements of Rule 6.0 of the Commission's proposed Rules and Regulations at least 30 days prior to the expiration of the existing license.

(2) The bond and provisional stock insurance of a warehouse desiring an initial license of more than one year, expiring on June 30, 1984, must be written for the entire period covered by the license.

(3) The fee for an initial license issued under this Emergency Rule shall be the same as the fee for an annual license, or \$100.

The Commission will call a public hearing to consider permanent adoption of these and other Rules and Regulations at its meeting in January, 1983.

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Department of Agriculture Market Commission

In accordance with the emergency provisions of the Administrative Procedure Act (LSA 49:953 B), notice is hereby given that the Department of Agriculture, State Market Commission, has taken emergency action to amend Rule 6.3 of the Commission's Regulations Governing the Certification of Official State Grades of Poultry, Poultry Products, and Shell Eggs to bring the hourly inspection fee charged to vendors under this program into conformance with the Federal inspection fee.

The Poultry Inspection Program of the State Department of Agriculture, State Market Commission, is administered under a

Cooperative Agreement with the Poultry Division, Agricultural Marketing Service, U. S. Department of Agriculture. The Federal inspection fee was increased to \$20.76 per hour, effective November 1, 1982. Therefore, it is necessary to amend the Commission's Rule 6.3 as follows, on an emergency basis, so that there will be no conflict between fees charged by the different administering agencies for the same service:

6.3 The costs of all examination and certification services shall be paid by the vendor at the rate of \$20.76 per hour (\$5.19 per quarter hour) required to conduct the examination, provided that no specific charge shall be made for certification of product when inspection is simultaneously performed.

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education, at its meeting of December 16, 1982, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953 B, and adopted the following as Emergency Rules:

1. Amendments to Act 754 Regulations, Sections 513-517 relative to the state-level review process.

2. Amendment to Act 754 Regulations, subsections 130A and 130B relative to membership of the State Special Education Advisory Council.

REVIEW PROCESS

§513. Review of Hearing Decisions

A. Any party to a hearing may appeal within 15 operational days after receipt of the hearing decision by requesting a formal review of the decision by the Review Panel.

B. A written request for review must be sent by the party seeking review by certified mail to the Office. A copy of the request must also be sent to all parties and the hearing officer.

C. The written request must state the basis upon which the review is requested.

D. The Review Panel may on its own authority initiate a review of any hearing decision. In such instance, it must provide full and effective notice to the parent(s), the affected school system, and the hearing officer.

§514. Appointment of Review Panel

A. The State Board shall appoint a panel of persons to serve as officers to evaluate and judge appeals of hearing decisions. The Review Panel will include three persons and one alternate who are all presently serving as IHO's. All panel members will be knowledgeable about the educational and legal issues involved. Appointments will be for a period of one year and may be renewed.

B. Upon receiving a formal written request for a review, the Office shall within 10 operational days notify the Review Panel to evaluate the hearing decision, the hearing record, and other appropriate information.

C. A decision by two review officers on the panel reviewing a particular appeal will be controlling as to the panel's ruling on that appeal.

D. No person may serve on the panel reviewing an appeal if the person has a personal or professional interest that would conflict with his objectivity. A review officer shall not serve on the panel reviewing an appeal that involves a local school system by which the officer is employed.

§515. Conduct of Review

A. The review and written findings and decision shall be completed within 30 operational days from the date a review panel receives hearing record and decision.

B. In conducting the review, the panel shall:

1. Examine the entire hearing record to:

a. Insure that procedures were consistent with the requirements of due process.

b. Determine if there are facts to support the hearing decision.

c. Insure that the decision made by the hearing officer was within the authority of the hearing officer.

2. Seek any additional evidence necessary.

3. Afford the opportunity for oral and/or written argument by the parties at the discretion of the reviewing panel. Any written argument(s) shall be submitted to all parties.

C. All parties have the right to continue to be represented by counsel at the state administrative review level, whether or not the reviewing panel determines that a further hearing is necessary.

§516. Review Decision

A. Based upon the conduct of the review, the review panel may decide to:

1. Affirm the hearing decision.

2. Overrule the hearing decision and enter a new decision.

3. Order the initiation of a new hearing.

B. Within 30 operational days from receipt of the hearing record, the review panel will issue a formal written review decision which either affirms the decision, overrules the hearing decision and substitutes a decision approved by the review panel, or orders the initiation of a new hearing.

C. The Office shall distribute a copy of written findings and decision to the parties and to the State Board.

§517. Appeal

The decision made by the review panel shall be final unless a party brings a civil action within 30 operational days of the decision.

This emergency adoption is necessary due to a recent court decision which suggested that it would be a possible conflict of interest for the State Board of Elementary and Secondary Education to serve as the state-level review panel for due process hearings; therefore the Board relinquished its responsibility for conducting state-level appeals in due process cases and appointed an independent body to conduct such reviews.

SECTION 130A

The State Board of Elementary and Secondary Education and the Department shall appoint a state advisory council for the education of exceptional children. The membership shall consist of 11 persons and the procedures for appointing this council shall follow existing State Board procedures.

SECTION 130B

Membership of the state advisory council for the education of exceptional children shall at all times, include at least one person representing each of the following groups:

1. Handicapped individuals
2. Teachers of handicapped children
3. Teachers of regular children
4. Parents of exceptional children
5. State education officials
6. Local education officials
7. Special education program administrators
8. Representative of recipients of special education related services and their families
9. Representative of advocacy agencies for the handicapped
10. Colleges and universities

11. Vocational technical schools

This emergency adoption is necessary in order that the State special education advisory council may meet in time to review the FY 84-86 Special Education Program Plan.

