

**DEPARTMENT OF FINANCE  
OFFICE OF THE STATE LOTTERY**  
**Statutory Authority: 29 Delaware Code, Section 4805(a) (29 Del.C. §4805(a))**

**FINAL**

**ORDER**

Pursuant to 29 **Del.C.** §10115 and 29 **Del.C.** §4805(a), the Delaware Lottery Office issues this Order adopting proposed amendments to the Video Lottery Regulations. Following notice and a public hearing held on December 21, 2004, the Lottery makes the following findings and conclusions:

**Summary of the Evidence**

1. The Lottery posted public notice of the proposed amendments in the December 1, 2004 *Register of Regulations* and for two consecutive weeks in the Delaware Capital Review and Delaware State News. The Lottery's proposed amendments were as follows: i) amend Video Lottery Regulation 4.2 to provide that any entity proposing to contract with the Lottery or a video lottery agent must obtain a technology provider license; ii) amend Video Lottery Regulation 6.34(5) to provide that temporary employees, consultants, or contractors must obtain a license and vendors who propose to contract with the Lottery or a video lottery agent must obtain a technology provider license; iii) amend Video Lottery Regulation 6.35 to require video lottery agents to file copies of video lottery related contracts in excess of \$50,000; iv) amend Video Lottery Regulation 7.16.2 to require a video lottery agent to update the self-exclusion list within forty-eight (48) hours after receiving notice from the Lottery or the Video Lottery Enforcement Unit.

2. The Lottery received no written comments from the public during the period from December 1, 2004 through December 30, 2004. The Lottery received no public comments at the public hearing on December 21, 2004.

**Findings of Fact and Conclusions**

3. The public was given notice and an opportunity to provide the Lottery with comments in writing and by testimony at the public hearing on the proposed amendments to the Video Lottery Regulations.

4. The Lottery finds that the amendments to the Video Lottery Regulations should be adopted as proposed. The proposed amendments are necessary under 29 **Del.C.** §4805 (a) to permit the Lottery to operate the video lottery in a manner that produces the maximum amount of net revenues consonant with the dignity of the State and the general welfare of the people of Delaware. The proposed amendments are necessary steps to strengthen the licensing and enforcement procedures authorized by 29 **Del.C.** §4805(a)(16-17).

5. The effective date of this Order shall be ten (10) days from the publication of this Order in the *Register of Regulations* on February 1, 2005. This Order adopts the proposed amendments to the Video Lottery Regulations in their entirety as published in the *Register of Regulations* in December, 2004, **8 DE Reg 842**.

IT IS SO ORDERED this 10th day of January, 2005.

Don Johnson, Hearing Officer

**Rule 4.2 Licensing of Technology Providers**

**4.0 Licensing of Technology Providers**

4.1 As deemed necessary, the Director shall give public notice of the agency's intent to select technology providers of video lottery machines through a request for proposal and qualifications by advertising in a newspaper of general circulation in Delaware and in a prominent trade publication requesting expressions of interest to serve as a technology provider. The licensing of a technology provider shall not serve as the basis of requiring the Director to select the technology provider under the procurement procedures set forth in Chapter 69 of Title 29 of the **Delaware Code**.

4.2 Each person desiring to obtain a license from the agency as a technology provider shall submit a license application on a form specified and supplied by the agency. Any person or entity, including video lottery manufacturers, who proposes to contract with a video lottery agent or the Lottery for the provision of goods or

services, including management services, related to video lottery operations, must obtain a technology provider license pursuant to these Video Lottery Regulations. The license application shall, among other things:

4.2.1 Give notice that the applicant may be required to submit to a background investigation, the cost of which must be borne by the applicant.

4.2.2 Require the applicant to supply specified information and documents related to the applicant's fitness and the background of its owners, partners, directors, officers, key employees, and video lottery operations employees, including but not limited to copies of financial statements, tax returns, insurance policies, and lists of creditors.

4.2.3 Require the applicant to disclose the identity of all customers to whom it has furnished video games or other gambling equipment or technology within the three years immediately preceding the date of the application.

4.2.4 Require the applicant to list all persons with whom the applicant has a communications protocol agreement.

4.2.5 Require the applicant to disclose whether the applicant, or any of its present or former officers, directors, owners, partners, key employees, or video lottery operations employees, is or has been the subject of an investigation in another jurisdiction, the nature of the investigation, and the outcome, if any, of such investigation.

4.2.6 Provide a description of the means by which the applicant exercises security and financial control over the activities of service technicians in order to insure the integrity of video lottery operations.

4.2.7 Require the applicant to disclose its legal name, form or entity (e.g., general or limited partnership, corporation), the names, addresses, social security numbers and dates of birth of its directors, officers, partners, owners, key employees and video lottery operations employees.

