



2021 LIMITED VIDEO LOTTERY RE-BID PACKET

On this website (wvlottery.com) you will find the documents necessary to properly submit a bid for Limited Video Lottery (LVL) terminal permits for the 10-year permit period beginning July 1, 2021 and ending June 30, 2031.

**PLEASE DO NOT BEGIN COMPLETING
DOCUMENTS FROM THIS WEBSITE
UNTIL YOU HAVE CAREFULLY READ
ALL INSTRUCTIONS.**

**THE INSTRUCTIONS TO FOLLOW HAVE BEEN
DEVELOPED TO ASSIST YOU IN COMPLETING THE
REQUIRED DOCUMENTS FOR BIDDING.**

**For additional questions or to obtain a
printed copy of the bid packet,
please contact:**

Mara Dawson at 304-558-0500 ext. 329; or
Melissa Whitley at 304-558-0500 ext. 257; or
Scott Wright at 304-558-0500 ext. 351



**BEFORE YOU BEGIN, PLEASE
DOWNLOAD AND PRINT
THE FOLLOWING DOCUMENTS:**

- Bid For Limited Video Lottery Terminal Permits Form
- Bid For Limited Video Lottery Terminal Permits (Sample A)
- List of DBA Names Under Same Corporation Form (if bidding on one bid sheet with multiple DBAs)
- Procedure for Processing Cash Bid Bond (Procedure WVSTO-B)
- LVL Re-Bid of Permits Deposit Form
- Request to Invest – WV Consolidated Investment Fund Form
- Form W-9
- Receipt for Deposit with the Treasurer’s Office (Sample B)
- Irrevocable Letter Of Credit Form (LOC)
- Receipt for LOC with the Treasurer’s Office (Sample C)
- Surety Bond Form
- Accepted Surety Companies



Introduction to the Bid Process

A limited video lottery (LVL) permit is a document that provides licensed permit holders the privilege to lawfully purchase video lottery machines from a licensed manufacturer.¹ It is important to understand that during this process you are bidding on permits only, not the machines themselves.

The bid is a competitive, sealed process. Under the priority preference, bids will be awarded to current permit holders first, allowing them to reacquire the number of bid permits they currently hold at the minimum bid price. Bids will then be awarded to the highest bidder, down to the lowest bidder until all permits available are awarded. **The Lottery will reject any bid that does not meet or exceed the first round minimum bid amount of \$7,500 per-permit.**

Each bidder must have one permit for every machine to be purchased or leased. *Example:* If you want to purchase seven (7) machines, then you must bid on seven (7) permits. If you want 100 machines, then you must bid on 100 permits. No person shall be authorized to own or lease more than 675 video lottery terminal permits – regardless of whether the permit is obtained by successful bid, Certificate of Reservation (COR) or by a combination of both.

Retailers may not have more permits issued than the number of licensed retail locations, multiplied by the maximum number of permits each location is permitted under the law. Regular retailers may not have more than seven (7) permits per location. *Example:* If you are a regular retailer with five (5) locations, then you may not have more than 35 permits issued to you [7 permit cap per location x 5 locations = 35 permits].

Fraternal or Veterans' organizations, as defined by Internal Revenue Service (IRS) Code 501(c) designation, may not have more than 10 permits per location.

Bidders who properly complete the “**BID FOR LIMITED VIDEO LOTTERY TERMINAL PERMITS**” (the blank form) and submit a 100% bid bond may be eligible to win permits. Although licensure is not required before submitting a bid for permits, permits *will only* be issued to licensed LVL retailers or operators.

Permits awarded to those operators and retailers that are unable to become licensed will be lost and 100% of the bid bond (cash, Irrevocable Letter of Credit, or

¹ Please note that illustrations found in these instructions use the word “permit” to mean the authority to own one video lottery terminal. This is done for the sake of clarity. The statutory definition of “permit” in W.Va. Code, Limited Video Lottery Act, § 29-22B-323 means one document authorizing the holder to possess a specified number of video lottery terminals.



Surety Bond) will be forfeited to the State. A licensing packet can be obtained on the Lottery's website at <https://wvlottery.com/customer-service/licensing/>.

Please carefully read the instructions below before completing your bid submission. The information included is intended for use during the First Competitive Bid (minimum bid amount and other relevant information may be different in subsequent bids as set forth by the Lottery Commission).

