

Mississippi Lottery Corporation
Policy for the Procurement of Commodities and Certain Services
Adopted June 26, 2019

The purpose of the Mississippi Lottery Corporation Policy for the Procurement of Commodities and Certain Services is to allow the Corporation to make effective, timely, and productive purchases at maximum value to the Corporation in furtherance of its objectives as set forth in the Alyce G. Clarke Mississippi Lottery Law.

I. Scope

The Policy for the Procurement of Commodities and Certain Services shall apply to those purchases made for commodities and certain services as provided herein.

II. State Purchasing Guidelines

The Corporation, as an entity created by the State of Mississippi, reserves the right to use the State Purchasing Guidelines, as set forth by the Mississippi Department of Finance and Administration, whenever the Corporation deems it to be more efficient and/or beneficial to the Corporation to do so.

III. Authority

The authority to procure commodities and services rests with the Board of Directors ("Board") of the Corporation, although the Board may delegate its authority regarding procurement to the President and to other Corporation staff as it deems fit; provided, however, that any purchase costing over \$150,000 requires the approval of the Board.

IV. General Procurement Guidelines

The Corporation may purchase, lease, or lease-purchase such products and procure such services as are necessary for the operation of the lottery. In any decision made under this Policy, the Corporation shall take into account the particularly sensitive nature of the state lottery and shall act to promote and ensure security, honesty, fairness and integrity in the operation and administration of the lottery and the objective of maximizing net lottery proceeds for the benefit of the citizens of the State of Mississippi. In addition to the foregoing, all vendor bids and quotations must be evaluated on the basis of product quality, technical compliance with specifications, total cost and the vendor's acceptance of the Corporation's terms and conditions.

V. Purchasing Procedures

A. The following pricing guidelines apply to certain purchases:

1. Purchases of commodities costing \$10,000 or less (excluding freight and shipping charges) may be made without advertising or otherwise requesting bids.

2. Purchases of commodities costing more than \$10,000 but less than or equal to \$100,000 (excluding freight and shipping) require at least two (2) competitive written bids (without publishing or posting advertisement for bids). Internet lists and catalogue listings may be considered.
 3. Purchases of commodities costing more than \$100,000 (excluding freight and shipping) require the Corporation to advertise for competitive sealed bids for two (2) consecutive weeks on the Corporation's website. The date as published for the bid opening will not be less than seven (7) working days after the last published notice. The Corporation may further solicit interest in the request for competitive bids by sending notice of such to a list of potential vendors or publishing notice elsewhere as it deems appropriate. The date as published for the bid opening will not be less than seven (7) working days after the last published notice. Written bids may be received by mail, hand delivery or email as specified in the request for competitive bids and should be signed by an authorized representative of the vendor.
 4. Purchases of services costing \$1,000,000 or more require the Corporation to advertise for competitive sealed bids via a request for proposals ("RFP") or request for qualifications ("RFQ") for two (2) consecutive weeks on the Corporation's website. The Corporation may further solicit interest in the RFP or RFQ by sending notice of such to a list of potential vendors or publishing notice elsewhere as it deems appropriate. The date as published for the bid opening will not be less than seven (7) working days after the last published notice. Written responses may be received by mail, hand delivery or email as specified in the RFP or RFQ and should be signed by an authorized representative of the vendor.
- B. The Corporation, when it determines it is in the Corporation's best interest to do so, may decide to utilize an RFP or RFQ process for the purchase of goods and services even where such is not required by this Policy.
- C. RFPs and RFQs shall provide the following: a clear and accurate description of the technical requirements for the commodity or service desired; all requirements that the bidder must fulfill; and factors to be used in evaluating bids and proposals.
- D. All bids, offers, quotes or proposals and the contracts resulting from RFPs or RFQs are subject to the requirements of, and must comply with, the Act, regardless of whether or not specifically addressed in either the solicitations or the RFPs or RFQs. All potential vendors shall read and be familiar with the Act, a copy of which may be obtained through a link on the Corporation's website.
- E. Issuance of any solicitation does not constitute a commitment on the part of the Corporation to award a contract. The Corporation retains the right to reject any or all proposals, in whole or in part, and to cancel any solicitation (before or after receipt of proposals in response thereto) if the Corporation considers it to be in the best interests of the Corporation.

