

TITLE 65 STATE LOTTERY COMMISSION

Emergency Rule
LSA Document #13-297(E)

DIGEST

Amends [65 IAC 2-1-1](#) through [65 IAC 2-1-5](#), [65 IAC 2-1-7](#) through [65 IAC 2-1-10.1](#), [65 IAC 2-1-12](#), [65 IAC 2-1-13](#), [65 IAC 2-1-15](#), [65 IAC 2-1-16](#), [65 IAC 2-2-1](#), and [65 IAC 2-3-1](#) to update the commission's procurement practices and to make numerous technical and ministerial changes. Effective June 28, 2013.

[65 IAC 2-1-1](#); [65 IAC 2-1-2](#); [65 IAC 2-1-3](#); [65 IAC 2-1-4](#); [65 IAC 2-1-5](#); [65 IAC 2-1-7](#); [65 IAC 2-1-8](#); [65 IAC 2-1-9](#); [65 IAC 2-1-10](#); [65 IAC 2-1-10.1](#); [65 IAC 2-1-12](#); [65 IAC 2-1-13](#); [65 IAC 2-1-15](#); [65 IAC 2-1-16](#); [65 IAC 2-2-1](#); [65 IAC 2-3-1](#)

SECTION 1. [65 IAC 2-1-1](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-1](#) Procurement authority

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-3-16](#); [IC 4-30-8](#)

Sec. 1. (a) The director shall have the full and complete authority to enter into all contracts on behalf of the commission for the procurement of goods and services.

(b) The director shall ~~may~~ **may** appoint one (1) person employed by the commission to supervise and manage:

(1) the procurement of goods and services; and

(2) the enforcement and oversight of commission contracts and subcontracts.

This person shall have ~~such the~~ **the** authority ~~as may be~~ set forth in this article or as may be delegated by the director in writing.

(c) The director may designate one (1) or more persons to act as purchasing agents for the commission and who shall act with ~~such the~~ **the** authority ~~as that the director shall delegate~~ **delegates** in writing ~~with respect to each~~ purchasing agent.

(State Lottery Commission; [65 IAC 2-1-1](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2292; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 90; emergency rule filed Dec 9, 1996, 4:00 p.m.: 20 IR 962; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 2. [65 IAC 2-1-2](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-2](#) Procurement policy

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-3-16](#); [IC 4-30-8](#)

Sec. 2. (a) In all ~~procurement~~ **making** decisions ~~the director shall take into account the particularly sensitive nature of the lottery and shall consider the competence, quality of product, experience, and timely performance of the vendors in order to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery and the objective of raising net revenues for the benefit of the public purposes described in [IC 4-30](#).~~ **under this article**, the director shall ~~also~~ take into account **the requirements of [IC 4-30](#)**, the desirability of an efficient and effective procurement process, and the legislative finding that the operation of a lottery is a unique activity for state government and that policies and procedures appropriate for the performance of other governmental functions are not necessarily appropriate for the operation of a lottery.

(b) All decisions made under this article are actions concerning the acquisition, leasing, or disposition of property or procurement of goods or services by ~~contract~~ **the commission**. All ~~such~~ decisions by the director shall be final except as otherwise specifically set forth in this article.

(State Lottery Commission; [65 IAC 2-1-2](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2292; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 90; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 3. [65 IAC 2-1-3](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-3](#) Applicability

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-3-16](#); [IC 4-30-8](#)

Sec. 3. (a) This article applies to every expenditure of commission funds under any contract for the procurement of goods or services except for the following:

- (1) Any contract with a state agency, state official, or any other body corporate and politic of this state.
- (2) Employment contracts with individuals.
- (3) Contracts for investment or related financial services.
- (4) Contracts relating to the retail sales of lottery tickets.
- (5) Contracts for goods or services provided as part of, or related to, a lease of real property.
- (6) Amendments, modifications, or extensions of existing contracts, unless the predominate purpose of an amendment or modification is to avoid the applicability of this article.
- (7) Contracts for personal or professional services.
- (8) Contracts for employee benefits and related services.
- (9) Contracts for market studies and research related services.
- (10) Contracts for sponsorships, promotions, and advertising placement.
- (11) The acquisition of electricity, gas, water, or other goods and services from utilities.**
- (12) Subcontracts entered into by commission contractors.**

(b) In determining the applicability of this article to a specific contract, the substantial purpose of the contract shall be controlling. This article shall not apply to the acquisition of goods or services under a contract to which this article would not otherwise apply if the acquisition of such goods or services is not the substantial purpose of the contract.

