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**IDAPA 52
TITLE 01
CHAPTER 03**

52.01.03 - RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY

000. LEGAL AUTHORITY (RULE 0).

These rules are adopted under the general legal authority of Title 67, Chapter 74, Idaho Code, and the specific legal authority of Sections 67-7401, 67-7404, 67-7406, 67-7408, and 67-7411, Idaho Code. (3-26-08)

001. TITLE AND SCOPE (RULE 1).

The title of these rules are 52.01.03, "Rules Governing Operations of the Idaho State Lottery." (3-26-08)

002. WRITTEN INTERPRETATIONS (RULE 2).

All written interpretations of these rules are available for public inspection and copying at the offices of the Idaho State Lottery, 1199 Shoreline Lane Boise, Idaho. (3-26-08)

003. ADMINISTRATIVE APPEALS (RULE 3).

There are no contested cases and no administrative appeals under Title 67, Chapter 74, Idaho Code, or under these rules. (3-26-08)

004. INCORPORATION BY REFERENCE (RULE 4).

These rules do not incorporate by reference any other legal authority. (3-26-08)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 5).

01. Street Address. The Idaho State Lottery is located at 1199 Shoreline Lane, Boise, Idaho 83702. (3-26-08)

02. Mailing Address. The Idaho State Lottery's mailing address is PO Box 6537, Boise, Idaho 83707-6537. (3-26-08)

03. Office Hours. The office hours of the Idaho State Lottery for purposes customer service are 8:00 a.m. through 6:00 p.m. (3-26-08)

006. PUBLIC RECORDS ACT COMPLIANCE (RULE 6).

These rules have been promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and are a public record. (3-26-08)

007. PURPOSE AND EFFECT OF RULES ELABORATING GENERALLY WORDED STATUTES (RULE 7).

Many rules in this chapter elaborate upon generally worded statutes. It is the intent of those rules to inform the public of the actual practices under those statutes. If there is any inadvertent conflict between the statute and the rule, the statute prevails. (3-26-08)

008. -- 009. (RESERVED).

010. DEFINITIONS (RULE 10).

As used throughout these rules these terms have the following definitions: (3-26-08)

01. Administrative Costs. See definition in Section 67-7404, Idaho Code. (3-26-08)

02. Benefit. Any thing, property or money, favorable consideration or advantage, profit, privileges, gain or interest to which a person is not otherwise entitled. (3-26-08)

03. Certificate. The signed document issued by the Director authorizing a retailer to sell Lottery products. (3-26-08)

04. Commission or State Lottery Commission. The Commission established and appointed as

provided by Chapter 74, Title 67, Idaho Code, in particular Section 67-7405, Idaho Code. See definition in Section 67-7404, Idaho Code. (3-26-08)

- 05. Commissioner.** A member of the Idaho State Lottery Commission. (3-26-08)
- 06. Control Person.** A person in a position of authority that is primarily defined according to organizational type. The following are control persons: (3-26-08)
- a.** In a privately-owned corporation, the officers, directors, and stockholders of the parent company who own five percent (5%) or more of the company's stock and, if applicable, any of its subsidiaries. (3-26-08)
 - b.** In a publicly-owned corporation, the officers and directors of the parent company and each of its subsidiaries. Additionally, stockholders who own five percent (5%) or more of the corporation's stock are control persons. (3-26-08)
 - c.** In a trust, the trustee and all persons entitled to receive income or benefit from the trust. (3-26-08)
 - d.** In an association, the members, officers, and directors. (3-26-08)
 - e.** In a partnership or joint venture, the general partners, limited partners, or joint venturers. (3-26-08)
 - f.** A member of the immediate family of any of who is a control person under parts a through e of this definition. (3-26-08)
 - g.** A subcontractor of a Vendor if the subcontractor performs more than half of the Vendor's contract with the Lottery. (3-26-08)
- 07. Director.** The person appointed and confirmed as Director of the Idaho State Lottery as provided by Section 67-7407, Idaho Code, or, as context requires, any other person to whom the Director's authority has been delegated, in writing, by the Director before the action was taken by the delegee. See definition in Section 67-7407, Idaho Code. (3-26-08)
- 08. Executive Staff.** The director of Lottery Security and the deputy directors appointed by the Director. (3-26-08)
- 09. Expenses.** See definition in Section 67-7407, Idaho Code. (3-26-08)
- 10. Fiscal Year.** The Lottery's fiscal year of twelve (12) months beginning on July 1 and ending on June 30. (3-26-08)
- 11. Gift.** A transfer, exchange or delivery of anything, property or money, of any value whatsoever, with or without an expectation by the giver to receive anything, tangible or intangible, in return. (3-26-08)
- 12. Immediate Family.** A natural person's spouse, children, brother, sister, or parent by blood, marriage, or adoption who resides as a member of the same household in the principal place of residence of any contractor, vendor, retailer, member, or employee of the Idaho State Lottery. (3-26-08)
- 13. Instant Game.** A game in which a ticket is purchased and upon removal of a latex or similar secure covering on the front of the ticket, the ticket bearer determines his or her winnings, if any. (3-26-08)
- 14. Invitation to Bid.** The solicitation of competitive offers in which specifications, price, and delivery (or project completion) will be the predominant award criteria. (3-26-08)
- 15. Lottery or State Lottery.** The Idaho State Lottery established and operated pursuant to the constitution and the Idaho State Lottery Act of 1988, as amended, and created by Section 67-7402, Idaho Code. See definition in Section 67-7407, Idaho Code. (3-26-08)

- 16. Lottery Contract or Contract.** Any contract entered into either by the Lottery or for the Lottery by another public agency, for the purchase, lease, or sale of goods or services. (3-26-08)
- 17. Lottery Contractor or Contractor.** See definition in Section 67-7407, Idaho Code. (3-26-08)
- 18. Lottery Employee or Employee.** Any person who works full- or part-time for the Lottery. (3-26-08)
- 19. Lottery Game or Game.** Any procedure authorized by the Commission whereby prizes are distributed among persons who have paid, or unconditionally agreed to pay, for tickets or shares which provide the opportunity to win such prizes. Lottery game themes shall be approved by the Commission, shall be consonant with the dignity of the state. (3-26-08)
- 20. Lottery Game Retailer or Retailer.** See definition in Section 67-7407, Idaho Code. (3-26-08)
- 21. Lottery Revenue.** See definition in Section 67-7407, Idaho Code. (3-26-08)
- 22. Lottery Vendor or Vendor.** See definition in Section 67-7407, Idaho Code. (3-26-08)
- 23. Low, Medium and High Tier Claims.** See definition in Section 67-7407, Idaho Code. (3-26-08)
- 24. Major Procurement.** See definition in Section 67-7407, Idaho Code. (3-26-08)
- 25. Net Income.** See definition in Section 67-7407, Idaho Code. (3-26-08)
- 26. On-Line System.** The Lottery's on-line computer wagering system consisting of ticket issuing terminals, central processing equipment, and a communications network. (3-26-08)
- 27. Person.** See definition in Section 67-7407, Idaho Code. (3-26-08)
- 28. Play Symbols.** The numbers or symbols appearing in the designated area under the removable covering on the front of the ticket. (3-26-08)
- 29. Prize.** Any award, financial or otherwise, awarded by the Director for successfully playing a Lottery game. (3-26-08)
- 30. Redemption Value.** See definition in Section 67-7407, Idaho Code. (3-26-08)
- 31. Request for Proposal.** The solicitation of competitive proposals, or offers, to be used in part as a basis for making an acquisition, or entering into a contract, when specification and price will not necessarily be the predominant award criteria. (3-26-08)
- 32. Retailer Validation Code.** The symbols found under the removable rub-off covering over the play symbols on the front of each ticket. (3-26-08)
- 33. Sensitive Procurement.** Those procurement actions or contracts, other than "major procurements," that may either directly or indirectly affect the integrity, security, honesty, and fairness of the operation and administration of the Lottery. A typical example of this class of procurement is the acquisition of security systems that protect the security and integrity of the Lottery. (3-26-08)
- 34. Share.** See definition in Section 67-7407, Idaho Code. (3-26-08)
- 35. State Lottery Act of 1988 or Act.** The Act approved by the Legislature creating the Lottery, which became effective November 23, 1988, as amended, which is codified at Chapter 74, Title 67, Idaho Code. (3-26-08)
- 36. Subcontractor.** Any third party not in the employment of a Contractor, who is performing all or part of the work in the Contractor's Agreement with the Lottery under a separate contract with the Contractor. The

term “subcontractor” means subcontractor(s) of any tier. (3-26-08)

37. Temporary Retailer. A retailer under contract with the Lottery for a temporary or seasonal period. A temporary contract may be subject to special conditions or limitations that the Director deems prudent. These limitations or conditions may include, but are not limited to: (3-26-08)

- a. Length of ticket sale period; (3-26-08)
- b. Hours or days of sale; (3-26-08)
- c. Location of sale; (3-26-08)
- d. Specific persons who may sell Lottery tickets; (3-26-08)
- e. Specific sporting, charitable, social, or other special events where Lottery tickets may be sold. (3-26-08)

38. Provisional Retailer. A retailer granted a provisional certificate in accordance with these rules. A provisional certificate may contain some or all of the restrictions of a temporary retailer and additional restrictions deemed necessary by the Director. (3-26-08)

39. Ticket. See definition in Section 67-7407, Idaho Code. (3-26-08)

40. Ticket Bearer. The person who has signed the ticket or has possession of the unsigned ticket. (3-26-08)

41. Ticket Validation Number or Validation Number. The multidigit number found on the front of the ticket. It is either uncovered or found underneath the “Do Not Remove” area on the ticket or any stub. (3-26-08)

42. Total Annual Revenue or Annual Revenue. The sum of all of the Lottery’s proceeds and accrued income that is characterized as a reduction or recovery of expenses. (3-26-08)

43. Unclaimed Prize. Any award, financial or otherwise, of more than twenty-five dollars (\$25) for which there is physical, tangible evidence of eligibility but for which the prize has not been paid within one (1) year. (3-26-08)

44. Value. See definition in Section 67-7407, Idaho Code. (3-26-08)

011. -- 099. (RESERVED).

100. GENERAL PROVISIONS (RULE 100).

01. Purpose. These rules are established by the Commission to define and regulate the operation and administration of the Lottery and the Commission. (3-26-08)

02. Lottery Commission. The Idaho State Lottery Commission (the “Commission”) is charged with the authority and duty to regulate Lottery activities in the State of Idaho, consistent with the Constitution and the enabling legislation. The headquarters of the Commission and of the Lottery is in Boise. (3-26-08)

03. Powers and Duties of the Commission. (3-26-08)

a. Rule Promulgation. The Commission promulgates rules and conditions under which the statewide Lottery will be conducted. Subjects covered in such rules include but need not be limited to: (3-26-08)

- i. The types of Lottery games to be conducted; (3-26-08)
- ii. The prices of tickets in the Lottery; (3-26-08)

iii. In general the numbers and sizes of prize disbursements, the manner and frequency of prize drawings, and the manner in which payment will be made to holders of winning tickets; (3-26-08)

iv. The locations at which Lottery tickets may be sold, the manner in which they are to be sold, and contracting with Lottery vendors, retailers and contractors; (3-26-08)

v. The manner in which Lottery sales revenues are to be collected; (3-26-08)

vi. The amount of compensation to be paid to retailers; (3-26-08)

vii. Other areas relating to the efficient and economical operation and administration of a statewide Lottery consonant with the public interest. (3-26-08)

b. Delegation to Director. In addition to those duties assigned to the Director in the Lottery Act, the Commission may, insofar as is consistent with the Constitution and the Lottery Act, delegate the performance of executive or administrative functions to the Director. (3-26-08)

04. Time and Place of Meetings. (3-26-08)

a. Regular meetings of the Commission must be held at least quarterly; the date, time, and place will be set by the Commission and, if possible, with at least two (2) weeks' advance notice. The Commission may meet with the Director to make recommendations and set policy, to approve or reject reports of the Director, to adopt rules, and to transact other business. (3-26-08)

b. Additional meetings necessary to discharge the business of the Commission may be called from time to time by the chairman or by a quorum of the Commission. (3-26-08)

05. Open Meeting Law. All meetings of the Commission shall be held in accordance with Idaho's Open Meeting Law, Sections 67-2340 et seq., Idaho Code, and in accordance with Section 67-7442, Idaho Code. All meetings of the Commission are open to the public, except when executive session is allowed for part of the meeting under the Open Meeting Law. (3-26-08)

06. Director. The Director is responsible for the operation of the Lottery and for managing the affairs of the Commission. A Deputy Director designated by the Director may act for the Director in the absence of the Director. If there is a vacancy in the office of Director, the Commission will designate as Deputy Director as Interim Director until the vacancy can be filled. (3-26-08)

