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## 2.1.0 INTRODUCTION: ELIGIBILITY AND USE OF PROCEEDS

This chapter outlines the policies and procedures a licensing official must follow to determine:

- whether an organization is eligible to receive a lottery licence, and
- whether an organization's proposed use of lottery proceeds is eligible.

To be eligible to receive a lottery licence, an organization must first have charitable purposes and objects that fall within one of the four classifications of charity.

- a) The Relief of Poverty
- b) The Advancement of Education
- c) The Advancement of Religion
- d) Other Charitable Purposes Beneficial to the Community, not falling under a) b) or c)

An organization must also demonstrate that for a minimum of one year it has carried out charitable activities that provide a direct benefit to Ontario residents, which are consistent with their mandate.

Determining an organization's eligibility for lottery licensing is a complex process. The guidelines set out in this chapter cannot be considered in isolation of each other. A licensing official must consider all circumstances to determine which of the organization's purposes or objects and activities fall within one of the four charitable classifications. It is not sufficient to look at an organization's purposes to decide whether it qualifies as charitable: it is also necessary to look at the organization's activities.

A licensing official may reference decisions made by the courts, the Canada Revenue Agency and the Ontario Public Guardian and Trustee as a guide to eligibility decisions. However, registration under the federal *Income Tax Act* as a charitable organization does not confer automatic lottery licensing privileges. Similarly, approval of letters patent of incorporation by the Ontario Public Guardian and Trustee does not confer automatic lottery licensing privileges. Licensing officials must make eligibility decisions on a case-by-case basis, by considering the specific circumstances

of each organization.

Licensing officials must determine the eligible uses of lottery proceeds for each organization by examining the charitable classification of the organization's purposes or objects and activities. For example, an organization that has not demonstrated that it has an object that falls within the "Relief of Poverty" cannot use lottery proceeds to operate a food bank.

Some organizations have objects or purposes and activities that fall within more than one of the four charitable classifications. In this case, eligible uses of lottery proceeds may also fall within more than one of the four classifications.

This chapter is provided as guidance. It is not intended to provide definitive statements with regard to any organization that may apply for a lottery licence. It provides details regarding:

- the process that must be followed;
- guidelines for making eligibility decisions; and
- some examples of organizations and uses of proceeds that may be eligible.

The examples are not exhaustive. They are provided to describe the principles a licensing official must use to determine the eligibility of an organization's purposes or objects and activities.

Organizations must be continuously reviewed and reassessed to ensure continued eligibility. The examples used in this chapter reflect the current interpretation of what is eligible. It is incumbent on licensing authorities to remain current.

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### 2.1.1 WHAT IS CHARITABLE?

To be eligible for a lottery licence, an applicant must qualify either as an eligible charitable organization or as a non-profit organization with charitable purposes or objects.

There is no general statutory definition of "charity" and "charitable." However, there is a well-established body of common law dealing with the meaning of "charity." The first legal reference in the development of what is charitable is the preamble to the English *Charitable Uses Act of 1601*. This *Act* sets out a list of uses recognized as charitable in 1601. Of course, many of these items may no longer be considered charitable today. Subsequent case law has expanded this list of charities, reasoning by analogy to the charities recognized by the *Statute of Elizabeth (Charitable Uses Act, 43 Eliz. I, c. 4, Preamble)*. In this way, the meaning of charity continues to evolve to reflect the needs and values of society.

Although there are many worthwhile activities and causes, not all are considered charitable. An essential and common element in the determination of what is charitable is the provision of "public benefit." What is considered to benefit the public does not remain constant. It changes with the changing values and needs of society and reflects the social conditions of the time.

In order to determine which organizations are eligible for lottery licences, the Alcohol and Gaming Commission of Ontario uses the four charitable classifications set out below. In order to qualify for a lottery licence, an organization must demonstrate that it exists to provide services in one of these charitable classifications:

- a) the Relief of Poverty;
- b) the Advancement of Education;
- c) the Advancement of Religion;
- d) Other Charitable Purposes Beneficial to the Community, not falling under a) b) or c).

In addition, an eligible organization must also meet all of the following criteria.

- It must provide a charitable benefit to residents of Ontario.
- It benefits the public at large, not a private group.
  - An organization that is established solely for the benefit of its members is not an eligible organization. It does not have a public benefit.
- It does not restrict access to its benefits.
  - Organizations may direct their charitable works towards specific segments of the community or individuals with a common need, provided that:
    - More than a few individuals benefit.
    - The charitable benefit must be accessible to the public at large.An organization that otherwise restricts access is not an eligible organization. Organizations that exist to provide service to individuals with a common need may provide services on an individual basis.
- Its income is not paid to or used for the personal benefit of its members, its members' relatives or anyone who is not at arm's length from the organization.
  - An organization that transfers income or assets to its members for their personal benefit is not an eligible organization.
- Projects with a charitable purpose or object are one of its main aims and normal activities.
  - An organization that does not have a mandate to provide charitable works and does not provide charitable works on a regular basis is not an eligible organization.

An organization may have purposes or objects that focus its activities towards a specific segment of the community, for example, Aboriginal persons, senior citizens, or people with physical or developmental handicaps. Such organizations may be eligible if their purposes or objects and activities fall within one of the four charitable classifications. A licensing official must assess the activities of the organization in order to determine if the organization is eligible and, if so, within which of the four charitable classifications it falls.

### **2.1.2 OVERVIEW: THE RELIEF OF POVERTY**

The “Relief of Poverty” classification includes organizations that assist the economically disadvantaged by directly providing goods, social services, programs or facilities. The financial and other assistance provided is intended to alleviate the effects of living in poverty.

Poverty must be considered in relation to current economic and social conditions. The provision of goods or services to relieve poverty is intended to ensure that individuals have a basic standard of living. Individuals do not have to be destitute in order to qualify for this assistance.

Food banks, soup kitchens and organizations that provide clothing, furniture and appliances are examples of these types of organizations.

**See section 2.7.1 for detailed policies.**

### **2.1.3 OVERVIEW: THE ADVANCEMENT OF EDUCATION**

The courts have defined the “Advancement of Education” as:

- significant training or instruction;
- the development of mental faculties; or
- the improvement of a branch of human knowledge, which results in a public benefit.

Simply providing information does not meet this definition: significant training or instruction must also be offered.

To meet this definition, the instruction must be available to a wide section of the public and must not be restricted by any means. It is not necessary for an organization to provide instruction or training in a formal classroom setting, but its activities must improve human knowledge and provide a public benefit through instruction.

Teaching institutions and schools are examples of organizations that may fall within this charitable classification.

**See section 2.7.2. for detailed policies.**

#### **2.1.4 OVERVIEW: THE ADVANCEMENT OF RELIGION**

The “Advancement of Religion” refers to:

- the promotion of a religious group’s spiritual teachings; and
- the maintenance of the doctrines and spiritual observances upon which those teachings are based.

To be eligible as a charitable organization in this classification, a group’s spiritual beliefs or faith must include an element of worship of a personal God, gods or deities. Fostering a belief in proper morals or ethics alone is not enough to qualify a group as an eligible organization in this classification.

The groups’ activities must also include an element of public instruction and the promotion of spiritual teachings. Its activities must serve religious purposes for the public good. The group’s beliefs and practices cannot include anything the courts consider subversive, immoral or illegal.

Places of worship, such as churches, mosques, temples and religious congregations are examples of these types of organizations.

**See section 2.7.3 for detailed policies.**

### **2.1.5 OVERVIEW: OTHER CHARITABLE PURPOSES BENEFICIAL TO THE COMMUNITY**

This is the broadest classification and the most difficult to consider. An organization with a charitable purpose that does not fall under one of the first three classifications may be eligible in this classification. The organization's activities must provide a public, not private, benefit.

The term "Other Charitable Purposes Beneficial to the Community" has been interpreted to include activities that benefit the whole community, without discrimination, so that the purposes have a truly public character. This may include:

- the promotion of arts and cultural activities;
- cultural, ethnic, native, historic or heritage pursuits;
- the improvement of the quality of health through medical research;
- treatment programs and preventative programs;
- youth sporting activities; and
- community projects undertaken by service organizations.

**See section 2.7.4. for detailed policies.**

### **2.2.0 OVERVIEW: ELIGIBLE ORGANIZATIONS**

In general, eligible organizations fall into one of two categories.

1. Charitable organizations: the organization's purposes or objects are all charitable.
2. Non-profit organizations with charitable objects: the organization has a mixture of charitable and not-charitable purposes.

### 2.2.1 POLICIES: CHARITABLE ORGANIZATIONS

In order to be considered a charitable organization for the purposes of lottery licensing, an organization must have purposes or objects and activities that are exclusively and wholly charitable. A charitable organization cannot have a mixture of charitable and non-charitable purposes or activities.

Charitable organizations have a number of characteristics:

1. They are non-profit organizations. Charitable organizations do not make a profit nor do they distribute profits to their members.
2. Charitable organizations provide benefits to the public or a specified segment of the public.
3. Charitable organizations are restricted to carrying out activities that advance their objects, which must be exclusively charitable. Their business activities are restricted and the public benefit they provide must be of a nature recognized by the courts as charitable.

The Public Guardian and Trustee has supervisory responsibility for charitable organizations and their use of charitable funds. Charitable organizations must comply with the reporting requirements of the *Charities Accounting Act* and the ownership restrictions set out in the *Charitable Gifts Act*. Charitable organizations may register with the Canada Revenue Agency. However, registration as a charitable organization for the purposes of the *Income Tax Act* does not automatically qualify an organization for lottery licensing.

### **2.2.2 POLICIES: NON-PROFIT WITH CHARITABLE OBJECTS**

Organizations that have a mixture of charitable and non-charitable purposes or objects may be considered to be “non-profit with charitable objects.” A non-profit organization with charitable objects is eligible to receive lottery licences if its charitable mandate falls within one of the four charitable classifications listed in Section 2.1.1 and it meets all the other relevant criteria.

Non-profit organizations have a number of characteristics in common with charitable organizations. However, non-profit organizations do not have the same level of restriction placed on their business activities and the public benefit that they provide.

If an organization’s application does not include documentation proving its status as a charitable organization, it should be considered against the eligibility criteria to determine whether it is a non-profit organization with charitable objects.

### **2.2.3 POLICIES: SUB-GROUPS OF ELIGIBLE ORGANIZATIONS**

If a licensing official receives an application from an organization that appears to be a sub-group, “partner” or auxiliary of another eligible organization, the official must ask the following questions in order to determine the status of the two organizations.

- Are the organizations separate legal entities? For example, if the parent organization dissolves, will the sub group still exist?
- Do the organizations have different Boards of Directors?
- Do the organizations have independent budgets, banking procedures and funding?
- Do the organizations have differing mandates or purposes?
- Does one of the organizations have overall control, or influence, on the decisions of the other organization?

If the comparison shows that the two organizations exist for the same purposes, the parent group may be licensed if it is an eligible organization. The sub-group, “partner” or auxiliary may only be licensed where the parent group chooses not to conduct lottery events and permits the sub-group, “partner” or auxiliary group to hold lottery licences on its behalf.

## **2.2.4 POLICIES: ORGANIZATIONS THAT AMALGAMATE**

### **2.2.4 (a) Amalgamation: Two or More Eligible Organizations**

If two or more eligible organizations amalgamate, the resulting entity must be treated as one organization for lottery licensing purposes. For example, if two community service organizations that each have a Break Open Ticket licence amalgamate, the new organization may have only one licence. When two or more eligible organizations amalgamate, licensing officials must complete a full eligibility review.

Eligible organizations that amalgamate must disburse the funds in their designated lottery trust accounts for the purposes approved by the licence. The funds may be disbursed after amalgamation. If the funds are not disbursed prior to amalgamation, the licensing authority must approve the disbursement of funds.

### **2.2.4 (b) Amalgamation: an Eligible Organization and an Ineligible Organization**

When an eligible organization amalgamates with an ineligible organization, the new organization may or may not be eligible for lottery licensing. Licensing officials must complete a full eligibility review before issuing any new lottery licences.