James V. Soileau
Executive Director

Rules

RULE

Commissioner of Agriculture and Dairy Stabilization Board

The Commissioner of Agriculture, upon the recommendation of the Dairy Stabilization Board and pursuant to the authority contained in LSA 40:931.8 (B) and LSA 36:901 (B) and Notice of Intent published on October 20, 1982, has adopted the following Rules and Regulations for the administration of LRS 40:931.1 -40:931.19:

RULES AND REGULATIONS

1.0 Definitions

1.1 Wherever in the Act or these Rules and Regulations the masculine is used, it includes the feminine; wherever the singular is used, it includes the plural; and *vice versa*.

1.2 "Act" means LRS 40:931.1 -40:931.19, the Dairy Stabilization Act.

1.3 "Agent" means an employee of the Commissioner or any person authorized to act on behalf of the Commissioner.

1.4 "Board" means the Dairy Stabilization Board created in LRS 40:931.6.

1.5 "Bulk milk" means milk which has not yet been placed in the container in which the product will be offered for sale to consumers, retailers, or institutions.

1.6 "Cartage" means the transportation of dairy products within a limited geographical area, such as delivery of dairy products from the processor to the retailer or distributor.

1.7 "Commissioner" means the Commissioner of Agriculture.

1.8 "Cost" means:

A) "Cost to the retailer" means the invoice cost, or the replacement cost, of the merchandise to the retailer, whichever is lower;

(1) Less all trade discounts except customary discounts for cash;

(2) Plus, in the following order:

a) Freight charges not otherwise included in the invoice cost or the replacement cost of the merchandise;

b) Cartage to the retail outlet if done or paid by the retailer, which cartage cost, in the absence of proof of a lesser cost, shall be three-fourths of one per cent of the cost to the retailer after adding freight charges but before adding cartage and markup; and,

c) A markup to cover a proportionate part of the cost of doing business, which markup, in the absence of proof of a lesser cost, shall be six percent of the cost to the retailer after adding freight charges and cartage.

B) "Cost to the distributor" means the invoice cost, or the replacement cost, of the merchandise to the distributor, whichever is lower;

(1) Less all trade discounts except customary discounts for cash and discounts from the state or any governmental agency allowed for the collection of any taxes;

(2) Plus, in the following order:

a) Freight charges not otherwise included in the invoice cost or the replacement cost of the merchandise;

b) Cartage cost which shall be three-fourths of one percent of the cost to the distributor after adding freight charges but before adding cartage and markup; and

c) A markup to cover a proportionate part of the cost of doing business which markup, in the absence of proof of a lesser cost, shall be two per cent of the cost to the distributor after adding freight charges and cartage.

(3) "Cost to the processor" means the cost of raw product, ingredients and/or additives; labor costs (including salaries of executives and officers); costs of receiving, cooling, processing, packaging, and manufacturing; rent; interest; depreciation; power and supplies; selling and delivery costs; storing; maintenance of plant and equipment; advertising; transportation; all types of licenses, taxes and fees; insurance; any and all overhead expenses; and all other costs of doing business. Cost shall be allocated proportionately to each unit of product sold.

C) In determining "cost to the retailer" in those cases where the retailer buys at wholesale and receives the wholesalers' profits and discounts on merchandise to be sold at retail, both the wholesale markup of two per cent and the retail markup of six percent, in the absence of proof of a lesser cost, shall be added to cover a proportionate part of the cost of doing business.

D) When one or more items are advertised, offered for sale, or sold with one or more other items at a combined price, or are advertised, offered as a gift, or given with the sale of one or more items, each and all of the items shall be considered as advertised, offered for sale, or sold, and the price of each item shall be governed by the provisions of Sub-sections A, B, and C of this Section.

E) "Cost to the retailer" and "cost to the distributor" as defined by Sub-sections A, B, and C of this Section means bona fide costs. Purchases made by retailers and wholesalers at prices which cannot be justified by prevailing market conditions within this state shall not be used in determining "cost to the retailer" and "cost to the distributor."

1.9 "Dairy products" means:

A) "Fluid milk related product(s)" means homogenized milk, creamline milk, low fat milk, fortified low fat milk, buttermilk, flavored milk, chocolate milk, low fat chocolate milk, half and half, breakfast cream, whipping cream, egg nog, sour cream, cottage cheese (dry or creamed), Creole creamed cheese, yogurt, U.H.T. milk, reene, and lo-reene.

B) "Frozen dessert(s)" means ice cream, fruit ice cream, nut ice cream, frozen yogurt, ice milk, malt ice milk, malt ice cream, French ice cream, milk sherberts, mellorine, olarine, sherine, and the mix from which any such product is made.

1.10 "Department" means the Department of Agriculture.

1.11 "Discount" means any reduction in the face amount of the invoice price for dairy products.

1.12 "Disruptive trade practices" means any of the acts more fully defined in Rule 5.0 hereof.

1.13 "Distributor" means a person, other than a processor, who sells dairy products to one or more retail establishments or home delivery routes. The term "distributor" includes wholesale grocers, cooperative grocery associations, and any per-

son engaged in marketing dairy products at wholesale (the sale of goods in bulk or quantity as opposed to retail or direct sales to consumers).

1.14 "Institution" means a school, hospital, state agency, religious organization, charitable organization, or nursing home.

