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This public document was published at a total cost of \$4,611.66. Nine hundred, seventy-five copies of this public document were published in this monthly printing at a cost of \$2,611.66. The total cost of all printings of this document including reprints is \$4,611.66. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Executive Orders

EXECUTIVE ORDER MJF 97-27

Special Permits—Agronomic and Horticultural Crop Harvest

WHEREAS: Act 420 of the Regular Session of 1997 enacted R.S. 32:387.8, the "Robert M. Marionneaux, Sr., Grain Transportation Act" (hereafter "the Act");

WHEREAS: although the Act was signed by the Governor on June 2, 1997, it will not become effective until August 15, 1997, pursuant to the provisions of Article III, §19 of the Louisiana Constitution of 1974;

WHEREAS: the Act authorizes the secretary of the Department of Transportation and development to issue, notwithstanding any other provision of law to the contrary, annual special permits for the operation of trucks which haul agronomic or horticultural crops in their natural state, at a gross vehicle weight not to exceed 100,000 pounds, for the fee of \$100 per permit, per year;

WHEREAS: the harvest season for many of Louisiana's agronomic and horticultural crops is in progress;

WHEREAS: as a result of the excessive amount of moisture caused by recent rains, if Louisiana's crops are not harvested and processed expeditiously, much of the 1997 harvest will be lost due to aflatoxin;

WHEREAS: to minimize the crop damage caused by aflatoxin, the recommended procedure is to harvest the crops as soon as possible and, without delay, dry the produce to below 15 percent moisture; and

WHEREAS: R.S. 32:387 provides for the issuance of special permits by the secretary of the Department of Transportation and Development when it is in the best interest of the state, due to unusual circumstances, to raise the gross weight limitation of vehicles or combination of vehicles from 80,000 pounds up to 100,000 pounds;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The secretary of the Department of Transportation and Development is authorized to issue special permits pursuant to R.S. 32:387, which shall be effective for a period of one year, to the operators of the vehicles that transport on Louisiana's state highway system Louisiana's agronomic and horticultural crops in their natural state. The special permits shall allow the operators of vehicles transporting said products a gross vehicle weight limitation, not to exceed 100,000 pounds, for any combination of vehicles having a minimum of 18 wheels and transporting said products. The permits shall not apply to the operation of vehicles on the Interstate Highway System.

SECTION 2: The fee for the permits shall be \$100 per permit issued. The permits shall be processed in the same

manner as the annual special permits issued for the hauling of sugarcane under R.S. 32:387.7.

SECTION 3: For violation of weight in excess of the special permit limitations which occur between the date the special permit is issued and August 14, 1997, the secretary of the Department of Transportation and Development may impose civil penalties pursuant to and consistent with the penalty provisions for violating the terms of a special permit issued under R.S. 32:387 and/or an annual permit issued under R.S. 32:387.7. For violations of weight in excess of the special permit limitations which occur on or after August 15, 1997, the secretary of the Department of Transportation and Development may impose a civil penalty of up to five cents per pound for each violation of the permit's limitations in accordance with the penalty provision set forth in R.S. 32:387.8.

SECTION 4: The last day that the secretary of the Department of Transportation and Development shall issue a special permit under the authority of this order is August 14, 1997.

SECTION 5: This order is effective upon signature of the governor and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or 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 18th day of July, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9708#003

EXECUTIVE ORDER MJF 97-28

Bond Allocation for Parish of Jefferson Home Mortgage Authority

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997

Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the Parish of Jefferson Home Mortgage Authority has requested an allocation from the 1997 Ceiling to be used in connection with a program of financing mortgage loans for first time home buyers throughout the Parish of Jefferson in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$12,000,000	Parish of Jefferson Home Mortgage Authority	Single Family Mortgage Revenue Bond Program

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before October 28, 1997.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or 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 30th day of July, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9708#032

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board

Quarantining, Vaccinating and
Testing of Swine (LAC 7:XXI.905 and 907)