07. Powers and Duties of the Director. (3-26-08)

a. The Director has the authority to implement and execute procedures that he or she may deem appropriate for the efficient administration of the Lottery. The Director may also recommend rules governing the establishment, administration, and operation of the Lottery to the Commission for its approval; (3-26-08)

b. The Director is authorized to employ sufficient staff as may be required to carry out the functions of the Commission and the Lottery; (3-26-08)

c. The Director may contract with retailers for the sale of Lottery games and must suspend or terminate any contract in accordance with the provisions of the Act and the rules of the Commission; (3-26-08)

d. The Director must continuously study and investigate all matters pertinent to the efficient operation of the Lottery; and (3-26-08)

e. The Director must maintain full and complete records of the operation of the Lottery. The Director must report on at least a monthly basis to the Commission and to the Governor on the status of the Lottery. (3-26-08)

f. The duties and responsibilities of the Director that are not otherwise specified in Idaho law or the

rules adopted by the Commission may be maintained as a policy of the Commission for the purpose of establishing a working relationship between the Director and the Commission. (3-26-08)

08. Lottery Offices. (3-26-08)

a. The principal office of the Lottery is located at 1199 Shoreline Lane, Suite 100, Boise, Idaho 83702. (3-26-08)

b. The Lottery may also operate other offices and facilities throughout the State as are appropriate to fulfill its responsibilities under law. (3-26-08)

09. Lottery Budgets and Financial Statements. The Director must: (3-26-08)

a. Submit quarterly financial statements to the Commission, the Governor, the State Treasurer, and the Legislature. The quarterly financial statements must be prepared in accordance with generally accepted accounting principles and must include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. The quarterly financial statements must be provided within forty-five (45) days of the last day of each quarter. (3-26-08)

b. Submit annual financial statements to the Commission, the Governor, the State Treasurer, and each member of the Legislature. The annual financial statements must be prepared in accordance with generally accepted accounting principles and must include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. The annual financial statements must be examined by the State Controller or a firm of independent certified public accountants in accordance with generally accepted auditing standards and must be provided within ninety (90) days of the last day of the Lottery's fiscal year. (3-26-08)

10. Contingency Reserve. (3-26-08)

a. The Director may, with the approval of the Commission, allot from moneys available to pay administrative expenses an amount to be transferred to a contingency reserve established by the Commission. The money allotted can include amounts retained to fund specific future expenses or can be undesignated as to purpose. (3-26-08)

b. When the Commission approves a contingency reserve, it must determine the amount necessary for a reasonable contingency reserve. (3-26-08)

c. Upon approval of the Commission, money in the contingency reserve may be authorized to be used for specific purposes of the Lottery or to be used to fund general administrative expenses if there is a revenue shortfall. Expenses funded from the contingency reserve cannot be included with other administrative expenses for purposes of determining compliance with current administrative expenditure limitations. (3-26-08)

11. Special Drawings. (3-26-08)

a. The Director may authorize special drawings to award prizes, such as vacation trips, automobiles, or other tangible items in addition to, or in lieu of, cash awards. The Director will determine the nature and number of awards for each special drawing. Special drawings for promotional awards may be held independently of the Lottery's regular prize drawings or may be incorporated therein. The promotional drawings may be cosponsored and conducted in conjunction with Lottery retailers or other independent businesses. In view of the temporary nature and indeterminate frequency of the promotional awards drawings, a press announcement and normal advertising media will be used to inform the public of the rules and prizes for each special drawing. (3-26-08)

b. Notwithstanding the provisions of Paragraph 10.11.a. of this rule, the Director may, at his or her discretion, award in-lieu equivalent cash awards to the winners of tangible items, in those instances where the Director deems it appropriate. The value of noncash items must be estimated by using either the cost of the item or its fair-market value. (3-26-08)

12. Retail Drawings. The Director and his designee may authorize Retailers to conduct drawings using

non-winning Idaho Lottery tickets in conjunction with a particular Lottery game. Such authorization must be in writing, must specify the type of drawing to be conducted and must set forth the methodology to be used in conducting the drawing. (3-26-08)

13. Retail Ticket Price Discounts. (3-26-08)

a. Notwithstanding the price adopted for the retail sale of a ticket in the rules for a specific Lottery game, the Commission may offer discounts for the retail sale of Lottery tickets. (3-26-08)

i. Discounts for the retail sale of Lottery tickets may be offered to the public through the use of coupons approved by the Director or by any other method approved by the Director. (3-26-08)

ii. Coupons that offer a discount on the retail price of Lottery tickets must be distributed using methods designed to reach the public. These methods may include, but are not limited to, the use of direct mail, newspaper advertising, or by having coupons available at Lottery offices and retailer locations. (3-26-08)

b. Rules for a promotion conducted by the Lottery using retail ticket discounts must be announced by the Director and made available at the Lottery's offices and retailer locations. (3-26-08)

14. Allocation of Revenues for Prizes. (3-26-08)

a. Purpose: The primary objective of the Lottery is to produce the maximum amount of net revenues to benefit the public purpose of raising revenue consonant with the dignity of the State and the sensibilities of its citizens. In accomplishing this objective, at least forty-five percent (45%) of the total annual revenues shall be returned in the form of prizes. The Lottery may design and conduct games that return more than forty-five percent (45%) of the revenues received from the sale of tickets in the form of prizes as an incentive to increase the total amount of game sales over the level of sales that otherwise would have been reasonably expected using a lower prize percentage. Games may also be authorized that return less than forty-five percent (45%) of that game's revenues so long as forty-five percent (45%) of the total annual revenues is returned as prizes. (3-26-08)

b. Prize payments: In addition to cash prize payments, money set aside by the Lottery and restricted for the payment of prizes is considered in satisfying the requirement of returning at least forty-five percent (45%) of total revenues to the public in the form of prizes. (3-26-08)

c. Averaging game prize payments: Notwithstanding the prize structure adopted for a Lottery game, the amount of revenue returned for prizes among all the games offered by the Lottery may be reallocated so long as at least forty-five percent (45%) of the total revenue earned from all games is returned to the public in the form of prizes on an annual basis. The Director must report to the Commission on any reallocations made pursuant to Section 100. (3-26-08)

15. Ownership of Lottery Tickets. (3-26-08)

a. Except for tickets claimed jointly in accordance with the provisions of Paragraph 100.15.d. of this rule, until a name is printed or placed upon a Lottery ticket in the area designated for "name," the ticket is owned by the bearer of the ticket. When a name is placed on the ticket in the place designated for a name, the person whose name appears in that area is the owner of the ticket and is entitled to any prize attributable to the ticket. (3-26-08)

b. If more than one (1) name appears on a ticket, the ticket must be claimed in accordance with the joint ownership procedures listed in Paragraph 100.15.d. of this rule. (3-26-08)

c. Groups, family units, clubs, or other organizations may claim a winning ticket if the organization possesses a Federal Employer Identification Number (FEIN) issued by the Internal Revenue Service and that number is shown on the claim form. (3-26-08)

d. If a ticket is claimed to be owned by two (2) or more people, the following steps will be taken for payment of the prize: (3-26-08)

- i. All people claiming ownership must complete and sign a request and release form. (3-26-08)
- ii. At least one (1) of the people claiming ownership of the ticket must sign the ticket; that person's signature must also appear on the request and release form. (3-26-08)
- iii. The Lottery reserves the right to issue a single prize check instead of multiple prize checks to the owners of a ticket if the value of each individual prize check would be less than fifty dollars (\$50). (3-26-08)
- iv. Multiple winners of a Lottery prize will be paid only through the Boise Lottery Office. Lottery retailers will not be required to pay more than one (1) winner of a single prize. (3-26-08)

16. Claims. (3-26-08)

a. Liability. By submitting a claim, the player agrees that the State, the Commission, the Lottery and all officials, officers, and employees of each are discharged from all further liability upon payment of the prize. (3-26-08)

b. Publicity. By submitting a claim, the player also agrees that the Lottery may use the prize winner's name and photograph for publicity purposes. (3-26-08)

c. Claim period. Prizes may be claimed for a period of one hundred eighty (180) days after the drawing in which the prize was won or from the last day tickets from the specific instant game were sold. Prizes won through an electronic terminal are payable in accordance with the Lottery's rules. If a claim is not made for the prize within the applicable period, the prize money will be added to future prize pools, to be used in addition to prize allotments already allocated, except as provided in Section 67-7433, Idaho Code. (3-26-08)

d. Invalid tickets. If a ticket presented to the Lottery is invalid pursuant to the terms of these rules or the specific game rules, the ticket is not entitled to prize payment. (3-26-08)

e. Ticket a bearer instrument. A ticket is a bearer instrument until signed in the space designated on the ticket for signature, if a signature space is provided. The person who signs the ticket is considered the owner of the ticket after signing it. Payment of any prize may be made to a person in possession of an unsigned ticket or to the person whose signature appears on the ticket. All liability of the State, the Commission, the Lottery, the Director, and Lottery employees terminates upon payment. (3-26-08)

f. Time of prize payment. All prizes will be paid within a reasonable time after a claim is verified by the Lottery and a winner is determined. The date of the first installment payment of any prize to be paid in installment payments is the date the claim is validated and processed, unless a different date is specified for a particular game in these rules or in the specific game rules. Later installment payments will be made approximately weekly, monthly, or annually, from the date the claim is processed and validated in accordance with the type of prize won and the rules applicable to the prize. The Lottery may, at any time, delay any prize payment in order to review a change in circumstances concerning the prize awarded, the payee, or the claim. (3-26-08)

g. Prizes payable for winner's life. If any prize is for the life of the winner, only an individual may claim and receive the prize for life. If a group, corporation, or other organization is the winner, the life of the winner is deemed to be twenty (20) years. (3-26-08)

17. Prizes Payable After Death of Winner. All prizes, and portions of prizes, that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. (3-26-08)

18. Disability of Prize Winner. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee for the payment of any prize winnings that are or may become due to a person under a disability including, but not limited to, minority, mental deficiency, or physical or mental incapacity. (3-26-08)

19. Stolen or Lost Tickets. The Lottery has no responsibility for paying prizes attributable to stolen or lost tickets. (3-26-08)

20. Effect of Game Rules. In purchasing a ticket the player agrees to comply with Chapter 74, Title 67, Idaho Code, these rules, the specific game rules, Lottery instructions and procedures, and the final decisions of the Lottery. The Lottery's decisions and judgments in respect to the determination of winning tickets or any other dispute arising from the payment or awarding of prizes will be final and binding upon all participants in the Lottery. If a dispute between the Lottery and a player occurs as to whether a ticket is a winning ticket and the prize is not paid, the Lottery may, solely at the Director's option, replace the ticket with an unplayed ticket of an equivalent price from any game or refund the price of the ticket. This will be the sole and exclusive remedy of the player. (3-26-08)

21. Disputed Prizes. If there is a dispute, or it appears that there may a dispute concerning payment or ownership of any prize or any other legal issue involving the prize, the Lottery may refrain from making payment of the prize pending a final determination by the Lottery or by a court of competent jurisdiction as to the proper payment of the prize. (3-26-08)

101. -- 109. (RESERVED).

110. CONFLICT OF INTEREST POLICY (RULE 110).

01. Persons Subject to Conflict of Interest Policy. Every Commissioner, the Director, every Deputy Director, and every other Lottery officer and employee is considered a person subject to this rule on conflict of interest. If a statutory provision, rule, or policy applicable to the Lottery conflicts with Section 67-7443, Idaho Code, the more stringent provision applies. (3-26-08)

02. Statements for Economic Interest. Every person listed in Subsectin 100.01 of this rule, is prohibited from directly or indirectly, individually, or as a member of a partnership, or as a shareholder of a corporation, or as a participant in a joint venture or association with any other person, having an interest in dealing in a Lottery game or in the ownership or leasing of property used by or for a Lottery game. (3-26-08)

03. Persons Ineligible for Prizes. Except as provided in Section 67-7440, Idaho Code, the following persons are prohibited from purchasing a Lottery ticket or share, and are prohibited from receiving a Lottery prize: (3-26-08)

a. Every person listed in Subsection 110.01 of this rule; (3-26-08)

b. Any officer, director, or employee of any vendor of Lottery tickets or manufacturer of equipment used to determine winners in computerized Lottery games, and any of their subcontractors who may affect the security, integrity, or honesty of the Lottery; (3-26-08)

c. Any Lottery contractor or consultant under agreement with the Lottery to review the Lottery's security procedures, and any other contractor or consultant that the Director deems ineligible if the Director reasonably determines that the security, honesty, and integrity of the Lottery may be adversely affected; (3-26-08)

d. An immediate family member of any individual described in Paragraphs 110.03.a., 110.03.b., or 110.03.c. of this rule who is a member of the same household. (3-26-08)

04. Gift Prohibitions. (3-26-08)

a. Except as provided in Paragraph 110.03.b. of this rule, every person listed in Subsection 110.01 of this rule, including members of their immediate family, are prohibited from soliciting or receiving, directly or indirectly, a gift in excess of fifty dollars (\$50) from any person who might reasonably be expected to receive a

benefit from the Lottery. (3-26-08)

b. In appearances before civic groups and other organizations it is permissible to accept a meal if it is offered and it is the established practice of that group or organization. (3-26-08)

05. Persons Prohibited from Providing Services. The following individuals and entities are prohibited from being a Lottery game retailer, Lottery vendor, or Lottery contractor, and shall not provide audits or study services as specified by Chapter 74, Title 67, Idaho Code: (3-26-08)

a. Every person listed in Subsection 110.01 of this rule; (3-26-08)

b. A member of the immediate family who is a member of the same household of any person listed in Subsection 110.01 of this rule; (3-26-08)