1.15 "Licensee" means any person licensed under the Act or these Rules and Regulations.

1.16 "Markup" means an amount added to the invoice or replacement cost of dairy products to establish a reasonable sales price.

1.17 "Milk" means the lacteal secretion of one or more cows (including such secretions when raw, cooled, pasteurized, standardized, homogenized, recombined, or concentrated) which meets applicable requirements of the state health officer.

1.18 "Milk case(s)" means the wood, metal, or plastic container essential for transporting and/or delivering cartons, bottles, jugs, or other packages of dairy products.

1.19 "Person" means any individual, partnership, corporation, cooperative association, governmental agency, or other business entity engaged in any of the activities regulated under the Act.

1.20 "Processor" means a person who processes one or more dairy products or a person who purchases bulk milk for resale to a person who processes dairy products. The term does not include a person who purchases ice cream mix or ice milk mix whose processing activities are limited to converting such mix into a dairy product which will be sold on the premises where such processing occurs.

1.21 "Quorum", with respect to the Board, means four members of the Board. (See LRS 40:931.7).

1.22 "Retailer" means any person who is engaged in transferring title to dairy products to consumers at a fixed business location within the state.

1.23 "Supplier" means processors and distributors, including wholesale grocers and cooperative grocery associations.

1.24 "Volume discount" means a rate of reduction applicable to an invoice for dairy products, which rate is established on the basis of total purchases of dairy products from all suppliers of such products.

1.25 "Volume discount year" means the twelve months commencing on the 1st day of April and ending on the last day of March in the year which immediately follows.

1.26 "Wholesaler" means any licensee engaged in the business of making sales at wholesale (the sale of dairy products in bulk or quantity as opposed to retail or direct sales to consumers) within this state, or if any person is engaged in the business of making sales at both wholesale and at retail, "wholesaler" shall apply only to the wholesale portion of the business.

2.0 Administration of the affairs of the Board

2.1 The Board shall annually elect a chairman, vice-chairman, and secretary at a regular meeting during the month of August.

2.2 The chairman shall preside at all meetings, provided that in the absence of the chairman, the vice-chairman shall preside.

2.3 The Board shall meet upon the call of the chairman or the Commissioner.

2.4 The Board shall conduct at least one meeting during each quarter but may meet more frequently upon call.

2.5 The Board may, from time to time, delegate some of its responsibilities to subcommittees of the Board, provided that such delegation of authority may be granted only at a meeting where a quorum is present.

2.6 Members of the Board shall be entitled to reimbursement in accordance with regulations governing state employees for expenses incurred in attending meetings of the Board or its

subcommittees, provided that no member shall be entitled to reimbursement except for the performances of duties specifically assigned by the Commissioner.

2.7 Meetings of the Board shall normally be held in the domicile of the Board but may be held at other locations from time to time.

2.8 Proxies shall not be permitted.

2.9 The Commissioner shall provide clerical and other support services as may be required by the Board.

2.10 No final action shall be taken by the Board except at a meeting where a quorum is in attendance.

3.0 Licenses required

3.1 Each retailer, distributor, and processor of dairy products must be licensed by the Commissioner prior to conducting a business of buying and/or selling dairy products.

3.2 Each retailer license issued under the Act will remain in effect unless cancelled by the Commissioner.

3.3 A separate license must be secured for each business location.

3.4 Prior to licensure, each applicant for a license must:

a) Complete the application form required by the Commissioner

b) Demonstrate compliance with all pertinent requirements of the Department of Health and Human Resources

3.5 Each license is personal to the holder thereof and may not be transferred to another for any purpose nor for any period of time.

3.6 The Commissioner shall cancel any existing license whenever any of the following occurs:

a) ownership of the licensed business changes

b) ownership of 25 percent or more of the stock of a licensed business changes

c) the location of a licensed business changes

d) the name or trade name of a licensed business changes

e) the licensee ceases to operate a business of buying and/or selling dairy products for more than 60 days

3.7 A license cancelled by the Commissioner for any of the reasons listed in Rule 3.6 may be re-issued by the Commissioner upon compliance with the requirements of Rule 3.4 above.

3.8 A license suspended/revoked by the Commissioner in accordance with Rule 8.0 hereof may not be re-issued until the act causing the suspension/revocation has been corrected to the satisfaction of the Commissioner.

3.9 Each license shall be prominently displayed in an area accessible to the general public, in the case of retailers, or to the usual customers of the establishment, in the case of distributors and processors.

3.10 In order to maintain the records of the Commissioner in a current status, each license shall be re-issued biennially to all existing licensees whose status has not changed since initial issuance of the license. Each license shall be prominently marked to show the period covered by the license.

4.0 Assessments

4.1 Pursuant to LRS 40:931.13(B) and (D), an assessment of \$.03 per hundredweight is hereby levied upon the first sale of dairy products within the State of Louisiana by the processor, distributor, or retailer licensee who sells such product. The assessment shall be due and payable on all sales of dairy products during the previous month.

4.2 Only one assessment shall be levied on any given lot of dairy products. For example, when a processor makes the first sale of a given lot of dairy products and pays the assessment due thereon, no assessment shall be due from the distributor of that lot of dairy products. However, when a distributor makes the first sale within this state of a given lot of dairy products, the distributor shall be liable for payment of the required assessment on such lot.

4.3 The assessment on frozen desserts shall be determined by converting the frozen desserts to milk equivalents by the following procedure:

Multiply total non-fat milk solids \times 5.79 and add total pounds fat \times 12.5.

