



## **Replacement Check List**

For rules filed within the  
4th Quarter  
October 1 – December 31, 2016

# THE ARIZONA ADMINISTRATIVE CODE

Within the stated calendar quarter, this Chapter contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

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## **Title 19. Alcohol, Dog and Horse Racing, Lottery and Gaming**

### **Chapter 3. Arizona State Lottery Commission**

#### **Supplement 16-4**

#### **Sections, Parts, Exhibits, Tables or Appendices modified**

R19-3-501, R19-3-505, R19-3-506, R19-3-508 through R19-3-510, R19-3-514, R19-3-517, R19-3-518, R19-3-520, R19-3-521, R19-3-523 through R19-3-528, R19-3-531 through R19-3-535, R19-3-544 through R19-3-547, R19-3-549, R19-3-553, R19-3-562 through R19-3-569

REMOVE Supp. 16-2  
Pages: 1 - 49

REPLACE with Supp. 16-4  
Pages: 1 - 49

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*Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.*

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**PUBLISHER**  
**Arizona Department of State**  
**Office of the Secretary of State, Public Services Division**

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director  
PUBLIC SERVICES DIVISION  
December 31, 2016

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### **RULES**

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

### **THE ADMINISTRATIVE CODE**

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

### **ADMINISTRATIVE CODE SUPPLEMENTS**

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31  
Second Quarter: April 1 - June 30  
Third Quarter: July 1 - September 30  
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2016 is cited as Supp. 16-1.

### **HOW TO USE THE CODE**

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

### **ARTICLES AND SECTIONS**

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

### **HISTORICAL NOTES AND EFFECTIVE DATES**

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

### **ARIZONA REVISED STATUTE REFERENCES**

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### **SESSION LAW REFERENCES**

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, [www.azsos.gov/services/legislative-filings](http://www.azsos.gov/services/legislative-filings).

### **EXEMPTIONS FROM THE APA**

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at [www.azsos.gov/rules](http://www.azsos.gov/rules), click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

### **EXEMPTIONS AND PAPER COLOR**

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

### **PERSONAL USE/COMMERCIAL USE**

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*Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.*

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION**

Authority: A.R.S. § 5-501 et seq.

19 A.A.C. 3, consisting of R19-3-101, R19-3-201 through R19-3-207, R19-3-301 through R19-3-381, R19-3-401, R19-3-501 through R19-3-549, and R19-3-601 recodified from 4 A.A.C. 37, consisting of R4-37-101, R4-37-201 through R4-37-207, R4-37-301 through R4-37-381, R4-37-401, R4-37-501 through R4-37-549, and R4-37-601, pursuant to R1-1-102 (Supp. 95-1).

**ARTICLE 1. EXPIRED**

Article 1, consisting of Section R19-3-101, expired under A.R.S. § 41-1056(E) at 17 A.A.R. 300, effective January 31, 2011 (Supp. 11-1).

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*Article 5, consisting of Sections R4-37-501 through R4-37-549, adopted as permanent rules effective August 29, 1985.*

*Former Article 5, consisting of Sections R4-37-501 through R19-3-549, adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-4). R19-3-501 through R19-3-549 recodified from R4-37-501 through R4-37-549 (Supp. 95-1).*

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*Article 6, consisting of Section R19-3-601, repealed effective June 17, 1997 (Supp. 97-1).*

*R19-3-601 recodified from R4-37-601 (Supp. 95-1).*

*Article 6, consisting of Section R4-37-601, adopted as a permanent rule effective February 25, 1987.*

*Article 6, consisting of Section R4-37-601, adopted as an emergency effective October 31, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days.*

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**ARTICLE 10. PROMOTIONS**

*Article 10, consisting of Sections R19-3-1001 through R19-3-1008, adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1).*

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**ARTICLE 1. EXPIRED****R19-3-101. Expired****Historical Note**

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Section R4-37-101 adopted effective August 17, 1981 (Supp. 81-4). Amended effective September 12, 1989 (Supp. 89-3). R19-3-101 recodified from R4-37-101 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 354, effective March 11, 2006 (Supp. 06-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 300, effective January 31, 2011 (Supp. 11-1).

**ARTICLE 2. RETAILERS****R19-3-201. Definitions**

In this Article, unless the context otherwise requires:

1. "Act" means A.R.S. Title 5, Chapter 5.1, Article 2.
2. "Activated" means the process taken by retailers to make a pack of instant scratch tickets valid for sale to the general public.
3. "Age-restricted retailer" means a licensed provider of sales and redemptions services for Lottery products that also holds a series 06 or 14 liquor license issued by the Arizona Department of Liquor Licenses and Control.
4. "Chapter" means Arizona Administrative Code, Title 19, Chapter 3.
5. "Charitable Organization" means an organization including not more than one auxiliary, to which the United States Internal Revenue Service has issued a letter of determination of the organization's tax-exempt status, and the organization has operated for charitable purposes in Arizona for at least two years.
6. "Controlling agent" means a stockholder, director, officer, managerial employee, or other person directly or indirectly controlling or operating the retailer's business.
7. "Controlling person" means a person at least 21 years of age accountable for the Lottery license.
8. "Corporate account retailer" means a group of stores in a retail chain utilizing one central bank account.
9. "Flare" means the board or placard that accompanies each package of instant tab tickets and that has printed on or affixed to it the following information:
  - a. Game name,
  - b. Serial number,
  - c. Ticket count,
  - d. Prize structure, and
  - e. Cost per play.
10. "Instant scratch ticket" means an instant game ticket where the protective covering is made of latex or another substance that is scratched off.
11. "Instant tab ticket" means an instant game ticket where the protective covering is a perforated paper tab that is opened. Instant tab ticket is the brand name for Arizona Lottery pull tabs.
12. "License" means:
  - a. "Full product license" means a license to sell the products authorized by the Lottery.
  - b. "Charitable organization license" means a license issued to a qualified charitable organization to sell only instant tab tickets.
  - c. "Instant tab license" means a license to sell only instant tab tickets.
  - d. "Limited license" means a license issued by the Lottery that restricts the duration of the license, the type of Lottery products sold, methods of selling, methods of validating Lottery products, or the type of applicant that qualifies for a Lottery license.
13. "Local premise manager" means a person who resides in Arizona that manages or is responsible for the operation of a premise or a number of premises.
14. "Minor" means an individual under the age of 18.
15. "On-line ticket" means a ticket purchased through a network of Lottery-authorized equipment linked to a central computer that records the wagers.
16. "Partial pack of tickets" means less than a complete pack of consecutively numbered and connected tickets.
17. "Premise manager" means the contact representative for a specific premise of a business or charitable organization.
18. "Pull tab" means an instant game ticket where the protective covering is a perforated paper tab that is opened to reveal the predetermined winning and non-winning symbols.
19. "Raffle" means the selling of numbered tickets, where each ticket has an equal chance of winning a prize in a random drawing held after the completion of all ticket sales.
20. "Retailer" means a licensed provider of sales and redemptions services for Lottery products. A retailer may hold a full product license, a charitable organization license, an instant tab license, a limited license, or a combination of licenses.
21. "Retailer bonus" means a sum of money credited to the retailer in addition to the retailer commission for specific actions or efforts in selling or validating Lottery products.
22. "Retailer commission" means a retailer incentive designed to maximize the sale of Lottery products by establishing a specific percent of the sales price of each ticket sold as payment for services in selling Lottery tickets.
23. "Retailer compensation" means all types of cash and non-cash compensation to the retailer for selling Lottery tickets.
24. "Retailer compensation profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all the fundamentals required by these rules for retailer compensation including commission, bonus, and incentive compensation to be credited to Lottery retailers.
25. "Retailer incentive" means cash and non-cash methods to motivate action by the Lottery retailer to stimulate sales.
26. "Sales benchmark" means sales objectives established by the Lottery based upon previous performance.
27. "Ticket" means one or more Lottery game plays.
28. "Validation" means confirmation of a winning Lottery ticket.

**Historical Note**

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Section R4-37-201 adopted effective August 17, 1981 (Supp. 81-4). Amended subsection (A) effective September 14, 1983 (Supp. 83-5). Amended subsection (E) and added subsection (F) effective January 6, 1987 (Supp. 87-1). Amended effective September 12, 1989 (Supp. 89-3). R19-3-201 recodified from R4-37-201 (Supp. 95-1). Amended effective October 9, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Former R19-3-201 renumbered to R19-3-202; new R19-3-201 made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp.

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10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 22 A.A.R. 1379, effective July 8, 2016 (Supp. 16-2).

**R19-3-202. Retailer's Application for License**

All applicants shall provide the Director with the following to apply for a license to sell Lottery tickets:

1. A verified application on forms prescribed by the Director containing the following information:
  - a. The applicant's name, and if different, the trade name of the business premise, address of the physical location of the place of business, the mailing address if different, and phone number;
  - b. The applicant's current transaction privilege tax license number issued under A.R.S. § 42-5005 and federal taxpayer identification number issued by the Internal Revenue Service and recorded on Form W-9;
  - c. Certification that access to the applicant's business complies with the Americans with Disabilities Act;
  - d. Marketing and sales information on the forms provided by the Lottery. The information required includes the number of cash registers, hours of operation, products presently offered for sale, and the approximate daily volume of customers entering the place of business;
  - e. Evidence the applicant operates a business with other products or services unrelated to lottery products or services concerning lotteries;
  - f. Financial relationship and any outstanding debt owed to the state of Arizona, any of its political subdivisions, or the United States government;
  - g. Evidence the applicant for a license other than an instant tab license or charitable organization license is financially solvent. The evidence may include either of the following:
    - i. Evidence the applicant has established business credit, has a record of meeting its business debts as they became due for the three years immediately preceding the date of application, and does not have outstanding legal actions, judgments, or tax liens; or
    - ii. Personal guarantee, in writing, of applicant's Lottery account signed by a guarantor and the guarantor's spouse, if community property is being used to guarantee the account, or by the guarantor only, if guarantor provides proof that the guarantee is based on sole and separate property.
  - h. An Electronic Funds Transfer Authorization agreement showing a valid bank account number for the full product applicant from which the Lottery will withdraw any amounts due.
  - i. Proof of identification.
2. If the applicant does business as a sole proprietorship or partnership:
  - a. The name, home address, and home phone number of each owner or partner, including spouse if community property owner, unless applicant provides proof that the business is sole property separate from the community; and
  - b. Written authorization and tax identification number for the business entity and Social Security number of each applicant in order to obtain a credit check from a credit reporting agency.
3. If the applicant does business as a limited liability partnership ("LLP") or a limited liability company ("LLC"):
  - a. The name, home address, and home phone number of each partner or member, or the local premise manager if the partners or members are out of state; and
  - b. Written authorization and a tax identification number to perform a credit check.
4. If the applicant does business as a corporation:
  - a. The name, corporate address, and corporate phone number of each officer and director, and the name, home address, and home phone number of the responsible local premise manager who is the contact representative for the applicant's corporate location in Arizona; and
  - b. Written authorization and a tax identification number to perform a credit check.
5. If the applicant does business as a charitable organization:
  - a. A copy of the organization charter or formation, documentation of current membership status in the organization, and if applicable, the authorization of the auxiliary;
  - b. The name, home address, and home phone number of each officer and local premise manager, or if an auxiliary, of each officer and local premise manager of the auxiliary;
  - c. A letter of determination issued in the organization's name by the United States Internal Revenue Service verifying the organization's tax-exempt status; and
  - d. Evidence the charitable organization has maintained a premise within the state of Arizona for the two years immediately preceding the date of application.
6. If the Lottery licenses an applicant under subsection (1)(g)(ii), the guarantor shall provide a written authorization to perform a credit check. If the guarantee is based on community property, the guarantor and guarantor's spouse shall provide written authorization for the Lottery to perform a credit check.
7. An application fee of \$45.00, or if the applicant does business as a corporation, limited liability company, limited liability partnership, or partnership, an application fee of \$67 which includes a credit check fee.
8. If the applicant is a business with more than one currently licensed location, the application fee for the new location shall be pro-rated at \$1.25 per month from the application date until the date the other licenses are due for renewal under R19-3-202.04(B)(3).
9. If the applicant's personal information shows no history through a public records criminal background check, the Lottery may require a completed authorized fingerprint card and fee per A.R.S. § 41-1750(G)(2) and (J).

**Historical Note**

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Section R4-37-202 adopted effective August 17, 1981 (Supp. 81-4). Spelling correction, subsection (A) to adoption effective August 17, 1981 (Supp. 87-1). Amended effective September 12, 1989 (Supp. 89-3). R19-3-202 recodified from R4-37-202 (Supp. 95-1). Section repealed; new Section R19-3-202 renumbered from R19-3-203 and amended effective October 9, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Former R19-3-202 renumbered to R19-3-203; new R19-3-202 renumbered from R19-3-201 and amended by final

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rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 20 A.A.R. 964, effective June 1, 2014 (Supp. 14-2). Amended by final rulemaking at 22 A.A.R. 1379, effective July 8, 2016 (Supp. 16-2).

**R19-3-202.01. Prerequisites to Issue or Renew a License**

- A. Evidence the applicant is of good character and reputation. The Lottery may find that a person lacks good character and reputation if it determines the person has committed any act which, if committed by a licensed retailer, would be grounds for suspension or revocation of a license granted by the state of Arizona.
- B. An applicant, a director or officer of a corporation, partner, or member of a limited liability company, or charitable organization shall not have had a business license required by statute in Arizona or any other state suspended or revoked within the last 12 months.
- C. An applicant, a director or officer of a corporation, partner, or member of a limited liability company, or charitable organization shall not have had a Lottery license denied or revoked at the address and location of the applicant's place of business for reasons other than noncompliance with the Americans with Disabilities Act, and shall not have sold Lottery products without being licensed within one year of the person's date of application.
- D. An applicant for a license other than an instant tab license or charitable organization license shall have demonstrated financial solvency based on the information obtained through the application, credit check, or pending litigation, if any, or tax liens, if any.
- E. An applicant shall be one of the following to fulfill residency requirements:
  1. A resident of Arizona;
  2. A corporation incorporated in Arizona or authorized to do business in Arizona;
  3. A limited liability company authorized to do business in Arizona in which a member or manager resides in Arizona, or if none of the members or managers resides in Arizona, the applicant shall provide a personal guarantor who is an Arizona resident;
  4. A partnership in which at least one of the general partners resides in Arizona;
  5. A limited liability partnership in which at least one of the partners resides in Arizona; or
  6. A charitable organization authorized to do business in Arizona.
- F. As a condition of licensure, each retailer shall agree to release, indemnify, defend, and hold harmless, the Lottery, its commissioners, officers, and employees, from and against any and all liability, damage, cost, claim, loss, or expense, including, without limitation, reasonable attorney's fees and disbursements, resulting from or arising by reason of loss of use, temporary or permanent cessation of Lottery equipment, or terminal operations. This should not be construed in any way to affect the rights of the retailer to recover for losses caused by any third party.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 22 A.A.R. 1379, effective July 8, 2016 (Supp. 16-2).

**R19-3-202.02. Time-frame for Licensure**

- A. For the purpose of A.R.S. §§ 41-1072 through 41-1079, the Director establishes the time-frames for a license to sell Lottery tickets:
  1. Administrative completeness review time-frame: 15 days.
  2. Substantive review time-frame: 75 days.
  3. Overall time-frame: 90 days.
- B. The Director shall finish an administrative completeness review within 15 days from the date of receipt of the application and fees prescribed in R19-3-202.
  1. The Director shall issue a notice of administrative completeness to the applicant if no deficiencies are found in the application.
  2. If the application is incomplete or the fee is not submitted, the Director shall provide the applicant with a written notice that includes a comprehensive list of the missing or deficient information.
  3. The 15-day time-frame for the administrative completeness review is suspended from the date the notice of incompleteness is sent until the applicant provides the Director with all missing information.
  4. If the Director does not provide the applicant with notice regarding administrative completeness, the application shall be deemed complete 15 days after receipt by the Director.
- C. An applicant shall respond to a request for missing information within 20 days of notice of incompleteness.
- D. If an applicant fails to submit a complete application within the time allowed, the Director may close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license shall apply again according to R19-3-202.
- E. From the date on which the administrative completeness review of an application is finished, the Director shall complete a substantive review of the applicant's qualifications in no more than 75 days.
  1. If an applicant is found to be ineligible, the Director shall issue a written notice of denial to the applicant.
  2. If an applicant is found to be eligible for a license, the Director shall issue a license to the applicant permitting the applicant to engage in business as a retailer under the terms of this Chapter.
  3. If the Director finds deficiencies during the substantive review of an application, the Director shall issue a written request to the applicant for additional information.
  4. The 75-day time-frame for substantive review is suspended from the date of a written request for additional information until the date that all information is received.
  5. If the applicant and the Director mutually agree in writing, the 75-day substantive review time-frame may be extended once for no more than 18 days.
- F. If the Director does not provide the applicant with written notice granting or denying a license within the overall time-frame, the Director shall refund the applicant's application fee within 30 days after the expiration of the overall time-frame or the time-frame extension.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-202.03. Denial of License Application**

The Lottery shall not issue a license to an applicant if any of the following applies:

1. The applicant is a minor, a partnership or LLP in which one of the partners is a minor, an LLC in which one of the members or managers is a minor, or a corporation in



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- which a corporate officer, director, or manager of Lottery sales is a minor;
2. The organization is an adult-oriented business as defined in A.R.S. § 13-1422 or displays sexually explicit material in violation of A.R.S. § 13-3507;
  3. The applicant has sold a Lottery product without a license, or operated gaming machines or equipment that are required to be licensed, without a license;
  4. The applicant fails to have a controlling person at least 21 years of age; or
  5. The organization is an age-restricted business that does not have a valid series 06 or 14 liquor license issued by the Arizona Department of Liquor Licenses and Control.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 22 A.A.R. 1379, effective July 8, 2016 (Supp. 16-2).

**R19-3-202.04. Duration and Renewal of License**

- A. A license issued under this Chapter shall expire three years from the license issuance date by operation of law.
- B. A retailer may renew a license to sell Lottery tickets by submitting to the Director a verified application for license renewal on forms prescribed by the Director containing the information required in R19-3-202 and R19-3-202.01. By filing an application for renewal, a retailer holding a full product license or limited license authorizes the Lottery to collect a \$45.00 renewal fee by an electronic transfer of funds from the bank account from which the Lottery regularly bills the retailer. A retailer holding a charitable organization license or instant tab license shall submit cash, check, or a money order for \$45 with its renewal application.
  1. An application for renewal of a Lottery license received by the Director or deposited in the United States mail postage prepaid on or before the renewal date shall authorize the retailer to continue to operate until actual issuance of the renewal license.
  2. The Director may refuse to renew a license according to the provisions of R19-3-204.
  3. A retailer holding more than one license may elect to renew all licenses on the same date. If more than one license is renewed under this subsection, the application fee shall be pro-rated at \$1.25 per month from the license expiration date until the next renewal date of the other licenses held by the same retailer.
- C. A license issued under this Chapter is subject to termination by the Director according to the provisions of this Chapter.
- D. A retailer may voluntarily surrender a license unless an investigation or action has been initiated against the retailer.
- E. The Lottery may issue a license which is limited with regard to duration, type of products, methods of selling or validating products, or qualification requirements.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 22 A.A.R. 1379, effective July 8, 2016 (Supp. 16-2).

**R19-3-202.05. Display of License and Point-of-sale Material**

- A. A retailer shall conspicuously display to the public that it is a licensed Lottery retailer. A retailer may do this by:
  1. Posting the Lottery license in a prominent place on the premises; or

2. Posting the authorized Lottery retailer decal in a prominent place in public view, and retaining a copy of the license on the premise, available upon request.
- B. A retailer shall prominently display the Americans with Disabilities Act Notice and Arizona Problem Gambling Helpline toll-free telephone number.
  - C. A retailer holding a charitable organization license or instant tab license shall prominently display the flare for each instant tab game currently on sale at or near the point of sale.
  - D. A violation of this subsection is grounds for disciplinary action according to the provisions of R19-3-204.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-202.06. Use of Lottery Logo and Trademark**

- A. A retailer may not use the logos, trademarks, or other advertising materials of the Lottery without prior written permission or authorization of the Lottery, except for materials provided to the retailer by the Lottery.
- B. A retailer shall not display or publish on the licensed premises material which may be considered derogatory or adverse to the operation or dignity of the Lottery or the state of Arizona. A retailer shall remove any such materials from the licensed premise upon request of the Lottery.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-203. Direct and Promotional Sales**

- A. The Lottery may sell Lottery tickets at its main office or any branch it establishes in the state.
- B. The Lottery may sell Lottery tickets at any promotional event.
- C. The Lottery may authorize a licensed retailer to sell Lottery tickets at an auxiliary premise for a promotional event.

**Historical Note**

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Section R5-37-203 adopted effective August 17, 1981 (Supp. 81-4). Amended effective September 12, 1989 (Supp. 89-3). R19-2-203 recodified from R4-37-203 (Supp. 95-1). R19-2-203 renumbered to R19-3-202; new Section R19-2-203 renumbered from R19-4-204 and amended effective October 9, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 914, effective February 10, 2000 (Supp. 00-1). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Former R19-3-203 renumbered to R19-3-204; new R19-3-203 renumbered from R19-3-202 by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-204. Revocation, Suspension, or Renewal Denial of Retailer's License**

- A. A license may be revoked, suspended, or denied renewal by the Director for any of the following reasons:
  1. The retailer violates a provision of the criminal laws of the state of Arizona or the United States, which could be punished by jail time or imprisonment;
  2. The retailer offers to sell a Lottery ticket, sells a Lottery ticket, or pays a prize on any winning Lottery ticket to a person under 21 years of age;
  3. The retailer sells a Lottery ticket in any transaction to a person using a public assistance voucher issued by any

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- public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security;
4. The retailer fails to maintain minimum sales requirements or does not follow the guidelines established by the Lottery. The Lottery shall provide minimum sales requirements to retailers at least 30 days prior to the effective change date;
  5. The retailer commits an act that impairs the retailer's reputation for honesty and integrity;
  6. The retailer sells a ticket at a price greater than face value;
  7. The retailer pays less than the full prize value of the ticket at validation;
  8. The retailer advises a player that a winning ticket presented for validation was not a prize winner;
  9. The retailer sells tickets not activated for sale on three or more occasions within any 12-month period;
  10. The retailer sells a ticket while license is suspended for insufficient funds;
  11. The retailer does not make purchase or redemption of Lottery tickets convenient and readily accessible to the public;
  12. The retailer provides to the Lottery a statement, representation, warranty, or certificate that the Lottery determines is false, incorrect, incomplete, or omits relevant information;
  13. The retailer's actions cause two payments to be returned to the Lottery for insufficient funds in a 12-month period;
  14. The retailer becomes insolvent, unable or unwilling to pay debts, or is declared bankrupt;
  15. The retailer, or officer, director, partner, LLC member or manager, controlling agent, or local premise manager of the retailer:
    - a. Is convicted of a felony, felony theft that is designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling or fraudulent schemes and artifices; or
    - b. Is the subject of a civil order, judgment, or decree of a federal or state authority for misrepresentation, consumer fraud, or any other fraud.
  16. Facts are discovered which, if known at the time the retailer's license was issued or renewed, would have been grounds to deny licensure;
  17. The retailer adds a minor as an owner, partner, or officer of the business;
  18. The retailer, or an officer, employee, or agent of the retailer does any of the following:
    - a. Plays any Lottery game while working,
    - b. Fails to purchase or validate the ticket from another on-duty employee or through a Lottery product vending machine, or
    - c. Fails to pay for the ticket prior to playing the Lottery game.
  19. The retailer, or an officer, employee, or agent of the retailer sells any Lottery product for consideration other than U.S. currency, check, credit card, debit card or, if a player requests, the exchange of a winning Lottery ticket;
  20. The retailer, or an officer, employee, or agent of the retailer sells a Lottery ticket by telephone, mail, fax, on the internet, or on premises not authorized by the Lottery;
  21. The retailer, or an officer, employee, or agent of the retailer sells an altered Lottery ticket, an expired Lottery ticket, or a Lottery ticket after the announced end of the game;
  22. The retailer fails to display the Authorized Retailer Notice, which includes the Americans with Disabilities Act Notice and Arizona Problem Gambling Helpline toll-free telephone number;
  23. The retailer fails to report a change event defined in R19-3-210;
  24. The retailer fails to comply or cooperate with an investigation concerning Arizona state laws, Lottery regulations, or denies access to Lottery personnel;
  25. The retailer holding a charitable organization license or instant tab license fails to prominently display the flare for each instant tab game currently on sale within public view near the point of sale;
  26. The retailer holding a charitable organization license no longer qualifies as a charitable organization or its letter of determination of tax-exempt status is suspended or revoked;
  27. The retailer fails to comply with the rules governing its license; or
  28. The age-restricted retailer violates a provision of the state of Arizona liquor laws under A.R.S. § 4-101, *et. seq.*
- B.** An investigation of a violation of Lottery rules may be initiated by action of the Director or by a written complaint of any person.
1. An investigation initiated by a written complaint shall be investigated within 30 days of receiving the complaint.
  2. During an investigation the Director may temporarily suspend a license under an emergency action, or impose specific conditions on a retailer.
- C.** An action to suspend or revoke a license shall be initiated by a notice of action to the retailer. Notice may be made by mail, hand-delivery, or electronic mail with a copy by regular mail. Notice to the retailer is effective notice if it is sent to the address in the application or the last address provided under R19-3-210.