Due to the COVID-19 pandemic it is recommended that all documents be sent to the WV State Treasurer's Office, the State Auditor's Office and Purchasing Division via U.S. Postal Service. It is imperative to have adequate time for processing by the Treasurer's Office. Failure of the U.S. Postal Service or a courier service to make timely delivery of any bid shall not act to validate any bid.

Completing the Bid Form

The “**BID FOR LIMITED VIDEO LOTTERY TERMINAL PERMITS**” (the blank form) requires that bidders include the name of the bidder's corporation, LLC, partnership, etc. (if established), dba name (if established), address, mailing address (if different), e-mail address, telephone number, LVL license number (if current permit holder), number of permits currently held (if current permit holder), the number of permits bidding on, per-terminal permit bid amount, the total bid amount, and the amount of the bid bond. Please carefully review the “**BID FOR LIMITED VIDEO LOTTERY TERMINAL PERMITS – SAMPLE A**” prior to completing the blank form.

You may bid for multiple permits on the same bid sheet, provided that you are bidding on permits at the same price level. *Example:* You may bid for ten (10) permits at \$7,500 per-permit using the same bid sheet.

If you want to bid at varying price levels, you must submit multiple bids. *Example:* If you want 14 permits, you may submit one bid for seven (7) permits at \$7,500 per-permit and one bid for seven (7) permits at \$8,500 per-permit. In this instance, both bids must be submitted on separate bid forms, must have separate bid bonds and must be submitted in separate, sealed envelopes.

Applying for the Priority and 5% Preference

Current permit holders will be given priority preference to reacquire the number of bid permits they hold at the minimum bid price. They are also eligible to receive a 5%



preference on their bid amounts. A “current permit holder” is a bidder who holds permits at the beginning of the First Competitive Bid, on November 13, 2020.

Those who hold permits solely by Certificate of Reservation (COR) or solely by leasing the terminals from an operator DO NOT qualify for the priority or 5% preference.

In order to receive priority or 5% preference, a current permit holder must bid at least the \$7,500 per-permit minimum bid amount and must indicate eligibility for the priority or 5% preference on the Bid Form. Current permit holders must also use the same name and LVL license number listed on the permit that is currently held. *Example: ABC Corp., d/b/a ABC’s Bar & Grill, LR #009876.*

If you have multiple DBA Names under one Corporate Name and you are bidding at the same price for all DBAs you may bid for all permits on one bid sheet and include the List of DBA Names under the Same Corporation Form. *Example: ABC Corp. has 3 dba names each holding 7 bid permits. You may use ABC Corp. on bid sheet bidding for 21 permits and include the List of DBA Names under the Same Corporation Form listing; d/b/a ABC’s Bar & Grill, LR #009876, 7 permits held; d/b/a DEF’s Bar & Grill, LR #005432, 7 permits held & d/b/a GHI’s Bar & Grill, LR #007654, 7 permits held.*

In the event that a current permit holder does not bid at least \$7,500 per-permit; does not indicate eligibility for the priority or 5% preference on the Bid Form; does not bid in the proper name; does not provide a proper LVL license number; or does not provide the proper number of permits currently held, the Lottery will not be responsible for a failure to give priority preference or credit for the 5% preference.

The 100% Bid Bond

Each person submitting a bid must furnish a bid bond guaranteeing 100% payment of the bid amount for the permits sought. *Example: If you bid on seven (7) permits at the minimum \$7,500 per-permit amount, your bid bond must be submitted in the amount of \$52,500 [7 permits x \$7,500 = \$52,500].* **If your bid bond does not guarantee the full amount of each bid submitted, your bid will be REJECTED. Each bid submitted must be accompanied by a separate 100% bid bond.**

The bid bond must be furnished in *one* of the three forms listed below by 4:00 p.m. on January 21, 2021:

1. West Virginia Treasurer’s Office Deposit Receipt: Cash bid bond must be deposited, without restriction, in the WV State Treasurer’s Office and credited to the