4.4 Assessments must be paid on or before the last day of the month following the month in which the sales occur. (For example, a report filed on December 31st should include all sales made during the month of November.) Assessments must be remitted to the Commissioner together with the reporting form required by the Commissioner. Each processor or distributor or retailer required under Rule 4.1 to pay the assessment must file the required report and pay the assessment on the due date.

4.5 The assessment becomes delinquent, if unpaid, on the twentieth day following the due date for the assessment report.

4.6 Licensees whose assessments amount to \$25 or less each year may pay the total assessment for the twelve months of the year on an annual basis, provided that such licensees must file the required assessment report on a monthly basis.

5.0 Disruptive trade practices defined; prohibited practices; retail accounts; volume discounts and delinquent accounts; exceptions

5.1 Disruptive trade practices are any act or acts by any person in commerce where the effect of such act or acts may be substantially to lessen competition or to create a monopoly in the sale of dairy products; or to injure, reduce, prevent, or destroy competition in the sale of dairy products.

5.2 The following acts are specifically defined as disruptive trade practices:

A) It shall be prohibited for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the State of Louisiana and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them; Provided, that nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered. Provided, that nothing herein contained shall prevent price changes from time to time where in response to changed conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

B) No licensee engaged in the production, manufacture, or distribution of milk and/or milk products shall intentionally, for the purpose of injuring or destroying the business of a competitor in any locality, discriminate between different sections, communities, cities, or localities in the state by selling such commodity at a lower rate in one section, community, city, or locality, than is charged for the commodity by such person in another section, community, city, or locality, after making due allowance for the difference, if any, in the grade or quality of the commodity and in the actual cost of transportation of the commodity from the point of production, if a raw product, or from the point of manufacture, if a manufactured product. All sales so made shall be prima facie evidence of unfair discrimination.

C) It shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance of discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to the agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf of, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

D) It shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionately equal terms to all other customers competing in the distribution of such products or commodities.

E) It shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of any services or facilities connected with the processing, handling, sale or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

F) It shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this Section.

G) It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, allowance, or advertising service charge is granted to the purchaser over and above any discount, rebate, allowance, or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of Louisiana at prices lower than those exacted by said person elsewhere in Louisiana for the purpose of destroying competition, or eliminating a competitor in such part of Louisiana or to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

H) Any advertising, offer to sell, or sale of any dairy products either by retailer or wholesaler, at less than cost as defined herein plus any state, parish, or municipal sales tax that is then payable under any existing law or ordinance, with the intent or effect of inducing the purchase of other merchandise or of unfairly diverting trade from a competitor or impairing fair competition and thus injuring public welfare, is unfair competition and contrary to and violative of public policy as expressed in Louisiana law, where the result of such advertising, offer or sale is to tend to deceive any purchaser or prospective purchaser, or to substantially lessen competition, or to unreasonably restrain trade, or to tend to create monopoly in any line of commerce.

5.3 Burden of Proof

A) Upon proof being made at any adjudicatory hearing that a licensee has advertised, offered to sell, or sold dairy products at less than cost as defined herein plus applicable taxes, the **licensee** shall be presumed in violation hereof and shall have the burden of proving such advertisement, offer or sale was not for a proscribed purpose, did not have a proscribed effect or was otherwise lawful.

B) Upon proof being made at any hearing on a complaint that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made shall be upon the licensee charged with a violation of this Section, provided, however, that nothing herein contained shall prevent a licensee rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

5.4 Nothing in this Rule shall prevent a cooperative association from returning to its members, producers, or consumers the whole or any part of the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association.

5.5 The prohibitions contained in 5.2 above do not apply to the following:

A) Price changes which are necessary from time to time in response to changing conditions affecting the marketability of dairy products, such as, but not limited to, actual or imminent deterioration, seasonal obsolescence, distress sales under court process, sales in good faith in discontinuance of a business in the dairy product being sold with a changed price, or final liquidation sales;

B) Reduction in price to meet a competitor's price, when such reduction is made in good faith solely to meet the competitor's price; provided that such reduction in price must be reported in writing to the Commissioner prior to such reduction, or, if prior notification is not possible, within 72 hours thereafter;

C) The donation of dairy products to nonprofit charitable groups, organizations, institutions such as schools, hospitals, state agencies, religious or charitable organizations, nursing homes, or other similar organizations.

5.6 Retail accounts; Volume discounts and delinquent accounts

A) Any discount in excess of the schedules hereinbelow provided are disruptive trade practices, unfair methods of competition and unfair or deceptive acts or practices and are hereby prohibited with respect to the sale of milk and milk products.

B) Any licensed retailer desiring to receive a volume discount from his suppliers must first be approved by the Commissioner to receive a volume discount. To be approved by the Commissioner, the retailer must complete a Volume Discount Eligibility application, on forms provided by the Commissioner. The application must include all fluid milk purchases during the standard 3-month base period and/or all frozen dessert purchases during the standard 12-month base period. The application is subject to verification by the Commissioner.

C) Processors/distributors may grant volume discounts to a licensed retailer upon receipt of notification from the Commissioner of the retailer's eligibility to receive a volume discount.

D) The Commissioner will annually, on or before April 1st, publish a list of all retailers eligible to receive volume discounts, including the retailer's name and address, the rate(s) of discount authorized for each such retailer, and the effective date of such volume discount. The Commissioner shall promptly notify all processors/distributors of any retailer approved for volume discounts subsequent to publication of the annual listing.

