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# Louisiana Housing Finance Agency



## Legal Department

Christine Bratkowski

Keith Cunningham

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July 9, 2008

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## MEMORANDUM

**To:** LHFA Board Commissioners

**From:** Christine Bratkowski, Keith Cunningham and Leslie Strahan, Legal Department

**Date:** June 27, 2008

**Re:** Legal Committee

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A regular meeting of the Louisiana Housing Finance Agency Legal Committee will be held on Wednesday, July 9, 2008, at 10:00 a.m., Louisiana Housing Finance Agency, in Committee Room 2, located at 2415 Quail Drive, Baton Rouge, LA, by order of the Chairman.

If you have any questions or concerns, please contact us.

July 9, 2008

**LEGAL COMMITTEE MEETING**

A regular meeting of the Louisiana Housing Finance Agency Legal Committee will be held on Wednesday, July 9, 2008, at 10:00 a.m., Louisiana Housing Finance Agency, Committee Room 2, located at 2415 Quail Drive, Baton Rouge, LA, by order of the Chairman.

**Final Agenda**

1. Call to order, roll call and introduction of guests
2. Approval of the minutes of January 9, 2008 Committee Meeting
3. Louisiana Board of Ethics Advisory Opinion
4. Ethics Disclosure Requirements
5. Other Business
6. Adjournment

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Milton J. Bailey, President

Pursuant to the provisions of LSA-R.S. 42:6.1, upon two-thirds vote of the members present, the Board of Commissioners of the Louisiana Housing Finance Agency may choose to enter Executive Session, and by this notice, the Agency reserves its right to go into Executive Session as provided by law.



STATE OF LOUISIANA  
DEPARTMENT OF STATE CIVIL SERVICE  
**LOUISIANA BOARD OF ETHICS**  
2415 QUAIL DRIVE  
THIRD FLOOR  
BATON ROUGE, LA 70808  
(225) 763-8777  
FAX: (225) 763-8780  
1-800-842-6630  
www.ethics.state.la.us

May 9, 2008

Mr. Edselle K. Cunningham, Jr.  
Louisiana Housing Finance Agency  
2415 Quail Drive  
Baton Rouge, LA 70808

**RE: Louisiana Board of Ethics Docket No. 2008-461**

Dear Mr. Cunningham:

The Louisiana Board of Ethics, at its May 8, 2008 meeting, considered your request for an advisory opinion concerning whether members of the Louisiana Housing Finance Agency (LHFA) may serve as appointed members or directors of a non-profit entity created by the LHFA. In your advisory opinion request, you make reference to LSA-R.S. 40:600.6(26)(d) and 40:600.6(22), which grant the LHFA the authority to create subsidiaries and non-profit corporations.

The Board concluded, and instructed me to inform you, that the Code of Governmental Ethics would prohibit the board members of the LHFA from being appointed by the LHFA to a non-profit corporation created by the LHFA. Section 1113B of the Code prohibits an appointed member of board or commission from being in any way interested in a contract, subcontract, or other transaction under the supervision or jurisdiction of his agency. The appointment of a LHFA board member to serve as an officer or director of a non-profit corporation created by the LHFA constitutes a transaction under the supervision or jurisdiction of the LHFA. Although LSA-R.S. 40:600.6(26)(d) and 40:6006(22) give the LHFA the authority to create such non-profit corporations or subsidiaries, these statutes do not appear to create an exception to Section 1113B of the Code of Governmental Ethics.

The Board issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics. If you have any further questions, please contact me at (225)763-8777 or at (800)842-6630.

Sincerely,

**LOUISIANA BOARD OF ETHICS**

*Courtney D. Jackson*  
Courtney D. Jackson  
For the Board

EB:CDJ

SENATE BILL NO. 718

BY SENATOR MARTINY

1 AN ACT

2 To amend and reenact R.S. 42:1124.1(A)(1) and (B), 1124.2(A) and (C)(1), 1124.3(A),  
3 1124.4(A)(1), (C)(3), and (F), and 1157(A)(4)(a)(ii), to enact R.S. 42:1124.2.1, and  
4 to repeal R.S. 42:1124.2(G)(4), relative to financial disclosure; to require certain  
5 disclosures by certain public servants; to provide for the information required to be  
6 disclosed; to provide for definitions; to provide for penalties; to provide for  
7 effectiveness; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 42:1124.1(A)(1) and (B), 1124.2(A) and (C)(1), 1124.4(A)(1),  
10 (C)(3), and (F), and 1157(A)(4)(a)(ii) are hereby amended and reenacted and R.S.  
11 42:1124.2.1 is hereby enacted to read as follows:

12 §1124.1. Penalties; required reports; failure to file; timely and accurate filing

13 A.(1) Whoever fails to file a financial statement required by this Part, except  
14 for statements required by R.S. 42:1124, 1124.2, **1124.2.1**, and 1124.3, or knowingly  
15 and willfully fails to timely file any such statement, or knowingly and willfully fails  
16 to disclose or to accurately disclose any information required by this Part shall be  
17 assessed a civil penalty pursuant to R.S. 42:1157 for each day until such statement  
18 or the required accurate information is filed.