(State Lottery Commission; [65 IAC 2-1-3](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2293; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 91; emergency rule filed Dec 9, 1996, 4:00 p.m.: 20 IR 962; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Jul 26, 2007, 11:03 a.m.: [20070808-IR-065070473ERA](#); readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 4. [65 IAC 2-1-4](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-4](#) Procurement methods

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-3-16](#); [IC 4-30-8](#)

Sec. 4. The director or the director's designee shall procure goods or services through either through the **Indiana department of administration procurement division, or the use of one (1) or any combination** of the following procurement methods, ~~or any combination thereof:~~ **which are further described in this article:**

- (1) Invitation to bid.
- (2) Request for proposals.
- (3) Special procurement.
- (4) Small purchase.
- (5) State procurement.
- (6) Sole source procurement.
- (7) Any other method or process which is approved by the director pursuant to [65 IAC 2-4-1](#).
- (8) Any other method or process which is approved by the commission for a specific contract, or series of contracts, for goods or services.

(State Lottery Commission; [65 IAC 2-1-4](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2293; emergency

rule filed Dec 9, 1996, 4:00 p.m.: 20 IR 962; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Feb 11, 2011, 2:41 p.m.: [20110216-IR-065110082ERA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 5. [65 IAC 2-1-5](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-5](#) Invitation to bid

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-3-16](#); [IC 4-30-8](#)

Sec. 5. (a) The procedure in this section shall be followed in awarding contracts by invitation to bid as follows:

(1) An invitation to bid shall be issued and must **include the terms determined by the director to be in the best interests of the commission and may** include the following:

(A) A description of the goods and services to be purchased, including the time and place for delivery of the goods and services.

(B) ~~All~~ **The** contractual terms and conditions, **if any**, applicable to the procurement.

(C) A statement of the evaluation criteria to be used to determine the winning bid.

(D) The date and time by which bids ~~must~~ **are to** be submitted to the commission ~~to be considered.~~ **for consideration.**

(2) Public notice shall be given in the manner required by section 12 of this rule.

(b) Bids shall be evaluated based ~~only on the~~ **any** criteria set forth in the invitation to bid **and any amendments thereto.**

(c) Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such mistakes, shall be permitted at the discretion of the director. After bid opening, changes in bid prices ~~bids~~ or other provisions of bids ~~prejudicial actions that the director deems contrary to the interest best interests~~ of the commission ~~or fair competition~~ shall not be permitted.

(d) If a bidder inserts contract terms or bids on items not specified in the invitation for bids, the director shall treat the additional material as a proposal for addition to the contract and may:

(1) find the bidder to be nonresponsive;

(2) permit the bidder to withdraw the proposed additions to the contract in order to meet the requirements and criteria set forth in the invitation for bids; or

(3) accept any of the proposed additions to the contract that are not ~~clearly prejudicial to fair competition.~~ **contrary to the best interests of the commission.**

(e) A contract shall be awarded ~~with reasonable promptness~~ by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids ~~and offers the best value to the commission~~ as determined by the director or the director's designee.

(f) The director may utilize a ~~two~~ **(2) multiple** step bid process by requiring that bidders initially submit unpriced offers in response to an invitation to bid. Submission of priced bids may then be restricted to only those bidders whose offer qualified under the criteria set forth in the original invitation.

(State Lottery Commission; [65 IAC 2-1-5](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2293; emergency rule filed Nov 20, 1989, 10:05 a.m.: 13 IR 679; emergency rule filed Dec 9, 1996, 4:00 p.m.: 20 IR 962; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Feb 11, 2011, 2:41 p.m.: [20110216-IR-065110082ERA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 6. [65 IAC 2-1-7](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-7](#) Request for proposals

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-3-16](#); [IC 4-30-8-2](#)

Sec. 7. (a) The director may award a contract using the procedure in this section.