An eligible organization that amalgamates with an ineligible organization must disburse the funds in its designated lottery trust account, prior to amalgamation, for the purposes approved on the licence. The licensee must notify the licensing authority of the disbursement.

Prior to the disbursement of funds the lottery licensing authority must approve any request to hold lottery proceeds in a designated lottery trust account past the date of amalgamation and must also give prior approval of any final disbursement that occurs after amalgamation.

**See section 7.4.1 for further information.**

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**2.3.0 OVERVIEW: INELIGIBLE ORGANIZATIONS**

An organization is ineligible for a lottery licence if:

- it is established as a profit making entity;
- it does not have a charitable purpose or object;
- it promotes private benefits to a restricted class of members;
- it is established solely for the purpose of adult recreation;
- it is established for the purpose of tourism or other activities that are purely economic in nature; or
- it is a sub-group, “partner” or auxiliary of an eligible organization that is already licensed.

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### 2.3.1 POLICIES: INELIGIBLE ORGANIZATIONS

Organizations ineligible for lottery licensing include:

- professional associations, unions and employee groups, except those set up to carry out charitable activities;
- elected representative groups including municipal, regional, provincial and federal governments;
- government agencies or bodies;
- political lobby groups and those attempting to persuade the public to adopt a particular view on a political issue;
- advocacy, self-help and other groups solely dedicated to the political, personal and financial advancement of their members;
  - However, if direct services which fall into one of the four charitable classifications listed in section 2.1.1 are provided, advocacy or case management intended to represent an individual/s and secure appropriate charitable services for that individual/s may be considered an eligible charitable purpose.
- political parties;
- adult hobby groups;
- for-profit, members-only or private sports clubs and for-profit adult sports teams and leagues;
- those promoting a political doctrine;
- those attempting to bring about or oppose changes in the law or government policy;
- municipal councils, municipal corporations and their administrative departments; and
- organizations established solely for the purpose of fundraising.

The above list is not intended to be exhaustive. Every organization must be reviewed, based on the documents provided, since all organizations are unique.

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### 2.3.2 POLICIES: GOVERNMENTS

Governments are political bodies established for administrative purposes. Their primary mandate is to govern, which is not a charitable object. Services provided by governments may provide a public benefit and, if provided by a charitable organization, may be considered a charitable activity. However, a government is not a charitable organization and is not eligible for lottery licensing.

When reviewing organizations that are associated with governments, licensing officials must determine the extent to which the organization is:

- separate legally, administratively and financially from the government; and
- controlled by the government.

For example, Conservation Authorities established under the Conservation Authorities Act are not separate legally, administratively and financially from the government. Therefore, typically these types of organizations are not eligible for lottery licensing.

#### 2.3.2 (a) Municipalities

A licensing authority must never issue a lottery licence to a municipality or one of its administrative departments. Municipalities derive their powers from the *Municipal Act* or, in some cases, a constituting act. As entities established primarily for local administration, they are not given the power to carry out charitable objects or to conduct lottery schemes. Therefore, municipalities and their operating committees or agencies do not meet the definition of a charitable organization and do not qualify for licensing under section 207(1)(b) of the *Criminal Code*.

When reviewing organizations associated with a municipality, a licensing official must determine the extent to which the organization is controlled by the municipality and whether the organization is separate legally, administratively and financially from the municipality.

### **2.3.2 (b) Public Libraries**

Public libraries constituted under the *Public Libraries Act* are not separate financially and administratively from the municipality. Therefore, boards of Public Libraries established under the *Public Libraries Act* are not eligible for lottery licences.

### **2.3.2 (c) Municipal Homes for the Aged**

Many municipalities operate homes for the aged under the *Homes for the Aged and Rest Homes Act*. As municipalities are not charitable organizations, they may not benefit from lottery proceeds. Therefore, the licensing authority may not issue lottery licences to either the municipality or the home for the aged itself.

### **2.3.2 (d) Other Agencies Funded by Government**

Many agencies operate under legislation and receive government funding. To determine the eligibility of these organizations, a licensing official must review the legislation that sets out the organization's mandate and its relationship to government. Whether the organization is separate legally, administratively and financially from government and the degree of control exercised by government over the organization will determine whether the organization is eligible for lottery licensing.

#### **2.4.0 OVERVIEW: ELIGIBLE USE OF PROCEEDS**

Once a licensing official has decided an applicant is eligible to receive a lottery licence, the licensing official must examine the intended use of lottery proceeds listed on the licence application.

In order to determine the eligibility of the proposed use of proceeds, a licensing official must review the organization's programs and services.

As outlined in section 2.1.1, an eligible organization's charitable purposes and objects must fall within one of four classifications. The eligible uses of proceeds will vary by classification and by eligible organization. As such when determining what is considered an eligible use of proceeds for an eligible organization, the following factors must be taken into consideration:

- under which of the four classifications the objects and purposes of the organization fall;
- the mandate of the organization;
- the type of organization; and
- the organization's structure.

Eligible uses of proceeds must be:

- in themselves charitable and advance the charitable purposes or objects of the organization;
- used for the direct delivery of the charitable purposes or objects of the organization; and
- directed toward specific segments of the Ontario community or residents of Ontario with a common need.

A licensing official must determine the eligible uses of proceeds on a case-by-case basis. To determine which of the organization's ongoing costs are eligible, the licensing official should review the proposed budget against the organization's stated mandate. Only those costs that relate directly to the delivery of its eligible programs should be approved as eligible uses of lottery proceeds.

In addition to using lottery proceeds for the direct delivery of its eligible programs, an organization may also use lottery proceeds to pay some of the administrative expenses of those programs. To be considered an eligible use of lottery proceeds, these expenses must be essential for the direct delivery of the organization's charitable objects. The

licensing authority must give prior approval to requests to use lottery proceeds for administrative expenses on a case-by-case basis.

The licensing official may limit the use of proceeds to only those expenses that relate to the direct delivery of programs.

The licensing authority must monitor the use of lottery proceeds to ensure they are used as approved, for expenses related to the direct delivery of the eligible charitable services, for the benefit of Ontario residents.

#### **2.4.0 (a) Uses in Ontario**

All proceeds raised from lottery licences must be used for a charitable purpose or object that directly benefits the residents of Ontario. The funds do not necessarily have to be spent in Ontario, but an Ontario resident or community must benefit. This policy applies regardless of the beneficiary's status as a citizen of Canada. For example, refugees living in Ontario may be beneficiaries of programs set up for the relief of poverty in Ontario. However, lottery proceeds cannot be used to bring non-residents to Ontario to then benefit from lottery proceeds. Also, proceeds must be used to generate a charitable, not an economic, benefit.

The following examples are eligible uses of lottery proceeds spent out-of-province to benefit a project or resident of Ontario:

- paying out-of-province medical expenses for an Ontario resident if the treatment is not available in the province, where the costs are not fully funded by the provincial government;
- buying medical equipment for an Ontario hospital from an out-of-province supplier; and

- 
- paying the cost of an out-of-province educational opportunity for Ontario students enrolled in an accredited educational institution.

The following list provides some examples of projects that do not qualify:

- disaster relief provided to communities outside of Ontario;
- medical supplies for Third World countries;
- foster child programs for children outside of Ontario;
- environmental projects outside of Ontario; and
- funding for foreign exchange students.

Although many of these activities are worthwhile projects, they provide a direct benefit to individuals outside Ontario. The Order-in-Council limits the allowable use of lottery proceeds to charitable activities that provide a direct benefit to the residents of Ontario.

### **2.4.1 POLICIES: ELIGIBLE USE OF PROCEEDS**

#### **2.4.1 (a) (i) Donating to Other Eligible Organizations**

Eligible charitable organizations requesting approval to donate lottery proceeds to other eligible organizations must demonstrate that:

- their own charitable purposes or objects permit them to donate funds;
- the charitable organization has a proven track record of carrying out this activity;
- they have their own Board of Directors;
- they have budgets and banking procedures independent of the recipient organization;
- are independent and have overall control over decision-making;
- the recipient organization in itself would be eligible for lottery licensing; and,
- the recipient organization will use the proceeds for an eligible use that is consistent with its charitable purposes or objects.

#### **2.4.1 (a) (ii) Donating to Other Organizations**

The same type of eligible charitable organization as described in section 2.4.1 (a) (i) may also in certain circumstances donate lottery proceeds towards goods or services for use by organizations that in themselves may not be considered charitable in nature, including those that are dependent upon municipal governments. In this instance it must be demonstrated, that:

- the goods or services are not core goods or services historically provided by the recipient organization;
- there is no obligation for the recipient organization to provide the goods and services; and
- an agreement to protect the lottery proceeds is in place, prior to the transfer of funds.

**An example of an eligible charitable organization donating lottery proceeds towards goods or services for use by another organization that in itself may not be considered charitable in nature:** A service club such as a Rotary Club raises funds for the inclusion of a public computer workstation for a public library established by a municipality. Raising funds for the inclusion of a computer may constitute a charitable use of funds by the Rotary Club provided it can be shown that the proposed use is over and above the basic services that would normally be provided by the library.

**An example of an ineligible use of proceeds:** A service club wishes to donate lottery proceeds to purchase jackets for a men's baseball league.

#### **2.4.1 (a) (iii) Donations for Capital Expenditures**

In some cases, an eligible charitable organization that meets the criteria set out in 2.4.1 (a)(i) may purchase or donate funds towards the purchase of a non-core item for another organization. The recipient organization must use the item for a purpose that provides a public, not a private benefit.

Prior to the purchase, the donating and recipient organizations must enter into a trust agreement outlining their respective responsibilities. The agreement must include the following information:

- who will hold title to the item;
- who maintains the item;
- the current value of the item;
- the item's life span and residual value over a period of time;
- who insures the item;
- who decides on disposal of the item;
- what happens to the item's residual value.

This agreement is necessary to ensure:

- that the lottery proceeds are used only for charitable purposes; and

- 
- that the residual value of an item is used to support only those initiatives that have also been approved as eligible.

**An example of an eligible use of proceeds when a charitable organization donates funds towards a capital expenditure:** A service club raises lottery proceeds towards the purchase of a van for a publicly-owned long term care hospital to transport patients. The purchase of the van may be an eligible use of proceeds provided the service club can demonstrate that the purchase of the van is over and above the services that the long term care hospital would normally provide.

#### 2.4.1 (b) Direct Expenses vs. Indirect Expenses

Eligible organizations must provide very detailed information concerning their proposed use of lottery proceeds. Because many organizations do not have wholly charitable purposes or objects, it is sometimes difficult to determine whether a proposed use of proceeds can be considered a charitable purpose. In broad terms, proceeds may be used to offset the expenses that are integral to the charitable functions

of the organization. These are known as direct expenses. A direct expense includes any expense that directly helps to fulfill the organization's charitable mandate.

Organizations have costs that may be classified as direct or indirect expenses. A curling club that runs a youth program as a charitable function, in addition to its adult program, has costs that may be considered as direct or indirect depending on the program for which they are incurred. The cost of ice time necessary to deliver the youth program is eligible as a direct expense if it can be isolated from the cost for the adult program. If the cost of the ice time required for the youth program cannot be determined and isolated, it is not an eligible use of lottery proceeds.

Indirect expenses include the group's general operating costs such as salaries, administration, rent, or utility expenses such as heat and hydro. Indirect expenses are not generally considered essential for the delivery of the charitable purpose and therefore may not be eligible uses of proceeds.

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The licensing authority may approve these expenses if the applicant meets all of the following requirements.

- The need for the expense is justified as an integral part of the eligible charitable purposes or objects and activities.
- Salaries and wages may only be approved if the expertise level and time required cannot reasonably be provided by a volunteer.
- Salaries and wages must be reasonable and geared to the expertise and hours needed to do the work.

