

Section II Proposed Rules

DEPARTMENT OF CORRECTIONS

RULE TITLE: Legal Visitors
 RULE NO.: 33-601.711

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide guidelines for the exchange of documents during legal visits and for visits between inmates and agents of attorneys.

SUMMARY: The proposed rule requires that an attorney provide a signed statement for each visit of an agent stating that the visit is for the purpose of a legal consultation and agreeing to supervise the agent and accept responsibility for actions of the agent. The proposed rule provides for the exchange of documents between attorneys and their inmate clients during legal visits upon demonstration of a need for document transfer and a cursory inspection of the documents.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 20.315, 944.09 FS.

LAW IMPLEMENTED: 944.09, 944.23 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.711 Legal Visitors.

(1) No change.

(2) An agent of an attorney (~~a~~ law student, law clerk, paralegal, legal assistant, legal investigator or interpreter ~~legal paraprofessional~~) working under the supervision of an attorney may visit an inmate whom the attorney represents, subject to all conditions applicable to the attorney, if the attorney provides a signed statement for each visit stating that the visit is for the purpose of a legal consultation and agreeing to supervise the assistant and to accept personal and professional responsibility for all acts of the assistant that may affect the institution, its inmates and staff.

(3) through (5) No change.

(6) Documents will not be exchanged between the attorney and the inmate unless the attorney notifies the warden that the exchange of documents is necessary, demonstrates a need for

document transfer (e.g., time constraints, documents too bulky to mail, mental handicap of inmate) and allows a cursory inspection of the documents. The warden is authorized to disapprove any document exchange if such exchange would present a threat to the security and order of the institution or to the safety of any person.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09, 944.23 FS. History—New 10-6-83, Formerly 33-5.11, Amended 3-8-98, Formerly 33-5.011, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Vaughan

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 21, 2001

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Division of Workers' Compensation

RULE TITLES: Cancellation of Workers' Compensation
 RULE NOS.:

Insurance by an Insurer 38F-6.008
 Forms and Instructions 38F-6.009

Policy Information Electronic Filing
 Requirements for Insurers 38F-6.014

Definitions 38F-6.016

PURPOSE AND EFFECT: Rule 38F-6.008 is being amended to require an insurer to file workers' compensation insurance policy cancellation notices electronically. Amendments to Rule 38F-6.009 eliminate certain paper forms. Rule 38F-6.014 is being amended to mandate electronic filing of workers' compensation insurance policy information effective March 1, 2002. Rule 38F-6.014 is also being amended to eliminate the penalty provisions associated with the filing of paper forms. Rule 38F-6.016 is created to define specific terms referenced in these rules.

SUMMARY: These rule amendments affect electronic filing requirements for workers' compensation policy information submitted pursuant to these rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 440.05, 440.05(9), 440.10, 440.42(2),(3), 440.185(7),(9), 440.591, 440.593 FS.

LAW IMPLEMENTED: 440.05, 440.103, 440.42(3), 440.185(7),(9), 440.38(2), 440.42(2), 440.593 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Philip Wilcox, Investigations Manager, Bureau of Compliance, Suite 209, Hartman Building, 2012 Capital Circle, S. E., Tallahassee, FL 32399-2189, phone number (850)488-2333, Ext. 173

THE FULL TEXT OF THE PROPOSED RULES IS:

38F-6.008 Cancellation of Workers' Compensation Insurance by an Insurer.

(1) Except as hereinafter provided, a workers' compensation insurance policy shall not be cancelled by an insurer until and unless 30 days have elapsed after the insurer has electronically filed directly with the Division or through a third party vendor a Notice of Cancellation ~~or Reinstatement (LES Form BCM-242)~~. When an insurer files sends an electronic Notice of Cancellation directly with ~~or Reinstatement (LES Form BCM-242)~~ to the Division by U.S. mail, the 30-day deadline shall be calculated from the first day following the date the Division received the electronic cancellation. The electronic cancellation must include the minimum information required to identify the transmission as a cancellation for a specific policy as referenced in Rule Chapter 38F-56, F.A.C. If the insurer files electronically through a third party vendor, the 30-day deadline shall be calculated from the first day following the "Jurisdiction Designee Received Date." and must include the minimum information required to identify the transmission as a cancellation for a specific policy as referenced in Rule Chapter 38F-56, F.A.C. date of mailing as evidenced by postmark; or in the event the postmark is missing, or illegible, or the form is delivered to the Division by other than U.S. mail, the first day following the date such form is received by the Division.

(2) A workers' compensation insurance policy may be cancelled by the insurer the same day it became effective if the insurer electronically files a Notice of Cancellation directly or Reinstatement (LES Form BCM-242) with the Division or through a third party vendor and serves a copy of a the notice of cancellation upon the employer in person or by mail, stating therein the reason for such cancellation, if:

~~(a)~~ the policy has been rewritten by the same insurer, with the same effective date; ~~or~~

~~(b)~~ prior to the effective date of the policy, the employer sold his business or otherwise went out of business and thereafter had no employees; or

~~(c)~~ the insurer filed with the Division notice of cancellation prior to the effective date of the policy.

(3) When duplicate or dual coverage exists because two different insurers each issued policies to the same employer, and both policies have the same effective date, secure the same liability, and proof of coverage for both policies was duly filed

by the insurers as required by this rule chapter, then, one of those policies may be cancelled by one of the insurers as of the date a Notice of Cancellation ~~or Reinstatement (LES Form BCM-242)~~ is electronically filed by that insurer, with the Division. ~~The canceling insurer may effect retroactive cancellation by filing with the Division a letter of assumption from the other insurer stating the other insurer assumes full liability under the terms of its policy from the cancellation date of the policy being cancelled.~~

(4) When duplicate or dual coverage exists because two different insurers each issued policies with different effective dates to the same employer, and both of those policies secure the same liability, the insurer which was first on the risk (the canceling insurer) may cancel its policy by electronically filing with the Division a Notice of Cancellation, ~~or Reinstatement (LES Form BCM-242)~~. Once such notice is filed the cancellation date of the policy being cancelled shall become the same as the effective date of the policy not being cancelled, unless a later cancellation date is specified by the canceling insurer.

Specific Authority 440.42(3), 440.185(7), 440.591, 440.593 FS. Law Implemented 440.42(3), 440.185(7), 440.593 FS. History--New 11-20-79, Amended 4-15-81, 1-2-86, Formerly 38F-6.08, Amended 12-28-97, 2-2-00,_____.

38F-6.009 Forms and Instructions.

(1) The following forms are hereby adopted for use in connection with these rules:

~~(a) LES Form BCM-240 Proof of Coverage, revised 2/00.~~

~~(b) LES Form BCM-240 A Proof of Coverage Attachment, revised 2/00.~~

~~(c) LES Form BCM-241 Endorsement, revised 2/00.~~

~~(d) LES Form BCM-241 A Endorsement Attachment, revised 2/00.~~

~~(e) LES Form BCM-242 Notice of Cancellation or Reinstatement, revised 2/00.~~

~~(a)(f)~~ LES Form BCM-250 Notice of Election to be Exempt, revised 2/00; and instructions for same (Construction Industry Instructions for LES Form BCM-250 and Non-Construction Industry Instructions for LES Form BCM-250, dated 2/00.