**Historical Note**

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Section R4-37-204 adopted effective August 17, 1981 (Supp. 81-4). Amended as an emergency effective June 26, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-3). Correction, former emergency amendment shown effective June 26, 1983 should read effective June 10, 1983. Former emergency amendment now adopted as a permanent amendment without change effective September 14, 1983 (Supp. 83-5). Amended effective March 6, 1986 (Supp. 86-2). Amended subsection (B) effective January 6, 1987 (Supp. 87-1). Amended effective September 12, 1989 (Supp. 89-3). R19-3-204 recodified from R4-37-204 (Supp. 95-1). Section R19-3-204 renumbered to R19-3-203; new Section R19-3-204 renumbered from R19-3-205 and amended effective October 9, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Former R19-3-204 repealed; new R19-3-204 renumbered from R19-3-203 and amended by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 22 A.A.R. 1379, effective July 8, 2016 (Supp. 16-2).

**R19-3-204.01. Procedure for Requesting a Hearing**

- A.** A retailer may request a hearing on any notice to revoke or suspend a Lottery license.

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- B. The hearing shall be held before the Office of Administrative Hearings. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.
- C. The Director may accept, modify, reject, or allow the recommended decision of the Administrative Law Judge to become final by expiration of time. This is a final administrative decision of the Lottery.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-204.02. Lottery Determination of Need for Emergency Action**

- A. The Director may determine the need for emergency action to disable a retailer's Lottery-issued equipment, suspend sales of Lottery games, or remove tickets if the public welfare is threatened pending a proceeding for revocation, suspension, or denial of renewal, in the following circumstances:
1. The retailer's bank account has insufficient funds when the Lottery's regularly-scheduled electronic transfer of the retailer's account is returned by the bank as insufficient funds or closed account and the retailer does not immediately pay the insufficiency;
  2. The retailer fails to comply or cooperate with an investigation concerning Arizona state laws or Lottery regulations;
  3. The retailer, or officer, director, partner, LLC member or manager, controlling agent, or local premise manager is charged with a felony, felony theft that is designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling or fraudulent schemes and artifices;
  4. The retailer sells a Lottery ticket in any transaction to a person using a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security;
  5. The retailer sells an altered or expired ticket;
  6. The retailer sells a ticket at a price greater than face value;
  7. The retailer pays less than the full prize value of the ticket at validation; or
  8. The age-restricted retailer violates a provision of the state of Arizona liquor laws under A.R.S. § 4-101 et. seq.
- B. A retailer who receives a Notice of Intent to Revoke a Retailer's License with a finding of emergency action shall:
1. Immediately cease all sales of Lottery products, and
  2. Surrender the license and all other Lottery property and products upon request by the Director's representative.
- C. The Director shall notify the retailer in writing within five days of taking an emergency action that an expedited hearing or informal conference may be obtained before the Office of Administrative Hearings under A.A.C. R2-19-103 and A.A.C. R2-19-110.
- D. If the retailer fails to settle the financial account and surrender the license and all other Lottery property and products, the Director shall take steps allowed by law to secure payment and return of Lottery property and products.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 22 A.A.R. 1379, effective July 8, 2016 (Supp. 16-2).

**R19-3-204.03. Appealing a Final Administrative Decision of the Lottery**

- A. An optional motion for rehearing may be made to the Lottery Commission by filing a Notice of Appeal to the Lottery Commission within 10 days of receipt of the final administrative decision.
1. The notice shall contain:
    - a. A copy of the Director's final administrative decision, and
    - b. The alleged factual or legal error in the final administrative decision from which the appeal is taken.
  2. A person appealing the decision of the Director may file a written brief stating the factual and legal position on the appeal within 30 days after receipt of the decision being appealed.
  3. The Lottery may file a response brief within 15 days after receipt of the appellant's brief.
  4. The Lottery Commission may rule based on the written briefs, or if requested, may provide for oral argument.
  5. The Lottery Commission shall make its ruling on the appeal on the record.
  6. A decision of the Lottery Commission is a final administrative decision subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.
- B. A direct appeal of a final decision of the Director under R19-3-204.01(C) may be taken for judicial review pursuant to A.R.S. Title 12, Chapter 7, Article 6.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-204.04. Surrender of Lottery Equipment and Property Upon Revocation**

- A. A retailer who receives a final administrative decision revoking the license shall:
1. Immediately cease all sales of Lottery products; and
  2. Surrender the license and all other Lottery equipment, property, and products upon request of the Director's representative.
- B. If the retailer fails to settle the financial account and surrender the license and all other Lottery property and products, the Director shall take all steps allowed by law to secure payment and the return of Lottery property and products.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-205. Lottery-issued Equipment**

- A. Retailers holding only a charitable organization license or instant tab license shall not be issued Lottery terminal equipment to sell or validate Lottery products, but may use an authorized Lottery product vending machine in accordance with subsection (C).
- B. Retailers holding a full product or limited license shall only sell or validate Lottery products using authorized Lottery-issued equipment.
1. A retailer shall locate the equipment at a site approved by the Lottery and shall not move the equipment from that site without prior approval from the Lottery.
  2. A retailer shall ensure electrical service to the equipment location is installed according to the specifications established by the Lottery. The cost of electrical service shall be the responsibility of the retailer.
  3. A retailer shall cooperate with the Lottery to the extent reasonable and practicable to accomplish any modifications to the equipment or systems in a timely and economical fashion.

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4. The Lottery shall not be liable for damages of any kind due to interruption or failure of any Lottery-issued or authorized equipment.
  5. A retailer shall operate the Lottery-issued equipment and accessories only in the ordinary course of its Lottery business and only according to the requirements established by the Lottery.
  6. A retailer shall exercise diligence and care to prevent damage to the Lottery-issued equipment and other property of the Lottery, or property of Lottery contractors.
  7. A retailer shall maintain the Lottery-issued equipment and accessories in a clean and orderly condition.
  8. A retailer shall minimize equipment downtime by notifying the Lottery or its contractor immediately of any equipment failure, malfunction, damage, or accident.
  9. A retailer shall make the equipment available for repair, adjustment, or replacement at all times during the retailer's regular business hours.
  10. A retailer shall order and use equipment supplies exclusively from the Lottery or its designated contractor. The Lottery shall furnish equipment supplies, at no cost, to the retailer.
  11. A retailer shall install and use only approved Lottery paper stock specifically assigned to the retailer.
- C.** Retailers may sell tickets using an authorized Lottery product vending machine in accordance with the Act and this Chapter.
1. A retailer shall establish loss prevention policies to ensure Lottery product vending machines are not operated by persons under 21 years of age to purchase Lottery tickets.
  2. The Lottery product vending machine shall remain operational during the retailer's regular business hours and be placed in an area visible to retail personnel and easily accessible to players.
  3. A retailer shall maintain an adequate supply of instant scratch or instant tab tickets for the Lottery product vending machine.

**Historical Note**

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Sections R4-37-205 adopted effective August 17, 1981 (Supp. 81-4). Amended effective September 12, 1989 (Supp. 89-3). R19-3-205 recodified from R4-37-205 (Supp. 95-1). Section R19-3-205 renumbered to R19-3-204; new Section R19-3-205 renumbered from R19-3-206 and amended effective October 9, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 22 A.A.R. 1379, effective July 8, 2016 (Supp. 16-2).

**R19-3-206. Retailer Training**

- A.** A retailer holding a full product license shall participate in training provided by the Lottery in the operation of Lottery equipment and sale of Lottery products. Training may take place at a retailer's place of business.
- B.** A retailer holding a full product license shall ensure all employees selling Lottery products or operating Lottery equipment are properly trained in these areas and have access to all materials provided by the Lottery relating to the sales and pro-

motion of Lottery products and the operation of Lottery equipment.

- C.** A retailer holding a full product license shall be responsible for any compensation and other associated costs payable to employees for participation in Lottery training courses and instruction.
- D.** A retailer holding a full product license shall provide all employees operating Lottery equipment with copies of the procedures manual, bulletins, and technical materials furnished to the retailer by the Lottery or its contractors.
- E.** A retailer holding a charitable organization license or instant tab license shall ensure all employees or volunteers selling instant tab tickets are properly trained.

**Historical Note**

Adopted effective August 17, 1981 (Supp. 81-4). Amended subsection (B) as an emergency effective January 13, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-1). Subsection (B), amended as an emergency, now adopted as permanent with further amendment effective April 21, 1982 (Supp. 82-2). Amended subsection (A)(1), (3) and (4) as an emergency effective November 24, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days. Former emergency amendment effective November 24, 1982 now adopted as permanent effective December 28, 1982 (Supp. 82-6). Amended as an emergency effective June 10, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-3). Former Section R4-37-206 adopted as an emergency effective June 10, 1983, now adopted and amended as a permanent rule effective September 14, 1983 (Supp. 83-5). Amended subsection (A)(4) effective September 26, 1986 (Supp. 86-5). Amended effective September 12, 1989 (Supp. 89-3). R19-3-206 recodified from R4-37-206 (Supp. 95-1). R19-3-206 renumbered to R19-3-205; new Section R19-3-206 renumbered from R19-3-207 and amended effective October 9, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-207. Compliance Investigations**

- A.** A retailer shall comply with all provisions of the Act and this Chapter. The Lottery may conduct inspections to verify compliance and, if necessary, order an audit or investigation of the business.
- B.** A retailer shall allow investigations by authorized Lottery investigators during the retailer's regular business hours to determine whether the retailer is complying with the provisions of the Act and this Chapter.
- C.** A retailer shall keep all documentation relating to the purchase, sale, and validation of Lottery products that are kept in the normal course of business for tax purposes for three years. This documentation shall be easily accessible to the Lottery-authorized investigator for examination or audit.

**Historical Note**

Adopted as an emergency effective June 10, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-3). Former Section R4-37-207 adopted as an emergency effective June 10, 1983, now adopted and amended as a permanent rule effective September 14, 1983 (Supp. 83-5). Amended subsections (B) and (J) effective September 26, 1986 (Supp. 86-5). Amended effective September 12,

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1989 (Supp. 89-3). R19-3-207 recodified from R4-37-207 (Supp. 95-1). R19-3-207 renumbered to R19-3-206; new Section R19-3-207 adopted effective October 9, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-208. Penalties**

- A.** The Director shall assess a civil penalty against a retailer for any of the following acts:
1. Offering to sell or selling a Lottery ticket to any person who is under 21 years of age, or
  2. Selling a Lottery ticket in any transaction to a person using a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security.
- B.** The Director shall, on the written complaint of any person, or upon receipt of information indicating a retailer has committed an act listed in subsection (A), investigate the act or acts. The Director shall give notice to the retailer as provided in A.R.S. §§ 41-1092.03 and 41-1092.04 of imposition of a civil penalty if the Director finds the retailer has committed such an act. A violation of an act listed in subsection (A) is a civil penalty in the amount of:
1. Up to \$300 for the first violation within a 12-month period;
  2. More than \$300 and up to \$500 for the second violation within a 12-month period; and
  3. More than \$500 and up to \$1,000 for the third violation within a 12-month period.
- C.** A retailer against whom a penalty is assessed shall pay the penalty to the Lottery by the 31st day after the retailer receives notice of imposition of the civil penalty, if the retailer does not request a hearing as provided in subsection (D).
- D.** A retailer may request a hearing regarding imposition of a civil penalty. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.
- E.** A decision of the Director accepting, modifying or rejecting the recommended decision of the Administrative Law Judge is a final administrative decision subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.
1. If the retailer decides not to seek judicial review of the Director's final administrative decision, the retailer shall pay the civil penalty to the Lottery by the 36th day after the retailer receives the Director's decision.
  2. If the retailer decides to seek judicial review of the Director's final administrative decision, the retailer shall pay the civil penalty to the Lottery by the 36th day after the date of the Superior Court's decision.
  3. If the retailer decides to appeal the Superior Court's decision, the retailer shall pay the civil penalty to the Lottery by the 36th day after the date of the decision on appeal.
  4. A retailer shall pay interest at the rate provided in A.R.S. § 44-1201 from the date final judgment assessing a civil penalty is entered until satisfaction of the judgment.

**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 3043, effective June 19, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

tive August 7, 2012 (Supp. 12-2).

**R19-3-209. Notice and Service**

Service shall be deemed made by the Lottery for any notice, decision, order, subpoena, or other process when the document or a copy is delivered to the retailer, premise manager, guarantor, or the attorney of record, or is deposited as certified mail in the United States Postal Service, addressed to the retailer or guarantor at the address listed on the application for license or as reported as a change event under R19-3-210.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-210. Reportable Events**

- A.** A retailer shall report the following events to the Lottery in writing a minimum of 10 business days before the event:
1. Change in business location of the licensed premise;
  2. Sale of ownership, merger, or acquisition of the licensed entity;
  3. Addition, removal, or change of address or phone number of the following persons:
    - a. A partner in a partnership or a limited liability partnership;
    - b. A member or manager in a limited liability company;
    - c. An officer holding the position or functional equivalent of president, secretary, or treasurer of a corporation; or
    - d. A controlling agent, local premise manager, or designated corporate contact representative.
  4. A charge of felony, felony theft that is designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling or fraudulent schemes and artifices that is brought against any person listed in subsection (3);
  5. Divorce or legal separation action filed by a sole proprietor or partner licensed as a retailer or retailer's spouse;
  6. Retailer or guarantor becomes insolvent, files bankruptcy, or a receivership is ordered;
  7. Change in bank account from which the Lottery's electronic funds transfers are made;
  8. Revocation, suspension, or other action against a charitable organization's letter of determination of tax-exempt status; or
  9. Change in the status of liquor license issued by the Arizona Department of Liquor Licenses and Control.
- B.** A retailer shall report to the Lottery in writing the death of a sole proprietor or partner licensed as a retailer within 10 business days after the death occurs.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 22 A.A.R. 1379, effective July 8, 2016 (Supp. 16-2).

**R19-3-211. Change of Ownership or Business Location**

A license is not assignable or transferable. A license authorizes the entity described in the application to sell Lottery tickets only at the specific premise authorized by the Lottery.

1. If there is a change of business location or ownership as reportable in R19-3-210(A)(1) through (3) or R19-3-210(B), a criminal charge as reportable in R19-3-210(A)(4), or a change in liquor license status as reportable in R19-3-210(9), the retailer shall:
  - a. Surrender the license to the Director on the date of the event,
  - b. Not sell any additional Lottery tickets, and
  - c. Not allow the sale of Lottery products under a subcontract to avoid the repercussions of a change of status under this section.
2. If the retailer does not notify the Lottery of a change in ownership or business location at least 10 business days before the change, the retailer may not receive credit for any activated partial packs of tickets.
3. The new owner shall apply for a license according to R19-3-202.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 22 A.A.R. 1379, effective July 8, 2016 (Supp. 16-2).

#### R19-3-212. Retailer Compensation

- A. Retailer compensation shall be set within the statutory limits by a retailer compensation profile ordered by the Lottery Commission. Each retail compensation profile shall contain the following information:
  1. Retailer compensation profile number;
  2. Specific type of retailer compensation: commission, bonus, or other incentive;
  3. The retailer group to which the retailer commission, bonus, or other incentive applies;
  4. Criteria required to qualify for the commission, bonus, or other incentive;
  5. Duration of the retailer commission, bonus, or other incentive;
  6. Targeted games, if any; and
  7. Special features, if any.
- B. The category of retailer commissions, bonuses, or other incentives shall be one or more of the following:
  1. Full product license basic commission rate,
  2. Limited license basic commission rate,
  3. Sales benchmark rate,
  4. Game product rate,
  5. Promotional incentive or bonus rate,
  6. Temporary incentive or bonus rate, or
  7. Alternate incentive or bonus rate.
- C. More than one retailer commission, bonus, or other incentive may run concurrently.
- D. Promotion bonuses or incentives may be held during a designated period, specific days of the week, specific hours of the day, or a combination thereof.
- E. The Commission shall approve and the Director shall distribute a schedule of available retailer compensation to licensed retailers at least 30 days prior to its effective date and shall post it on the Lottery web site. A technological problem or failure that either prevents the posting of the retailer commission, bonus, or other incentive on the Lottery web site or that temporarily or permanently prevents the use of all or part of

the web site does not preclude the authorization of the retailer compensation.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

#### R19-3-213. Ticket Sales to Players

- A. A retailer shall sell only the type of Lottery products authorized by its Lottery-issued license.
- B. The Director may require a retailer to sell any one or combination of Lottery game products based on the retailer's license.
- C. A retailer shall not make any representation to a player regarding a likelihood to win, a guaranteed return on a percentage of purchases, or better chances or odds of winning.
- D. On-line tickets.
  1. All on-line ticket sales are final. If a retailer holding a full product license accepts a returned on-line ticket from a player or generates an on-line ticket refused by the player and the retailer does not resell the ticket, the Lottery shall deem the on-line ticket to be owned by the retailer.
  2. A retailer holding a full product license shall not devote more than 15 consecutive minutes of sales to an on-line game purchase by any single player if other customers are waiting to make a purchase.
  3. A retailer holding a full product license shall only use selection slips, materials, or methods authorized by the Lottery to generate plays selected by the player.
- E. Instant scratch tickets.
  1. All instant scratch ticket sales are final.
  2. A retailer holding a full product license shall sell instant scratch tickets within each pack in sequential order.
  3. A retailer holding a full product license shall not sell an instant scratch ticket after the announced end of game.
- F. All instant tab ticket sales are final.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

#### R19-3-214. Payments to Lottery

- A. Money collected from the sale of Lottery tickets by retailers are trust monies required to be collected for the benefit of the state and shall be paid to the Lottery according to subsections (B) and (C).
- B. A retailer holding a full product license or limited license shall pay for ticket sales in the following manner:
  1. Pay to the Lottery each Friday, by an electronic funds transfer, the amount due from the sale of its Lottery tickets for the seven-day period ending at the close of business on the previous Saturday.
  2. The amount due for on-line tickets means the retailer's gross on-line sales revenue, minus any promotional tickets, prize winnings paid out by the retailer, the retailer's sales commission, and plus or minus any accounting or prize adjustments.
  3. The amount due for instant scratch tickets is based on billing for instant ticket packs issued to a retailer with billing occurring 45 days after a pack is activated, or after 85% of winning tickets in the pack are validated, which-

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ever occurs first, minus any promotional tickets, returned tickets, prize winnings paid out by the retailer, the retailer's sales commission, and plus or minus any accounting or prize adjustments. Corporate account retailers may elect to settle in 21 days with no associated validation percentage.

4. The retailer shall deposit funds in a timely manner into a bank account from which the electronic funds transfer will be made to the Lottery.
    - a. The retailer shall provide the Lottery with an electronic funds transfer authorization showing a valid bank account number from which the amounts due to the Lottery will be transferred, and
    - b. The retailer shall notify the Lottery of any bank account changes a minimum of 10 business days before the effective date of the change.
  5. If a retailer's payment is returned to the Lottery for any reason, the retailer shall deliver a certified check, cashier's check, money order, or make a direct deposit for the amount due to the Lottery's bank account within 24 hours of notification. Additionally, if the retailer's payment is returned to the Lottery:
    - a. The Director may require that the retailer's Lottery-issued equipment be disabled;
    - b. The Director may revoke, suspend, or deny renewal of the retailer's license according to R19-3-204;
    - c. The Director may require payment for instant scratch tickets upon activating the pack for sale; and
    - d. The Director may require the return of the retailer's current inventory of instant scratch tickets and suspend further delivery of instant scratch tickets.
- C.** A retailer holding a charitable organization license or instant tab license shall pay the Lottery's authorized representative for instant tab tickets.
- D.** If the retailer owes money to the Lottery, the Lottery may offset that debt with any monies that are owed to the retailer by the Lottery.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 22 A.A.R. 1379, effective July 8, 2016 (Supp. 16-2).

**R19-3-215. Prize Validation and Payment**

- A.** A retailer holding a full product license shall provide prize validation and payment services for instant scratch tickets or on-line tickets to any Lottery claimant regardless of where the ticket was purchased.
- B.** A retailer holding a full product license shall pay all winning prizes for instant scratch tickets or on-line tickets up to and including \$100, and may pay all winning prizes from \$101 up to and including \$599.
1. A winning instant scratch ticket shall satisfy the validation criteria in R19-3-705 and R19-3-706 and have a proper validation receipt issued by the Lottery-authorized equipment.
  2. A winning on-line ticket shall satisfy the validation criteria in R19-3-406 and R19-3-407 and have a proper validation receipt issued by the Lottery-authorized equipment.
- C.** A retailer selling instant tab tickets shall pay all winning prizes for tickets sold at its location.