#### **2.4.1 (c) Volunteer/Staff Training**

Volunteer and/or staff training may be an eligible use of lottery proceeds. Generally, lottery proceeds may not be used to pay expenses associated with attending, organizing or running conferences or workshops. However, in certain circumstances conferences or workshops may constitute a charitable purpose.

In order to use lottery funds to attend, organize or run a training session, the organization must demonstrate that the training provides a significant charitable and community benefit related to an educational program. The following types of training or workshops may qualify:

- programs or workshops that directly provide education for youth, such as:
  - summer French programs; and
  - youth leadership courses;
- conferences or workshops that train volunteers to fulfill an organization's charitable mandate, for example:
  - training volunteers for Big Brothers, halfway houses and to be counselors at rape crisis centres; or
  - training volunteers for community safety programs.

If the conference or workshop is only for personal development or if it only benefits the membership of the organization, it does not constitute community benefit and cannot be funded with lottery proceeds.

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The following types of conferences and training are examples that do not qualify as a charitable use of lottery proceeds:

- professional development or upgrading for nurses, teachers, lawyers, doctors and other professionals;
- the payment of tuition fees for a volunteer or staff member of the organization to attend a college, university or any other educational institution;
- membership conferences for service clubs, the Royal Canadian Legion, and arts and cultural groups; and
- membership fees for the organization, its volunteers or staff in professional or recreational associations.

The licensing authority must determine whether or not the conference or training constitutes a charitable purpose. The following questions will assist in that determination.

- Is the conference/workshop/training directly related to the charitable mandate of the organization?
- Is the conference/workshop/training on the list of uses that do not qualify as outlined in section 2.5.0, Ineligible Uses of Proceeds?
- Will the conference/workshop/ training result in a personal or a public benefit?
- What is the charitable benefit the community would gain through the conference/workshop/training?

Unless the answers to the above questions clearly indicate that a public charitable benefit will result, the licensing authority must not grant the organization permission to use lottery licensing proceeds for the conference, workshop or training expenses.

#### **2.4.1 (d) Research**

An eligible charitable organization that conducts research as an integral part of its charitable mandate may apply for a lottery licence to fund the direct costs of that research. Research may be funded through lottery proceeds if it advances human knowledge and if the resulting advances provide a public benefit either through instruction (the Advancement of Education) or by improving the health and well being of the residents of Ontario (Other Charitable Purposes Beneficial to the Community: Health and Welfare).

The licensing authority may grant approval on a case-by-case basis, under the following conditions:

- the applicant is an eligible charitable organization conducting the research as part of its charitable mandate; or
- the applicant is an eligible charitable organization that will donate the lottery proceeds to an eligible charitable organization conducting the research as part of its charitable mandate.

However, lottery proceeds from a Provincial Break Open Ticket licence must not be used for research under any circumstances.

**See section 7.6.1 (b) for further information on research and Provincial Break Open Ticket Licences.**

#### **2.4.1 (e) Travel Costs**

The cost of travel for staff, volunteers and individuals benefiting from the charitable activities of the organization may be an eligible use of proceeds. These costs must directly benefit residents of Ontario and must be considered integral to the organization's eligible charitable purposes or objects and activities.

The following examples are eligible uses of lottery proceeds for travel costs:

- renting a bus to transport an amateur youth sports team to a sanctioned tournament;
- paying for hotel accommodation for a group of students on a school trip which supplements and relates to the academic program.

In some cases, organizations may request approval to pay out-of-province travel costs. The organization must demonstrate that a direct benefit will be provided to the public of Ontario. If the travel provides only a private benefit, the travel costs are not eligible.

A licensing official must determine the type of benefit provided on the basis of the organization's charitable purpose or object and activity.

A licensing official must consider requests for approval to pay out-of-province travel costs with lottery proceeds on a case-by-case basis. For example, out-of-province travel to advance education, particularly for youth, is eligible.

On the other hand, out-of-province travel is not an eligible use of lottery proceeds for an arts or cultural organization. Arts and cultural organizations must provide a benefit directed towards the broader public of Ontario, not the individual members of the performing organization. When the performance is outside Ontario, the audience is not made up of Ontario residents. Therefore, the benefit of the travel is considered a private benefit directed to the individual performers. This also applies to school bands travelling out-of-province for the sole purpose of performing while travelling.

#### **2.4.1 (f) Amendments to the Approved Uses of Proceeds**

An organization cannot use lottery proceeds for any purpose that was not approved on the original licence application, unless it obtains prior written authorization from the licensing authority.

To obtain an amendment to its proposed use of proceeds, an organization must follow the procedures and policies outlined below.

- The organization must submit a written request to the applicable licensing authority setting out the reasons for the requested

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- amendment.
- The organization must present a detailed outline of its intended purposes for the requested use of proceeds.
  - The requested uses must be related to the direct delivery of the purposes or objects of the licensee.

The licensing authority has the right to refuse to amend the approved uses of proceeds. The licensing authority must respond in writing to amendment requests regardless of whether it is approving or refusing the request.

### **2.5.0 OVERVIEW: INELIGIBLE USE OF PROCEEDS**

A proposed use of lottery proceeds is ineligible if:

- it provides a personal benefit or gain to the members of the applicant organization;
- it supports tourism or other purely economic benefits;
- it advances a particular political issue;
- it enhances lands and buildings owned and/or operated by a government;
- it is a responsibility that has traditionally been fulfilled by a government; or
- it funds activities that do not fall within one of the four charitable classifications.

### **2.5.1 POLICIES: INELIGIBLE USE OF PROCEEDS**

Eligible organizations may not use the proceeds from lottery licenses for:

- the cost of political lobbying and/or advocating a particular view on a political issue, including the cost of staffing, publication materials and advertising;
- fundraising activities, including wages for a fundraiser and the cost of promotional materials;
- administrative or other activities that are not integral to the direct provision of the organization's charitable mandate;
- the provision of services for which the organization receives government funding or which the organization is required, by law, to provide;
- legal fees/costs incurred by the organization or its board;
- volunteer recognition;
- foreign aid, out-of-province aid or aid to non-Ontario residents;
- accounting fees, except as provided by the terms and conditions of the lottery licence;
- out-of-pocket expenses for volunteers to participate in a licensed lottery event, except as permitted under the terms and conditions of the lottery licence;
- academic and sports awards and trophies;
- construction, renovation or improvement of buildings owned by or on land owned by the Government of Canada, the Province of Ontario or municipalities; and
- any activity that does not fall into one of the four charitable classifications.

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## 2.6.0 NEXT STEPS: EVALUATION PROCESS

This section provides an overview of the process you must follow to determine whether or not an organization is eligible for lottery licensing, and whether or not its proposed use of proceeds is eligible.

### **STEP 1: Determine the Eligibility of the Organization**

1. (a) Is the organization eligible for lottery licensing according to the criteria set out in 2.6.1 (a)? If not, stop here. If the organization is eligible, continue.
  - (b) Do the applicant organization's purposes, objects and activities fall within at least one of the four charitable classifications? If so, which one:
    - a) the Relief of Poverty
    - b) the Advancement of Education
    - c) the Advancement of Religion
    - d) Other Charitable Purposes Beneficial to the Community, not falling under a) b) or c)

If the organization's purposes and objects are eligible, continue to Step 2. If not, the organization is ineligible for a lottery licence and the process stops here.

### **STEP 2: Determine the Eligibility of the Proposed Use of Proceeds**

To evaluate the use of proceeds, ask the following questions:

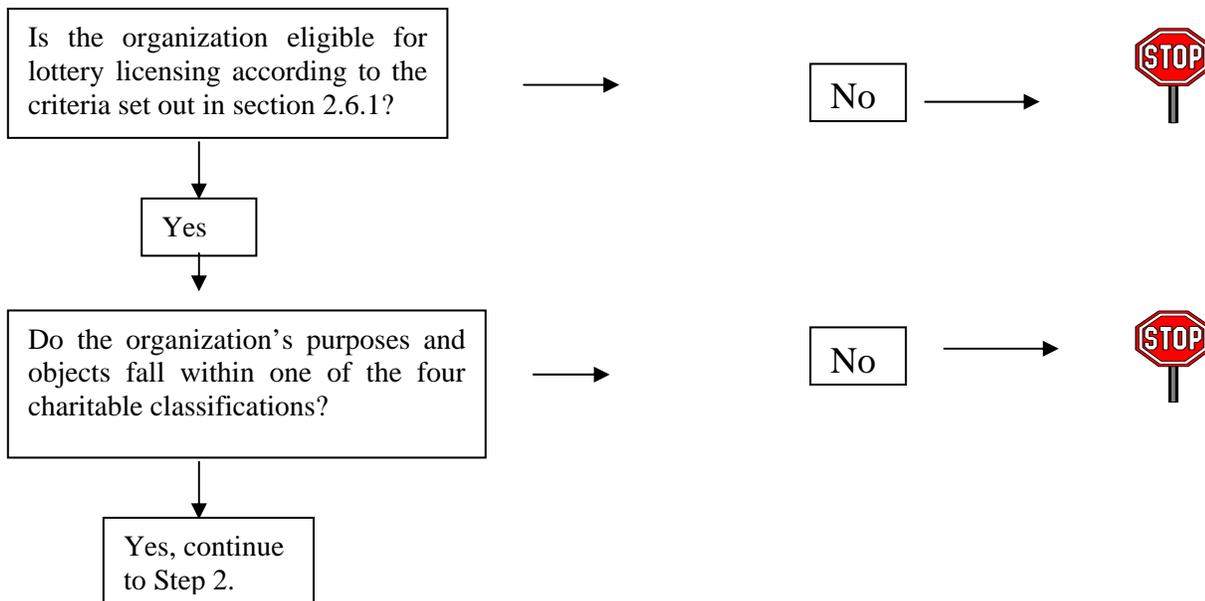
- Are the proposed uses of proceeds consistent with:
  - the organization's purposes and objects, and
  - the eligible uses of proceeds for the class and type of organization?
- Are the proposed uses of proceeds related to the direct delivery of programs and services to the eligible beneficiaries?

If the answer to both questions is "yes," the applicant's lottery application and some or all of its proposed uses of proceeds may be eligible for lottery licensing.

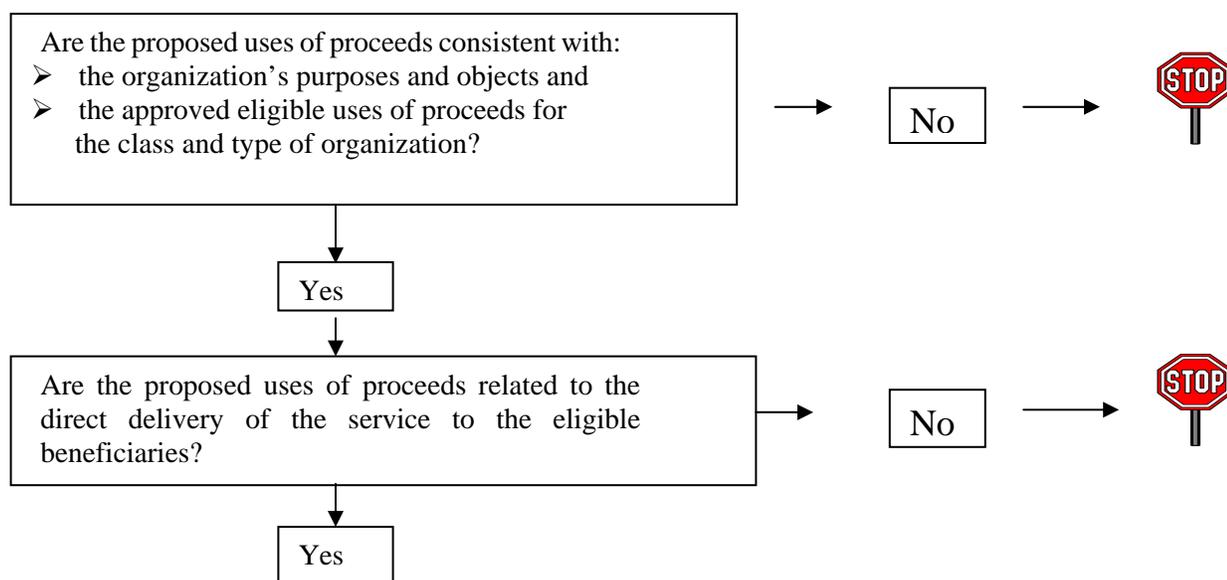
See sections 2.6.1 (a) and (b) for detailed eligibility guidelines.