Editor's Note: All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093, and R.S. 3:2095, the Livestock Sanitary Board finds an emergency situation to exist due to the continued persistent incidence of brucellosis and pseudorabies in the swine population in Louisiana. The board finds that continued implementation of change in ownership test requirements is necessary for Louisiana to reach a goal of eradication of brucellosis and pseudorabies in swine and to keep pace with the progress of the national eradication programs. The effective date of this emergency rule is September 5, 1997, and it shall be in effect for 120 days or until the final rule takes effect through normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 9. Swine

§905. Quarantining, Vaccinating and Testing of Swine for Brucellosis and Pseudorabies

A.1. The state veterinarian, or his representative, shall have the authority to conduct epidemiologic investigations and quarantine of:

- a. swine herds in which one or more of the animals are found to be positive to pseudorabies, as determined by the epidemiologist, based on the interpretation of official tests;
- b. the herd of origin of swine that have been added to a herd that becomes quarantined because of pseudorabies, if swine have been acquired from said herd of origin within the last 12 months;
- c. herds which have received swine from herds found to have pseudorabies;
- d. herds of swine including feedlots, within a 1.5 mile radius of the quarantined herd, will be monitored in accordance with the recommendation of the state veterinarian and/or epidemiologist by either a test of all breeding swine or by an official random sample test.

2. A herd plan and epidemiology report must be completed within 30 days from the date an animal that originated from the herd was found to be a reactor at slaughter.

3. A herd test must be completed within 45 days from the date an animal that originated from the herd was found to be a reactor at slaughter.

B. To be eligible for release from quarantine, a swine herd must meet the following requirements:

1.a. All swine positive to an official pseudorabies test must be tagged with official reactor tags in the left ears and permitted on Form VS 1-27 to recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws within 15 days.

b. All swine, over 6 months of age and a random sampling of any growing/finishing swine which remain in the herd, must be tested negative 30 days or more after removal of reactors.

c. No livestock on the premises shall have shown signs of pseudorabies after removal of reactors.

2. Whole Herd Depopulation

a. All swine on the premises must be tagged with official reactor tags in the left ears and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws.

b. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

C. A herd of swine quarantined because of brucellosis must meet one of the following requirements:

1.a. All swine positive to an official brucellosis test must be tagged with official reactor tags in the left ears and permitted on Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises by disposal means authorized by applicable state laws within 15 days.

b. All swine over 6 months of age which remain in the herd, must be tested according to an approved herd plan.

c. A herd may be released from quarantine upon completion of three negative Complete Herd Tests (CHT).

i. The first test must be completed at least 30 days after removal of the last reactor.

ii. A second CHT must be conducted 60-90 days following the first CHT.

iii. A third CHT is required 60-90 days following the second CHT.

iv. A fourth CHT is required six months after the third CHT.

2. Whole Herd Depopulation

a. All swine on the premises must be tagged with official reactor tags in the left ears and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws.

b. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

D. All movement from pseudorabies/brucellosis quarantined herds, must be accompanied by a VS Form 1-27, Permit for Movement of Restricted Animals, listing the official, individual identification of each animal to be removed.

1. This form must be delivered to an authorized representative at destination.

2. These permits will be issued by a representative of the Louisiana Livestock Sanitary Board.

E. All exposed swine moving from quarantined premises in interstate or intrastate commerce, must move directly to a recognized slaughter establishment or to an approved swine quarantined feedlot or rendering plant.

F. The use of pseudorabies vaccine is prohibited, except by permission of the state veterinarian.

G.1. All swine, 6 months of age or older, must be tested negative for pseudorabies and brucellosis by an official test within 30 days prior to sale.

2. Swine originating from a brucellosis validated-pseudorabies qualified free herd or from a monitored feeder pig herd are exempt from this testing requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990), amended LR 18:839 (August 1992), LR 20:1258 (November 1994), LR 23:

§907. Operation of Livestock Auction Markets

All swine which are sold or offered for sale in livestock auction markets must meet the general requirements of §111 and the following specific Pseudorabies/Brucellosis requirements:

1. All breeder and feeder swine moving to Louisiana auction markets from farms outside Louisiana, must meet the requirements of §111; and

2. All swine over 6 months of age, being sold at Louisiana livestock auction markets must be identified by official swine backtags, placed on the animals' foreheads and official metal eartags.