06. Outside Activities Restricted. (3-26-08)

a. The Director, all Deputy Directors, and all full-time Lottery officers and employees are required to render full-time service to the duties of their positions. Part-time, temporary, or seasonal Lottery employees are required to render service to the extent of their employment with the Lottery and are prohibited from accepting other employment that may conflict with the integrity of the Lottery. (3-26-08)

b. Except when assisting another state lottery, no Commissioner, Director, Deputy Director or other Lottery officer or employee shall provide consulting or contractual services, or accept an honorarium related to his or her State Lottery expertise. (3-26-08)

c. When assisting another state lottery, it is permissible for the other state to reimburse normal travel costs to the individual providing the service, but no honorarium or pay to the individual will be accepted. If the other state has a policy of paying for the time of another state's employee while providing assistance, the payment shall be made to the Idaho State Lottery. (3-26-08)

d. Nothing contained in Paragraphs 110.06.a. through 110.06.c. of this rule precludes the Lottery from negotiating contracts in which the vendor to the Lottery must bear the expense of Lottery personnel making on-site inspections of the vendor's products or manufacturing facility, auditing the vendor, or other legitimate business reasons for traveling to the vendor's place of business or site of the vendor's records, and person listed in Subsection 110.01 of this rule may engage in travel at the vendor's expense for those legitimate business purposes. Nothing contained in Paragraphs 110.06.a. through 110.06.c. of this rule shall prevent a Commissioner, Director, Deputy Director or other Lottery officer or employee from participating in and traveling to educational or industry related programs. Actual expenses incurred may be reimbursed by a sponsoring entity if the integrity of the Idaho State Lottery is not adversely impacted. (3-26-08)

07. Conduct of Commission Business. Business transactions conducted by the Lottery Commission, the Director, Deputy Directors, and all other Lottery officers and employees with Lottery vendors should be conducted in the Lottery's offices to the maximum extent possible. (3-26-08)

08. Personal Conduct. Personal conduct that is illegal or generally considered improper or brings discredit to the Lottery may be subject to appropriate disciplinary action by the Director. (3-26-08)

09. Use of Lottery Property. Every person listed in Subsection 110.01 of this rule is prohibited from using any Lottery vehicle or other Lottery property for personal use, except that telephones, computers, etc., may be used for personal use in the manner ordinarily accepted in an office setting when that use does not result in additional expense to the Lottery and when that use does not contravene State policy. (3-26-08)

10. Signature of Conflict Policy Required. Every person listed in Subsection 110.01 of this rule is required to sign the following conflict of interest policy as a condition of employment. "I have read and understand the pertinent Sections of Idaho Constitution Article 7, Section 10, and Chapter 7, Title 59, Idaho Code, and these conflict of interest policies."

Signature
Typed Name
Date

(3-26-08)

111. -- 199. (RESERVED).

200. LOTTERY CONTRACTING RULES (RULE 200).

01. Classification of Lottery Contracts.

(3-26-08)

a. Lottery contracts for the acquisition of materials, supplies, services and personal and professional services are classified according to relative sensitivity, which in turn determines the level of review, procurement method and the extent of disclosure required by Lottery Vendors or if no disclosure is required as in the case of Lottery contractors. The three (3) levels of procurement are as follows: (3-26-08)

i. General procurements: These procurements are the least sensitive and are for materials, supplies, equipment, services and personal and professional services required to satisfy the day-to-day administrative, ministerial and operating needs of the Lottery. Disclosure filings by Lottery vendors are not normally required for this class of procurements. Lottery contractors may supply general procurement items. The Lottery may use formal invitations to bid, informal competitive quotes and requests for proposals for these acquisitions, as may be determined by the Director to be the most appropriate process for a specific acquisition. (3-26-08)

ii. Sensitive procurements: These procurements are of intermediate sensitivity and are for materials, supplies, equipment, services and personal and professional services which may have direct or indirect impact upon the security, credibility and integrity of the Lottery. Also included are special studies and services required by statute (demographic, communications and performance studies). The normal procedure for acquiring the materials and services is by request for proposal; however, the Director may authorize the use of competitive quotes when the cost of the acquisition is less than fifteen thousand dollars (\$15,000). The Director may prescribe special disclosure requirements governing Lottery contractors or vendors for this class of contracts. (3-26-08)

iii. Major procurements: This class is the most sensitive of Lottery contracts. The Lottery Act requires these procurements to be let by the Commission and the filing of comprehensive disclosure statements by Lottery vendors. (3-26-08)

b. The procedures for announcing or soliciting various classes of Lottery contracts outlined in Paragraph 200.01.a. of this rule are intended to be advisory only and do not limit the Commission or the Director in the selection of the most appropriate process to acquire a given product or service. (3-26-08)

02. General Policy.

(3-26-08)

a. In all decisions affecting the Lottery, the Commission and Director are specifically directed by statute to take into consideration the particularly sensitive nature of the Lottery and to act in a manner to promote and insure the integrity, security, honesty and fairness of the Lottery. Additionally, the Director, in awarding contracts in response to solicitations for proposals, must award the contracts to the responsible contractor or vendor submitting the lowest and best proposal that provides maximum benefits to the State in relation to cost in the areas of security, competence, experience, timely performance, and maximization of net revenues to benefit the public purpose of the Lottery. Consistent with these statutory directives, it is the policy of the Lottery, to the extent possible, to conduct its contracting affairs in an open, competitive manner. However, the security and integrity of the Lottery are fundamental and overriding considerations in all decisions. (3-26-08)

b. Although the Lottery is exempt from the provisions of Section 67-5715, Idaho Code, it is the policy of the Lottery to conduct its contracting affairs generally in accordance with the State's competitive bidding principles contained in Section 67-5715 et seq., Idaho Code, and consistent with the specific directives contained in Paragraph 200.02.a. of this rule. In implementing this policy, the Lottery reserves the right to use the procedures developed by the Department of Administration as guidelines to govern its procurement actions. Notwithstanding this reservation, the Lottery also reserves the right to use alternate contracting and purchasing practices that take account of market realities and modern or innovative contracting and purchasing methods that are also consistent with the

public policy of encouraging competition. These methods may include, but are not limited to, specialized vendor prequalifications, competitive negotiations, performance incentives and disincentives, life cycle costing and solicitations emphasizing the request for proposal process. (3-26-08)

c. When the Lottery uses a Request for Proposal (RFP) for a planned acquisition, the major considerations in determining the contract award will be the quality of the product or service, the likelihood of timely performance, and price. Qualitative factors normally address issues like the Vendor's demonstrated experience in performing comparable projects, performance credibility, availability of qualified personnel and equipment, and other special factors as may apply to a particular contract. The RFP will normally specify the criteria that will be used in the evaluation of offers and the award of the contract. (3-26-08)

d. Because of the specialized character of Lottery contracts, the Lottery will not normally advertise bid proposals. Rather, the Lottery shall circulate bid and proposal requests for materials, equipment and services to vendors known to specialize in the required procurement or to vendors that the Lottery may reasonably expect to have an interest in providing such services. The Lottery will develop its mailing lists as the service need arises. (3-26-08)

e. The Director may prepare standard terms and conditions to govern the acquisition of materials, supplies and services by the State Lottery. To the extent possible, the standard terms and conditions should be as uniform as possible with the standard terms and conditions governing contracts entered into by other state agencies. (3-26-08)

f. All major departures from the State contracting guidelines referred to in Paragraph 200.02.b. of this rule must be approved by the Commission. If there is a conflict between the State guidelines and the Lottery's adopted rules, the Lottery's rules take precedence. (3-26-08)

03. Delegation of Purchasing Authority. (3-26-08)

a. Authority is granted to the Director to initiate all purchase actions and enter into and execute contracts for materials, supplies and services, on behalf of the Commission and the Lottery, except as follows: (3-26-08)

i. General contracts having an estimated one-time or annual cost in excess of fifty thousand dollars (\$50,000); (3-26-08)

ii. Contracts defined as Sensitive Procurements having a one-time or annual cost of more than fifty thousand dollars (\$50,000); (3-26-08)

iii. Contracts defined as Major Procurements; (3-26-08)

iv. All personal service contracts other than major or sensitive procurements having a one-time or annual cost in excess of fifteen thousand dollars (\$15,000); and (3-26-08)

v. Procurement actions which are executed in a manner other than as provided in the contract exemption guidelines. (3-26-08)

b. Notwithstanding the provisions of Paragraph 200.03.a.i. of this rule, the Commission, having once approved a planned procurement action involving a general contract acquisition, grants authority to the Director to execute a contract or contracts for the purchase or service without further action by the Commission. (3-26-08)

c. The Commission, having once approved a particular contract, delegates authority to the Director to make all disbursements and payments as provided in the contract, without further, specific approval action by the Commission. (3-26-08)

d. The Commission grants authority to the Director to enter into emergency contracts when immediate and decisive action is required to protect the security, credibility or integrity of the Lottery or a Lottery game. All emergency contracts let by the Director in which the cost exceeds the delegated authority contained in Paragraph 200.03.a. of this rule, must be reported to the Commission within five (5) days of the contract award date,

or at the next scheduled Commission meeting, whichever is sooner. Such procurement actions may be taken without competitive bid. The dollar value of a contract awarded by the Director under the provisions of this section may not exceed fifty thousand dollars (\$50,000). Any emergency contract for a major procurement in which the cost exceeds fifty thousand dollars (\$50,000), if not acted upon at a regularly scheduled Commission meeting, is subject to Commission approval by telephonic or electronic vote. (3-26-08)

04. State Central Services Agenda. As provided in Section 67-7408, Idaho Code, the Lottery may contract with other State agencies for the performance of contracting responsibilities that may be required by the Lottery. Those services may include, but are not limited to, the acquisition of Fidelity and Faithful Performance Bonds covering the Commissioners, officers, and employees of the Lottery; bonding of retailers, annuity contracts; general equipment and supplies; equipment financing agreements; and disposal of surplus Lottery property. The Lottery is bound by all statutes and rules governing the actions of the State agency when the Lottery uses such services. (3-26-08)

05. Idaho Preference. (3-26-08)

a. In all contracts, the Lottery will prefer goods or services that have been manufactured or produced in this State if price, fitness, availability and quality are otherwise equal. (3-26-08)

b. Where a Lottery contract is awarded to a foreign contractor and the contract price exceeds ten thousand dollars (\$10,000), the contractor must promptly report to the Idaho State Tax Commission (ISTC) on forms to be provided by ISTC the total contract price, terms of payment, length of contract and such other information as the ISTC may require before final payment can be received on the Lottery contract. The Lottery must satisfy itself that the requirements of Paragraph 200.05.b. have been complied with before it issues a final payment on a Lottery contract. For the purposes of Paragraph 200.05.b., a foreign contractor is one who is not domiciled in or registered to do business in Idaho. (3-26-08)

06. Equal Opportunity/Affirmative Action Contracts. The Lottery is an equal opportunity employer and also participates in any on-going State affirmative action programs. (3-26-08)

07. Personal Services Contract. (3-26-08)

a. Contracts between the Lottery and persons or firms such as advertising agencies, security consultants, auditors, other consultants required to conduct or prepare special studies and reports and other personal services contracts that may be required to fulfill the Lottery's responsibilities, will be awarded as outlined in the following Subsection 200.07. The award of contracts shall be either direct, informal or formal depending upon the sensitivity and estimated dollar value of the contract. In awarding personal services contracts the Lottery will consider the contractor's qualifications in similar areas of demonstrated competency, availability, experience in successfully performing comparable projects, availability of qualified personnel, likelihood of timely performance, history of cost containment, compensation requirements and other special factors that may apply to a particular contract. (3-26-08)

b. Direct Award Procedures. (3-26-08)

i. Any personal services contract having an estimated one-time or annual value of ten thousand dollars (\$10,000) or less may be awarded directly by the Director if the Director believes reasonable steps have been taken to obtain competitive quotes, if feasible, and the award will not negatively affect the security, credibility or integrity of the Lottery. (3-26-08)

ii. The Director, with the approval of the Commission, may directly award personal services contracts in any appropriate or reasonable amount, without competitive solicitations, when the project consists of work that has been substantially described, planned or otherwise studied in an earlier Lottery contract and the new contract would be a continuation of the earlier project, provided that the earlier contract was awarded by a formal selection procedure. In awarding contracts under this provision the Commission and Director must take into account the effects of that action on the security, credibility and integrity of the Lottery and further ensure that the contract awards will not encourage favoritism or substantially diminish competition and will result in substantial cost savings to the Lottery. (3-26-08)

iii. The Director, with the approval of the Commission, may directly award personal service contracts without competitive solicitation when an emergency or other condition exists that requires prompt and decisive action. The Commission and Director may exercise the provisions of Paragraph 200.07.b.iii. only when immediate action is required to correct a situation that would threaten integrity, security, honesty, and fairness in the operation and administration of the Lottery or the objective of raising net revenues for the benefit of the public purpose described in the Act. (3-26-08)

