

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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