3.a. The market shall furnish the Livestock Sanitary Board's official representative a copy of each check-in slip, showing the name of the auction market, the date, the name and complete address of each consignor, and the official backtag numbers applied to the consignor's livestock.

b. It shall be a violation of this regulation for anyone to consign livestock to a Louisiana livestock auction market and give a name and address that is not the name and address of the owner consigning the livestock to the auction market.

4.a. All swine 6 months of age or older arriving at a livestock auction market without an official negative test will have a blood sample drawn for testing.

b. Swine originating from a brucellosis validated-pseudorabies qualified free herd or from a monitored feeder pig herd are exempt from this testing requirement.

c. Testing for pseudorabies and brucellosis at livestock auction markets may be suspended by the state veterinarian due to climatic conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:245 (March 1985), amended LR 11:615 (June 1985), LR 16:392 (May 1990), LR 18:839 (August 1992), LR 23:

Maxwell Lea, Jr.
Executive Secretary

9708#002

DECLARATION OF EMERGENCY

Department of Economic Development Office of the Secretary

Economic Development Award Program (LAC 13:I.Chapter 60 and Repeal of LAC 19:VII.Chapter 91)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and the authority of R.S. 51:2331, the Department of Economic Development, Office of the Secretary hereby finds that emergency action is deemed necessary to prevent delays in the awarding of grants for economic development related infrastructure improvements under the provisions of the Economic Development Award Program inasmuch as such delays could result in the loss of industry and jobs to other states.

This emergency rule is effective August 7, 1997 and shall remain in effect for 120 days or until adoption of the rule, whichever occurs first.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

Chapter 60. Economic Development Award Program (EDAP)

§6001. Purpose

The purpose of the program is to finance publicly-owned infrastructures for industrial or business development projects that promote economic development and that require state assistance for basic infrastructure development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§6003. Definitions

Applicant—the sponsoring entity requesting financial assistance from DED under this program.

Award—funding approved under this program for eligible applicants.

Awardee—an applicant [and/or company(ies)] receiving an award under this program.

Basic Infrastructure—the construction, improvement or expansion of roadways, parking facilities, equipment, bridges, railroad spurs, water works, sewerage, buildings, ports, waterways and publicly-owned or regulated utilities.

Company—the business enterprise for which the project is being undertaken.

DED—Louisiana Department of Economic Development.

Program—the Economic Development Award Program.

Project—an expansion, improvement and/or provision of basic infrastructure that promotes economic development, for which DED assistance is requested under this program as an incentive to influence a company's decision to locate in Louisiana, maintain or expand its Louisiana operations, or increase its capital investment in Louisiana.

Secretary—the secretary of the Department of Economic Development.

Sponsoring Entity—the public or quasi-public entity responsible for performing and/or monitoring implementation of the project and monitoring the company's compliance with the terms and conditions of the award agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§6005. General Principles

The following principles will direct the administration of the Economic Development Award Program:

1. awards are not to be construed as entitlements for companies locating or located in Louisiana;
2. an award must reasonably be expected to be a significant factor in a company's location, investment and/or expansion decisions;
3. awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities;
4. the retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state;
5. the anticipated economic benefits to the state will be considered in making the award;
6. appropriate cost sharing among project beneficiaries;
7. if a company does not begin construction of the project within 365 calendar days after application approval, the secretary, at his discretion, may cancel funding for the infrastructure approved from the Economic Development Award Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, LR 23:

§6007. Eligibility

- A. An eligible applicant for the Grant Award must be one of the following:
 1. a public or quasi-public state entity; or
 2. a political subdivision of the state.

- B. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations, including state or federal taxes; or bankruptcy proceedings; or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§6009. Criteria

- A. Preference will be given to projects for industries identified by the state as target industries, and to projects located in areas of the state with high unemployment levels.

- B. Preference will be given to projects intended to expand, improve or provide basic infrastructure supporting mixed use by the company and the surrounding community.

- C. Companies must be in full compliance with all state and federal laws.