### 2.6.0 Evaluation Process: Flow Chart

#### Step 1: Determine the Eligibility of the Organization



#### Step 2: Determine the Eligibility of the Proposed Use of Proceeds





You may approve the applicant's lottery application and some or all of its uses of proceeds.

### **2.6.1 NEXT STEPS: EVALUATION GUIDELINES**

#### **2.6.1 (a) Evaluating the Organization**

To be eligible for lottery licensing, an applicant must have an established organizational structure. The applicant must be a legal entity and must have a formal document that establishes the organization. However, incorporation, whether provincial or federal, is neither a prerequisite nor a guarantee that a licence will be issued. No one may use lottery proceeds to start up an organization.

In order to be eligible, an organization must:

- have been in existence for at least one year;
- have provided charitable community services consistent with the primary objects and purposes of the organization for at least one year;
- have a place of business in Ontario;
- demonstrate that it is established to provide charitable services in Ontario;
- propose to use proceeds for charitable purposes or objects that benefit Ontario and its residents; and
- assume full responsibility for the conduct and management of its lottery events.

The terms and conditions for each lottery licence set specific application requirements, which are summarized in the relevant licensing policy sections of this manual.

When an organization first applies for any type of lottery licence, or whenever an eligibility review is required, it must provide all of the following information and documents that apply to it:

- a copy of its letters patent;
- a copy of its constitution and by-laws;

- a copy of its budget for the current year;
- a copy of its financial statements for the preceding year;
- a list of its Board of Directors;
- its latest report to the Public Guardian and Trustee;
- its charitable number for income tax purposes;
- a copy of its Notification of Charitable Registration letter from the Canada Revenue Agency with any supporting documentation indicating the applicant's status and terms of registration;
- copies of its charitable returns to the Canada Revenue Agency for the previous calendar year;
- a detailed descriptions of its activities; and
- a copy of its annual report.

The organization must also provide any other information that will assist the licensing official to determine the charitable nature of its purposes, objects and activities.

After the review has been completed, the licensing officer may require additional information to process the application. The organization must provide any information that is requested.

If any changes are made to the documents submitted, the organization must provide the licensing authority with the amended documents as soon as they are available.

Because organizations change, an organization that is considered eligible for lottery licensing must continue to provide the licensing authority with any amended documents as soon as they are available.

Organizations that receive lottery licences will be subject to periodic eligibility reviews.

### **2.6.1 (b) Evaluating the Use of Proceeds**

In order to determine eligible uses of proceeds, the organization must set out in detail its proposed uses of proceeds and for which programs the proceeds will be applied. The organization's proposed use of proceeds must be for charitable programs and the

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programs must be consistent with the charitable purposes and objects of the organization. These purposes and objects must be of a charitable nature and fall within at least one of the four charitable classifications listed in Section 2.1.1.

In addition to the policies for “Use of Proceeds” and examples of “Eligible Uses of Proceeds” provided throughout this chapter, the following guidelines may be used to evaluate and determine eligible uses of proceeds:

- A copy of the most recent financial statements should show through past expenditures that contributions to support the charitable objectives of the organization have been made and that the organization is carrying out its charitable objects.
- The current operating budget should itemize each of the projected revenues and expenditures of the organization. The organization’s proposed use of proceeds (as detailed in the lottery licensing application) should coincide with the line items in their current operating budget. As well, the operating budget should demonstrate a need for the lottery proceeds.
- The use of lottery proceeds should be restricted to expenditures which are related directly to the delivery of the charitable programs provided by the organization. In other words, lottery proceeds must not be used for programs that are not part of the organization’s charitable objects and purposes identified in the constituting documents.
- In limited cases, certain administrative expenses related to the direct delivery of an eligible organization’s charitable objects may be considered eligible uses of proceeds. These costs must be essential to the direct delivery of the charitable services and must be approved by the licensing authority on a case-by-case basis. (see also section 2.4.1 (b) “**Direct vs. Indirect Expenses**” for further information)

### 2.6.2 NEXT STEPS: ELIGIBILITY QUESTIONNAIRE

The licensing official must assess the applicant's eligibility by asking the following questions. If the answer to any of these questions is "no," the organization is ineligible.

1. Yes  Does the organization's purpose fall within one of the four classifications No  of charitable objects? If no, stop here.

2. If yes, which one:

- The Relief of Poverty
- The Advancement of Education
- The Advancement of Religion
- Other Charitable Purposes Beneficial to the Community

3. Yes  Does the organization have a place of business in Ontario?  
No

4. Yes  Has the applicant been in operation for at least one year and does it  
No  have a proven charitable mandate that it has carried out throughout the year?

5. Yes  Is the organization established to provide charitable services in Ontario  
No  and use proceeds for purposes or objects that benefit only Ontario residents? If not, has the organization requested a use of proceeds that is restricted to meet these requirements?

6. Yes  Is the applicant properly organized so that it is separate legally,  
No  financially and organizationally from any other organization?

7. Yes  Are the proposed uses of proceeds eligible?  
No
8. Yes  Is the intended use a direct delivery of services that is consistent with  
No  the charitable classification and the governing documents of the  
organization?
9. Yes  Are the proposed charitable benefits denied to any segment of the  
No  community? Or, if the charitable benefits are directed to a specified  
group of the public, are the benefits denied to any segment of that  
group?

### 2.6.3 NEXT STEPS: CONSTITUTING DOCUMENTS

Every applicant organization must have a document that establishes the organization, setting out the members' common purpose and detailing how the organization will operate in order to achieve that purpose. Formal documents include Letters Patent, constitution, and memorandum of association. Informal associations that have not adopted formal written constituting documents are not eligible for lottery licensing.

The organization must demonstrate that the following items are included in its constituting documents:

- the organization's name;
- the organization's purpose or object;
- a description of how an individual becomes a member of the organization and retains membership in the organization;
- a clause stating that the organization's members will not derive any gain from the organization, and that any profits will be used solely to promote the organization's objectives;
- a description of the organization's structure (e.g., president or chair, secretary, treasurer);
- a description of how the organization elects its directors;
- the signature of the officers who adopted the incorporating documents;
- the signature of at least three of the organization's current directing officers, certifying that the incorporating documents are current and still in effect;
- the effective date of the instrument; and
- a general dissolution clause (that addresses the winding up of the organization; and
- a further clause (which may be contained in the by-laws):
  - that, if the organization should dissolve, provides for the distribution of the organization's assets and property held or acquired from the proceeds of licensed lottery events (i.e., lottery trust accounts or property purchased with lottery proceeds) to charitable organizations that are eligible to receive lottery proceeds in Ontario.

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### 2.7.0 NEXT STEPS: CLASSIFICATION GUIDELINES

The guidelines in this section are intended to help licensing officials determine:

- whether the applicant falls within one of the four charitable classifications; and
- how an eligible organization may use the net proceeds of a licensed lottery event.

An organization's charitable classification determines its eligible uses of lottery proceeds. The four classifications are:

- a) the Relief of Poverty;
- b) the Advancement of Education;
- c) the Advancement of Religion;
- d) Other Charitable Purposes Beneficial to the Community, not falling under a), b) or c).

The lists of eligible uses are not intended to be exhaustive. A licensing authority may approve other proposed uses, depending upon the specific mandate of the organization.

Any eligible organization, regardless of its charitable classification, may be approved for other uses of proceeds, provided that those uses are:

- charitable and advance the charitable purposes or objects of the organization;
- required for the direct delivery of the charitable purposes or objects of the organization; and
- directed toward a large portion of the community or residents of Ontario with a common need.

When an application is approved, the application for the licence forms part of the licence itself. If the licensing authority does not approve all the requested uses of proceeds, the approved uses of proceeds and any restrictions must be specified on the licence when it is issued.

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Licensees wishing to use proceeds for any purpose not requested on their original application must request a licence amendment and receive approval before using the proceeds for those purposes. **(see also section 2.4.1 (f) “Amendments to Approved Uses of Proceeds” for further information on licence amendments)**

**See also sections 2.4.0 and 2.4.1 “Eligible Use of Proceeds” and 2.5.0 and 2.5.1 “Ineligible Uses of Proceeds” for further information .**

## **2.7.1 POLICIES: THE RELIEF OF POVERTY**

### **2.7.1 (a) Eligibility Guidelines**

To be eligible in this classification, a charitable organization must meet all of the basic eligibility criteria set out in this chapter and must demonstrate that its programs and services assist those who are:

- in financial need;
- distressed or suffering as a result of their financial circumstances; or
- experiencing economic disadvantage.

### **2.7.1 (b) Eligible Organizations**

Examples of the types of organizations that may be eligible in this classification include:

- street patrols who work directly with homeless people;
- food banks;
- shelters for the homeless and economically disadvantaged; and
- meal programs.

With prior approval from the licensing authority, a charitable organization may use lottery proceeds to set up a fund to assist those in financial need. The fund must provide assistance to address a common need and must be available to anyone in the community who has that need. Approved uses of the fund may include the provision of short-term relief or a one-time payment to relieve an exceptional condition or circumstance (e.g., floods that result in devastation to an Ontario community). More than one charitable organization may contribute to the fund provided it falls within the charitable organization's mandate. Payments must be made directly to the service provider/or retailer.

### **2.7.1 (c) Eligible Uses of Lottery Proceeds**

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The licensing authority may approve eligible organizations in this classification to use lottery proceeds for the direct delivery of services for:

- temporary shelter or subsidized rental accommodation;
- food, supplies and clothing;
- client life skills training, instruction and support intended to alleviate the effect of living in poverty;
- transportation costs for clients to attend programs or access services/resources;
- non-profit day care services, where the funds are used:
  - for programs not historically funded, and
  - for the purpose of allowing access to those persons who could not otherwise afford the service (the organization must have criteria in place to determine eligibility); and
- out-of-pocket expenses for staff and volunteers, including travel costs, for the direct delivery of charitable services to the clients, where receipts are provided. For example, where staff or volunteers are required to use their own vehicle to deliver the service.

**See also section 2.1.2 “Overview: The Relief of Poverty” and sections 2.4.0 “Eligible Use of Proceeds” and 2.5.0 “Ineligible Use of Proceeds” for further information.**

## **2.7.2 POLICIES: THE ADVANCEMENT OF EDUCATION**

### **2.7.2 (a) Eligibility Guidelines**

To be eligible in this classification, an organization must meet all the basic eligibility criteria and restrictions on uses of proceeds set out in this chapter. Proceeds cannot be used to fund core programs or services. They must demonstrate that its programs and services:

- provide significant scholastic or vocational training or instruction;
- develop intellectual capacity or teach necessary life skills; or
- engage in research that improves human knowledge, and disseminate that knowledge to the public.

Normally, the training or instruction provided will lead to a recognized degree, diploma or certificate.

Eligible charitable organizations must demonstrate that:

- lottery proceeds are used to enhance the educational and extra-curricular opportunities of a broad cross section of students, over and above statutory requirements established and funded by the Province;
- programs and services do not simply promote a particular point of view; and
- programs and services confer a significant public educational benefit, not a private benefit.

Education for the professional development of a person or group (such as training courses for teachers, lawyers and nurses) is not an acceptable use of funds in this classification.

An organization that provides a program or curriculum that is contrary to the laws of Ontario or Canada or international law is not eligible for lottery licensing.