Lottery Commission. Acceptable forms of cash bid bond are cashier's checks (preferred), certified checks, money orders, cash, ACH or wire – no personal or business checks are permitted. Following CDC guidelines and the Governor's mandates in regard to COVID-19, the preferred manner of submission is to mail the completed and notarized "Request To Invest Form", the completed W-9 Form, the completed LVL Re-Bid of Permits Deposit Form and a cashier's check in the full amount of the bid bond to a secure lockbox addressed to WV Lottery, P. O. Box 40239, Charleston, WV 25364. The Treasurer's Office will provide the bidder with a signed receipt via email or mail. If you choose to deliver in person, it is strongly recommended to call 304-340-5033 to set up an appointment. The Treasurer's Office is located at 1900 Kanawha Boulevard, Capitol Complex, Building #1, Room E-145, Charleston, WV 25305. **Please Note**, that they have limited staffing available during this time and may not be able to accommodate unscheduled or last minute bond submissions in a timely manner, however they will do their best to accommodate your request. **Further Note that** the Treasurer's Office does **NOT** guarantee that the receipt will be mailed in time to allow the timely submission of a bid and the failure of the U. S. Postal Service or a courier service to make timely delivery of any bid shall not act to validate any bid.

Do not enclose a cashier's check in the bid submission. The Lottery will only accept a receipt from the West Virginia Treasurer's Office proving that you deposited cash, cashier's check or an acceptable form of negotiable security with the West Virginia Treasurer's Office. Please print and review the "RECEIPT FOR DEPOSIT WITH THE TREASURER'S OFFICE (SAMPLE B)" as an example of a proper deposit receipt.

It is strongly recommended that bid bonds to the State Treasurer's Office be submitted in the form of a cashier's check made payable to the State of West Virginia to avoid payment issues and/or delays associated with other forms of payment. The WV State Treasurer's Office will only accept the following form of negotiable security – U.S. Treasury Bonds. Depository Trust & Clearing Corporation (DTCC) receipts will be required for bidders submitting bid bonds in the form of a negotiable security. In order to properly post cash, a cashier's check, or a negotiable security as a bid bond, please print, review and follow the instructions contained in the "PROCEDURE FOR PROCESSING CASH BID BOND WITH THE WEST VIRGINIA STATE TREASURER'S OFFICE (Procedure WVSTO-B)."

Important Note: Any bidder who wishes to submit a Cash Bid Bond via ACH or wire transfer must contact Brant Gibson, EFT and Financial Services Director for Treasurer's Office, **no later than** one week prior to January 15, 2021. Mr. Gibson can be contacted by telephone at 304-340-1594 or by e-mail at brant.gibson@wvsto.com. Any questions about properly posting a Negotiable/Marketable Bid Bond should be directed to



Carolyn Bellamy of the Treasurer's Office. Ms. Bellamy can be contacted by telephone at 304-340-1593 or by e-mail at carolyn.bellamy@wvsto.com. Marketable securities are time sensitive, please allow two weeks for completion.

2. Irrevocable Letter of Credit: Must be issued by a bank or other financial institution that is regulated by either the federal or state government. To submit an Irrevocable Letter of Credit, please print and complete the document entitled "**IRREVOCABLE LETTER OF CREDIT FORM**" and the LVL Re-Bid of Permits Deposit Form. **All Irrevocable Letters of Credit should be held open and funds made available until September 30, 2021 or later.** An original, fully executed Irrevocable Letter of Credit must be sent to the WV State Treasurer's Office and the receipt from the Treasurer's Office but be included in the bid submission.

Following CDC guidelines and the Governor's mandates in regard to COVID-19, the preferred manner of submission is to mail the Irrevocable Letter of Credit to a secure lockbox addressed to WV Lottery, P. O. Box 40239, Charleston, WV 25364. The Treasurer's Office will provide the bidder with a signed receipt via email or mail. If you choose to deliver in person, it is strongly recommended to call 304-340-5033 to set up an appointment. The Treasurer's Office is located at 1900 Kanawha Boulevard, Capitol Complex, Building #1, Room E-145, Charleston, WV 25305. As **previously mentioned**, the Treasurer's Office has limited staffing during this time, but will do their best to accommodate your request. Again, **please note** that the Treasurer's Office does NOT guarantee that the receipt will be mailed in time to allow the timely submission of a bid and the failure of the U. S. Postal Service or a courier service to make timely delivery of any bid shall not act to validate any bid.

Do not enclose an Irrevocable Letter of Credit in the bid submission. **The Lottery will only accept a receipt from the West Virginia Treasurer's Office.** Please print and review the "**RECEIPT FOR LOC WITH THE TREASURER'S OFFICE (SAMPLE C)**" as an example of a proper LOC receipt.