- D. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the U.S. Census Bureau) within Louisiana, except when company gives sufficient evidence that it is otherwise likely to relocate out of Louisiana.

- E. The minimum award request size shall be \$25,000.

- F. Projects must create or retain at least 10 permanent jobs in Louisiana.

- G. Preference will be given for wages substantially above the prevailing regional wage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§6011. Application Procedure

The sponsoring entity must submit an application on a form provided by DED which shall contain, but not be limited to, the following:

1. an overview of the company, its history, and the business climate in which it operates;
2. a description of the need for the project and the factors creating the need;
3. quantifiable objectives for the project and plans to measure the effectiveness of the project according to those objectives;
4. evidence of the number, types and compensation levels of jobs to be created or retained by the project;
5. a specific description of the project, including construction, operation and maintenance plans, and a timetable for the project's completion;
6. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§6013. Submission and Review Procedure

- A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other

divisions of the Department of Economic Development, and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;
2. determine whether the project's financing needs are best met by the proposed award;
3. validate the information presented;
4. determine the overall feasibility of the company's plan.

B. An economic cost-benefit analysis of the project, including an analysis of the net economic and fiscal benefits to the state and local communities, will be prepared by DED.

C. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, DED staff will then make a recommendation to the secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the secretary of the Department of Economic Development;
2. the governor; and
3. the Joint Legislative Committee on the Budget.

D. No funds spent on the project prior to the secretary's approval will be considered eligible project costs.

E. The secretary will issue a letter of commitment to the applicant within five working days of the application review and approval by the Joint Legislative Committee on the Budget.

F. The secretary can invoke emergency procedures and approve an application under the following conditions: The company documents, in writing, to the secretary of Economic Development, with copies to the governor and chairman of the Joint Legislative Committee on the Budget, that a serious time constraint exists and that a new plant, expansion or closure decision is to be made in fewer than 21 days or more than 31 days before the next scheduled meeting of the Joint Legislative Committee on the Budget.

G. If any application is rejected by any of the preceding entities, the application shall not be considered by the next succeeding entity unless first reconsidered and approved by the entity which initially rejected the application.

H. The final 15 percent of the grant amount will not be paid until DED staff inspects the project to assure that all work in the EDAP contract has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§6015. General Award Provisions

A. Award Agreement. A grant agreement will be executed between DED, the sponsoring entity and the company. The agreement will specify the performance objectives expected of the company and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time frames for investment and job creation. Under the agreement, the sponsoring entity will monitor the progress of the project. DED will disburse funds from invoices or certificates of work completed.

B. Use of Funds

1. Eligible project costs may include, but not be limited to, the following:

- a. engineering expenses;
- b. site acquisition;
- c. site preparation;
- d. construction expenses;
- e. building materials;
- f. capital equipment.

2. Project costs ineligible for award funds include, but are not limited to:

- a. recurrent expenses associated with the project (e.g., operation and maintenance costs);
- b. company moving expenses;
- c. expenses already approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;
- d. improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity;
- e. refinancing of existing debt, public or private;
- f. furniture, fixtures, computers, consumables, transportation equipment, rolling stock or equipment with useful life of less than seven years.

C. Amount of Award

1. The portion of the total project cost financed by the award may not exceed:

- a. 90 percent for projects located in parishes with per capita personal income below the median for all parishes; or
- b. 75 percent for projects in parishes with unemployment rates above the statewide average; or
- c. 50 percent for all other projects.

2. Other state funds cannot be used as the match for EDAP funds.

3. The award amount shall not exceed 25 percent of the total funds available to the program during a fiscal year.

4. The secretary, in his discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

D. Conditions for Disbursement of Funds

1. Grant award funds will be available to the sponsoring entity on a reimbursement basis following submission of approved invoices from the sponsoring entity to DED. Only funds spent on the project after the secretary's approval will be considered eligible for reimbursement.

2. Award funds will not be available for disbursement until:

- a. DED receives signed commitments by the project's other financing sources (public and private);
- b. DED receives signed confirmation that all technical studies or other analyses (e.g., environmental or engineering studies), and licenses or permits needed prior to the start of the project have been completed or obtained;
- c. all other closing conditions specified in the award agreement have been satisfied.