(b) Proposals shall be solicited through a request for proposals, ~~which must~~ **shall include the terms determined by the director to be in the best interests of the commission, and may** include the following:

- (1) A description of the fundamental qualities of the goods and services being sought.
- (2) A statement concerning the criteria that will be used to determine the winning proposal and relative importance of price and the other evaluation factors.
- (3) The date and time by which proposals ~~must be~~ **are to** be submitted to the commission ~~to be considered for consideration.~~

(c) Public notice shall be given in the manner required by section 12 of this rule.

(d) If provided in the request for proposals or determined by the director to be desirable, discussions may be conducted with responsible offerors, who submit proposals determined to be reasonably susceptible of being selected for award, for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements or correcting errors or omissions in the proposal.

(e) Award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous to the ~~state,~~ **commission**, taking into consideration price and other evaluation factors set forth in the request for proposals.

(f) ~~Offerors~~ **Only proposals** determined by the director to be reasonably susceptible of being selected for award ~~must be accorded fair and equal treatment with respect to~~ **need be given** any opportunity for discussion ~~and~~ **or** revision of proposals **to the extent such opportunity was specified in the process pertaining to request for proposals.**

(g) The ~~only~~ factors or criteria that may be used in the evaluation of proposals ~~are~~ **shall be determined by the director and be in the best interests of the commission, which shall include** those specified in the request for proposals.

(h) The director may use a multiple step bid process by requiring that bidders initially submit unpriced offers in response to an invitation to proposals. Submission of priced bids may then be restricted to only those bidders whose offer qualified under the criteria set forth in the original proposals.

(State Lottery Commission; [65 IAC 2-1-7](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2294; emergency rule filed Dec 9, 1996, 4:00 p.m.: 20 IR 963; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Feb 11, 2011, 2:41 p.m.: [20110216-IR-065110082ERA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 7. [65 IAC 2-1-8](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-8](#) Special procurement

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-3-16](#); [IC 4-30-8](#)

Sec. 8. (a) Notwithstanding any other provision of this article, the director may make, or authorize others to make, special procurements:

- (1) when there exists a threat to public health, welfare, or safety, or the integrity or operation of the lottery;
- (2) when there exists a unique opportunity to obtain supplies or services at a substantial savings, including an opportunity to obtain supplies or services at reduced cost or no cost;
- (3) when the market structure requires the commission to inspect and bid on the supplies to be procured;
- (4) for the procurement of data processing contracts or license agreements for:
 - (A) software programs;
 - (B) hardware; or
 - (C) software and hardware maintenance contracts;
- (5) for any services, provided that ~~a broad~~ **an** announcement of the ~~availability~~ of the contracting opportunity is

made in such a manner as is determined by ~~that~~ the director to be reasonably calculated to be received by a substantial number of ~~determines will have the potential to receive expressions of interest from multiple vendors and is additionally posted on the commission's website;~~

- (6) when the compatibility of equipment, accessories, or replacement parts is a substantial consideration in the procurement and only a limited number of sources meet the commission's reasonable requirements;
- (7) when procurement of the required supplies or services under another section of this rule would seriously impair the functioning of the lottery;
- (8) when a contract has been solicited for a procurement under another section of this rule and the commission has not received a reasonable, responsive offer;
- (9) when the time periods for performance as determined by the director would be seriously impaired by competitive bidding, so long as at least two (2) price quotes are obtained.

(b) A special procurement must be made ~~with such competition as is~~ **to further the best interests of the commission and to the extent** practicable under the circumstances as determined by the director **to foster competition.**

(c) A written determination of the basis for the special procurement must be included in the contract file.