~~(b)(g)~~ LES Form BCM-250-R Revocation of Election to be Exempt, revised 2/00.

~~(c)(h)~~ LES Form BCM-251 Notice of Election of Coverage, revised 2/00.

~~(d)(i)~~ LES Form BCM-251-R Revocation of Election of Coverage, revised 2/00.

(2) through (3) No change.

Specific Authority 440.05, 440.05(9), 440.10, 440.185(7), 440.42(2), 440.591, 440.593 FS. Law Implemented 440.05, 440.103, 440.185(7),(9), 440.38(2), 440.42(2), 440.593 FS. History--New 11-20-79, Amended 4-15-81, 1-2-86, Formerly 38F-6.09, Amended 5-28-91, 2-15-94, 2-2-00,_____.

38F-6.014 Policy Information Electronic Filing Requirements for Insurers; Insurer Penalty Assessments.

(1) Every insurer, other than an individual self-insurer approved under s. 440.38, F.S., shall file directly with the Division, or through a third party vendor the following electronic form equivalents and shall receive a "Transaction Accepted" (TA) Acknowledgement Code by the Division within the time frames noted forms:

(a) Within thirty days of the effective date of each policy or contract for workers' compensation insurance issued, every insurer shall transmit the electronic form equivalent of the Proof of Coverage. A Proof of Coverage (LES Form BCM-240) and if applicable, a Proof of Coverage Attachment (LES Form BCM-240-A), shall be filed by an insurer within twenty-one days of the issue date of each contract issued by the insurer for workers' compensation insurance coverage.

(b) Within thirty days of the effective date of each endorsement to a policy or contract for workers' compensation insurance issued, every insurer shall transmit the electronic form equivalent of a Notice of Endorsement. A Notice of Endorsement (LES Form BCM-241) and if applicable, a Notice of Endorsement Attachment (LES Form BCM-241-A) shall be filed by an insurer within twenty-one days of the issue date of each endorsement to a policy or contract issued by the insurer for workers' compensation insurance coverage.

(c) Within thirty days of the effective date of each reinstatement to a cancelled policy or contract for workers' compensation insurance issued, every insurer shall transmit the electronic form equivalent of a Notice of Reinstatement. A Notice of Cancellation or Reinstatement (LES Form BCM-242) shall be filed by an insurer within twenty-one days of the issue date of each notice of reinstatement of a policy or contract for workers' compensation insurance coverage and within thirty days of the issue date of each notice of cancellation of a policy or contract for workers' compensation insurance coverage, issued by the insurer.

(d) Within thirty days prior to the cancellation of a policy or contract for workers' compensation insurance coverage, every insurer shall transmit the electronic form equivalent of a Notice of Cancellation.

(2) Failure or refusal by an insurer to timely file with the Division any document required herein shall result in a civil penalty to the insurer in the amount specified below, depending upon the number of days late the document is filed, except that there shall be no penalty for the late filing of a Notice of Cancellation or Reinstatement (LES Form BCM-242) following the cancellation by the insurer of a policy for workers' compensation insurance coverage.:

(a) \$100.00 for each document filed from one to four days late;

(b) \$200.00 for each document filed from five to nine days late;

(c) \$300.00 for each document filed from ten to fourteen days late;

(d) \$400.00 for each document filed from fifteen to nineteen days late; and

(e) \$500.00 for each document filed twenty or more days late.

(3) For purposes of this rule, the term "filed" shall mean received by the Division at the following address:

Florida Bureau of Workers' Compensation Compliance
2562 Executive Center Circle, East
Montgomery Building, Room 201
Tallahassee, FL 32399-0661

Specific Authority 440.185(7),(9), 440.591, 440.593 FS. Law Implemented 440.185(7),(9), 440.593 FS. History--New 2-2-00, Amended _____.

38F-6.016 Definitions.

(1) "Division" means the Division of Workers' Compensation.

(2) "Electronic Data Interchange (EDI)" means a computer to computer exchange of business transactions in a standardized electronic format.

(3) "Electronic Form Equivalent" means the transmission of information in Division-approved electronic formats instead of otherwise required paper documents. Division-approved electronic formats include nationally standardized Electronic Data Interchange (EDI) formats endorsed by the International Association of Industrial Accident Boards and Commissions (IAIABC). Electronic form equivalents do not include transmission by facsimile, file data attached to electronic mail, or computer-generated paper forms.

(4) "IAIABC" means the International Association of Industrial Accident Boards and Commissions (www.iaiaabc.org), and is a professional trade association comprised of state workers' compensation regulators and insurance representatives.

(5) "Third Party Vendor" means an agent that an insurer has contracted with to submit required electronic filings on its behalf, and has been authorized to submit EDI transactions to the Division. Third party vendors shall include service companies, third party administrators, and managing general agents that have been authorized to submit EDI transactions to the Division.

(6) "Transaction Accepted (TA) Acknowledgement Code" means the code assigned by the Division to represent that the transaction being sent was successfully received by the Division and passed required edits pursuant to the Florida Division of Workers' Compensation Proof of Coverage Electronic Data Interchange (EDI) Implementation Manual, November 2001, incorporated in Rule Chapter 38F-56, F.A.C.

Specific Authority 440.42(3), 440.185(7), 440.591, 440.593 FS. Law Implemented 440.42(3), 440.185(7), 440.593 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Philip Wilcox, Investigations Manager, Bureau of Compliance
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Lee A. Pease, Chief, Bureau of
Compliance
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 17, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 28, 2001; Vol. 27, No. 52

**DEPARTMENT OF LABOR AND EMPLOYMENT
SECURITY**

Division of Workers' Compensation

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Electronic Data Interchange (EDI)	
Technical Requirements	38F-56
RULE TITLES:	RULE NOS.:
EDI Forms and Instructions	38F-56.001
Definitions	38F-56.002
Mandate of Proof of Coverage (POC) EDI	38F-56.100
Technical Requirements for POC	
EDI Transactions	38F-56.110

PURPOSE AND EFFECT: Rule Chapter 38F-56 is being created to identify the technical requirements for filing workers' compensation forms via Electronic Data Interchange (EDI). Rule 38F-56.001 is being created to identify the forms required in this Rule Chapter. Rule 38F-56.002 is being created to define the terms used in this rule section. Rule 38F-56.100 is being created to mandate electronic filing of workers' compensation proof of coverage information effective March 1, 2002. Rule 38F-56.110 is being created to identify the technical filing requirements for electronic POC transactions.

SUMMARY: These rules affect electronic filing requirements for workers' compensation policy and claims information submitted to the Division pursuant to these rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, shall do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 440, 591, 440.593 FS.

LAW IMPLEMENTED: 440.593 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Linda Yon, W.C. Administrator, Bureau of Information Management, Suite 212, Forrest Building, 2728 Centerview Dr., Tallahassee, FL 32399-0685; phone number (850)488-3030, ext. 129

THE FULL TEXT OF THE PROPOSED RULES IS:

38F-56.001 EDI Forms and Instructions.

(1) The following forms are adopted for use in filing Proof of Coverage (POC) Electronic Data Interchange (EDI) submissions with the Division:

(a) DWC Form POCEDI-1: "POC EDI Production Profile"

(b) DWC Form POCEDI-2: "POC EDI Trading Partner Agreement."