1. A winning instant tab ticket shall satisfy the validation criteria in R19-3-705(A) and (B)(1) through (8), and contain the necessary play, prize, and win symbol captions that enable visual confirmation of a prize.
  2. Prizes shall not be paid by the Lottery or by another retailer.
- D.** Prizes shall be paid by cash, check, money order, or if requested by the player, by Lottery tickets. If a retailer pays a prize with a money order, any associated fees shall be paid by the retailer.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-216. Distribution and Return of Instant Tickets**

- A.** The Lottery or its authorized representative shall distribute instant scratch tickets and accept returned instant scratch tickets as follows:
1. Distribute to each retailer holding a full product license the quantity of tickets on which the Lottery and the retailer agree, based on the retailer's anticipated sales volume.
  2. Collect full and partial packs of tickets during a game if the Lottery and a retailer holding a full product license determine the retailer's sales for a specific game are minimal.
  3. Collect full and partial packs of tickets when a game is ended. The Lottery shall announce the ending date of a game and communicate this information to all retailers holding a full product license in a timely manner.
  4. Credit to a retailer holding a full product license, in the billing period following the receipt of the Lottery-authorized returned tickets, the net dollar value of any unopened full packs and any partial packs of tickets.
- B.** The Lottery or its authorized representative shall distribute instant tab tickets and shall not accept returns of instant tab tickets.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-217. Unaccounted for and Stolen Instant Scratch Tickets**

- A.** All Lottery tickets issued to a retailer holding a full product license or limited license shall be the property of the retailer until their return is acknowledged by the Lottery. The Lottery is not responsible for lost tickets.
- B.** A retailer holding a full product license or limited license shall report stolen Lottery tickets to the local law enforcement agency and the Lottery Investigations unit within one hour from the time the theft occurs or the theft first could have been discovered. The retailer shall:
1. Provide a copy of the written police report to the Lottery,
  2. Cooperate in any investigation and prosecution of the theft,
  3. Sign an affidavit providing the details as known by the retailer, and

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4. Maintain and report current game, pack, and ticket inventory.
- C.** If a retailer holding a full product license or limited license sustains a loss from stolen tickets, the retailer's insurance is the loss payee.
- D.** If a retailer holding a full product license or limited license has insufficient insurance to pay for the retailer's loss and the retailer complies with subsection (B), the Lottery will credit the retailer's account for stolen instant tickets as follows:
1. The Lottery shall credit all charges against the account of the retailer for the stolen tickets if the Lottery determines the theft was from a source not associated with the retailer or by an unknown party.
  2. The Lottery shall credit 50% of the charges against the account of the retailer for the stolen tickets if the Lottery determines the theft was from an employee, manager, officer, director, or a relative with access to Lottery tickets.
  3. Each retailer is limited to no more than two stolen ticket credit requests within any 12-month period.
- E.** The Lottery shall not issue a credit for stolen tickets if the Lottery finds a retailer holding a full product license or limited license was negligent or did not enforce reasonable loss-prevention procedures to protect tickets, ticket processing, and ticket accounting.
- F.** If a prize claim is made against a ticket that has been reported as stolen or a ticket unaccounted for by the retailer holding a full product license or limited license, the Lottery shall hold the prize money in trust pending the findings of an investigation by an appropriate law enforcement agency.
- G.** The loss of instant tab tickets is the responsibility of the retailer.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 22 A.A.R. 1379, effective July 8, 2016 (Supp. 16-2).

**ARTICLE 3. REPEALED****R19-3-301. Repealed****Historical Note**

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Section R4-37-301 adopted effective August 17, 1981 (Supp. 81-4). Former Section R4-37-301 repealed, new Section R4-37-301 adopted effective March 6, 1986 (Supp. 86-2). Amended subsections (F) and (I) effective September 26, 1986 (Supp. 86-5). Amended effective September 12, 1989 (Supp. 89-3). Emergency amendment adopted effective April 20, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-2). Emergency amendments permanently adopted with changes effective July 20, 1993 (Supp. 93-3). R19-3-301 recodified from R4-37-301 (Supp. 95-1). Repealed effective October 25, 1996 (Supp. 96-4).

**R19-3-302. Repealed****Historical Note**

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Section R4-37-302 adopted as an emergency effective August 13, 1981, pursuant to A.R.S. § 41-1003,

valid for only 90 days (Supp. 81-4). Former Section R4-37-302 adopted as an emergency now adopted as a permanent rule effective October 15, 1981 (Supp. 81-5). Former Section R4-37-302 repealed, new Section R4-37-302 adopted effective March 6, 1986 (Supp. 86-2). Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective February 28, 1992 (Supp. 92-1). Repealed effective November 28, 1994 (Supp. 94-4). R-19-3-302 recodified from R4-37-302. Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-303. Repealed****Historical Note**

Adopted as an emergency effective October 14, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-5). Former Section R4-37-303 adopted as an emergency now adopted as a permanent rule effective December 17, 1981 (Supp. 81-6). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-303 adopted effective May 2, 1986 (Supp. 86-2). Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective February 28, 1992 (Supp. 92-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-303 recodified from R4-37-303. (Supp. 95-1). Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-304. Repealed****Historical Note**

Adopted as an emergency effective January 13, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-1). Former Section R4-37-304 adopted as an emergency now adopted as a permanent rule effective February 16, 1982 (Supp. 82-1). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-304 adopted effective June 30, 1986 (Supp. 86-3). Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective March 28, 1992 (Supp. 92-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-304 recodified from R4-37-304 (Supp. 95-1). Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-305. Repealed****Historical Note**

Adopted as an emergency effective May 21, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R4-37-305 adopted as an emergency now adopted as a permanent rule effective August 19, 1982 (Supp. 82-4). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-305 adopted effective August 28, 1986 (Supp. 86-4). Repealed effective September 12, 1989 (Supp. 89-3). Former R4-37-323 adopted and renumbered as R4-37-305 effective November 1, 1989 (Supp. 89-4). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-305 recodified from R4-37-305 (Supp. 95-1). New Section R19-3-305 adopted effective November 3, 1995 (Supp. 95-4). Section, including Illustration A, B and C, repealed by final rulemaking at 11 A.A.R. 3075, effective September 16,



2005 (05-3).

#### **Illustration A. Repealed**

##### **Historical Note**

Illustration A repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

#### **Illustration B. Repealed**

##### **Historical Note**

Illustration B repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

#### **Illustration C. Repealed**

##### **Historical Note**

Illustration C repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

#### **R19-3-306. Repealed**

##### **Historical Note**

Adopted as an emergency effective July 15, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-4). Former Section R4-37-306 adopted as an emergency now adopted as a permanent rule effective October 20, 1982 (Supp. 82-5). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-306 adopted as an emergency effective November 14, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 86-6). Adopted without change as a permanent rule effective February 12, 1987 (Supp. 87-1). Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective January 5, 1990 (Supp. 90-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-306 recodified from R4-37-306. (Supp. 95-1). New Section adopted effective December 6, 1995 (Supp. 95-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

#### **R19-3-307. Repealed**

##### **Historical Note**

Adopted as an emergency effective September 24, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-5). Readopted without change as an emergency effective December 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-5). Former Section R4-37-307 adopted as an emergency now adopted as a permanent rule without change effective March 23, 1983 (Supp. 83-2). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-307 adopted effective January 6, 1987 (Supp. 87-1). Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective March 7, 1990 (Supp. 90-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-307 recodified from R4-37-307. (Supp. 95-1). New Section adopted effective December 6, 1995 (Supp. 95-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

#### **R19-3-308. Repealed**

##### **Historical Note**

Adopted as an emergency effective December 28, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-6). Former Section R4-37-308 adopted as an emergency now adopted as a permanent rule without change effective March 23, 1983 (Supp. 83-2). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-308 adopted effective March 5, 1987 (Supp. 87-2).

Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective April 10, 1990 (Supp. 90-2). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-308 recodified from R4-37-308 (Supp. 95-1). New Section adopted effective December 6, 1995 (Supp. 95-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

#### **R19-3-309. Repealed**

##### **Historical Note**

Adopted as an emergency effective February 18, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-6). Former Section R4-37-309 adopted as an emergency now adopted as a permanent rule with amendments in subsection (F)(1) and (4) effective April 13, 1983 (Supp. 83-2). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-309 adopted effective April 8, 1987 (Supp. 87-2). Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective June 25, 1990 (Supp. 90-2). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-309 recodified from R4-37-309 (Supp. 95-1). New Section adopted effective January 30, 1996 (Supp. 96-1). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

#### **R19-3-310. Repealed**

##### **Historical Note**

Adopted as an emergency effective May 18, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-3). Former Section R4-37-310 adopted as an emergency now adopted as a permanent rule without change effective August 17, 1983 (Supp. 83-4). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-310 adopted effective June 26, 1987 (Supp. 87-3). Repealed effective September 12, 1989 (Supp. 89-3). New Section R4-37-310 adopted effective August 2, 1990 (Supp. 90-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-310 recodified from R4-37-310 (Supp. 95-1). New Section adopted effective March 6, 1996 (Supp. 96-1). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

#### **R19-3-311. Repealed**

##### **Historical Note**

Adopted as an emergency effective July 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-4). Former Section R4-37-301 adopted as an emergency now adopted as a permanent rule without change effective September 29, 1983 (Supp. 83-5). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-311 adopted effective September 10, 1987 (Supp. 87-3). Repealed effective September 12, 1989 (Supp. 89-3). New Section R4-37-311 adopted effective August 2, 1990 (Supp. 90-3). Labels for subsections (E) and (F) changed (Supp. 91-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-311 recodified from R4-37-311 (Supp. 95-1). New Section adopted effective March 6, 1996 (Supp. 96-1). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

#### **R19-3-312. Repealed**

##### **Historical Note**

Adopted effective September 21, 1983 (Supp. 83-5). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-312 adopted effective November 12, 1987

(Supp. 87-4). Repealed effective September 12, 1989 (Supp. 89-3). New Section R4-37-312 adopted effective October 12, 1990 (Supp. 90-4). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-312 recodified from R4-37-312 (Supp. 95-1). New Section adopted effective May 13, 1996 (Supp. 96-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-313. Repealed****Historical Note**

Adopted effective December 1, 1983 (Supp. 83-6). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-313 adopted effective January 7, 1988 (Supp. 88-1). Automatically repealed effective January 7, 1989 (Supp. 89-1). New Section R4-37-313 adopted effective November 6, 1990 (Supp. 90-4). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-313 recodified from R4-37-313 (Supp. 95-1). New Section adopted effective May 13, 1996 (Supp. 96-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-314. Repealed****Historical Note**

Adopted effective January 6, 1984 (Supp. 84-1). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-314 adopted effective March 11, 1988 (Supp. 88-1). Automatically repealed effective March 11, 1989 (Supp. 89-1). New Section R4-37-314 adopted effective December 12, 1990 (Supp. 90-4). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-314 recodified from R4-37-314 (Supp. 95-1). New Section adopted effective June 21, 1996 (Supp. 96-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-315. Repealed****Historical Note**

Adopted effective March 22, 1984 (Supp. 84-2). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-315 adopted effective May 5, 1988. Automatically repealed effective May 5, 1989 (Supp. 89-2). New Section R4-37-315 adopted effective January 21, 1991 (Supp. 91-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-315 recodified from R4-37-315 (Supp. 95-1). New Section adopted effective June 21, 1996 (Supp. 96-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-316. Repealed****Historical Note**

Adopted effective May 31, 1984 (Supp. 84-3). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-316 adopted effective June 30, 1988 (Supp. 88-2). Amended by deleting subsection (C) effective June 12, 1989 (Supp. 89-2). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-316 recodified from R4-37-316 (Supp. 95-1). New Section adopted effective June 21, 1996 (Supp. 96-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-317. Repealed****Historical Note**

Adopted effective July 12, 1984 (Supp. 84-4). Repealed effective September 12, 1989 (Supp. 89-3). New Section

R4-37-317 adopted effective January 21, 1991 (Supp. 91-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-317 recodified from R4-37-317 (Supp. 95-1). New Section adopted effective June 21, 1996 (Supp. 96-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-318. Repealed****Historical Note**

Adopted effective July 26, 1984 (Supp. 84-4). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-318 adopted effective August 10, 1988 (Supp. 88-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-318 recodified from R4-37-318 (Supp. 95-1). New Section adopted effective July 19, 1996 (Supp. 96-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**Illustration "A" Repealed****Historical Note**

Adopted effective July 19, 1996 (Supp. 96-3). Illustration A repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-319. Repealed****Historical Note**

Adopted effective September 14, 1984 (Supp. 84-5). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-319 adopted effective November 9, 1988 (Supp. 88-4). Section expired November 9, 1989 (Supp. 90-1). R19-3-319 recodified from R4-37-319 (Supp. 95-1). New Section adopted effective July 19, 1996 (Supp. 96-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-320. Repealed****Historical Note**

Adopted effective November 15, 1984 (Supp. 84-6). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-320 adopted effective January 6, 1989 (Supp. 89-1). Section expired effective January 6, 1990 (Supp. 90-1). R19-3-320 recodified from R4-37-320 (Supp. 95-1). New Section adopted effective July 19, 1996 (Supp. 96-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-321. Repealed****Historical Note**

Adopted effective November 15, 1984 (Supp. 84-6). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-321 adopted effective March 10, 1989 (Supp. 89-1). Section expired effective March 10, 1990 (Supp. 90-1). R19-3-321 recodified from R4-37-321 (Supp. 95-1). New Section adopted effective July 19, 1996 (Supp. 96-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-322. Repealed****Historical Note**

Adopted effective March 7, 1985 (Supp. 85-2). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-222 adopted effective May 3, 1989 (Supp. 89-2). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-222 recodified from R4-37-222 (Supp. 95-1). New Section adopted effective August 27, 1996 (Supp. 96-3). Section repealed by final rulemaking at 11 A.A.R. 3075,

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effective September 16, 2005 (05-3).

**R19-3-323. Repealed****Historical Note**

Adopted effective May 1, 1985 (Supp. 85-3). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-323 adopted and renumbered as R4-37-305 effected November 1, 1989 (Supp. 89-4). New Section R4-37-323 adopted effective March 25, 1991 (Supp. 91-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-323 recodified from R4-37-323 (Supp. 95-1). New Section adopted effective October 2, 1996 (Supp. 96-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-324. Repealed****Historical Note**

Adopted effective June 12, 1985 (Supp. 85-3). Repealed effective May 2, 1986 (Supp. 86-3). New Section adopted effective May 2, 1991 (Supp. 91-2). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-324 recodified from R4-37-324 (Supp. 95-1). New Section adopted effective October 2, 1996 (Supp. 96-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-325. Repealed****Historical Note**

Adopted effective September 4, 1985 (Supp. 85-5). Repealed effective August 28, 1986 (Supp. 86-4). New Section adopted effective July 3, 1991 (Supp. 91-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-325 recodified from R4-37-325 (Supp. 95-1). New Section adopted October 2, 1996 (Supp. 96-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-326. Repealed****Historical Note**

Adopted effective October 28, 1985 (Supp. 85-5). Repealed effective January 6, 1987 (Supp. 87-1). Adopted effective July 3, 1991 (Supp. 91-3). New Section adopted effective July 3, 1991 (Supp. 91-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-326 recodified from R4-37-326 (Supp. 95-1). New Section adopted effective October 25, 1996 (Supp. 96-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-327. Repealed****Historical Note**

Adopted effective January 9, 1986 (Supp. 86-1). Repealed effective January 6, 1987 (Supp. 87-1). New Section adopted effective July 3, 1991 (Supp. 91-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-327 recodified from R4-37-327 (Supp. 95-1). New Section adopted effective October 24, 1996 (Supp. 96-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-328. Repealed****Historical Note**

Adopted effective October 28, 1985 (Supp. 85-5). Repealed effective January 6, 1987 (Supp. 87-1). Adopted effective July 3, 1991 (Supp. 91-3). New Section adopted effective September 3, 1991 (Supp. 91-3).

Repealed effective November 28, 1994 (Supp. 94-4). R19-3-328 recodified from R4-37-328 (Supp. 95-1). New Section adopted effective October 24, 1996 (Supp. 96-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-329. Repealed****Historical Note**

Adopted effective January 9, 1986 (Supp. 86-1). Repealed effective January 6, 1987 (Supp. 87-1). New Section adopted effective September 3, 1991 (Supp. 91-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-329 recodified from R4-37-329 (Supp. 95-1). New Section adopted November 22, 1996 (Supp. 96-4). Section, including Exhibit A, B and C, repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**Exhibit A. Repealed****Historical Note**

Exhibit A repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**Exhibit B. Repealed****Historical Note**

Exhibit B repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**Exhibit C. Repealed****Historical Note**

Exhibit C repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-330. Repealed****Historical Note**

Adopted effective November 21, 1991 (Supp. 91-4). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-330 recodified from R4-37-330 (Supp. 95-1).

**R19-3-331. Repealed****Historical Note**

Adopted effective December 20, 1991 (Supp. 91-4). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-331 recodified from R4-37-331 (Supp. 95-1).

**R19-3-332. Repealed****Historical Note**

Adopted effective March 13, 1992 (Supp. 92-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-332 recodified from R4-37-332 (Supp. 95-1).

**R19-3-333. Repealed****Historical Note**

Adopted effective July 10, 1992 (Supp. 92-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-333 recodified from R4-37-333 (Supp. 95-1).

**R19-3-334. Repealed****Historical Note**

Adopted effective July 10, 1992 (Supp. 92-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-334 recodified from R4-37-334 (Supp. 95-1).

**R19-3-335. Repealed****Historical Note**

Adopted effective July 10, 1992 (Supp. 92-3). Repealed

effective November 28, 1994 (Supp. 94-4). R19-3-335  
recodified from R4-37-335 (Supp. 95-1).

**R19-3-336. Repealed****Historical Note**

Adopted effective December 18, 1992 (Supp. 92-4).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-336 recodified from R4-37-336 (Supp. 95-1).

**R19-3-337. Repealed****Historical Note**

Adopted effective December 18, 1992 (Supp. 92-4).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-337 recodified from R4-37-337 (Supp. 95-1).

**R19-3-338. Repealed****Historical Note**

Adopted effective December 18, 1992 (Supp. 92-4).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-338 recodified from R4-37-338 (Supp. 95-1).

**R19-3-339. Repealed****Historical Note**

Adopted effective December 23, 1992 (Supp. 92-4).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-339 recodified from R4-37-339 (Supp. 95-1).

**R19-3-340. Repealed****Historical Note**

Adopted effective December 23, 1992 (Supp. 92-4).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-340 recodified from R4-37-340 (Supp. 95-1).

**R19-3-341. Repealed****Historical Note**

Adopted effective December 23, 1992 (Supp. 92-4).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-341 recodified from R4-37-341 (Supp. 95-1).

**R19-3-342. Repealed****Historical Note**

Adopted effective December 23, 1992 (Supp. 92-4).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-342 recodified from R4-37-342 (Supp. 95-1).

**R19-3-343. Repealed****Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-343 recodified from R4-37-343 (Supp. 95-1).

**R19-3-344. Repealed****Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-344 recodified from R4-37-344 (Supp. 95-1).

**R19-3-345. Repealed****Historical Note**

Adopted effective March 4, 1993 (Supp. 93-1). R19-3-  
345 recodified from R4-37-345 (Supp. 95-1). Repealed  
effective April 18, 1997 (Supp. 97-2).

**R19-3-346. Repealed****Historical Note**

Adopted effective March 4, 1993 (Supp. 93-1). R19-3-

346 recodified from R4-37-346 (Supp. 95-1). Repealed  
effective April 18, 1997 (Supp. 97-2)

**R19-3-347. Repealed****Historical Note**

Adopted effective March 4, 1993 (Supp. 93-1). R19-3-  
347 recodified from R4-37-347 (Supp. 95-1). Repealed  
effective April 18, 1997 (Supp. 97-2).

**R19-3-348. Repealed****Historical Note**

Adopted effective March 4, 1993 (Supp. 93-1). R19-3-  
348 recodified from R4-37-348 (Supp. 95-1). Repealed  
effective April 18, 1997 (Supp. 97-2).

**R19-3-349. Repealed****Historical Note**

Adopted effective April 20, 1993 (Supp. 93-2). R19-3-  
349 recodified from R4-37-349 (Supp. 95-1). Repealed  
effective April 18, 1997 (Supp. 97-2).

**R19-3-350. Repealed****Historical Note**

Reserved; Section repealed by final rulemaking at 11  
A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-351. Repealed****Historical Note**

Adopted effective July 30, 1993 (Supp. 93-3). R19-3-351  
recodified from R4-37-351 (Supp. 95-1). Repealed effec-  
tive April 18, 1997 (Supp. 97-2).

**R19-3-352. Repealed****Historical Note**

Adopted effective July 30, 1993 (Supp. 93-3). R19-3-352  
recodified from R4-37-352 (Supp. 95-1). Repealed effec-  
tive April 18, 1997 (Supp. 97-2).

**R19-3-353. Repealed****Historical Note**

Adopted effective July 30, 1993 (Supp. 93-3). R19-3-353  
recodified from R4-37-353 (Supp. 95-1). Repealed effec-  
tive April 18, 1997 (Supp. 97-2).

**R19-3-354. Repealed****Historical Note**

Adopted effective July 30, 1993 (Supp. 93-3). R19-3-354  
recodified from R4-37-354 (Supp. 95-1). Repealed effec-  
tive April 18, 1997 (Supp. 97-2).

**R19-3-355. Repealed****Historical Note**

Adopted effective October 1, 1993 (Supp. 93-4). R19-3-  
355 recodified from R4-37-355 (Supp. 95-1). Repealed  
effective April 18, 1997 (Supp. 97-2).

**R19-3-356. Repealed****Historical Note**

Adopted effective October 1, 1993 (Supp. 93-4). R19-3-  
356 recodified from R4-37-356 (Supp. 95-1). Repealed  
effective April 18, 1997 (Supp. 97-2).

**R19-3-357. Repealed****Historical Note**

Adopted effective December 2, 1993 (Supp. 93-4). R19-

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3-357 recodified from R4-37-357 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-358. Repealed****Historical Note**

Adopted effective December 2, 1993 (Supp. 93-4). R19-3-358 recodified from R4-37-358 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-359. Repealed****Historical Note**

Adopted effective December 2, 1993 (Supp. 93-4). R19-3-359 recodified from R4-37-359 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-360. Repealed****Historical Note**

Adopted effective December 2, 1993 (Supp. 93-4). R19-3-360 recodified from R4-37-360 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-361. Repealed****Historical Note**

Adopted effective December 2, 1993 (Supp. 93-4). R19-3-361 recodified from R4-37-361 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-362. Repealed****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). R19-3-362 recodified from R4-37-362 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-363. Repealed****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). R19-3-363 recodified from R4-37-363 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-364. Repealed****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). R19-3-364 recodified from R4-37-364 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-365. Repealed****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). R19-3-365 recodified from R4-37-365 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-366. Repealed****Historical Note**

Adopted effective May 23, 1994 (Supp. 94-2). R19-3-366 recodified from R4-37-366 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-367. Repealed****Historical Note**

Adopted effective May 23, 1994 (Supp. 94-2). R19-3-367 recodified from R4-37-367 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-368. Repealed****Historical Note**

Adopted effective May 23, 1994 (Supp. 94-2). R19-3-368 recodified from R4-37-368 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-369. Repealed****Historical Note**

Adopted effective June 10, 1994 (Supp. 94-2). R19-3-369 recodified from R4-37-369 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-370. Repealed****Historical Note**

Adopted effective June 10, 1994 (Supp. 94-2). R19-3-370 recodified from R4-37-370 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-371. Repealed****Historical Note**

Adopted effective June 10, 1994 (Supp. 94-2). R19-3-371 recodified from R4-37-371 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-372. Repealed****Historical Note**

Adopted effective July 15, 1994 (Supp. 94-3). R19-3-372 recodified from R4-37-372 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-373. Repealed****Historical Note**

Adopted effective July 15, 1994 (Supp. 94-3). R19-3-373 recodified from R4-37-373 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-374. Repealed****Historical Note**

Adopted effective July 15, 1994 (Supp. 94-3). R19-3-374 recodified from R4-37-374 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-375. Repealed****Historical Note**

Adopted effective September 15, 1994 (Supp. 94-3). R19-3-375 recodified from R4-37-375 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-376. Repealed****Historical Note**

Adopted effective September 15, 1994 (Supp. 94-3). R19-3-376 recodified from R4-37-376 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-377. Repealed****Historical Note**

Adopted effective October 11, 1994 (Supp. 94-4). R19-3-377 recodified from R4-37-377 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-378. Repealed****Historical Note**

Adopted effective October 11, 1994 (Supp. 94-4). R19-3-378 recodified from R4-37-378 (Supp. 95-1). Repealed

effective May 13, 1997 (Supp. 97-2).