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### 2.7.2 (b) Eligible Organizations

Examples of the types of organizations that may be eligible in this classification include:

- public and Roman Catholic schools (elementary and secondary) that are recognized and/or accredited by the Ministry of Education and lead to a secondary school graduation diploma;
- monastic and other religious schools and private schools that are registered with the Canada Revenue Agency as charitable organizations, and provide programs that are accredited by an appropriate government agency;
- colleges, universities and schools of the arts (e.g., the Ontario College of Art and Design) whose programs lead to a recognized certificate or degree;
- scholarship or bursary funds registered with the Canada Revenue Agency as charitable organizations, where:
  - beneficiaries are selected from a widely-based group on the basis of merit and/or need,
  - there is non-restricted access to the programs, and
  - funds are directed to an accredited educational program; and
- organizations which provide formal educational activities and training in necessary life skills, such as English as a Second Language Programs.

In the case of schools, the lottery licensing applicant must be the school itself, not a class or department within the school. However, parent/teacher associations or other groups may also be eligible for lottery licensing, provided that they:

- support one of the types of schools listed above; and
- are properly constituted as charitable organizations or non-profit organizations with charitable objects.

Only one related eligible organization may be licensed at any one time to fund the same educational purpose, school, program or governing body. Therefore, the school

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and its parent/teacher association may not both hold lottery licences. The parent/teacher association is only eligible for lottery licensing if the school determines that it will not raise funds through charitable lotteries.

School councils required by the provincial government are not eligible for lottery licensing.

### **2.7.2 (c) Eligible Uses of Lottery Proceeds**

Proceeds raised from lotteries cannot be used to fund core programs or services. The definition of core programs or services depends on what has been historically provided by the individual school and what is mandated by the provincial government. Additionally, eligible uses may vary between boards of education and schools in the same community.

The licensing authority may approve eligible organizations in this category to use lottery proceeds for the following purposes, so long as they are not historically provided by the organization or mandated by the provincial government:

- non-profit student publications such as newsletters and yearbooks that are provided at a nominal or no cost;
- educational student conferences and field trips within Ontario;
- student organizations such as arts/drama clubs and student councils/unions;
- academic competitions;
- student athletics programs: uniforms, sports equipment, safety equipment, fees for qualified officials (where necessary) and facility rental fees;
- scholarships and bursaries open to Ontario residents; and
- travel, including out-of-province travel, provided that it complies with the requirements set out in section 2.4.1(e).

Schools may only use lottery funds to purchase non-core services, items or equipment as approved by the lottery licence. Schools may not use lottery proceeds for the purchase, construction or renovation of facilities or buildings or to purchase other capital assets, such as school buses.

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The lottery proceeds raised must be used for the overall benefit of the school. For example, lottery proceeds raised for athletic programs must be used to support all representative sports teams within the school, not just selected teams.

### **2.7.2 (d) Donations of Lottery Proceeds**

Schools may receive donations of lottery proceeds raised by eligible organizations for approved uses. In some cases, an eligible organization may purchase or donate funds towards the purchase of a non-core item that has not historically been provided by the school.

Prior to a capital expenditure, the board and the donating organization must enter into an agreement outlining their respective responsibilities. This agreement must include the following information:

- who will hold title to the item;
- who maintains the item;
- the current value of the item;
- the item's life span and residual value over a period of time;
- who insures the item;
- who decides on disposal of the item; and
- what will happen to the residual value of the item and how will it be spent.

This agreement is necessary to ensure:

- that the lottery proceeds are used only for charitable purposes; and
- that the residual value of an item is used to support only those initiatives that have also been approved as eligible.

### **2.7.2 (e) Bursaries and Scholarships**

Lottery proceeds may be used to establish or support scholarship or bursary funds for educational purposes, under the following conditions:

- the establishment or support of such a fund is integral to the

- organization's mandate;
- the fund is registered with the Canada Revenue Agency as a charitable organization;
- the scholarships or bursaries are designed to allow a significant number of students in the community to apply; and
- the scholarships or bursaries are used for an educational program that leads to a recognized degree, diploma or certificate.

A scholarship fund that allows only a limited number of applicants, such as the children of members of a small service club, to apply would be considered too narrowly focused. Lottery proceeds may not be used for this purpose.

Scholarships or bursaries for the development of established professionals are also ineligible.

**See also section 2.1.3 “Overview: The Advancement of Education” and sections 2.4.0 “Eligible Use of Proceeds” and 2.5.0 “Ineligible Use of Proceeds” for further information.**

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### **2.7.3 POLICIES: THE ADVANCEMENT OF RELIGION**

#### **2.7.3 (a) Eligibility Guidelines**

The advancement of religion refers to promoting the spiritual teachings of a religious body, and maintaining the doctrines and spiritual observances upon which those teachings are based.

To be eligible in this classification, an organization must meet all the basic eligibility criteria set out in this chapter and must demonstrate that its programs and services assist in the delivery of religious services and programs to the community. Additional objectives of religious organizations usually include support of the poor, sick and destitute as well as a host of other charitable objectives. In order to be eligible, an organization must demonstrate:

- one of its primary purposes is the advancement of religion;
- its credentials regarding the religion it advances;
- its affiliation with the religion it advances; and
- how it advances that religion.

Activities that advance religion may include:

- organizing and providing religious services and guidance;
- performing pastoral and missionary work for Ontario residents; and
- establishing and maintaining buildings for worship and other religious use.

#### **2.7.3 (b) Eligible Organizations**

Examples of the types of organizations that may be eligible in this classification include:

- churches, synagogues, mosques, chapels, temples;
- missionary organizations; and
- other religious assemblies or congregations for religious observance and instruction.

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Religious organizations may use lottery proceeds to provide direct benefits only to the residents of Ontario.

The licensing authority may also allow religious organizations to use lottery proceeds to provide programs falling within other classes of charitable purposes, such as the relief of poverty and the advancement of education, as long as these are included in the purposes or objects of the organization.

An organization that attempts to influence public opinion or actions on political issues is not advancing religion in the charitable sense. Therefore, advocacy, self-help groups and groups dedicated to the political, personal and financial advancement of their members are not eligible organizations in this category.

### **2.7.3 (c) Eligible Uses of Lottery Proceeds**

The licensing authority may approve eligible organizations in this classification to use lottery proceeds for the following purposes:

- the development and enhancement of religious programs for parishes, missions, synagogues, temples or other religious assemblies within Ontario;
- religious training, education and instruction;
- relief of poverty provided it is within the mandate of the organization;
- the publication and distribution of religious literature and educational materials;
- administrative costs including wages and salaries (except salaries for fund raising individuals);
- rent or mortgage payments, and utilities (heat, water, electricity and telephone) for buildings used for religious purposes;
- direct costs for travel within Ontario for religious purposes (**see section 2.4.1 (e) “Travel Costs” for further information**);
- the maintenance and repair of buildings used for religious purpose;
- capital projects, including:
  - the purchase or construction of facilities to be used for religious purposes, and

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- property improvements and renovations on buildings used for religious purposes. (see section 2.8.1 “**Building Funds**” for further information)

See also section 2.1.4 “**Overview: The Advancement of Religion**” and sections 2.4.0 “**Eligible Use of Proceeds**” and 2.5.0 “**Ineligible Use of Proceeds**” for further information.

#### **2.7.4 POLICIES: OTHER CHARITABLE PURPOSES BENEFICIAL TO THE COMMUNITY**

##### **General Eligibility Guidelines**

In addition to meeting all the basic eligibility criteria set out in this chapter, an organization may be eligible under this classification if one of its main objects is a charitable purpose beneficial to the community and does not fall within one of the first three classifications.

An organization must have a purpose that provides a public benefit, but this alone is not enough to qualify it as charitable. To be eligible in this classification, an organization must demonstrate that it provides a broad public benefit directed toward an identifiable segment of the community or a significant portion of the community.

An eligible organization in this classification may also have objects or purposes that are not charitable, as long as those objects are secondary to the main purpose, which must be charitable. The organization must be operated on a non-profit basis.

For administrative purposes, eligible organizations with other purposes beneficial to the community have been divided into the following six categories:

- (a) culture and the arts;
- (b) health and welfare;
- (c) amateur sports organizations;
- (d) the enhancement of youth;
- (e) the enhancement of public safety; and
- (f) community service organizations.

The promotion of voluntarism, in itself, is not eligible for lottery licensing. Advertising for volunteers, matching individuals to volunteer placements and promoting volunteer activity are not eligible uses of lottery proceeds. However, volunteer training and support and providing direct charitable services, such as counselling for those in need, are eligible uses of proceeds.

**See also sections 2.4.0 “Eligible Use of Proceeds” and 2.5.0 “Ineligible Use of**

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**Proceeds” for further information.**

#### **2.7.4 (a) Culture and the Arts**

##### **2.7.4 (a) (i) Eligibility Guidelines**

To be eligible in this category, an organization must meet all the basic eligibility criteria set out in this chapter and demonstrate that:

- its primary purpose is to provide the public with an opportunity to experience:
  - artistic endeavors, including literature, dance, music, theatre, painting, sculpture, movies, photography and live performances, or
  - specific cultural and heritage activities; and
- its programs and services are directed toward approved and recognized cultural and artistic purposes.

##### **2.7.4 (a) (ii) Eligible Organizations**

Examples of the types of organizations that may be eligible in this classification include:

- ballet companies;
- symphony orchestras;
- theatre groups;
- literary groups;
- groups advancing a specific culture, heritage or language beyond the members of the group, to the general public; and
- heritage conservation or historic organizations.

##### **2.7.4 (a) (iii) Eligible Uses of Lottery Proceeds**

A licensing authority may approve eligible organizations in this category to use lottery proceeds for the following purposes:

- the preservation or enhancement of traditions, heritage and culture, provided there is a public, not private, benefit;

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- the publication and distribution of literature and materials;
  - the preservation of heritage and cultural art forms, provided there is a public benefit;
  - underwriting the costs of cultural festivals, public performances or other community cultural sessions/presentations;
  - direct costs for travel within Ontario for culture and arts purposes (out-of-province and out-of-country travel costs are not eligible); and
  - capital acquisitions, renovations or maintenance where the buildings and capital assets are used for culture and arts purposes, where specifically approved by the licensing authority. (see section 2.8.1 “Building Funds” for further information)

#### **2.7.4 (b) Health and Welfare**

##### **2.7.4 (b) (i) Eligibility Guidelines**

To be eligible in this category, an organization must meet all the basic eligibility criteria set out in this chapter and demonstrate that:

- its primary purpose is to improve the health and well being of the public or an identifiable segment of the community;
- its programs and services are directed towards the provision of medical and social service programs, support and prevention; or
- its primary purpose is to carry out medical research in Ontario.

Eligible organizations may provide programs dedicated to:

- the cure and prevention of disease;
- helping the sick and the dying; and
- improving the physical and mental health and well being of specified groups.

##### **2.7.4 (b) (ii) Eligible Organizations**

Examples of the types of organizations that may be eligible in this classification include:

- hospitals;
- non-profit extended care and residential facilities;
- organizations providing activity and home support programs for seniors;
- organizations dedicated to research and funding for the prevention of illness or finding a cure;
- organizations dedicated to assisting persons with physical and mental disabilities;
- organizations providing medical and social service support on an “out patient” basis; and
- substance abuse programs.

#### **2.7.4 (b) (iii) Hospital Foundations and Auxiliaries**

A licensing authority may issue lottery licences to hospital foundations and auxiliaries if they are administratively, financially and legally separate entities.

#### **2.7.4 (b) (iv) Eligible Uses of Lottery Proceeds**

The following are some examples of what a licensing authority may approve as eligible uses of lottery proceeds:

- programs that enhance health and well-being;
- medical research within Ontario;
- family counseling and health education;
- administrative costs related solely to the direct delivery of services;
- patient comforts and medical equipment (only if not already funded by the hospital);
- out-of-pocket expenses for staff and volunteers, including travel costs for the direct delivery of charitable services to the clients, where receipts are provided. (For example, where staff or volunteers are required to use their own vehicle to deliver the service);
- capital projects, maintenance and repair of buildings (**see section 2.8.1 “Building Funds” for further information**);
- out-of-province medical care, where it can be demonstrated that:

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- the provincial government is involved in the decision to seek treatment outside Ontario;
  - the required treatment is unavailable in Ontario;
  - the costs are not fully funded by the provincial government; and
  - residents of Ontario benefit from the care provided.