(2) The following form is adopted for use in filing both POC and CLAIMS EDI submissions with the Division: DWC Form EDI-3: "EDI Transmission Profile-Sender Specifications."

Specific Authority 440.591, 440.593 FS. Law Implemented 440.593 FS. History-New _____.

38F-56.002 Definitions.

When used in this chapter, the following terms have the following meanings:

(1) "Batch" means a set of records containing one header record, one or more detailed transactions, and one trailer record.

(2) "Division" means the Division of Workers' Compensation.

(3) "Domestic Insurer" is one formed under the laws of this state pursuant to s. 624.06(1), F.S. An individual self-insurer authorized by s. 440.38, F.S., and headquartered in this state will be considered a Domestic Self-Insurer for the purposes of this rule chapter.

(4) "Electronic Data Interchange" means a computer to computer exchange of business transactions in a standardized electronic format.

(5) "Electronic Form Equivalent" means the transmission of information in Division-approved electronic formats instead of otherwise required paper documents. Division-approved electronic formats include nationally standardized EDI formats endorsed by the International Association of Industrial Accident Boards and Commissions (IAIABC). Electronic form equivalents do not include transmission by facsimile, file data attached to electronic mail, or computer-generated paper forms.

(6) "Foreign Insurer" is one formed under the laws of any state, district, territory, or commonwealth of the United States other than this state, pursuant to s. 624.06(2), F.S. An individual self-insurer authorized by s. 440.38, F.S., and headquartered outside this state will be considered a Foreign Self-Insurer for purposes of this rule chapter.

(7) "Header Record" means the record that precedes each batch. The header record uniquely identifies a sender, as well as the date and time a batch is prepared, and the transaction set within the batch.

(8) “IAIABC” means the International Association of Industrial Accident Boards and Commissions (www.iaiaabc.org), and is a professional trade association comprised of state workers’ compensation regulators and insurance representatives.

(9) “Maintenance Type Code” (MTC) is an IAIABC code that defines the specific purpose of individual claims transactions within the batch being transmitted, i.e., a code that represents the type of filing being sent electronically (For example: IP = initial payment, 04 = denial).

(10) “Sender” means the claim administrator, insurer, or third party vendor that is submitting electronic filings to the Division.

(11) “Third Party Vendor” means an agent that an insurer has contracted with to submit required electronic filings on its behalf, and has been authorized to submit EDI transactions to the Division. Third party vendors shall include service companies, third party administrators, and managing general agents that have been authorized to submit EDI transactions to the Division.

(12) “Trailer Record” means the record that designates the end of a batch of transactions. It provides a count of transactions contained within the batch, not including the header and trailer transactions.

(13) “Transaction” is one record within a batch intended to communicate an event.

(14) “Transmission” consists of one or more batches sent or received during a communication session.

(15) “Triplicate Code” is a series of three two-digit numeric codes that define the specific purpose of individual records in a Proof of Coverage transmission, i.e., new policy, renewal, endorsement or cancellation. It is a combination of the Transaction Set Purpose Code, Transaction Set Type Code and Transaction Set Reason Code as defined in the IAIABC EDI Implementation Guide for Proof Of Coverage: Insured, Employer, Header, Trailer & Acknowledgement Records, Release 2, November 1, 2001, which is herein incorporated by reference in this rule.

Specific Authority 440.591, 440.593 FS. Law Implemented 440.593 FS. History—New

38F-56.100 Mandate of Proof of Coverage (POC) EDI.

(1) Effective March 1, 2002, every insurer authorized to insure employers in the State of Florida shall file policy information electronically to the Division rather than by filing on paper forms previously required by Rule 38F-6.014, F.A.C. Every insurer shall transmit by electronic data interchange all required data elements specified in the Florida Division of Workers’ Compensation Proof of Coverage Electronic Data Interchange (EDI) Implementation Manual, November 2001, which is herein incorporated by reference in this rule. The Division will not accept an electronic transaction that fails to

comply with the requirements in this manual. The insurer shall send electronic submissions either directly to the Division or through an authorized third party vendor.

(2) Electronic Proof of Coverage Forms shall be sent in the Proof of Coverage national standard, adopted by the IAIABC. The insurer or third party vendor shall utilize the IAIABC EDI Implementation Guide for Proof Of Coverage: Insured, Employer, Header, Trailer & Acknowledgement Records, Release 2, November 1, 2001, to implement Florida workers’ compensation proof of coverage data electronically.

(3) If an insurer is unable to report all or part of the data elements required pursuant to this section, by the time frame indicated in rule chapter 38F-6, F.A.C., the insurer shall submit a request for a variance in accordance with s. 120.542, F.S., by sending an e-mail to the Division at pcedi@wcpst.fdles.state.fl.us. The variance shall state the specific reasons the terms of the mandate cannot be achieved, and shall also identify the length of the extension needed to comply with the electronic reporting requirements specified in the rule.

(4) All insurers or third party vendors shall submit to the Division as an attachment in an e-mail to pcedi@wcpst.fdles.state.fl.us, DWC Form POCEDI-1, “POC EDI Production Profile,” no later than one month prior to the effective date of the POC mandate. The POC EDI Production Profile shall include:

(a) Name and Federal Employer Identification Number (FEIN) of any third party vendor submitting proof of coverage data on behalf of an insurer.

(b) Name of the insurer and all subsidiary companies in the insurer’s corporate structure.

(c) The Federal Employer Identification Numbers (FEIN’s) for all entities.

(d) Estimated volume of proof of coverage transactions for the current calendar year and whether volume is expected to substantially increase or decrease during the following calendar year.

(e) Insurer or third party vendor if applicable, EDI business and technical contact persons with telephone numbers and e-mail addresses.

Once filed, the insurer or third party vendor shall report any changes to its POC EDI Production Profile to the Division.

(6) The electronic cancellation shall include the minimum information required to identify the transmission as a cancellation for a specific policy, as referenced in the Florida Proof of Coverage (POC) Element Requirement Table contained within the Florida Division of Workers’ Compensation Proof of Coverage Electronic Data Interchange (EDI) Implementation Manual, November 2001, which is hereby incorporated by reference in this rule. If the insurer files electronically through a third party vendor, the 30-day deadline shall be calculated from the first day following the Jurisdiction Designee Received Date, and shall include the minimum

information required to identify the transmission as a cancellation for a specific policy, as referenced in the FL POC Element Requirement Table.

Specific Authority 440.591, 440.593 FS. Law Implemented 440.593 FS. History–New _____.

38F-56.110 Technical Requirements for POC EDI Transactions.

(1) Every insurer or third party vendor shall be authorized by the Division to submit Proof of Coverage forms electronically to the Division upon completion of the requirements of this Rule Chapter. Each transmission for Test, Pilot or Production purposes shall be in the correct IAIABC format (PC1-Insured Record and PC2-Employer Record). Each transmission shall contain the following as described in the IAIABC EDI Implementation Guide for Proof Of Coverage: Insured, Employer, Header, Trailer & Acknowledgement Records, Release 2, November 1, 2001:

(a) Header Record

(b) One or more transactions – PC1, PC2 (See Transaction Overview, Carrier – Insurer Submits column)

(c) Trailer Record.