**R19-3-379. Repealed****Historical Note**

Adopted effective November 28, 1994 (Supp. 94-4). R19-3-379 recodified from R4-37-379 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-380. Repealed****Historical Note**

Adopted effective November 28, 1994 (Supp. 94-4). R19-3-380 recodified from R4-37-380 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-381. Repealed****Historical Note**

Adopted effective December 20, 1994 (Supp. 94-4). R19-3-381 recodified from R4-37-381 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-382. Repealed****Historical Note**

Adopted effective January 13, 1995 (Supp. 95-1). R19-3-382 recodified from R4-37-382 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-383. Repealed****Historical Note**

Adopted effective January 13, 1995 (Supp. 95-1). R19-3-383 recodified from R4-37-383 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-384. Repealed****Historical Note**

Adopted effective May 11, 1995 (Supp. 95-2). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-385. Repealed****Historical Note**

Adopted effective May 11, 1995 (Supp. 95-2). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-386. Repealed****Historical Note**

Adopted effective May 11, 1995 (Supp. 95-2). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-387. Repealed****Historical Note**

Adopted effective April 20, 1995 (Supp. 95-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-388. Repealed****Historical Note**

Adopted effective April 20, 1995 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-389. Repealed****Historical Note**

Adopted effective April 20, 1995 (Supp. 95-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-390. Repealed****Historical Note**

Adopted effective April 20, 1995 (Supp. 95-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-391. Repealed****Historical Note**

Adopted effective April 20, 1995 (Supp. 95-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-392. Repealed****Historical Note**

Adopted effective April 20, 1995 (Supp. 95-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-393. Repealed****Historical Note**

Adopted effective July 17, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-394. Repealed****Historical Note**

Adopted effective July 17, 1995 (Supp. 95-3). Section, including Exhibit A and B, repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**Exhibit A. Repealed****Historical Note**

Exhibit A repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**Exhibit B. Repealed****Historical Note**

Exhibit B repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-395. Repealed****Historical Note**

Adopted effective July 17, 1995 (Supp. 95-3). Section, including Exhibit C, repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**Exhibit C. Repealed****Historical Note**

Exhibit C repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-396. Repealed****Historical Note**

Adopted effective July 17, 1995 (Supp. 95-3). Section, including Exhibit D, repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**Exhibit D. Repealed****Historical Note**

Exhibit D repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-397. Repealed****Historical Note**

Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075,

effective September 16, 2005 (05-3).

**R19-3-398. Repealed**

**Historical Note**

Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-399. Repealed**

**Historical Note**

Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**ARTICLE 4. DESIGN AND OPERATION OF ON-LINE GAMES**

**R19-3-401. Definitions**

Definitions. In this Article, unless the context otherwise requires, these words and terms shall have the following meanings:

1. "Cash Value" means payment of the Division 1 (jackpot) prize pool share amount paid in one lump sum as provided in the prize structure in the game profile.
2. "Drawing" means the process used to randomly select the winning play symbols from the defined game matrix.
3. "On-line Lottery Game" means a game where tickets are purchased through a network of Arizona Lottery-issued computer terminals located in retail outlets. The terminals are linked to a central computer that records the wagers.
4. "Fixed payout" means a set prize dollar amount for that specific prize in the prize structure.
5. "Game board" or "board" means the area of the selection slip which contain a matrix that lists all the offered play symbols. More than one game board may appear on the selection slip.
6. "Game option" means a game feature that is tied to a specific game which the player has a choice to play.
7. "Game play" or "play" means the selected play symbols which appear on a ticket as a single wager. More than one game play may appear on a ticket.
8. "Game profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential game fundamentals required by these rules for an on-line game.
9. "Game ticket" or "ticket" means a receipt produced by a Lottery-issued terminal evidencing the purchase of a participation in a game or game option. The ticket contains a security code, ticket price, a retailer number, a serial number and the game symbols purchased for one or more specific drawings.
10. "Matrix" means the number of selections a player may choose from a predetermined pool of play symbols.
11. "Multiple winners" means a situation in which more than one claimant redeems an individual share in one wager.
12. "Pari-mutuel" means a system in which those holding winning tickets divide the total prize amount in proportion to their wagers.
13. "Play style" means the description in the game profile of the matrix, play symbols, and the manner of selecting the winning play symbols.
14. "Play symbols" means the numbers, letters, symbols, or pictures used in the matrix to determine if a player is entitled to a prize.
15. "POWERBALL" means a multi-state game that is conducted pursuant to the rules of the Multi-State Lottery Association (MUSL) and approved by a game profile.
16. "Prize category" means the value of a specific prize.

17. "Prize structure" means the chart of the prize value, number of prizes or prize payout percentage, any fixed payments, any pari-mutuel payments, and the odds of winning the prizes.
18. "Prohibited games" mean on-line or electronic keno or internet games.
19. "Quick pick" means the random selection by a terminal of one or more play symbols from the defined game matrix.
20. "Selection slip" means a preprinted set of game boards provided by the Lottery upon which the player selects play symbols and game options. Each selection slip may have multiple game boards.
21. "Share" means any single winning game play, which is equal to any other share in the same prize division.
22. "Terminal" means a device authorized by the Lottery linked to a central computer for the purpose of issuing Lottery tickets and entering, receiving, and processing Lottery transactions.
23. "Winning numbers or winning play symbols" means the numbers or play symbols from the defined game matrix randomly selected at each drawing which determine winning game plays contained on a ticket.

**Historical Note**

Adopted as an emergency effective June 10, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-3). Former Section R4-37-401 adopted as an emergency effective June 10, 1983, now adopted without change as a permanent rule effective September 14, 1983 (Supp. 83-5). Amended subsections (A), (D), (E), (J), (K) effective September 7, 1984 (Supp. 84-4). Amended subsection (K) effective March 14, 1985 (Supp. 85-2). Amended effective September 26, 1986 (Supp. 86-5). Amended effective June 29, 1989 (Supp. 89-2). Amended as an emergency effective September 25, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency expired. Emergency amendments permanently adopted effective March 3, 1992 (Supp. 92-1). Amended effective March 9, 1992 (Supp. 92-1). Amended effective April 4, 1994 (Supp. 94-2). R19-3-401 recodified from R4-37-401 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-402. Game Profile**

- A. Each game or game option shall have a Game Profile and at a minimum, the Profile shall contain the following information:
  1. Game name or game option name;
  2. Matrix/description of how to play and win;
  3. Retail sales price;
  4. Purchase conditions and characteristics;
  5. Play symbols and prize symbols, if any;
  6. Prize structure, including the approximate odds, the prize amounts available, the prize pool percentage, if alternate prize structures are to be used, any subsection (B) provisions, and any special Division 1 (jackpot) prize specifications;
  7. Special features, if any; and
  8. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.
- B. Each on-line game or option may include specific variants that provide added or alternative methods of winning. Any variants shall be described in the Game Profile.
- C. The Commission shall approve the Game Profile prior to the game being sold to the public.

**Historical Note**

Adopted effective June 27, 1997 (Supp. 97-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 1. Repealed****Historical Note**

Exhibit 1 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 2. Repealed****Historical Note**

Exhibit 2 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 3. Repealed****Historical Note**

Exhibit 3 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 4. Repealed****Historical Note**

Exhibit 4 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 5. Repealed****Historical Note**

Exhibit 5 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 6. Repealed****Historical Note**

Exhibit 6 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 7. Repealed****Historical Note**

Exhibit 7 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 8. Repealed****Historical Note**

Exhibit 8 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 9. Repealed****Historical Note**

Exhibit 9 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 10. Repealed****Historical Note**

Exhibit 10 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 11. Repealed****Historical Note**

Exhibit 11 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 12. Repealed****Historical Note**

Exhibit 12 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 13. Repealed****Historical Note**

Exhibit 13 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 14. Repealed****Historical Note**

Exhibit 14 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**Exhibit 15. Repealed****Historical Note**

Exhibit 15 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-403. Ticket Purchases, Characteristics, and Restrictions**

- A.** To play an on-line game, a player shall select the specified number of play symbols from the defined game matrix approved in the Game Profile for input into the terminal. Selection methods include:
1. Communicating the play symbols and game options to a retailer, or
  2. Marking the selection slip and submitting the selection slip to a retailer, or
  3. Requesting a "Quick Pick," or
  4. Marking a "Quick Pick" box on a selection slip.
- B.** Game plays must be entered into the Lottery terminal manually or by inserting a Lottery selection slip that is hand marked by the player. Facsimiles, simulations, copies of selection slips, or other materials not printed or approved by the Lottery are prohibited from use.
- C.** To claim a prize, a player must submit the original ticket for validation. Selection slips are not proof of purchase.
- D.** The ticket holder is responsible for the accuracy of ticket data. The Lottery shall not be liable for ticket errors.

**Historical Note**

Adopted effective April 30, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-404. Drawings**

- A.** The drawings shall be held at the times and places established in the Game Profile.
- B.** The on-line game drawing shall randomly select the winning play symbols from those defined in the Game Profile. Mechanical, electrical, or computerized drawing methods may be used to make the random selection.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393,



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effective February 15, 2005 (Supp. 04-4).

**R19-3-405. Determination of a Winning Game Play**

- A. A player shall win the prize(s) indicated in the prize structure by matching the winning play symbols selected at the drawing to the play symbols selected by the player.
- B. Players may win on each game play on a ticket.
- C. There may be multiple winning patterns on a single ticket that match winning patterns described in the Game Profile.
- D. The prize structure ordered in the Game Profile shall determine the pari-mutuel and/or fixed prize amount to be paid on a single winning game play.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-406. Ticket Ownership and Responsibility; Prize Payment**

- A. Until a ticket is signed, the ticket is owned by its physical possessor.
- B. The Director shall recognize as the owner of a winning on-line ticket the person whose signature appears upon the ticket in the area designated for that purpose.
  1. If more than one signature appears on the ticket, the Director is authorized to require that one or more of those claimants be designated to receive the payment. A claim form shall be submitted by each claimant who is designated to receive a portion of the prize claimed from the winning ticket.
  2. Prior to payment of a prize, a claimant who has signed the ticket may designate another claimant to receive the prize by signing a relinquishment of claim statement.
  3. When the winning ticket was purchased by a group of players, the group shall designate one of the claimants to sign the ticket for the group. Each claimant shall complete an individual claim form to receive the claimant's portion of the prize.
  4. In the event there is an inconsistency in the information submitted on a claim form and as shown on the winning on-line ticket, the Director shall authorize an investigation and withhold all winnings payable to the ticket owner or holder until such time as the Director is satisfied that the proper person is being paid.
- C. Prior to paying the claimant a prize of \$600 or more, the Lottery shall match the winner's name against the lists of persons owing a debt to a participating state agency, furnished to the Lottery under A.R.S. § 5-575.
  1. If there is a match on any of the claims submitted with a ticket, the amount that is owed shall be deducted from the prize due the claimant.
  2. The claimant shall be notified in writing of the amount of the set-off and the agency to which it shall be paid.
  3. If the claimant has two or more agencies which are owed a debt, the Lottery shall pay a pro-rata share to each of the agencies, except that a Department of Economic Security overdue child support set-off shall be paid in full before any amount shall be paid to another agency.
  4. The claimant shall be notified in writing that a right to appeal the set-off exists and must be commenced within 30 days of the receipt of this notification. The notification shall include the name and address of the agency with which to file the appeal.
  5. If, after deducting withholding taxes and the set-off, a portion of the prize remains then that portion shall be paid to the winner with the notification of set-off.
  6. The amount of set-off shall be forwarded to the agency, and that agency shall be responsible for any appeal and

crediting of the payment against the amount owed or refunding any amount to the winner.

7. Upon a determination that a set-off is due, the winner loses the right under subsection (B)(2) to assign any portion of the claim.
- D. Prizes shall be paid by cash, check, or if requested by the player, by Lottery tickets.
  1. If a ticket contains more than one winning game play, any prize amounts shall be combined and paid in accordance with the prize payment limits specified in Section R19-3-408.
  2. Each winning game play wins the prize amount specified in the Game Profile.
- E. The Lottery is not responsible for lost or stolen tickets.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations.

Therefore the A.R.S. citation in subsection (C) was updated. Agency request filed September 24, 2012, Office File No. M12-343 (Supp. 12-3).

**R19-3-407. Ticket Validation Requirements**

- A. Each on-line game ticket shall be validated prior to the payment of a prize.
- B. To be eligible for a prize, a ticket holder must present a ticket meeting all of the following requirements;
  1. Issued by the Lottery through a retailer, from a terminal, in an authorized manner;
  2. Intact and not mutilated or tampered with in any manner;
  3. Not defectively printed;
  4. Not a reprinted ticket stating "Not for Sale" on the ticket;
  5. Not counterfeit or stolen;
  6. Able to pass all other confidential validation tests determined by the Director; and
  7. Validated in accordance with the provisions of sections R19-3-406 and R19-3-408.
  8. The ticket data is:
    - a. Recorded in the designated central computer system prior to the drawing;
    - b. In agreement with the computer record;
    - c. In the Lottery's official file of winning tickets;
  9. Any winning game play on the ticket consists of a selected set of play symbols from the defined game matrix.
  10. Has not been previously paid.
- C. If the ticket fails to pass any of the requirements in Section R19-3-407(B), the ticket is void and ineligible for any prize payout.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-408. Procedure for Claiming Prizes**

- A. To claim a prize of up to and including \$599, the claimant shall present the ticket to any participating on-line licensed retailer or to a Lottery office, or mail the ticket to a Lottery office for validation. The licensed retailer shall pay a winner a prize up to and including \$100 and may pay a winner a prize up to and including \$599 provided that:
  1. All of the ticket validation criteria in Section R19-3-407 has been satisfied; and
  2. A proper validation slip, which is an authorization to pay, has been issued by the terminal.

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- B.** To claim a prize that the retailer does not validate or is not authorized to pay, including all prizes of \$600 or more, the claimant shall submit a claim form, available from any retailer, and the ticket to the Lottery. If the claim is:
1. Verified and validated by the Lottery as a winning ticket, the Lottery shall make payment of the amount due to the claimant, less any authorized debt set-off amounts and/or withheld taxes.
  2. Denied by the Lottery, the claimant shall be notified within 15 days from the day the claim is received in the Lottery office.
- C.** If a prize winner dies prior to receiving full payment, the Lottery shall pay all remaining prize money to the prize winner's beneficiary or to any person designated by an appropriate judicial order.
- D.** The Lottery is discharged of all liability upon payment of the prize money.
- E.** Payment of prize money shall not be accelerated ahead of its normal date of payment.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-409. Claim Period**

- A.** In order for the claimant to receive payment, a winning on-line game ticket shall be received by the Lottery or a retailer no later than 5:00 p.m. (Phoenix time) on the 180th calendar day following the game drawing date.
- B.** If a claimant presents a valid winning ticket to a retailer for payment on the 180th calendar day following the game drawing date and is not paid the prize, the Director is authorized to pay the prize if the claimant presents the valid winning ticket to the Lottery no later than 5:00 p.m. (Phoenix time) on the following business day.
- C.** The end of an on-line game shall be designated by the Director and on file at the Lottery.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-410. Disputes Concerning a Ticket**

- A.** If a dispute between the Lottery and a claimant occurs concerning a ticket, the Director is authorized to replace the disputed ticket with a ticket of equivalent sales price for any subsequent drawing from the same game.
- B.** If a defective ticket is purchased, the Lottery shall replace the defective ticket with a ticket or tickets of equivalent sales price from the same game.
- C.** Replacement of the disputed ticket is the sole and exclusive remedy for a claimant.
- D.** If a dispute between the Lottery and a claimant occurs concerning the eligibility of an entry into a Grand Prize drawing, the Director is authorized to place any person's eligible entry that was not entered in the Grand Prize drawing into a subsequent Grand Prize drawing or drawings.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-411. Prize Fund**

- A.** Not less than 50 percent of the total annual revenue accruing from the sale of on-line game tickets shall be deposited in the state lottery prize fund for payment of prizes to the holders of winning tickets.
- B.** If an on-line game is terminated for any reason, any remaining prize monies shall be held by the Lottery for a period of 180

days from the date of the last drawing and then used for additional prizes in any other Lottery game.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-412. Multi-State Lottery Association Games**

- A.** The Arizona Lottery is a participating member of the Multi-State Lottery Association (MUSL) referred to as a "party lottery" in the MUSL game rules.
- B.** A game profile approved by the Commission and conforming to the information required in R19-3-403 shall be on file at the Arizona State Lottery for all MUSL games played in Arizona.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**ARTICLE 5. PROCUREMENTS****R19-3-501. Definitions**

In this Article, unless the context otherwise requires:

1. "Affiliate" means any person whose governing instruments require it to be bound by the decision of another person or whose governing board includes enough voting representatives of the other person to cause or prevent action, whether or not the power is exercised. The term applies to persons doing business under a variety of names, persons in a parent-subsidiary relationship, or persons that are similarly affiliated.
2. "Aggregate dollar amount" means purchase price, including taxes and delivery charges, for the term of the contract and accounting for all allowable extensions and options.
3. "Best and Final Offer" means a revision to an offer submitted after negotiations are completed that contain the offeror's most favorable terms for price, service, and products to be delivered.
4. "Best interests of the Lottery" means advantageous to the Lottery.
5. "Bid" means an offer in response to solicitation.
6. "Business" means a corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other private legal entity.
7. "Change order" means a written order that is signed by the procurement officer and that directs the contractor to make changes that the changes clause of the contract authorizes the procurement officer to order.
8. "Contract" means an agreement, regardless of what it is called, for the procurement of Lottery equipment, tickets, and related materials.
9. "Contract amendment" means a written alteration in the terms or conditions of a contract accomplished by mutual action of the parties to the contract or a unilateral exercise of a right contained in the contract.
10. "Contractor" means a person who has a contract with the Lottery.
11. "Cost data" means information concerning the actual or estimated cost of labor, material, overhead, and other cost elements that have been incurred or are expected to be incurred by the contractor in performing the contract.
12. "Cost-plus-a-percentage-of-cost-contract" means the parties to a contract agree that the fee will be a predetermined percentage of the cost of work performed and the contract does not limit the cost and fee before authorization of performance.
13. "Cost reimbursement contract" means a contract under which a contractor is reimbursed for costs that are reason-

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- able, allowable, and allocable in accordance with the contract terms and the provisions of this Article, and a fee, if provided for in the contract.
14. "Day" means a calendar day and is computed under A.R.S. § 1-243, unless otherwise specified in the solicitation or contract.
  15. "Defective data" means data that is inaccurate, incomplete, or outdated.
  16. "Director" means the Executive Director of the State Lottery.
  17. "Discussions" means oral or written negotiation between the Lottery and an offeror during which information is exchanged about specifications, scope of work, terms and conditions, and price included in an initial proposal. Communication with an offeror for the sole purpose of clarification does not constitute "discussions."
  18. "Filed" means delivered to the procurement officer or to the Director, whichever is applicable, in a manner specified by the Arizona Procurement Code or a solicitation.
  19. "Governing instruments" means legal documents that establish the existence of an organization and define its powers, including articles of incorporation or association, constitution, charter, bylaws, or similar documents.
  20. "Interested party" means an offeror or prospective offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract, or by the failure to award a contract. Whether an offeror or prospective offeror has an economic interest depends upon the circumstances of each case.
  21. "Invitation for bids" means all documents, whether attached or incorporated by reference, that are used to solicit bids in accordance with R19-3-508.
  22. "Minor informality" means any mistake, excluding a judgmental error, that has negligible effect on price, quantity, quality, delivery, or other contractual terms and the waiver or correction of which does not prejudice other bidders or offerors.
  23. "Multiple award" means a grant of an indefinite quantity contract for one or more similar materials or services to more than one bidder or offeror.
  24. "Multi-step sealed bidding" means a two-phase bidding process consisting of a technical phase and a price phase.
  25. "Negotiation" means an exchange or series of exchanges, including a request for a best and final offer, between the Lottery and an offeror or contractor that allows the Lottery or the offeror or contractor to revise an offer or contract, unless revision is specifically prohibited by these rules or statutes.
  26. "Offer" means a response to a solicitation.
  27. "Offeror" means a person who responds to a solicitation.
  28. "Person" means any corporation, limited liability company, limited liability partnership, partnership, business, individual, union, committee, club, other organization, or group of individuals.
  29. "Price data" means information concerning prices, including profit, for materials, services, or construction substantially similar to the materials, services, or construction to be procured under a contract or subcontract. In this definition, "prices" refers to offered selling prices, historical selling prices, or current selling prices of the items to be purchased.
  30. "Procurement" means all functions that pertain to obtaining any materials or services for the design or operation of a Lottery game or the purchase of Lottery equipment, tickets, and related materials.
  31. "Procurement file" means the official records file of the Lottery. The procurement file shall include (electronic or paper) the following:
    - a. List of notified vendors;
    - b. Final solicitation;
    - c. Solicitation amendments;
    - d. Bids and offers;
    - e. Offer revisions and best and final offers;
    - f. Discussions;
    - g. Clarifications;
    - h. Final evaluation reports; and
    - i. Additional information, if requested by the procurement officer.
  32. "Proposal" means an offer submitted in response to a solicitation.
  33. "Prospective offeror" means a person that expresses an interest in a specific solicitation.
  34. "Purchase description" means the words used in a solicitation to describe Lottery materials to be procured and includes specifications attached to, or made a part of, the solicitation.
  35. "Purchase request" or "purchase requisition" means a document or electronic transmission in which the Director requests that a contract be entered into for a specific need and may include a description of a requested item, delivery schedule, transportation data, criteria for evaluation, suggested sources of supply, and information needed to make a written determination required by this Article.
  36. "Request for proposals" means all documents, whether attached or incorporated by reference, that are used to solicit proposals in accordance with R19-3-509.
  37. "Responsible bidder or offeror" means a person who has the capability to perform contract requirements and the integrity and reliability necessary to ensure a good faith performance.
  38. "Responsive bidder or offeror" means a person who submits a bid that conforms in all material respects to the invitation for bids or request for proposals.
  39. "Reverse auction" means a procurement method in which offerors are invited to bid on specified goods or services through online bidding and real-time electronic bidding. During an electronic bidding process, offerors' prices or relative ranking are available to competing offerors and offerors may modify their offer prices until the closing date and time.
  40. "Services" means the labor, time, or effort furnished by a contractor with no expectation that a specific end product other than required reports and performance will be delivered. Services does not include employment agreements or collective bargaining agreements.
  41. "Significant procurement role":
    - a. Means any role that includes any of the following duties:
      - i. Participating in the development of a procurement.
      - ii. Participating in the development of an evaluation tool.
      - iii. Approving a procurement or an evaluation tool.
      - iv. Soliciting quotes greater than ten thousand dollars for the provision of materials or services.
      - v. Serving as a technical advisor or an evaluator who evaluates a procurement.
      - vi. Recommending or selecting a vendor that will provide materials or services to the Lottery.