E) The authorized rate(s) of volume discount will be established on the basis of a retailer's total purchases of fluid milk and/or frozen dessert products from all suppliers during the appropriate base period.

F) The standard base period for calculation of the authorized rate of volume discount for fluid milk will be the months of August, September, and October of each year. The standard base period for calculation of the authorized rate of volume discount for

frozen dessert products will be the months of November 1 through October 31 immediately preceding the retailer's application.

G) A retailer that has not been in operation during the entire standard base period may, with the approval of the Commissioner, use, for fluid milk, his first full three calendar month's purchases and, for frozen desserts, his first full twelve calendar month's purchases.

H) The authorized rate of volume discount on fluid milk purchases will be established by totaling the value of all fluid milk purchases from all suppliers during the approved base period and dividing by 3.

I) The authorized rate of volume discount on frozen dessert products will be established by totaling the value of all frozen dessert products purchased from all suppliers during the approved base period.

J) The authorized rate of volume discount for each retailer shall become effective on April 1 of the year following the application and shall remain in effect until the following March 31, except as provided in Rule 5.6(L). Volume discount rates for a new retailer shall become effective as of his first day of business and remain in effect until he has operated for a full volume discount year.

K) The authorized rates of volume discount on fluid milk purchases shall be as follows:

Average Monthly Purchases From All Suppliers	Volume Discount Rate
\$1,000.00 to \$1,500.00	3%
\$1,500.01 to \$2,500.00	4%
\$2,500.01 to \$3,500.00	5%
\$3,500.01 to \$4,500.00	6%
\$4,500.01 and over	7%

L) The authorized rates of volume discount on frozen dessert products shall be as follows:

Total Annual Purchases From All Suppliers	Volume Discount Rate
\$ 4,000.00 to \$ 6,000.00	3%
\$ 6,000.01 to \$ 8,000.00	4%
\$ 8,000.01 to \$11,000.00	5%
\$11,000.01 to \$15,000.00	6%
\$15,000.01 and over	7%

M) All applications for volume discount must be submitted within one month after the close of the appropriate base period. One month's volume discount shall be forfeited for each month the application is late.

N) In a retail ownership transfer, the buyer may receive the volume discount rate approved for the previous owner by indicating his choice to do so on his application for license. Alternatively, the buyer may choose to establish his own volume rate in accordance with Rule 5.6(F) hereof.

O) Accounts shall become delinquent 30 days from the end of the month in which the purchases were made, unless a good faith dispute exists between the parties concerning the amount of such account in which case the account becomes delinquent 30 days following resolution of such good faith dispute.

P) Retailers who are delinquent in payment of their account with any processor/distributor are not eligible to receive a volume discount from any supplier on any purchases of dairy products made during the period when the account was delinquent.

Q) Each processor/distributor must report to the Commissioner no later than the 10th of each month the name and address of each account which was delinquent.

R) No processor/distributor may extend credit to a retailer who is more than 60 days delinquent in payment of his account.

5.7 The following trade practices are hereby declared not to be disruptive trade practices:

A) No person shall be deemed to be in violation of the Act or of these regulations on account of giving to any other person advertising novelties unless the nature and value of the advertising novelty is such as to justify the belief that the giver intended to use such gift to induce a retailer to divert business from a competitor to the giver.

B) Nothing contained in either the Act or these regulations is to be interpreted as prohibiting the normal social activities of any person or the entertainment by any processor or distributor (or any processor's or distributor's officers and employees) of any customer unless the expenditure involved in such entertainment is excessive or unreasonable.

C) Processors and distributors may give samples of dairy products to consumers if the following requirements are observed:

1) In the case of fluid milk products, the quantity must be limited to three fluid ounces.

2) In the case of frozen desserts, the quantity must be limited to one fluid ounce.

3) The retailer on whose premises such sampling activity takes place must have been in operation at that location for at least 60 days prior to the date on which such activity takes place.

4) Prior to engaging in sampling activities on the premises of a retailer, the processor or distributor shall notify the Commissioner of the planned sampling activity. If such notification is by mail, it shall be given at least ten days prior to the date of the planned sampling activity; and if such notification is by telephone, it shall be given at least three days prior to such activity.

5) Notwithstanding the above provisions, processors may give homogenized milk, low fat milk, skim milk, or chocolate milk in half-pint containers or a frozen dessert sample weighing no more than three fluid ounces to persons participating in plant tours, if such products are consumed on the premises where given.

6) The giving of such samples by a processor or distributor shall not extend over a period of more than two consecutive days for each retailer and shall not occur more frequently than once per calendar quarter; provided that the giving of such samples during the month of December shall not be considered in determining whether there has been compliance with the provisions of this Subsection limiting frequency of demonstrations to one per calendar quarter.

6.0 Obligations of licensees

6.1 Each licensee must maintain all financial records pertaining to transactions subject to the Act in accordance with standards generally prevailing in the industry for a period of two years.

6.2 In order to enforce the provisions of the Act and these regulations, the Commissioner may from time to time audit the books and records of licensees, and each licensee is to permit access to his financial records, during normal business hours, for such audit.

6.3 Each licensee which is required to pay an assessment must submit a monthly report of sales, together with the assessments due, to the Commissioner no later than the last day of the month following the date of purchase. (See Rule 4.0)

6.4 No licensee may use, ship, lend, borrow, give away, throw away, donate, or dispose in any way of milk cases which belong to another licensee.

6.5 Each processor and/or distributor is responsible for assuring that retailers purchasing dairy products from him are properly licensed by the Commissioner.

