

§9028. Contracts; regulations of procurement; bidding and negotiation processes

A. The corporation shall enter into its contracts for major procurements after competitive negotiation, bidding, or other procedure authorized pursuant to Louisiana Procurement Code, or the corporation may adopt special rules and regulations pursuant to the provisions of this Subtitle providing for special procedures whereby the Louisiana Lottery Corporation may make any class of procurement including the authority to negotiate a reduced price. Such procedures shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the corporation, and the best service and products for the public.

B. In its bidding and negotiation processes, the corporation may do its own bidding and procurement or may utilize the services of the division of administration central purchasing agency or other state agency or division. The president of the corporation may with approval of the board declare an emergency for purchasing purposes.

Acts 1990, No. 1045, §1, eff. Nov. 7, 1990.

§9029. Deposit of revenues; expenditures and investments authorized; transfer of revenues to state treasury; dedication and use of proceeds; corporation operating account; audit of corporation books and records; audits

A.(1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. Such account shall be established in a fiscal agent or depository as defined in R.S. 49:319 and collateralized in the manner provided by R.S. 49:321 and 49:322. The corporation may use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall estimate and allocate the amount to be paid by the corporation to prize winners.

(2)(a) The investment of monies in the corporate operating account, other than the amount specifically required for the purchase of securities for payment of deferred prizes shall be invested in a manner prescribed by R.S. 49:327(B)(1)(a), (b), (c) and (d). Such securities purchased as investments by the corporation shall be issued in the name of the corporation and shall be safekept at a custodian financial institution or Federal Reserve Bank domiciled in the state of Louisiana.

(b) The investment of monies in the corporate operating account, other than the amount specifically required for the purchase of securities for deferred prize payments to winners shall be invested only in securities in a manner prescribed by R.S. 49:327(B)(1)(a), (b), (c), and (d). Such securities purchased as investments by the corporation shall be issued in the name of the corporation and shall be safekept at a custodian financial institution domiciled in the state of Louisiana or a Federal Reserve Bank.

(c) These instruments may be in varying maturities and may be in book-entry form.

(d) For the purpose of payment of deferred prizes to winners, the corporation may only purchase those securities that are direct obligations of the United States Treasury in a manner prescribed by R.S. 49:327(B)(1)(a).

(e) For the purpose of deferred prize payments to winners, the corporation shall purchase or invest in only those securities that are direct obligations of the United States Treasury.

(3) Within twenty days following the close of each calendar month, the corporation shall transfer to the Lottery Proceeds Fund in the state treasury the amount of net revenues which the corporation determines are surplus to its needs. Net revenues or proceeds shall be determined by deducting from gross revenues the payment costs incurred or estimated to be incurred in the operation and administration of the lottery. This shall include the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the first year of operation the corporation shall transfer each year not less than thirty-five percent of gross revenues to the state treasury.

B.(1) A Louisiana Lottery Proceeds Fund is hereby established in the state treasury. Net lottery proceeds shall be credited to this fund as provided in Subsection A of this Section. Monies credited to the Louisiana Lottery Proceeds Fund shall be invested by the state in accordance with state investment practices and all earnings from such investments shall accrue to this account. Except as provided in Paragraph (2) of this Subsection, no monies shall be allotted or expended from this account unless pursuant to an appropriation by the legislature in accordance with law.

(2) The state treasurer is authorized and directed to transfer annually an amount equaling five hundred thousand dollars from the Lottery Proceeds Fund to the Compulsive and Problem Gaming Fund established by R.S. 28:842.

C. The legislative auditor shall be responsible for an annual financial audit of the books and records of the corporation. The corporation shall reimburse the legislative auditor for the reasonable costs of any audits performed by him. The audit shall be completed within ninety days after the close of

the corporation's fiscal year. The legislative auditor may contract with an independent, certified public accountant who meets the qualifications existing to do business within the state of Louisiana to perform the audit. The legislative auditor may, at any time, conduct such additional audits including performance audits, of the corporation as he deems necessary or desirable. Contracts may be entered into for audit services for a period not to exceed five years and the same firm shall not receive two consecutive audit contracts. All such audit reports shall be filed with the governor, the president of the Senate, and the speaker of the House of Representatives. The corporation shall cooperate with the auditor or his representatives by giving them access to the facilities and records of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with such agency under which the corporation shall pay to such agency an amount reasonably anticipated to cover such reimbursable expenses or an advance of such expenses being incurred.

Acts 1990, No. 1045, §1, eff. Nov. 7, 1990; Acts 1992, No. 934, §1; Acts 1992, No. 959, §1; Acts 1995, No. 811, §1; Acts 1995, No. 1215, §4, eff. July 1, 1995; Acts 1997, No. 585, §2, eff. July 1, 1998; Acts 2008, No. 694, §1.

