

# Gaming guideline G06: Authorised sale of hotel operating authorities

*Issued: July 2023*

This guideline is issued by the Commissioner for Liquor and Gaming under section 18 of the *Gaming Machine Act 1991*, replacing the previous *Guidelines to the authorised sale of gaming machine operating authorities* which were released in February 2023.

## 1 Purpose

This guideline applies to the conduct of, and participation in, the authorised sale of operating authorities (authorities) in accordance with Division 2 of Part 3A of the *Gaming Machine Act 1991* (the Act). These guidelines will be used by the following:

- The Office of Liquor and Gaming Regulation (OLGR) to regulate the conduct of authorised sales of authorities;
- The selling entity to conduct and administer authorised sales of authorities; and
- Category 1 gaming licensees to participate in the sale and purchase of authorities via authorised sales.

The sale, to be conducted by tender, has some unique features not normally associated with sales by tender. In particular, specific authorities are not being offered for sale by tender. Rather, a pool of authorities (authorised sale pool) is offered for sale by tender, the outcome of which will be determined by the highest valid bid lodged by a person authorised by the Act to purchase authorities at an authorised sale.

The selling entity may allocate identifiable authorities against a particular successful bid however this is purely for the administrative purpose of ensuring that, where possible, all authorities in the authorised sale pool are sold.

The selling entity is responsible for determining, on behalf of the vendors in an authorised sale (whether the vendor is the State or a gaming licensee), the amount received for the sale of authorities. The method to be used by the selling entity in making this determination is outlined in section 8.4 of this guideline.

This guideline and the *Conditions of Tender* issued by the Public Trustee of Queensland will form the terms of the tender contract between the successful bidders and vendors of operating authorities.

## 2 Background

Section 109B of the Act provides that an authority may be sold only by an entity (the “selling entity”), and in the way, prescribed under a regulation. The

*Gaming Machine Regulation 2002* (the Regulation) provides that The Public Trustee of Queensland under the *Public Trustee Act 1978* is the selling entity for the purpose of conducting authorised sales and states that authorities will be sold by a competitive tender process.

### **3 Aim of Authorised Sales**

The aim of an authorised sale is to ensure that, where possible, all authorities in the authorised sale pool are sold. A minimum acceptable price for authorities will be set for each tender to ensure the integrity of the tender process.

### **4 Application of the guideline**

This guideline will be applied whenever an authorised sale of authorities is conducted to:

- ensure that authorised sales are conducted and administered fairly and in a transparent way; and
- enable potential purchasers of authorities to meet the requirements for lodging a valid bid in the tender sales process.

### **5 Legislation**

The Act is the principal legislation for the conduct of authorised sales. Division 2 of Part 3A of the Act provides for the conduct of authorised sales by a selling entity. The Regulation prescribes key elements of the conduct of authorised sales including the prescribed percentage of the amount received for the sale of a licensee's authority which must be paid into the consolidate funds; the authority regions (regions) and the appointment of the selling entity.

### **6 How authorities become available for sale**

Authorities of a licensee become available for sale when the category 1 gaming licensee acts upon a business decision to:

- A. Apply to have the approved number of gaming machines for the licensed premises decreased under section 86 of the Act. Where the application to decrease is approved by the Commissioner for Liquor and Gaming, and the number of authorities held by the licensee exceeds the new number of approved gaming machines the licensee intends to retain, the balance of the surplus authorities must be sold at an authorised sale; or
- B. Surrender the gaming machine licence in accordance with section 95 of the Act, in which case all authorities for the licensed premises under the licence must be sold at an authorised sale.

Under section 109E of the Act, the selling entity must pay a percentage of the amount received for the authorities into consolidated revenue. From 30 June 2022, the prescribed amount under section 10BA of the Gaming Machine

Regulation 2002 is 15%. On 1 July 2024, the amount will automatically revert back to 33%, as per the provisions of section 10B.

In addition, operating authorities of the State may be periodically released for sale in accordance with Government policy.

## **7 Authorised Sales**

### **7.1 Initiating an Authorised Sale**

The Commissioner or an authorised delegate, may instruct the selling entity to conduct an authorised sale as required either in a nominated region or for the whole of the state. The commissioner or an authorised delegate will further determine if the authorised sale is to be of industry pool authorities, government pool authorities or a combined authorised sale of both industry pool and government pool authorities.