19 \* \* \*

20 B. Whoever knowingly and willfully files a false report required by this Part,

1 except for statements required by R.S. 42:1124, 1124.2, 1124.2.1, or 1124.3, shall  
2 be guilty of a misdemeanor and upon conviction thereof shall be fined not less than  
3 one thousand dollars nor more than ten thousand dollars or imprisoned in parish  
4 prison for not more than six months, or both. Any prosecution under this Subsection  
5 shall be tried before a jury of six persons, all of whom must concur to render a  
6 verdict.

7 \* \* \*

8 §1124.2. Financial disclosure; certain elected officials; ~~voting districts of five~~  
9 ~~thousand or more; state~~ members of certain boards and commissions; ethics  
10 administrator

11 A. Each of the following, except a person who is required to file a  
12 financial statement pursuant to R.S. 42:1124, shall annually file a financial  
13 statement as provided in this Section:

14 (1) Each member of the state legislature.

15 ~~each~~ (2) Each person holding a public office who represents a voting district  
16 having a population of five thousand or more persons.

17 ~~each~~ (3) Each member of the Board of Ethics and the ethics administrator.

18 ~~each~~ (4) Each member of the State Board of Elementary and Secondary  
19 Education.

20 ~~each member of a state board or commission who receives a salary or other~~  
21 ~~compensation for such public service in the amount of sixteen thousand eight~~  
22 ~~hundred dollars or more per year and each member of a state board or commission~~  
23 ~~which has the authority to expend, disburse, or invest one million dollars or more of~~  
24 ~~funds in a fiscal year, except any person who is required to file a financial statement~~  
25 ~~pursuant to R.S. 42:1124, shall annually file a financial statement as provided in this~~  
26 ~~Section.~~

27 \* \* \*

28 C. The financial statement required by this Section shall be filed on a form  
29 prescribed by the Board of Ethics and shall include the following information for the  
30 preceding calendar year:

1 (1) The full name and ~~residence~~ **mailing** address of the individual who is  
2 required to file.

3 \* \* \*

4 §1124.2.1 Financial disclosure; members of boards and commissions

5 A. Each of the following, except a person who is required to file a  
6 financial statement pursuant to R.S. 42:1124 or 1124.2, shall annually file a  
7 financial statement as provided in this Section:

8 (1) Each member and any designee of a member of a board or  
9 commission that has the authority to expend, disburse, or invest ten thousand  
10 dollars or more of funds in a fiscal year.

11 (2) Each member of the State Civil Service Commission.

12 (3) Each member of the Board of Commissioners of the Louisiana  
13 Stadium and Exposition District.

14 B. The financial statement required by this Section shall be filed by May  
15 fifteenth of each year during which the person holds an office included in  
16 Subsection A of this Section and by May fifteenth of the year following the  
17 termination of the holding of such office.

18 C. The financial statement required by this Section shall be filed on a  
19 form prescribed by the Board of Ethics and shall include the following  
20 information for the preceding calendar year:

21 (1) The full name and mailing address of the individual who is required  
22 to file.

23 (2) The full name of the individual's spouse, if any, and the spouse's  
24 occupation and principal business address.

25 (3) The name of the employer, job title, and a brief job description of  
26 each full-time or part-time employment position held by the individual or  
27 spouse.

28 (4)(a) The name, address, brief description of, and nature of association  
29 with and the amount of interest in each business in which the individual or  
30 spouse is a director, officer, owner, partner, member, or trustee, and in which

1 the individual or spouse, either individually or collectively, owns an interest  
2 which exceeds ten percent of that business.

3 (b) The name, address, brief description of, and nature of association  
4 with a nonprofit organization in which the individual or spouse is a director or  
5 officer.

6 (5) The name, address, type, and amount of each source of income  
7 received by the individual or spouse, or by any business in which the individual  
8 or spouse, either individually or collectively, owns an interest which exceeds ten  
9 percent of that business, which is received from any of the following:

10 (a) The state or any political subdivision as defined in Article VI of the  
11 Constitution of Louisiana.

12 (b) Services performed for or in connection with a gaming interest as  
13 defined in R.S. 18:1505.2(L)(3)(a).

14 (6) A certification that such individual has filed his federal and state  
15 income tax returns, or has filed for an extension of time for filing such tax  
16 return.

17 (7) One of the following:

18 (a) A certification that neither the individual nor any member of his  
19 immediate family had a personal or financial interest in any entity, contract, or  
20 business or a personal or financial relationship that in any way posed a conflict  
21 of interest which affected the impartial performance of the individual's duties  
22 as a member of the board or commission.

23 (b) A statement describing each conflict and any action the individual  
24 took to resolve or avoid the conflict.