3. Surety Bond: Issued by a company authorized by the West Virginia Insurance Commissioner to do surety business in the State of West Virginia. To submit a Surety Bond, please print and complete the document entitled "**BID BOND FORM.**" Please print and review the document entitled "**ACCEPTED SURETY COMPANIES**" for a list of surety companies acceptable as of August 2020. *Bidders cannot post a Surety Bond with the State Treasurer's Office. An original, fully executed Surety Bond must be included in your bid submission.*



Submitting the Bid and Bid Bond

Any sealed bid that is NOT received by BOTH the Purchasing Division of the West Virginia State Department of Administration AND the State Auditor's Office by 4:00 p.m. on January 21, 2021 will be REJECTED. Any original bid received by the Director of Purchasing that is not identical to the copy received by the State Auditor will be rejected. Bid submissions sent and/or received via E-mail or FAX will be REJECTED. Failure of the U.S. Postal Service or a courier service to make timely delivery of any bid shall not validate any bid not received by the submission deadline.

PURCHASING ENVELOPE

- The following items must be placed inside the **Purchasing Bid Envelope**:
 1. The ORIGINAL Bid Sheet
 2. The ORIGINAL Bid Bond (i.e. Receipt from the State Treasurer's Office or Surety Bond)

- Mark the outside of the SEALED Bid Envelope EXACTLY as shown below:

<u>SEALED BID</u>	
Buyer:	West Virginia Lottery Director;
Req.:	Video Lottery Permit Bids;
Date:	(opening) January 22, 2021; and
Time:	(opening) 1:30 p.m.

NOTICE: Your name should NOT be on the Bid Envelope.

NOTICE: The 1:30 p.m. time is for the *opening* of the bids. Bids are *due* by 4 p.m. on January 21, 2021.

- If you are going to hand-deliver your bid you must (**bid envelopes may be delivered to the State Purchasing Office between 8:15 a.m. – 4:30 p.m.**):
 - Take it COMPLETED and READY
 - Supply your own envelope
 - Enclose the ORIGINAL bid sheet and bond – seal the envelope
 - Mark the outside envelope as shown in the box ABOVE
 - Deliver to Purchasing Division at the address listed in the **YELLOW** box below

- If you are going to mail (or courier) your bid, place the SEALED Bid Envelope INSIDE an OUTER envelope, and address the outer envelope as follows:



State of West Virginia
Department of Administration
Purchasing Division
2019 Washington Street East
P O Box 50130
Charleston, WV 25305-0130

The OUTER envelope *may* have your return address on it.

STATE AUDITOR’S ENVELOPE

- The following items must be placed inside the **State Auditor’s Bid Envelope**:
 1. An EXACT COPY of Bid Sheet
 2. An EXACT COPY Bid Bond (i.e. Receipt from the State Treasurer’s Office or Surety Bond)

If the Bid Sheet and Bid Bond (i.e. Receipt from State Treasurer’s Office or Surety Bond) submitted to the State Auditor is not IDENTICAL to the Original Bid Sheet and Bid Bond submitted to the Purchasing Division, the bid will be REJECTED.

- Mark the outside of the SEALED Bid Envelope EXACTLY as shown below:

	<u>SEALED BID</u>
Buyer:	West Virginia Lottery Director;
Req.:	Video Lottery Permit Bids;
Date:	(opening) January 22, 2021; and
Time:	(opening) 1:30 p.m.

NOTICE: Your name should NOT be on the Bid Envelope.

NOTICE: The 1:30 p.m. time is for the *opening* of the bids. Bids are *due* by 4 p.m. on January 21, 2021.

- If you are going to hand-deliver your bid you must (**bid envelopes may be delivered to the State Auditor’s Office between 8:00 a.m. – 4:00 p.m.**):
 - Take it COMPLETED and READY
 - Supply your own envelope
 - Enclose an EXACT COPY of bid sheet and bond – seal the envelope
 - Mark the outside envelope as listed in the box ABOVE
 - Deliver to the State Auditor’s office at the address listed in the box **YELLOW** below



- ☑ If you are going to mail (or courier) your bid, place the SEALED Bid Envelope INSIDE an OUTER envelope, and address the outer envelope as follows:

State Auditor's Office
Bid Observer
State of West Virginia
1900 Kanawha Blvd., East
Bldg. 1, Room W-100
Charleston, WV 25305-0230

The OUTER envelope may have your return address on it.