In instructing the selling entity to conduct an authorised sale, the selling entity will cease to attribute authorities to the industry sale pool in accordance with the administrative workload of OLGR. This will normally be 10 (ten) working days prior to the advertising of the authorised sale by the selling entity.

Sales are expected to be held in March, July and November of each year.

Where there are authorities for sale in the industry sale pool of a region, the Commissioner or an authorised delegate may instruct the selling entity to conduct an authorised sale within 12 months of the last sale in the region.<sup>1</sup>

Where there are authorities of the state in the government sale pool then the Commissioner or an authorised delegate may determine in which region the authorities of the state may be sold and when such sales may be conducted. However, it is anticipated that in such circumstances, those authorities will be sold at an authorised sale conducted in the region into which the authorities were originally allocated.

Where there are authorities of the state for sale in the government sale pool, the Commissioner or an authorised delegate may instruct the selling entity in writing (the notifying letter) to include in the authorised sale the authorities of the state.

The Commissioner or an authorised delegate, when instructing the selling entity by notifying letter to conduct an authorised sale, must include as part of those instructions a List of Vendors. Where the List of Vendors includes authorities of a licensee, the List of Vendors must include:

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<sup>1</sup> The Commissioner may decline to exercise his discretion to instruct the selling entity to hold an authorised sale where there are insufficient authorities (eg less than 20) in the industry sale pool to warrant the holding of a sale or there are no potential buyers of authorities for the region at the time.

- details of the percentage of the amount received for the sale of each authority which must be paid into the consolidated fund in accordance with section 10B of the Regulation; and
- details of the licensee and the authorities the licensee is selling in the authorised sale.

The List of Vendors will be the order of priority of sale of authorities (see section 9). Where the List of Vendors includes authorities from both the industry sale pool and the government sale pool then the authorities from the industry sale pool will be priority listed for sale ahead of authorities from the government sale pool.

The Commissioner or an authorised delegate, when instructing the selling entity to conduct an authorised sale, must include as part of those instructions the following details:

- When the sales are to be advertised as agreed between the selling entity and the Commissioner or an authorised delegate;
- The region in which the authorised sale is to be conducted; and
- The total number of authorities for sale in each region.

## **7.2 Determining the sale priority order of industry pool authorities**

The Commissioner or an authorised delegate will determine the priority order for sale of industry sale pool authorities in the following way<sup>2</sup>:

- 1 Industry sale pool authorities will receive priority order of sale in order of the date the authorities became available for sale (see section 6). That is, authorities first becoming available for sale will have the first priority for sale followed by the second authorities becoming available for sale which will have the second priority for sale and so on;
- 2 Where the dates in (1) above are the same, then the Commissioner will use the date the application for decrease approval or notification of the surrender of the gaming machine licence was received by OLGR;
- 3 Where the Commissioner or an authorised delegate is still unable to determine the sale priority order of industry sale pool authorities, then the authorities of the gaming machine licensee whose gaming machine licence was first approved in time by the Commissioner or an authorised delegate will receive the priority order of sale.

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<sup>2</sup> The sale priority order of industry pool authorities is important where the supply of authorities for sale in an authorised sale exceeds demand from purchasers.

## **8. Role of the Selling Entity**

The selling entity conducts authorised sales of industry pool authorities and government pool authorities as agreed between the selling entity and the Commissioner or an authorised delegate.

### **8.1. Conduct of Authorised Sales by Selling Entity**

#### **8.1.1. Tender Sale Process**

The way in which authorities may be sold is prescribed in section 10AB(b) of the Regulation and is by a competitive tender process. A tender in an authorised sale is the submission of a tender sale bid (monetary amount) by a category 1 gaming licensee which may enable the category 1 gaming licensee to purchase authorities at an authorised sale. Key elements of a tender sale are:

- A person must only submit one (1) Tender Sale Bid Form<sup>3</sup> in each authorised sale of authorities;
- A person must only submit one (1) Bid Price in each Tender Sale Bid Form in an authorised sale of authorities;
- The opportunity to purchase authorities at an authorised sale will be allocated by the selling entity to the person who submits the highest value of Tender Bid Price by a valid bid.<sup>4</sup>

#### **8.1.2. How bids are to be made**

Authorities offered for sale by a selling entity in an authorised sale are offered for sale by a competitive tender process. The authorities are offered for sale as a pool of authorities (the authorised sale pool) and may comprise industry sale pool authorities, government sale pool authorities or a combination of both.