25 D. For the purposes of this Section, the following words shall have the  
26 following meanings:

27 (1)(a) "Board or commission" shall mean:

28 (i) Each board, commission, and like entity created by law or executive  
29 order that is made a part of the executive branch of state government by the  
30 provisions of Title 36 of the Louisiana Revised Statutes of 1950, or that is placed

1 in an executive branch department or in the office of the governor or lieutenant  
 2 governor by law or executive order, or that exercises any authority or performs  
 3 any function of the executive branch of state government.

4 (ii) Each board, commission, and like entity created by the constitution,  
 5 by law, by a political subdivision, except as provided in Subparagraph (b) of this  
 6 Paragraph, or jointly by two or more political subdivisions as a governing  
 7 authority of a political subdivision of the state or of a local government.

8 (b) "Board or commission" shall not mean:

9 (i) The governing authority of a parish.

10 (ii) Any board or commission or like entity that governs a political  
 11 subdivision created by a single parish governing authority of a parish with a  
 12 population of two hundred thousand or less, or any subdistrict of such a  
 13 political subdivision.

14 (iii) The governing authority of a municipality.

15 (iv) Any board or commission or like entity that governs a political  
 16 subdivision created by a single municipal governing authority of a municipality  
 17 with a population of twenty-five thousand or less, or any subdistrict of such a  
 18 political subdivision.

19 (v) A board of directors of a private nonprofit corporation that is not  
 20 specifically created by law.

21 (2) "Business" shall have the same meaning as provided in R.S. 42:1124.

22 (3)(a) "Income" for a business shall mean gross income less both of the  
 23 following:

24 (i) Costs of goods sold.

25 (ii) Operating expenses.

26 (b) "Income" for an individual shall mean taxable income and shall not  
 27 include any income received pursuant to a life insurance policy.

28 (4) "Public office" shall have the same meaning as provided in R.S.  
 29 18:1483.

30 \* \* \*

1 §1124.4. Penalties

2 A.(1) If a person fails to timely file a financial statement as required by R.S.  
3 18:1495.7 or by R.S. 42:1124, 1124.2, **1124.2.1**, or 1124.3, or a person omits any  
4 information required to be included in the statement, or the board has reason to  
5 believe information included in the statement is inaccurate, the board shall notify the  
6 person of such failure, omission, or inaccuracy by sending him by certified mail a  
7 notice of delinquency immediately upon discovery of the failure, omission, or  
8 inaccuracy.

9 \* \* \*

10 C. Penalties shall be assessed as follows:

11 \* \* \*

12 (3) Fifty dollars per day for statements required by R.S. 42:**1124.2.1** or  
13 1124.3.

14 \* \* \*

15 F. If a person who is required to disclose information required by R.S.  
16 42:1124, 1124.2, **1124.2.1**, or 1124.3 discovers an error or inaccuracy in the  
17 information he disclosed and files an amendment to such disclosure correcting such  
18 error or inaccuracy prior to the receipt of a notice of delinquency, no penalties shall  
19 be assessed against the person, and the board shall replace the initial disclosure with  
20 the amendment thereto in the official records of the board.

21 \* \* \*

22 §1157. Late filing fees

23 A.

24 \* \* \*

25 (4)(a)

26 \* \* \*

27 (ii) The late penalties for any violation of R.S. 42:1124, 1124.2, **1124.2.1**,  
28 or 1124.3 shall be as provided in R.S. 42:1124.4.

29 \* \* \*

30 Section 2. R.S. 42:1124.3(A) is hereby amended and reenacted to read as follows:



1                   Section 9. The provisions of this Section and of Section 7 of this Act shall  
2                   be effective upon signature of the governor or lapse of time for gubernatorial action.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

## Tier 2.1

### R.S. 42:1124.2.1 - FINANCIAL DISCLOSURE

FIRST FILINGS PURSUANT TO THIS PROVISION ARE DUE BY MAY 15, 2009.

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- I. Persons who **must file Financial Disclosures** pursuant to **R.S. 42:1124.2.1**:
- Each member and any designee of a member of a board or commission that has the authority to expend, disburse, or invest ten thousand dollars or more of funds in a fiscal year;
  - Each member of the State Civil Service Commission; and
  - Each member of the Board of Commissioners of the Louisiana Stadium and Exposition District.
- II. The term “Board or Commission” **shall mean**:
- Each board, commission, and like entity created by law or executive order that is made a part of the executive branch of state government by the provisions of Title 36 of the Louisiana Revised Statutes of 1950, or that is placed in an executive branch department or in the office of the governor or lieutenant governor by law or executive order, or that exercises any authority or performs any function of the executive branch of state government.
  - Each board, commission, and like entity created by the constitution, by law, by a political subdivision, except as provided in Subparagraph (b) of this Paragraph, or jointly by two or more political subdivisions as a governing authority of a political subdivision of the state or of a local government.
- III. The term “Board or Commission” **shall not mean**:
- The governing authority of a parish.
  - Any board or commission or like entity that governs a political subdivision created by a single parish governing authority of a parish with a population of two hundred thousand or less, or any subdistrict of such a political subdivision.
  - The governing authority of a municipality.