§9030. Acceptance and expenditure of monies by corporation; corporation to be self-sustaining and self-funded

A. The corporation may accept and expend, in accordance with the provisions of this Subtitle, such monies as may be appropriated by the legislature or such monies as may be received from any source, including income from the corporation's operations, for effectuating its corporate purposes including the payment of the initial expenses of administration and operation of the corporation and the lottery.

B. After the repayment of any appropriated funds provided to the corporation by the state, the corporation shall be self sustaining and self-funded. Monies in the state general fund shall not be used or obligated to pay the expenses of the corporation or prizes of the lottery, and no claim for the payment of an expense of the lottery or prizes of the lottery may be made against any monies other than monies credited to the corporate operating account.

C. Federally insured financial institutions may be utilized by the corporation to distribute lottery tickets to retailers.

Acts 1990, No. 1045, §1, eff. Nov. 7, 1990.

CHAPTER 5. RETAILERS

§9050. Lottery retailers; selection; fees; suspension, revocation, or termination of contract; purchase or lease of on-line equipment; contracts not transferable or assignable; payment of prize; sales tax exemption

A. The legislature hereby recognizes that to conduct a successful lottery, the corporation must develop and maintain a statewide network of lottery retailers that will serve the public convenience and promote the sale of tickets, while insuring the integrity of the lottery operations, games, and activities.

B. To govern the selection of lottery retailers, the board shall, by administrative regulation, develop a list of objective criteria upon which the selection of lottery retailers shall be based. Separate criteria shall be developed to govern the selection of retailers of instant tickets and on-line retailers. In developing these criteria, the board shall consider such factors as the applicant's financial responsibility, security of the applicant's place of business or activity, integrity, and reputation; however, the board shall not consider political affiliation, activities, or monetary contributions to political organizations or candidates for any public office. The criteria shall include but not be limited to the following:

(1) The applicant shall be current in payment of all taxes, interest, and penalties owed to any taxing political subdivision where the lottery retailer will sell lottery tickets.

(2) The applicant shall be current in filing all applicable tax returns and in payment of all taxes, interest, and penalties owed to the state of Louisiana, excluding items under formal appeal pursuant to applicable statutes, before a license is issued and before each renewal.

(3) No person, partnership, unincorporated association, corporation, or other business entity shall be selected as a lottery retailer for the sale of instant tickets or on-line games who:

(a) Has been convicted of a criminal offense related to the security or integrity of the lottery in this or any other jurisdiction.

(b) Has been convicted of any illegal gambling activity, false statements, false swearing, or perjury in this or any other jurisdiction, or convicted of any crime punishable by more than one year imprisonment or a fine of more than one thousand dollars, or both.

(c) Has been found to have violated the provisions of this Subtitle or any administrative regulation adopted hereunder, unless either ten years have passed since the violation, or the president and the board find the violation both minor and unintentional in nature.

(d) Is a vendor or an employee or agent of any vendor doing business with the corporation.

(e) Resides in the same household as an officer of the corporation.

(f) Has made a statement of material fact to the corporation, knowing such statement to be false.

Acts 1990, No. 1045, §1, eff. Nov. 7, 1990; Acts 2001, No. 716, §1, eff. July 1, 2001.

§9051. Selection of on-line retailer; qualification and disqualification

A. In addition to the provisions of R.S. 47:9050, no person, partnership, unincorporated association, corporation, or other business entity shall be selected as an on-line lottery retailer who:

(1) Has been denied a license to sell instant tickets on the basis of objective criteria established by the board, or any provision of this Subtitle.

(2) Has failed to sell sufficient instant tickets to indicate that the location of an on-line game at his outlet would be of economic benefit to him or the lottery corporation.

B. The applicant shall not be engaged exclusively in the sale of lottery tickets. However, this Subsection does not preclude the corporation from contracting for the sale of lottery tickets with nonprofit, charitable organizations or units of local government in accordance with the provisions of this Subtitle.

C. Persons applying to become lottery retailers shall be charged a uniform application fee for each lottery outlet. Retailers chosen to participate in on-line games shall be charged a uniform annual fee for each on-line outlet.

D. Any lottery retailer contract executed pursuant to this Section may, for good cause, be suspended, revoked, or terminated by the president if the retailer is found to have violated any provision of this Subtitle or objective criteria established by the board. Review of such activities shall be in accordance with the procedures outlined in this Subtitle. All lottery retailer contracts shall be renewable annually after issuance unless sooner cancelled or terminated.

Acts 1990, No. 1045, §1, eff. Nov. 7, 1990.

§9052. Retail vendor certificates

A. After one year of operation, any retailer who purchased or leased on-line equipment pursuant to this Subtitle and whose sales are equal to or greater than the statewide average of sales of on-line retailers may be reimbursed the cost of the purchase or lease by the corporation as authorized by rule and regulation of the board. The board may purchase the terminals of other retailers who purchased their equipment if the board determines that such purchase is in the best interest of the lottery.