A person seeking to purchase authorities in an authorised sale will tender to purchase a specified number of authorities from the authorised sale pool. A person must not seek to purchase specific identifiable authorities from the authorised sale pool and any allocation of an authority against a bid is for the purposes of administering the sales process by the selling entity only.

The Bid Price per Authority must meet or exceed the minimum acceptable price for each region. As part of a trial commencing 30 June 2022, the minimum acceptable price for each region will be published on the Public Trustee website and included in the Courier Mail advertisement announcing the commencement of the tender.

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<sup>3</sup> A person must only submit one (1) Tender Sale Bid Form for each category 1 premises. A person with multiple licences may lodge one (1) Tender Sale Bid Form for each licence/premises.

<sup>4</sup> Providing authorities sufficient to meet the minimum number of authorities required by a bid remain in the authorised sale pool for allocation and see also 8.2.4.

### **8.1.3. Advertisement of Sales**

Upon being instructed by the Commissioner or an authorised delegate to hold an authorised sale in a region the selling entity must:-

- Advertise the authorised sale in a way and on a date as agreed between OLGR and the selling entity;
- Include in any advertisement of an authorised sale, the location of the Tender Box including details of public access to the Tender Box in order to lodge a bid;
- Nominate the date and time for the closing of the tender;
- Include details of the region in which the authorised sale is being conducted;
- Advise the number of authorities being offered for sale by tender;
- Advise the minimum acceptable price for each region; and
- Provide brief terms and conditions of the tender sale or alternatively provide information on where these may be obtained.

### **8.1.4. Closing Date for Tenders**

The Commissioner or an authorised delegate must nominate a closing date for the tender which addresses the business requirements of OLGR and is not less than 10 working days following the advertisement of the sale.

### **8.1.5. Tender Box**

The selling entity will maintain a Tender Box for the submission of Tender Sale Bid Forms by persons seeking to purchase authorities at an authorised sale. The Tender Box will be maintained by the selling entity at the principal place of business of the selling entity as advertised.

## **8.2. Purchase of authorities at an Authorised Sale**

### **8.2.1. Who may submit a bid in an Authorised Sale**

Only a category 1 licensee who, for the category 1 licensed premises for which the authority is intended to be purchased, an approved number of gaming machines that is more than the licensee's endorsed number of authorities (as specified on the issued gaming machine licence), may purchase an authority at an authorised sale<sup>5</sup>.

### **8.2.2. Submitting a Bid**

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<sup>5</sup> To avoid any confusion, only a category 1 gaming licensee who gained approval from the Commissioner, and has been issued a gaming machine licence for the new premises or had approved an increase in the approved number of gaming machines before the date a tender sale is advertised by the selling entity may submit a bid in an authorised sale. Licensees gaining approvals by the Commissioner after an authorised sale is advertised and before the close of that tender will not be eligible to submit a bid in that authorised sale.

An authorised person may submit a bid in an authorised sale as follows:

- The bid must be submitted in the Tender Sale Bid Form;
- The Tender Sale Bid Form must be accompanied by the Bid Lodgement Fee; and
- The Tender Sale Bid Form must be placed into the Tender Box by the person or their agent before the close of the tender.

### **8.2.3. Bid Validity**

After bids have closed for the authorised sale, both the selling entity (administrative compliance) and the Commissioner or an authorised delegate (legislative compliance) will scrutinise Tender Sale Bids to ensure they have been validly made. The selling entity must not allocate authorities to a person who has submitted an invalid bid in an authorised sale. Elements of a compliant valid bid include but are not limited to:

#### Administrative compliance

- The Tender Sale Bid Form is complete;
- The Tender Sale Bid Form is accompanied by the Bid Lodgement Fee;
- The Tender Sale Bid Form is lodged in the Tender Box after the calling of tender bids and before the close of the tender;
- The Bid Price per Authority must meet or exceed the minimum acceptable price advertised by the Public Trustee for each region