6.6 Each licensee shall submit such additional reports concerning the sale of dairy products as may from time to time be required by the Commission.

7.0 Violations

7.1 No person shall knowingly violate any of the provisions of the Act or these Rules and Regulations.

7.2 The following acts, but not by way of limitation, are specifically defined as violations of the Act and/or these Rules and Regulations:

A) Sales of dairy products by a retailer, distributor, or processor who is not licensed by the Commissioner.

B) Transfer of a license issued by the Commissioner to another for any purpose.

C) Failure to display a current license in a prominent place at each business location.

D) Failure to submit, on a timely basis, the monthly report of sales of dairy products required under Rule 4.0.

E) Failure to pay, on a timely basis, the monthly assessment on sales of dairy products required by LRS 40:931.13 and Rule 4.0 of these regulations.

F) Any sale to or purchase from a licensee whose license has been suspended/revoked.

G) Granting a volume discount to any retailer without notification from the Commissioner of the retailer's eligibility for such discount.

H) Granting a volume discount at a rate different from the rate authorized by the Commissioner.

I) Extension of credit to any licensee whose account is delinquent for more than 60 days.

J) Filing of any fraudulent information of any kind with the Commissioner.

K) Any disruptive trade practice enumerated in Rule 5.0 of these Rules and Regulations.

L) Failure or refusal to permit an examination of financial records when the request of the Commissioner to audit is made for valid purposes.

M) Failure or refusal to provide any report or audit report required by the Commissioner.

N) Any misuse of milk cases belonging to another, as more fully enumerated in Rule 7.4 hereof.

O) Any retailer's use of equipment furnished by a frozen dessert processor or distributor for the storage or display of frozen desserts other than those sold to such retailer by such frozen dessert processor or distributor. The storage or display of products other than frozen desserts received from such processor or distributor, in such storage or display cabinet by a retailer shall constitute prima facie evidence of a violation of this regulation.

P) The advertisement of lowfat milk (milk with a milk fat content of not less than 0.5 percent nor more than 2.0 percent) in any form of mass media without clearly stating the percentage of milk fat contained in said product.

7.3 No processor or distributor shall furnish, give, lend, sell, or rent, and no retailer shall accept, receive, buy, or rent any signs and/or display materials except those advertising only the supplier's own products. Such signs and display materials shall not contain the name or product of any retailer.

7.4 No licensee may use, ship, lend, borrow, or possess in any way, give away, throw away, donate or dispose in any manner of milk cases belonging to any licensed processor or distributor.

7.5 No processor or distributor may provide a fluid milk dispenser to any retailer, except under the following conditions

A) The processor or distributor has been engaged in selling dispenser milk to the retailer for at least 60 days prior to the date on which the dispenser is furnished.

B) The period during which the dispenser is furnished must not exceed 30 days.

C) The processor or distributor must report to the Commissioner within ten days after the date on which the dispenser is furnished to the retailer the make and serial number of the dispenser,

the name and address of the retailer, and the date on which the dispenser was installed.

8.0 Suspension/revocation of license; hearing under Administrative Procedure Act required; penalties; amount

8.1 The Commissioner may suspend or revoke the license of any licensee found to have violated any provisions of the Act or these Rules and Regulations.

8.2 No license shall be suspended or revoked unless the accused licensee is given an opportunity for a public hearing noticed and conducted as required by the Administrative Procedure Act (LRS 49:951, et seq.).

8.3 The Commissioner may, in lieu of suspension or revocation of the license, impose a penalty as a result of any violation of the Act or these Rules and Regulations which is sustained at such hearing. No penalty may be imposed until such time as an adjudicatory hearing under the Administrative Procedure Act is held.

8.4 The maximum penalty which may be imposed by the Commissioner shall not exceed \$500.00 per violation.

8.5 Each day on which a violation occurs shall be considered a separate offense.

9.0 Confidentiality

9.1 Neither the Board, the Commissioner, nor any agent nor representative of either shall disclose any financial or business information of any licensee which is acquired or collected in the enforcement of the Act of these Rules and Regulations, except as provided by LRS 40:931.11.

10.0 Delegation of authority and duties

10.1 The Commissioner may, from time to time, in accordance with the authority granted to him under R.S. 36.901B, delegate to the Board any of the authority and/or duties herein received to the Commissioner.

Bob Odom
Commissioner

RULES

Board of Elementary and Secondary Education

Rule 3.01.70.u(1)a

The Board adopted an amendment to Bulletin 746, page 78, relative to certification requirements for school nurses to specify that the requirements for a Type A certificate shall include: "... a baccalaureate degree in nursing or a health related field from a regionally accredited college or university..."

Rule 4.03.03

The Board adopted as policy, the placement of classified employees of vocational technical schools under the Board's grievance procedure.

Rule 3.01.70.v(29)a

The Board adopted the following policy: "Persons who as of September 1, 1982 had completed all course requirements in effect prior to that date for certification in supervision and administration or as school superintendent, but who had not met the experience requirements, shall be permitted to be certified in these areas when the experience requirements in effect prior to September 1, 1982 have been met, and in the interim such persons shall not be cited for non-compliance with the revised requirements which became effective September 1, 1982."

James V. Soileau
Executive Director

RULE
Office of the Governor
Division of Administration
Office of Data Processing

Notice is hereby given that the Office of Data Processing, under the authority granted by R.S. 39:1901 through 39:1903 and Act 855 of the 1982 Regular Session of the Legislature, and in

accordance with applicable provisions of the Administrative Procedure Act, adopts a new Rule.