(2) Header records shall include the following information:

(a) Correct receiver FEIN for the State of Florida: 59-6001874.

(b) “Receiver Postal Code” as indicated in the EDI Transmission Profile – Receiver Specifications, located in the Florida Division of Workers’ Compensation Proof of Coverage Electronic Data Interchange (EDI) Implementation Manual, November 2001.

(c) Correct sender FEIN for the insurer or third party vendor.

(d) “Sender Postal Code” as indicated in DWC Form EDI-3 “EDI Transmission. Profile – Sender Specifications.”

(3) POC EDI transmissions may be sent on a daily basis, and shall be sent via secured File Transfer Protocol (FTP).

(4) The insurer or third party vendor shall send transmissions by 9 p.m., Eastern Standard Time, in order for the transmission to be processed that day. Transmissions received after 9 p.m., Eastern Standard Time, shall be processed the next business day.

(5) To submit data electronically to the Division’s FTP Internet web site, the insurer or third party vendor shall have the following capabilities:

(a) Computer access to the Internet.

(b) Compression Software to read and write encrypted ZIP files, and

(c) FTP Transfer Software to accomplish FTP uploads and downloads.

(6) Transmissions shall be sent using the flat file PC1 and PC2 formats in the IAIABC EDI Implementation Guide for Proof Of Coverage: Insured, Employer, Header, Trailer & Acknowledgement Records, Release 2, November 1, 2001.

(7) Formats of data elements shall match format specifications established by the IAIABC.

(8) During test and pilot transmissions, the “Test-Production Indicator” in the Header record shall be set to “T.” Beginning with authorized production transmissions, the “Test-Production Indicator” shall be set to “P.”

(9) All insurers or third party vendors shall have the capability to receive and process the IAIABC POC EDI Acknowledgement Transaction, which is a “variable length” record.

(10) The meaning of the data elements reported to the Division under this section shall match the definitions established in the IAIABC EDI Implementation Guide for Proof Of Coverage: Insured, Employer, Header, Trailer & Acknowledgement Records, Release 2, November 1, 2001. If not, the insurer or third party vendor shall conform to the IAIABC standard data definition(s).

(11) When required, both a PC1 and PC2 shall be sent to report POC EDI filings. If the PC2 filing is rejected, both the PC1 and PC2 shall be re-submitted together in the same transmission. The Division will not “hold” a PC1 record in anticipation of the return of a corrected corresponding PC2.

(12) The insurer or third party vendor’s business and technical contacts shall have e-mail capabilities to support receipt of zipped files with attachments of at least 2 Megabytes.

(13) The insurer or third party vendor shall utilize anti-virus software to screen out and clean any viruses on all electronic transmissions, prior to submission to the Division. The insurer or third party vendor shall maintain the anti-virus software with the most recent anti-virus update files from the software provider.

Specific Authority 440.591, 440.593 FS. Law Implemented 440.593 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Linda Yon, W.C. Administrator, Bureau of Information Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ted Altavilla, Chief, Bureau of Information Management

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 17, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 28, 2001, Vol. 27, No. 52

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE TITLE: Disciplinary Guidelines
 RULE NO.: 61G5-30.001

PURPOSE AND EFFECT: The purpose and effect are to amend the Disciplinary Guidelines.

SUMMARY: The proposed changes remove sections that reference the "severity of the offense" and "repetition of the offense".

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 455.2273, 477.016, 477.029(2) FS.

LAW IMPLEMENTED: 455.2273, 477.029(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW:

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Julie Baker, Executive Director, Board of Cosmetology, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G5-30.001 Disciplinary Guidelines.

(1) through (3) No change.

(4) Based upon consideration of the following factors, the Board may impose disciplinary action other than the penalties recommended above:

~~(a) The severity of the offense;~~

~~(a)(b) The danger to the public;~~

~~(e) The number of repetitions of offenses;~~

~~(b)(4) The length of time since date of violation;~~

~~(c)(e) The number of complaints filed against the licensee;~~

~~(d)(f) The length of time licensee or registrant has practiced;~~

~~(e)(g) The actual damage, physical or otherwise, caused by the violation;~~

~~(f)(h) The deterrent effect of the penalty imposed;~~

~~(g)(i) The effect of the penalty upon the licensee's or registrant's livelihood;~~

~~(h)(j) Any efforts for rehabilitation;~~

~~(i)(k) The actual knowledge of the licensee or registrant pertaining to the violation;~~

~~(j)(4) Attempts by licensee or registrant to correct or stop violations or refusal by licensee or registrant to correct or stop violations;~~

~~(k)(m) Related violations against a licensee or registrant in another state including findings of guilt or innocence, penalties imposed and penalties served;~~

~~(l)(n) Actual negligence of the licensee or registrant pertaining to any violations;~~

~~(m)(o) Penalties imposed for related offenses under Subsection (1) above;~~

~~(n)(p) Any other mitigating or aggravating circumstances.~~

(5) through (7) No change.

Specific Authority 455.2273, 477.016, 477.029(2) FS. Law Implemented 455.2273, 477.029(2) FS. History—New 10-20-86, Amended 10-18-87, 1-10-90, 1-30-92, 4-15-93, Formerly 21F-30.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Cosmetology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Cosmetology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 29, 2001

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Manner of Application
 RULE NO.: 64B3-6.001

PURPOSE AND EFFECT: The Board proposes to update the social security disclosure language, the application form, and the examination information.

SUMMARY: Due to time constraints, a portion of the rule was withdrawn on April 27, 2001. Obsolete language is being removed and the application form updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.013, 483.805(4) FS.

LAW IMPLEMENTED: 456.013, 483.815, 483.823 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-6.001 Manner of Application.

(1) All persons applying for licensure shall submit an application signed under oath to the Board on ~~Form #DH-MOA3000 10/99, Application for Licensure of Clinical Laboratory Licensure Director, Supervisor, Technologist, or Technician, effective 1-5-00,~~ which is incorporated by reference herein and which can be obtained from the Department. The application must be accompanied by the appropriate application fee required by Rule 64B3-9.001, F.A.C.

(2) The application shall contain the following:

(a) name, address, telephone number, demographic data and social security number of the applicant.

(b) education, training and experience of the applicant.

(c) the clinical laboratory personnel level for which licensure is sought: ~~director, supervisor, technologist, technician.~~

(d) ~~the categories in which licensure is sought.~~

(e) ~~name, address and telephone number of the current employer unless the applicant is unemployed.~~

(f) ~~two 2" x 2" passport style photographs of the applicant taken within six (6) months prior to the date of application. These shall be signed on the front by the applicant but the signature shall not obscure the face.~~

(g) ~~any current or past Florida clinical laboratory personnel license number.~~

(h) ~~information regarding licensure or certification from another state or jurisdiction.~~

(i) ~~information regarding past arrests or conviction of a crime.~~

(3) ~~Examinations are given twice a year (spring and fall). Prospective applicants can contact the Board office for the exam dates and application cut-off dates.~~

(2)(4) After one year from the date of the original submission of an application, a new application and fee shall be required from any applicant who desires to be considered for licensure.

(3)(5) With regard to persons who have been issued a social security number by the Federal Government, disclosure of a social security number is mandatory Under the Federal Privacy Act, disclosure of a social security number is voluntary. They are requested pursuant to Sections 456.004(9), 409.2577 and 409.2598, Florida Statutes, and are used to allow efficient screening of applicants and licensees by a Title IV-D child support agency to assure compliance with child support obligations.