c. Informal Award Procedure: The Director may award any personal services contract having an estimated one-time annual value of more than ten thousand dollars (\$10,000), but not more than twenty-five thousand dollars (\$25,000), if the following informal award procedure is followed: (3-26-08)

i. An attempt must be made to obtain a minimum of three (3) competitive quotes. If three (3) quotes are not available, fewer will suffice provided a written record is made of the effort to obtain three (3) quotes. (3-26-08)

ii. A written record must be maintained of the source and amount of quotes received. (3-26-08)

iii. The contract award will be made to the lowest priced vendor who best meets the contract award criteria of Paragraph 200.07.a. of this rule. (3-26-08)

iv. The Director must maintain work papers documenting the basis of the award to ensure that the award will not negatively affect the security, credibility and integrity of the Lottery. (3-26-08)

d. Formal Award Procedures: Unless otherwise awarded under the provisions of Paragraphs 200.07.b.ii. or 200.07.b.iii. of this rule, all personal services contracts having an estimated one-time or annual cost of more than twenty-five thousand dollars (\$25,000) must be awarded according to the formal award procedure, as follows: (3-26-08)

i. The Lottery shall distribute copies of the proposal (usually a Request for Proposal) to Lottery vendors or to appropriate contractors who have indicated an interest, or are anticipated to have an interest, in providing the required service to the Lottery. Every Request for Proposal must include a response deadline date. All responses received by the Lottery after the deadline may be rejected. (3-26-08)

ii. The Director will appoint an evaluation panel consisting of at least four (4) persons, at least two (2) of whom are members of the Lottery's executive staff. The Director of Security will normally be one of the appointees to evaluate the responses for any project involving the security of the Lottery. (3-26-08)

iii. The evaluation panel must develop a system to evaluate the vendor responses and must score each vendor's response. Based upon this evaluation, the evaluation panel must rank the three (3) best responses and develop an award recommendation. (3-26-08)

iv. The contract must be awarded to the vendor who best meets the award criteria. (3-26-08)

e. No contract or other agreement for the purpose of providing services to the Lottery may be entered into, renewed, or extended with any person, unless the person certifies in writing, under penalty of perjury, that the person is not in violation of any Idaho tax laws on a form prescribed by the Idaho State Tax Commission (ISTC). A copy of the certification form may be obtained from the Lottery or the ISTC. The original certification must be retained in the Lottery's contract file as required by the State's records retention guidelines. (3-26-08)

08. Major Procurements. (3-26-08)

a. All bid announcements, invitations, or proposals covering major procurements must identify that the planned acquisition is classified as a major procurement. (3-26-08)

b. All contracts or procurement actions classified as major procurements will be subject to the disclosure requirements specified in Section 67-7421, Idaho Code. Subsection 010.05 of these rules defines the term

“control person” for purposes of disclosure requirements. The Lottery will enclose a copy of the disclosure requirements with each bid announcement or proposed request for such procurement. All disclosure filings are subject to the review and approval of the Director of Security. Failure of any Lottery vendor to properly execute or timely submit the disclosure requirement may be grounds for rejection of the bid or proposal. (3-26-08)

c. No contract for a major procurement with any Lottery vendor may be entered into if any control person of that Lottery vendor has been convicted of a crime, other than traffic infractions. Background checks must be made by the Director of Security to rigorously enforce this requirement. (3-26-08)

d. The Lottery may prequalify Lottery vendors as having met the disclosure filing requirements for major procurements. The disclosure prequalifications may be renewed by July 1 of each year. The prequalifications will satisfy the disclosure requirements of the Act, providing a certification is received from the Lottery vendor at the time of submitting any subsequent bid, proposal or offer and that no changes have occurred in the vendor’s status, or that of its control persons, since the last filing of the complete disclosure statement. (3-26-08)

e. Each Lottery vendor for a major procurement must maintain its disclosure filing in a current status during the tenure of the contract. Unless otherwise provided in the contract document, any changes in the status of the vendor, any of its listed control persons or additional control persons, must be reported to the Director within fourteen (14) days of the known change, and will require written submission of the same disclosure information to the Commission. (3-26-08)

f. Each Lottery vendor for a major procurement is required to post a performance bond with the Commission as provided in Section 67-7427, Idaho Code. The performance bond must be issued by a surety licensed to do business in this State and must be for the duration specified in the procurement announcement. (3-26-08)

09. Sensitive Procurements. (3-26-08)

a. All bid announcements, invitations, or Requests for Proposal covering sensitive procurements as defined in Paragraph 200.01.a.ii. of this rule must identify that the planned acquisition is a sensitive procurement and will be subject to the provisions of this rule. (3-26-08)

b. The Director may establish special disclosure requirements governing State Lottery contracts for sensitive procurements that will be included in the procurement announcement. Failure of any Lottery vendor or contractor to properly execute or timely submit the disclosure requirement may be grounds for rejection of the bid or proposal. All disclosure filings are subject to the review and approval of the Director of Security. (3-26-08)

c. No contract for a major procurement with any Lottery vendor may be entered into if any control person of that Lottery vendor has been convicted of a crime, other than traffic infractions. Background checks must be made by the Director of Security to rigorously enforce this requirement. (3-26-08)

d. The Lottery may prequalify Lottery vendors as having met the disclosure requirements of this rule. The prequalification will satisfy the disclosure filing requirement providing a certification is received from the Lottery vendor, at the time of submitting any subsequent bid, proposal or offer, that no changes have occurred in the vendor’s status or any of its principals since the last filing of the full disclosure statement. (3-26-08)

e. Each Lottery vendor for a sensitive procurement must maintain its disclosure filing in a current status during the tenure of the contract. Unless otherwise provided in the contract document, any changes in the vendor’s status or any of its principals, must be reported to the Director within fourteen (14) days of the known change, and will require written submission of the same disclosure information to the Commission. (3-26-08)

f. Each Lottery contractor for a sensitive procurement may be required to post a performance bond with the Lottery. The performance bond must be issued by a surety licensed to do business in this State and be for the amount and duration specified in the procurement announcement. (3-26-08)

10. Advertising and Promotional Contract. Because advertising and promotional contracts involve unique marketing strategies for Lottery games, the acquisition of these services and purchases may be made directly without using competitive procurement procedures. The prudent person rule will apply in the award of these contracts

or the acquisition of these services. This exemption applies to all advertising and promotional contracts, whether placed through the Lottery's advertising agency or directly by the Commission or the Director. For the purpose of this rule, advertising and promotional contracts include but are not limited to: agreements with radio and television stations, acquisition of prizes, media selection, placement of advertising contracts, promotional printing, art work and development and placement of all forms of commercials and display presentations. (3-26-08)

11. Investment Contracts. The Lottery may enter into contracts for the acquisition of structured settlements, place investments or acquire annuities related to the pay-off of major prize winners without following competitive bidding procedures. The Lottery will follow the prudent person rule in the placement of such investments. (3-26-08)

12. Prequalification of Annuity Vendors. (3-26-08)

a. For the purpose of acquiring annuities related to the pay-off of major prize winners, the Lottery will maintain an ongoing prequalification list of annuity vendors. A vendor must first be prequalified by the Lottery before submitting a bid to the Lottery for the award of an annuity contract. Vendors may submit their qualifications to the Lottery for evaluation any time in the year. (3-26-08)

b. The following criteria must be met by each vendor before being placed on the prequalification list: (3-26-08)

i. Each bidder must be an insurance company licensed to do business in Idaho and have been in business for a period of two (2) years immediately before submitting its bid. (3-26-08)

ii. An insurance company must be a Best's "A+" rated company and must have at least a Best's Class VII financial size classification. (3-26-08)

iii. Each bidder's request for qualification must contain: (3-26-08)

(1) The name, address, telephone number and contact person for the bidder. (3-26-08)

(2) The current financial statement of the bidder certified by an independent Certified Public Accountant. (3-26-08)

(3) The names, addresses and telephone numbers of three (3) current or past annuity client references whom the Lottery may contact. (3-26-08)

c. After a vendor has been prequalified, the vendor may submit bids to the Lottery in accordance with the procedures established by the Director. Furthermore, a vendor must keep its qualifications current by promptly reporting any changes in their status to the Lottery. (3-26-08)

d. The total amount of annuities awarded to an insurance company cannot exceed five percent (5%) of its stated surplus. (3-26-08)

e. Nothing contained in this rule will preclude a brokerage company from representing or submitting a bid on behalf of a qualified bidder. (3-26-08)

201. CRITERIA FOR REVIEW OF RETAILER APPLICATIONS AND CONDUCT OF OPERATIONS (RULE 201).

01. Retailer's Application. Any person interested in obtaining a contract for a certificate to sell Lottery tickets must first file an application on forms provided by the Director. The forms will require disclosure of, but are not limited to, an applicant's personal, financial, and criminal history, and an authorization to investigate the applicant's criminal and credit history. (3-26-08)

02. Fees, Procedure, and Criteria Precluding Issuing Contract. (3-26-08)

a. All certificate applications must be accompanied by a minimum, nonrefundable, fee of twenty-five dollars (\$25). If a certificate is awarded, an additional, nonrefundable, certificate fee of one hundred dollars (\$100) must be paid. (3-26-08)

b. Certified retailers may apply for a certificate modification to allow the sale of additional Lottery products. A current retailer may be required to complete an additional application or application supplements. If a current retailer requests that the existing certificate be modified to allow the sale of additional Lottery products, no additional application fee will be charged. (3-26-08)

c. The Lottery may waive the payment of any certificate fee to facilitate an experimental program or a research project. (3-26-08)

03. Provisional Certifications. (3-26-08)

a. The Lottery may issue a provisional certificate to an applicant for a Lottery certificate after receipt of a fully completed certificate application, the authorization of a complete personal background check, completion of a credit check, and completion of a preliminary background check. The provisional certificate will expire at the time of issuance of the requested certificate or ninety (90) days from the date the provisional certificate was issued, whichever occurs first, unless the provisional certificate is extended by the Lottery. (3-26-08)

b. The following criteria preclude the Director from entering into a contract with an applicant. No contract shall be made with an applicant: (3-26-08)

i. Who is under eighteen (18) years of age; (3-26-08)

ii. Who will be engaged exclusively in the business of selling tickets; (3-26-08)

iii. Who is an employee of the Lottery; (3-26-08)

iv. Who is, or is owned or controlled or affiliated with, a supplier of instant tickets or a manufacturer of computer equipment used to operate instant and/or on-line games; (3-26-08)

v. Who is not a resident of Idaho, or a corporation that is not incorporated in this Idaho or not authorized to do business in Idaho; (3-26-08)

vi. Who has been found to have violated any rule, regulation, or order of the Commission or the Director; (3-26-08)

vii. When any person, firm, association, or corporation other than the applicant will participate in the management of the affairs of the applicant. (3-26-08)

04. Criteria That May Be Grounds for Refusal. Before contracting with an applicant, the Director will consider the factors set out below. In considering these factors, the Director will seek to determine which applicants will best serve the economical and efficient operation of a statewide Lottery through their ticket sales. If any of these factors lead the Director to determine that contracting with the applicant would not promote the economical and efficient operation of a statewide Lottery consonant with the public interest, or would not serve the public interest, convenience, or trust, the Director may deny the application. (3-26-08)

a. The Director must consider the financial responsibility and security of the person and the person's business or activity. The Director must consider the person's credit worthiness and integrity in past financial transactions. The Lottery may investigate the credit worthiness of the applicant by using the services of a commercial credit reporting agency. The Director may also consider the physical security of the applicant's place of business to determine whether tickets that will be sold to the applicant and the proceeds from ticket sales will be kept safe. (3-26-08)

b. The Director must consider the accessibility to the public of an applicant's place of business or activity. The Director will contract only with applicants who have regular contact with significant numbers of persons

at the applicant's place of business. Before contracting with any organization that has restricted membership policies, the Director must determine whether the restrictions are generally acceptable to the public and whether contracting with that group or organization or similar groups or organizations would best serve the interests of the Lottery.

(3-26-08)

c. The Director must consider the sufficiency of existing retailers to serve the public interest. The Director may seek to maximize total ticket sales by encouraging retailers with the highest potential volume in a particular area or neighborhood.

(3-26-08)

d. The Director must consider the volume of expected sales by the applicant. In determining the anticipated actual sales volume of the applicant, the Director may rely upon the experience and knowledge of the Lottery's staff as well as any other available professional expertise. The Director must determine whether the volume of an applicant's sales is likely to be sufficient that contracting with the applicant will be economically feasible.

(3-26-08)

e. The Director must consider the types of products, services, or entertainment offered at the applicant's place of business. The Director must determine whether the applicant's products, services, or entertainment are generally acceptable to the public and whether they would bear adversely upon the general credibility, integrity, and reputation of the Lottery.

(3-26-08)

f. The Director must consider the experience, character, or general fitness of the applicant. Entering into a contract with the applicant must be consistent with the public interest, convenience, and trust.

(3-26-08)

g. The Director must consider the veracity and completeness of the information submitted with the retailer's application. The Director must consider the criminal history of the applicant and any person whose name is required to be disclosed under Section 67-7412, Idaho Code, of the Act and may refuse to enter into a contract with any applicant when the applicant or such person has been convicted of violating any of the gambling laws of this state, general or local, or has been convicted at any time of any crime other than traffic infraction.