### **2.7.4 (c) Amateur Sports Organizations**

#### **2.7.4 (c) (i) Eligibility Guidelines**

To be eligible in this classification, an organization must meet all the basic eligibility criteria set out in this chapter and must demonstrate that it provides programs and services to enhance health and fitness through organized, competitive physical activity.

An organization must demonstrate that:

- its primary purpose is to provide opportunities for participation in organized athletic activities at the community level; and
- its programs and services are directed toward approved beneficiaries that are eligible for lottery funding as noted below.

Three types of groups are eligible in this category:

- (i) Youth amateur sports organizations, where a majority of the players are under the age of 18.
- (ii) Amateur sports organizations whose purposes or objects are to provide competitive sports opportunities for individuals with a physical, mental or developmental handicap, regardless of age.
- (iii) Adult amateur sports organizations, where the athletes represent Ontario or Canada in the Olympics, the Pan-American Games or Commonwealth Games as the result of:
  - winning previous, sanctioned competitions; and
  - meeting the guidelines of their governing sport bodies.

Only Ontario residents competing in amateur sports as individuals or as members of teams that are part of a recognized sports organization may benefit from lottery proceeds.

### **2.7.4 (c) (ii) Eligible Youth Amateur Sports Organizations**

#### **2.7.4 (c) (ii) (1) Eligibility Guidelines**

For the purposes of lottery licensing, the term "youth" refers to anyone under the age of 18. The majority of individuals (over 50%) benefiting from programs offered by organizations in this category must be under 18 years of age at the start of the sporting season. Adult teams and leagues are not eligible.

To be eligible in this category, an organization must meet all the basic eligibility criteria set out in this chapter and must demonstrate that it is:

- dedicated primarily to supporting amateur athletes under 18:
  - supported by a list of players and their birthdates; and
- an association or club which governs numerous individual competitors, teams, ages or expertise levels (individual teams involving a narrow age group and a small number of participants are too narrowly focused to be eligible for lottery licences or to receive funds or donations derived from lottery proceeds).

#### **2.7.4 (c) (ii) (2) Eligible Organizations**

Examples of the types of organizations that may be eligible in this category include:

- local sports leagues and associations that serve youth;
- non-profit sports clubs, that support a community-oriented program for youth under the age of 18 years; and
- Ontario and national associations for representative teams, such as the Ontario Hockey Association and the Ontario Amateur Softball Association.

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Ontario associations for representative teams are eligible for one licence per type of gaming event, per team in a municipality at a time, provided that:

- the individual team is a non-profit organization;
- a majority of the team's signed players are under the age of 18 at the start of the association's season;
- each application is made by the association on behalf of the team;
- the association supports the licence application with an original letter confirming that the team is a non-profit organization in good standing with the association; and
- the use of lottery proceeds is restricted to the direct delivery of the program to the players/team.

If a non-profit club runs both youth and adult programs, only direct expenditures for the youth programs may be considered as eligible uses of lottery proceeds. In order to be eligible, the club must be able to separate the costs of the youth and the adult programs in the budget and the financial tracking system.

#### **2.7.4 (c) (iii) Eligible Amateur Sports Organizations for Athletes with a Disability**

##### **2.7.4 (c) (iii) (1) Eligibility Guidelines**

Most of the individuals benefiting from programs offered by organizations in this category must have a demonstrated physical, mental or developmental disability.

To be eligible in this category, an organization must meet all the basic eligibility criteria set out in this chapter and must demonstrate that it is:

- dedicated primarily to supporting amateur athletes who have a physical, mental or developmental disability that limits their ability to participate fully in sporting activities for the general public;
- an association or club governing numerous individual competitors, teams, ages or expertise levels.

#### **2.7.4 (c) (iii) (2) Eligible Organizations**

Examples of the types of organizations that may be eligible in this category include:

- local sports leagues and associations that serve individuals with a physical, mental or developmental disability;
- public non-profit sports clubs, encompassing all ages and expertise levels, as long as they provide programs primarily for individuals with a disability; and
- Ontario and national associations for representative teams, such as the Ontario Special Olympics.

#### **2.7.4 (c) (iv) Eligible Adult Amateur Sports Organizations Representing Ontario and Canada**

##### **2.7.4 (c) (iv) (1) Eligibility Guidelines**

Adult amateur sports organizations (where most of the players are 18 and over) representing Ontario or Canada in the Olympics, the Pan-American Games or the Commonwealth Games may be eligible to receive lottery licences.

To be eligible in this category, an organization must meet all the basic eligibility criteria set out in this chapter and must demonstrate that it is:

- primarily dedicated to the direct support of amateur athletes representing Ontario or Canada in the Olympics, the Pan-American Games or the Commonwealth Games;
- an association or club governing numerous individual competitors, teams, ages or expertise levels (individual teams involving a narrow age group and small number of participants that are part of a competitive association or league, are too narrowly focused to be eligible for lottery licences).

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Only Ontario residents may benefit from lottery proceeds, regardless of whether the organization is representing Ontario or Canada.

#### **2.7.4 (c) (iv) (2) Eligible Organizations**

The types of organizations that may be eligible in this category include:

- teams representing Canada in the Olympics, Pan-American Games and Commonwealth Games (but lottery proceeds may only be directed towards the expenses related to Ontario residents).

#### **2.7.4 (c) (v) Ineligible Amateur Sports Organizations**

In order to be eligible for lottery licensing, adult sports organizations that do not represent Ontario or Canada in competitions must fulfill some other purpose beneficial to the community. This means that an organization must demonstrate that it has a charitable mandate beyond its adult sports purpose. Lottery proceeds may only be used for the charitable objects of the organization, not for any adult sports objective.

The following types of organizations are not eligible to receive lottery licences:

- private, members-only clubs;
- teams with any combination of amateur and professional athletes;
- for-profit sports organizations or clubs;
- individual teams;
- sub-groups, auxiliaries, booster clubs and groups known as “friends of” ineligible sports organizations;
- professional or semi-professional sports organizations, such as the Canadian Football League;
- committees that support events designed to increase tourism;
- adult recreational or predominately adult oriented sports; and
- organizations that are administrative in nature and do not directly support amateur athletes.

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**2.7.4 (c) (vi) Eligible Uses of Lottery Proceeds**

A sports organization must provide detailed information regarding its proposed use of lottery proceeds. The licensing official must consider the proposed use of proceeds on a case-by-case basis.

The licensing authority may approve eligible organizations in this category to use lottery proceeds for the following purposes:

- salaries or wages for qualified coaches or instructors that are not members of the organization or the Board of Directors (**see section 2.7.4 (c) (viii) “Coaching Fees” for further information**);
- uniforms;
- equipment, program & safety supplies;
- staff and volunteer training, where necessary for the safety of the athletes, up to and including National Coaching Level II;
- facility rentals for youth amateur sporting events (must be supported by rental receipts);
- facility rentals for adult amateur provincial or national competitions if the licensed sports organization is the host (must be supported by third party receipts);
- necessary qualified competition officials; and
- direct costs for travel for youth amateur sports purposes to recognized competitions, sanctioned by the appropriate governing bodies, except for out-of-season or exhibition games. (**see section 2.7.4 (c) (vii) “Travel/Transportation Costs” for further information**)

**2.7.4 (c) (vii) Travel/Transportation Costs**

Lottery proceeds may be used for travel and transportation costs for sanctioned out-of-town tournaments or competitions. These costs may include meals, accommodation, airline tickets, bus rental and other reasonable expenses incurred by the players, and a reasonable number of coaches and chaperones for any youth participants. Please note that third party commercial receipts must be provided for travel. Mileage costs for personal vehicles are not permitted.

The organization must provide the following information with its licence application:

- documents showing that the applicant organization complies with the eligibility requirements;
- a letter from the appropriate sports governing body, sanctioning the tournament/competition;
- a copy of the tournament itinerary, including the dates and time of the scheduled games/competitions; and
- a membership list and a list of participants, noting their ages (approved use of proceeds will be restricted to those under 18).

Except in unusual circumstances, lottery proceeds may not be used to fund travel costs associated with out-of-province training. A sports organization requesting approval for such costs must demonstrate that:

- the need for the training program is justified as an integral part of the sports program;
- the training activity has been historically part of the organization's mandate and activities;
- participants could not otherwise afford to pay the associated travel and accommodation costs;
- all participants in the training program have been chosen to represent Ontario or Canada; and
- the training cannot be provided in Ontario and must be provided out-of-province to be effective.

**See also section 2.4.1 (e) "Travel Costs" for further information.**

#### **2.7.4 (c) (viii) Coaching Fees**

Coaching fees (salaries) are considered an indirect expense. However, it is recognized that in certain sports, coaching plays an important role in the development of the players. Therefore, coaching fees are considered eligible uses of lottery proceeds provided the following conditions are met:

- the need for a qualified coach is justified as an integral part of the sports program;
- the expertise level and hours of work required cannot be reasonably

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- provided by a volunteer;
  - salaries are reasonable and geared to the expertise required and hours worked; and
  - individuals receiving salaries or wages for coaching or other instruction:
    - have recognized credentials in their field;
    - are removed from any involvement in the management and conduct of the lottery events;
    - are not officers or directors of the organization; and
    - do not have voting rights as members of the organization.

Sports organizations may also use proceeds for training or to develop coaches themselves up to National Coaching Level II.

#### **2.7.4 (c) (ix) Payment of Officials/Referees**

If the presence of officials and referees is integral to the proper conduct of the sport, the following types of organizations may use lottery proceeds to pay their fees:

- eligible youth amateur sports organizations; and
- eligible amateur sports organizations for athletes with disabilities.

The fees must be based on amounts authorized by the league or association and only be paid to individuals assigned by the league or association to officiate at the event.

Adult amateur sports organizations representing Ontario or Canada may not use lottery funds to pay officials or referees.

#### **2.7.4 (c) (x) Ineligible Uses of Lottery Proceeds**

The following costs are not considered eligible uses of lottery proceeds for any amateur sports organization:

- professional development/staff training beyond National Coaching Level II;
- travel of a social, recreational or administrative nature, including travel for out-of-season or exhibition games or competitions;

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- expenses for governing bodies and games committees;
  - athletic awards and trophies; and
  - the purchase, construction, renovation or repair of facilities or buildings.

In the case of sports organizations, administration costs such as administrators' salaries, tournament and team registration fees, office expenses and utilities are considered to be indirect expenses which are not essential to the delivery of the sports program. Since these administration costs are not considered charitable, they cannot be paid using lottery proceeds.

#### **2.7.4 (d) The Enhancement of Youth**

##### **2.7.4 (d) (i) Eligibility Guidelines**

Organizations that support youth programs and services for youth that enhance human development, civic responsibility and pride in the community may be eligible for lottery licensing in this category.

An organization must meet all the eligibility criteria set out in this chapter and demonstrate that:

- its primary purpose is to provide services and programs for young people;
- its programs and services are directed toward programs and services for youth; and
- its programs have no access restrictions other than the age requirement.

##### **2.7.4 (d) (ii) Eligible Organizations**

Examples of the types of organizations that may be eligible in this category include organizations formed to:

- instruct youth in specific skills, such as 4-H Clubs (farming) and Scout and Guide Troops (life skills); or
- provide support and assistance to youth, such as Big Sisters and Big

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Brothers.

Cadet organizations associated with the Armed Forces, such as Air Cadets, may be eligible to receive lottery proceeds. In some circumstances cadet organizations may be controlled by the Provincial Command and may therefore not be constituted as separate legal and administrative organizations. The eligible organization may be the Provincial Command. In those cases, the Provincial Command must apply for and hold the lottery licence on behalf of each cadet group.