(6) ~~Clinical Laboratory Trainee Application. The application for clinical laboratory trainee, incorporated in Rule 64B3-4.001(1), F.A.C., shall contain:~~

(a) the name, address, telephone number, and demographic data of the applicant.

~~(b) the name, address, telephone number, approval number and program director of the clinical laboratory training program in which the trainee is enrolled.~~

~~(c) the name and address of the laboratory where clinical practice is to be obtained if different from the clinical laboratory training program in which the trainee is enrolled.~~

~~(d) the date of expected graduation from the approved clinical laboratory training program in which the trainee is enrolled.~~

~~(e) information specific to arrests or conviction of a crime, if any.~~

~~(f) one 2" x 2" passport style photograph of the applicant taken within six (6) months prior to the date of application. This shall be signed on the front by the applicant but the signature shall not obscure the face.~~

~~(g) any current or past Florida clinical laboratory personnel license number.~~

~~(h) information regarding licensure or certification from another state or jurisdiction.~~

Specific Authority 456.013, 483.805(4) FS. Law Implemented 456.013, 483.815, 483.823 FS. History—New 12-29-93, Formerly 61F3-6.001, Amended 5-29-95, 8-1-95, Formerly 59O-6.001, Amended 8-27-97, 9-20-98, 1-5-00,

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 12, 2001

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: RULE NO.:

Licensure Without Examination 64B17-3.003

PURPOSE AND EFFECT: The Board proposes to clarify the existing rule with regard to minimum standards.

SUMMARY: The Board proposes to amend this rule for licensure without examination by adding a reference to applicants meeting Florida's minimum educational qualifications.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 486.025, 486.081 FS.

LAW IMPLEMENTED: 486.081 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-3.003 Licensure Without Examination.

An applicant demonstrating that he meets the requirements of Rule 64B17-3.001, F.A.C., may be licensed to practice physical therapy without examination by presenting evidence satisfactory to the Board that he has passed an examination before a similar, lawful, authorized examining board in physical therapy in another state, the District of Columbia, a territory or a foreign country if their standards for licensure are as high as those maintained in Florida. The standard for determining whether the standards of another state, the District of Columbia, a territory, or a foreign country are as high as the standards in Florida shall be whether the written examination taken for licensure in such other jurisdiction by applicants meeting Florida's minimum educational qualifications was an examination prepared under the auspices of the Profession Examination Services.

Specific Authority 486.025, 486.081 FS. Law Implemented 486.081 FS. History—New 8-6-84, Formerly 21M-7.26, Amended 5-18-86, Formerly 21M-7.026, 21MM-3.004, 61F11-3.004, 59Y-3.004, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 19, 2001

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE TITLE: Address of Licensee

RULE NO.: 64B32-1.006

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: In addition to the place of residence, each person holding a license must notify the Board the current place of practice.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 468.36 FS.

LAW IMPLEMENTED: 468.36, 456.035 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B32-1.006 Address of Licensee.

Each person holding a license issued pursuant to Part V of Chapter 468, Florida Statutes, must maintain on file with the Board the current place of practice and the residence address at which any notice required by law may be served by the Department, the Board, or its agents. Within 60 days of changing either address, whether or not within this state, the licensee shall notify the Board in writing of the new address.

Specific Authority 468.36 FS. Law Implemented 468.36, 456.035 FS. History—New 5-10-92, Formerly 21M-33.009, 61F6-33.009, 59R-70.009, Amended 3-16-98, Formerly 64B8-70.009, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Respiratory Care

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Respiratory Care

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 17, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 2, 2001

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Rights and Responsibilities

RULE NO.: 65A-1.204

PURPOSE AND EFFECT: The proposed amendment of these rules will incorporate by reference client notice and contact forms used in the eligibility determination process and amend statements about confidentiality.

SUMMARY: The proposed amendment of Rule 65A-1.204 incorporates the Rights and Responsibilities form and the Hearing Request form by reference into this rule, and provides federal regulation and state statute cites as to the right of confidentiality.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 409.919, 414.45 FS.

LAW IMPLEMENTED: 409.903, 409.904, 410.033, 414.095, 414.28, 414.295, 414.31 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 2:00 p.m., February 4, 2002

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Audrey Mitchell, Program Administrator, Policy Support Unit, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, Florida 32399-0700, Telephone (850)488-3090

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.204 Rights and Responsibilities.

(1) No change.

(2) The individual has the right of confidentiality in accordance with sub-section (3) of this rule, to receive prompt action, equitable treatment, notification of any case action taken and to receive a fair hearing due to an appeal of case action. Department form CF-ES 2064, Sep 00 Jan 98, (incorporated by reference) explains these and other rights and responsibilities. This form is given to each payee individual receiving or applying for assistance.

(3) All individuals have the right to a confidential relationship with the department. This is pursuant to the following federal regulations, federal statutes and Florida Statutes: for the food stamp program, Title 7 USC s. 2020(e)(8), 7 CFR s. 272.1(c) and s. 414.31, F.S.; for the Medicaid program, Title 42 USC s. 1396a(a)(7), 42 CFR ss. 431.300-431.306 and s. 409.902, F.S.; and, for the cash assistance program, Title 42 USC s. 602(a)(1)(A)(iv), 45 CFR s. 205.50, and ss. 414.106 and 414.295, F.S. Information obtained by the department is considered confidential state agency material and is not subject to the Freedom of Information Act.

(4) Fair hearings are conducted in accordance with the Florida Administrative Code Chapter 65-2, Part VI, and the Uniform Rules of Procedure set forth in Chapter 28-106, Parts I and II with the exception of sections 28-106.104, 28-106.105, 28-106.106, 28-106.107, 28-106.109, 28-106.111, and 28-106.201. Departmental form CF-ES 1007, Jan 98 (incorporated by reference), is used to request fair hearings. Additionally, clients may request fair hearings either orally or in writing without using the form.

(5) Copies of forms incorporated by reference in this rule may be obtained from the Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Building 3, Room 427, Tallahassee, Florida 32399-0700.

Specific Authority 409.919, 414.45 FS. Law Implemented 409.903, 409.904, 410.033, 414.095, 414.28, 414.295, 414.31 FS. History—New 4-9-92, Amended 11-22-93, Formerly 10C-1.204, Amended 12-29-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rodney McInnis, Operations Review Specialist

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Audrey Mitchell, Program Administrator, Public Assistance Policy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 31, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2001

FLORIDA HOUSING FINANCE CORPORATION

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Procurement of Commodities or Contractual Services 67-49

RULE TITLES: RULE NOS.:
Definitions 67-49.001

Procurement of Commodities or Contractual Services 67-49.002

Withdrawal of Invitation to Bid, Invitation to Negotiate, Request for Proposals or

Request for Qualifications 67-49.003
Emergency Purchases 67-49.0031

Modification of Terms of Invitation to Bid, Invitation to Negotiate, Request for

Proposals or Request for Qualifications 67-49.004
Responsibility of Bidders and Offerors 67-49.005

Evaluation of Bids or Proposals 67-49.006
Evaluation of Responses 67-49.007

Identical (Tie) Responses 67-49.008
Right to Waive Minor Irregularities 67-49.009

Selection Protest Procedures 67-49.010

PURPOSE, EFFECT AND SUMMARY: The purpose of this Rule Chapter is to establish the guidelines for the procurement of materials and services for use by the Corporation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 420.507 FS.