(3-26-08)

05. Duplicate Certificate. Upon the loss, mutilation, or destruction of any certificate issued by the Lottery, application for a duplicate must be made. The Lottery may require a statement signed by the retailer that details the circumstances under which the certificate was lost, mutilated, or destroyed.

(3-26-08)

06. Reporting Changes in Circumstances of the Retailer. Every change of business structure of a certificated business, such as from a sole proprietorship to a corporation, and every change in the name of a business, must be reported to the Lottery before the change. Substantial changes in the ownership of a certificated business must also be reported to the Lottery before the change. A substantial change of ownership is defined as the transfer of ten percent (10%) or more equity in the certificated business from or to another single individual or legal entity. If a change involves the addition or deletion of one (1) or more existing owners or officers, the certificate holder must submit a certificate application reflecting the change and any other documentation that the Lottery may require. All changes will be reviewed by the Lottery to determine if the existing certificate should be continued.

(3-26-08)

07. Certificate Not a Vested or Legal Right. The possession of a certificate issued by the Lottery to any person to act as a retailer in any capacity is a privilege personal to that person and is not a vested or legal right. The possession of a certificate issued by the Lottery to any person to act as a retailer in any capacity does not automatically entitle that person to sell tickets or obtain materials for any particular game.

(3-26-08)

08. Suspension or Revocation of a Certificate. The Lottery may suspend or revoke any certificate issued pursuant to these rules for one (1) or more of the following reasons:

(3-26-08)

a. Failing to meet or maintain the eligibility criteria for certificate application and issuance established by Chapter 74, Title 67, Idaho Code, or these rules;

(3-26-08)

b. Violation of any of the provisions of Chapter 74, Title 67, Idaho Code, these rules, or the certificate terms and conditions;

(3-26-08)

c. Failing to file any return or report or to keep records required by the State Lottery;

(3-26-08)

- d.** Failing to maintain an acceptable level of financial responsibility as evidenced by the financial condition of the business, incidents of failure to pay taxes or other debts, or by the giving of financial instruments which are dishonored; (3-26-08)
- e.** Fraud, deceit, misrepresentation, or other conduct prejudicial to the public confidence in the Lottery; (3-26-08)
- f.** If the public convenience is adequately served by other certificate holders, failure to sell a minimum number of tickets as established by the Lottery; (3-26-08)
- g.** A history of thefts or other forms of losses of tickets or revenue from the business; (3-26-08)
- h.** Violating federal, state, or local law or allowing the violation of any of these laws on premises occupied by or controlled by any person over whom the retailer has substantial control; (3-26-08)
- i.** Obtaining a certificate by fraud, misrepresentation, concealment or through inadvertence or mistake; (3-26-08)
- j.** Making a misrepresentation of fact to the Commission or the Lottery on any report, record, application form, or questionnaire required to be submitted to the Commission or the Lottery; (3-26-08)
- k.** Denying the Lottery or its authorized representative, including authorized local law enforcement agencies, access to any place where a certificate activity is conducted; (3-26-08)
- l.** Failing to promptly produce for inspection or audit any book, record, document, or other item required to be produced by law, these rules, or the terms of the certificate; (3-26-08)
- m.** Systemically pursuing economic gain in a manner or context that is in violation of the criminal or civil public policy of this State if there is cause to believe that the participation of such person in these activities is inimical to the proper operation of the authorized Lottery; (3-26-08)
- n.** Failing to follow the instructions of the Lottery for the conduct of any particular game or special event; (3-26-08)
- o.** Failing to follow security procedures of the Lottery for the management of personnel, handling of tickets, or for the conduct of any particular game or special event; (3-26-08)
- p.** Misrepresenting a fact to a purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular game or special event; (3-26-08)
- q.** Allowing activities on the licensed premises that could compromise the dignity of the State. (3-26-08)
- 09. Surrender of Certificate upon Revocation.** Upon revocation or suspension of a retailer's certificate, the retailer must surrender to the Lottery, by a date designated by the Lottery, the certificate and all other Lottery property. (3-26-08)
- 10. Certified Retailers.** All Lottery retailers must be certified in the manner provided in these rules. Retailers are required to abide by all applicable laws and administrative rules, the terms and conditions of the contract and certificate, and all other directives and instructions issued by the Lottery. (3-26-08)
- 11. Requirements for the Sale of Tickets.** (3-26-08)
- a.** Retailers must be knowledgeable about the Lottery and Lottery products and may be required to take training in the operation of Lottery games. Retailers must make the purchase of tickets convenient to the public. (3-26-08)

b. Tickets must be sold at the price designated by the Lottery. Retailers cannot sell tickets for a greater amount than the amount specified by the Lottery. Retailers may sell tickets for a lesser amount for promotional purposes if authorized by the Lottery. (3-26-08)

c. No retailer or any employee or member of a retailer shall attempt to identify a winning ticket before sale of the ticket. (3-26-08)

d. When a retailer is required by its contract with the Lottery to pay a prize to a winner, the retailer must pay the prize whenever the winner tenders a winning ticket during the retailer's normal business hours at the location designated on the retailer's certificate. (3-26-08)

e. Retailers are prohibited from purchasing tickets previously sold by the retailer. (3-26-08)

12. Display of Certificate and Other Materials. Retailers must display the Lottery certificate in an area visible to the general public wherever tickets are being sold. Retailers must also display point-of-sale material provided by the Lottery in a manner that is readily seen by and available to the public. Retailers may advertise and use or display other appropriate promotional and point-of-sale material. The Lottery may require the removal of objectionable material or the discontinuance of objectionable advertising that may have an adverse impact on the Lottery. (3-26-08)

13. Ticket Stamping. On the back of each scratch ticket sold by a retailer, the retailer must stamp the retailer's name, address, and retailer number in the area provided for retailer identification using the equipment provided by the Lottery. (3-26-08)

14. Dishonored Checks and Electronic Fund Transfers. Any payment made to the Lottery by an applicant for a certificate or by a certificated retailer either by a check that is dishonored or by an electronic funds transfer (EFT) that is not paid by the depository, is grounds for immediate denial of the application for a certificate or for suspension or revocation of an existing certificate. The Lottery may assess a surcharge of ten dollars (\$10) for each dishonored check or EFT. The Lottery may also alter the payment terms of a retailer's certificate and require a retailer to reimburse the Lottery for costs that occur as a result of a dishonored check or EFT. (3-26-08)

15. Retailer Identification Card. The Lottery may issue to each retailer an identification card which must be presented by its authorized representative when taking delivery of tickets. If the identification card is lost or otherwise misplaced or mutilated, the retailer must immediately notify the State Lottery. (3-26-08)

16. Inspection of Lottery Materials and Retailer Premises. Retailers must allow the Lottery to enter upon the retailer's certificated premises in order to inspect Lottery materials, tickets, and the premises. All books and records pertaining to the retailer's Lottery activities must be available to the Lottery for inspection and copying during the normal business hours of the retailer and between 8 a.m. and 5 p.m., Monday through Friday. All books and records pertaining to the retailer's Lottery activities are subject to seizure by the Lottery without prior notice. (3-26-08)

202. GENERAL INSTANT TICKET GAME OPERATING RULES (RULE 202).

01. Instant Games -- Authorized -- Director's Authority. The Commission hereby authorizes instant games that meet the criteria set forth in these rules. The Director is hereby authorized to select, operate, and contract relating to and for the operation of instant games that meet the criteria set forth in these rules. (3-26-08)

02. Definitions. As used in Rule 202 these terms have the following definitions: (3-26-08)

a. Instant Ticket Validation Bar Code. The bar code that enables retailers to validate instant tickets. (3-26-08)

b. ITA System. The Instant Ticket Automation system that validates winning instant tickets. (3-26-08)

c. Pack. A package of instant game tickets with a designated number of tickets that may be (but do not have to be) fanfolded and attached to each other by perforations, which perforations the retailer tears when selling a ticket, and that are packaged in plastic shrink-wrapping, foil or some similar outer wrapping material. (3-26-08)

d. Pack-Ticket Number. The number printed on the ticket. A game identification number must be included in the book-ticket number. (3-26-08)

e. Play Symbol Caption. The small printed material appearing below each play symbol which repeats or explains the play symbol. One (1) and only one (1) play symbol captions appears under each play symbol. (3-26-08)

f. Play Symbols. Figures printed in approved ink that appear under each of the rub-off spots on the front of the ticket. (3-26-08)

g. Retailer Validation Code. The small letters found under the removable rub-off covering over the play symbols on the front of the ticket, which the ticket retailer uses to verify winners of twenty-five dollars (\$25) or less. The letters appear in varying locations beneath the removable rub-off covering and among the play symbols. (3-26-08)

h. Ticket. An Idaho instant game ticket. (3-26-08)

i. Ticket Validation Number. The unique number on the front of the ticket. (3-26-08)

03. Sale of Tickets. (3-26-08)

a. No person other than a retailer under a contract for the sale of tickets with the Lottery may sell Lottery tickets, except that nothing in this section shall be construed to prevent a person who may lawfully purchase tickets from making a gift of Lottery tickets to another. (3-26-08)

b. Unless authorized by the Lottery, tickets may not be sold at a location other than the address listed on the retailer's contract with the Lottery. (3-26-08)

c. Nothing in this section shall be construed to prohibit the Commission from designating certain of its agents and employees to sell Lottery tickets directly to the public. (3-26-08)

04. Retailer Compensation. (3-26-08)

a. The compensation paid to Lottery retailers will be five percent (5%) of the retail price of the tickets or shares. (3-26-08)

b. The Director may pay instant ticket retailers a commission of up to one percent (1%) of the tickets sold by the retailer as a bonus to the retailer. The Director may pay Lottery game retailers an additional one percent (1%) incentive bonus based on attainment of sales volume or other objectives specified by the Director for a Lottery game. (3-26-08)

05. Instant Games Ticket Price. The price of an instant game ticket will be set by the Director. No person may sell a ticket at a price other than that established in accordance with these rules. (3-26-08)

06. Prize Structures. The Director will provide to all Lottery game retailers a detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each Lottery game and a close approximation of the odds of winning the prizes. (3-26-08)

07. Number and Value of Instant Ticket Prizes. Lottery game prize structures, odds of winning, number of tickets, number and value of prizes, play symbol and captions used for validation will not be adopted by administrative rules. Rather, the Director will submit proposed games to the Commission, who must approve each game's general format before the initiation of each game. All instant games must be conducted in accordance with the rules of the Commission. (3-26-08)

08. Official Start of Game. (3-26-08)

a. Games with a prize structure adopted by the Commission pursuant to Subsection 202.07 of this rule may be started at a time selected by the Director. The Director will publicly announce the starting date of a new game by use of a press release or any other appropriate means. The Director may also issue game information that includes a description of the game, odds of winning a prize, the number and value of prizes, and the play symbols and captions used for prize validation. (3-26-08)

b. Games using a prize structure other than a prize structure previously approved by the Commission must be approved by the Commission before game tickets can be sold to the public. (3-26-08)

09. Determination of Winners. (3-26-08)

a. Winners of an instant game are determined by the matching or specified alignment of the play symbols on the tickets. The play symbols are revealed by scratching or rubbing off the latex or similar secure material that covers spots on the ticket. The ticket bearer must notify the retailer or the Lottery of the win and submit the winning ticket to the retailer or the Lottery as provided in these rules. The winning ticket must be validated by the Lottery through use of the validation number or by any other means specified by the Director. (3-26-08)

b. Unless otherwise provided by game rules, only the highest instant prize amount will be paid on a given ticket. (3-26-08)

c. No portion of the play symbol captions, retailer validation codes, display printing nor any extraneous matter whatever will be usable or playable as a part of the instant game. (3-26-08)

d. The ticket validation number or any portion thereof is not a play spot and is not usable or playable as such. (3-26-08)

e. In all Lottery games, the determination of prize winners is subject to the general ticket validation requirements set forth in Subsections 200.14 et seq., and Subsection 202.11 of this rule, and the requirements set out on the back of each instant game ticket. (3-26-08)

f. The length of operation of an instant game will be determined by the Director. The start date and closing date of the instant game will be publicly announced. (3-26-08)