- Any board or commission or like entity that governs a political subdivision created by a single municipal governing authority of a municipality with a population of twenty-five thousand or less, or any subdistrict of such a political subdivision.
- A board of directors of a private nonprofit corporation that is not specifically created by law.

IV. Information to be provided on the Financial Disclosure Statement:

- The full name and mailing address of the individual who is required to file.
- The full name of the individual's spouse, if any, and the spouse's occupation and principal business address.
- The name of the employer, job title, and a brief job description of each full-time or part-time employment position held by the individual or spouse.
- The name, address, brief description of, and nature of association with and the amount of interest in each business in which the individual or spouse is a director, officer, owner, partner, member, or trustee, and in which the individual or spouse, either individually or collectively, owns an interest which exceeds ten percent of that business.
- The name, address, brief description of, and nature of association with a nonprofit organization in which the individual or spouse is a director or officer.
- The name, address, type, and amount of each source of income received by the individual or spouse, or by any business in which the individual or spouse, either individually or collectively, owns an interest which exceeds ten percent of that business, which is received from any of the following:
  - (a) The state or any political subdivision as defined in Article VI of the Constitution of Louisiana.
  - (b) Services performed for or in connection with a gaming interest as defined in R.S. 18:1505.2(L)(3)(a).
- A certification that such individual has filed his federal and state income tax returns, or has filed for an extension of time for filing such tax return.
- One of the following:

- (a) A certification that neither the individual nor any member of his immediate family had a personal or financial interest in any entity, contract, or business or a personal or financial relationship that in any way posed a conflict of interest which affected the impartial performance of the individual's duties as a member of the board or commission.
- (b) A statement describing each conflict and any action the individual took to resolve or avoid the conflict.

Title 42. Public Officers and Employees

☞ [Chapter 15](#). Code of Governmental Ethics ([Refs & Annos](#))

☞ [Part II](#). Ethical Standards for Public Servants

➡ **§ 1111. Payment from nonpublic sources**

**A. (1) Payments for services to the governmental entity.** No public servant shall receive anything of economic value, other than compensation and benefits from the governmental entity to which he is duly entitled, for the performance of the duties and responsibilities of his office or position; however, supplementary compensation or benefits provided to an employee of a public higher education institution, board, or system from funds or property accruing to the benefit of the institution, board, or system as approved by the appropriate policy or management board, through an alumni organization recognized by the management board of a college or university within the state or through a foundation organized by the alumni or other supportive individuals of a college or university within the state the charter of which specifically provides that the purpose of the foundation is to aid said college or university in a philanthropic manner shall be deemed for purposes of this Subsection as compensation and benefits from the government to which he is duly entitled.

(2) Any supplementary compensation or benefits provided to the commissioner of higher education or to an employee of the Board of Regents from funds or property accruing to the benefit of the board as approved by appropriate policy through a foundation organized to support higher education, including the Board of Regents, the charter of which specifically provides that the purpose of the foundation is to aid higher education in a philanthropic manner shall be deemed for purposes of this Subsection as compensation and benefits from the government to which he is duly entitled.

(3) Any supplementary compensation or benefits provided to a member of the faculty, administration, or staff of the New Orleans Center for Creative Arts/Riverfront from funds or property accruing to the benefit of the center pursuant to the approval of the board of directors for use as provided in [R.S. 17:1970.27](#) through a foundation organized to support the center which is chartered specifically to provide aid to the center in a philanthropic manner shall be deemed for purposes of this Subsection as a supplement to his compensation to which he is duly entitled. Such a supplement shall not, however, be considered as regular compensation from his governmental employer nor shall it form any basis for governmentally supported benefits.

(4) Up to three thousand dollars per year to be credited against qualified student loan debt that is provided to a former law student, who is an attorney and a public employee, through a bona fide Loan Repayment Assistance Program, established as a qualified program under the federal Internal Revenue Code and administered by any law school using funds or property accruing to the benefit of the law school or from a foundation

(aa) A legislator and any person who has been certified by the secretary of state as elected to the legislature.

(bb) The governor and each person holding statewide elected office.

(cc) The secretary of the Department of Economic Development.

(dd) The secretary of the Department of Culture, Recreation and Tourism.

(ee) The secretary of the Department of Environmental Quality.

(ff) The secretary of the Department of Health and Hospitals.

(gg) The secretary of the Department of Labor.

(hh) The secretary of the Department of Natural Resources.

(ii) The secretary of the Department of Public Safety and Corrections and any warden or assistant warden of a state penal institution.

(jj) The secretary of the Department of Revenue.

(kk) The secretary of the Department of Social Services.

(ll) The secretary of the Department of Transportation and Development.

(mm) The secretary of the Department of Wildlife and Fisheries.

(nn) The secretary of the Department of Veterans Affairs.

(oo) The executive secretary of the Public Service Commission.

(pp) The director of state civil service.