#### **2.7.4 (d) (iii) Eligible Uses of Lottery Proceeds**

The licensing authority may approve eligible organizations in this category to use lottery proceeds for the following purposes:

- salaries or wages for qualified instructors who are not members of the organization or the Board of Directors;
- uniforms, program supplies and equipment;
- the publication and distribution of material which is integral to the organization's charitable activities;
- volunteer training (**see section 2.4.1 (c) "Volunteer/Staff Training" for further information**);
- safety equipment and supplies;
- necessary, qualified competition officials, where competitions are integral to the organization's mandate and activities; and
- direct costs for travel within Ontario for direct program delivery (third party commercial receipts must be provided, as no mileage costs for personal automobiles or other motor vehicles are allowed).

#### **2.7.4 (e) Public Safety Programs**

##### **2.7.4 (e) (i) Eligibility Criteria**

To be eligible in this category, an organization must meet all the eligibility criteria set out in this chapter and demonstrate that:

- its primary purpose is to provide programs for the enhancement of public

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- safety at the community level;
  - its programs and services are available to the whole community;
  - its programs and services are directed toward improving community safety;
  - its programs and services are consistent with the public safety laws of the Province of Ontario; and
  - it is legally, financially and administratively separate from all forms of government and is not carrying out a municipal, provincial or federal mandate.

#### **2.7.4 (e) (ii) Eligible Organizations**

Examples of the types of organizations that may qualify in this category include those providing:

- community health and safety programs;
- community water safety programs;
- volunteer fire fighting services;
- community search and rescue programs; and
- anti-crime programs such as Crime Stoppers, that are not carried out under a municipal or provincial mandate (community policing programs are not eligible).

Member organizations of the Ontario Federation of Snowmobile Clubs may be eligible provided that:

- they are organized as a non-profit organization in the manner approved by the Registrar; and
- the Federation supports the application.

#### **2.7.4 (e) (iii) Eligible Uses of Lottery Proceeds**

The licensing authority may approve eligible organizations in this category to use lottery proceeds for the following purposes:

- the publication and distribution of non-profit promotional materials and

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- literature related to public safety;
  - public safety education programs, such as search and rescue and public signage;
  - travel costs within Ontario (out-of-province travel is not eligible) for direct program delivery (third party commercial receipts must be provided, as no mileage costs for personal automobiles or other motor vehicles are allowed); and
  - capital acquisitions necessary for the delivery of public safety programs, where specifically pre-approved by the licensing authority, except snowmobile trail groomers, which are not eligible.

Eligible member organizations of the Ontario Federation of Snowmobile clubs may only use lottery proceeds for education and safety programs approved by the Registrar of Alcohol and Gaming. These programs include Easter Seal Rides, Environment Awareness/Education Program, Ride Safe Ride Sober, Driver Training Program (age 12-16 years only), Signage Program, Young Rider Training Program, Safe Driving Education Program and Search/Rescue Assistance.

Proceeds cannot be used for other activities, such as trail grooming and maintenance.

#### **2.7.4 (e) (iv) Donations for Capital Expenditures**

In some cases, an eligible charitable organization that meets the criteria set out in section 2.4.1 (a)(i) may purchase or donate funds towards the purchase of a non-core item for another organization. The recipient organization must use the funds for a purpose that provides a public benefit and is an eligible use of proceeds.

Prior to the purchase, the donating and recipient organizations must enter into an agreement outlining their respective responsibilities. The agreement must include the following information:

- who has title to the item;
- who maintains the item;
- the current value of the item;

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- the item's life span and residual value over a period of time;
  - who insures the item;
  - who decides on disposal of the item;
  - what happens to the item's residual value.

This agreement is necessary to ensure:

- that the lottery proceeds are used only for charitable purposes; and
- that the residual value of an item is used to support only those initiatives that have also been approved as eligible.

#### **2.7.4 (f) Community Service Organizations**

##### **Eligibility Guidelines**

Community service organizations are established to provide funds to other organizations that carry out charitable activities for the benefit of the community. To be considered eligible for lottery licensing, a community service organization must have a purpose or object that allows them to make donations to eligible organizations. A community service organization must include a statement of how it intends to use the proceeds with its lottery licence application.

Community service organizations are divided into three categories:

- (i) Service Clubs;
- (ii) the Royal Canadian Legion; and
- (iii) the United Way and Federated Health.

##### **2.7.4 (f) (i) Service Clubs**

Service clubs are generally set up to perform activities and undertake projects that benefit eligible charitable organizations or to operate programs that provide a direct charitable benefit to the public.

To be eligible for lottery licensing, a service club must meet all of the basic eligibility criteria set out in this chapter.

Each branch or chapter of larger service clubs, such as the Rotary or Lions clubs, which have regional, provincial or national mandates, may be eligible, providing the branch:

- meets the eligibility criteria;
- has a specific regional or community mandate;
- is a separate legal entity;
- has its own Board of Directors;
- has independent budgets and banking procedures;
- has its own purposes or objects, that are recognized in law as being of a charitable nature; and
- has overall control over its decision-making.

#### **2.7.4 (f) (i) (1) Eligible Organizations**

Examples of the types of organizations that may be eligible in this category include:

- organizations historically considered to be service clubs, such as the Lions Club and Rotary Club; and
- social and professional organizations that:
  - have expanded their mandate to include a charitable object, and
  - have provided charitable services to the community for at least one year.

#### **2.7.4 (f) (i) (2) Eligible Uses of Lottery Proceeds**

The service club must give the licensing authority detailed lists of how it proposes to use the lottery proceeds. The service club may only donate lottery proceeds to an organization that is itself eligible to receive a lottery licence and has been approved by the licensing authority. The service club must ensure that donated lottery proceeds are used for purposes consistent with the receiving organization's mandate and approved uses of funds.

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The licensing authority may approve service clubs to use lottery proceeds for the following purposes:

- projects that are consistent with the organization’s charitable purposes or objects and provide a direct charitable benefit to the community;
- donations to other organizations for their own charitable purposes, which may include the relief of poverty, the advancement of education, the advancement of religion and other purposes beneficial to the community; and
- the general maintenance of their own club premises, if the premises are used for the benefit of the community, up to an amount of 2% of net lottery proceeds. This percentage may be increased if the facility is used free of charge by the community more than 2% of the time (see section 2.7.4 (f) (i) (4) “**Service Club Buildings**” for further information); and
- building funds. (see section 2.8.1 “**Building Funds**” for further information)

Please note that the 2% of net proceeds allowed for general maintenance is in addition to the percentage of gross receipts a licensee is permitted to retain from the licensed lottery events, in order to cover the costs of conducting and managing the event.

### **2.7.4 (f) (i) (3) Ineligible Uses of Lottery Proceeds**

In addition to their charitable objects and purposes, service clubs have a mandate to provide membership-oriented activities. These activities provide a private, not a public, benefit to the members of the service club. Membership-oriented activities do not qualify as charitable and service clubs may not use lottery proceeds for these purposes.

The following types of costs do not qualify as eligible uses of proceeds for service clubs:

- expenses related to the members’ lounge;

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- any program that is membership-oriented, including trips to conferences for members; and
  - any programs restricted to members and their families.

#### **2.7.4 (f) (i) (4) Service Club Buildings**

If a service club owns a building that it allows charitable organizations to use free of charge, it may use lottery proceeds for a building fund. The building fund may be used to renovate the sections of the building made available to charitable organizations in accordance with the policies for building funds outlined in this chapter. The service club must demonstrate that the public benefit goes beyond the occasional usage by outside charitable groups.

The service club may also use up to 2% of the net lottery proceeds to pay the general operating expenses of these premises. The licensing authority may increase the maximum allowable expenses for maintenance if the organization can prove the need for the funds and show that the facility is offered free of charge to charitable organizations more than 2% of the time. The licensing authority should increase the maximum allowable amount to a percentage proportional to the time the facility is used free of charge for eligible charitable purposes. The maintenance costs may include:

- municipal taxes;
- utilities;
- liability insurance on the building; and
- cleaning and general maintenance.

Please note that the 2% of net proceeds allowed for general maintenance is in addition to the percentage of gross receipts a licensee is permitted to retain from the licensed lottery events, in order to cover the costs of conducting and managing the event.

For example, in a small community the service club building may be the only hall in town. The community may use the facility extensively for meetings, classes, community programs, day care and general community activities. The licensing authority must decide on a case-by-case basis the extent to which the hall is used free of charge by other organizations.

The following example chart may assist the licensing authority determine a more accurate amount for building maintenance expenses especially where the request is to use more than 2% of net proceeds for general maintenance. The licensing authority may need to obtain supporting documentation from the service club showing the percentage of the building available for public use and the free usage of the hall.

<b>Example:</b>	
Building Maintenance Cost per Year:	\$10,000
% of Building Available for Public Use (excluding Offices & Members Lounge) 50%	(\$5,000)
Cost of Maintaining Public Portion of Hall	\$5,000
Number of Days of the Year used By Charitable Groups (i.e. Assuming 1 Group per day @ 91 days out of 365 days = 25%)	\$5,000 x 25%
<b>Amount Allowed for Building Maintenance per Year:</b>	<b>\$1,250</b>

#### 2.7.4 (f) (ii) The Royal Canadian Legion

Many of the purposes and objects of the Royal Canadian Legion are similar to those of general service clubs. Therefore, for lottery licensing purposes, the branches and commands of the Royal Canadian Legion are treated in the same manner as general service clubs, and the accepted uses of proceeds for service clubs also apply.

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The Royal Canadian Legion and its branches may use lottery proceeds for:

- donations to a broad base of eligible charitable organizations;
- the Royal Canadian Legion bursary fund;
- building maintenance; and
- building funds. (see also section 2.8.1 “Building Funds” for further information)

#### 2.7.4 (f) (ii) (1) Eligible Uses of Lottery Proceeds

The licensing authority may approve the Royal Canadian Legion to use lottery proceeds for the following purposes:

1. Projects that are consistent with the organization’s charitable purposes and objects and provide a direct charitable benefit to the community.
2. The development and maintenance of an educational bursary fund established by the Royal Canadian Legion, which meets the following criteria:
  - the fund is registered with the Canada Revenue Agency as a charitable organization;
  - the bursaries are available to a significant number of students in the community; and
  - the bursaries are applied to an educational program that leads to a recognized degree, diploma or certificate.
3. Donations to organizations for their own charitable purposes, which may include the relief of poverty, the advancement of education, the advancement of religion and other purposes beneficial to the community. The branch must provide the licensing authority with specific details on how the recipient will use the donation before approval will be given. The branch may request licence amendments. (see also section 2.4.1 (f) “Amendments to the Proposed Uses of Proceeds” for further information)
4. A branch’s building maintenance and general operating costs, up to a maximum

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of 2% of the net lottery proceeds, if the building is used free of charge by eligible organizations at least 2% of the time. The licensing authority may increase this maximum allowable percentage if the branch can prove the need for the funds and show that the facility is used free of charge by eligible charitable or non-profit organizations more than 2% of the time. The allowable percentage may be raised to match the percentage of time the facility is used free of charge for charitable purposes. These maintenance costs may include:

- municipal taxes;
- utilities;
- liability insurance on the building; and
- cleaning and general maintenance.

Please note that the 2% of net proceeds allowed for general maintenance is in addition to the percentage of gross receipts a licensee is permitted to retain from the licensed lottery events, in order to cover the costs of conducting and managing the event. (see section 2.7.4(f)(i)(4) “**Service Club Buildings**” for further information)

5. The costs of building construction or renovations may be eligible uses of lottery proceeds as outlined in the Building Fund Guidelines. (see section 2.7.4(f)(ii)(2) “**Royal Canadian Legion Building Funds**” for further information)

#### **2.7.4 (f) (ii) (2) Royal Canadian Legion Building Funds**

##### **Guidelines:**

A number of Royal Canadian Legion branches provide their facilities free of charge to eligible charitable organizations. At times, the branches may need to use lottery proceeds to construct new buildings or to cover the costs of renovations. In addition to the general policies set out in section 2.8.1 “Building Funds,” the Registrar has established supplemental building fund policies that apply to the Royal Canadian Legion and its branches. In addition to the usual approval from the licensing authority (who has the final decision), a branch’s proposal to use lottery proceeds for building funds must be reviewed and approved by the Ontario Provincial Command of the Royal Canadian Legion.