(State Lottery Commission; [65 IAC 2-1-8](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2295; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 91; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 408; emergency rule filed Nov 20, 1989, 10:05 a.m.: 13 IR 680; emergency rule filed Dec 9, 1996, 4:00 p.m.: 20 IR 964; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Jul 26, 2007, 11:03 a.m.: [20070808-IR-065070473ERA](#); readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 8. [65 IAC 2-1-9](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-9](#) Small purchases

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-3-16](#); [IC 4-30-8](#)

Sec. 9. A contract in an amount ~~which~~ **that** does not exceed three hundred thousand dollars (\$300,000) may be made under any practice or procedure ~~as may be considered desirable by that~~ the director ~~provided that,~~ **desires subject to the following restrictions:**

- (1) When practicable, at least three (3) price quotes are obtained for any procurement valued in excess of fifty thousand dollars (\$50,000).
- (2) If a series of contracts awarded under this section for a single classification of goods or services are awarded to one (1) vendor and ~~such~~ **these** contracts are all awarded within a period of six (6) months or less and the total contract price on ~~such series of~~ **these** contracts exceeds four hundred thousand dollars (\$400,000), then any of the contracts in ~~such~~ **this** series which would cause the total contract price to be in excess of four hundred thousand dollars (\$400,000), shall not be deemed to be a small purchase qualifying under this section.

(State Lottery Commission; [65 IAC 2-1-9](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2295; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 92; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Jul 26, 2007, 11:03 a.m.: [20070808-IR-065070473ERA](#); readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Feb 11, 2011, 2:41 p.m.: [20110216-IR-065110082ERA](#); emergency rule filed Aug 16, 2012, 10:38 a.m.: [20120822-IR-065120495ERA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 9. [65 IAC 2-1-10](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-10](#) State procurement

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-3-16](#); [IC 4-30-8](#)

Sec. 10. The director may procure ~~any~~ supplies or services from ~~any~~ a vendor based on prices set by a contract between the state of Indiana and that vendor.

(State Lottery Commission; [65 IAC 2-1-10](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2295; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 10. [65 IAC 2-1-10.1](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-10.1](#) Sole source procurement

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-3-16](#); [IC 4-30-8](#)

Sec. 10.1. A contract may be awarded for a supply or service without competition when the director, or the director's designee, states in writing the determination that there is only one (1) known or available source for the required supply or service **and its procurement furthers the best interests of the commission**. A copy of such determination shall be made a part of the contract file.

(State Lottery Commission; [65 IAC 2-1-10.1](#); emergency rule filed Dec 9, 1996, 4:00 p.m.: 20 IR 964; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 11. [65 IAC 2-1-12](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-12](#) Manner of giving notice

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-3-16](#); [IC 4-30-8](#)

Sec. 12. (a) Whenever public notice is required by this rule, the notice shall be given in the manner prescribed by this section.

(b) If the ultimate expenditure involved in a procurement is estimated by the director, or the director's designee, to exceed three hundred thousand dollars (\$300,000), a notice shall be published at least once.

(c) The director, or the director's designee, may provide for publication of additional notices, even if no publication is required by this subsection. Whenever publication of notice is required by this section, the notice shall be published at least in one (1) newspaper of general circulation in Marion County, Indiana. If any of the services or supplies being procured are for a specific use located outside Marion County, Indiana, the notice may also be published in one (1) or more newspapers of general circulation in the area in which the services or supplies are to be used. The director, or the director's designee, may designate additional newspapers for the publication of notice according to the nature of the procurement.

(d) The director, or the director's designee, may send notices, invitations to bid, requests to bid, requests for offers, or requests for proposals to prospective bidders or offerors known to the director, or the director's designee, to be reasonably disposed to bid on a procurement. However, failure to give notice to a particular bidder or offeror does not invalidate a procurement under this rule.

(e) In lieu of publication of notice as otherwise provided in this rule, the director, or the director's designee, may post any notice on the website of the commission in the event the director determines such would not be contrary to the best interests of the commission.