(qq) Each member of the State Board of Elementary and Secondary Education.

(rr) The superintendent of education, the commissioner of higher education, and the president of each public postsecondary education system.

(ss) Each member of the Board of Ethics and the ethics administrator.

(tt) The chief of staff to the governor.

(uu) The commissioner of the division of administration.

(vv) The executive counsel to the governor.

(ww) The legislative director for the governor.

(xx) The deputy chief of staff to the governor.

(yy) The director of policy for the governor.

(iii) For purposes of this Subsection, "legal entity of a person" means any corporation, partnership, or other such entity, except a publicly traded corporation or a passive ownership interest that is the result of participation in a federally approved program of employee ownership, in which a person identified in Item (ii) of this Subparagraph or the spouse of such person owns an interest of greater than five percent.

(iv) For purposes of this Subsection, "legal entity of a family member" means any corporation, partnership, or other such entity, except a publicly traded corporation or a passive ownership interest that is the result of participation in a federally approved program of employee ownership, in which an immediate family member of a person identified in Item (ii) of this Subparagraph, except the spouse of such a person, owns an interest of greater than five percent.

(v) For purposes of this Subsection, "state government" means any branch, agency, department, or institution of state government or with the Louisiana Insurance Guaranty Association, the Louisiana Health Insurance Guaranty Association, or any other state quasi public entity created in law.

(b)(i) No immediate family member, except the spouse, of a person identified in Item (a)(ii) of this Paragraph, nor any legal entity of a family member shall enter into any contract with state government unless the contract is awarded by competitive bidding after being advertised and awarded in accordance with Part II of Chapter 10 of Title 38 [\[FN1\]](#) of the Louisiana Revised Statutes of 1950 or is competitively negotiated through a request for proposal process or any similar competitive selection process in accordance with Chapter 16 or 17 of Title 39 [\[FN2\]](#) of the Louisiana Revised Statutes of 1950; however, this exception for competitively negotiated contracts shall not include contracts for consulting services.

(ii) The provisions of this Subparagraph shall not prohibit a contract for professional services entered into with the attorney general which is based on criteria set forth by the office of risk management.

(c)(i) For the purposes of this Section, a provider agreement entered into with the Department of Health and Hospitals under the state medical assistance program shall not be considered a contract.

(ii) For the purposes of this Section, a foster parent provider agreement or a child care provider agreement entered into with the Department of Social Services shall not be considered a contract and shall not be subject to [R.S. 42:1111\(E\)\(2\)\(a\)](#).

(iii) For purposes of this Section, any action taken to comply with a state law, rule, or regulation shall not be considered a contract.

(2) The provisions of this Subsection shall not prohibit the following:

(a) Completion of any contract otherwise prohibited by this Subsection which was entered into prior to initial election to the legislature; however, no such contract or subcontract shall be renewed.

(b) Completion of any contract otherwise prohibited by this Subsection which was

entered into prior to July 1, 1995; however, no such contract or subcontract shall be renewed.

(c) Contracts for employment in a professional educational capacity in or for professional services for an elementary or secondary school or other educational institution.

(d) Contracts of sale pursuant to the expropriation of immovable property by any branch, agency, department, or institution of state government.

(e) Contracts of employment of a physician or other licensed health care professional with the state or the charity hospitals of the state or the Department of Health and Hospitals.

(f) Donation of professional veterinary services or the donation of any goods and services related to the provision of such veterinary services.

(g) Completion of any contract which, at the time it was entered into, was not prohibited by the provisions of this Subsection; however, no such contract shall be renewed.

(h)(i) Completion of any contract between a person identified by Item (a)(ii) of this Paragraph or his spouse or a legal entity of a person and state government, which contract was awarded by competitive bidding after being advertised and awarded in accordance with Part II of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, or competitively negotiated through a request for proposal process or any similar competitive selection process in accordance with Chapter 16 or 17 of Title 39 of the Louisiana Revised Statutes of 1950 or which contract, other than a contract for consulting services, was not competitively negotiated through a request for proposal process or any similar competitive selection process in accordance with Chapter 16 or 17 of Title 39 of the Louisiana Revised Statutes of 1950, and which contract was entered into prior to the effective date of this Subparagraph; however, no such contract shall be renewed for a period extending beyond January 9, 2012.

(ii) Completion of any contract between the immediate family member, except for a spouse, of a person identified in Item (1)(a)(ii) of this Subsection or a legal entity of a family member and state government, which contract was not awarded by competitive bidding after being advertised and awarded in accordance with Part II of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950 or which contract, other than a contract for consulting services, was not competitively negotiated through a request for proposal process or any similar competitive selection process in accordance with Chapter

16 or 17 of Title 39 of the Louisiana Revised Statutes of 1950, and which contract was entered into prior to the effective date of this Subparagraph; however, no such contract shall be renewed for a period extending beyond January 9, 2012.