### **Eligibility Criteria**

The licensing authority may grant approval for a branch of the Royal Canadian Legion to use up to a maximum of 50% of net lottery proceeds to cover the capital costs of construction, repair or the leasehold improvement of branch buildings. Capital repairs do not include the normal painting, decorating (interior and exterior) and service calls that are included in the percentage of net lottery proceeds allowed for general maintenance of the building.

A Royal Canadian Legion branch may have a building fund and also use 2% (or more if approved by the licensing authority) of net proceeds for general maintenance.

The licensing authority may approve a building fund under the following conditions:

1. The branch provides a public charitable benefit by allowing charitable organizations in the community to use the building free of charge for their approved purposes.
2. The branch may only apply to use lottery funds to renovate or make additions to buildings it owns or leases on a long-term basis from a non-profit organization. The branch must comply with the procedures set out by the Ontario Provincial Command if it is constructing a new building or renovating an existing one.
3. The branch must obtain prior approval from the licensing authority before using funds for this purpose. The licensing authority must base its decision upon need and the extent to which the community uses the building.
4. Special terms and conditions will apply to maintaining this fund.

### **Approval Process**

Prior to using lottery proceeds for renovations or the construction of new buildings, branches must comply with the procedures set out by the Ontario Provincial Command of the Royal Canadian Legion. In addition, branches must follow the

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general policies for building funds. (see section 2.8.1 “Policies: Building Funds” for further information)

If the branch does not comply with this approval procedure, the licensing authority must refer the matter to the Administrative Committee of the Ontario Provincial Command, for any action it may deem necessary.

This policy also applies to Legion branches in Northwestern Ontario. However, they are not required to obtain approval from the Ontario Provincial Command, since they do not fall under its jurisdiction, but they must follow the general policies for building funds. (see section 2.8.1 “Policies: Building Funds” for further information)

### **Application Requirements**

If a branch proposes to use lottery proceeds for building fund purposes, it must supply the following information with its licence application:

- a written estimate of the amount needed for the building fund, an explanation of the capital expenditure, and the amount of net lottery proceeds to be used (up to a maximum of 50%);
- a letter of approval from the Ontario Provincial Command authorizing the expenditure and the amount of net lottery proceeds to be used (up to a maximum of 50% of the net proceeds); and
- the documents required in section 2.8.1 “Building Funds.”

The Ontario Provincial Command may request additional documentation to support building fund proposals. The Command must make these documents available to the licensing authority upon request.

### **Eligible Uses of Proceeds**

Once the licensing authority has approved the use of proceeds for a building fund, the branch may use up to 50% of net lottery proceeds for the following building fund purposes:

- building repairs;
- replacements and additions of a capital nature; and

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- the full amount of the mortgage payments, including the principal and interest, approved for a new building project or for an existing mortgage (not to exceed 50% of the net lottery proceeds over the period of the licence).

Please note that lottery funds may be used to renovate the portions of a building used by the public, but not the members' lounge.

#### **2.7.4 (f) (ii) (3) Ontario Provincial Command: Construction and Renovation Procedures**

Each branch must comply with the procedures set out by the Ontario Provincial Command of the Royal Canadian Legion for branch construction. These procedures are outlined below:

Prior to purchasing property or engaging the services of an architect or consultant, the branch must present a motion in a notice mailed to each member.

The notice must include:

- the proposed purchase price of the property; or
- the estimated cost of the new building or renovation in accordance with the branch's ability to pay; and
- the name and address of the architect and/or consultant to be engaged.

A branch cannot apply for a lottery licence to raise funds to purchase property or hire an architect and/or consultant until this motion has been approved.

Once the branch has approved the motion and the Provincial Command has granted permission, the branch may engage the services of an architect and/or consultant and obtain an estimate for the proposed plans.

When the branch receives this estimate, it must present a Notice of Motion to a General Meeting. The Notice of Motion must include the following details:

- the names of the chairman and members of the Branch Building Committee;
- the total cost of the project, in accordance with the information

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- received;
- a statement of the assets of the branch, as per the last audited financial statement as of May 31st of the preceding fiscal year; and
  - the amount of the mortgage required and the relevant interest rate.

The branch must mail a copy of the Notice of Motion and the date of the General Meeting at which it will be considered, to each member in good standing. The branch must also send a copy of each Notice of Motion and certified copies of the minutes of the General Meeting at which the motion was approved, to the Provincial Command.

The branch must obtain prior written approval from the Ontario Command for each expenditure from the building fund in excess of \$5,000 during the course of the fiscal year. The branch must send a copy of this approval to the licensing authority.

The Royal Canadian Legion branch must submit regular financial reports as per the terms and conditions of the lottery licence.

#### **2.7.4 (f) (ii) (4) Royal Canadian Legion: Selling Property Purchased with a Building Fund**

The branch must obtain prior approval from the licensing authority before selling or mortgaging any property acquired or renovated through a building fund made up of lottery proceeds. The branch must prepare a document outlining the value of the lottery proceeds applied to the building fund.

When the property is sold, the branch must calculate the value of the lottery funds contributed to the building fund and must direct that amount of money to other eligible charitable organizations in the community. The branch may reduce this amount by the amount of money the branch could have made on an annual basis by renting the facility instead of providing it free of charge (foregone revenue). Please note that if the sale occurs after the obligation has been reduced to zero, the branch does not have to distribute any funds from the sale of the property to charitable organizations in the community.

#### **2.7.4 (f) (iii) United Way and Federated Health**

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Many public, corporate and private sector places of employment conduct and manage lottery events, amongst their employees, as part of their annual fundraising campaigns on behalf of the United Way and/or Federated Health (UW/FH). The funds raised from these lotteries are donated to the UW/FH, which, in turn donate these proceeds to eligible charitable organizations that provide a direct charitable benefit to the community.

Public, corporate and private sector places of employment are permitted to conduct and manage lottery events at their places of employment when overseen by the UW/FH and must obtain a lottery licence in order to comply with the *Criminal Code* (Canada).

Lottery licences will only be issued for events to be held during the official fund raising campaign period of the UW/FH.

### **Licensing Policies**

- Only the Registrar issues lottery licences for UW/FH campaigns.
- Public, corporate and private sector places of employment, henceforth referred to as “UW/FH employee fundraising committee” (the “committee”), must be either organized as a registered charitable trust or enter into a letter of agreement with the UW/FH. The letter of agreement must contain the following information:
  - the committee’s name (i.e.: RBC Bank Fundraising Committee for United Way);
  - the committee’s purposes;
  - a clause stating that the committee will carry out their fundraising lottery project during the published campaign period of the UW/FH campaign in the committee’s workplace, and that it will donate all net proceeds to the UW/FH.
  - an organizational chart of the committee’s structure (e.g. president or chair);
  - the effective date of the agreement; and
  - the signatures of the chair of the committee and the appropriate campaign director or person authorized on behalf of UW/FH.

In addition, the following policies and guidelines apply to all lottery licences issued to UW/FH employee fundraising committees:

- the licensing policies and the terms and conditions for lottery events must be followed;
- lottery events must be conducted and managed within the workplace;
- participation in the lottery event is restricted to employers and employees only;
- all applications must be submitted by the chair of the committee;
- the committee must obtain municipal support for UW events;
- the committee must pay the standard licence fees; and
- all licence applications must be accompanied by a copy of the letter of agreement between the UW/FH and the employee fundraising committee.

### **2.8.1 POLICIES: BUILDING FUNDS**

The licensing authority must handle requests from organizations wishing to use lottery proceeds for building or renovation projects in the same manner as any other request for the use of lottery proceeds. The organization must show that the building fund constitutes an eligible purpose.

#### **2.8.1 (a) Eligibility Criteria**

The licensing authority may approve an eligible organization to use up to a maximum of 50% of net lottery proceeds for the capital costs of construction, repair or the leasehold improvement of real property including land and buildings, if:

- the property is owned by the eligible organization or is leased on a long-term basis from a non-profit organization; and
- the organization can show that a public benefit will result.

The following types of construction or renovation may qualify:

- the construction of a new wing for a public hospital;
- the construction or renovation of a church;
- the renovation of part of a building owned by a service club, that the club makes available to charitable organizations free of charge; and
- the construction of a community centre, available to all local residents for activities beyond the municipality's mandate, provided that the building is not owned and operated by the municipality.

#### **2.8.1 (b) Approval Process**

The licensing authority may approve a building fund under the following conditions:

- The operation of the building is required for the direct delivery of the charitable purposes or objects of the organization.
- The building provides a public charitable benefit to the community or is

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available free of charge to other non-profit organizations within the community and used for their approved charitable purposes.

- The organization must obtain prior approval from the licensing authority before accumulating lottery proceeds in a building fund.
- The licensing authority must add special terms and conditions to ensure protection of the building fund.
- If the organization does not own the building, it may still be eligible to set up a building fund if it has a valid long-term lease in a building owned by a non-profit organization.

Where the building is not used solely for eligible purposes, the maximum amount of lottery proceeds approved for the building fund must be proportional to the percentage of time the building is used to provide a public charitable benefit.

If the applicant organization wishes to use lottery proceeds for the renovation or construction of a building, it must submit the following information to the licensing authority for review prior to, or with the licence application:

- an explanation of the capital expenditure, a written estimate of the amount needed for the building fund, and the amount of net lottery proceeds to be used (up to a maximum of 50% );
- a budget of the proposed project, including an itemized description of all individual costs;
- the total cost to be incurred;
- a budget for the organization, listing all expenses and all income for the appropriate fiscal year;
- architectural plans (where applicable), especially for new facilities or extensive renovations;
- an explanation of how the use of lottery proceeds for the building fund will affect the organization's service delivery and why the operation of the building is required for the direct delivery of its charitable objects or purposes;
- proof of ownership or a copy of the lease and documentation

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- regarding the non-profit organization that owns the building;
- a plan of how the assets will be disbursed in case of the organization's dissolution;
  - copies of written estimates, including labour and material costs for the project;
  - details of the main uses of the proposed building or renovation project and an explanation of other uses for the facility; and
  - other sources of funding available for the project.

All of these criteria will not be relevant in all cases. The licensing authority will base its decision on whether the building/facility will be of benefit to the community or a charitable group, and what happens to the proceeds if the building/facility is sold.

Please note that general maintenance costs are not eligible as part of a building fund.

The licensing authority may grant an organization permission to use a specific amount of proceeds from any licensed lottery event for a building fund. A maximum of 50% of the net lottery proceeds may be allocated to the building fund, once approval has been given for the fund. The licensing authority must approve a specific amount of proceeds, rather than a percentage, and must specify the period of time over which funds may accumulate in the building fund. The period of time will be limited and reasonable and must not exceed two years without further approval.

### **2.8.1 (c) Reporting Requirements**

The eligible organization must:

- submit regular financial reports, as required by the lottery licence;
- obtain prior approval from the licensing authority before selling or mortgaging any property acquired or renovated through a building fund made up of lottery proceeds; and
- prepare a document outlining the value of the lottery proceeds applied to the building fund.

**2.8.1 (d) Selling Property Purchased with a Building Fund**

The organization must obtain prior approval from the licensing authority in order to sell or mortgage any property acquired or renovated through a building fund made up of lottery proceeds. The organization must also prepare a document outlining the value of the lottery proceeds applied to the building fund and obtain prior approval on how the proceeds will be distributed upon the sale.

When the property is sold, the organization must calculate the value of the lottery funds contributed to the building fund and must direct that amount of money to other eligible charitable organizations in the community.