- F. The Corporation reserves the right to make changes to any solicitation by issuance of a written addendum or amendment, at any time during the procurement process.
- G. The Corporation reserves the right to obtain any information from any lawful source regarding the criminal background, financial stability and past business history, practices and abilities of vendors and their team members. Such information may be taken into consideration in evaluation of proposals.
- H. The Corporation shall have the right, at its discretion, to reject any and all proposals or to cancel an RFP or RFQ in its entirety and, at its sole discretion, to reissue or not reissue an RFP or RFQ.
- I. When a commodity costing over \$10,000 is practicably available from only one source, the Corporation is not required to follow the competitive bidding process. These purchases are allowed when no other vendor is capable of fully meeting the requirements, there are issues such as past performance by other vendors, only one response is received, a particular vendor has unique experience, expertise or professional stature or the commodity is a proprietary item with unique requirements, e.g., there is only one item or source capable of meeting the Corporation's requirements. The person requesting the procurement must provide a certification of the conditions and circumstances requiring the purchase, a description for the item(s) purchased, the price and the source. The Board must approve the purchase and it must be reflected in the minutes of the Corporation.
- J. In the case of an emergency, the Board or the President may authorize purchases to be exempt from the bidding processes set forth herein. Such emergencies must be documented, presented to the Board and placed on the minutes of the Board. The documentation shall include a description of the purchase, the purchase price and the nature of the emergency.
- K. The Corporation shall select vendors that provide the greatest long-term benefit to the State, the greatest integrity for the Corporation and the best services and products for the State at the best available price.

VI. Communication

The members of the Board of Directors, the President and all Corporation employees shall conduct negotiations and other communications with vendors and potential vendors with respect to a potential procurement as they deem to be in the best interests of the Corporation; provided, that any communication or negotiation which may take place regarding any procurement or contact shall be conducted in a manner so as not to disclose any information that would give one or more vendors an unfair advantage or unfairly enable one or more vendors to improve their bids, offers, quotes or proposals as a result.

VII. Leasing

If lease options are available, the Corporation must perform an analysis of the lease versus buy option to determine which alternative would be the most economical and practical form

of procurement. In order for the Corporation to enter a lease involving commodities, the Corporation must provide a written justification.

VIII. Confidentiality of Information

All data, materials and documentation originated and prepared for the Corporation pursuant to RFPs or RFQs or other solicitations may be available to the public in accordance with the Mississippi Public Records Act of 1983 and the Corporation's Public Records Request Policy. Under no circumstances will the Corporation be liable to any vendor or to any other person or entity for any disclosure of any trade secret or confidential information.

IX. Conflicts of Interest

Potential vendors must furnish a statement to the Corporation identifying any known or potential conflicts of interest. The Board will review any actual or potential conflict of interest prior to the purchase.

X. Dispute Resolution

All claims and disputes, including but not limited to protests related to any request for proposal or competitive bidding process or the award of any contract to a vendor shall be handled solely and exclusively under and in accordance with Section 17 of the Act and the Corporation's Dispute Resolution Procedures (the "**Dispute Procedures**"), as adopted and/or amended from time to time by the Corporation in accordance with the authority granted to it in the Act. The Dispute Procedures are automatically considered to be a part of the Regulations, Policies and Procedures of the Corporation. All vendors and prospective vendors should read and be familiar with the Dispute Procedures which are available through a link on the Corporation's website. The Dispute Procedures include provisions governing the deadline for the filing of a Dispute Resolution Request. Any vendor that submits a Proposal hereby expressly acknowledges and agrees that: (a) the Dispute Procedures represent the exclusive procedure and the exclusive forum for binding resolution of all claims, disputes, complaints and Dispute Resolution Requests of any kind relating in any way to any request for proposal or request for qualification process, contract, bid, offer, quote, proposal or agreement requested by, received by or entered into by the Corporation; (b) it is estopped from objecting to any court, agency or other entity as to the Dispute Procedures being such sole and exclusive forum for binding resolution; and (c) it agrees to be completely, solely and irrevocably bound by such Dispute Procedures.