

**Ministerial Diploma No. 2/2009
of 8th of April, 2009**

**Public Notice
Applications for a Lottery Franchise**

Under the terms of the provisions set out in Decree-Law no. 6/2009 of 15th January, the operation of lotteries shall be subject to a franchise regime preceded by public tender, open to all national and foreign applicants.

The purpose of this Notice is to explain to those potentially interested and to start the application process to this franchise.

The operation of casinos and slot and gaming machines, as well as table games with prizes in chips or cash shall be excluded from this Franchise.

The present Ministerial diploma requires the subsequent licensing and successive payment of the tax on gambling prizes and licensing and gambling taxes.

The Government, through its Minister of Tourism, Trade and Industry, therefore decrees under the above mentioned legal provisions, that the following Notice be published:

1. General Principles covering the franchise regime.

Under the terms of article 9 of Decree-Law no. 6/2009 of 15th January, the right to operate games of fortune, including lotteries, shall be reserved to the State and may only be undertaken by firms constituted under the form of companies to whom the Government has awarded the corresponding franchise through public administrative contract.

The activity to be franchised consists of:

The operation of lottery games, also known as “loto” and other names and regional variations, and similar games, through tickets, coupons or cards obtained in establishments or by itinerant salesmen, with prizes in money in all national territory. The Government reserves the right to launch a tender for one more concessionaire in the same business and with the same objectives

and under the same terms, pursuant to the provisions set out in article 4, no. 2 of the aforementioned Decree-Law no. 6/2009.

2. Deadlines and admission requirements for applicants

2.1. The companies interested shall submit their applications by way of a proposal in a sealed letter, addressed to the Minister of Tourism, Trade and Industry – Edifício Fomento – Díli – Timor-Leste by the (30th) thirtieth day following the publication of this diploma in the Official Journal or journals, the latest one published prevailing.

2.2. The bidders shall be entitled to be present at the act in which the bids are opened and in which the applicants who do not fulfil the legal requirements are preliminarily excluded by the Jury.

2.3. The companies applying shall have a minimum share capital of 100 thousand US dollars, as well as a permanent bank balance of no less than 250 thousand US dollars, the Minister being entitled to authorise an irrevocable bank guarantee of a value equivalent to the above mentioned balance.

2.4. The partners, directors, managers or members of any of the governing bodies shall prove by means of a certificate that they have not been convicted of any crimes in Timor-Leste.

2.5. The applying companies shall attach a declaration, signed by the chairman of the board, stating that they are aware of all their rights and duties, as set out in Decree-Law no. 6/2009 of 15th January, in particular articles 10 to 13, 23, 26 et seq..

2.6 The applying companies shall also submit proof, in their request for admission to the tender and in addition to the full name of the company and names of all partners and directors and copy of the articles of association:

a) That they have never been excluded from public tenders due to unlawful acts or fraud;

- b) That they do not owe taxes or other credits to the State;
- c) Name of the location of the head offices and collection of possible assets allocated to the franchise;

3. Duration and Licensing

3.1. The franchise shall be valid for a period of 4 years. Once the contract has been signed it shall be considered that the licence corresponding to the first year has been granted, albeit with the requirement to pay the corresponding taxes. The exercise of the franchised activities concerning the operation of lotteries also depends on the yearly licensing.

3.2. Locations for lottery draws and drawings and other games of fortune or pits for cockfighting shall not be granted a licence in the following cases:

- a) In parts or annexes of buildings in which public services function and are under the direct or indirect administration of the State;
- b) Without the prior approval of the Fire Fighting Service and the General Inspectorate of Gaming, in any case, including inspections of electrical, water and gas installations;
- c) When there are no sanitary facilities, and separate toilet facilities provided for each sex, in the case of closed premises;
- d) When there is no, in addition to the entrance door, emergency exit, in the case of closed premises;
- e) When the sound and audiovisual equipment is not good enough to clearly hear the announcement of the prizes and the numbers sequentially drawn;
- f) Which are not provided with security staff during working hours and one hour after closure;
- g) When there is no mandatory announcement posted forbidding the consumption of alcoholic

beverages.

3.3. The licence may be revoked when the licence holder fails to fulfil the duties related to the exercise of the activities, notably, but not only, when:

- a) Such holder does not fulfil, for no justifiable reason, the regulations and deadlines established by the legally competent authorities;
- b) The holder repeatedly fails to comply with the legal provisions and technical standards applicable to the exercise of the licensed activity;
- c) The holder does not commence the activity within the established time limit or interrupts it without having obtained the authorisation from the Minister.

4. Content of the proposals for the operation of lotteries

The information and plans to be proposed by the bidders shall, in addition to the full name of the company and those of all its partners and directors, and articles of association, the following elements:

- a) Plan of Activities for the first 2 years and corresponding justification from the perspective of the interest for tourism, programmed works and improvements;
- b) Priorities to be considered in its implementation;
- c) Time limit for the onset of activities;
- d) Number of foreseeable jobs, specified for nationals and foreigners;
- e) The number of seats and standing places for the location proposed for the drawing of the lottery numbers;
- f) Readiness to provide a bank guarantee of an amount to be defined in the Notice of the Tender, up to the fifth day before the day set for the signing of the Contract.

5. Security for admissibility to the Tender

5.1. The security shall be of 25 thousand US dollars and shall be provided through a deposit lodged at any bank located in Díli, on behalf of the Ministry of Tourism, Trade and Industry. The deposit mentioned above may be replaced by bank guarantees or irrevocable surety insurance by a justified request, addressed to the Minister of Tourism, Trade and Industry, which shall be considered deferred should there be no decision announced within the time limit of 7 working days.

5.2. The security shall be returned to the bidders at the time of the definitive award of the contract.

5.3. The following shall be considered as grounds to lose the security:

a) The fact that the franchise agreement is not awarded within the time limit set out in the previous article, when imputable to the successful bidder;

b) False declarations given by the bidders.

6. Criteria for the award and the Jury

6.1. The decision for the award shall be taken in consideration of the reputability of the bidders, the feasibility of the proposals, the financial guarantees offered and the advantages they offer with the public interest in mind, in accordance with the terms of the provisions set out in article 19 of Decree-Law no. 6/2009.

6.2. The Jury shall consist of the Minister of Tourism, Trade and Industry, who shall be the chairman, the General Inspector of Gaming and the General Director of the Ministry responsible.

7. Award and Transfer of the contractual position by the successful bidder

7.1. The award shall be formalised by way of a public contract, accorded by the Minister and the legal representative of the successful bidder, to be entered into within a maximum

time limit of 30 days from the date of publication of the award dispatch.

7.2. The concessionaire undertakes to fulfil the Lottery Regulations and Operation Instructions referred to in article 12 of Decree-Law no. 6/2009.

7.3. The transfer of the franchise of the lottery operation and activities which make up the contractual obligations, under any form, to third parties may be permitted with the authorisation of the minister, who may require new obligations from the transferee.

7.4. The transfer of the contractual position shall be considered null and void in the event the provisions set out in the article above are not complied with and shall constitute grounds to prevent the defaulting concessionaire to apply to future gaming tenders.

8. Final Provisions

8.1. The present Notice shall be published in Portuguese and English, the Portuguese version prevailing in case of any doubt or dispute.

8.2. This franchise shall follow the public procurement regimes established in Decree-Laws nos. 10 and 11/2005.

Díli, 8th of April 2009

The Minister of Tourism, Trade and Industry

Gil da Costa A. N. Alves