#### Legislative Compliance

- A bidder in an authorised sale must comply with the provisions of the Act. Some sections which are directly relevant to bidders are produced below, however, bidders should ensure they have recourse to all sections of the Act when submitting a bid:
    - **Section 109C Purchase of operating authority at authorised sale**
- (1) A person must not purchase an operating authority unless—
- (a) the person is a category 1 licensee and purchases the operating authority at an authorised sale; and
  - (b) the person has, for the category 1 licensed premises for which the operating authority is purchased, an approved number of gaming machines that is more than the licensee's endorsed number of operating authorities; and
  - (c) unless the authorised sale is conducted for the whole of the state, the category 1 licensed premises for which the operating authority is purchased are located in the region for which the authorised sale is conducted.

Maximum penalty—200 penalty units.

- (2) A person must not, for category 1 licensed premises, purchase more than the number of operating authorities equal to the difference between the approved number of gaming machines and the endorsed number of operating authorities for the licensed premises.

Maximum penalty—200 penalty units.

- (3) If an operating authority is transferred to a person by the operation of section 78(5) or 79(2), the person is taken not to have purchased the operating authority.

- **Section 109F When operating authorities become operating authorities of the state**

- (1) An operating authority of a licensee becomes an operating authority of the state and stops being an operating authority of the licensee by operation of this subsection if the licensee's gaming machine licence—
  - (a) is cancelled under section 96 because the licensee's liquor licence is cancelled or surrendered; or
  - (b) is cancelled under section 97(12)(c)(iii)(A) or (13)(a).
- (2) Subsection (3) applies if, at any time, the endorsed number of operating authorities for licensed premises is more than the approved number of gaming machines for the licensed premises because of—
  - (a) the approval of a decrease proposal that is a request or report under section 87(1); or
  - (b) other circumstances prescribed under a regulation.
- (3) The number of operating authorities that is more than the approved number of gaming machines for the licensed premises stop being operating authorities of a licensee and become operating authorities of the State by operation of this subsection.

#### **8.2.4. Nominating a minimum number of authorities to purchase**

A person lodging a bid in an authorised sale of authorities may nominate the minimum number of authorities the person is prepared to purchase in circumstances where the total number of authorities sought by the bid can not be met<sup>6</sup>. The option to nominate a minimum number of authorities recognises that, in some circumstances, hotel licensees may consider the purchase of fewer authorities than the nominated minimum number not to be a viable option for the conduct of gaming at that time.

At any time during the determination of successful bids and allocation of authorities by the selling entity in section 8.3\* the number of authorities

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<sup>6</sup> A person must not, for category 1 licensed premises, purchase more than the number of operating authorities equal to the difference between the approved number of gaming machines and the endorsed number of operating authorities for the licensed premises (section 109C of the Act).

available for allocation by the selling entity under section 8.3.3\* does not meet the total number of authorities sought in the bid, the selling entity will:

- Where the number of authorities available for allocation by the selling entity meets or exceeds the minimum number of authorities nominated by the person in the bid or where no minimum number is nominated by the person, the selling entity will allocate the available authorities to that bid;
- Where a minimum number of authorities is nominated by a person in a bid and the number of authorities available for allocation to that bid does not meet or exceed the minimum number, the selling entity will contact the person submitting the bid to seek further clarification on whether or not the person is prepared to accept an allocation of a number of authorities less than the nominated minimum number. The person making the bid, when contacted by the selling entity in these circumstances may either:
  - (a) Accept the allocation of a number of authorities below the nominated minimum number and make payment of the settlement sum in section 8.3.3; or
  - (b) Decline to accept the allocation of a number of authorities below the nominated minimum number.

Where a person declines an allocation of authorities in (b) above, the selling entity must endorse the List of Tender Bids Received Form to that effect.

### **8.3. Determining successful bids and allocation of authorities by selling entity**

#### **8.3.1. Determining successful bids**

Following the close of the tender for an authorised sale the selling entity will open the tenders received and compile a List of Tender Bids Received Form. All Tender Sale Bid Forms received in a tender sale by the selling entity must be included on the List of Tender Bids Received Form.