The following Rule is adopted.

**LAC 1-9:15 GUIDELINES FOR PROCURING
FISCAL INTERMEDIARY SERVICES**

I. INTRODUCTION

This document provides guidelines and procedures related to the procurement of contracts for fiscal intermediary services in processing claims of health care providers. Guidelines contained herein are based on Act 855 of the 1982 Regular Session.

II. CALENDAR OF MAJOR MILESTONES

DATE	MILESTONE
Start - 13 Months	Justification for contract submitted to ODP
Start - 12 Months	Issuance of Solicitations for Proposals
Start - 8 Months	Award of Contract
Start	Contract Effective Date

III. PROCUREMENT SUPPORT TEAM INVOLVEMENT

Act 855 stipulates that each procurement will involve a Procurement Support Team (PST). General information regarding a PST is given in LAC 1-9:8 (see Attachment A).

IV. STEP-BY-STEP PROCEDURES

STEP	RESPONSIBILITY	PROCEDURE
1	User Agency	<ul style="list-style-type: none"> a. Develops justification for procuring contract, to include identification and consideration of all factors, including costs, relevant to the Solicitation for Proposals and the final contract. b. Develops functional requirements and draft of Solicitation for Proposals including description of method by which the contract shall be awarded as well as the criteria to be used and the weights assigned to each criteria. c. Sends request, including justification and Solicitation for Proposals, to the Office of Data Processing at least 13 months prior to the termination date of an existing contract.
2	ODP	Receives and logs user request, and forwards to ODP Procurement Coordinator
3	ODP Procurement Coordinator	<ul style="list-style-type: none"> a. Reviews justification and functional requirements b. Verifies funding c. Makes recommendation d. Forwards request to Director of Office of Data Processing
4	Director of ODP	<ul style="list-style-type: none"> a. Reviews justification and functional requirements b. Notifies user agency via letter of initial approval or reason for disapproval
5	User Agency	Requests and presents justification for issuing a Solicitation for Proposal in a public hearing before the House and Senate Committees on Health and Welfare or a Joint Subcommittee thereof
6	Legislative Committee(s)	Holds public hearings and makes recommendations regarding the request to issue a Solicitation for Proposals
7	PST/User Agency	Evaluates Legislative Committee(s) recommendations
8	PST	Reviews and makes recommendations on the final drafting of specifications and the Solicitation for Proposals
9	User Agency	<ul style="list-style-type: none"> a. Finalizes Solicitation for Proposals b. Presents Solicitation for Proposals for PST signoff c. Releases Solicitation for Proposals

		d. Advertises for proposals
		e. Receives proposals
		f. Reviews proposals for compliance with administrative requirements
		g. Evaluates proposals received and makes a selection
		h. Forwards proposals, evaluation and selection to ODP
10	ODP Procurement Coordinator	Schedules PST meeting to review proposals, evaluation and selection
11	PST	a. Reviews proposals
		b. Reviews agency evaluation and selection and provides recommendation to the head of the using agency
12	User Agency	Requests and presents the evaluation and selection in a public hearing before the House and Senate Committees on Health and Welfare or a Joint Subcommittee thereof
13	Legislative Committee(s)	Holds public hearings and make recommendations regarding the award
14	PST/User Agency	Evaluates Legislative Committee(s) recommendations
15	PST	Establishes date of meeting for contract negotiations
16	User Agency	Notifies most responsive and responsible offerer of selection for contract negotiations. In addition to other provisions as required by law or in the best interests of the state, such contract shall contain provisions setting forth, (a) the amount and requirements of the contractor's performance bond, (b) penalty and enforcement provisions for the failure of the contractor to perform in accordance with the contract documents, (c) conditions for optional renewal of the contract by the state in accordance with the provisions of 855, and (d) requirements for termination of the contract by the state at any time, or for cause, or upon the refusal of the state to exercise an option to renew such contract.
17	PST/User Agency	Negotiates final contract and forwards contract to the User Agency
18	User Agency	a. Obtains vendor signature on contract and signs contract
		b. Prepares purchase order
		c. Forwards purchase order and contract for ODP stamp of approval
19	Procurement Coordinator	a. Compares signed contract with contract furnished to insure it is the same
		b. Stamps purchase order and contract and forwards to User Agency for distribution.

RENEWAL OF CONTRACT

1	User Agency	Request and presents justification for exercising option to renew contract in a public hearing before the House and Senate Committees on Health and Welfare or a Joint Subcommittee thereof
2	Legislative Committee(s)	Holds public hearings and makes recommendations regarding the option to renew contract
3	User Agency	Reviews recommendations of Legislative Committee(s) and notifies the contractor of its decision

ATTACHMENT A LAC 1:9.8 PROCEDURES FOR PROCUREMENT SUPPORT TEAM OPERATIONS

8.1 PROCUREMENT SUPPORT TEAM COMPOSITION. A procurement support team shall be formed in accordance with the procedures defined herein for every contract in an amount greater than \$100,000 for the procurement of data processing hardware, software, and related services, as required by Act 628 of the Regular Session of 1981. Purchase release orders issued pursuant to a Direct Order Contract shall not constitute a contract for purposes of these procedures. The formation of a procurement support team shall be accomplished by the Office of Data Processing (ODP).

As stated in Act 628, at least two members of each procurement support team should have formal training in computer con-

tract negotiations. The Office of Data Processing, the Legislative Fiscal Office, the Attorney General's Office, and the Purchasing Office shall each designate in writing to the ODP the names of a primary and an alternate team member, and should insure that at least one of these individuals has received formal training in computer contract negotiations. It shall thereafter be the responsibility of each named agency to keep the ODP advised of any changes in designated individuals.