E. Compliance Requirements

1. Companies and sponsoring entities shall be required to submit progress reports, as specified in the award agreement, describing the progress toward the performance objectives specified in the award agreement.

2. In the event a company or sponsoring entity fails to meet its performance objectives specified in its agreement with DED, DED shall retain the rights to withhold award funds, to modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event a company or sponsoring entity knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

4. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 7. Workforce Development and Training Program

Chapter 91. Infrastructure Financing Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), repealed by the Department of Economic Development, Office of the Secretary, LR 23:

Kevin P. Reilly, Sr.
Secretary

9708#086

DECLARATION OF EMERGENCY

Department of Economic Development Office of the Secretary

Workforce Development and Training Program (LAC 13:I.Chapter 50 and repeal of LAC 19:VII.Chapter 81)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and the authority of R.S. 51:2331, the Department of Economic Development, Office of the Secretary hereby finds that emergency action is deemed necessary for the timely implementation of training programs for companies that are being recruited to Louisiana and for existing companies that are prepared to expand in the state if training assistance is

forthcoming. Undue delay in the implementation of this emergency rule could result in a decision to locate or expand in another state.

This emergency rule is effective August 7, 1997 and shall remain in effect for 120 days or until adoption of the rule, whichever occurs first.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

Chapter 50. Workforce Development and Training Program

§5001. Purpose

The purpose of the program is to develop and provide customized workforce training programs to existing and prospective Louisiana businesses as a means of:

1. improving the competitiveness and productivity of Louisiana's workforce and business community;
2. upgrading employee skills for new technologies or production processes; and
3. assisting Louisiana businesses in promoting employment stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§5003. Definitions

Applicant—the entity requesting training assistance from DED under this program.

Award—funding approved under this program for eligible training activities.

Awardee—an applicant [and/or company(ies)] receiving a training award under this program.

Contract—a legally enforceable agreement between the Department of Economic Development (DED), the awardee and a monitoring entity governing the terms and conditions of the training award.

Contractee—the awardee and monitoring entity that are party to a training award contract with DED under this program.

DED—Louisiana Department of Economic Development.

Labor Demand Occupation—an occupation for which there is, or is likely to be, greater demand than supply of adequately trained workers.

Monitoring Entity—a public or not-for-profit entity contracted to monitor the compliance of an awardee with the terms and conditions of a training award contract, and to reimburse the awardee for eligible training costs.

Program—the Workforce Development and Training Program.

Secretary—the secretary of the Department of Economic Development.

Subprogram—the different components of the Louisiana Workforce Development and Training Program, including, but not limited to, New Employee Training and Workplace-Based Retraining.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§5005. General Principles

The following principles will direct the administration of the Workforce Development and Training Program:

1. training awards are not to be construed as an entitlement for companies locating or located in Louisiana;
2. awards must reasonably be expected to be a significant factor in companies' location, investment, and/or expansion decisions;
3. awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities;
4. the retention and strengthening of existing Louisiana businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state;
5. the anticipated economic benefits to the state will be considered in making the award;
6. appropriate cost sharing among project beneficiaries;
7. awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate; and
8. a train-the-trainer approach will be adopted, whenever appropriate, in order to strengthen the institutional capacity of public and private sector training providers;
9. if a company does not begin the project within 365 days of application approval, the secretary, at his discretion, may cancel funding of the training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§5007. Subprogram Descriptions

A. New Employee Training

1. This subprogram provides training assistance for companies seeking prospective employees who possess sufficient skills to perform the jobs to be created by the companies.

2. The training to be funded can include:

- a. pre-employment training for which prospective employees are identified and recruited for training with the knowledge that the company will hire a subset of the trainees; and
- b. on-the-job training for new employees that is needed to bring the employees up to a minimum skill and/or productivity level.