The selling entity must receipt the payment of the Bid Lodgement Fee for all tender bids received.

The selling entity will then collate the bids received in order of priority from the highest monetary bid per authority sought down to the lowest monetary bid per authority.

Where bids, identical in monetary quantum<sup>7</sup> are received, the selling entity must indicate the identical bids by endorsing the List of Tender Bids Received Form to that effect.

Where the selling entity declares a tender bid to be an invalid bid due to administrative non-compliance then the selling entity must endorse the List of Tender Bids Received Form to the effect that the bid is invalid. The decision of the selling entity in this regard will be final.

The selling entity must then submit the List of Tender Bids Received Form to the Commissioner or an authorised delegate for verification of the validity of the purchasers. The Commissioner or an authorised delegate will assess each tender bid received to determine legislative compliance. The Commissioner or an authorised delegate must endorse the List of Tender Bids Received Form to indicate if the bid is valid or invalid e.g. the person does or does not meet the requirements of section 109C of the Act. The decision of the Commissioner or an authorised delegate in this regard will be final.

The Commissioner or an authorised delegate will then return the List of Tender Bids Received Form to the selling entity for allocation of authorities to the highest bidder.

### **8.3.2. Dealing with bids of identical Bid Price per Authority**

The selling entity will deal with bids of identical Bid Price per Authority in the following way.

#### Sufficient authorities remain in the authorised sale pool to satisfy the demand for authorities of all bids of identical Bid Price per Authority

Where sufficient authorities remain in the authorised sale pool to meet the demand for authorities of all bids of identical Bid Price per Authority the selling entity will allocate authorities to those bids in the normal way and then move on in the allocation process to the next highest bid.

#### Insufficient authorities remain in the authorised sale pool to satisfy the demand for authorities of all bids of identical Bid Price per Authority

Where identical bids are received and some authorities are available for allocation against the identical bids but not sufficient to satisfy the demand for authorities of all bids of identical Bid Price per Authority, the selling entity will allocate the available authorities proportionate to the number of authorities sought by the bidders of identical bids using the following formulae:-

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<sup>7</sup> Bids are identical in monetary quantum when the amount bid per authority sought by the bidder is identical eg where bidders have each nominated a bid price per authority of \$20,000 per authority irrespective of the number of authorities sought to be purchased.

*“The number of authorities available for allocation against the identical bids to be divided by the total number of authorities sought by the identical bids multiplied by the number of authorities sought in each identical bid<sup>8</sup>.”*

The selling entity will then deal with the allocation of authorities to the persons who submitted identical bids in accordance with section 8.2.4.

### **8.3.3. Allocation of authorities by selling entity**

#### **Initial Provisional Allocation of authorities to highest bidders<sup>9</sup>**

The selling entity will “provisionally” allocate the authorities from the authorised sale pool in order of priority to the highest monetary valid bid and subsequent next highest monetary valid bids until there are insufficient authorities remaining in the authorised sale pool to fill the total number of authorities sought by the bid of the next highest monetary valid bid or the next highest monetary valid bid is below the minimum acceptable price.

When no further complete bids can be allocated authorities during the provisional allocation, the selling entity ceases to further allocate authorities from the authorised sale pool and arranges payment of the bid price, stamp duty<sup>10</sup> and administration fees (the “settlement sum”) by the bidders who have been allocated authorities in the provisional allocation.

A bidder must pay the settlement sum<sup>11</sup> as required by the selling entity and within 5 (five) working days of being required by the selling entity to make the payment.

Once the selling entity has received the settlement sum as an unconditional payment, the selling entity will endorse the List of Tender Bids Received to show that the respective bid is now finalised.

#### **Failure to settle secondary or further allocation of authorities to subsequent highest bidders**

If a successful bidder fails to pay the settlement sum as required:

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<sup>8</sup> Rounded to the nearest whole number as determined by the selling entity. Where the outcome is unable to be rounded eg results in one-half (.5) of an authority then only the whole numbers will be allocated and the remaining authority returned to the respective sale pool as “unsold”.

<sup>9</sup> During the initial provisional allocation and secondary allocation of authorities only the total number of authorities sought in the bid is considered.

<sup>10</sup> The rate of duty payable is set out in Schedule 3 of the Duties Act 2001.