(i)(i) A sale by a retail establishment valued at two thousand five hundred dollars or less. However, no person shall enter into separate sales valued at two thousand five hundred dollars or less as a subterfuge to avoid the prohibition of this Subsection.

(ii) For purposes of this Subparagraph, "retail establishment" shall have the same meaning provided in [R.S. 14:67.25](#).

(j) An agreement with a state entity or state quasi public entity providing for housing, retirement or insurance benefits, provided that those benefits are available to similarly situated persons.

(k) An agreement providing for public assistance benefits, including but not limited to, subsidies for agriculture, aquaculture, forestry, soil and water conservation, educational scholarships, grants and subsidies or guaranteed student loans, provided that such benefits are available to similarly situated persons.

(l) The payment of admission fees for events open to the public.

(m) Contracts for employment or for services by any licensed health care professional providing services in the classroom or working with administration in an elementary or secondary school or other educational institution.

(n) Contracts for services by health care professionals which are required by federal or state law to provide an educational program for students in an elementary or secondary school or other educational institution.

(o) Contracts for which the compensation is solely reimbursement of costs.

(p) Applying for, payment of fees for, or obtaining a license, credential, or permit provided that such license, credential, or permit is available to similarly situated persons.

(q) A contract in existence on the effective date of this Subparagraph for professional

services entered into by a person selected pursuant to Part VII of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950 with any agency or entity of state government with which such person had a contract for professional services pursuant to Part VII of Chapter 10 of Title 38 [\[FN3\]](#) of the Louisiana Revised Statutes of 1950 at any time prior to the effective date of this Subparagraph. Such a contract may be renewed, but may not continue in effect after January 8, 2012.

(r) An agreement for the provision of goods or services by state government provided on the same terms and conditions available to similarly situated persons.

(3) No person formerly serving in a position identified in Item (1)(a)(ii) of this Subsection nor his spouse nor any legal entity of a person shall, for a period of one year following the termination of the public service of such person enter into a contract that would have been prohibited by this Subsection prior to the termination of the public service of such person. The provisions of this Paragraph shall not prohibit the renewal of a contract that was not prohibited prior to the effective date of this Paragraph.

(4)(a) Each person identified in Item (1)(a)(ii) of this Subsection shall file a report with the Board of Ethics, by July first of each year of his term of office or of his service in his position, identifying the parties to and the value and term of each contract between him or his spouse or legal entity of a person and state government.

(b) Each immediate family member, except a spouse, of a person identified in Item (1)(a)(ii) of this Subsection shall file a report with the Board of Ethics by July first of each year of the person's term of office or of the person's service in his position identifying the parties to and the value and term of each contract between the immediate family member or any legal entity of a family member and state government.

E. If any provision of this Section conflicts with any other provision of this Part, the more restrictive provision shall govern.

CREDIT(S)

LSA-R.S. 42:1112

West's Louisiana Statutes Annotated [Currentness](#)

Louisiana Revised Statutes

Title 42. Public Officers and Employees

▣ [Chapter 15.](#) Code of Governmental Ethics ([Refs & Annos](#))

▣ [Part II.](#) Ethical Standards for Public Servants

➡ **§ 1112. Participation in certain transactions involving the governmental entity**

A. No public servant, except as provided in [R.S. 42:1120](#), shall participate in a transaction in which he has a personal substantial economic interest of which he may be reasonably expected to know involving the governmental entity.

B. No public servant, except as provided in [R.S. 42:1120](#), shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any of the following persons has a substantial economic interest:

(1) Any member of his immediate family.

(2) Any person in which he has a substantial economic interest of which he may reasonably be expected to know.

(3) Any person of which he is an officer, director, trustee, partner, or employee.

(4) Any person with whom he is negotiating or has an arrangement concerning prospective employment.

(5) Any person who is a party to an existing contract with such public servant, or with any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, or who owes any thing of economic value to such public servant, or to any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, and who by reason thereof is in a position to affect directly the economic interests of such public servant.

C. Every public employee, excluding an appointed member of any board or commission, shall disqualify himself from participating in a transaction involving the governmental entity when a violation of this Part would result. The procedures for such disqualification shall be established by regulations issued pursuant to [R.S. 42:1134\(1\)](#).

D. No appointed member of any board or commission, except as otherwise provided in [R.S. 42:1120.1](#), 1120.2, or 1120.3, shall participate or be interested in any transaction involving the agency when a violation of this Part would result.

LSA-R.S. 42:1113

West's Louisiana Statutes Annotated [Currentness](#)

Louisiana Revised Statutes

Title 42. Public Officers and Employees

▣ [Chapter 15.](#) Code of Governmental Ethics ([Refs & Annos](#))

▣ [Part II.](#) Ethical Standards for Public Servants

➡ **§ 1113. Prohibited contractual arrangements**

A. (1) No public servant, excluding any legislator and any appointed member of any board or commission and any member of a governing authority of a parish with a population of ten thousand or less, or member of such a public servant's immediate family, or legal entity in which he has a controlling interest shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

(2) No head of a department listed in [R.S. 36:4\(A\)](#) who is appointed by the governor or lieutenant governor shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of any agency to which funds have been transferred from the agency of such department head, but such prohibition shall apply only to any contract, subcontract, or transaction related to such funds.