- vii. Serving as a decision maker or designee on a protest or an appeal by a party regarding a Lottery procurement selection or decision.
  - b. Does not include making a decision on developing specifications and the scope of work for a procurement if the decision is based on the application of commonly accepted industry standards or known published standards of the Lottery as applied to the project, services, goods, or materials.
42. "Small business" means a for-profit or not-for-profit organization, including its affiliates, with fewer than 100 full-time employees or gross annual receipts of less than four million dollars for the last complete fiscal year.
  43. "Solicitation" means an invitation for bids, a request for technical offers, a request for proposals, a request for quotations, or any other invitation or request issued by the Lottery to invite a person to submit an offer.
  44. "Specification" means a description of the physical or functional characteristics, or of the nature of a Lottery material or service. Specification includes a description of any requirement for inspecting, testing, or preparing a Lottery material for delivery.
  45. "Subcontractor" means a person who contracts to perform work or render service to a contractor or to another subcontractor as a part of a contract with the Lottery.
  46. "Suspension" means an action taken by the Director of the Department of Administration under R2-7-C901 that temporarily disqualifies a person from participating in a state procurement process.
  47. "Technical offer" means unpriced written information from a prospective contractor stating the manner in which the prospective contractor intends to perform certain work, its qualifications, and its terms and conditions.
  48. "Trade secret" means information, including a formula, pattern, device, compilation, program, method, technique, or process, that is the subject of reasonable efforts to maintain its secrecy and that derives independent economic value, actual or potential, as a result of not being generally known to and not being readily ascertainable by legal means.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-501 repealed, new Section R4-37-501 renumbered from R4-37-502 and amended effective May 7, 1990 (Supp. 90-2). R19-3-501 recodified from R4-37-501 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Amended by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

#### R19-3-502. Written Determination

- A. If a written determination is required under applicable law, the procurement officer shall include the basis for the action taken in the written determination.
- B. The procurement officer shall place the written determination into the Lottery's procurement file.
- C. A procurement file is considered the official records file of the Lottery.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-

3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-502 renumbered to R4-37-501, new Section R4-37-502 renumbered from R19-3-503 and amended effective May 7, 1990 (Supp. 90-2). R19-3-502 recodified from R4-37-502 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### R19-3-503. Confidential Information

- A. If a person wants to assert that a person's offer, specification, or protest contains a trade secret or other proprietary information, a person shall include with the submission a statement supporting this assertion. A person shall clearly designate the beginning and end of any information that is designated a trade secret or other proprietary information, using the term "confidential." Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.
- B. Until a final determination is made under subsection (D), the procurement officer shall not disclose information designated as confidential under subsection (A) except to those individuals deemed by the procurement officer to have a legitimate Lottery interest.
- C. Upon protest to a confidential submission, the procurement officer shall request that the offeror and protester submit factual and legal comments on the issue by a date certain.
- D. After reviewing the statements or expiration of the time to comment, or both, the procurement officer shall make a determination that:
  1. The designated information is confidential and the procurement officer shall not disclose the information except to those individuals deemed by the procurement officer to have a legitimate Lottery interest,
  2. The designated information is not confidential, or
  3. Additional information is required before a final confidentiality determination can be made.
- E. If the procurement officer determines that information submitted is not confidential, a person who made the submission shall be notified in writing. The notice shall include a time period for requesting a review of the determination. The procedures and requirements for review in A.R.S. Title 41, Chapter 6, Article 10 apply to such a review by the Director.
- F. The procurement officer may release information designated as confidential under subsection (A) if:
  1. A request for review is not received by the procurement officer within the time period specified in the notice; or
  2. The Director, after review of the recommended findings of fact and conclusions of law, makes a written determination that the designated information is not confidential.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-503 renumbered to R4-37-502, new Section R4-37-503 renumbered from R19-3-504 and amended effective May 7, 1990 (Supp. 90-2). R19-3-503 recodified from R4-37-503 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Amended by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

#### R19-3-504. General Provisions

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- A. A person that participates in any aspect of a specific procurement as an advisor to the Lottery shall not receive any direct or indirect benefit from a contract for the procurement.
- B. The Director shall not pay for any material or service unless fully approved.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-504 renumbered to R4-37-503, new Section R4-37-504 renumbered from R4-37-505 and amended effective May 7, 1990 (Supp. 90-2). R19-3-504 recodified from R4-37-504 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Amended by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-505. Prospective Suppliers List**

- A. The procurement officer may refer to a prospective suppliers list maintained by the state procurement administrator as a resource for selection of suppliers.
- B. The procurement officer may choose to compile and maintain a Lottery prospective suppliers list as a resource for selection of suppliers.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R19-3-505 renumbered to R4-37-504, new Section R19-3-505 renumbered from R4-37-507 and amended effective May 7, 1990 (Supp. 90-2). R19-3-505 recodified from R4-37-505 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-506. Source Selection Method: Determination Factors**

- A. The procurement officer shall determine the applicable source selection method for a procurement, estimating the aggregate dollar amount of the contract and ensuring that the procurement is not artificially divided, fragmented, or combined to circumvent A.R.S. §§ 5-559 and 41-2501(G).
- B. If the procurement officer believes that an existing Arizona state contract is sufficient to satisfy the Lottery's requirements, the procurement officer may procure those materials and services covered by such contracts.
- C. The procurement officer shall not award a contract or incur an obligation on behalf of the Lottery unless sufficient funds are available for the procurement, consistent with A.R.S. § 35-154. If it is reasonable to believe that sufficient funds will become available for a procurement, the procurement officer may issue a notice with the solicitation indicating that funds are not currently available and that any contract awarded will be conditioned upon the availability of funds.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-506 repealed, new Section R4-37-506 renumbered from R4-37-508 and amended effective May 7, 1990 (Supp. 90-2). R19-3-506 recodified from R4-37-506 (Supp. 95-1). Amended effective

December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations. Therefore the first A.R.S. citation in subsection (A) was updated. Agency request filed September 24, 2012, Office File No. M12-343 (Supp. 12-3). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-507. Solicitation**

- A. The procurement officer shall issue a solicitation at least 14 days before the offer due date and time, unless the procurement officer determines a shorter time is necessary for a particular procurement. If a shorter time is necessary, the procurement officer shall document the specific reasons in the procurement file.
- B. The procurement officer shall:
  1. Advertise the procurement not less than two weeks before offer due date at least one time in a newspaper of general circulation and place the notice on the Lottery web site; and
  2. At a minimum, provide written notice to the prospective suppliers that have registered with the Lottery's procurement officer for the specific material, service, or construction solicited.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-507 renumbered to R4-37-505, new Section R4-37-507 renumbered from R4-37-509 and amended effective May 7, 1990 (Supp. 90-2). R19-3-507 recodified from R4-37-507 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-508. Bid Solicitation Requirements**

The procurement officer shall include the following in the solicitation:

1. Instruction to offerors, including:
  - a. Instructions and information to offerors concerning the offer submission requirements, offer due date and time, the location where offers or other documents will be received, and the offer acceptance period;
  - b. The deadline date for requesting a substitution or exception to the solicitation;
  - c. The manner by which the offeror is required to acknowledge amendments;
  - d. The minimum required information in the offer;
  - e. The specific requirements for designating trade secrets and other proprietary information as confidential;
  - f. Any specific responsibility criteria;
  - g. Whether the offeror is required to submit samples, descriptive literature, or technical data with the offer;
  - h. Any evaluation criteria;
  - i. A statement of where documents incorporated by reference are available for inspection and copying;
  - j. A statement that the agency may cancel the solicitation or reject an offer in whole or in part;

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- k. Certification by the offeror that submission of the offer did not involve collusion or other anticompetitive practices;
  - l. Certification by the offeror of compliance with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance;
  - m. That the offeror is required to declare whether the offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
  - n. Any bid security required;
  - o. The means required for submission of an offer. The solicitation shall specifically indicate whether hand delivery, U.S. mail, electronic mail, facsimile, or other means are acceptable methods of submission;
  - p. Any designation of the specific bid items and amounts to be recorded at offer opening; and
  - q. Any other offer submission requirements;
2. Specifications, including:
- a. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
  - b. If a brand name or equivalent specification is used, instructions that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to the brands designated qualify for consideration; and
  - c. Any other specification requirements;
3. Terms and Conditions, including:
- a. Whether the contract will include an option for extension, and
  - b. Any other contract terms and conditions.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-508 renumbered to R4-37-506, new Section R4-37-508 renumbered from R4-37-510 and amended effective May 7, 1990 (Supp. 90-2). R19-3-508 recodified from R4-37-508 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-509. Request for Proposal Solicitation Requirements**

The procurement officer shall include the following in the solicitation:

- 1. Instructions to offerors, including:
  - a. Instructions and information to offerors concerning the offer submission requirements, offer due date and time, the location where offers will be received, and the offer acceptance period;
  - b. The deadline date for requesting a substitution or exception to the solicitation;
  - c. The manner by which the offeror is required to acknowledge amendments;

- d. The minimum information required in the offer;
  - e. The specific requirements for designating trade secrets and other proprietary information as confidential;
  - f. Any specific responsibility or susceptibility criteria;
  - g. Whether the offeror is required to submit samples, descriptive literature, and technical data with the offer;
  - h. Evaluation factors and the relative order of importance;
  - i. A statement of where documents incorporated by reference are available for inspection and copying;
  - j. A statement that the agency may cancel the solicitation or reject an offer in whole or in part;
  - k. Certification by the offeror that submission of the offer did not include collusion or other anticompetitive practices;
  - l. Certification by the offeror of compliance with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance;
  - m. That the offeror is required to declare whether the offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
  - n. Any offer security required;
  - o. The means required for submission of offer. The solicitation shall specifically indicate whether hand delivery, U.S. mail, electronic mail, facsimile, or other means are acceptable methods of submission;
  - p. Any cost or pricing data required;
  - q. The type of contract to be used;
  - r. A statement that negotiations may be conducted with offerors reasonably susceptible of being selected for award; and
  - s. Any other offer requirements specific to the solicitation.
2. Specifications, including:
- a. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
  - b. If a brand name or equivalent specification is used, instructions that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration; and
  - c. Any other specification requirements specific to the solicitation.
3. Terms and Conditions, including:
- a. Whether the contract is to include an extension option, and
  - b. Any other contract terms and conditions.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-509 renumbered to R4-37-507, new Section R4-37-509 renumbered from R4-37-512 and amended effective May 7, 1990 (Supp. 90-2). R19-3-509 recodified from R4-37-509 (Supp. 95-1). Amended effective December 16, 1997

(Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

#### **R19-3-510. Pre-Offer Conferences**

The procurement officer may conduct one or more pre-offer conferences. If a pre-offer conference is conducted for a solicitation, it shall be within a reasonable time prior to the offer due date and time to discuss the procurement requirements and solicit comments from prospective offerors. Amendments to the solicitation may be issued, if necessary, in accordance with R19-3-511.

##### **Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-510 renumbered to R4-37-508, new Section R4-37-510 renumbered from R4-37-513 and amended effective May 7, 1990 (Supp. 90-2). R19-3-510 recodified from R4-37-510 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

#### **R19-3-511. Solicitation Amendment**

- A. The procurement officer shall issue a solicitation amendment to do any or all of the following:
  1. Make changes in the solicitation,
  2. Correct defects or ambiguities,
  3. Provide additional information or instructions, or
  4. Extend the offer due date and time if the procurement officer determines that an extension is in the best interest of the Lottery.
- B. If a solicitation is changed by a solicitation amendment, the procurement officer shall notify suppliers to whom the procurement officer distributed the solicitation.
- C. It is the responsibility of the offeror to obtain any solicitation amendments. An offeror shall acknowledge receipt of an amendment in the manner specified in the solicitation or solicitation amendment on or before the offer due date and time.

##### **Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-511 repealed, new Section R4-37-511 renumbered from R4-37-514 and amended effective May 7, 1990 (Supp. 90-2). R19-3-511 recodified from R4-37-511 (Supp. 95-1). Former Section R19-3-511 renumbered to R19-3-513 and amended; new Section R19-3-511 adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

#### **R19-3-512. Modification or Withdrawal of Offer Before Offer Due Date and Time**

- A. An offeror may modify or withdraw its offer, in writing, before the offer due date and time.
- B. The procurement officer shall place the document submitted by the offeror in the procurement file as a record of the modification or withdrawal.

##### **Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-512 renumbered to R4-37-509, new Section R4-37-512 renumbered from R4-37-515 and amended effective May 7, 1990 (Supp. 90-2). R19-3-512 recodified from R4-37-512 (Supp. 95-1). Former Section R19-3-512 renumbered to R19-3-514 and amended; new Section R19-3-512 adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### **R19-3-513. Cancellation of a Solicitation Before Offer Due Date and Time**

- A. Based on the best interest of the Lottery, the procurement officer may cancel a solicitation before the offer due date and time.
- B. The procurement officer shall notify suppliers to whom the procurement officer distributed the solicitation.
- C. The procurement officer shall not open offers after cancellation. The procurement officer may discard the offer after 30 days from notice of solicitation cancellation, unless the offeror requests the offer be returned.

##### **Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-513 renumbered to R4-37-510, new Section R4-37-513 renumbered from R19-3-516 and amended effective May 7, 1990 (Supp. 90-2). R19-3-513 recodified from R4-37-513 (Supp. 95-1). Former Section R19-3-513 renumbered to R19-3-515 and amended; new Section R19-3-513 renumbered from R19-3-511 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### **R19-3-514. Receipt, Opening, and Recording of Offers**

- A. The procurement officer shall maintain a record of offers received for each solicitation and shall record the time and date when an offer is received. The procurement officer shall store each unopened offer in a secure place until the offer due date and time.
- B. The Lottery may open an offer to identify the offeror. If this occurs, the procurement officer shall record the reason for opening the offer, the date and time the offer was opened, and the solicitation number. The procurement officer shall secure the offer and retain it for public opening.
- C. For a bid solicitation, the procurement officer shall open offers after the offer due date and time. The procurement officer shall record the name of each offeror, the amount of each offer, and any other relevant information as determined by the procurement officer. The procurement officer shall make the record of offers available for public viewing.
- D. For a proposal solicitation, the procurement officer shall open offers after the offer due date and time. The procurement officer shall record the name of each offeror and any other relevant information as determined by the procurement officer. The procurement officer shall make the record of offers available for public viewing.
- E. Except for the information identified in subsections (C) and (D), the procurement officer shall ensure that information contained in the offer remains confidential until the contract becomes effective and binding and is shown only to those per-

sons assisting in the evaluation process and the Lottery Commissioners, after award, and before the contract becomes effective and binding.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-514 renumbered to R4-37-511, new Section R4-37-514 renumbered from R4-37-517 and amended effective May 7, 1990 (Supp. 90-2). R19-3-514 recodified from R4-37-514 (Supp. 95-1). Former Section R19-3-514 renumbered to R19-3-516 and amended; new Section R19-3-514 renumbered from R19-3-512 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

#### R19-3-515. Late Offers, Modifications, Withdrawals

- A. If an offer, modification, or withdrawal is received after the due date and time, at the location designated in the solicitation, the procurement officer shall determine the offer, modification, or withdrawal as late.
- B. The procurement officer shall reject a late offer, modification, or withdrawal unless:
  1. The document is received before the contract award at the location designated in the solicitation; and
  2. The document would have been received by the offer due date and time, but for the action or inaction of Lottery personnel.
- C. Upon receiving a late offer, modification, or withdrawal, the procurement officer shall:
  1. If the document is hand delivered, refuse to accept delivery; or
  2. If the document is not hand delivered, record the time and date of receipt and promptly send written notice of late receipt to the offeror. The procurement officer may discard the document within 30 days after the date on the notice unless the offeror requests the document be returned.
- D. The procurement officer shall document a refusal under subsection (C)(1) and place the document or a copy of the notice required in subsection (C)(2) in the procurement file.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-515 renumbered to R4-37-512, new Section R4-37-515 renumbered from R4-37-518 and amended effective May 7, 1990 (Supp. 90-2). R19-3-515 recodified from R4-37-515 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Former Section R19-3-515 renumbered to R19-3-517 and amended; new Section R19-3-515 renumbered from R19-3-513 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### R19-3-516. Cancellation of Solicitation After Receipt of Offers and Before Award

- A. Based on the best interest of the Lottery, the procurement officer may cancel a solicitation after offer due date and time. The

procurement officer shall prepare a written justification for cancellation and place it in the procurement file.

- B. The procurement officer shall notify offerors of the cancellation in writing.
- C. The procurement officer shall retain offers received under the cancelled solicitation in the procurement file. If the Lottery intends to issue another solicitation within six months after cancellation of the procurement, the procurement officer shall withhold the offers from public inspection. After award of a contract under the subsequent solicitation, the procurement officer shall make offers submitted in response to the cancelled solicitation available for public inspection except for information determined to be confidential pursuant to R19-3-503.
- D. In the event of cancellation, the procurement officer shall promptly return any bid security provided by an offeror.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-516 renumbered to R4-37-513, new Section R4-37-516 renumbered from R4-37-519 and amended effective May 7, 1990 (Supp. 90-2). R19-3-516 recodified from R4-37-516 (Supp. 95-1). Former Section R19-3-516 renumbered to R19-3-518 and amended; new Section R19-3-516 renumbered from R19-3-514 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### R19-3-517. One Offer Received

- A. If only one offer is received in response to a solicitation, the procurement officer shall review the offer and either:
  1. Award the contract to the offeror and prepare a written determination that:
    - a. The price submitted is fair and reasonable under R19-3-550,
    - b. The offer is responsive, and
    - c. The offeror is responsible, or
  2. Reject the offer and:
    - a. Resolicit for new offers,
    - b. Cancel the procurement, or
    - c. Use a different source selection method authorized under these rules.
- B. If the procurement officer awards a contract for a solicitation under (A)(1), the award shall comply with R19-3-527 for a bid solicitation and R19-3-528 for a proposal solicitation.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-517 renumbered to R4-37-514, new Section R4-37-517 renumbered from R4-37-520 and amended effective May 7, 1990 (Supp. 90-2). R19-3-517 recodified from R4-37-517 (Supp. 95-1). Former Section R19-3-517 renumbered to R19-3-519 and amended; new Section R19-3-517 renumbered from R19-3-515 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R.



2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-518. Offer Mistakes Discovered After Offer Opening and Before Award**

- A.** If an apparent mistake in an offer, relevant to the award determination, is discovered after opening and before award, the procurement officer shall contact the offeror for written confirmation of the offer. The procurement officer shall designate a time-frame within which the offeror shall either:
1. Confirm that no mistake was made and assert that the offer stands as submitted; or
  2. Acknowledge that a mistake was made, and include all of the following in a written response:
    - a. Explanation of the mistake and any other relevant information,
    - b. A request for correction including the corrected offer or a request for withdrawal, and
    - c. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.
- B.** An offeror who discovers a mistake in its offer may request correction or withdrawal in writing and shall include all of the following in the written request:
1. Explanation of the mistake and any other relevant information,
  2. A request for correction including the corrected offer or a request for withdrawal, and
  3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.
- C.** The procurement officer may permit an offeror to correct a mistake if the mistake involves a minor informality or if the mistake and the intended offer are evident in the uncorrected offer; for example, an error in the extension of unit prices. The procurement officer shall not permit a correction that is prejudicial to the Lottery or fair competition.
- D.** The procurement officer shall permit an offeror to furnish information called for in the solicitation but not supplied if the intended offer is evident and submittal of the information is not prejudicial to other offerors.
- E.** The procurement officer shall make a written determination of whether correction or withdrawal is permitted, based on whether the action is consistent with fair competition and in the best interest of the Lottery.
- F.** If the offeror fails to act under subsection (A) the offeror is considered nonresponsive and the procurement officer shall place a written determination that the offeror is nonresponsive in the procurement file.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-518 renumbered to R4-37-515, new Section R4-37-518 renumbered from R4-37-521 and amended effective May 7, 1990 (Supp. 90-2). R19-3-518 recodified from R4-37-518 (Supp. 95-1). Former Section R19-3-518 renumbered to R19-3-520 and amended; new Section R19-3-518 renumbered from R19-3-516 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-519. Extension of Offer Acceptance Period**

- A.** To extend the offer acceptance period, the procurement officer shall notify all offerors in writing of an extension and request written concurrence from each offeror.
- B.** To be eligible for a contract award, an offeror shall submit a written concurrence to the extension. The procurement officer shall reject an offer as nonresponsive if written concurrence is not provided as requested.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-519 renumbered to R4-37-516, new Section R4-37-519 renumbered from R4-37-522 and amended effective May 7, 1990 (Supp. 90-2). R19-3-519 recodified from R4-37-519 (Supp. 95-1). Former Section R19-3-519 renumbered to R19-3-521 and amended; new Section R19-3-519 renumbered from R19-3-517 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-520. Determination of Not Susceptible for Award**

- A.** The procurement officer may determine at any time during the evaluation period and before award that an offer is not susceptible for award. The procurement officer shall place a written determination, based on one or more of the following, in the procurement file:
1. The offer fails to substantially meet one or more of the mandatory requirements of the solicitation;
  2. The offer fails to comply with any susceptibility criteria identified in the solicitation; or
  3. The offer is not susceptible for award in comparison to other offers based on the criteria set forth in the solicitation. When there is doubt as to whether an offer is susceptible for award, the offer should be included for further consideration.
- B.** The procurement officer shall promptly notify the offeror in writing of the final determination that the offer is not susceptible for award, unless the procurement officer determines notification to the offeror would compromise the Lottery's ability to negotiate with other offerors.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-520 renumbered to R4-37-517, new Section R4-37-520 renumbered from R4-37-523 and amended effective May 7, 1990 (Supp. 90-2). R19-3-520 recodified from R4-37-520 (Supp. 95-1). Former Section R19-3-520 renumbered to R19-3-522 and amended; new Section R19-3-520 renumbered from R19-3-518 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-521. Bid Evaluation**

- A.** The procurement officer shall evaluate offers to determine which offer provides the lowest cost to the Lottery in accordance with any objectively measurable factors set forth in the solicitation.

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- B. The procurement officer may consider life cycle costs and application benefits when evaluating offers for the procurement of materials.
- C. The procurement officer shall conduct an evaluation to determine whether an offeror is responsive, based upon the requirements set forth in the solicitation. The procurement officer shall reject as nonresponsive any offer that does not meet the solicitation requirements.
- D. If there are two or more low, responsive offers from responsible offerors that are identical in price, the procurement officer shall make the award by drawing lots. If time permits, the procurement officer shall provide the offerors involved an opportunity to attend the drawing. The procurement officer shall ensure that the drawing is witnessed by at least one person other than the procurement officer.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-521 renumbered to R4-37-518, new Section R4-37-521 renumbered from R4-37-524 and amended effective May 7, 1990 (Supp. 90-2). R19-3-521 recodified from R4-37-521 (Supp. 95-1). Former Section R19-3-521 renumbered to R19-3-523 and amended; new Section R19-3-521 renumbered from R19-3-519 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-522. Clarification of Proposal Offers**

- A. The purpose for clarifications is to provide for a greater mutual understanding of the offer. Clarifications are not negotiations and material changes to the request for proposal or offer shall not be made by clarification.
- B. The procurement officer may request clarifications from offerors at any time after receipt of offers. Clarifications may be requested orally or in writing. If clarifications are requested orally, the offeror shall confirm the request in writing. A request for clarifications shall not be considered a determination that the offeror is susceptible for award.
- C. The procurement officer shall retain any clarifications in the procurement file.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-522 renumbered to R4-37-519, new Section R4-37-522 renumbered from R4-37-525 and amended effective May 7, 1990 (Supp. 90-2). R19-3-522 recodified from R4-37-522 (Supp. 95-1). Former Section R19-3-522 renumbered to R19-3-524 and amended; new Section R19-3-522 renumbered from R19-3-520 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-523. Proposal Negotiations with Responsible Offerors and Revisions of Offers**

- A. The procurement officer shall establish procedures and schedules for conducting negotiations. The procurement officer

shall ensure there is no disclosure of one offeror's price or any information derived from competing offers to another offeror.