Each agency in the State which uses data processing hardware, software, and related service shall designate in writing to the ODP at least one individual who will be available to participate in procurement support teams. Each such agency is requested to have at least one individual trained in computer contract negotiations available at all times.

As required by Act 628, at least five members, one from each office designated, must be present to constitute a quorum.

8.2 PROCUREMENT SUPPORT TEAM INVOLVEMENT. Procurement support team participation must include, as a minimum, assistance in final drafting of specifications, drafting of invitations for bids, evaluation of bids, and negotiation of contract terms. Procurements requiring this level of support will involve the active participation of all of the members of the procurement support team as a unit. There will be at least one joint meeting per phase during the process. The procurement support team will make written evaluations and recommendations as a group; these will not supplant written individual agency approvals as required by statute or regulations. The team leader will be designated by the Office of Data Processing.

8.3 EMERGENCY PROCUREMENTS. Notwithstanding the guidelines established above, procurements under emergency conditions (as defined by the ODP) will involve a procurement support team designated by the ODP, under the directions of a team leader designated by the ODP. Agencies and individual team members may be contacted by telephone, and make oral recommendations and comments. Such oral recommendations or comments shall be confirmed in writing as early as possible. A final written evaluation shall be presented to the ODP prior to ODP approval of any emergency procurement. Procurement support team members participating in emergency procurement shall participate in a follow-up meeting, at which time a written evaluation of the process will be prepared and forwarded to the ODP.

8.4 The procurement support team will be a purely advisory body. All decisions with respect to a procurement process will be made by the procuring agency. Such decisions will of course be subject to the review and approval of other agencies as required by statute or regulations. The approval or acceptance of a particular procedure by a procurement support team member is not to be construed as approval by the agency which that team member represents, in those cases where formal agency approval of the final agreements is required.

8.5 In situations where formal negotiations with prospective vendors, or a successful bidder, is appropriate, such negotiations will be conducted by a negotiations team appointed by the procurement support team leader. One member of the negotiating team will be designated as lead negotiator. The procuring agency will establish in writing the authority and constraints under which the negotiating team will operate, and within these constraints, the negotiation team shall have full authority to deal with the other party or parties. The results of such negotiations will, of course, be subject to all statutory required reviews. The lead negotiator and at least one other member of the negotiating team should have formal training in computer contract negotiations.

8.6 The individual agencies represented on procurement support teams will have the following primary responsibilities. These responsibilities may be enlarged or modified as appropriate to each given situation by the procurement support team leader,

with the concurrence of the Office of Data Processing.

A. Office of Data Processing. The ODP shall have primary responsibility for providing advice and support in the area of data processing techniques, negotiations techniques, developing the structure and content of invitations to bid (ITB), and drafting of technical specifications.

B. Legislative Fiscal Office. The Legislative Fiscal Office shall have primary responsibility for the financial analysis of ITB's and bids, and review of funding procedures.

C. Attorney General's Office. The Attorney General's Office shall have primary responsibility for developing the legal terms and conditions of draft contracts, evaluating the legal impact of substantive terms and conditions, review to insure compliance with statutes and regulations, and legal negotiations.

D. Purchasing Office. The Purchasing Office shall have primary responsibility for insuring compliance with procurement procedures and regulations, the drafting of invitations to bid, and the evaluation of bids.

E. The Procuring Agency. The procuring agency shall have primary responsibility for the determination of the compliance of bids with these functional requirements, and for all management decisions at each phase of the procurement process.

8.7 PROCEDURES. Each procurement activity covered by Act 628 shall be conducted in accordance with the following procedures:

8.7.1 Each agency contemplating a procurement covered by the provisions of Act 628 shall, upon definition of the preliminary functional requirements and prior to the drafting of specifications, notify the ODP in writing of the intended procurement. The ODP shall then make a determination as to the best available method of satisfying the agency's requirements (e.g., by transferring equipment from another agency, or by issuance of invitations to bid.) If the ODP determines that bidding procedure is most appropriate, it shall authorize the procuring agency to proceed.

8.7.2 The ODP staff, pursuant to the guidelines established herein, shall identify the level of support required, notify the appropriate agencies, and obtain from those agencies the names of the individual designated to participate on this particular procurement support team. The ODP staff will then designate a team leader, insure that at least two members of the procurement support team have received formal training in computer contract negotiations, and forward to the team leader the names of the other team members, along with any information received from the procuring agency.

8.7.3 The team leader will establish a schedule for the procurement activity, define the role and task of each team member, and establish a project file. The procuring agency and all team members are responsible for insuring that the team leader receives a copy of all correspondence and documentation.

8.7.4 The team leader will maintain a file containing all documentation and correspondence relating to the procurement. At the end of the process one copy will be provided to the procuring agency and one copy will be retained on file by the ODP. The team leader will make written status reports at the end of each phase to the ODP. Such status reports shall be presented to the ODP at each regular meeting.

8.7.5 Each member of the procurement support team must review as a minimum the final specifications, the invitation to bid, the bids, any formal bid evaluation, and the final contract. As a minimum, this review must be indicated by the signature of each team member. Where team evaluations are made, each team member must sign the evaluation, or his designating or qualifying reports.

8.7.6 In the event that a team member indicates acceptance or concurrence of any activity, and that team member's agency subsequently refuses to approve the process pursuant to its