B. Other than a legislator, no appointed member of any board or commission, member of his immediate family, or legal entity in which he has a substantial economic interest shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction which is under the supervision or jurisdiction of the agency of such appointed member.

C. No legislator, member of his immediate family, or legal entity in which he has a controlling interest shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction involving the legislator's agency.

D. (1)(a)(i) No person identified in Item (ii) of this Subparagraph or the spouse of such person nor any legal entity of a person shall enter into any contract with state government.

(ii) The provisions of this Subparagraph and other provisions which reference this Item shall apply to the following persons:

which is organized specifically to aid and support the programs of the law school and the charter of which specifically provides that the purpose of the foundation is to aid the law school in a philanthropic manner, shall be deemed for purposes of this Subsection as a supplement to his compensation to which he is duly entitled. However, such a supplement shall not be considered regular compensation from the governmental entity which employs him, nor shall it be the basis for governmentally supported benefits.

**B. Finder's fees.** No public servant shall receive any thing of economic value from a person to whom the public servant has directed business of the governmental entity.

**C. Payments for nonpublic service.**

(1) No public servant shall receive any thing of economic value for any service, the subject matter of which:

(a) Is devoted substantially to the responsibilities, programs, or operations of the agency of the public servant and in which the public servant has participated; or

(b) Draws substantially upon official data or ideas which have not become part of the body of public information.

(2) No public servant and no legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, shall receive any thing of economic value for or in consideration of services rendered, or to be rendered, to or for any person during his public service unless such services are:

(a) Bona fide and actually performed by the public servant or by the entity;

(b) Not within the course of his official duties;

(c) Not prohibited by [R.S. 42:1112](#) or by applicable laws or regulations governing nonpublic employment for such public servant; and

(d) Neither performed for nor compensated by any person from whom such public servant would be prohibited by [R.S. 42:1115\(A\)\(1\)](#) or [\(B\)](#) from receiving a gift.

(3)(a) Notwithstanding any other provision of the law to the contrary, and specifically the provisions of this Section, an employee of the office of the clerk of court may research public records, prepare chains of title, or perform any other title abstract related work, for compensation from nonpublic sources, with the approval of the clerk of court, provided such services are not performed during the employee's assigned working hours, and does not interfere with the performance of his assigned duties.

(b) No clerk of court shall receive any compensation or any portion of compensation received by any employee from nonpublic sources for the performance of any services related to the preparation of chains of title or any other title abstract related work approved by the clerk of court to be done by an employee during his nonworking hours.

(c) A willful violation of this Paragraph shall subject the clerk of court to a conviction of a misdemeanor and a fine of not less than five hundred dollars nor more than two thousand dollars.

(d) The clerk of court of each parish in conjunction with the parish governing authority shall promulgate rules and regulations for the use of its facilities, records, and equipment by all abstractors, including deputy clerks, regarding availability, costs, and procedures.

(4) Notwithstanding the provisions of Subparagraph (d) of Paragraph (2) of this Subsection, an elected official shall not be prohibited for a period of not more than ninety days following the first day of his initial term of office from receiving compensation from a person from whom he would be prohibited by [R.S. 42:1115\(A\)\(1\)](#) from receiving a gift for the completion while in office of any contract or subcontract which was entered into prior to his initial election to office, provided that such contract or subcontract is written and includes established terms for compensation and completion and that such contract or subcontract shall not be renewed after his initial election. Within thirty days of taking office, the elected official shall file a written notice of such contract or subcontract with his governmental entity and the Board of Ethics, setting forth the nature of the contract or subcontract, the established completion date, and the established compensation therefor.

**D. Payments for future services.** No public servant shall receive, directly or indirectly, any thing of economic value during the term of his public service in consideration of personal services to be rendered to or for any person subsequent to the term of such public service; however, a public servant may enter into a contract for prospective employment during the term of his public service unless otherwise prohibited by [R.S. 42:1116](#).

**E. Payments for rendering assistance to certain persons.**

(1) No public servant, and no legal entity of which such public servant is an officer, director, trustee, partner, or employee, or in which such public servant has a substantial economic interest, shall receive or agree to receive any thing of economic value for assisting a person in a transaction, or in an appearance in connection with a transaction, with the agency of such public servant.

(2)(a) No elected official of a governmental entity shall receive or agree to receive any thing of economic value for assisting a person in a transaction or in an appearance in connection with a transaction with the governmental entity or its officials or agencies, unless he files a sworn written statement with the board prior to or within ten days after initial assistance is rendered.

(b) For purposes of this Paragraph, "transaction" shall not include a ministerial transaction. "Ministerial transaction" means a transaction that involves routine, administrative communications intended to obtain service, information, or assistance from a public employee whose duties are established in plain and unmistakable terms by law, rule, or regulation.