Awarding Permits

At 1:30 p.m. on January 22, 2021, representatives of the Director of Purchasing and the State Auditor will alphabetize and begin opening the sealed bids. The opening of bids is open to the public. ***Bid opening will be held in the Commission Room at the West Virginia Lottery Headquarters located at 900 Pennsylvania Avenue, Charleston, West Virginia 25302.*** Following CDC guidelines and Governor's mandate regarding COVID-19, maximum capacity at the bid opening will be reduced, and masks and social distancing protocols will be observed.

NOTICE:

Any bid not received by both the State Purchasing Division and the State Auditor's Office by 4:00 p.m. on January 21, 2021 will be rejected. Any bid that does not meet or exceed the \$7,500 per-permit minimum bid will be rejected. Any original bid received by the Director of Purchasing that is not identical to the copy received by the State Auditor will be rejected. Any bid bond submitted that is less than 100% of the total bid will be rejected.

Lottery accountants will then proceed to calculate the 5% preference for properly identified current permit holders. **A 5% increase will be credited to any bid properly submitted, as required by these instructions.** The 5% increase is a credit, and the bidder is not required to pay the increase. *Example:* If a Current Permit Holder bids \$7,500 per-permit, the Lottery will view the bid as \$7,875 per-permit [$\$7,500 \times 5\% = \$375 + \$7,500 = \$7,875$], even though Current Permit Holder will only need to pay the \$7,500 per-permit, if successful. The 5% increase follows the Current Permit Holder, and not the number of permits originally held by the Current Permit Holder. *Example:* If a Current Permit Holder held 50 permits for the 2011-2021 permit-period, but bids on 100 permits for the 2021-2031 permit-period under the same name, then Current Permit Holder will receive the 5% preference for all 100 permits bid on.



Permits will be awarded under the priority preference to the current permit holders first allowing them to reacquire bid permits currently held, then to the highest per-permit bid price, down to the lowest proper bidder. **The Lottery will send certified letters to all bidders notifying them of whether their bid(s) was / was not successful or rejected.** The Lottery will also post the bid results at www.wvlottery.com.

Releasing the Bid Bond

Successful Bids

If a bidder posts cash, a cashier's check, or another accepted form of cash at the State Treasurer's Office for their 100% bid bond, the Lottery will request that the State Treasurer's Office transfer the cash deposited by successful bidders to a Lottery account *only* upon receipt of a release signed by the bidder. The release form is available at www.wvlottery.com. **An original executed release form must be submitted to Mara Dawson at the West Virginia Lottery on or before the close of business on June 11, 2021 or the bidder will be in a DEFAULT STATUS and will be subject to forfeiture of permits won.** Successful bidders who deposited cash with the State Treasurer's Office will receive any interest that accumulated from their deposit between the time it was deposited and when it is transferred.

If a bidder posts an Irrevocable Letter of Credit, Negotiable Security or Surety Bond for their 100% bid bond, the Lottery requires the bidder to pay the total bid amount by submitting a cashier's check. **The total bid amount paid by cashier's check should be made payable to the West Virginia Lottery. All checks must be received by the Lottery no later than the close of business on June 11, 2021, or the bidder will be in DEFAULT STATUS and will be subject to forfeiture of permits won.** A bidder will be in default only if the Lottery does not receive the bidder's cashier's check as of the close of business on June 11, 2021. A bidder who is unsuccessful during the bid process is not considered in default.

If a successful bidder does default in payment, the Lottery will utilize the 100% bid bond (Irrevocable Letter of Credit, Negotiable Security or Surety Bond) in order to receive payment. As a result, a default bidder will forfeit permits won during the bid process, and also the full amount of the bid bond.

Upon payment, the Lottery will release all Irrevocable Letters of Credit, Negotiable Securities and Surety Bonds on or before September 30, 2021.



Unsuccessful Bids

If a bidder is unsuccessful, the bid bond will be returned to the bidder. In the case of a Cash Bid Bond, the full deposited amount will be returned to the bidder. In the case of an Irrevocable Letter of Credit, Negotiable Security, or Surety Bond, the bid bond will be released. The Lottery will provide unsuccessful bidders detailed information regarding the procedure and timeline in which bid bonds will be released following the completion of each Competitive Bid.