LAW IMPLEMENTED: Chapter 420 Part V FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., February 5, 2002

PLACE: Florida Housing Finance Corporation, Rick Seltzer Conference Room, 227 North Bronough Street, Suite 6000, Tallahassee, Florida 32301-1329

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robin Grantham, Contracts Analyst, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

67-49.001 Definitions.

(1) "Act" means the Florida Housing Finance Corporation Act, Sections 420.501 through 420.517, Florida Statutes, as amended.

(2) "Bidder" or "Offeror" means a person who has the capability in all respects to perform fully the requirements contained in the Invitation to Bid, Invitation to Negotiate, Request for Proposals or Request for Qualifications.

(3) "Commodity" means any supplies, materials, goods, merchandise, food, equipment, and other personal property contracted for by the Corporation, unless purchased exclusively for resale.

(4)(2) "Competitive Sealed Bids" or "Competitive Sealed Proposals" refers to the receipt of two or more sealed bids or proposals submitted by responsive and qualified Bidders or Offerors.

(5) "Contractor" means a person or entity who enters into a written contract to sell commodities or provide contractual services to the Corporation.

(6) "Contractual Service" means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to, evaluations; consultations; maintenance; accounting; security; management systems; management consulting; educational training programs; research and development studies or reports on the findings of consultants engaged there under; and professional, technical, and social services.

(7)(3) "Corporation" means the Florida Housing Finance Corporation as created by the Act.

(8)(4) "Corporation Mailing Date" means the date on which the Corporation mails the Invitation to Bid, Invitation to Negotiate, Request for Proposals or Request for Qualifications to prospective Bidders and Offerors proposers as referenced in paragraphs 67-49.002(2)(b), (3)(b) and (4)(b) hereof.

(9) "Days" means calendar days unless otherwise specified.

(5) "DOAH Division" means the Division of Administrative Hearings.

(10) "FAW" means the Florida Administrative Weekly.

(11) "Good Purchasing Practices" means obtaining at least two (2) written quotations or making a written record of at least two quotes obtained verbally for Contractual Services or Commodities that exceed \$3,000 and are not available through a vendor under a contract negotiated by the Florida Department of Management Services. If an employee of the Corporation receives verbal quotations, they will include the name and address of the company and amount quoted in the required written record. If the Corporation does not obtain at least two (2) quotations, the Corporation shall document as to why they were not obtained.

(12)(6) "Invitation to Bid" means a written solicitation, which includes a solicitation published or transmitted by electronic means, requesting for competitive sealed bids with the title, date, and hour of the public bid opening designated and specifically defining the commodity, service, group of commodities or group of services for which bids are sought. It includes instructions prescribing all conditions for bidding and shall be available distributed to all prospective Bidders simultaneously. The Invitation to Bid is used when the Corporation is capable of specifically defining the scope of work for which a contractual service is required or when the Corporation is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation published or transmitted by electronic means.

(13) "Invitation to Negotiate" means a written solicitation, which includes a solicitation published or transmitted by electronic means, requesting competitive sealed responses to select one or more persons or business entities with which to commence negotiations for the procurement of commodities or contractual services.

(14)(7) "Minority Business Enterprise" has the same definition as in Section 288.703, Fla. Stat. means any business which is a least fifty one percent (51%) owned by minority persons who are members of a group that is of a particular racial, ethnic, gender makeup or national origin, which has been subjected historically to disparate treatment on the basis of their racial, ethnic, gender makeup or national origin.

(15) "Minor Irregularity" means a variation in a mandatory term or condition of an Invitation to Bid, Invitation to Negotiate, Request for Proposal or Request for Qualifications that does not affect the price of the commodity or service, or give the Bidder or Offeror an advantage or benefit not enjoyed by other Bidders or Offerors, and does not adversely impact the interests of the Corporation or the public.

(16) "Publication Date" means the date on which the Corporation publishes the notice of the availability of the Invitation to Bid, Invitation to Negotiate, Request for Proposals or Request for Qualifications in the FAW or by such other means designated by Florida statute or by rule of the Florida Department of State or Florida Department of Management Services as an acceptable alternative means of

publication. All references to the FAW in this rule chapter shall also be read to include any other written or electronic publication or information delivery system designated by Florida Statute or by rule of the Florida Department of State or Florida Department of Management Services as an acceptable alternative means of publication.

(8) ~~“(Qualified Bidder” or “Qualified Offeror” means a person who has the capability in all respects to perform fully the contract requirements.~~

(17)(9) ~~“(Request for Proposals” means a written solicitation, which includes a solicitation published or transmitted by electronic means, requesting for competitive sealed proposals with the title, date, and hour of the public opening designated. The Request for Proposals is used when the Corporation is incapable of specifically defining the scope of work for which the commodity, group of commodities or contractual service is required and when the corporation is requesting that a qualified offeror propose a commodity, group of commodities or contractual service to meet the specifications of the solicitation document. The Request for Proposals includes general information, applicable laws and rules, functional or general specifications, statement of work, proposal instructions and evaluation criteria.~~

(18)(10) ~~“(Request for Qualifications” means a written solicitation, which includes a solicitation published or transmitted by electronic means, requesting competitive sealed for qualifications. The Request for Qualifications is utilized when the Corporation does not have a specific immediate need for a particular service, but desires to have qualified individuals or firms under contract which can be assigned duties as the need arises over a period of time. The Request for Qualifications includes general information, applicable laws and rules, functional or general specifications, statement of work, instructions and evaluation criteria.~~

(19) ~~“(Response” means the written submission by a Bidder or Offeror to an Invitation to Bid, Invitation to Negotiate, Request for Proposals or Request for Qualifications.~~

(20) ~~“(Valid Emergency” means a circumstance caused by an unexpected turn of events beyond the control of the Corporation involving the security, integrity or the financial status of the Corporation; or involving public health, welfare, safety, injury or loss.~~

(21) ~~“(Website” means the Florida Housing Finance Corporation website, the home address of which is www.floridahousing.org.~~

Specific Authority 420.507(12) FS. Law Implemented 420.507(13),(27) FS. History—New 1-31-99, Amended _____.

67-49.002 Procurement of Commodities or Contractual Services.

(1)(a) When the purchase price of a commodity or contractual service does not exceed twenty-five fifteen thousand dollars (~~\$25,000~~ ~~±5,000~~) in any fiscal year, including all delivery costs and administrative costs, then the

Corporation may proceed with the procurement of commodities or contractual services without a competitive competition by bid or competitive proposal. ~~If the purchase price of a commodity or a contractual service exceeds twenty-five hundred dollars (\$2,500), but does not exceed fifteen thousand dollars (\$15,000), but then the Corporation must use Good Purchasing Practices shall attempt to obtain three quotes from vendors willing to provide the commodity or service. If the Corporation is unable to obtain three quotes, the Corporation may proceed to procure the commodity or service as a single source procurement.~~

(b) When the purchase price of commodities or contractual services exceeds or is estimated to exceed twenty-five fifteen thousand dollars (~~\$25,000~~ ~~±5,000~~), in any twelve (12) month period, purchases of these commodities or contractual services, except as otherwise provided in subsection 67-49.002(4),(5) and (6), F.A.C., must be made pursuant to competitive sealed bids, competitive sealed proposals or through a an Invitation to Bid, Invitation to Negotiate, Request for Proposals or Request for Qualifications process.