10. Payment of Prizes. The procedures for claiming instant ticket prizes are as follows: (3-26-08)

a. Instant ticket prizes of six hundred dollars (\$600) or less may be claimed by one (1) of the following methods: (3-26-08)

i. The claimant may present the winning ticket to any Lottery retailer. The retailer must verify the claim and, if acceptable, make payment of the amount due the claimant. A retailer may pay prizes in cash or by business check, or money order, or any combination thereof. A retailer that pays a prize with a check that is dishonored may be subject to suspension or termination of the retailer's contract. (3-26-08)

ii. If the retailer cannot verify the claim, the claimant must fill out a claim form, which the retailer must present the completed form and the disputed ticket to the Director. If the claim is validated by the Director, a check will be forwarded to the claimant in payment of the amount due. If the claim is not validated by the Director, the claim will be denied and the claimant shall be promptly notified. (3-26-08)

iii. The claimant may bring the ticket to the Boise Lottery office or complete a claim form and mail it with the ticket to the Idaho State Lottery, P.O. Box 6537, Boise, Idaho 83707-6537 (registered mail recommended). Claim forms may be obtained from any Lottery game retailer or from the Lottery at the following address: 1199 Shoreline Lane, Suite 100, Boise, Idaho 83702. (3-26-08)

b. To claim an instant prize of six hundred dollars (\$600) or more, the claimant must either bring the

winning ticket to the Boise Lottery Office or complete a claim form and mail the completed form together with the winning ticket to the Idaho State Lottery, P.O. Box 6537, Boise, Idaho 83707-6537 (registered mail recommended). (3-26-08)

c. Prizes of six hundred dollars (\$600) or more can be paid only from the Boise Lottery Office. Upon validation by the Director, a check will be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding. (3-26-08)

d. Any ticket not passing all the validation checks is void and ineligible for any prize and will not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket (or ticket of equivalent sales price from any other current game). If a defective ticket is purchased, the only responsibility or liability of the Lottery is the replacement of the defective ticket with another unplayed ticket (or ticket of equivalent sale price from any other current game). (3-26-08)

e. All prizes must be paid within a reasonable time after they are awarded and after the claims are verified by the Director. For each prize requiring annual payments, all payments after the first payment will be made on the anniversary date of the first payment in accordance with the type of prize awarded. The Director may, at any time, delay any payment in order to review a change of circumstances concerning the prize awarded, the payee, the claim, or any other matter that may have come to his or her attention. All delayed payments will be brought up to date immediately upon the Director's confirmation and continue to be paid on each original anniversary date thereafter. (3-26-08)

11. Ticket Validation Requirements. In addition to meeting all of the other requirements in these rules or as may be printed on the back of each instant game ticket, the following validation requirements apply with regard to instant game tickets: (3-26-08)

- a. To be a valid instant game ticket, all of the following requirements must be met: (3-26-08)
 - i. The ticket must have been issued by the Director in an authorized manner. (3-26-08)
 - ii. The ticket must not be altered, unreadable, or tampered with in any manner. (3-26-08)
 - iii. The ticket must not be counterfeit in whole or in part. (3-26-08)
 - iv. The ticket must not be stolen nor appear on any list of omitted tickets on file with the Lottery. (3-26-08)
 - v. The ticket must be complete and not blank (or partially blank), miscut, misregistered, defective, or printed or produced in error. (3-26-08)
 - vi. Under the opaque covered play area, the ticket must have play symbols and the correct corresponding captions, exactly one (1) pack-ticket number, exactly one (1) agent verification code, and exactly one (1) validation number as required by each approved set of game rules, all of which must be present in their entirety, legible, right-side up, and not reversed in any manner. (3-26-08)

vii. The validation number of an apparent winning ticket must appear on the Lottery's official list of validation numbers of winning tickets; and a ticket with that validation number cannot have been previously paid. (3-26-08)

viii. The ticket must pass all additional confidential validation requirements established by the Director. (3-26-08)

ix. If the prize is for six hundred dollars (\$600) or more, the ticket must be signed. (3-26-08)

b. Any ticket not passing all the validation checks in Paragraph 202.11.a. of this rule is void and ineligible for any prize and shall not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price) from any other current Lottery game. If a

defective ticket is purchased, the only responsibility or liability of the Lottery will be the replacement of the defective ticket with another unplayed ticket (or ticket of equivalent sales price from any other current Lottery game).

(3-26-08)

c. The Director may authorize reconstruction of an alleged winning ticket that was not received and/or cannot be located by the Lottery, provided, the person requesting reconstruction must submit to the Lottery sufficient evidence to enable reconstruction and must submit a claim for the prize, if any, for that ticket. If the reconstructed ticket is a winning ticket and meets the validation requirements of Paragraph 202.11.a. of this rule and any specific validation requirements contained in the rules for its specific game, the Director may authorize payment of the prize. Provided, the ticket will not be validated nor the prize paid before the one hundred eighty-first (181) day following the official end of that instant game. A ticket(s) validated pursuant to Subsection 202.11 will not entitle the claimant to be entered into the grand prize drawing, if any, for that or any subsequent instant game. (3-26-08)

12. Prize Rights Unassignable. No person's right to a prize already drawn is assignable, except that payment of any prize already drawn may be paid to the estate of a deceased prize winner, and a person other than the prize winner may be paid the prize to which the winner is entitled as provided by court order. The Director will be discharged of all liability upon payment of a prize pursuant to this rule. (3-26-08)

13. Payment of Prizes to Persons Under Eighteen Years of Age. If a person entitled to a prize for a winning ticket is under the age of eighteen (18) years, the Director may direct payment of the prize to an adult member of the minor's family or to the minor's guardian by a check or draft payable to the adult member of the minor's family or the minor's guardian. The adult member of the minor's family or the minor's guardian will have the same duties and powers as a person designated as a custodian in accordance with Idaho law. For purposes of Subsection 202.13, the terms "adult member of a minor's family" and "guardian of a minor" have the same meaning as in the Idaho Gifts to Minors Law. The Director will be discharged of all liability upon payment of a prize to a minor pursuant to this rule. (3-26-08)

14. Prizes Payable After Death or Disability of Owner. (3-26-08)

a. All prizes, and portions of prizes that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing of a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. (3-26-08)

b. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee for the payment of any prize winnings that are or may become due to a person under a disability including, but not limited to, minority, mental deficiency, or physical or mental incapacity. (3-26-08)

15. Governing Law. In purchasing a ticket, the customer agrees to comply with, and abide by, Idaho law, and all rules and final decisions of the Lottery, and all procedures and instructions established by the Lottery or the Director for the conduct of the game. (3-26-08)

16. Discharge of All Liability upon Payment. The State of Idaho, its agents, officers, employees, and representatives, the Lottery, its Director, agents, officers, employees and representatives, will be discharged of all liability upon payment of a prize or any one (1) installment thereof to the holder of any winning Lottery ticket or in accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on a winning Lottery ticket and the information on the claim form, the Lottery may rely on the claim form after the ticket for which it has been filed has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes are final and binding upon all participants in the Lottery unless otherwise provided by law or these rules. If a question arises concerning the winning ticket, a claim form, the

payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. (3-26-08)

17. Unclaimed Prize Money. Any prize not claimed within the specified period will be forfeited and placed into the State Lottery Account. (3-26-08)

18. Disclosure. The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional or publicity campaign. The address used will not contain the winner's street or house number without the winner's consent. The Lottery may condition payment of the prize upon agreement to these terms and conditions. (3-26-08)

19. Confidentiality of Tickets. All retailers and their employees and agents are prohibited from attempting to ascertain the numbers or symbols appearing in the designated areas under the removable latex or similar secure coverings or otherwise attempting to identify winning tickets. (3-26-08)

20. Official End of Game. (3-26-08)

a. The official end of an instant game will be announced by the Lottery. Prizes may be claimed up to one hundred eighty (180) days after the official end of the game. If the final day of the claim period falls on a Saturday, Sunday or a State holiday, the claim period will be extended to the end of the next business day. A player may submit a winning ticket claim for prize payment up to one hundred eighty (180) days after the official end of the game. Depending on the prize amount, the ticket should be submitted to the location specified in Subsection 202.10 of this rule, "Payment of Prizes." To participate in one (1) of the Lottery's special drawings, if any, a player must redeem a ticket that qualifies for entry into that special drawing within the time limits specified by the Director. (3-26-08)

b. A retailer must return to the Lottery all unsold Lottery tickets for each game within ninety (90) days of the official end of that game in order to receive credit from the Lottery as provided in retailer's contract. The Lottery has no obligation to grant credit for tickets returned after the time limit specified in the contract. (3-26-08)

203. RULES FOR STATE LOTTERY'S TELEVISION GAME SHOW (RULE 203).

01. Purpose. This rule sets forth the general guidelines for the conduct of a Lottery television game show. These rules are adopted by the Commission for prospective application. (3-26-08)

02. Player Entry. (3-26-08)

a. A player who purchases and claims an instant ticket with the correct and approved number of symbols for eligibility to the television game show, each with the correct caption below it, automatically becomes eligible for entry to the television game show. (3-26-08)

b. The player wishing to enter the television game show must follow the directions for submitting the winning ticket to the Lottery contained on the back of the ticket, including providing all identification materials required. (3-26-08)

c. A winning television game show ticket can be redeemed only at the Boise Lottery office, either in person or by mail (registered mail recommended). (3-26-08)

d. Upon validation of a winning ticket, the player will receive any prize provided by the particular game rules. Arrangements for participation in the television game show may be made by the Lottery staff. (3-26-08)

e. After a player has claimed his or her prize, a Lottery representative will contact the player to schedule the player's appearance on the game show. The Director will determine the total number of players per show and on which game show a player will appear. (3-26-08)

f. From the total number of players scheduled to appear on a show, a number of contestants will be

selected at random to participate in the television game. The remaining players will make up the game show audience. (3-26-08)

03. Appointment of a Proxy. (3-26-08)

a. Upon approval of the Director, a player may select a proxy to appear on the player's behalf at the game show. (3-26-08)

b. If a player is unable or fails to show at the scheduled date and time for appearance on the game show, the Director reserves the right to appoint a proxy to appear on the show on behalf of the player. (3-26-08)

c. If a player appears at the location for the game show under the influence of intoxicants, or is a player whom the Director deems inappropriate, the Director reserves the right to appoint a proxy to appear on the show on behalf of the player. (3-26-08)

d. A proxy will not be entitled to any prizes won on behalf of a player. (3-26-08)

04. Description of Game. The television game show format will be determined by the Director and approved by the Commission and is played through the use of an approved game mechanism. (3-26-08)

05. Playing Rules. (3-26-08)

a. The television game show rules will be determined by the Director. In general, the game is played by five (5) contestants for a certain number of play rounds. The first round starts with the first contestant drawn from the audience; the second round starts with the second player drawn; and so forth. (3-26-08)

b. During each play round, each of the contestants has an opportunity to play the game. Each contestant plays a game round within a period of time determined by the Director. (3-26-08)

c. After the completion of all play rounds, the contestant with the most money in his/her bank earns the right to play for the grand prize. If two (2) or more contestants end with the same amount of money as the most money won after all play rounds, these contestants play a tie breaker round. (3-26-08)

06. Grand Prize Round. (3-26-08)

a. The contestant who has accumulated the most money will be given the opportunity to win additional prize money. The Director will determine the actual game show mechanism to be used to provide the contestant the opportunity to win the grand prize. (3-26-08)

b. Regardless of the choices and the outcome of those choices made during the grand prize round, the contestant shall receive the money accumulated in his/her bank prior to the grand prize round. (3-26-08)

07. Audience Participation. (3-26-08)

a. The players in the audience will divide equally an amount that is identical to the total of all the money in the contestants' banks. Any money won in the grand prize round is not added to the contestants' banks for the purpose of calculating the audience prizes. Notwithstanding the total value of the money in the contestants' banks, each player in the audience is guaranteed to receive a prize. Any cash prize amount awarded to players in the audience will be rounded up to the nearest five dollars (\$5). (3-26-08)

b. Each of the game contestants is guaranteed to win at least the same amount of money as each member of the player audience. (3-26-08)

08. Prize Reserve. Funding for the television game show prizes will come from a prize reserve established for this purpose. The following moneys will be credited to this reserve: (3-26-08)

a. One percent (1%) of instant ticket sales; (3-26-08)

- b.** The prize share of interest income and other nonticket distributable income; (3-26-08)
- c.** Three percent (3%) of Lotto sales up to a weekly amount of fifty thousand dollars (\$50,000). (3-26-08)
- 09. Television Game Show Home Play.** To be eligible for entry into the Lottery's "Home Play" drawing an entrant must: (3-26-08)
- a.** Be eligible to win a prize pursuant to the statutes and rules governing the operation of the Lottery. (3-26-08)
- b.** Collect five (5) valid non-winning instant game tickets. A valid non-winning ticket is a ticket which meets all the requirements of these rules but which does not otherwise qualify for any other prize established by the Lottery's administrative rules. (3-26-08)
- c.** Complete the back of at least one (1) of the five (5) ticket with the entrant's name, address, and telephone number. An entry containing more than one (1) name will be disqualified. (3-26-08)
- d.** Place the five (5) tickets in a plain white envelope no larger than four and one-eighth by nine and one-half inches (4-1/8" x 9-1/2"). An envelope which contains extraneous material, or which has had the exterior altered for the apparent sole purpose of making the envelope more prominent, will be disqualified. (3-26-08)
- e.** Mail the envelope with proper postage to the P.O. Box designated by the Director. (3-26-08)
- f.** There is no limit to the number of entries a person may submit, but each entry must be submitted in a separate envelope and both the entry and the entrant of each must meet the qualifications set forth above. (3-26-08)
- g.** Entries must be received by 5:00 p.m. on the day before the preliminary drawing to be eligible to participate in that week's drawing. The Director will establish the date of the preliminary drawing. Entries received after the deadline will be entitled to participation in the next home play drawing. The Director reserves the right to place an entry which was entitled to, but which was not entered into a drawing, into a subsequent preliminary drawing. (3-26-08)
- h.** A non-conforming entry or an entry which contains one (1) or more stolen tickets will be disqualified by the Director. (3-26-08)
- i.** The Lottery will not be responsible for any other material, including winning tickets, mailed or delivered to the home play drawing. All mail becomes the property of the Lottery and will not be returned. All entries not drawn will be destroyed without being opened on the day of the preliminary drawing. (3-26-08)
- j.** The Director will establish and approve the procedures for the selection of entrants into the weekly drawing. The drawing will be open to the public and be witnessed by an independent certified public accountant. (3-26-08)
- k.** The Director will determine the number of entries drawn each week who will become home play contestants. Each Home Play contestant will be matched with an on-air contestant. (3-26-08)
- l.** The Director will determine the number of entries drawn each week who will become players on a future Money Game television show. (3-26-08)
- m.** The odds of being drawn as a home play contestant or future Television Game Show player depend on the number of entries received by the Lottery each week. (3-26-08)
- n.** Notwithstanding the requirements of this rule, the Director reserves the right to waive minor informalities. The determination of what constitutes an informality shall reside solely with the Director. (3-26-08)