B. Workplace-Based Retraining. This subprogram provides training assistance for companies seeking to upgrade the skills of existing employees in response to technological advances or improved production processes, or the need to ensure compliance with accepted international and industrial quality standards (e.g., ISO standards, proprietary technology).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§5009. Eligibility

A. An eligible applicant must be one of the following:

1. an individual employer who seeks customized training services to create, upgrade, or retain jobs in a:

- a. labor demand occupation;
- b. nonlabor demand occupation to prevent job loss;
2. an employer, labor organization, or community-based organization that seeks customized training services to provide training for a labor demand occupation in a particular industry;
3. a consortium made up of one or more educational institutions and individual employers, labor, or community-based organizations that seeks customized training services to provide training in a labor demand occupation;
4. an individual employer who seeks customized training for employees at a facility which is being newly developed or is being relocated from another state into Louisiana.

B. Employees to be trained must be employed in Louisiana, except for projects locating at Stennis Space Center in Mississippi. Employees to be trained for projects at Stennis Space Center must be Louisiana residents.

C. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations, including state or federal taxes; or bankruptcy proceedings; or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§5011. Criteria

A. General (These apply to all training subprograms administered under these rules.)

1. Preference will be given to applicants in industries identified by the state as target industries, and to applicants located in areas of the state with high unemployment levels.

2. Employer(s) must be in full compliance with Louisiana unemployment insurance laws.

3. During the first nine months of a fiscal year, not less than 25 percent of all funds available during a fiscal year shall be available for employers with 150 or fewer Louisiana-based employees. For the final three months of a fiscal year, the remaining available funds will be available to all eligible employers, without size restrictions.

4. No single employer shall receive more than 10 percent of the total funds available to the program during a fiscal year.

5. Employers receiving awards must provide evidence satisfactory to DED of their long-range commitment to employee training as a means of enhancing their future competitiveness.

B. New Employee Training

1. Applicants must create at least 10 net new jobs in the state.

2. Participation in pre-employment training does not guarantee students a job upon completion of their training.

C. Workplace-Based Retraining. Applicants must request training for at least five employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§5013. Application Procedure

DED will provide a standard form which applicants will use to apply for assistance. The application form will contain, but not be limited to, detailed descriptions of the following:

1. an overview of the company, its history, and the business climate in which it operates;
2. the company's overall training plan, including a summary of the types and amounts of training to be provided, and a description of how the company determined its need for training;
3. the specific training programs for which DED assistance is requested, including descriptions of the methods, providers and costs of the proposed training;
4. quantifiable objectives for the training related to the overall performance of the company, and plans to measure the effectiveness of the training according to those objectives; and
5. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§5015. Submission and Review Procedure

A. Applicants must submit their completed applications to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed, in order to:

1. understand the labor market conditions the proposed training is seeking to mitigate;
2. evaluate the strategic importance of the proposed training to the economic well-being of the state and local communities;
3. determine whether the employer's specific needs are best met by training;
4. identify the availability of existing training programs which could be adapted to meet the employer's needs;
5. identify the resources the business can provide to support the training, including trainers, facilities, materials and equipment;
6. identify or develop appropriate curricula; and
7. determine the most cost effective approach to meet the employer's training needs.

B. A cost-benefit analysis tailored to applicants' specific industries shall be conducted by DED to determine the net benefit to the state of the proposed training award. Such analysis will include, but not be limited to, evaluations of:

1. the importance of the proposed training to the state and local economies;
2. the importance of the proposed training to the recruitment/retention of businesses and/or jobs in the state (factors to be considered include the degree of technological advancement of the skills to be taught, the transferability of those skills across companies and industries, and the wage levels of the jobs to be created and/or retained);
3. the training award's expectation as a significant factor in the company's location, investment, and/or expansion decision; and

4. the fiscal impact of the proposed training on state and local governments.

C. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, DED staff will then make a recommendation to the secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the secretary of the Department of Economic Development;
2. the governor; and
3. the Joint Legislative Committee on the Budget.

D. No funds spent on the project prior to the secretary's approval will be considered eligible project costs.

E. The secretary will issue a letter of commitment to the applicant within five working days of the application approval by the Joint Legislative Committee on the Budget.

