

CHAPTER 2 PURCHASING

[Prior to 1/14/87, Iowa Lottery Agency[526] Ch 5]

[Prior to 9/17/03, see 705—Ch 4]

531—2.1(99G) Applicability of competitive bidding. All “major procurements” shall be obtained as a result of competitive bidding, except in cases where a single vendor has an exclusive right to offer a particular product or service. Major procurements include consulting agreements and the major procurement contract with a business organization for the printing of tickets or for the purchase or lease of equipment or services essential to the operation of a lottery game.

Items, including goods or services, other than major procurements, that are expected to cost in the aggregate in excess of \$50,000 will be obtained as a result of a formal or informal competitive bidding process conducted by the lottery or through the department of administrative services whenever such procurement is in the best interests of the lottery. Items, including goods or services, other than major procurements, that are expected to cost in the aggregate \$50,000 or less may be obtained as a result of an informal competitive bidding process. Items, including goods or services, other than major procurements, expected to cost less than \$50,000 in the aggregate may be obtained in any manner deemed appropriate by the lottery.

Notwithstanding the foregoing, the lottery may exempt an item from competitive bidding if the item is noncompetitive or is purchased in quantities too small to be effectively purchased through competitive bidding; if there is an immediate or emergency need for the item; if the purchase of the item facilitates compliance with set-aside procurement provisions; or if the lottery determines that its best interests will be served by exemption from the bidding process and the item to be purchased is not a major procurement.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.2(99G) Methods of obtaining bids or proposals used by the lottery. Formal or informal bids or proposals are to be obtained by one of the following methods. If more than one method is applicable to the purchase of a particular item, the lottery shall choose the method of bidding to be utilized.

2.2(1) Formal bids may be required for any item if cost is the major criterion for selection. If cost is the major criterion for selection, formal bids shall be required for all items costing in the aggregate more than \$50,000.

The lottery shall prepare a written invitation-to-bid document and shall send it via the United States Postal Service or electronic mail to selected vendors in the business of providing the goods or services sought by the lottery. Goods or services may also be obtained by the lottery using reverse auction methods via the lottery’s Internet Web site.

The invitation to bid shall contain the due date and time of the bid opening, a complete description of the item needed, and any other necessary or proper items.

Formal bids, other than major procurement sealed bids, received prior to the submission deadline set in the bidding document shall be made available to any interested party on the date and hour designated on the bid form. As the bids are opened they will be tabulated, and the results of the tabulation shall be made available to any interested party. The original bids and the tabulations will be maintained at the lottery for one year following the date on which the bids were opened.

An award shall be made within 60 calendar days from the date of the bid opening unless a different time frame is stated by the lottery in the invitation to bid or subsequently agreed to by the vendors. The price quoted by the vendors shall remain binding throughout the applicable time period. If an award is not made within the applicable time frame, all bids shall be deemed rejected.

2.2(2) Informal bids may be required for any item if cost is the major criterion for selection and if the item is expected to cost in the aggregate \$50,000 or less. Informal bids may be obtained by the lottery through use of a written bid form, over the telephone, via facsimile transmission, or in electronic format, including over the Internet or through electronic mail. When requesting informal bids, the lottery shall contact selected vendors supplying the goods or services sought by the lottery and shall communicate to each vendor the date on which bids must be received, a complete description of the item to be purchased,

and the time period during which the bid must remain valid. Goods or services may also be obtained by the lottery using reverse auction methods via the lottery's Internet Web site.

Written informal bids shall be opened as received, and informal telephone, facsimile, or electronic bids shall be recorded as received. If a bid is received over the telephone, a telephone bid form shall be used to record the bid received. If an electronic bid is received, a screen print shall be used to record the bid received. Following the submission deadline, the lottery shall tabulate the bids received and make the award. The bids and the tabulations shall be available to interested parties after the submission deadline and shall be maintained by the lottery for one year following the submission deadline.

If an award is not made within the time frame indicated by the lottery when requesting bids, all bids shall be deemed rejected.

2.2(3) Whenever a requirement exists for an item or a major procurement and cost may not be the sole criterion for selection, the lottery may issue a request for proposals. The purpose of a request for proposals is to provide the vendor with sufficient information about the lottery's requirements and goals to allow the vendor to propose a solution to the lottery's requirements.

The lottery shall prepare a written request for proposals and shall send the proposal via the United States Postal Service or electronic mail to selected vendors in the business of supplying the goods or services sought by the lottery.