(2)(a) ~~Procurement by sealed bid is the preferred method if the Corporation is able to provide precise specifications as to work required by the contract or the commodity sought.~~

(b) ~~Public notice of the Invitation to Bid shall be given in advance of the bid opening as provided herein to permit potential bidders to prepare and submit bids in a timely fashion. Notice shall include, at a minimum, the mailing or delivery of Invitations to Bid to a representative number of potential bidders, as selected by the Corporation, on any applicable bidder list.~~

(c) ~~The Corporation shall also post notice of its Invitation to Bid at its offices simultaneously with the issuance of the Invitation to Bid. The Invitation to Bid shall define the items or services in sufficient detail that the bidder may properly respond. All bids will be publicly opened at a time and place designated in the Invitation to Bid. There will be a minimum of fourteen (14) days between the Corporation Mailing Date of the Invitation to Bid and the bid submission due date.~~

(d) ~~Bids shall be evaluated based on the requirements set forth in the Invitation to Bid. The Invitation to Bid shall set forth the criteria for selection. No criterion may be used to evaluate the bid that is not set forth in the Invitation to Bid.~~

(3)(a) ~~Procurement by sealed proposals is the method utilized when the use of competitive sealed bids is not deemed practicable by the Corporation. A Request for Proposals shall include a statement of the commodities or contractual services sought and all terms and conditions applicable, including any applicable criteria.~~

(b) ~~Public notice of the Request for Proposals shall be given in advance of the proposal opening as provided herein to permit qualified offerors to prepare and submit proposals in a timely fashion. Notice shall include, at a minimum, the mailing or delivery of the Request for Proposals, or notice of the~~

availability thereof, to a representative number of potential offerors, as selected by the Corporation, on an applicable offeror list.

~~(e) The Corporation shall also post notice of its Request for Proposals at its offices simultaneously with the issuance of the Request for Proposals. The Request for Proposals shall define the items or services in sufficient detail that the offeror may properly respond. All proposals will be publicly opened at a time and place designated in the Request for Proposals. There will be a minimum of fourteen (14) days between the Corporation Mailing Date of the Request for Proposals and the proposal submission due date.~~

~~(4)(a) Procurement by a Request for Qualifications process is an alternative method utilized when the use of competitive sealed bids or Request for Proposals is not deemed practicable by the Corporation. A Request for Qualifications shall include a statement of the commodities or contractual services sought and all terms and conditions applicable, including any applicable criteria.~~

~~(b) Public notice of any Invitation to Bid, Invitation to Negotiate, Request for Proposals or the Request for Qualifications shall be given in advance of the due date of the Responses qualification opening as provided herein to permit qualified Offerors to prepare and submit Responses qualifications in a timely fashion. Notice shall include, at a minimum, publication in the FAW the mailing or delivery of the Request for Qualifications, or notice of the availability thereof, to a representative number of potential offerors, as selected by the Corporation, on an applicable offeror list.~~

~~(3)(e) The Corporation shall also post notice of any Invitation to Bid, Invitation to Negotiate, Request for Proposals or Request for Qualifications on its Website on or prior to the publication of the FAW notice its Request for Qualifications at its offices simultaneously with the issuance of the Request for Qualifications. The Request for Qualifications shall define the items or services in sufficient detail that the offeror may properly respond. All qualifications will be publicly opened at a time and place designated in the Request for Qualifications. There will be a minimum of fourteen (14) days between the publication date of the notice in FAW Corporation Mailing Date of the solicitation Request for Qualifications and the submission due date of the responses.~~

~~(5) The Corporation shall maintain bidder and offeror lists with the names of interested businesses who have requested inclusion on this list. The Corporation shall twice annually post an announcement in the Florida Administrative Weekly requesting businesses who wish to be included on the applicable bidder and offeror list to submit their names to the Corporation.~~

~~(4)(6) Commodities or contractual services, which exceed or are estimated to exceed twenty-five thousand dollars (\$25,000), in any twelve (12) month period regardless of the cost thereof, are exempt from competitive solicitation~~

~~competition by bid or proposal upon a written determination by the Executive Director Chief Executive Officer of the Corporation that such commodities or services are most only readily available from a single source or that the best interests of the Corporation or the public are served by obtaining such commodities or services from a single source. Purchases of Corporation bonds are exempt from the provisions hereof.~~

~~(5)(7) The purchase of commodities or contractual services are exempt from competitive solicitation competition by bid or proposal if the Corporation purchases such services or commodities from a vendor under a contract negotiated and executed by the Florida Department Division of Management Services.~~

~~(6) The following contractual services and commodities are not subject to the competitive sealed bid requirements of paragraph (1)(b):~~

~~(a) Artistic services.~~

~~(b) Lectures by individuals.~~

~~(c) Auditing services, except for annual audit of the Corporation's financial statements.~~

~~(d) Legal services, including attorney, paralegal, expert witness, appraisal, or mediation services.~~

~~(e) Services or commodities provided by governmental agencies, including, but not limited to, Florida State Universities and Community Colleges.~~

Specific Authority 420.507(12) FS. Law Implemented 420.507(13),(27) FS. History—New 1-31-99, Amended _____.

~~67-49.003 Withdrawal of Invitation to Bid, Invitation to Negotiate, Request for Proposals or Request for Qualifications.~~

~~(1) The Corporation may withdraw aAn Invitation to Bid, Invitation to Negotiate, Request for Proposals or Request for Qualifications may be withdrawn by the Corporation at any time prior to the due date opening of the Responses bids or proposals when it is determined to be in the best interest of the Corporation or the public. Notice of such withdrawal shall be posted at the office of the Corporation as well as mailed, delivered or sent by facsimile to those potential bidders or offerors who received a copy of the Invitation to Bid, Request for Proposals or Request for Qualifications.~~

~~(2) Any Bidder or Offeror may withdraw its Response at any time prior to a vote by the Corporation's Board of Directors regarding any Responses received.~~

Specific Authority 420.507(12) FS. Law Implemented 420.507(13),(27) FS. History—New 1-31-99, Amended _____.

~~67-49.0031 Emergency Purchases.~~

~~The Corporation's Executive Director may waive any requirement of this rule and permit emergency purchases of commodities and contractual services where a Valid Emergency exists and is documented in writing.~~

Specific Authority 420.507(12) FS. Law Implemented 420.507(13),(27) FS. History—New _____.

67-49.004 Modification of Terms of Invitation to Bid, Invitation to Negotiate, Request for Proposals or Request for Qualifications.

(1) ~~The Corporation may modify the terms of the Invitation to Bid, Invitation to Negotiate, Request for Proposals or Request for Qualifications at any point prior to the due date opening of the Responses bids or proposals. Those modified portions shall be provided to those potential bidders or offerors who requested copies of the Invitation to Bid, Request for Proposal or Request for Qualifications. Furthermore, A notice of modification will be posted on at the Corporation's Website and additional time may be added to the time within which all bidders or offerors have to respond as deemed necessary by the Corporation. Any Bidder or Offeror shall have at least seven (7) Days from the date of the posting of the notice of the modification to submit its Response.~~

(2) Any Bidder or Offeror may modify its Response at any time prior to the Response deadline.