B. No lottery retailer contract awarded pursuant to this Subtitle shall be transferable or assignable. No lottery retailer shall contract with any person for lottery goods or services except with the approval of the board.

C. Each lottery retailer shall be issued a lottery retailer certificate which shall be conspicuously displayed at the place where the lottery retailer is authorized to sell lottery tickets. Lottery tickets shall only be sold by the retailer at the location stated on the lottery retailer certificate.

D. A member of the legislature who meets the same requirements as any other applicant to be a retailer may be granted a retail contract to sell lottery tickets or participate in any other lottery game operations.

E. For the convenience of the public, all retailers may pay winners up to six hundred dollars after performing validation procedures appropriate to the lottery game involved. Lottery tickets shall be exempt from the state and local sales and use tax.

Acts 1990, No. 1045, §1, eff. Nov. 7, 1990.

§9053. Letter of credit or bond of retailer; content of contracts; powers of president

The corporation shall require each retailer to post a letter of credit or a bond with the corporation using a surety acceptable to the corporation in an amount not to exceed twice the average lottery ticket sales of the retailer for the period within which the retailer is required to remit lottery funds to the corporation. For the first ninety days of sales of a new retailer, the amount of the bond shall not exceed twice the average estimated lottery ticket sales for the period within which the retailer is required to remit lottery funds to the corporation. This Section does not apply to lottery tickets which are prepaid by the retailers. The corporation may facilitate the purchase of letters of credit by establishing retailer pools for the purchase of bonds and letters of credit for retailers.

Acts 1990, No. 1045, §1, eff. Nov. 7, 1990.

§9054. Content of retailer contracts; contract cancellation by president

A. Any contract executed by the corporation pursuant to this Subtitle shall specify the reasons for which any contract may be cancelled, suspended, revoked, or terminated by the corporation, which reasons shall include but not be limited to:

(1) Commission of a violation of this Subtitle or administrative regulations adopted pursuant thereto.

(2) Failure to accurately account for lottery tickets, revenues, or prizes as required by the corporation.

(3) Commission of any fraud, deceit, or misrepresentation.

(4) Insufficient sale of tickets.

(5) Conduct prejudicial to public confidence in the lottery.

(6) The vendor filing for or being placed in bankruptcy or receivership.

(7) Any material change in any matter considered by the corporation in executing the contract with the retailer.

(8) Failure to meet any of the objective criteria established by the board pursuant to this Subtitle.

B. If, in the discretion of the president, cancellation, denial, revocation, suspension, or rejection of renewal of a lottery retailer contract is in the best interests of the lottery, the public welfare, or the state of Louisiana, the president may cancel, suspend, revoke, or terminate, after notice and a hearing, any contract issued pursuant to this Subtitle. Such contract may, however, be temporarily suspended by the president without prior notice, pending any prosecution, hearing, or investigation, whether by a third party or by the president. A contract may be suspended, revoked, or terminated by the president for any one or more of the reasons enumerated in this Section.

Acts 1990, No. 1045, §1, eff. Nov. 7, 1990.

§9055. Proceeds from ticket sales; retailers' deposit of lottery proceeds; liability of lottery retailers; commingling of funds prohibited; priority of debt to corporation

A.(1) All proceeds from the sale of lottery tickets received by a lottery retailer shall constitute a trust fund until paid to the corporation either directly or through the corporation's authorized collection representative. A lottery retailer shall have a fiduciary duty to preserve and account for lottery proceeds and lottery retailers shall be personally liable for all proceeds. Proceeds shall include unsold instant tickets received by a lottery retailer and cash proceeds of sale of any lottery products, net of allowable sales commissions and credit for lottery prizes to winners by lottery retailers. Sales proceeds and unused instant tickets shall be delivered to the corporation or its authorized collection representative upon demand.

(2) The corporation shall, by administrative regulation, require retailers to place all lottery proceeds due the corporation in accounts in institutions insured by the Federal Deposit Insurance Corporation not later than the close of the next banking day after the date of their collection by the retailer until the date they are paid over to the corporation. The corporation may require a retailer to establish a single separate electronic funds transfer account, where available, for the purpose of receiving monies from ticket sales, making payments to the corporation, and receiving payments from the corporation. Unless otherwise authorized in writing by the corporation, each lottery retailer shall establish a separate bank account for lottery proceeds which shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets.

(3) This Section shall apply to all lottery tickets generated by computer terminal or other electronic devices and any other tickets delivered to lottery retailers.

B. Whenever any person who receives proceeds from the sale of lottery tickets in the capacity of a lottery retailer becomes insolvent, or dies insolvent, the proceeds due the corporation from such person or his estate shall have preference over all debts or demands.

Acts 1990, No. 1045, §1, eff. Nov. 7, 1990.