The lottery requires that bids submitted in response to a request for proposals in a major procurement for award of a contract for the printing of tickets or for the purchase or lease of equipment or services essential to the operation of a lottery game be submitted as sealed bids. The contents of sealed bids shall be made available to any interested party at the time designated in the request for proposals. A bidder shall identify with clear markings the pages, sections, or documents submitted as part of a proposal package that the bidder claims are exempt from disclosure because they contain sensitive business or trade secret information.

To ensure the fairness and integrity of the evaluation process, the lottery may elect to evaluate and score any of the technical, financial, security, and marketing components of major procurement sealed bid proposals prior to opening and integrating the scoring of the pricing component. When scoring has been completed, the evaluation team shall prepare a recommendation report for an award and, if applicable, for rejection of any or all proposals under consideration. The recommendation report shall be submitted to the chief executive officer and the lottery board for such action as the chief executive officer and board may deem appropriate. The report shall be made available to any interested person immediately upon transmittal to the chief executive officer and the board. Prior to making an award, the board and chief executive officer shall receive and consider the results of a background investigation conducted by the department of public safety division of criminal investigation.

An award shall be made within 60 calendar days from the date of the proposal opening unless a different time frame is stated by the lottery in the request for proposal or subsequently agreed to by the vendors. The terms quoted by the vendor shall remain binding throughout the applicable time frame. If an award is not made within the applicable time frame, all proposals shall be deemed rejected and not binding.

At a minimum, a request for proposals shall address the following criteria: the need for a proposal conference; the purpose and background of the request; important dates in the proposal and the award process including the submission deadline; administrative requirements for submitting the proposal and the format required by the lottery; the scope of the work to be performed and any specific requirements which the vendor must meet; and any contractual terms and conditions which the lottery anticipates may affect the terms of the vendor's proposal.

This rule is intended to implement Iowa Code section 72.3 and Iowa Code Supplement sections 99G.7, 99G.9, and 99G.21.

531—2.3(99G) Items purchased through the department of administrative services. Goods and services may be obtained by the lottery through the department of administrative services whenever procurement through administrative services is in the best interests of the lottery. Items procured through

administrative services may be obtained by administrative services in any manner deemed appropriate by administrative services.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.4(99G) Advertising solicitations. Formal bids and requests for proposals issued by the lottery shall be advertised in a daily paper in Iowa. The advertisement shall indicate that it is a notice to prospective bidders, contain the bid due date and time of opening, describe the items to be purchased, and provide the name, address and telephone number of the person to be contacted to obtain official bidding documents.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.5(99G) Contract purchases. The lottery may enter into contract purchase agreements for items, groups of items, or services. Contract purchase agreements are subject to the competitive bidding requirements previously outlined where applicable.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.6(99G) Blanket purchase agreements. If the lottery foresees a requirement for frequent purchases of off-the-shelf items, the lottery may establish blanket purchase agreements. A blanket purchase agreement is a formally approved charge account that is designed to reduce paperwork and the number of checks issued. Blanket purchase agreements are subject to the competitive bidding requirements previously outlined where applicable.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.7(99G) Prospective vendor selection.

2.7(1) Any firm or business legally conducting business within Iowa may request placement on the approved vendor list for a particular service or commodity by filing a vendor application form with the lottery. The lottery may mail copies of solicitation documents to vendors on the list for a particular item or to any other vendor that the lottery chooses to contact. A vendor may be refused placement on the list or suspended or permanently removed from the list for any of the following reasons: failure to respond to three consecutive solicitations; failure to deliver within specified delivery dates; failure to deliver in accordance with specifications; attempts to influence the decision of any state employee involved in the procurement process; evidence of agreements by the vendor to restrain trade or impede competitive bidding; and any other activities of the vendor which the lottery determines would render the vendor unsuitable.

The lottery shall notify a vendor in writing prior to refusing placement on the list, suspending the vendor from the list, or permanently removing the vendor from the list. The vendor shall be provided a reasonable opportunity to explain and cure any misconduct identified by the lottery. If the lottery ultimately refuses placement on the list or removes the vendor from the list, the vendor may appeal the lottery's action to the lottery board pursuant to the criteria for vendor appeals contained in these rules.

