

Commissioners:

J. Winston Krause,
Chairman

Carmen Arrieta-Candelaria

Doug Lowe

Robert Rivera



TEXAS LOTTERY COMMISSION

Gary Grief, *Executive Director*

Michael P. Farrell, *Charitable Bingo Operations Director*

To: J. Winston Krause, Chairman
Carmen Arrieta-Candelaria, Commissioner
Doug Lowe, Commissioner
Robert Rivera, Commissioner

From: Bob Biard, General Counsel *RAB*

Date: December 13, 2018

Re: Adoption of Revised Commission Policy P-002 – Division of Responsibilities

Approved

Denied

Staff recommends that the Commission adopt revised Policy P-002, titled “Division of Responsibilities”, with several minor changes to the existing language (redline and clean versions attached). This policy addresses the policymaking responsibilities of the Commission and management responsibilities of the Executive Director and agency staff. It was first adopted in December 2013 as required by the Commission’s sunset legislation (H.B. 2197, 83rd Leg. R.S. (2013)) and is on the agency’s schedule for review and re-adoption this year. The Commission last adopted revisions to this procedure in July 2016. The policy states that the Commission, with the advice and recommendations of the Executive Director and the Director of Bingo Operations, shall establish general policies governing the operation and administration of the lottery and regulation of charitable bingo:

- The Executive Director has broad authority under the State Lottery Act to implement the Commission’s general policies for the lottery by establishing specific policies, procedures and practices governing the day-to-day operation and administration of the lottery, including the activities of all Commission divisions other than the Charitable Bingo Operations Division and internal audit activities.
- The Director of Bingo Operations shall implement the Commission’s general policies for charitable bingo by establishing specific policies, procedures, and practices governing the day-to-day management of the Charitable Bingo Operations Division (CBOD).
- The Executive Director, as administrative head of the agency, has decision-making authority in certain agency matters that affect all Commission employees, including CBOD employees.

Importantly, the Commission retains full authority to review and modify any specific policies, procedures and practices established by the Executive Director or Director of Bingo Operations. The proposed changes state that the Commission may contract for Internal Audit services and clarify the support services provided to the CBOD.

Recommendation: Staff recommends that the Commission adopt revised Policy P-002, effective December 13, 2018.



TEXAS LOTTERY COMMISSION

POLICY

Number: P-002	Title: Division of Responsibilities	Approval: Texas Lottery Commission
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POLICY NUMBER

P-002 [Supersedes P-002 effective July 11, 2016]

Introduction

TEX. GOV'T CODE ANN. Section 467.037 requires the Texas Lottery Commission (Commission) to develop and implement policies that clearly separate the policymaking responsibilities of the Commission and the management responsibilities of the Executive Director and agency staff. This policy implements Section 467.037.

Division of Responsibilities

Under Texas Government Code Ch. 467, the Commission has broad authority and shall exercise strict control and close supervision over all activities authorized and conducted in this state under Texas Government Code Ch. 466 (the State Lottery Act) and Texas Occupations Code Ch. 2001 (the Bingo Enabling Act). The Commission shall ensure bingo and lottery games are conducted fairly and in compliance with the law. Accordingly, the Commission, with the advice and recommendations of the Executive Director and the Director of Bingo Operations, shall establish general policies governing the operation and administration of the lottery and the regulation of charitable bingo. The Commission retains full authority to review and modify any specific policies, procedures and practices established by the Executive Director for the lottery and the Director of Bingo Operations for charitable bingo.

1. The Commission

The Commission shall employ an Executive Director to administer Texas Government Code Ch. 467 and the State Lottery Act. The Executive Director holds office at the will of the Commission.

The Commission shall employ a Director of Bingo Operations to administer the Bingo Enabling Act. The Director of Bingo Operations holds office at the will of the Commission.

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The Commission shall appoint an Internal Auditor who shall report directly to the Commission on agency matters as required by the Texas Internal Auditing Act. The Commission may contract for Internal Audit services.