(State Lottery Commission; [65 IAC 2-1-12](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2295; emergency rule filed Dec 9, 1996, 4:00 p.m.: 20 IR 965; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Jul 26, 2007, 11:03 a.m.: [20070808-IR-065070473ERA](#); readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Feb 11, 2011, 2:41 p.m.: [20110216-IR-065110082ERA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 12. [65 IAC 2-1-13](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-13](#) Disclosure requirements for major procurements

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-2-5](#)

Sec. 13. (a) All offerors for a major procurement as defined in ~~IC 4-30~~ [IC 4-30-2-5](#) shall submit the information required by [IC 4-30](#) at the time of submission of its bid, proposal, or offer. **required by the director.** Immediately prior to execution of a contract by a vendor, the **commission may require the vendor shall to** update the disclosures. The vendor shall be under a continuous duty to correct any ~~such~~ information ~~as may be~~ **that is** later found to have been incorrect or incomplete when submitted. The vendor shall be under a duty to update and revise ~~such disclosure only~~ **its disclosures** in accordance with the provisions of the vendor's contract **and as required by the director.**

(b) The director may require ~~such~~ additional disclosures ~~as may be desired~~ for the purpose of enforcing, auditing, investigating, or confirming the accuracy of the disclosures or for ~~any~~ **another** proper purpose.

(State Lottery Commission; [65 IAC 2-1-13](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2296; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 13. [65 IAC 2-1-15](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-15](#) Contract terms

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-3-16](#); [IC 4-30-8](#)

Sec. 15. No contract shall obligate the commission for a period in excess of four (4) years without the prior approval of the commission. ~~Any~~ **A** contract may contain one (1) or more option periods or provisions for extensions of the contract term, ~~provided that:~~ **but only if an individual option period or extension:**

- (1) ~~any individual option period or extension~~ does not exceed two (2) years in duration; and
- (2) ~~any individual option period or extension may become~~ **becomes** effective only upon the specific, affirmative exercise of the option, or the specific, affirmative agreement to the extension, by the director.

(State Lottery Commission; [65 IAC 2-1-15](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2296; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 92; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 14. [65 IAC 2-1-16](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-1-16](#) Contract clauses

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30](#)

Sec. 16. ~~Any~~ **A** contract with the commission may contain any terms and conditions and any contract clauses ~~which that~~ are not prohibited by the Indiana state lottery statute [IC 4-30](#) or federal law.

(State Lottery Commission; [65 IAC 2-1-16](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2297; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 15. [65 IAC 2-2-1](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-2-1](#) Authority to lease real property

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30](#)

Sec. 1. (a) ~~The director of the state lottery commission~~ shall have the authority to lease all real property **that is** necessary for the efficient operation of the lottery and for the conducting of the business of the commission and the director, including, but not limited to, office space, warehouse facilities, parking facilities, and fixtures and improvements related thereto and services related to the use and occupancy of the property.

(b) The term of ~~such a~~ **the** lease may not exceed four (4) years without the prior approval of the commission.

(c) The lease may contain option periods or extensions of the lease term ~~provided that~~ **if**:

- (1) no individual option period or extension period ~~may be~~ **is** more than two (2) years in duration; and
- (2) the option period or extension period becomes effective only upon the specific, affirmative exercise of the option period, or the specific, affirmative agreement to the extension, by the director.

(State Lottery Commission; [65 IAC 2-2-1](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2297; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 92; errata, 13 IR 402; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

SECTION 16. [65 IAC 2-3-1](#) IS AMENDED TO READ AS FOLLOWS:

[65 IAC 2-3-1](#) Authority to contract with state agencies

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30](#)

Sec. 1. The director may contract with any state agency or official for any purpose. ~~provided that the term of such a contract does not exceed four (4) years.~~ If the director concludes that the state agency, whether for reasons of economy, convenience, or otherwise, should supply goods or services to the commission which the agency procures ~~for~~ **from** a third party other than a state employee, then ~~such a contract must require that the agency's procurement of those goods or services be accomplished in accordance with any applicable safeguards and procedures of [IC 4-13-4](#) and not pursuant to the agency's use of the exception set forth in [IC 4-30-8-9](#).~~ **the commission's contract with the agency may include an obligation by the agency to use a competitive bidding process aimed at procuring the highest quality goods and services at the lowest reasonable price.**

(State Lottery Commission; [65 IAC 2-3-1](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2297; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Jun 28, 2013, 1:13 p.m.: [20130710-IR-065130297ERA](#))

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