4.2.8 Require the applicant to disclose the names and addresses of individuals who have been authorized by the applicant to engage in dealings with the agency for purposes of representing the interests of the applicant.

4.2.9 Require the applicant to enclose copies of its audited financial statements for the preceding three (3) fiscal years and a copy of internally prepared financial statements for the current fiscal year or at the close of the most recent fiscal quarter.

4.2.10 Require the applicant to provide a description of its engineering and software development resources, technical support capabilities and ability to manufacture and deliver the video lottery machines.

4.2.11 Require persons who are proposing to contract with the agency or a video lottery agent to provide a copy of their contract proposal.

4.3 Upon request, the applicant shall supplement the information provided in the application form as deemed necessary by the Director.

4.4 To the extent, if any, that the information in the application or the supplemental information provided by the applicant becomes inaccurate or incomplete, the applicant shall so notify the agency in writing as soon as it is aware that the information is inaccurate or incomplete, and shall at that time supply the information necessary to make the application or supplementary information accurate and complete.

4.5 The applicant shall cooperate fully with the agency and the Delaware State Police VLEU in any background investigation of the applicant.

4.6 The applicant, upon request of the agency or the Delaware State Police VLEU, shall make any and all of its books and records available for inspection by the agency or the Delaware State Police VLEU. Provided, however, that any information obtained pursuant to this subsection shall, to the extent provided by law, be held in confidence and not subject to the Delaware Freedom of Information Act.

4.7 As soon as the agency has determined that the application form is complete and that the applicant is otherwise qualified, it shall forward the same to the Delaware State Police VLEU which shall conduct as soon as practicable a background investigation of the applicant, its officers, partners, owners, directors, key employees, and video lottery operations employees and report its findings to the agency.

4.8 Notwithstanding any other provision contained herein to the contrary, the Director may determine, upon review of the licensing standards of another state, that such standards are so comprehensive, thorough, and provide similar adequate safeguards, that the license of an applicant in such other state precludes the necessity of a full application and background check. In such case, the Director shall require a limited application and background check, as determined by the Director in his sole discretion, as are necessary to assure that the applicant is fit for the license and does not pose a threat to the public interest of the State or to the reputation of or effective regulation of the video lottery.

4.9 In evaluating applications, the Director shall consider:

4.9.1 Whether the applicant has demonstrated an ability to interface its technical capabilities with the

selected central system and that it has the resources, experience and ability necessary to manufacture, deliver, install and service such number of video lottery machines as it may be required to supply under a contract with an agent.

4.9.2 Any past conduct of the applicant, or any of its present or former officers, directors, partners, owners, key employees, or video lottery operations employees which may adversely reflect upon the applicant, the nature of the conduct, the time that has passed since the conduct, the frequency of the conduct and any extenuating circumstances that affect or reduce the impact of the conduct or otherwise reflect upon the applicant's fitness for the license. No license shall be issued to any applicant if any of the persons identified in this subsection have been convicted, within ten years prior to the filing of the application, of any felony, a crime of moral turpitude or a crime involving gambling.

4.9.3 Any findings provided by the State Police following its background investigation.

4.9.4 The extent, if any, to which the applicant has failed to comply with any applicable tax laws of the Federal, State or local governments.

4.9.5 The association of the applicant, or any of its officers, directors, owners, partners, key employees, or video lottery operations employees with persons of known criminal background or persons of disreputable character, that may adversely affect the general credibility, security, integrity, honesty, fairness or reputation of video lottery operations.

4.9.6 Any other information supplied in connection with the application, including substantially similar background investigations performed by other agencies or jurisdictions, which relates to the applicant's competence, financial capability, honesty, integrity, reputation, habits, or associations.

4.9.7 The degree to which the applicant has supplied accurate and complete information pursuant to the requirements of these regulations.

4.10 A license shall not be issued to a technology provider if the applicant technology provider has any direct or indirect financial interest in an agent licensee or the real or personal property of an agent licensee.

4.11 A license shall be issued to the applicant if the Director is satisfied, upon consideration of the factors specified in subsection 4.9, that the applicant would be a fit technology provider and not pose a threat to the public interest, the reputation of the lottery or to the effective control of the lottery.

4.12 An applicant for a technology provider's license shall, prior to issuance of the license, post a bond or irrevocable letter of credit in a manner and in an amount established by the agency. Any such bond shall be issued by a surety company authorized to transact business in Delaware and said company shall be approved by the State Insurance Commissioner as to solvency and responsibility.

4.13 The agency, with the assistance of the VLEU, may require licensed technology providers to annually update information submitted with their initial license application.

**2 DE Reg. 115 (7/1/98)**

**3 DE Reg. 1082 (2/1/00)**

**7 DE Reg. 958 (1/1/04)**

**\*Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Office of the State Lottery is available at: <http://lottery.state.de.us/videolottery.html>**

**8 DE Reg 1143 (2/1/05)**