Shared Statutory Duties of the Commission and Executive Director. Under the State Lottery Act, both the Commission and the Executive Director have broad authority and shall exercise strict control and close supervision over all lottery games conducted in this state to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery. In addition, under the State Lottery Act, in all procurement decisions, both the Commission and the Executive Director shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery and the objective of producing revenues for the state treasury.

Recognizing the Commission's governing statutes provide that the Commission and the Executive Director share certain responsibilities regarding the administration and operation of the lottery, the Commission shall set general policies for the lottery, and the Executive Director has broad authority to implement those policies by establishing specific policies, procedures and practices governing the day-to-day operation and administration of the lottery, including the activities of all Commission divisions other than the Charitable Bingo Operations Division and internal audit activities.

The Commission's Policymaking Responsibilities. The Commission's policymaking responsibilities include, but are not limited to, consideration of and action on (i) administrative rule proposals and rule adoptions, (ii) the status and entry of enforcement orders, (iii) the agency's operating budget, (iv) major procurements as defined by agency rule, (v) certain formal agency procedures (e.g., Lotto Texas jackpot estimation), (vi) agency personnel matters, including but not limited to personnel matters regarding the positions that report directly to the Commission (the Executive Director, the Director of Bingo Operations, and (if applicable) the Internal Auditor), and (vii) providing direction to the General Counsel, other Commission staff, and the Office of the Attorney General and/or other outside counsel regarding pending or contemplated litigation involving the Commission. In addition, the Commission has authority to review and modify any policies, procedures and practices established by the Executive Director or the Director of Bingo Operations.

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2. The Executive Director

The Executive Director is the administrative head of the Texas Lottery Commission. As authorized by the State Lottery Act, the Executive Director shall perform all duties required by the Commission to administer Texas Government Code Ch. 467 and the laws under the Commission's jurisdiction, including the State Lottery Act. The Executive Director may not hold other employment. The Executive Director shall implement the Commission's general policies for the operation and administration of the lottery, and may establish any specific policies, procedures and practices necessary for the effective and efficient operation and administration of the lottery.

The Executive Director shall employ a director to oversee each Commission division, with the exception of the Director of Bingo Operations and the Internal Auditor, who report directly to the Commission. A division director serves at the will of the Executive Director. The Executive Director may delegate signing authority relating to certain actions and responsibilities to division directors. The Executive Director also may delegate his or her authority to a division director or other management employee, who may act as Executive Director in the absence of the Executive Director.

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The Executive Director shall employ other personnel necessary to administer the laws under the commission's jurisdiction. Commission employees serve at the will of the Executive Director.

The Executive Director may create, abolish, transfer, and consolidate bureaus and other units that are part of the Commission and that are not expressly established by law, as the Executive Director determines to be necessary for the efficient operation of the Commission.

The Executive Director may propose rules to be adopted by the commission, but the Executive Director's proposed rules have no effect until adopted by the Commission.

Although the Executive Director is not in the chain of command above the Director of Bingo Operations, as the administrative head of the entire agency the Executive Director has decision-making authority in various agency matters that affect all Commission employees, including employees in the Charitable Bingo Operations Division. ~~First, the fact the Executive Director is in the chain of command above all agency employees providing support services, including legal, human resources, financial, information technology, and other administrative services, means the Executive Director has authority over resources needed by the Charitable Bingo Operations Division. Further, because a number of state statutes~~ authorize the single administrative head of a state agency to take action on behalf of the entire agency, there will be circumstances where the Executive Director has the authority to make decisions that affect the employees in the Charitable Bingo Operations Division (for example, only the administrative head of an agency may grant emergency leave to agency employees). Thus, it is contemplated that the Director of Bingo Operations and the Executive Director shall have a cooperative working relationship.