<sup>11</sup> Settlement sum includes the total amount bid for the number of authorities allocated to the bidder by the selling entity; GST; Stamp Duty; Authorised Sale Administration Fee and other fees as provided in the Guideline.

- (i.) The bid is invalidated; but
- (ii.) Without prejudice to any other consequence of the bidder's failure in this regard as a breach of the terms of tender. (These may include a show cause procedure under the Act.); and
- (iii.) The selling entity must conduct a secondary or further allocation of the resultant unallocated authorities from the authorized sale pool.

Once all matters associated with the initial provisional allocation have been determined (e.g. payment of the settlement sum has or has not been received) then the selling entity must conduct a "secondary allocation" of any unallocated authorities<sup>12</sup> remaining in the authorised sale pool.

This cycle of allocation of authorities and payment in settlement continues until all authorities have been allocated and settlement sums are unconditionally paid or until there remains a balance of authorities in the authorised sale pool insufficient to meet the total number of authorities required by the next highest bidder<sup>13</sup> with a valid bid equal to or above the minimum acceptable price.

#### Partial Allocation of authorities to subsequent highest bidders

If following the provisional allocation and any secondary or further allocations the remaining number of authorities is insufficient to meet the demand of the next highest bidder with a valid bid equal to or above the minimum acceptable price then a "partial bid" allocation must be conducted.

During a partial bid allocation, the selling entity must have regard to the minimum number of authorities the bidder is prepared to purchase. The selling entity will consider the next highest monetary bid with a valid bid equal to or above the minimum acceptable price and allocate authorities in accordance with the process outlined in section 8.2.4<sup>14</sup>.

#### **Finalisation of allocation of authorities by selling entity**

Where any remaining authorities are unable to be allocated under this section, the remaining authorities should be deemed to be "unsold" by the selling entity.

The Commissioner or an authorised delegate will return unsold authorities to their respective sale pools until the next authorised sale is held in the region.

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<sup>12</sup> Unallocated authorities here include the remaining balance of the original sale pool plus any authorities for which settlement has not been made from the provisional allocation.

<sup>13</sup> For example the balance of authorities remaining in the authorised sale pool is 8 authorities and the next highest bidder requires an allocation of 20 authorities.

<sup>14</sup> It is important to acknowledge that following a "partial bid allocation" the allocation process could revert to the secondary allocation stage depending on the number of authorities remaining in the authorised sale pool and the number of authorities sought by the next highest monetary bidder.)

#### **8.4. Determining the amount received for sale of authorities**

The tender sale process used by the selling entity to conduct an authorised sale of authorities is aimed at achieving the sale of all authorities in the authorised sale pool. Approved gaming licensees may submit a bid to purchase a number of authorities from the pool of authorities offered for sale. A bid can not relate to a particular identifiable authority, rather the total of the Bid Price per Authority received for all authorities sold at an authorised sale is shared amongst the vendors in the way set out below (see section 8.5). The selling entity must determine the amount received for the sale of specific authorities at an authorised sale.

##### **8.4.1. Authorised sale incorporating only industry sale pool authorities**

Where only industry sale pool authorities are sold in an authorised sale, the total amount received by the selling entity in settlement of the Bid Price per Authority of all authorities sold will be the **“total amount received”** on sale of licensee’s authorities.

##### **8.4.2. Authorised sale incorporating only government sale pool authorities**

Where only government sale pool authorities are sold in an authorised sale, the total amount received by the selling entity in settlement of the Bid Price per Authority of all authorities sold will be the **“total amount received”** on sale of government sale pool authorities.

##### **8.4.3. Authorised sale incorporating both industry and government sale pool authorities**

Where in a combined authorised sale comprising authorities of both the industry sale pool and the government sale pool, authorities from both the industry sale pool and the government sale pool are sold, the total amount received by the selling entity in settlement of the Bid Price per Authority of all authorities sold will be the **“total amount received for the combined sale”**.

- The selling entity will then determine the **“total amount received”** on sale of licensee’s authorities by applying the following formula:

**“total amount received for the combined sale divided by the total number of authorities sold multiplied by the number of industry sale pool authorities sold equals the total amount received on sale of licensee’s authorities”**.