2.7(2) The lottery shall select vendors to receive solicitation documents based on the lottery's knowledge of the vendors in the particular market. The initial vendor selection shall be designed to promote the competitive bidding process, the set-aside procurement programs, and the best interests of the lottery. The lottery shall also provide solicitation documents to qualified vendors upon request when the request is made during the solicitation period. The vendor is solely responsible for ensuring that solicitation documents are received by the vendor.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.8(99G) Bids and proposals to conform with specifications. All bids and proposals must conform to the specifications indicated by the lottery. Bids and proposals that do not conform to the specifications stated may be rejected. The lottery reserves the right to waive deficiencies in the bids or proposals if in the judgment of the lottery its best interests would be served by the waiver.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.9(99G) Time of delivery. When evaluating bids or proposals, the lottery may consider the time of delivery when determining the successful vendor.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.10(99G) Cash discounts. When evaluating bids or proposals, the lottery may consider cash discounts.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.11(99G) Tie bids. The lottery shall resolve ties among bids or proposals which are equal in all respects by drawing lots unless only one of the tied bidders is an Iowa business. If only one of the bidders tied for an award is an Iowa business, the Iowa business shall be given preference over all tied out-of-state businesses.

If it is necessary to draw lots, the drawing shall be held in the presence of the vendors who submitted the tied bids or proposals whenever practical. If the tied vendors are not present, the drawing shall be held in front of at least two persons, and the lottery shall document the drawing.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.12(99G) Time of submission. All formal bids and proposals shall be submitted by the vendor in sufficient time to actually reach the lottery prior to the submission deadline specified in the bid document. All informal bids shall be submitted by the vendor in time to reach the lottery prior to the submission deadline indicated by the lottery. Formal bids and proposals shall be marked by the lottery with the date and time received by the lottery. Formal bids and proposals received after the submission deadline shall be returned to the vendor unopened. All vendors to whom invitations to bid or requests for proposals are sent shall be notified of any changes in submission deadline.

If a formal bid or request for proposals is canceled prior to the submission deadline, any responses already received shall be returned unopened. If an informal bid is canceled prior to the submission deadline, any bids already received shall be destroyed.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.13(99G) Modification or withdrawal of bids. Bids or proposals may be modified or withdrawn prior to the time and date set for the bid or proposal opening. Modifications or withdrawals shall be in writing and delivered in a sealed envelope that properly identifies the correct bid or proposal to be modified or withdrawn. A bid or proposal may be withdrawn after opening only with the approval of the lottery if the lottery finds that an honest error was made by the vendor that will cause undue financial hardship to the vendor and that will not cause undue financial hardship or inconvenience to the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.14(99G) Financial security. The lottery may require bid security, litigation security, and performance security on formal bids or proposals. When required, security may be by certified check,

certificate of deposit, letter of credit made payable to the lottery, or any other form specified by the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, 99G.22, and 99G.23.

531—2.15(99G) Rejection of bids and proposals. The lottery reserves the right to reject any or all bids or proposals. Bids and proposals may be rejected because of faulty specifications, abandonment of the project, insufficient funds, evidence of unfair or flawed bidding procedures, failure of a vendor to meet the lottery's requirements, or for any other reason if the lottery determines that its best interests will be served by rejecting any or all bids. Following the rejection of bids, new bids may be requested by the lottery at any time deemed convenient by the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, 99G.22, and 99G.23.

531—2.16(99G) Background and informational statements.

2.16(1) Criminal history and background checks.

a. All bidders for major procurements, as defined in Iowa Code Supplement section 99G.3, and any other bidders that the chief executive officer, in the chief executive officer's sole discretion, may require (hereinafter "bidder") shall submit to lottery business entity criminal history checks and background investigations (hereinafter "bidder investigations") as conditions for submission of a bid.

b. Bidders for major procurements shall be required to describe their organizational structure, identify key personnel, and subject key personnel to lottery bidder key personnel investigations.

c. Bidders that are not bidders for major procurements may be required to describe their organizational structure, identify key personnel, and subject key personnel to lottery bidder key personnel investigations.

d. For all bidders, any change in key personnel during the bidding process or during the contract term must be reported to the lottery authority before the change occurs. Replacement personnel will be subject to investigation.

e. If, during the course of any investigation, it is determined that either a bidder for a major procurement or any persons employed by or associated with a bidder for a major procurement who are the subjects of key personnel investigations in accordance with subrule 2.16(3) have been convicted of any state or federal felony related to the security or integrity of the lottery in Iowa or any other jurisdiction, the bidder will be automatically disqualified from the selection process without further investigation.