Specific Authority 420.507(12) FS. Law Implemented 420.507(13), (27) FS. History–New 1-31-99, Amended.

67-49.005 Responsibility of Bidders and Offerors.

The failure of a ~~B~~bidder or ~~O~~fferor to supply required information in connection with an Invitation to Bid, Invitation to Negotiate, Request for Proposals or Request for Qualifications shall be grounds for a determination of nonresponsiveness with respect to ~~its such bid, proposal or R~~response. ~~If a~~A determination of nonresponsiveness ~~is made by the Corporation, the Response result in a bid, proposal or response will not being considered. The Corporation shall reserve the right to waive minor irregularities in an otherwise valid bid, proposal or response when it is deemed to be in the Corporation's best interest to do so. Bidders and offerors may not supplement their proposals, bids or responses once they have been opened by the Corporation.~~

Specific Authority 420.507(12) FS. Law Implemented 420.507(13),(27) FS. History–New 1-31-99, Amended.

67-49.006 Evaluation of Bids or Proposals.

~~The Corporation shall evaluate proposals or bids on the basis of compliance with the selection criteria set forth in the Invitation to Bid, Request for Proposals and Request for Qualifications. The award shall be made to the responsible offeror whose bid, proposal or response is determined to be most advantageous to the Corporation, taking into consideration the price (if included as a part of the selection criteria) and other factors outlined in the selection criteria. Such selection criteria may include the cost for such commodity or service, the Corporation's prior experience with said offeror, the demonstrated expertise of said offeror, the offeror's status as a minority business enterprise and the ability of the offeror to provide service on a state-wide basis. The Corporation shall not be required to grant an award to a lowest cost bidder, offeror or respondent.~~

Specific Authority 420.507(12) FS. Law Implemented 420.507(13),(27) FS. History–New 1-31-99, Repealed.

67-49.007 Evaluation of Responses Selection Process.

The Corporation ~~shall may~~ establish a review committee composed only of employees of the Corporation to evaluate responses to Invitations to Bid, Invitations to Negotiate, Requests for Proposals or Requests for Qualifications, which committee ~~shall may~~ provide findings, recommendations, or both to the Board of Directors of the Corporation ~~regarding responses to the selection criteria and with respect to oral presentations to the Board of Directors.~~

Specific Authority 420.507(12) FS. Law Implemented 420.507(13),(27) FS. History–New 1-31-99, Amended.

67-49.008 Identical (Tie) Responses Minority Business Enterprise.

In the event of a tie, the Corporation shall give preference in the award process to the Response certifying a drug-free workplace has been implemented in accordance with Section 287.087, Florida Statutes. If a tie continues to exist, Florida Housing shall give preference to minority business enterprises as defined in Section 288.703, Florida Statutes. Whenever two or more bids or proposals, which are equal with respect to price, quality and service are received by the Corporation for the procurement of commodities or contractual services, the Corporation shall give preference to the minority business enterprise in the award process.

Specific Authority 420.507(12) FS. Law Implemented 420.507(13),(27) FS. History–New 1-31-99, Amended.

67-49.009 Right to Waive Minor Irregularities Notice of Award.

The Corporation may waive Minor Irregularities in a Response when it is in the Corporation's or the public's best interest to do so. The Corporation shall provide notice of its decision or intended decision for a bid solicitation or request for proposal by United States mail, express delivery service, or hand delivery. The notice shall contain the following statement: "Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

Specific Authority 420.507(12) FS. Law Implemented 420.507(13),(27) FS. History–New 1-31-99, Amended.

67-49.010 Selection Protest Procedures.

~~These provisions provide procedures for speedy resolution arising from a protest of the procurement process. Contracts not subject to competitive selection are not subject to these bid protest provisions.~~

(1) ~~Any person adversely affected by the decision of the Corporation to award a contract shall file a notice of protest, in writing, within seventy-two (72) hours after receipt of the notice of award. The notice of protest must be received by the~~

Corporation before the 72-hour period expires. The 72-hour period begins when the notice is received. The 72-hour period is not extended by service of the notice of protest by mail.

(2) Upon the timely filing of a notice of protest, the bid solicitation or contract award process shall be stayed until the subject of the protest is resolved, unless the Chief Executive Officer sets forth in writing particular facts which necessitate continuation of the bid solicitation process or the contract award process without delay.

(3) A formal written protest must also be filed within ten (10) days after filing the notice of protest. The formal written protest shall state with particularity and specificity the facts and the law upon which the protest is based.

(4) A protest is not timely filed unless both notice of protest and the formal written protest are received by the Corporation within the required time limits. If the formal written protest is filed in proper form within the 72-hour period for filing a notice of protest, the formal written protest will also constitute the notice of protest, and all time limits applicable to a notice of protest are waived and time limits relative to formal written protest apply.

(5) If the subject of a protest is not resolved by mutual agreement within seven (7) days, excluding Saturdays, Sundays and legal holidays, after receipt of the formal written protest, and if there is no disputed issue of material fact, an informal proceeding shall be conducted before a neutral person selected by the Corporation.

(6) If the subject of a protest is not resolved by mutual agreement within seven (7) days, excluding Saturdays, Sundays and legal holidays, after receipt of the formal written protest, and if there is a disputed issue of material fact, the Corporation shall refer the protest to the Division for proceedings under Section 120.57(1), Florida Statutes.

(7) Upon submission of a formal written protest referred to the Division pursuant to subsection (6), above, the Executive Director of the Corporation shall request the Division to expedite the hearing and assign an Administrative Law Judge as provided in Section 120.57(3)(f), Florida Statutes. Each party shall be allowed ten (10) days in which to submit written exceptions to any recommended order. A final order shall be entered by the Corporation within thirty (30) days of the entry of a recommended order. The provisions of this paragraph may be waived upon stipulation by all parties.

(8) Any person who files an action protesting a decision or intended decision of the Corporation as described in this rule shall post with the Corporation at the time of the filing of the formal written protest, a bond payable to the Corporation in an amount equal to one percent (1%) of the Corporation's estimate of the total volume of the contract, which bond shall be conditioned upon the payment of all costs which may be adjudged against him in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. If, after completion of the hearing process and any

appellate court proceedings, the Corporation prevails, it shall recover all costs and charges which shall be included in the final order or judgment, including attorney's fees. Upon payment of such costs and charges by the person protesting the award, the bond shall be returned to him.

Specific Authority 420.507(12) FS. Law Implemented 420.507(13),(27) FS. History—New 1-31-99, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robin Grantham, Contracts Analyst, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mark Kaplan, Executive Director, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 2, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 27, No. 43, October 26, 2001

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-5.004 RULE TITLE: Technician

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 27, No. 52, December 28, 2001, Florida Administrative Weekly has been withdrawn.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-10.005 RULE TITLE: Scope of Practice Relative to Specialty of Licensure

CORRECTED NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 41, October 12, 2001, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee and from the Board meeting held on October 19, 2001.