204. ON-LINE COMPUTER GAMES (RULE 204).

01. On-Line Games -- Authorized -- Director's Authority. The Commission hereby authorizes the Director to select and operate on-line games which meet the criteria set forth in these rules. (3-26-08)

02. Definitions. As used in Rule 204 these terms have the following definitions: (3-26-08)

a. "Drawing." The procedure determined by the Director by which the Lottery selects the winning combination in accordance with the rules of the game. Drawings are open to the public, and are required to be witnessed by an independent certified public accountant. The equipment used in any drawing must be inspected by the independent certified public accountant and the Director of Security or his designee both before and after the drawing. All drawings and inspections are required to be recorded on both video and audio tape. (3-26-08)

b. "On-line Game." A Lottery game in which a player selects a combination of numbers or symbols, the type of game and amount of play, and the drawing date(s) by use of a computer. In return for paying the appropriate fee, the player receives a computer-generated ticket with the player's selection printed on it. Each ticket bearer whose valid ticket includes a winning combination will be entitled to a prize if claim is submitted within the specified time period. (3-26-08)

c. "On-line Retailer." A person or business authorized by the Lottery to sell on-line tickets. (3-26-08)

d. "On-line Terminal (OLT)." The computer hardware by which an on-line retailer or player enters the combination selected by the player and by which on-line tickets are generated and claims are validated. (3-26-08)

e. "On-line Ticket." A computer-generated ticket issued by an on-line terminal to a player as a receipt for the combination a player has selected. That ticket is the only acceptable evidence of the combination of numbers or symbols selected. (3-26-08)

f. "Ticket Bearer." The person who has signed the on-line ticket or who has possession of an unsigned ticket. (3-26-08)

g. "Validation." The process of determining whether an on-line ticket presented for payment is a winning ticket. (3-26-08)

h. "Winning Combination." One (1) or more numbers or symbols randomly selected by the State Lottery or its designee in a public drawing. (3-26-08)

03. Distribution of Tickets. (3-26-08)

a. Tickets will be sold by retailers selected by the Director. (3-26-08)

b. The Director is authorized to arrange for the distribution of OLTs, player-activated terminals (PATs), ticket stock, and supplies to certificated retailers. (3-26-08)

04. Sale of Tickets. (3-26-08)

a. No person other than a retailer under a contract for the sale of tickets with the Lottery may sell on-line Lottery tickets, except that nothing in this section will be construed to prevent a person who may lawfully purchase tickets from making a gift of Lottery tickets to another. (3-26-08)

b. Tickets may not be sold at a location other than the address listed on the retailer's contract with the Lottery. (3-26-08)

c. Nothing in this section shall be construed to prohibit the Director from designating certain of its agents and employees to sell Lottery tickets directly to the public. (3-26-08)

05. On-Line Games Criteria. (3-26-08)

a. The base price of an on-line ticket will not be less than fifty cents (\$.50), except to the extent of discounts authorized by the Commission. (3-26-08)

b. The price for a ticket in any particular on-line game will be set out in the game rules adopted by the Commission for that game. No person may sell a ticket at a price other than that established in accordance with these rules. On the average, the total of all prizes available to be won in an on-line game shall not be less than forty-five percent (45%) of the on-line game's projected revenue. (3-26-08)

c. The manner and frequency of drawings may vary with the type of on-line game. (3-26-08)

d. The times, locations, and drawing procedures will be determined by the Director. (3-26-08)

e. A ticket bearer entitled to a prize must submit the winning ticket as specified by the Director. The winning ticket must be validated by the Lottery or an on-line retailer through use of the validation number and any other means specified by the Director. (3-26-08)

06. Payment of Prizes. (3-26-08)

a. To claim an on-line game prize of less than six hundred dollars (\$600) the claimant may present the winning on-line ticket to any on-line retailer, or to the Boise Lottery Office: (3-26-08)

i. If the claim is presented to an on-line retailer, the on-line retailer must validate the claim and, if determined to be a winning ticket, pay the amount due the claimant. If the on-line retailer cannot validate the claim, the claimant may obtain and complete a claim form and submit it with the disputed ticket to the Lottery by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due. If the ticket is determined to be a non winning ticket, the claim will be denied and the claimant will be promptly notified. Non winning tickets will not be returned to the claimant. (3-26-08)

ii. If the claim is presented to the Boise Lottery Office, the claimant may be required to complete a claim form and submit it with the winning ticket, either by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code. If the ticket is determined to be a non winning ticket, the claim will be denied and the claimant will be promptly notified. Non winning tickets will not be returned to the claimant. (3-26-08)

b. To claim an on-line prize of six hundred dollars (\$600) or more, the claimant must obtain and complete a claim form and submit it with the winning ticket to the Boise Lottery Office by mail or in person. Prizes of six hundred dollars (\$600) or more can be paid only from the Boise Lottery Office. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code. The amount due will be calculated according to the rules adopted for the particular on-line game. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non winning tickets will not be returned to the claimant. (3-26-08)

c. All prizes must be claimed within one hundred eighty (180) days from the drawing in which the prize was won. If the final day of the one hundred eighty (180) day period falls on a Saturday, Sunday or a State holiday, the claim period will be extended to the end of the next business day. Any prize not claimed within the specified period will be forfeited and placed into the State Lottery account. (3-26-08)

07. Drawings and End of Sales Prior to Drawings. (3-26-08)

a. Drawings will be conducted in a location and at days and times designated by the Director. (3-26-08)

b. For each type of on-line game, the Director will establish a time before the drawing for the end of sales. (3-26-08)

c. The Director will designate a Drawing Manager who will oversee each drawing. The Drawing Manager must attest that the drawing was conducted in accordance with proper drawing procedures at the end of each drawing. (3-26-08)

d. The Director will designate the type of equipment to be used and will establish procedures to randomly select the winning combination for each type of on-line game. Drawing procedures will include provisions for the substitution of backup drawing equipment if the primary drawing equipment malfunctions or fails for any reason. (3-26-08)

e. The equipment used to determine the winning combination will not be electronically or otherwise connected to the central computer or to any tapes, discs, files, etc., generated or produced by the central computer. The equipment must be tested before and after each drawing to assure proper operation and lack of tampering or fraud. Drawings will not be held until all pre-inspection checks are completed. No prizes will be paid until after all post-inspection checks have been completed. (3-26-08)

f. All drawings will be broadcast live on television, provided the facilities for such broadcasts are available and operational and can be done at a reasonable cost. (3-26-08)

g. The Director will establish procedures governing the conduct of drawings for each type of on-line game. The procedures must include provisions for deviations that include but are not limited to: (3-26-08)

i. Malfunction of the drawing equipment before determination of the winning combination; (3-26-08)

ii. Video and/or audio malfunctions during the drawing; (3-26-08)

iii. Fouled drawing; (3-26-08)

iv. Delayed drawing; and (3-26-08)

v. Other equipment, facility and/or personnel difficulties. (3-26-08)

h. If a deviation occurs, the drawing will be completed under the supervision of the Lottery or its designee. The drawing will be videotaped for later broadcast, if broadcast time is available. The winning combination will be provided to the television network for dissemination to the public. (3-26-08)

i. If, during any live-broadcast drawing for a game, a mechanical failure or operator error causes an interruption in the selection of all numbers or symbols, a "foul" will be called by the Drawing Manager or the Lottery's designee. Any number drawn before a "foul" is called will stand and be deemed official after passing inspection and certification by the Drawing Manager or the Lottery's designee. (3-26-08)

j. The Director must delay payment of all prizes if any evidence exists or there are grounds for suspicion that tampering or fraud has occurred. Payment will be made after an investigation is completed and the drawing approved by the Drawing Manager or the Lottery's designee. If the drawing is not approved, it will be void and another drawing will be conducted to determine the actual winner. (3-26-08)

08. Validation Requirements. (3-26-08)

a. To be a valid winning on-line ticket, all of the following conditions must be met: (3-26-08)

i. All printing on the ticket must be present in its entirety, be legible, and correspond, using the computer validation file, to the combination and the date printed on the ticket. (3-26-08)

ii. The ticket must be intact. (3-26-08)

iii. The ticket must not be mutilated, altered, or tampered with in any manner. (3-26-08)

- iv. The ticket cannot be counterfeit or an exact duplicate of another winning ticket. (3-26-08)
 - v. The ticket must have been issued by an authorized on-line retailer or dispensed by a player-activated terminal in an authorized manner. (3-26-08)
 - vi. The ticket must not have been stolen or cancelled. (3-26-08)
 - vii. The ticket must not have been previously paid. (3-26-08)
 - viii. The ticket must pass all other confidential security checks of the Lottery. (3-26-08)
 - ix. If the prize is for six hundred dollars (\$600) or more, the ticket must be signed. (3-26-08)
- b.** A ticket failing any of the validation requirements listed in Paragraph 204.08.a. of this rule is invalid and ineligible for a prize. The final decision on whether a prize is paid will be made by the Director. (3-26-08)
- c.** If there is a dispute between the Director and a claimant whether a ticket is a winning ticket, and if the Director determines that the ticket is not valid and a prize is not paid, the Director may replace the disputed ticket with a ticket of equivalent sales price for a future drawing of the same type of game. This will be the sole and exclusive remedy of the claimant. (3-26-08)
- d.** If a defective on-line ticket is purchased, the only responsibility or liability of the Lottery or the of on-line retailer is the replacement of the defective on-line ticket with another on-line ticket of equivalent value for a future drawing of the same type of game. (3-26-08)
- 09. Retailer Duties.** Retailers with an on-line terminal (OLT) must perform the following duties: (3-26-08)
- a.** Pay costs associated with providing a telephone line or internet or similar connection that must be located within approximately five (5) feet of the terminal, as specified by the Lottery. Payment of the telephone line or internet or similar connection is nonrefundable after installation, except if the Lottery denies, through no fault of retailer, the installation of the on-line terminal. (3-26-08)
 - b.** Pay the Lottery for the local monthly telephone or internet or similar charges per OLT as specified by the Lottery. The Lottery will pay for the mileage charges (if any) between the retailer's location and the Lottery's central site. (3-26-08)
 - c.** Hold funds generated from the sale of on-line tickets in trust for the Lottery. At a time specified by the Lottery, the retailer must pay these funds to the Lottery plus the monthly communications charge specified above in Paragraph 204.09.b. of this rule, less: (3-26-08)
 - i. Prizes paid; (3-26-08)
 - ii. Any credit(s); and (3-26-08)
 - iii. The retailer discount. (3-26-08)
 - d.** Locate the OLT within the retailer's premises at a point-of-sale location approved by the Lottery. The retailer is prohibited from moving an OLT unless the retailer follows the procedures established by the Director, including reimbursing the State Lottery for any telephone or internet or similar charges associated with the change of OLT location if the retailer requested the change. (3-26-08)
 - e.** Provide dedicated AC power to within approximately five (5) feet of the terminal. Dedicated AC power means that there is no other equipment on the line that is to be used for the on-line terminal. The retailer is responsible for all costs associated with providing dedicated AC power. The Lottery will provide a schematic of outlet requirements to the retailer's electrical contractor. (3-26-08)

f. Sell all Lottery games, including but not limited to instant game tickets offered by the Lottery. The retailer agrees to continue the sale of instant tickets from all cash registers or other points of purchase. (3-26-08)

g. Conduct the sale of on-line tickets during all hours and days that the retailer's business is open and the on-line system is functioning. The retailer must post the hours that redemption of winning tickets may take place if these hours are different from the retailer's normal business hours. The retailer must monitor ticket supply levels and give timely notice when any item is in short supply. (3-26-08)

h. Post winning numbers prominently where tickets are sold as soon as possible following the drawing. (3-26-08)

i. Provide secure storage for OLT supplies and a secure area for the OLT. (3-26-08)

j. Exercise due diligence in the operation of the OLT and immediately notify the Lottery and the central computer facility of any telephone line, internet, radio, or OLT malfunction, such as the issuance of invalid on-line Lottery ticket(s), inability to sell or redeem an on-line ticket, and non-issuance of an on-line ticket. The retailer is prohibited from performing mechanical or electrical maintenance on the OLT. (3-26-08)

k. Replace ribbons and on-line or instant ticket stock and clear paper jams as required for the OLT per the instructions provided by the Lottery. (3-26-08)

l. Pay, without reimbursement, all electricity charges in connection with the operation of OLT. (3-26-08)