2.16(2) Bidder investigations.

a. *General provisions.* The Iowa lottery major procurement business entity background investigation form (Class L form) must be completed for each bid submitted in response to a lottery major procurement solicitation.

The Class L form shall be posted on the lottery's Web site and is intended to serve both as a vehicle for collection of information pertaining to bidders and as an overview of the scope of the bidder investigations to be conducted.

The department of public safety division of criminal investigation shall utilize the information provided in the Class L form as the basis for developing the initial scope of the bidder investigation and due diligence to be conducted with respect to a bidder. Should the division of criminal investigation desire to pursue avenues of inquiry beyond the parameters of the information requested by and furnished in the Class L form, the division of criminal investigation shall consult with the lottery chief executive officer, or the chief executive officer's designee, who shall determine the scope and extent of any further investigation to be pursued.

b. *Class L form requirements.* The Class L form shall solicit the following information:

(1) The names, addresses, and telephone numbers of all persons who gathered information and prepared the Class L form on behalf of the bidder; the name, address and type of business entity on whose behalf the Class L form is furnished; and the name and telephone number of a contact person for purposes of the procurement.

(2) The location of the bidder's business records; the state and date of incorporation or establishment of the bidder; the federal and state employer identification numbers of the bidder; the names and addresses of any parent companies, subsidiaries, or affiliates of the bidder; whether the bidder's stock is publicly or closely held; and a copy of the articles of incorporation or charter, bylaws, organizational chart, corporate certificate, or partnership agreement of the bidder, as may be applicable.

(3) The following information for each corporate officer and director and, if not a publicly held corporation, each partner (general or limited) or stockholder holding 5 percent or more of the outstanding stock of the bidder: name; positions held; business and residence addresses and telephone numbers; date of birth; social security number; percentage of stock held; amount of compensation received from the bidder in excess of \$10,000, including but not limited to salary or wages, director's fees, and stock options and dividends; and designation as to whether the named person will be empowered with signature authority to legally bind the bidder in the context of the procurement process with respect to which the disclosure of information is furnished.

(4) The identity of any other persons not named in subparagraph (3) above who will be empowered with signature authority to legally bind the bidder in the context of the procurement process with respect to which the disclosure of information is furnished.

(5) If the bidder is a publicly held corporation, a copy of the bidder's most recent annual report.

(6) The name and address of each officer, director, partner or stockholder actively involved in the conduct of the day-to-day operation of the bidder.

(7) The name and address of the internal certified public accountant employed by the bidder and the name, address, and telephone number of the external certified public accountant employed by the bidder.

(8) A list of all criminal proceedings and civil proceedings predicated in whole or part on alleged criminal activity involving the bidder during the ten-year period immediately preceding the submission date of the Class L form.

(9) Whether the bidder or any subsidiary, parent, intermediary, holding company or related corporation of the bidder is or has been the subject of a criminal or grand jury investigation, or has been indicted, convicted, or arrested for any criminal offense within the last seven years. An explanation of any such occurrence shall be furnished and shall include the dates of the occurrences, any governmental agencies involved, and descriptions of the nature and the dispositions of the investigations, indictments, convictions, or arrests.

(10) Whether any officer or director of the bidder or any subsidiary, parent, intermediary, holding company or related corporation of the bidder is or has ever been the subject of a criminal or grand jury investigation, or has been indicted, convicted, or arrested for any criminal offense. An explanation of any such occurrences shall be furnished and shall include the dates of the occurrences, any governmental agencies involved, and descriptions of the nature and the dispositions of the investigations, indictments, convictions, or arrests.

(11) A list of any proceedings within the last five years involving allegations against the bidder or its officers or directors of antitrust violations, trade regulation violations, security judgments, and insolvency proceedings.

(12) A list of any license denials, suspensions, or revocations within the last seven years involving any officers or directors of the bidder.

(13) Whether the bidder has sustained a loss within the last ten years in which an insurance payment of \$50,000 or more was received; if so, a detailed explanation listing the nature, date and disposition of the incident and the name and address of the insurance company that made the settlement.

(14) Whether the bidder sustained a loss by fire in which arson was suspected within the past ten years; if so, a detailed explanation listing circumstances surrounding the fire and the name and address of the investigating agency should also be included.

