

§ 18C-151. Contracts.

(a) Except as otherwise specifically provided in this subsection for contracts for the purchase of services, apparatus, supplies, materials, or equipment, Article 8 of Chapter 143 of the General Statutes, including the provisions relating to minority participation goals, shall apply to contracts entered into by the Commission. If this subsection and Article 8 of Chapter 143 are in conflict, the provisions of this subsection shall control. In recognition of the particularly sensitive nature of the Lottery and the competence, quality of product, experience, and timeliness, fairness, and integrity in the operation and administration of the Lottery and maximization of the objective of raising revenues, a contract for the purchase of services, apparatus, supplies, materials, or equipment requiring an estimated aggregate expenditure of three hundred thousand dollars (\$300,000) or more may be awarded by the Commission only after the following have occurred:

- (1) The Commission has invited proposals to be submitted by advertisement by electronic means or advertisement in a newspaper having general circulation in the State of North Carolina and containing the following information:
 - a. The time and place where a complete description of the services, apparatus, supplies, materials, or equipment may be had.
 - b. The time and place for opening of the proposals.
 - c. A statement reserving to the Commission the right to reject any or all proposals.
- (2) Proposals may be rejected for any reason determined by the Commission to be in the best interest of the Lottery.
- (3) All proposals shall be accompanied by a bond or letter of credit in an amount equal to not less than five percent (5%) of the proposal and the fee to cover the cost of the criminal record check conducted under G.S. 143B-935.
- (4) The Commission has complied with the minority participation goals of G.S. 143-128.2 and G.S. 143-128.3.
- (5) The Commission may not award a contract to a lottery potential contractor who has been convicted of a felony or any gambling offense in any state or federal court of the United States within 10 years of entering into the contract, or employs officers and directors who have been convicted of a felony or any gambling offense in any state or federal court of the United States within 10 years of entering into the contract.
- (6) The Commission shall investigate and compare the overall business practices, ethical reputation, criminal record, civil litigation, competence, integrity, background, and regulatory compliance record of lottery potential contractors.
- (7) The Commission may engage an independent firm experienced in evaluating government procurement proposals to aid in evaluating proposals for a major procurement.
- (8) The Commission shall award the contract to the responsible lottery potential contractor or lottery supplier who submits the best proposal that maximizes the benefits to the State.

(b) Upon the completion of the bidding process, a contract may be awarded to a lottery contractor or lottery supplier with whom the Commission has previously contracted for the same purposes.

(c) Before a contract is awarded, the Director shall conduct a thorough background investigation of all of the following:

- (1) The potential contractor to whom the contract is to be awarded.

- (2) Any parent or subsidiary corporation of the potential contractor to whom the contract is to be awarded.
- (3) All shareholders with a five percent (5%) or more interest in the potential contractor or parent or subsidiary corporation of the potential contractor to whom the contract is to be awarded. For purposes of this subdivision, "shareholders" means any natural person or those individuals with capabilities to make operating decisions for the potential contractor or parent or subsidiary corporation of the potential contractor to whom the contract is to be awarded.
- (4) All officers and directors of the potential contractor or parent or subsidiary corporation of the potential contractor to whom the contract is to be awarded.

(d) The Commission may terminate the contract, without penalty, of a lottery contractor that fails to comply with the Commission's instruction to implement the recommendations of the State Auditor or an independent auditor in an audit conducted of Lottery security or operations.

(e) After entering into a contract with a lottery contractor, the Commission shall require the lottery contractor to periodically update the information required to be disclosed under G.S. 18C-152(c). Any contract with a lottery contractor who does not periodically update the required disclosures may be terminated by the Commission.

(f) No lottery contractor, potential contractor, or lottery supplier may pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food and beverages having an aggregate value not exceeding one hundred dollars (\$100.00) in any calendar year, to the Director, any member or employee of the corporation, or a member of the immediate family residing in the same household as any of these individuals. (2005-344, s. 1; 2005-276, s. 31.1(p); 2006-259, s. 8(d); 2009-357, s. 3; 2009-570, s. 32(d); 2012-194, s. 64; 2013-360, s. 6.8; 2014-100, s. 17.1(ff).)