(c) The contents of the sworn written statement required by this Subsection shall be prescribed by the board, and such statement shall be a public record.

(d) The board shall review all sworn statements filed in accordance with this Subsection. If the board determines that any such sworn statement is deficient or may suggest a possible violation of this Part, it shall, within ten days of the receipt of such statement, notify the elected official filing the statement of its findings. Such notification shall be deemed confidential and privileged and shall be made public only in connection with a public hearing by the board for an alleged violation of this Part where such would be relevant to the alleged violation for which the elected official is being investigated.

CREDIT(S)

**Louisiana Housing Finance Agency  
Legal Committee Meeting Minutes  
Wednesday, January 9, 2008  
2415 Quail Drive  
Committee Room 1  
Baton Rouge, LA 70808  
9:30 A.M.**

**Commissioners Present**

Allison A. Jones, Chairman  
Lisa Woodruff-White  
Dr. Adell Brown, Jr.  
Guy Williams

**Commissioners Absent**

Mark Madderra

**Legal Counsel Present**

Keith Cunningham  
Christine Bratkowski  
Leslie Strahan  
Wayne Woods

**Staff Present**

Milton Bailey  
Melanie Brocato  
J.C. Caesar  
Rene Landry

**Others Present**

Scott Kirkpatrick  
Herman Gesser, III  
Adam Fishbein  
Winston G. DeCuir, Sr.  
Jason P. Hargrave  
John S. Godfrey  
Robert Whittington  
Ben Dupuy

Chairman Allison A. Jones called the meeting to order at 10:39:53 a.m. and asked for roll call. A quorum was established.

1. Call to order, roll call and introduction of guests.
2. **Approval of the minutes.** A motion was made by Commissioner Allison Jones, and a second by Commissioner Adell Brown, Jr. to approve the minutes of the December 12, 2007 Legal Committee meeting. The minutes were approved.
3. **Discussion of the Property Management RFP.** The Agency issued a Property Management RFP for the Willowbrook Apartments in New Orleans East. We received a limited response with only three proposals submitted probably due to the timing which fell during the holiday season. We plan on reintroducing the RFP for an additional month and plan on having it ready for presentation to the board at the February 13 meeting as well as amending the RFP to make it include additional information to make it more complete for submission. The additional information will be the full scope of the Willowbrook apartment complex including the tenant variation of units, basically one, two or three bedroom apartments which was not apparent in the original RFP. We did get some responses after talking to the chairman and realized that in order to be full faced and above board with the entire process we would like to get some responses from some Louisiana contenders so we can truly determine what companies are out there. Allison Jones - Is there any action that can be taken by the board to extend the RFP period for one month, is that something we can do? I think it's in the agency's discretion. Keith Cunningham - The original commission to do the RFP was done some time ago when we had a presentation by the architects before the full board and I don't think there was a timeline associated with that original presentation, so we are ok. Dr. Brown discussed suspending or modifying the RFP or issuing a new one and how to treat the proposals we have received already from the first run. Allison Jones - Why don't we submit a new RFP instead of an amended one? Keith Cunningham - we have language in the RFP that states that the agency has the right to cancel or reissue the RFP. The legal committee recommendation was that instead of amending the RFP, a completely new RFP should be issued. We are doing a new RFP. Is the extension proper as opposed to issuing a new one? Wayne Woods - Just do a new one.
4. **Discussion of the Contract for Grace, Hebert.** The Agency received a contract from Grace Hebert. The contract has been reviewed by DeCuir Law Firm and some modifications have been suggested and implemented. A motion was made by Allison Jones to approve the contract and a second by Guy Williams.
5. **Discussion of the Cypress Architects Contracts.** The LRK Contract and Cusato Contracts were both submitted to LHFA by Cypress for review and approval. Some slight modifications have been made and both contracts meet the Agency's standards. Outside counsel has reviewed the contracts and there was some last minute discussion on the Cusato contract. A last minute agreement was made that we had already approved and Cypress has agreed to the \$36,000.00 amount. Allison Jones stated that

we need to make it clear that anything over that \$36,000.00 has to come back to the full board for approval and that there is no guarantee that any of us will be here and that the full board will approve that. Both contracts were approved. A motion was made by Guy Williams to recommend approval to the Full Board with a second by Lisa Woodward-White.

- 6. Discussion of Defaulted 202 Properties.** After some discussion by Christine Bratkowski, staff counsel, regarding the status of these properties a motion was made to ratify the Defaulted 202 Committee decision authorizing Agency staff to agree to the sale of the Nazareth I and Nazareth II Properties, with a restructuring of financing and subordination of the LHFA's HOME Program Loan and the releasing of the LHFA's claims to any further insurance proceeds related to losses incurred at the Nazareth I and Nazareth II Properties; and providing for other matters in connection therewith.
- 8. Other Business.** A visit to Willowbrook was suggested to see their finished work.
- 9. Adjournment.** The committee adjourned at 11:39 a.m.