(15) A list of any application to or any permit, license, certificate or qualification from a licensing agency in Iowa or any other state or other jurisdiction in connection with any gambling venture in which the bidder or any subsidiary, parent, intermediary, holding company, or related corporation of the bidder has been involved. The list should include the date of application; the name and address of the licensing

agency; the type and number of the license; and the disposition (approval, rejection, or withdrawal) of any such application. For purposes of this paragraph, “gambling venture” means all types of racing and gaming activities, including but not limited to dog track, horse track, greyhound racing, horse racing, lottery, casino, and pari-mutuel operations.

(16) Whether the bidder has ever petitioned for or declared bankruptcy or insolvency within the last seven years; if so, the filing date, docket number, and name and address of the court in which the petition or declaration was filed, and the name and address of the filing party and of the trustee should also be included.

(17) Copies of any audited financial statements and auditors’ reports for the bidder and any subsidiaries for each entity’s last fiscal year or, if the entity does not normally have its financial statements audited, copies of unaudited financial statements for the last two fiscal years.

(18) A list of all holding companies, business organizations, other business entities, or individuals that hold any financial interest of 5 percent or more in the bidder. This list shall describe the nature, type, terms, covenants, and priorities of any outstanding bonds, loans, mortgages, trust deeds, notes, debentures, or other forms of indebtedness issued or executed, which mature more than one year from the date of issuance.

(19) A list and copies of all notes and mortgages or other instruments of outstanding long-term debt of the bidder, with the name and address of the entity owed and the amount and purpose of each such mortgage or debt.

(20) A list of all dormant or shell company names used or owned by the bidder within the past ten years.

(21) A list of any financial or ownership interest in any gambling venture in any jurisdiction that the bidder and any parent or subsidiary owns or holds and a description of the nature and the percentage of each interest owned or held. For purposes of this paragraph, “gambling venture” means all types of racing and gaming activities, including but not limited to dog track, horse track, greyhound racing, horse racing, lottery, casino and pari-mutuel operations.

(22) A list of all political contributions made by or on behalf of the bidder and any parent or subsidiary to any candidate for any office or position in any jurisdiction in the state of Iowa during the last two years. The list should include the candidate’s name, the office or position for which the candidate is or was running, and the amount and date of the contribution.

(23) A list of all Iowa lobbyists and political consultants utilized by the bidder and any parent or subsidiary of the bidder, the names of individuals employed by the bidder and any parent or subsidiary who act as liaisons with the lobbyists or political consultants, and descriptions of fee arrangements made with the lobbyists or political consultants. Also included should be a statement identifying any cash fund established with respect to an Iowa lobbyist or political consultant, any pledge of any items of monetary value to a lobbyist or political consultant as a reward for obtaining commission approval of a contract, and any cash transferred in any manner to an attorney’s trust account for disbursement to an Iowa lobbyist or political consultant.

(24) An organizational chart of the bidder showing its relationship to existing parent, subsidiary, and affiliated companies.

(25) A list of all persons or business entities with which the bidder has contracts or agreements worth \$1 million or more that exceed one year in duration.

(26) Authorization, in any form or forms approved by the division of criminal investigation and executed by a competent signatory of the bidder, for a review, full disclosure, and release of any and all records concerning the bidder, including but not limited to verification of filing and outstanding balance status of federal income tax returns.

2.16(3) Bidder key personnel investigations.

a. *General provisions.* The chief executive officer may require a full lottery Class L-1 department of public safety division of criminal investigation background investigation for any person identified as an officer, director, trustee, partner, sole proprietor, employee or other person by the lottery or the division of criminal investigation as a key person in a sensitive position or relationship with a bidder in a major procurement, as defined in rule 531—2.1(99G).

The lottery Class L-1 form shall be posted on the lottery's Web site, and is intended to serve as a vehicle for collection of background information and as an overview of the scope of the background investigations to be conducted.

The division of criminal investigation shall utilize the information provided in the lottery Class L-1 form as the basis for developing the initial scope of the key personnel investigation and due diligence to be conducted. Should the division of criminal investigation desire to pursue avenues of inquiry beyond the parameters of the information requested by and furnished in the lottery Class L-1 form, the division of criminal investigation shall consult with the chief executive officer, or the chief executive officer's designee, who shall determine the scope and extent of any further investigation to be pursued.

b. Class L-1 form requirements. The lottery Class L-1 form shall solicit the following information about key personnel selected to be investigated (hereinafter "subject"):

(1) The subject's name, business and residence addresses and telephone numbers, date and place of birth, social security number, height, weight, eye color, sex, and any past or present aliases used.