F. If any application is rejected by any of the preceding entities, the application shall not be considered by the next succeeding entity unless first reconsidered and approved by the entity which initially rejected the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

§5017. General Award Provisions

A. Award Contract

1. A contract will be executed between DED, the applicant [and/or company(ies)] receiving training and an appropriate monitoring entity from the same geographic area as the applicant. The contract will specify the performance objectives expected of the company(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time frames for job training and job creation.

2. The monitoring entity will monitor the progress of the training and reimburse the applicant from invoices submitted by the applicant on a form approved by DED.

3. DED will disburse funds from invoices or certificates of work completed.

4. The cost associated with this contract incurred by the monitoring entity will be considered part of the total training award, but will not exceed 5 percent of the award amount or \$10,000, whichever is less.

5. Funds may be used for training programs extending up to two years in duration.

B. Use of Funds

1. The Louisiana Workforce Development and Training Program offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include, inter alia, the following:

- a. instruction costs: wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers and training seminars;
- b. travel costs (limited to 30 percent of the total training award): travel for trainers and training coordinators (company and other) and travel for trainees. Travel expenses

reimbursable under this agreement will comply with state travel regulations, PPM 49;

c. materials and supplies costs: training texts and manuals, audio/visual materials, skills assessment (documents or services to determine training needs), raw materials (for manufacturing and new employee on-the-job training); and

d. other costs: facility rental, wages for on-the-job trainees (limited to 25 percent of a trainee's wage, excluding benefits), and fees or service costs incurred by the monitoring entity associated with the contract to monitor the training and to disburse award funds, as limited by §5017.A.3.

3. Training costs ineligible for reimbursement include:

a. trainee fringe benefits;

b. nonconsumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures), unless owned by a public training provider;

c. out-of-state, publicly supported schools;

d. employee handbooks; and

e. scrap produced during training.

4. Training activities eligible for funding consist of:

a. basic skills: literacy, numeracy, problem solving, team participation, etc.;

b. transferable skills: skills which will enhance an employee's general knowledge, employability and flexibility in the workplace (e.g., welding, computer skills, blueprint reading, etc.);

c. company-specific skills: skills which are unique to a company's workplace, equipment and/or capital investment;

d. quality standards skills: skills which are intended to increase the quality of a company's products and/or services and ensure compliance with accepted international and industrial quality standards (e.g., ISO standards); and

e. pedagogical skills: skills which pertain to instructional methods and techniques to be used by trainers (these are most relevant to train-the-trainer activities).

C. Amount of Award

1. New Employee Training. The training award amount may cover up to 100 percent of the eligible training costs, not to exceed \$500,000.

2. Workplace-Based Retraining. The training award amount may cover up to 50 percent of the eligible training costs, not to exceed \$500,000.

D. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of approved invoices to DED. Funds will not be available for reimbursement until a training agreement between the applicant [and/or company(ies)] receiving the training and an approved training provider has been executed. Only funds spent on the project after the secretary's approval will be considered eligible for reimbursement.

2. A maximum of 50 percent of the training award will be available for reimbursement of eligible costs until the awardee(s) has achieved 75 percent of its contracted performance objectives.

3. Once the awardee(s) has achieved 75 percent of its contracted performance objectives, an additional 25 percent of the grant award will be made available for reimbursement. After the company has achieved 100 percent of its contracted

performance objectives, the remaining 25 percent of the grant award will be made available for reimbursement.

E. Compliance Requirements

1. Contractees shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with DED.

2. The termination of employees during the contract period who have received program-funded training shall be for documented cause only, which shall include voluntary termination.

3. In the event a company or sponsoring entity fails to meet its performance objectives specified in its contract with DED, DED shall retain the rights to withhold award funds, to modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

4. In the event a company or monitoring entity knowingly files a false statement in its application or in a progress report, the company or monitoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

5. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the monitoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 7. Workforce Development and Training Program

Chapter 81. Workforce Development

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), repealed by the Department of Economic Development, Office of the Secretary, LR 23:

Kevin P. Reilly, Sr.
Secretary

9708#062

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Long-Term Hospital Reimbursement Methodology

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following emergency rule as authorized by R.S. 46:153 and pursuant to Title XIX of the