- B. Negotiations may be conducted orally or in writing. If oral negotiations are conducted, the procurement officer shall confirm the negotiations in writing and provide the document to the offeror.
- C. If negotiations are conducted, negotiations shall be conducted with all offerors determined to be reasonably susceptible for award. Offerors may revise offers based on negotiations provided that any revision is confirmed in writing.
- D. The procurement officer may conduct negotiations with responsible offerors to improve offers in such areas as cost, price, specifications, performance, or terms, to achieve best value for the Lottery based on the requirements and the evaluation factors set forth in the solicitation.
- E. Responsible offerors determined to be susceptible for award, with which negotiations have been held, may revise their offer in writing during negotiations.
- F. An offeror may withdraw an offer at any time before the best and final offer due date and time by submitting a written request to the procurement officer.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-523 renumbered to R4-37-520, new Section R4-37-523 renumbered from R4-37-526 and amended effective May 7, 1990 (Supp. 90-2). R19-3-523 recodified from R4-37-523 (Supp. 95-1). Former Section R19-3-523 renumbered to R19-3-525 and amended; new Section R19-3-523 renumbered from R19-3-521 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-524. Offer Revisions and Best and Final Offers**

- A. The procurement officer may request written revisions to an offer. The procurement officer shall include in the written request:
  1. The date, time, and place for submission of offer revisions; and
  2. A statement that if offerors do not submit a written notice of withdrawal or a written offer revision, their immediate previous written offer will be accepted as their final offer.
- B. The procurement officer shall request best and final offers from any offeror with whom negotiations have been conducted, however it is not mandatory to conduct negotiations prior to requesting a best and final offer. The procurement officer shall include in the written request:
  1. The date, time, and place for submission of best and final offer; and
  2. A statement that if offerors do not submit a written best and final offer, their immediate previous written offer will be accepted as their best and final offer.
- C. The procurement officer shall request written best and final offers only once, unless the procurement officer makes a written determination that it is advantageous to the Lottery to conduct further negotiations or change the Lottery's requirements.
- D. If an apparent mistake, relevant to the award determination, is discovered after opening of best and final offers, the procurement officer shall contact the offeror for written confirmation.

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The procurement officer shall designate a time-frame within which the offeror shall either:

1. Confirm that no mistake was made and assert that the offer stands as submitted; or
  2. Acknowledge that a mistake was made, and include the following in a written response:
    - a. Explanation of the mistake and any other relevant information,
    - b. A request for correction including the corrected offer or a request for withdrawal, and
    - c. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.
- E.** An offeror who discovers a mistake in their best and final offer may request withdrawal or correction in writing, and shall include the following in the written request:
1. Explanation of the mistake and any other relevant information,
  2. A request for correction including the corrected offer or a request for withdrawal, and
  3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.
- F.** In response to a request made under subsections (D) or (E), the procurement officer shall make a written determination of whether correction or withdrawal will be allowed based on whether the action is consistent with fair competition and in the best interest of the Lottery. If an offeror does not provide written confirmation of the best and final offer, the procurement officer shall make a written determination that the most recent written best and final offer submitted is the final best and final offer.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-524 renumbered to R4-37-521, new Section R4-37-524 renumbered from R4-37-527 and amended effective May 7, 1990 (Supp. 90-2). R19-3-524 recodified from R4-37-524 (Supp. 95-1). Former Section R19-3-524 renumbered to R19-3-526 and amended; new Section R19-3-524 renumbered from R19-3-522 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-525. Evaluation of Proposal Offers**

- A.** The procurement officer shall evaluate offers and best and final offers based on the evaluation criteria contained in the request for proposals. The procurement officer shall not modify evaluation criteria or their relative order of importance after offer due date and time.
- B.** The procurement officer may appoint an evaluation committee to assist in the evaluation of offers. If offers are evaluated by an evaluation committee, the evaluation committee shall prepare an evaluation report for the procurement officer. This evaluation report shall supersede all previous draft evaluations or evaluation reports. The procurement officer may:
1. Accept or reject the findings of the evaluation committee,
  2. Request additional information from the evaluation committee, or
  3. Replace the evaluation committee.

- C.** The procurement officer shall prepare an award determination and place the determination, including any evaluation report or other supporting documentation, in the procurement file.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-525 renumbered to R4-37-522, new Section R4-37-525 renumbered from R4-37-522 and amended effective May 7, 1990 (Supp. 90-2). R19-3-525 recodified from R4-37-525 (Supp. 95-1). Former Section R19-3-525 renumbered to R19-3-527 and amended; new Section R19-3-525 renumbered from R19-3-523 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-526. Responsibility Determinations**

- A.** The procurement officer shall determine before an award whether an offeror is responsible or nonresponsible.
- B.** The procurement officer shall consider the following factors before determining that an offeror is responsible or nonresponsible:
1. The offeror's financial, business, personnel, or other resources, such as subcontractors;
  2. The offeror's record of performance and integrity;
  3. Whether the offeror has been debarred or suspended;
  4. Whether the offeror is legally qualified to contract with the Lottery;
  5. Whether the offeror promptly supplied all requested information concerning its responsibility; and
  6. Whether the offeror meets the responsibility criteria specified in the solicitation.
- C.** If the procurement officer determines an offeror is nonresponsible, the procurement officer shall promptly send a determination to the offeror stating the basis for the determination, except when notification to the offeror would compromise the Lottery's ability to negotiate with other offerors. The procurement officer shall file a copy of the determination in the procurement file.
- D.** The procurement officer shall only disclose responsibility information furnished by an offeror in accordance with A.R.S. § 41-2540.
- E.** For the offeror awarded a contract, the procurement officer's signature on the contract constitutes a determination that the offeror is responsible.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-526 renumbered to R4-37-523, new Section R4-37-526 renumbered from R4-37-529 and amended effective May 7, 1990 (Supp. 90-2). R19-3-526 recodified from R4-37-526 (Supp. 95-1). Former Section R19-3-526 renumbered to R19-3-528 and amended; new Section R19-3-526 renumbered from R19-3-524 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21,

2016 (Supp. 16-4).

**R19-3-527. Bid Contract Award**

- A. The procurement officer shall award the contract to the lowest responsible and responsive offeror whose offer conforms in all material respects to the requirements and criteria set forth in the solicitation. Unless otherwise provided in the solicitation, an award may be made for an individual line item, any group of line items, or all line items.
- B. The procurement officer shall keep a record showing the basis for determining the successful offeror or offerors in the procurement file.
- C. The procurement officer shall notify the Director and the Lottery Commission of an award. The award will be final and binding unless rejected by the Lottery Commission at a meeting held within 14 calendar days after the award is communicated to the Commissioners. The procurement officer shall send notice of the meeting to all offerors.
- D. After an award becomes effective and binding, the procurement officer shall return any bid security provided by the offeror.
- E. Within three days after an award is effective and binding, the procurement officer shall make the procurement file, including all offers, available for public inspection, redacting information that is confidential under R19-3-503.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-527 renumbered to R4-37-524, new Section R4-37-527 renumbered from R4-37-530 effective May 7, 1990 (Supp. 90-2). R19-3-527 recodified from R4-37-527 (Supp. 95-1). Former Section R19-3-527 renumbered to R19-3-529 and amended; new Section R19-3-527 renumbered from R19-3-525 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-528. Proposal Contract Award**

- A. The procurement officer shall award the contract to the responsible offeror whose offer is determined to be most advantageous to the Lottery based on the evaluation factors set forth in the solicitation. The procurement officer shall make a written determination explaining the basis for the award and place it in the procurement file.
- B. The procurement officer shall notify the Director and the Lottery Commission of an award. The award will be final and binding unless rejected by the Lottery Commission at a meeting held within 14 calendar days after the award is communicated to the Commissioners. The procurement officer shall send notice of the meeting to all offerors.
- C. If the procurement officer makes a written determination that it is in the best interest of the Lottery that the award not be made public until reviewed by the Lottery Commission, the Director may authorize a meeting of the Lottery Commission to be held for consideration of the award.
  - 1. The Director shall provide notice of the meeting in compliance with Open Meeting Law, including notice of an executive session to provide information concerning the award and the procurement officer's evaluation of the offers.
  - 2. The Lottery Commission shall not take action in the executive session.

- 3. In open meeting the Lottery Commission may vote to approve or reject the award. The Lottery Commission may also direct that it will reject the award unless further negotiations occur regarding specified issues. If further negotiations are directed, the procurement officer shall withhold the recommended award from public inspection.
- D. The procurement officer shall notify all offerors of an award that has become effective and binding.
- E. After an award becomes effective and binding, the procurement officer shall return any offer security provided by the offeror.
- F. Within three days after an award is effective and binding, the procurement officer shall make the procurement file, including all offers, available for public inspection, redacting information that is confidential under R19-3-503.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-528 renumbered to R4-37-525, new Section R4-37-528 renumbered from R4-37-531 and amended effective May 7, 1990 (Supp. 90-2). R19-3-528 recodified from R4-37-528 (Supp. 95-1). Former Section R19-3-528 renumbered to R19-3-530 and amended; new Section R19-3-528 renumbered from R19-3-526 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-529. Mistakes Discovered After Bid Award**

- A. If a mistake in the offer is discovered after the award, the offeror may request withdrawal or correction in writing and shall include all of the following in the written request:
  - 1. Explanation of the mistake and any other relevant information,
  - 2. A request for correction including the corrected offer or a request for withdrawal, and
  - 3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.
- B. Based on the considerations of fair competition and the best interest of the Lottery, the procurement officer may:
  - 1. Allow correction of the mistake, if the resulting dollar amount of the correction is less than the next lowest offer;
  - 2. Cancel all or part of the award; or
  - 3. Deny correction or withdrawal.
- C. After cancellation of all or part of an award, if the offer acceptance period has not expired, the procurement officer may award all or part of the contract to the next lowest responsible and responsive offeror, based on the considerations of fair competition and the best interest of the Lottery.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-529 renumbered to R4-37-526, new Section R4-37-529 renumbered from R4-37-532 and amended effective May 7, 1990 (Supp. 90-2). R19-3-529 recodified from R4-37-529 (Supp. 95-1). Former Section R19-3-529 renumbered to R19-3-531 and amended; new Section R19-3-529 renum-

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bered from R19-3-527 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

**R19-3-530. Mistakes Discovered After Proposal Award**

- A.** If a mistake in the offer is discovered after the award, the offeror may request correction or withdrawal in writing, and shall include all of the following in the written request:
1. Explanation of the mistake and any other relevant information,
  2. A request for correction including the corrected offer or a request for withdrawal, and
  3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.
- B.** Based on the considerations of fair competition and the best interest of the Lottery, the procurement officer may:
1. Allow correction of the mistake,
  2. Cancel all or part of the award, or
  3. Deny correction or withdrawal.
- C.** After cancellation of all or part of an award, if the offer acceptance period has not expired, the procurement officer may award all or part of the contract to the next responsible offeror whose offer is determined to be the next most advantageous to the Lottery according to the evaluation factors contained in the solicitation.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-530 renumbered to R4-37-527, new Section R4-37-530 renumbered from R4-37-533 and amended effective May 7, 1990 (Supp. 90-2). R19-3-530 recodified from R4-37-530 (Supp. 95-1). Former Section R19-3-530 renumbered to R19-3-533 and amended; new Section R19-3-530 renumbered from R19-3-528 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

**R19-3-531. Procurements not Exceeding the Amount Prescribed in A.R.S. § 41-2535**

For purchases not exceeding the amount prescribed in A.R.S. § 41-2535, the procurement officer shall issue a request for quotation under R19-3-532 unless any of the following apply:

1. The purchase can be made from a state or agency contract,
2. The purchase can be made from a set-aside organization as established in A.R.S. § 41-2636,
3. The purchase is not expected to exceed \$10,000.00, or
4. The procurement officer makes a written determination that competition is not practicable under the circumstances. The purchase shall be made with as much competition as is practicable under the circumstances.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-531 renumbered to R4-37-528, new Section R4-37-531 renumbered

from R4-37-534 and amended effective May 7, 1990 (Supp. 90-2). R19-3-531 recodified from R4-37-531 (Supp. 95-1). Former Section R19-3-531 renumbered to R19-3-535 and amended; new Section R19-3-531 renumbered from R19-3-529 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-532. Solicitation – Request for Quotation**

- A.** A request for quotation shall be issued for purchases estimated to exceed \$10,000 but less than that specified in A.R.S. § 41-2535. The procurement officer shall include the following in the solicitation:
1. Offer submission requirements, including offer due date and time, where offers will be received, and offer acceptance period;
  2. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
  3. The minimum information that the offer shall contain;
  4. Any evaluation factors;
  5. Whether negotiations may be held;
  6. Any contract options including renewal or extension;
  7. The uniform terms and conditions by text or reference; and
  8. Any other terms, conditions, or instructions specific to the procurement.
- B.** The procurement officer shall issue the request for quotation by distributing the request for quotation to a minimum of three small businesses registered on the prospective suppliers list.
- C.** The request for quotation shall include a statement that only a small business, as defined in R19-3-501, shall be awarded a contract, unless any of the following apply:
1. The purchase has been unsuccessfully competed under subsection (B), including failure to obtain fair and reasonable prices;
  2. The procurement officer has made a written determination that less than three small businesses are registered on the prospective suppliers list, or
  3. The procurement officer has made a written determination prior to issuing a request for quotation that restricting the procurement to small business is not practical under the circumstances.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-532 renumbered to R4-37-529, new Section R4-37-532 renumbered from R4-37-535 and amended effective May 7, 1990 (Supp. 90-2). R19-3-532 recodified from R4-37-532 (Supp. 95-1). Former Section R19-3-532 renumbered to R19-3-536 and amended; new Section adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-533. Repealed****Historical Note**

Adopted as an emergency effective June 5, 1985, pursu-

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ant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-533 renumbered to R4-37-530, new Section R4-37-533 renumbered from R4-37-536 and amended effective May 7, 1990 (Supp. 90-2). R19-3-533 recodified from R4-37-533 (Supp. 95-1). Former Section R19-3-533 renumbered to R19-3-537 and amended; new Section R19-3-533 renumbered from R19-3-530 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Repealed by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-534. Quotation Contract Award**

- A. If only one responsive offer is received, the procurement officer shall determine if the price is fair and reasonable, and in the best interest of the Lottery to award a contract, and place the determination in the procurement file. If time permits, the procurement officer may initiate a second request for quotation if it is reasonable to believe that additional responses will be received.
- B. The procurement officer shall award a contract to the small business determined to be most advantageous to the Lottery in accordance with any evaluation factors identified in the request for quotation.
- C. The procurement officer shall notify the Director and the Lottery Commission of an award. The award will be final and binding unless rejected by the Lottery Commission at a meeting held within 14 calendar days after the award is communicated to the Commissioners. The procurement officer shall send notice of the meeting to all offerors.
- D. The procurement officer shall make the procurement file available to the public on the date the contract award becomes effective and binding.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-534 renumbered to R4-37-531, new Section R4-37-534 renumbered from R4-37-538 and amended effective May 7, 1990 (Supp. 90-2). R19-3-534 recodified from R4-37-534 (Supp. 95-1). Former Section R19-3-534 renumbered to R19-3-538 and amended; new Section R19-3-534 adopted December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-535. Sole Source Procurements**

- A. For the purposes of this Section, the term “sole-source procurement” means a material or service procured without competition when:
  - 1. There is only a single source for the material or service, or
  - 2. No reasonable alternative source exists.
- B. This Section applies only to sole source procurements, estimated to exceed the amount prescribed in A.R.S. § 41-2535.
- C. The procurement officer shall make a written determination that includes the following information:

1. A description of the procurement need and the reason why there is only a single source available or no reasonable alternative exists,
  2. The name of the proposed supplier,
  3. The duration and estimated total dollar value of the proposed procurement,
  4. Documentation that the price submitted is fair and reasonable pursuant to R19-3-550, and
  5. A description of efforts made to seek other sources.
- D. The procurement officer shall post the request on the Lottery website and send notice to registered vendors on the state’s electronic system to invite comments on the sole-source request for three working days. Following this period, the procurement officer shall either:
    1. Issue a written determination with any conditions or restrictions, or
    2. Retract the determination if input or information received shows that more than one source is available or a reasonable alternative source exists for the procurement need.
  - E. If the sole-source procurement is determined, the procurement officer shall negotiate a contract advantageous to the Lottery.
  - F. The procurement officer shall notify the Director and the Lottery Commission of a contract award. The award will be final and binding unless rejected by the Lottery Commission at a meeting held within 14 calendar days after the award is communicated to the Commissioners. The procurement officer shall send notice of the meeting to the sole source.
  - G. The procurement officer shall keep a record of all sole-source procurements.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-535 renumbered to R4-37-532, new Section R4-37-535 renumbered from R4-37-539 and amended effective May 7, 1990 (Supp. 90-2). R19-3-535 recodified from R4-37-535 (Supp. 95-1). Former Section R19-3-535 renumbered to Section R19-3-339 and amended; new Section R19-3-535 renumbered from R19-3-531 and amended, effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-536. Emergency Procurements**

- A. For the purposes of this Section, the term “emergency” means any condition creating an immediate and serious need for materials, services, or construction in which the Lottery’s best interests are not met through the use of other source-selection methods. The condition must seriously threaten the functioning of the Lottery, the preservation or protection of property, or the health or safety of a person.
- B. This Section applies to only emergency procurements, estimated to exceed the amount prescribed in A.R.S. § 41-2535. The procurement officer may procure a material or service without competition when there is an emergency by complying with this Section.
- C. A Lottery employee with the approval of the immediate supervisor or the Director may proceed with an emergency procurement without approval from the procurement officer if the emergency necessitates immediate response and it is impracticable to contact the procurement officer. The supervisor or Director shall submit a written confirmation of the emergency

procurement to the procurement officer within five working days of the emergency.

- D. An emergency procurement shall be limited to such actions necessary to address the emergency.
- E. An emergency procurement shall employ maximum competition, given the circumstances, to protect the interests of the Lottery.
- F. The procurement officer shall keep a record of all emergency procurements.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-536 renumbered to R4-37-533, new Section R4-37-536 renumbered from R4-37-540 and amended effective May 7, 1990 (Supp. 90-2). R19-3-536 recodified from R4-37-536 (Supp. 95-1). Former Section R19-3-536 renumbered to Section R19-3-541 and amended; new Section R19-3-536 renumbered from R19-3-532 and amended, effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### R19-3-537. Competition Impracticable Procurements

- A. For the purposes of this Section, "competition impracticable" means a procurement requirement exists which makes compliance with A.R.S. § 5-559 and these rules impracticable, unnecessary, or contrary to the public interest, but which is not an emergency under R19-3-536. Procurements with a documented lack of available vendors in the marketplace and which require an open and continuous availability of offerors may be procured by this method.
- B. The procurement officer shall make a written determination that includes the following information:
  1. An explanation of the competition impracticable need and the unusual or unique situation that makes compliance with A.R.S. § 5-559 and these rules impracticable, unnecessary, or contrary to the public interest;
  2. A definition of the proposed procurement process to be utilized and an explanation of how this process will foster as much competition as is practicable;
  3. An explanation of why the proposed procurement process is advantageous to the Lottery; and
  4. The scope, duration, and estimated total dollar value of the procurement need.
- C. The procurement officer shall keep a record of all competition impracticable procurements.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-537 repealed, new Section R4-37-537 renumbered from R4-37-541 and amended effective May 7, 1990 (Supp. 90-2). R19-3-537 recodified from R4-37-537 (Supp. 95-1). Former Section R19-3-537 renumbered to R19-3-542 and amended; new Section R19-3-537 renumbered from R19-3-533 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citations in subsections (A) and (B)(1) were updated. Agency request filed September 24, 2012, Office File No. M12-343 (Supp. 12-

- 3). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

#### R19-3-538. Request for Information

The procurement officer may issue a request for information to obtain price, delivery, technical information or capabilities for planning purposes.

1. Responses to a request for information are not offers and cannot be accepted to form a binding contract.
2. Information contained in a response to a request for information shall be considered confidential until the procurement process is concluded or two years, whichever occurs first unless authorized by the procurement officer.
3. There is no required format to be used for requests for information.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-538 renumbered to R4-37-534, new Section R4-37-538 renumbered from R4-37-542 and amended effective May 7, 1990 (Supp. 90-2). R19-3-538 recodified from R4-37-538 (Supp. 95-1). Former Section R19-3-538 renumbered to R19-3-543 and amended; new Section R19-3-538 renumbered from R19-3-534 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

#### R19-3-539. Demonstration Projects

- A. The procurement officer may award a contract for a demonstration project. The written determination shall contain the following:
  1. Name of the contractor;
  2. Description of the project, including unique and innovative features of the project;
  3. Statement and explanation that the project is in the best interest of the Lottery;
  4. Duration of the project; and
  5. Proposed contract terms and conditions.
- B. Demonstration projects shall be provided by the contractor at no cost and the Lottery shall not be obligated to purchase or lease the services or materials from the contractor.
- C. The procurement officer may purchase or lease from the demonstration contractor within 12 months after the demonstration project begins or within 12 months after the demonstration project ends by making a written determination that contains the following:
  1. Name of the contractor;
  2. Description of the project, including unique and innovative features of the project;
  3. Statement and explanation that lease or purchase is in the best interest of the Lottery;
  4. Cost to the Lottery;
  5. Duration of the proposed contract; and
  6. Proposed contract terms and conditions.
- D. The term of the contract resulting from a demonstration project shall not exceed two years.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-539 renum-

bered to R4-37-535, new Section R4-37-539 renumbered from R4-37-543 effective May 7, 1990 (Supp. 90-2). R19-3-539 recodified from R4-37-539 (Supp. 95-1). Former Section R19-3-539 renumbered to R19-3-547 and amended; new Section R19-3-539 renumbered from R19-3-535 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

#### **R19-3-540. General Services Administration Contracts**

- A.** The procurement officer may purchase products or services using General Services Administration (GSA) schedules or contracts under the following conditions:
1. Use of the GSA contract or schedule is cost effective and in the best interest of the Lottery,
  2. Price is equal to or less than the contractor's current GSA price,
  3. Price is fair and reasonable,
  4. Contractor is willing to offer GSA pricing and terms to the Lottery,
  5. Comparable products or services are not available under a state or agency contract,
  6. Comparable products or services are not restricted under a set-aside contract, and
  7. Contractor accepts required Lottery contract terms and conditions.
- B.** The procurement officer shall make a written determination that use of the GSA contract or schedule is in the best interest of the Lottery. The determination shall contain the following:
1. Name of the contractor;
  2. GSA contract or schedule number;
  3. Procurement description;
  4. Analysis of price, quality, and other relevant factors; and
  5. Statement that the price is fair and reasonable.

#### **Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-540 renumbered to R4-37-536, new Section R4-37-540 renumbered from R4-37-544 and amended effective May 7, 1990 (Supp. 90-2). R19-3-540 recodified from R4-37-540 (Supp. 95-1). Former Section R19-3-540 renumbered to R19-3-549 and amended; new Section R19-3-540 adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

#### **R19-3-541. Contract Clauses**

The procurement officer shall include in solicitations and contracts all contract clauses necessary to ensure the Lottery's interests are addressed.

#### **Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-541 renumbered to R4-37-538, new Section R4-37-541 renumbered from R4-37-545 and amended effective May 7, 1990 (Supp. 90-2). R19-3-541 recodified from R4-37-541 (Supp. 95-1). Former Section R19-3-541 renumbered to R19-3-551 and amended; new Section R19-3-541 renum-

bered from R19-3-536 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### **R19-3-542. Assignment of Rights and Duties**

A contractor shall not assign or transfer the rights or duties of a Lottery contract without the written consent of the Director.

#### **Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-542 renumbered to R4-37-539, new Section R4-37-542 renumbered from R4-37-546 and amended effective May 7, 1990 (Supp. 90-2). R19-3-542 recodified from R4-37-542 (Supp. 95-1). Former Section R19-3-542 repealed; new Section R19-3-542 renumbered from R19-3-537 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### **R19-3-543. Change of Name**

If a contractor requests to change the name in which it holds a Lottery contract, the procurement officer may, upon receipt of a document indicating name change and any other information requested by the procurement officer in the best interest of the Lottery concerning the name change, enter into a written amendment with the contractor to effect the name change. The amendment shall provide that no other terms and conditions of the contract are changed.