(2) The name and address of the subject's present employer, the subject's job title and a summary of duties, and the subject's supervisor.

(3) The subject's citizenship or alien residence status.

(4) A ten-year residential history of the subject, including addresses, dates, ownership or rental status, and landlord's or mortgage holder's name(s), address(es), and telephone number(s).

(5) The subject's marital status and, if applicable, the subject's spouse's full name, including maiden (if applicable), business and residence addresses and telephone numbers, date and place of birth, occupation, and the name and address of the spouse's present employer.

(6) Whether the subject has been divorced, legally separated, or had a marriage annulled and, if applicable, the name, birth date, and current address, if known, of the subject's spouse or former spouse, the date and place of any applicable judicial order, and the nature of the action.

(7) The full names, including maiden (if applicable), dates of birth, and addresses of all the subject's children, including stepchildren and adopted children.

(8) The full names, including maiden (if applicable), dates of birth, most recent occupations, or retired status (if appropriate), and addresses of all parents, parents-in-law, legal guardians, and siblings of the subject. If any such person is deceased, that person's date of death, last address, and last occupation should also be given.

(9) The subject's educational background, including the names, types, and locations of any schools attended, dates of attendance, and graduation status, certificates, or degrees obtained. For purposes of this paragraph, "schools" includes all secondary, postsecondary, graduate, and professional educational institutions.

(10) If applicable, information regarding the subject's military service, including dates of service, type of discharge, and details of any court-martial proceedings in which the subject was involved.

(11) A list of all political contributions made by or on behalf of the subject to any candidate for any office or position in any jurisdiction in the state of Iowa during the last two years. Such list should include the candidate's name, the office or position for which the candidate ran or is running, and the amount and date of the contribution.

(12) The state, license number, date of expiration, and name and address shown on the subject's current driver's license.

(13) A list of three personal references, including a name, address, and telephone number for each reference as well as a brief statement describing the relationship between the subject and each reference and how long the subject has been acquainted with each reference.

(14) A summary of the subject's employment record for the last ten years, including names, addresses, and telephone numbers of prior employers, dates of employment, and positions held.

(15) A list of personal litigation during the last ten years other than divorce, legal separation, or annulment proceedings to which the subject has been a party.

(16) A list of any litigation within the past ten years wherein a business entity owned by the subject, or in which the subject held an ownership interest or served as an officer or director, was a defendant and in which the defendant's conduct was allegedly criminal.

(17) A description of any known criminal investigations and dispositions thereof regarding the subject or any business entity in which the subject holds or has held an ownership interest of 5 percent or more. The description should include the name and address of the investigating agency, the nature of the investigation, and the approximate dates on which the investigation commenced and concluded.

(18) A list of any arrest, indictment, charge or conviction, or any naming as an unindicted party or coconspirator in a criminal offense involving the subject or any of the following family members of the subject: children, including stepchildren and adopted children; parents; parents-in-law; legal guardians; or siblings. The list should include the name of the family member (if applicable); the nature of the charge, conviction or proceeding; the name and address of the governmental agency or court involved; and the disposition.

(19) A list of any pardon for any criminal offense in Iowa or any other jurisdiction pertaining to the subject or any of the following family members of the subject: children, including stepchildren and adopted children; parents; parents-in-law; legal guardians; or siblings. This list should include the name of the family member (if applicable), the offense, the reason for and date of the pardon, and the name and address of the pardoning authority.

(20) A list of any personal or business loss within the past ten years involving an insurance payment of more than \$10,000.

(21) A list of and explanation regarding any personal or business property owned by the subject that was destroyed by fire or an explosion.

(22) A list of any application to and any permit, license, certificate, or qualification from a licensing agency in Iowa or any other state or other jurisdiction in connection with any gambling venture in which the subject is or has been involved. The list should include the date of application, the name and address of the licensing agency, the type and number of licenses, and the disposition (approval, rejection or withdrawal) of any such application, together with a description of any financial or ownership interest in any such gambling venture. For purposes of this paragraph, "gambling venture" means all types of racing and gaming activities, including but not limited to dog track, horse track, greyhound racing, horse racing, lottery, casino and pari-mutuel operations.

(23) A description of the extent of involvement, if any, the subject has or anticipates having in participation in the management or operation of the bidder.

(24) Information regarding the filing and status of state and federal income tax returns for the previous three years. Copies of said returns should also be included.