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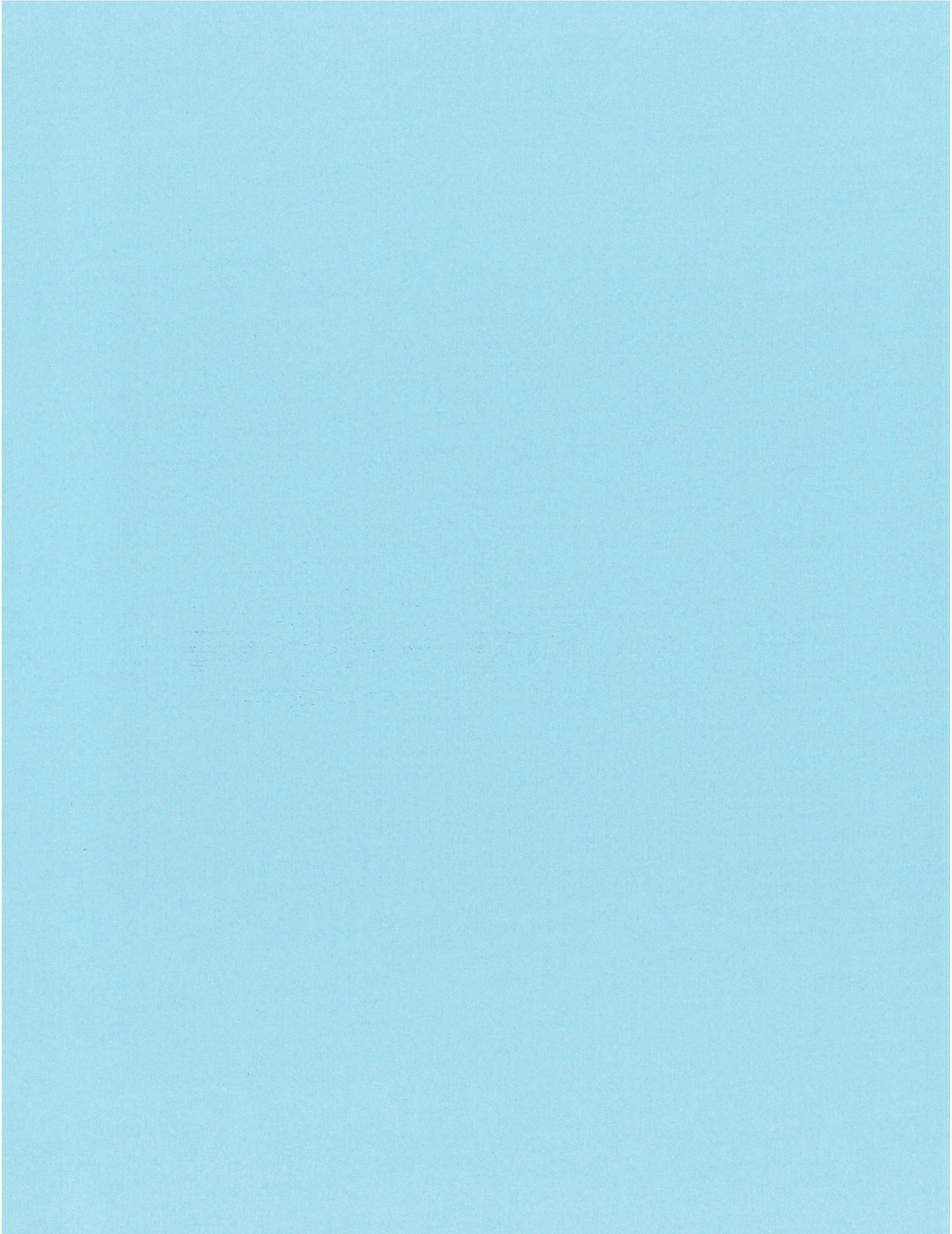
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3. The Director of Bingo Operations

The Director of Bingo Operations shall administer the Bingo Division under the direction of the Commission. The Director of Bingo Operations shall perform all duties required by the Commission to administer the Bingo Enabling Act, and shall implement the Commission's general policies for the regulation of charitable bingo by establishing specific policies, procedures and practices governing the day-to-day management of the Charitable Bingo Operations Division for the effective and efficient regulation of charitable bingo.





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