#### **Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-543 renumbered to R4-37-540, new Section R4-37-543 renumbered from R4-37-547 and amended effective May 7, 1990 (Supp. 90-2). R19-3-543 recodified from R4-37-543 (Supp. 95-1). Former Section R19-3-543 repealed; new Section R19-3-543 renumbered from R19-3-538 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### **R19-3-544. Contract Change Orders and Amendments**

- A.** The procurement officer may extend or authorize options in a contract provided the price of the extension or option was evaluated under the contractor's original offer.
- B.** Any contract change order or amendment or aggregate change orders or amendments of a contract not covered under subsection (A) that exceeds 25% of the original contract amount may be executed only if approved by the budget manager and the procurement officer determines in writing that the change order or amendment is advantageous to the Lottery and the price is determined fair and reasonable pursuant to R19-3-550.
- C.** The procurement officer may, in situations in which time or economic considerations preclude re-solicitation, negotiate a reduction to the contract, including scope, price, and contract requirements in accordance with A.R.S. § 41-2537.

#### **Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-544 renumbered to R4-37-541, new Section R4-37-544 renumbered from R4-37-548 and amended effective May 7, 1990



(Supp. 90-2). R19-3-544 recodified from R4-37-544 (Supp. 95-1). Former Section R19-3-544 repealed; new Section R19-3-544 adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

#### **R19-3-545. Multi-term Contracts**

- A.** Unless otherwise provided by law, a contract may be entered into for a period of time up to five years, if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the first fiscal period at the time of contracting.
- B.** A contract may be entered into for a period exceeding five years if the procurement officer makes a written determination that such a contract would be advantageous to the Lottery and the Lottery Commission pre-approves the extended contract period. The written determination shall include:
1. The initial and renewal option periods for the contract,
  2. Documentation that the estimated requirements are reasonable and continuing, and
  3. Documentation that such a contract will serve the best interests of the Lottery by encouraging effective competition or otherwise promoting economies in Lottery procurement.
- C.** The procurement officer shall include in all multi-term contracts a clause specifying that the contract shall be cancelled if monies are not appropriated or otherwise made available to support the continuation of performance in a subsequent fiscal year. If the contract is cancelled under this Section, the contractor may only be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the materials or services delivered under the contract or which are otherwise not recoverable.

#### **Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R19-3-545 renumbered to R19-3-541, new Section R4-37-545 renumbered from R4-37-549 and amended effective May 7, 1990 (Supp. 90-2). R19-3-545 recodified from R4-37-545 (Supp. 95-1). Former Section R19-3-545 renumbered to R19-3-552 and amended; new Section R19-3-545 adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

#### **R19-3-546. Terms and Conditions**

- A.** The procurement officer shall use the uniform terms and conditions published by the state procurement administrator for state contracts.
- B.** The procurement officer may make changes to uniform terms and conditions by making a written determination that it is in the best interest of the Lottery and does not conflict with any statutory requirements, provided that the procurement officer gives notice to the state procurement administrator of those changes.

#### **Historical Note**

Renumbered to Section R4-37-542 effective May 7, 1990 (Supp. 90-2). R19-3-546 recodified from R4-37-546 (Supp. 95-1). New Section adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

#### **R19-3-547. Mandatory Statewide Contracts**

The Lottery shall use existing Arizona state contracts to satisfy the need for materials and services covered under such contracts for all non-Lottery specific materials and services, unless an off-contract request is approved by the state procurement administrator.

#### **Historical Note**

Renumbered to Section R4-37-543 effective May 7, 1990 (Supp. 90-2). R19-3-547 recodified from R4-37-547 (Supp. 95-1). New Section R19-3-547 renumbered from R19-3-339 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section R19-3-547 renumbered to R19-3-550; new Section R19-3-547 made by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

#### **R19-3-548. Multiple Source Contracts**

Multiple award contracts shall be limited to the least number of suppliers necessary to meet the requirements of the Lottery, unless a written determination is made by the procurement officer providing otherwise.

#### **Historical Note**

Renumbered to Section R4-37-544 effective May 7, 1990 (Supp. 90-2). R19-3-548 recodified from R4-37-548 (Supp. 95-1). New Section adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section R19-3-548 renumbered to R19-3-551; new Section R19-3-548 made by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

#### **R19-3-549. Conflict of Interest**

- A.** A person preparing or assisting in the preparation of specifications, plans, or scopes of work shall not receive any direct benefit from the utilization of those specifications, plans, or scopes of work.
- B.** The procurement officer may waive the restriction set forth in subsection (A) if the procurement officer determines in writing that the rule's application would not be in the Lottery's best interest. The determination shall state the specific reasons that the restriction in subsection (A) has been waived. If the procurement officer is the individual with the restriction, the Director may waive the restriction set forth in subsection (A) if the Director determines in writing that the rule's application would not be in the Lottery's best interest. If the Director is the person with the restriction, the restriction may be waived by a determination of the office of the Governor.

#### **Historical Note**

Renumbered to Section R4-37-545 effective May 7, 1990 (Supp. 90-2). R19-3-549 recodified from R4-37-549 (Supp. 95-1). R19-3-549 renumbered from R19-3-540 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking

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at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section R19-3-549 renumbered to R19-3-552; new Section R19-3-549 made by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-550. Determination of Fair and Reasonable Price**

- A.** For contracts or contract modifications that exceed \$100,000, the procurement officer shall determine in writing that the price is fair and reasonable only when one of the following requirements is met:
1. The contract or modification is based on adequate price competition;
  2. Price is supported by an established catalog or market prices;
  3. Price is set by law or rule; or
  4. Price is supported by relevant, historical price data.
- B.** The procurement officer shall request the submission of cost or pricing data from the offeror or contractor when:
1. The procurement officer cannot determine the price is fair and reasonable based on the criteria in subsection (A), or
  2. The procurement officer determines in writing that it is in the best interest of the Lottery regardless of the amount of the contract or contract modification.

**Historical Note**

Adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section R19-3-550 renumbered to R19-3-553; new Section R19-3-550 renumbered from R19-3-547 and amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

**R19-3-551. Submission and Certification of Cost or Pricing Data**

- A.** The offeror or contractor shall submit certified cost or pricing data in the manner, and within the time-frames, prescribed by the procurement officer.
- B.** The offeror or contractor shall keep all cost or pricing data submitted current until the negotiations are concluded.
- C.** The offeror or contractor shall certify cost or pricing data by including a signed statement with the submission that all data is accurate, complete, and current to the best of the offeror's or contractor's knowledge and belief, as of a date mutually determined with the procurement officer.

**Historical Note**

Section R19-3-551 renumbered from R19-3-541 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section R19-3-551 renumbered to R19-3-554; new Section R19-3-551 renumbered from R19-3-548 by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

**R19-3-552. Refusal to Submit Cost or Pricing Data**

- A.** If an offeror fails to submit cost or pricing data in the required form and within the time-frames required, the procurement officer may reject the offer.
- B.** If a contractor fails to submit data to support a contract modification in the form required and within the time-frames required, the procurement officer may:
1. Reject the contract modification; or

2. Set the amount of the contract modification subject to the contractor's rights under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Section R19-3-552 renumbered from R19-3-545 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section R19-3-552 renumbered to R19-3-555; new Section R19-3-552 renumbered from R19-3-549 by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

**R19-3-553. Defective Cost or Pricing Data**

- A.** The procurement officer may reduce the contract price if, upon written determination, the cost or pricing data is defective.
- B.** The procurement officer shall reduce the contract price in the amount of the defect plus related overhead and profit or fee, if the defective data was used in awarding the contract or contract modification.
- C.** The offeror or contractor may appeal any dispute regarding the existence of defective cost or pricing data or the amount of an adjustment due to defective cost or pricing data as a contract claim under R19-3-565 through R19-3-567. The price, as adjusted by the procurement officer, shall remain in effect until any claim is settled or resolved under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section R19-3-553 renumbered to R19-3-556; new Section R19-3-553 renumbered from R19-3-550 and amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-554. Protest of Solicitations and Contract Awards**

- A.** Any interested party may protest a solicitation, a determination of not susceptible for award, or the award of a contract.
- B.** The interested party shall file the protest in writing with the procurement officer and shall include the following information:
1. The name, address, and telephone number of the interested party;
  2. The signature of the interested party or the interested party's representative;
  3. Identification of the solicitation or contract number;
  4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
  5. The form of relief requested.
- C.** If the protest is based upon alleged improprieties in a solicitation that are apparent before the offer due date and time, the interested party shall file the protest before the offer due date and time.
- D.** In cases other than those covered in subsection (C), the interested party shall file the protest within 10 days after the procurement officer makes the procurement file available for public inspection.
- E.** The interested party may submit a written request to the procurement officer for an extension of the time limit for protest filing set forth in subsection (D). The written request shall be submitted before the expiration of the time limit set forth in subsection (D) and shall set forth good cause as to the specific action or inaction of the Lottery that resulted in the interested party being unable to submit the protest within the 10 days. The procurement officer shall approve or deny the request in

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writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for submission of the filing.

- F. If the interested party shows good cause, the procurement officer may consider a protest that is not timely filed.
- G. The procurement officer shall immediately give notice of a protest to all offerors.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section R19-3-554 renumbered to R19-3-557; new Section R19-3-554 renumbered from R19-3-551 and amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

**R19-3-555. Stay of Procurements During the Protest**

- A. If a protest is filed before the solicitation due date, before the award of a contract, or before performance of a contract has begun, the procurement officer shall make a written determination to either:
  1. Proceed with the award or contract performance, or
  2. Stay all or part of the procurement if there is a reasonable probability the protest will be upheld or that a stay is in the best interest of the Lottery.
- B. The procurement officer shall provide the interested party and other interested parties with a copy of the written determination.
- C. Determination of a stay decision shall be issued no later than the time of issuance of the procurement officer's decision in accordance with R19-3-556.
- D. Should a stay request be denied by the procurement officer, the protestant may request a procurement stay from the Director. Such requests for a procurement stay shall be submitted within 10 days of notification of the stay denial by the procurement officer.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section R19-3-555 renumbered to R19-3-561; new Section R19-3-555 renumbered from R19-3-552 and amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

**R19-3-556. Resolution of Solicitation and Contract Award Protests**

- A. The procurement officer has the authority to resolve a protest.
- B. The procurement officer shall issue a written decision within 14 days after a protest has been filed under R19-3-554. The decision of the procurement officer shall contain the factual and legal basis for the decision and a statement that the decision of the Lottery may be appealed as an appealable agency action under A.R.S. Title 41, Chapter 6, Article 10 within 30 days from receipt of the decision.
- C. The procurement officer shall furnish the decision to the interested party, by certified mail, return receipt requested, or by any other method that provides evidence of receipt and provide a copy to the Director.
- D. The time limit for decisions under subsection (B) may be extended for good cause by a written determination. The extension shall not exceed an additional 30 days. The procurement officer shall notify the interested party in writing that the time for the issuance of a decision has been extended and the date by which a decision shall be issued.
- E. If the procurement officer fails to issue a decision within the time limits set forth in this Article, the interested party may

proceed as if the procurement officer had issued an adverse decision.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section R19-3-556 renumbered to R19-3-564; new Section R19-3-556 renumbered from R19-3-553 and amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

**R19-3-557. Remedies by the Procurement Officer**

- A. If the procurement officer sustains a protest in whole or part and determines that a solicitation, a determination of not susceptible for award, or contract award does not comply with the procurement statutes and regulations, the procurement officer shall implement an appropriate remedy.
- B. In determining an appropriate remedy, the procurement officer shall consider all the circumstances surrounding the procurement or proposed procurement including:
  1. The seriousness of the procurement deficiency,
  2. The degree of prejudice to other interested parties or to the integrity of the procurement system,
  3. The good faith of the parties,
  4. The extent of performance,
  5. The costs to the Lottery,
  6. The urgency of the procurement,
  7. The impact on the agency's mission, and
  8. Other relevant issues.
- C. The procurement officer may implement any of the following appropriate remedies:
  1. Decline to exercise an option to renew under the contract,
  2. Terminate the contract,
  3. Amend the solicitation,
  4. Issue a new solicitation,
  5. Award a contract consistent with procurement statutes and regulations, or
  6. Render such other relief as determined necessary to ensure compliance with procurement statutes and regulations.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). R19-3-557 renumbered to R19-3-565; new Section R19-3-557 renumbered from R19-3-554 and amended by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

**R19-3-558. Appeals to the Director Regarding Protest Decision**

- A. An interested party may appeal the decision entered or deemed to be entered by the procurement officer to the Director within 30 days after the date the decision is received or deemed received under R19-3-556. The interested party shall file a copy of the appeal with the Director and the procurement officer.
- B. The interested party shall file the appeal in writing and shall include the following information:
  1. The information prescribed in R19-3-554(B) including the identification of confidential information under R19-3-503,
  2. A copy of the decision of the procurement officer, and
  3. The precise factual or legal error in the decision of the procurement officer from which an appeal is taken.
- C. The Director may consider any appeal that is not filed timely if:
  1. The interested party shows good cause, or

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2. The Director finds there is a good cause.
- D.** The Director shall resolve appeals of solicitation decisions as an appealable agency action under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section repealed; new Section made by final rulemaking at 19 A.A.C. 1641, effective August 4, 2013 (Supp. 13-2).

**R19-3-559. Notice of Appeal to the Director Regarding Protests**

- A.** The procurement officer shall promptly give notice of the appeal to all offerors.
- B.** The Director shall, upon request, furnish copies of the appeal to all offerors subject to the provisions of R19-3-503.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section R19-3-559 renumbered to R19-3-566; new Section R19-3-559 made by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

**R19-3-560. Stay of Procurement During Appeal to Director**

- A.** If a stay is issued under R19-3-555, the filing of an appeal shall automatically continue the stay, unless the Director makes a written determination that the award of the contract or a notice to proceed with contract performance is necessary to protect the substantial interests of the Lottery.
- B.** Following a review of the procurement officer's decision and the interested party's appeal, the Director may stay the procurement if the Director determines that there is a reasonable probability the protest will be upheld or that a stay is in the best interests of the Lottery.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section R19-3-560 renumbered to R19-3-567; new Section R19-3-560 made by final rulemaking at 19 A.A.R. 1641, effective August 4, 2013 (Supp. 13-2).

**R19-3-561. Agency Report Regarding Protest Appeals**

- A.** The procurement officer shall file a complete report on any appeal under A.R.S. Title 41, Chapter 6, Article 10 within 21 days after the date the appeal is filed, at the same time furnishing a copy of the report to the interested party. The procurement officer shall also provide a copy of the report to any interested parties who request a copy, at their cost. The report shall contain copies of:
1. The appeal;
  2. The offer submitted by the interested party;
  3. The offer of the firm that is being considered for award;
  4. The solicitation, including the specifications or portions relevant to the appeal;
  5. The abstract of offers or relevant portions;
  6. Any other documents that are relevant to the protest; and
  7. A statement by the procurement officer setting forth findings, actions, recommendations and any additional evidence or information necessary to determine the validity of the appeal.
- B.** The time limit for filing the agency report under subsection (A) may be extended for good cause by a written determination. The extension shall not exceed an additional 30 days. The procurement officer shall notify the interested party in writing that the time for the issuance of the agency report has been extended and the date by which a decision shall be issued.

- C.** The interested party shall file comments on the agency report with the procurement officer within 10 days after receipt of the report. The interested party shall provide copies of the comments to the other interested parties.
- D.** The interested party may submit a written request to the Director for an extension of the period for submission of comments, identifying the reasons for the extension. The procurement officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing comments.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section repealed; new Section R19-3-561 renumbered from R19-3-555 and amended by final rulemaking at 19 A.A.C. 1641, effective August 4, 2013 (Supp. 13-2).

**R19-3-562. Remedies by the Director**

If the Director sustains the appeal in whole or part and determines that a solicitation, a not-susceptible-for-award determination, or an award does not comply with procurement statutes and rules, the Director shall implement remedies as provided in R19-3-557 or R19-3-563.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Section R19-3-562 renumbered to R19-3-568; new Section R19-3-562 made by final rulemaking at 19 A.A.C. 1641, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

**R19-3-563. Informal Settlement Conference**

- A.** In any protest, claim or debarment proceeding, the Director may request to hold an informal settlement conference with all interested parties. The conference may be held at any time prior to a final administrative decision.
- B.** If an informal settlement conference is held, a person with the authority to act on behalf of the interested party must be present. The procurement officer shall notify the interested parties in writing that statements, either written or oral, made at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative or judicial hearing.
- C.** If any interested party chooses not to participate in an informal settlement conference, the Director, or the Director's designee, in his or her discretion, may conduct the conference with those interested parties that appear, or reschedule the conference, or terminate the conference.
- D.** If the informal settlement conference results in a full settlement agreement between all interested parties, that agreement shall be reduced to writing, signed by the interested parties, and entered as the final administrative decision in the proceeding. If the interested parties do not reach agreement on all matters at issue in the proceedings, but do agree to resolve one or some of the issues, that partial agreement shall be reduced to writing, be signed by the interested parties, and bind the interested parties through the remainder of the proceedings.
- E.** If the Director, or the Director's designee, participates in an informal settlement conference, the Director, or the Director's designee, may not participate in or attempt to influence the outcome of the final administrative decision.
- F.** When making a final administrative decision, the Director shall not give any weight to whether or not an informal settlement conference has been held, or to any consideration of the

perceived success or failure of the informal settlement conference.

#### Historical Note

New Section made by final rulemaking at 19 A.A.C. 1641, effective August 4, 2013 (Supp. 13-2). Section renumbered to R19-3-564; new Section R19-3-563 made by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

#### R19-3-564. Dismissal Before Hearing

- A. The Director may dismiss, upon written determination, an appeal in whole or in part before scheduling a hearing if:
1. The appeal does not state a valid basis for protest,
  2. The appeal is untimely as prescribed under R19-3-558, or
  3. The appeal attempts to raise issues not raised in the protest.
- B. The procurement officer shall notify the interested party in writing of a determination to dismiss an appeal before hearing.

#### Historical Note

New Section R19-3-564 renumbered from R19-3-556 by final rulemaking at 19 A.A.C. 1641, effective August 4, 2013 (Supp. 13-2). Section renumbered to R19-3-565; new Section R19-3-564 renumbered from R19-3-563 and amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

#### R19-3-565. Controversies Involving Contract Claims Against the Lottery

- A. A claimant shall file a contract claim with the procurement officer within 180 days after the claim arises. The claim shall include the following:
1. The name, address, and telephone number of the claimant;
  2. The signature of the claimant or claimant's representative;
  3. Identification of the solicitation or contract number;
  4. A detailed statement of the legal and factual grounds of the claim including copies of the relevant documents; and
  5. The form and dollar amount of the relief requested.
- B. The procurement officer shall have the authority to settle and resolve contract claims.

#### Historical Note

New Section R19-3-565 renumbered from R19-3-557 and amended by final rulemaking at 19 A.A.C. 1641, effective August 4, 2013 (Supp. 13-2). Section renumbered to R19-3-566; new Section R19-3-565 renumbered from R19-3-564 by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

#### R19-3-566. Procurement Officer's Decision Regarding Contract Claims

- A. If a claim cannot be resolved under R19-3-565, the procurement officer shall, upon a written request by the claimant for a final decision, issue a written decision no more than 60 days after the request is filed. Before issuing a final decision, the procurement officer shall review the facts pertinent to the claim and secure any necessary assistance from legal, fiscal, and other advisors.
- B. The procurement officer shall furnish the decision to the claimant, by certified mail, return receipt requested, or by any other method that provides evidence of receipt, with a copy to the Director. The decision shall include:
1. A description of the claim;
  2. A reference to the pertinent contract provision;
  3. A statement of the factual areas of agreement or disagreement;

4. A statement of the procurement officer's decision, with supporting rationale; and
  5. A paragraph which substantially states: "This is the final decision of the procurement officer. This decision may be appealed under A.R.S. Title 41, Chapter 6, Article 10 within 30 days from receipt of the decision. If you appeal, you must file a written notice of appeal containing the information required in R19-3-567(B) with the procurement officer within 30 days from the date you receive this decision."
- C. If the procurement officer fails to issue a decision on a contract claim within 60 days after the request is filed, the claimant may proceed as if the procurement officer had issued an adverse decision.

#### Historical Note

New Section R19-3-566 renumbered from R19-3-559 and amended by final rulemaking at 19 A.A.C. 1641, effective August 4, 2013 (Supp. 13-2). Section renumbered to R19-3-567; new Section R19-3-566 renumbered from R19-3-565 and amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

#### R19-3-567. Appeals and Reports to the Director Regarding Contract Claims

- A. The claimant may appeal the final decision of the procurement officer to the Director within 30 days from the date the decision is received. The claimant shall file a copy of the appeal with the Director and the procurement officer.
- B. The claimant shall file the appeal in writing and shall include the following:
1. A copy of the decision of the procurement officer,
  2. A statement of the factual areas of agreement or disagreement, and
  3. The precise factual or legal error in the decision of the procurement officer from which an appeal is taken.
- C. The procurement officer shall file a complete report on the appeal with the Director within 14 days from the date the appeal is filed, providing a copy to the claimant at that time by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The report shall include a copy of the claim, a copy of the procurement officer's decision, if applicable, and any other documents that are relevant to the claim.
- D. The Director shall resolve appeals on claim decisions as contested cases under A.R.S. § 41-1092.07.

#### Historical Note

New Section R19-3-567 renumbered from R19-3-560 by final rulemaking at 19 A.A.C. 1641, effective August 4, 2013 (Supp. 13-2). Section renumbered to R19-3-568; new Section R19-3-567 renumbered from R19-3-566 by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

#### R19-3-568. Controversies Involving Lottery Claims Against the Contractor

If the procurement officer is unable to resolve, by mutual agreement, a claim asserted by the Lottery against a contractor, the procurement officer shall seek resolution under A.R.S. § 41-1092.07. The procurement officer shall furnish a copy of the claim to the Director.

#### Historical Note

New Section R19-3-568 renumbered from R19-3-562 and amended by final rulemaking at 19 A.A.C. 1641, effective August 4, 2013 (Supp. 13-2). Section renumbered to R19-3-569; new Section R19-3-568 renumbered from R19-3-567 by final rulemaking at 22 A.A.R. 2966,

effective November 21, 2016 (Supp. 16-4).

#### **R19-3-569. Guidance**

If a procedure is not provided by these rules, the procurement officer may issue a written determination using for guidance A.R.S. § 41-2501 through § 41-2591 or 2 A.A.C. 7, including, but not limited to a procurement utilizing a cooperative contract.

#### **Historical Note**

New Section R19-3-569 renumbered from R19-3-568 and amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

### **ARTICLE 6. ANNUITY ASSIGNMENTS**

#### **R19-3-601. Voluntary Assignment of Prizes Paid in Installments**

- A. A prize winner may request a voluntary assignment of an annuity or a portion of the remaining installments of the annuity by filing an action in a court of competent jurisdiction requesting judicial approval of the assignment. The prize winner and the purchaser of the annuity shall name the state of Arizona as a defendant in the action and shall bear all costs associated with filing the request for judicial approval of the assignment.
- B. A prize winner shall include in the request for judicial approval under subsection (A) the following:
  1. The affidavit required under A.R.S. § 5-563(A)(3);
  2. A copy of the signed assignment agreement between the prize winner and the assignee; and
  3. Proof that the fee under subsection (D) has been paid to the Lottery.
- C. After the court approves the assignment, the prize winner shall send the written judicial approval to the Lottery. Upon receipt of judicial approval of the voluntary assignment, the Director shall direct the insurance company to make future annuity payments as provided in the Court order.
- D. The prize winner or assignee shall pay a fee of \$235.00 to the Lottery to process the voluntary assignment.