(25) A statement regarding any financial or ownership interest of 5 percent or more that the subject has or had in any active or dormant companies and any failed or abandoned business projects in which the subject was invested in 5 percent or more of the business project or was a significant planner, to the extent that such interest or interests are within the scope of a gambling venture or with an Iowa lottery vendor.

(26) Such sworn consents and authorizations as may be requested by the division of criminal investigation to gain access to records pertaining to the subject for use in investigating the information furnished by the subject in the lottery Class L-1 form and any derivation thereof, including without limitation the subject's federal and state tax records and any other records, public or private, including confidential and criminal history records.

2.16(4) *Alternative sources for business entity investigations.* In lieu of a division of criminal investigation lottery business entity investigation or any component thereof, the lottery chief executive officer, at the chief executive officer's discretion and in cooperation with the division of criminal investigation, may accept a report furnished by authorities in another state of a recent, comparable investigation conducted by said authorities communicated between law enforcement agencies, which may be updated with any information reflecting changes during the interim between the Iowa and the earlier investigations.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, 99G.22, and 99G.23.

531—2.17(99G) Vendor appeals.

2.17(1) *Filing vendor appeal.* Any vendor whose bid or proposal has been timely filed and who is aggrieved by the award of the lottery may file a written notice of appeal of the procurement decision with the Iowa Lottery, 13001 University Avenue, Clive, Iowa 50325-8225, within five business days of the date of the award. The notice of appeal must actually be received at this address within the time frame specified to be considered timely. The notice of appeal shall state the grounds upon which the vendor challenges the lottery's award.

2.17(2) *Presiding officer.* Upon receipt of a notice of a vendor appeal, the chief executive officer shall appoint an administrative law judge within the administrative hearings division of the department of inspections and appeals to serve as presiding officer, who would then issue a proposed ruling that the chief executive officer may hear on appeal.

2.17(3) *Hearing.* Where feasible, vendor appeals shall be conducted in accordance with 531—Chapter 5. In the case of conflict, the rules and procedures set forth in Chapter 2 control for vendor appeals submitted to the lottery. The presiding officer shall send a written notice of the date, time and location of the appeal hearing to the aggrieved vendor or vendors. The presiding officer shall hold a hearing on the vendor appeal within 60 days of the date the notice of appeal was received by the lottery, except that the administrative law judge has the ability to extend this duration where the administrative law judge determines good cause necessitates an extension.

2.17(4) *Discovery.* The parties shall serve any discovery requests upon the other parties at least 30 days prior to the date set for hearing. The parties must serve responses to discovery at least 20 days prior to the date set for the hearing.

2.17(5) *Witnesses and exhibits.* The parties shall contact each other regarding witnesses and exhibits at least ten days prior to the time set for the hearing. The parties must meet prior to the hearing regarding the evidence to be presented in order to avoid duplication or the submission of extraneous materials.

2.17(6) *Contents of decision.* The administrative law judge shall issue and serve upon all parties a written proposed decision that includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the appeal and shall conform with the requirements of Iowa Code chapters 17A and 99G.

2.17(7) *Status of ruling.* The ruling of the presiding officer constitutes a proposed ruling which may be appealed to the lottery's chief executive officer. The written decision of the chief executive officer on a vendor appeal constitutes a final decision of the lottery, which may be further appealed in accordance with Iowa Code section 17A.19.

2.17(8) *Stay of agency action for vendor appeal.*

a. Any party appealing the issuance of a notice of intent to award a contract may petition the presiding officer for a stay of the award pending its review. The petition for stay shall be filed with the notice of appeal and shall state the reasons justifying a stay. Any decision issued by a presiding officer regarding a stay may be appealed to the chief executive officer.

b. Any party adversely affected by a final decision and order may petition the chief executive officer for a stay of the agency decision and order pending judicial review. The petition for stay shall be filed with the chief executive officer within ten days of receipt of the final decision and order and shall state the reasons justifying a stay.

c. The presiding officer or chief executive officer may grant a stay upon a conclusion that the movant has satisfied the standards for the grant of a stay included in rule 531—5.29(17A) and Iowa Code section 17A.19(5).

This rule is intended to implement Iowa Code sections 99G.9, 99G.21, 99G.23, and 99G.37.
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[Filed emergency 4/18/86—published 5/7/86, effective 4/21/86]

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¹ Effective date of 5.8 delayed 70 days by the Administrative Rules Review Committee at its meeting held February 11, 1986.