- The selling entity will then determine the **“total amount received”** on sale of government pool authorities by applying the following formula:

**“total amount received for the combined sale divided by the total number of authorities sold multiplied by the number of**

**government sale pool authorities sold equals the total amount received on sale of government pool authorities”.**

## **8.5. Dealing with settlement sums received by the selling entity**

### **8.5.1. Industry Pool Authorities**

The selling entity will calculate the “average price” of industry pool authorities sold at the tender sale by dividing the “total amount received” (inclusive of GST) on the sale of licensee’s authorities by the number of industry pool authorities sold at the tender sale<sup>15</sup>.

The selling entity must then calculate the amount to be paid into the consolidated funds. This is a percentage advised to the selling entity by the Commissioner or an authorised delegate in the List of Vendors, of the average price (exclusive of GST).

The selling entity must then pay the calculated amount to the state which will be paid into the consolidated fund in accordance with sections 109E(1)(a) and 109E(2)(a) of the Act.

The selling entity will pay each vendor an amount equal to the average price (including GST) multiplied by the number of authorities sold less the amount paid into the consolidated fund in accordance with section 10C(2) and (3) of the Regulation. Details of vendors are provided to the selling entity by the Commissioner or an authorised delegate in the List of Vendors.

### **8.5.2. Government Pool Authorities**

The selling entity must pay the amounts received (inclusive of GST) on the sale of state authorities to the state. The amount received (exclusive of GST) is paid into the consolidated fund in accordance with section 109D of the Act.

### **8.5.3. Other Fees and Duties received by the selling entity in settlement**

Stamp duty received from purchasers of authorities in the authorised sale is to be dealt with by the selling entity as agreed between the selling entity and the Office of State Revenue.

A Bid Lodgement Fee must accompany each bid submitted in an authorised sale and is to be retained by the selling entity to cover their administrative costs in processing the Tender Sale Bid Form.

An Authorised Sale Administration Fee for each authority allocated to a person in an authorised sale is to be paid by the purchaser of authorities as part of the settlement sum. Authorised Sale Administration Fees are to be retained by the selling entity to cover the costs associated with administering the authorised sale process.

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<sup>15</sup> For example where a total of 45 authorities are sold for a total value of \$1,250,000 then the average sale price is \$27 778 rounded to the nearest dollar.

For the current fees refer to the Tender Bid Form or our web site  
<https://www.business.qld.gov.au/industries/hospitality-tourism-sport/liquor-gaming/gaming/electronic-gaming-machines/licensing/operating-authorities-hotels>.

## 9. Dictionary of terms in this Guideline.

Act	The <i>Gaming Machine Act 1991</i> .
Administrative Compliance	The essence of a valid bid by a category 1 gaming licensee. All administrative acts must be completed by the person eg completion and lodgement of the Tender Sale Bid Form and payment of correct fees (section 8.2.3)
Authorised Delegate	Executive Director, Office of Liquor and Gaming, General Manager of Licensing
Authorised Sale	The sale by tender of authorities by the selling entity under section 109B of the Act and as prescribed under the Regulation.
Authorised Sale Pool	The Pool of Authorities for sale in an authorised sale may be industry pool authorities, government pool authorities or a combination of both.
Authorised Sale Administration Fee	The fee payable by successful bidders to be included in the invoice for payment following a successful allocation of authorities in an authorised sale. The selling entity shall retain this fee to cover the costs associated with administering the authorised sale process.
Authorities	See Operating Authorities.
Authority Region	Means a region of the State prescribed under section 10E of the Regulation.
Bidder	Person who submits a valid Tender Sale Bid Form in an authorised sale.
Bid Lodgement Fee	The fee for the lodgement of a Tender Sale Bid Form payable to the selling entity and to be retained by the selling entity to cover their administrative costs in processing the Tender Sale Bid Form.
Bid Price per Authority	The Bid Price per Authority is the price per authority that the purchaser will pay