#### **Historical Note**

Adopted as an emergency effective October 31, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 86-5). Adopted without change as a permanent rule effective February 25, 1987 (Supp. 87-1). Amended effective May 7, 1993 (Supp. 93-2). R19-3-601 recodified from R4-37-601 (Supp. 95-1). Repealed effective June 14, 1997 (Supp. 97-2). New Section made by final rulemaking at 11 A.A.R. 2028, effective July 2, 2005 (Supp. 05-2). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in subsection (B)(1) was updated. Agency request filed September 24, 2012, Office File No. M12-343 (Supp. 12-3).

### **ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES**

#### **R19-3-701. Definitions**

In this Article, unless the context otherwise requires:

1. "Caption" means the printed characters appearing below a play symbol or prize symbol that verify and correspond with that symbol. No more than one caption will appear under a symbol.
2. "Game profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential game fundamentals required by these rules for an instant game.

3. "Instant game" means a game that is played by removing the protective covering from a ticket to reveal the play symbols, or prize symbols, or both that determine if a ticket holder is entitled to a prize or prizes.
4. "Instant scratch game" means an instant game where the protective covering is made of latex or another substance that is scratched off.
5. "Instant tab game" means an instant game where the protective covering is a perforated paper tab that is opened.
6. "Pack" means a group of tickets bearing a common identification number.
7. "Pack-ticket number" means a unique multi-digit number that includes a game number, a pack number, and a ticket number which distinguishes each ticket from every other ticket within an instant game.
8. "PIN" means the designated characters within the validation number that allows an on-line terminal to validate an instant ticket.
9. "Play area" means the portion or portions of the ticket which contains the play symbol or symbols. More than one play area may appear on a ticket.
10. "Play symbols" means the printed image or images that appear within the defined play area of the ticket that determine if the ticket holder is entitled to a prize or prizes.
11. "Prize structure" means the estimated number of prizes, prize values, and odds of winning prizes for an individual game.
12. "Prize symbol" means the printed image or images that indicates the prize or prizes available in that game.
13. "Retailer validation code" means the multiple letters in the play area, under the protective covering that verify prizes less than \$600.
14. "Validation code" means the unique multi-positional code on each ticket that is used to authenticate winning tickets.

#### **Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4). Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

#### **R19-3-702. Game Profile**

- A. Each game shall have a Game Profile and at a minimum, the Profile shall contain the following information:
  1. Game name;
  2. Game number;
  3. Prize structure;
  4. Game Playstyle;
  5. Play symbols;
  6. Retailer validation codes, if any;
  7. Special features, if any;
  8. Retail sales price;
  9. How to play and win instructions; and
  10. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.
- B. The Commission shall approve the individual Game Profile prior to the game being sold to the public.

#### **Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4). Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

#### **R19-3-703. Game Playstyle**

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- A. The playstyle for an individual game shall be fully described in the Game Profile and shall be one of the following methods of play unless a different method is prescribed by another rule:
1. Match Two,
  2. Match Three,
  3. Add-up,
  4. Tic-Tac-Toe,
  5. Key Symbol or Symbols Match,
  6. Key Symbol or Symbols Beat,
  7. Symbols in Sequence,
  8. Spell Outs,
  9. In Between,
  10. Bingo,
  11. Pattern,
  12. Legend,
  13. Coordinates,
  14. Find,
  15. Maze,
  16. Grid,
  17. Elimination,
  18. Sets.
- B. More than one game and more than one playstyle may appear on a ticket.

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1).

**R19-3-704. Determination of a Winning Ticket**

- A. The play symbols are the only determining factor for prize eligibility for a valid ticket.
- B. For each play area on an individual ticket, the player shall remove the protective covering to find the play symbols, or the play and prize symbols. Eligibility to win a prize is based on compliance with the designated playstyle as follows:
1. Match Two. The player shall win the prize or prizes indicated by uncovering two identical play symbols on a play area.
  2. Match Three. The player shall win the prize or prizes indicated by uncovering three identical play symbols on a play area.
  3. Add-Up. The player shall win the prize or prizes indicated in either of the following ways:
    - a. The player adds up the play symbols and the amount is greater than or equal to the designated key symbol on the ticket, or
    - b. The player adds up the play symbols designated for the player and the total is greater than or equal to the control key symbol or symbols.
  4. Tic-Tac-Toe. The player shall win the prize or prizes indicated by uncovering three identical play symbols, in any row, or any column, or any diagonal, on a multi-symbol grid on the play area.
  5. Key Symbol or Symbols Match. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols identical to the designated key play symbol or symbols.
  6. Key Symbol or Symbols Beat. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols designated for the player in the ticket play area which is greater than the control play symbol or symbols.
  7. Symbols in Sequence. The player shall win the prize or prizes indicated by uncovering the designated play symbols in the specified sequential order.
  8. Spell Outs. The player shall win the prize or prizes indicated by uncovering the play symbols to form the designated word or words.
  9. In Between. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols designated for the player with a value less than the highest control play symbol or symbols and greater than the play lowest control play symbol or symbols.
  10. Bingo. The player shall win the prize or prizes indicated by uncovering the play symbols on the designated play area or areas that are identical to the play symbols uncovered on the control play area to form the specified pattern or patterns.
  11. Pattern. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols on a multi-symbol play area that follow a designated pattern.
  12. Legend. The player shall win the prize or prizes indicated by uncovering the designated number or type of play symbols that correspond to a legend.
  13. Coordinates. The player shall win the prize or prizes indicated by uncovering a play symbol or symbols that direct the player to a location on the play area to reveal the specified play symbol, or the number or pattern of play symbols.
  14. Find. The player shall win the prize or prizes indicated by uncovering the designated play or prize symbol.
  15. Maze. The player shall win the prize or prizes indicated by uncovering the directional symbols to make a path or paths leading to a designated prize symbol.
  16. Grid. The player shall win the prize or prizes indicated by uncovering a specified number or pattern of play symbols on a grid on the play area.
  17. Elimination. The player shall win the prize indicated by uncovering the corresponding prize or symbol on a prize table to eliminate all but one remaining prize amount or symbol.
  18. Sets. The player shall win the prize or prizes indicated by uncovering the designated group or groups of play symbols, without repetition or deletion of any play symbol, within a specified location of the play area.
- C. Each of the playstyles described in subsection (B) may include one or more special features such as "automatic win," "multiplier," "wild," "win all," "extra chance," or "free space" that provides an added or alternative method of winning.

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1).

**R19-3-705. Ticket Validation and Confirmation Requirements**

- A. Each instant game ticket shall be validated prior to payment of a prize.
- B. To be eligible for a prize, a ticket holder shall present a ticket meeting all of the following requirements:
1. The ticket shall not be stolen or appear on any list of omitted tickets on file with the Lottery;
  2. The ticket shall not be counterfeit or forged, in whole or in part;
  3. The ticket shall not be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
  4. The ticket shall not be blank, partially blank, misregistered, defective, or printed or produced in error;
  5. The play and prize symbols shall have the captions that confirm and agree with those applicable to that instant game;

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6. The ticket shall have been issued by the Lottery in an authorized manner;
  7. The ticket shall have been legally obtained;
  8. The ticket shall pass all other confidential validation tests determined by the Director;
  9. The ticket shall be validated in accordance with the provisions of R19-3-706 and R19-3-708;
  10. The display printed on the ticket shall correspond precisely with the approved artwork on file at the Lottery;
  11. All of the ticket symbols originally printed on the ticket shall appear in the play area on the ticket and shall correspond to those shown in the Game Profile; and
  12. The play and prize symbols shall have the required captions that confirm and agree with those of the appropriate instant game.
- C.** In addition to the requirements in subsection (B), each instant scratch game ticket shall meet the following:
1. The ticket shall contain a game number, a pack-ticket number, a retailer validation code, and where applicable, a PIN number, and at least one ticket validation code; and
  2. The validation code of a winning ticket shall appear in the Lottery's official file of validation codes of winning tickets and shall not have been previously paid.
- D.** In addition to the requirements in subsection (B), each instant tab game ticket shall meet the following:
1. The ticket shall contain a game number and a serial number, and
  2. A winning tab ticket shall contain the necessary prize and win symbol captions to enable visual confirmation of a prize.
- E.** If the ticket fails to pass any of the requirements in subsections (B) and (C) for instant scratch games, or subsections (B) and (D) for instant tab games, the ticket is void and ineligible for any prize payout.
- ticket owner or holder until such time as the Director is satisfied that the proper person is being paid.
- C.** Prior to paying the claimant a prize of \$600 or more, the Lottery shall match the winner's name against the lists of persons owing a debt to a participating state agency, furnished to the Lottery under A.R.S. § 5-575.
1. If there is a match on any of the claims submitted with a ticket, the amount that is owed shall be deducted from the prize due the claimant.
  2. The claimant shall be notified in writing of the amount of the setoff and the agency to which it shall be paid.
  3. If the claimant has two or more agencies which are owed a debt, the Lottery shall pay a pro-rata share to each of the agencies, except that a Department of Economic Security overdue child support setoff shall be paid in full before any amount shall be paid to another agency.
  4. The claimant shall be notified in writing that a right to appeal the setoff exists. The notification shall include the name and address of the agency with which to file the appeal and that the appeal shall commence within 30 days of receipt of the notification.
  5. If, after deducting withholding taxes and the setoff, a portion of the prize remains, then that portion shall be paid to the winner with the notification of setoff.
  6. The setoff amount shall be forwarded to the agency, and that agency shall be responsible for any appeal and crediting of the payment against the amount owed or refunding any amount to the winner.
  7. Upon a determination that a setoff is due, the winner loses the right under subsection (B)(2) to assign any portion of the claim.
- D.** Prizes shall be paid by cash, check, money order, or if requested by the player, by Lottery tickets.
1. If a ticket contains more than one winning game play, any prize amounts shall be combined and paid in accordance with the prize payment limits specified in R19-3-708.
  2. Each winning game play wins the prize amount specified in the Game Profile.
- E.** The Lottery is not responsible for lost or stolen tickets.

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

**R19-3-706. Ticket Ownership and Responsibility; Prize Payment**

- A.** Until a ticket is signed, the ticket is owned by its physical possessor.
- B.** The owner of a winning instant ticket is the person whose signature appears upon the ticket, if an area has been designated for that purpose.
1. If more than one signature appears on the ticket, the Director is authorized to require that one or more of those claimants be designated to receive the payment. A claim form shall be submitted by each claimant who is designated to receive a portion of the prize claimed from the winning ticket.
  2. Prior to payment of a prize, a claimant who has signed the ticket may designate another claimant to receive the prize by signing a relinquishment of claim statement.
  3. When the winning ticket was purchased by a group of players, the group shall designate one of the claimants to sign the ticket for the group. Each claimant shall complete an individual claim form to receive the claimant's portion of the prize.
  4. In the event there is an inconsistency in the information submitted on a claim form, when required, and as shown on the winning instant ticket, the Director shall authorize an investigation and withhold all winnings payable to the

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in subsection (C) was updated. Agency request filed September 24, 2012, Office File No. M12-343 (Supp. 12-3).

**R19-3-707. Claim Period**

- A.** For the claimant to receive payment, a winning instant scratch game ticket shall be received by the Lottery or a retailer no later than 5:00 p.m. (Phoenix time) on the 180th calendar day following the announced end of the instant game.
1. If a claimant presents a valid winning instant scratch ticket to a retailer for payment on the 180th calendar day following the announced end of the instant scratch game and is not paid the prize, the Director is authorized to pay the prize if the claimant presents the valid winning ticket to the Lottery no later than 5:00 p.m. (Phoenix time) on the following business day.
  2. In the case of a drawing prize associated with an instant scratch game, the claimant shall claim the prize no later



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than 5:00 p.m. (Phoenix time) on the final day designated by the Director and on file at the Lottery.

- B.** The end of an instant game shall be designated by the Director and on file at the Lottery.

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4). Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

**R19-3-708. Procedure for Claiming Prizes**

- A.** To claim an instant scratch ticket prize of up to and including \$599, the claimant shall present the ticket to any participating licensed retailer or to a Lottery office, or mail the ticket to a Lottery office for validation. The licensed retailer shall pay all winning prizes up to and including \$100 and may pay all winning prizes from \$101 up to and including \$599 provided that:
1. All of the ticket validation criteria in Section R19-3-705 have been satisfied; and
  2. A proper validation slip, which is an authorization to pay, has been generated by the terminal.
- B.** To claim an instant scratch ticket prize that the retailer does not validate or is not authorized to pay, including all prizes of \$600 or more, the claimant shall submit a claim form, available from any retailer, and the ticket to the Lottery. If the claim is:
1. Verified and validated by the Lottery as a winning ticket, the Lottery shall make payment of the amount due to the claimant, less any authorized debt setoff amounts, or withheld taxes, or both.
  2. Denied by the Lottery, the claimant shall be notified within 15 days from the day the claim is received in the Lottery office.
- C.** If an instant scratch ticket prize winner dies prior to receiving full payment, the Lottery shall pay all remaining prize money to the prize winner's beneficiary or to any person designated by an appropriate judicial order.
- D.** To claim an instant tab ticket prize, the claimant shall present the ticket to the selling retailer. The selling retailer shall pay all winning prizes provided that:
1. All of the ticket validation criteria in R19-3-705(A) and (B)(1) through (8) have been satisfied; and
  2. The retailer has performed a visual confirmation of the winning play, prize, and win symbol captions.
- E.** Payment of prize money shall not be accelerated ahead of its normal date of payment.
- F.** The Lottery is discharged of all liability upon payment of the instant scratch ticket prize money.
- G.** The retailer has sole responsibility to pay prizes on instant tab tickets. The Lottery is discharged of all liability to pay prizes on instant tab tickets.

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4). Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

**R19-3-709. Disputes Concerning a Ticket**

- A.** If a dispute between the Lottery and a claimant occurs concerning a ticket, the Director is authorized to replace the disputed ticket with a ticket or tickets of equivalent sales price from any current instant game.

- B.** If a defective ticket is purchased, the Lottery shall replace the defective ticket with a ticket or tickets of equivalent sales price from any current instant game.
- C.** Replacement of the disputed ticket is the sole and exclusive remedy for a claimant.
- D.** If a dispute between the Lottery and a claimant occurs concerning the eligibility of an entry into a grand prize, second chance or promotional drawing, the Director is authorized to place any person's eligible entry that was not entered in that drawing into any subsequent drawing or drawings.

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4). Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

**ARTICLE 8. RESERVED****ARTICLE 9. RESERVED****ARTICLE 10. PROMOTIONS****R19-3-1001. Definitions**

In this Article, unless the context otherwise requires:

1. "Category" means player, consumer, retailer, vendor, or other person who participates in the promotion.
2. "Charitable organization" means a non-profit organization organized and operated exclusively for charitable purposes and is qualified under § 502(c)(3) of the United States Internal Revenue Code.
3. "Media" means the method of communication, as in television, radio, print, outdoor, or Internet, with wide reach and influence.
4. "Prize type" means cash, free ticket or tickets, coupon or coupons, merchandise, retailer or vendor product or service, or discount on retailer or vendor product or service.
5. "Promotion" means a program designed to increase awareness of the Lottery, Lottery beneficiaries, and Lottery games that is intended to increase the sale of Lottery tickets to produce the maximum amount of net revenue for the state.
6. "Promotion playstyle" means the type of process or procedure used to control the promotion.
7. "Promotion Profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential promotion fundamentals required by these rules for a promotion.
8. "Promotional merchandise" means Lottery related goods, consumer products, or services provided by the Lottery for use in a promotion.
9. "Promotional ticket" means a Lottery ticket from a current, active game or a specially designed game provided by the Lottery for use in a promotion.
10. "Targeted game or targeted games" means the specific game or games a promotion is intended to increase sales or awareness of.
11. "Tickets" means one or more Lottery game plays from the targeted game or games.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

**R19-3-1002. Promotion Profile**

- A. Each promotion shall have a Promotion Profile and at a minimum, the Profile shall contain the following information:
1. Promotion name;
  2. Promotion playstyle;
  3. Category;
  4. Targeted game, games or Lottery beneficiaries involved in the promotion;
  5. Promotion description;
  6. Promotion selection criteria, if applicable;
  7. Prize type and structure, including the estimated number and size of monetary prizes, free tickets, coupons, certificates, discounts, and merchandise prizes available, if applicable;
  8. Retail sales price, if applicable;
  9. Promotion date range (beginning and ending promotion dates);
  10. Time range, if applicable;
  11. Day or days of the week, if applicable;
  12. Special feature, if any; and
  13. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.
- B. The Commission shall approve the Promotion Profile prior to the promotion being introduced to the public for participation.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

#### R19-3-1003. Promotion Playstyle - Promotion Type

- A. The playstyle for a specific promotion shall be fully described in the Promotion Profile and shall be one of the following methods of play unless a different method is prescribed by another rule:
1. Second Chance Drawing – Player.
  2. Second Chance Drawing – Retailer.
  3. Retailer's Second Chance Drawing – Retailer/Player.
  4. Increased Prize Payment.
  5. Buy X and Get Y Free – Player.
  6. Sell X and Get Y Free – Retailer.
  7. Validate X and Get Y Free – Retailer.
  8. Buy X and Get Y Free, Every Nth Transaction – Player.
  9. Sell X and Get Y Free, Every Nth Transaction – Retailer.
  10. Complete Survey.
  11. Special Events – Player.
  12. Retailer Incentive.
  13. Cross Promotion.
  14. Media Promotion.
  15. Customer Service.
  16. Mystery Shopper – Retailer.
  17. Ask For the Sale – Retailer.
  18. Charitable Organization.
  19. Public Contest – not related to specific Lottery game.
  20. Multi-State Lottery (MUSL) Promotions.
- B. More than one promotion may run concurrently.
- C. Promotion may be held only on specific days of the week.
- D. Promotion may be held only during specific hours of the day.
- E. Promotion may be available for selected regions, zones, retailer groups or player groups. Groups may be made by business codes, regions, county, zip code, chain designator, field representative or sales quota.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September

15, 2007 (Supp. 07-3).

#### R19-3-1004. Determination of a Winning Promotion

Eligibility to win a prize is based on compliance with the designated promotion playstyle as follows:

1. Second Chance Drawing – Player. The player shall submit, as entry into a second chance drawing, the required coupon, tickets or entry form as defined in the Promotion Profile. The player or players selected in the prize drawing procedure shall win the prize type designated in the Promotion Profile.
2. Second Chance Drawing – Retailer. The retailer shall submit, as entry into a second chance drawing, the required coupon, tickets or entry form as defined in the Promotion Profile, or the Lottery may use information collected on its database as defined in the Promotion Profile to qualify the retailer. The retailer or retailers selected in the prize drawing procedure shall win the prize type designated in the Promotion Profile.
3. Retailer's Second Chance Drawing – Retailer/Player. Retailers participating in the promotion shall ask players to deposit the required coupon, tickets or entry form into a Drawing Container at the retailer's location. The retailer shall perform random drawings according to the Promotion Profile. The players selected in the drawings shall win the prize type designated in the Promotion Profile. The Lottery shall provide the participating retailer with a predetermined number of prizes for the promotion.
4. Increased Prize Payout. Players who win a particular prize denomination in the target game or games shall win an additional amount specified in the Promotion Profile. The Promotion Profile shall define any required level of participation to be eligible.
5. Buy X and Get Y Free – Player. Each time a player buys a predetermined number of tickets from the targeted game or games, the player shall receive the prize type designated in the Promotion Profile. The Buy X requirement and the Get Y Free shall be specified in the Promotion Profile.
6. Sell X and Get Y Free – Retailer. Each time a retailer sells a predetermined number of tickets from the targeted game or games, the retailer shall receive the prize type designated in the Promotion Profile. The Sell X requirement and the Get Y Free shall be specified in the Promotion Profile.
7. Validate X and Get Y Free – Retailer. Each time a retailer validates a predetermined number or prize amount from the targeted game or games, the retailer shall receive the prize type designated in the Promotion Profile. The Validate X requirement and the Get Y Free shall be specified in the Promotion Profile.
8. Buy X and Get Y Free, Every Nth Transaction – Player. Each time a player buys a predetermined number or type of ticket or tickets from the target game or games and that purchase is the Nth transaction produced by the on-line system, the player shall receive the prize type designated in the Promotion Profile. The Buy X requirement, the Get Y Free, and the Nth transaction shall be specified in the Promotion Profile.
9. Sell X and Get Y Free, Every Nth Transaction – Retailer. Each time a retailer sells a predetermined number of tickets from the target game or games and that sale is the Nth transaction produced by the on-line system, the retailer shall receive the prize type designated in the Promotion Profile. The Sell X requirement, the Get Y Free, and the Nth transaction shall be specified in the Promotion Profile.

10. Complete Survey. The player or retailer who completes a designated survey shall receive the prize type designated in the Promotions Profile.
11. Special Events – Players. Players who attend a Lottery sponsored special event may participate in activities designed to promote Lottery products. Player participation may include spinning the Lottery prize wheel, various carnival type games of little or no skill, or purchase of tickets for targeted game or games. The prize type shall be designated and awarded according to the Promotion Profile.
12. Retailer Incentive. The retailer shall become eligible to earn the designated prize type through participation as defined in the Promotion Profile.
13. Cross Promotion. Players who present a predetermined number of non-winning tickets of the targeted game or games to a participating retailer or vendor shall win the prize type designated in the Promotion Profile.
14. Media Promotion. Players who participate in media-related promotions shall be eligible to receive the prize type designated in the Promotion Profile. The Lottery shall provide the participating media outlet with coupons or tickets from the targeted game or games or promotional merchandise items.
15. Customer Service. If a player is inconvenienced or dissatisfied as a result of Lottery actions below the usual level of service the Lottery provides, the Lottery may provide the player with the prize type designated in the Promotions Profile.
16. Mystery Shopper – Retailer. The Lottery shall send mystery shoppers or spotters to visit randomly selected retailers in the promotional area. Each retailer who meets the requirements specified in the Promotion Profile shall win the designated prize type.
17. Ask For The Sale – Retailer. Each retailer participating in the promotion shall ask all customers who are determined to be of legal gaming age if they want to purchase a Lottery ticket for the targeted game or games. If the retailer does not ask an eligible customer, the customer shall receive a free coupon or ticket from the designated game. The Lottery shall provide the participating retailer with a predetermined number of coupons or tickets from the targeted game or games according to the Promotion Profile.
18. Charitable Organization. The Lottery shall provide a qualifying charitable organization with a predetermined number of tickets, coupons, or promotional merchandise from a targeted game or games to distribute during their charitable event.
19. Public Contest – not related to specific Lottery game. The Lottery may conduct a contest not related to any specific Lottery game as defined in the Promotion Profile.
20. Multi-State Lottery (MUSL) Promotions. The Lottery may participate in a Multi-State Lottery game-related promotion adopted by the MUSL board.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

**R19-3-1005. Repealed****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Section repealed by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

**R19-3-1006. Repealed****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Section repealed by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

**R19-3-1007. Procedure for Claiming Prizes and Claim Period**

- A. To claim a promotion prize, a claimant must follow the procedure provided in the Promotion Profile.
- B. Promotion details are subject to the terms of the Promotion Profile which may modify or specify the ownership, authentication, validation procedures, or the time period for claiming a prize.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

**R19-3-1008. Disputes Concerning a Promotion Ticket or a Promotion Winner**

- A. If a dispute between the Lottery and a claimant occurs concerning a promotion ticket or the winning of a promotion prize, the Director is authorized to replace the disputed ticket or promotion prize with a ticket or promotion prize of equivalent value from any current promotion. The decision of the Director is a final, appealable agency action.
- B. Upon claim verification and payment of a prize, the Lottery shall be discharged of all liability to the claimant.
- C. By accepting a prize, the winner, his or her heirs, or legal representative agrees to indemnify and hold harmless, release, and discharge the Lottery, its employees, directors, and Commissioners from and against loss, claim, damage, suit, or injury arising out of or relating to the acceptance of the prize.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).