10. Payment of Prizes by On-Line Retailers. (3-26-08)

a. An on-line retailer must pay to the ticket bearer on-line games prizes of less than six hundred dollars (\$600) for any validated claims presented to that on-line retailer. These prizes must be paid during all normal business hours of the on-line retailer, unless redemption hours different from normal business hours have been posted as pursuant to Paragraph 204.09.g. of this rule, provided, that the on-line system is operational and claims can be validated. (3-26-08)

b. An on-line retailer may pay prizes in cash or by business check, certified check, money order, or any combination thereof. An on-line retailer that pays a prize with a check that is dishonored may be subject to suspension or termination of its contract. (3-26-08)

11. Retailer Compensation. The compensation paid to on-line Lottery retailers is as follows: (3-26-08)

a. A discount of five percent (5%) will be applied to on-line tickets sold from a clerk-activated terminal (CAT); (3-26-08)

b. A discount of five percent (5%) will be applied to on-line tickets sold from a player-activated terminal (PAT); (3-26-08)

c. The Director may pay Lottery game retailers an additional one percent (1%) incentive bonus based on attainment of sales volume or other objectives specified by the Director for each Lottery game. (3-26-08)

12. Retailer Settlement. (3-26-08)

a. The Director may require on-line retailers to establish an account for deposit of monies derived from on-line games with a financial institution that has the capability of electronic funds transfer (EFT). (3-26-08)

b. The amount deposited must be sufficient to cover monies due the Lottery. The Lottery will withdraw by EFT the amount due the Lottery on the day specified by the Director. If the day specified for withdrawal falls on a state holiday, withdrawal may be delayed until the next business day. (3-26-08)

13. Prize Rights Unassignable. No right of any person to a prize drawn shall be assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and that any person may be paid the prize to which the winner is entitled pursuant to an appropriate judicial order. The Director will be discharged of all liability upon payment of a prize pursuant to this rule. (3-26-08)

14. Payment of Prizes to Persons Under Eighteen Years of Age. If a person entitled to a prize for a winning ticket is under the age of eighteen (18) years, the Director may direct payment of the prize to an adult member of the minor's family or to the minor's guardian by a check or draft payable to the adult member of the minor's family or to the minor's guardian. The adult member of the minor's family or the minor's guardian will have the same duties and powers as a person designated as a custodian in accordance with Idaho Law. For purposes of Subsection 204.14 the terms "adult member of a minor's family" and "guardian of a minor" have the same meaning as in the Idaho Gifts to Minors Law. The Director will be discharged of all liability upon payment of a prize to a minor pursuant to this rule. (3-26-08)

15. Prizes Payable After Death or Disability of Owner. (3-26-08)

a. All prizes, and portions of prizes, that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing of a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. (3-26-08)

b. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee of any prize winnings that are or may be due to a person under a disability including, but not limited to, minority, mental deficiency, physical or mental incapacity. (3-26-08)

16. Discharge of State Lottery upon Payment. The State of Idaho, its agents, officers, employees and representatives, the Lottery, its Director, agents, officers, employees and representatives shall be discharged of all liability upon payment of a prize or any one (1) installment thereof to the holder of any winning Lottery ticket or in accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on a winning Lottery ticket and the information on the claim form, the Lottery may rely on the claim form after the ticket for which it has been filed has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes will be final and binding upon all participants in the Lottery unless otherwise provided by law or these rules. If a question arises concerning the winning ticket, a claim form, the payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. (3-26-08)

17. Disclosure. The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional or publicity campaign. The address used will not contain the winner's street or house number without the winner's consent. The Lottery may condition payment of the prize upon agreement to these terms and conditions. (3-26-08)

205. BREAKOPEN INSTANT TICKET GAMES (RULE 205).

The Commission hereby authorizes the Director to select and operate breakopen instant ticket games that meet the criteria set forth in these rules. (3-26-08)

01. Definitions. As used in Rule 205 these terms have the following definitions: (3-26-08)

a. "Authorized Dispensing Device" means any machine, or mechanism designed for use of vending or

dispensing of breakopen instant tickets. These devices may include mechanical, electrical, electro-mechanical or other devices approved by the Director of the Lottery pursuant to Rule 100. (3-26-08)

- b.** “Box” means a group of breakopen instant tickets with the same unique serial number. (3-26-08)
- c.** “Breakopen Instant Ticket” means a single folded or banded ticket or a card, the face of which is initially covered or otherwise hidden from view to conceal numbers and/or symbols, a few of which numbers or symbols have been designated in advance and at random as prize winners when, for the opportunity to obtain each such folded or banded ticket or card, view the numbers or symbols thereon and possibly obtain a prize, a person pays an established price to a breakopen instant ticket retailer. (3-26-08)
- d.** “Breakopen Instant Ticket Game” means a group of breakopen instant ticket boxes with the same thematic design and prize structure. (3-26-08)
- e.** “Breakopen Instant Ticket Retailer” means any person who has been approved, certified and contracted with by the Lottery to sell breakopen instant tickets. (3-26-08)
- f.** “Breakopen Instant Ticket Vendor” means any person who produces and provides breakopen instant tickets to the Lottery. (3-26-08)
- g.** “Distributor” means any person who purchases or otherwise obtains authorized dispensing devices for use in breakopen instant ticket games from any person and sells or otherwise furnishes such device to another person for the resale of or the display or operation of that device. (3-26-08)
- i.** As used in these rules, the term “distributor” includes a person who services and repairs authorized dispensing devices, so long as the person performing such servicing or repairs is approved by the distributor or distributor’s representative, and makes no addition to, or modification or alteration of, the authorized device. (3-26-08)
- ii.** A manufacturer who sells or otherwise furnishes authorized dispensing devices not manufactured by him to any other person for resale or for display or operation of that authorized device is also a “distributor.” (3-26-08)
- h.** “Distributor’s Representative” means any individual who represents a distributor in any of the distributor’s activities in connection with the sale or furnishing of authorized dispensing device for use in breakopen instant ticket activities. (3-26-08)
- i.** “Flare” means a vendor-provided informational sign that, as a minimum, displays the prize structure, the serial number of the sleeve in play, the odds of winning a prize, and the price of the ticket. (3-26-08)
- j.** “Manufacturer” means any person who assembles from raw materials or subparts a completed authorized dispensing device or pieces of the authorized device for use in breakopen instant ticket activities and who sells or otherwise furnishes the same to any distributor or retail outlet. (3-26-08)
- k.** “Manufacturer’s representative” means any person who represents a manufacturer in any one of the manufacturer’s activities in connection with the sale or furnishing of authorized dispensing device for use in breakopen instant ticket activities. (3-26-08)
- l.** “Sleeve” is a portion of a box; and is the smallest unit offered. (3-26-08)

02. Breakopen Instant Ticket Special Inspection. The Director or authorized representative shall have the authority to select any breakopen instant ticket sleeve and examine the quality and/or integrity of the breakopen instant ticket sleeve in any manner, including pulling all chances remaining thereon: Provided, that if the sleeve so inspected is thereby altered by such inspection in any manner and no defect, alteration, deceptive condition, or other violation is discovered, then the owner shall be reimbursed by the Lottery at the owner’s cost for the sleeve or portion thereof, and the sleeve shall become the property of the Lottery. Provided further, that for each sleeve inspected which is found to be defective in any area related to a vendor’s quality control deficiency, a fee may be

assessed by the Director against the vendor of the breakopen instant ticket. (3-26-08)

03. Breakopen Instant Ticket Operation. (3-26-08)

a. No person under the age of eighteen (18) years of age is allowed to play or sell any breakopen instant tickets. It is the responsibility of the retailer to determine that no unauthorized person is allowed to play or sell breakopen instant tickets. (3-26-08)

b. No retailer is permitted to display or operate any breakopen instant ticket that has in any manner been marked, defaced, tampered with or otherwise placed in a condition, or operated in a manner, that may deceive the public or that affects the chances of winning or losing upon the taking of any chance thereon. (3-26-08)

c. All records, reports, receipts and any unsold tickets relating to a breakopen instant ticket sleeve must be retained on the retailer's premises at least ninety (90) days after the sleeve is removed from play and must be made available on demand to representatives of the Idaho Lottery. (3-26-08)

04. Breakopen Instant Ticket Price per Play to be Posted. No breakopen instant ticket sleeve may be placed for public play unless the cost to the player for each ticket is clearly posted on the flare. The price per ticket will be determined by the Director. (3-26-08)

05. Claiming of Prizes. Prizes must be redeemed on the same day as purchased at the location where the winning ticket was purchased, and prizes will be awarded in cash or by check. (3-26-08)

06. Limitation on Breakopen Instant Ticket Dispensing. No ticket once placed in an authorized dispensing device out for public play may be removed from the authorized device until the sleeve is permanently removed from public play, except only: (3-26-08)

a. Those tickets actually played by consumers; (3-26-08)

b. Those tickets removed by representatives of the Lottery inspecting the device or sleeve; and (3-26-08)

c. Those tickets temporarily removed during necessary repair or maintenance of the device. Excepting only tickets removed under parts 06.b and 06.c of this rule, once a ticket has been removed from public play it cannot again be put out for public play. (3-26-08)

07. All Devices Must Comply with Requirements. No retailer may display or put out for play, and no distributor or manufacturer or their representatives may sell or otherwise furnish any device for the dispensing of breakopen instant tickets, unless the device is approved for use by the Director, thereby making it an authorized device. (3-26-08)

a. No person may sell or transfer to another person in this state or for use within this state, nor shall place out for public play, any device for the dispensing of breakopen instant tickets that is not constructed to allow a consumer to clearly see each ticket within the device before playing the device. (3-26-08)

b. No person may put out for public play any device for the dispensing of breakopen instant tickets that is not constructed to provide for at least one (1) sleeve in play in the device. (3-26-08)

c. No person may put out for public play any device for the dispensing of breakopen instant tickets that is designed, used, or constructed, in a manner that detracts from the breakopen instant tickets or that is deceptive in any way, as determined by the Director. (3-26-08)

08. Breakopen Instant Ticket Series Assembly and Packaging. Vendors of breakopen instant ticket games must manufacture, assemble and package each game sleeve in a manner that none of the winning tickets, nor the location or approximate location of any of the winning tickets, can be determined in advance of opening the tickets. All breakopen instant ticket games must be approved and will be distributed and sold exclusively by the Lottery. The Lottery may adopt quality control standards for the manufacture of breakopen instant ticket games.

(3-26-08)

09. Standards for Flares. The flare advertising prizes available from the operation of any sleeve of breakopen instant tickets must: (3-26-08)

a. Be placed near or upon the upper face, or on the top, of any authorized device used to dispense breakopen instant tickets in a manner clearly visible to the public; and (3-26-08)

b. Clearly set out each of the prizes available and the combination of numbers or symbols which win prizes. Each flare describing the prizes and winning number or symbols for a sleeve of breakopen instant tickets in play must clearly set out the sleeve number assigned to that sleeve by the vendor. The sleeve number will be placed upon the flare by the vendor. The total number of tickets originally in the sleeve will be placed upon the flare by the vendor. (3-26-08)

10. Prize Structure. The Director will establish a prize structure detailing the estimated number of prizes that are expected to be awarded in each sleeve and a close approximation of the odds of winning such prizes. (3-26-08)

11. Retailers Eligible to Sell Breakopen Tickets. Any person interested in obtaining a contract for a certificate to sell Lottery tickets must file an application on forms provided by the Director. The forms shall include, but are not limited to, requiring an applicant's personal, financial, and criminal history, and an authorization to investigate the applicant's criminal and credit history. (3-26-08)

12. Retailer Application and Fee. All applications to sell breakopen instant tickets must be accompanied by a nonrefundable fee of twenty-five dollars (\$25). If a certificate is awarded to sell only breakopen instant tickets, no additional certificate fee must be paid. (3-26-08)

13. Certificate Modification. (3-26-08)

a. Certified instant ticket retailers may apply for a certificate modification to allow for the sale of breakopen instant tickets. A current instant ticket retailer will be required to complete an additional application or application supplements. If a current instant ticket retailer requests that the existing certificate be modified to allow for the sale of breakopen instant tickets, no additional application fee will be charged upon approval. (3-26-08)

b. Certified breakopen instant ticket retailers may apply for a certificate modification to allow for the sale of instant tickets. A current breakopen instant ticket retailer will be required to complete an additional application or application supplements. If a current breakopen instant ticket retailer requests that the existing certificate be modified to allow for the sale of instant tickets, an additional certificate fee of one hundred dollars (\$100) will be charged upon approval. (3-26-08)

14. Retailer Compensation. (3-26-08)

a. The compensation paid to Lottery retailers will be five percent (5%) of the retail price of the breakopen instant tickets. (3-26-08)

b. The Director may pay Lottery game retailers an additional one percent (1%) incentive bonus based on attainment of sales volume or other objectives specified by the Director for each Lottery game. (3-26-08)

206. -- 999. (RESERVED).

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