	should the bid be successful and is inclusive of the GST component.
Commissioner	Is the Commissioner for Liquor and Gaming under the Act.
Combined Pool	A combined pool of industry pool authorities and government pool authorities for sale in an authorised sale.
Consolidated Fund	The fund into which the proceeds of the sale of government pool authorities must be paid by the selling entity. In addition the commission payable by vendors on the sale of authorities is also paid into this Fund.
Government Sale Pool	The pool of government authorities for sale in an authorised sale and comprising the government pool component of the authorised sale pool of Authorities.
GST Component	That part of the Bid Price per Authority a bidder must include for payment of Goods and Services Tax.
Highest Monetary Value Bid	The bid with the highest monetary value for each authority sought to be purchased in the authorised sale by the bidder.
Identical Bids	Where the quantum of the bids received is identical for the Bid Price per Authority for two or more bids.
Industry Sale Pool	The pool of industry authorities for sale in an authorised sale and comprising the Industry Sale Pool component of the authorised sale pool of authorities.
Initial Allocation	The first round of allocation of authorities to valid bids. An initial allocation does not include a partial bid allocation.
Invalid Bid	A bid that does not meet the administrative or legislative standard for a valid bid (see section 8.2.3) or a bid for which a purchaser does not make payment of the settlement sum.

Legislative Compliance	The essence of a valid bid by a category 1 gaming licensee. All legislative requirements must be complied with by the person submitting a valid bid in an authorised sale.
List of Tender Bids Received	The list of all bids received by the selling entity in an authorised sale.
List of Vendors	A list of vendors compiled by OLGR for a sale in a particular region.
Minimum Acceptable Price	A minimum monetary amount deemed appropriate for the purchase of an operating authority as advertised by the Public Trustee for each region.
Minimum Number	The minimum number of authorities that a bidder is prepared to accept in circumstances where the total number of authorities sought in a bid is not available for allocation (See section 8.2.4).
Notifying Letter	A letter from OLGR to the selling entity instructing the selling entity to hold a sale in a region and enclosing a List of Vendors.
Operating Authority	Means an authorisation for a category 1 licensee to install and operate a gaming machine on category 1 licensed premises.
Operating Authority of a licensee	Means an operating authority of a gaming licensee for sale in an authorised sale to be conducted by the selling entity.
Operating Authority of the State	Means an operating authority, other than an operating authority of a licensee, for sale in an authorised sale to be conducted by the selling entity.
Partial Bid Allocation	A partial bid allocation is undertaken when there are insufficient numbers of authorities remaining for allocation of authorities for sale by an initial or subsequent allocation. A partial bid

	allocation must not happen until all payments or not, of the settlement sums from initial or subsequent allocations has occurred.
Public Trustee of Queensland	The Public Trustee of Queensland is the selling entity under section 109B of the Act.
OLGR	The Office of Liquor and Gaming Regulation is responsible for regulating the gaming machine industry in Queensland Region. See authority region.
Regulation	The Gaming Machine Regulation 2002.
Sale Priority Order	The process enabling the selling entity to determine which authorities are sold and which authorities are “unsold” in circumstances where the supply of authorities exceeds the demand for authorities.
Secondary Allocation	Subsequent allocations of authorities for the full number of authorities sought by a bid and following the payment or not of the settlement sum from the initial allocation. A secondary allocation does not include a partial bid allocation.
Selling Entity	The selling entity (The Public Trustee of Queensland) is the entity which may sell authorities under section 109B of the Act.
Settlement Sum	The Settlement sum is the amount (including GST; Stamp Duty and Authorised Sale Administration Fees) which must be paid “unconditionally” as required by the selling entity within the time advised.
Supply	The number of authorities for sale in an authorised sale.
Tender Box	A secure container, into which prospective purchasers of authorities in an authorised sale must lodge their

	<p>Tender Sale Bid Form before the closing date and time for receipt of bids.</p>
<p>Unconditional Payment</p>	<p>The selling entity will advise bidders to make an unconditional payment of the settlement sum. The selling entity will determine how an unconditional payment is to be made.</p>
<p>Valid Bid</p>	<p>A bid which is complete and includes the number of authorities sought to be purchased and the amount bid for each authority. A valid bid is a single bid lodged by a licensee where a single bid price per authority is bid for all authorities sought in the authorised sale.</p>
<p>Valid Bidder</p>	<p>A valid bidder is a category 1 gaming machine licensee.</p>
<p>Working Days</p>	<p>Working days are normal working days and do not include Saturdays, Sundays and Public Holidays.</p>