

# **LVL Permit Re-Bid Educational Seminar**



# Important Re-Bid Dates

# Commission Approved Dates

- 1<sup>st</sup> Competitive Bid:
  - First Day: November 13, 2020
  - Last Day: January 21, 2021 @ 4:00 pm
  - Bid Opening: January 22, 2021 @ 1:30 pm
- The Match Option:
  - First Day: February 5, 2021
  - Last Day: February 26, 2021

# Commission Approved Dates

- 2<sup>nd</sup> Competitive Bid:
  - First Day: March 12, 2021
  - Last Day: May 20, 2021 @ 4:00 pm
  - Bid Opening: May 21, 2021 @ 1:30 pm



# Bid Price & Number of Permits

# History of Bids

- History of Bids for the 2011-2021 Permit Period
  - There were 3 bid rounds and 2 match options.
  - The Averages
    - Average Minimum Bid: \$8,203.66
    - Average Bid: \$8,907.15
    - Average Highest Bid : \$16,667.67
  - The Lottery Commission set the minimum bid per round at \$5,000, \$6,000 and \$7,000.
  - The Highest Bid was \$20,000 per-permit in the 1<sup>st</sup> round.

# Minimum Bid Price

- The Commission may set a uniform minimum bid price for each bid round. W.Va. Code § 29-22B-1106(e)
  - The Commission began considering the minimum bid at its August 2020 meeting.
  - Any meeting in which the Commission discusses or decides on the minimum bid must be public.
- The Commission may only choose one initial bid price that will apply to all bidders
  - The Commission may set a different minimum bid price for subsequent bids. Historically, these prices have been higher.

# Minimum Bid Price

- The Commission set the minimum bid for the 2021-2031 permit period during the October 2020 meeting.
  - 1<sup>st</sup> Competitive Bid:
    - Minimum bid: \$7,500
  - 2<sup>nd</sup> Competitive Bid:
    - Minimum bid: \$8,500



# Number of Permits

- The Commission sets the number of permits available for bid. It may not authorize more than 9,000 permits. W.Va. Code § 29-22B-1101(a)
  - The number cannot be more than 9,000 minus the number of permits retained by Certificate of Reservation (CORs).

**There have never been 9,000 permits in operation...**

Average # of Terminals for FY2015-FY2020	6,337
# of Permits Issued (October 20, 2020)	7,994
# of Terminals in Operation (October 19, 2020)	7,433

# A Word On Certificates of Reservation

- A COR allows a Retailer to retain permits, up to the statutory cap, without having to bid.
  - Retailer pays \$1,000 per permit.
  - Statutory cap on permits held by COR.
    - 2 per regular retail location
    - 7 per fraternal or veteran organization
- CORs were available to anyone who:
  - Held a valid ABCA license prior to January 1, 2001;
  - Applied for an LVL license on or before August 1, 2001; and
  - Currently holds an “active” permit under COR.

# A Word On Certificates of Reservation

- On July 15, 2020, the Lottery sent certified letters to the 114 retail locations that hold CORs.
  - Notified of the number of permits its location retains under COR.
  - Deadline of September 15, 2020 to pay the \$1,000 per permit price.
- Any retail location that did not get this letter, does not have a COR and does not have a right to reserve permits.

# A Word On Certificates of Reservation

- A COR Holder may choose to transfer the right-to-the-permits under the COR to a licensed Operator.
  - Retailer must sign an affidavit releasing the permits to the Operator and submit to the Lottery.
    - The Lottery will post the necessary affidavit on its website.
    - The affidavit may be submitted to the Lottery no later than June 1, 2021.
  - Operator must place the permits in the COR holder's retail location.
  - The COR ALWAYS remains in control of the Retailer.



Notice

# Publication of Public Notice

- The Commission must publish a Class II-O legal advertisement to notice the bid. W.Va. Code § 29-22B-1107(a)
  - This ad must be in compliance with the provisions of W.Va. Code § 59-3-1, *et seq.*
    - Published once a week for 2 successive weeks.
    - In 2 qualified newspapers of opposite politics published in the publication area.
    - Cannot be published on Sundays.
  - The last ad must run at least 60 days prior to the final day for submission of bids.
  - The newspaper legal advertisements are the only notice required by law.

## NOTICE

### BIDS FOR 7,800 LIMITED VIDEO LOTTERY TERMINAL PERMITS FOR 2021-2031

Under provisions of section 29-22B-1107 of the West Virginia Code, the West Virginia State Lottery Commission will accept bids from persons who are intending to become licensed operators and retailers for permits to purchase or lease limited video lottery terminals from licensed manufacturers. The minimum bid per-terminal must be at least seven thousand five hundred (\$7,500.00) dollars. The total number of terminals to be awarded in this Competitive Bid is 7,800 and a match option will be available if demand is sufficient.

Bids for authorizations to own or lease video lottery terminals shall be submitted to the Purchasing Division, West Virginia Department of Administration beginning Friday, November 13, 2020- any bid received prior to November 13, 2020 will be disqualified. Bids delivered or mailed to the Purchasing Division shall be in the possession and control of the Purchasing Division on or **before 4:00 p.m. eastern standard time on Thursday, January 21, 2021**. A duplicate bid shall be mailed to the State Auditor's bid observer's office using the same time restrictions. Mailed, hand-delivered and courier-delivered bids shall be addressed as follows and must also be received by the deadline listed above:

<b>Submit one (1) original bid to:</b>	<b>(and)</b>	<b>Submit one (1) copy of the bid to:</b>
State of West Virginia		State Auditor's Office
Department of Administration		Bid Observer
Purchasing Division		State of West Virginia
2019 Washington Street, East		1900 Kanawha Blvd., East
P O Box 50130		Bldg. 1, Room W-100
Charleston, WV 25305-0130		Charleston, WV 25305-0230

#### The outside of the bid envelopes shall be clearly marked:

Buyer: West Virginia Lottery Director;  
RE.: Video Lottery Permit Bids;  
Date: (opening) January 22, 2021; and  
Time: (opening) 1:30 p.m.

Bids submitted to either office by e-mail or fax shall be rejected. Failure of the United States Postal Service or a courier service to make timely delivery of any bid shall not validate any bid not in the hands of the Purchasing Division or the State Auditor's Bid Observer's Office by the required date and time. Each bid should be typed or printed on the BID FOR LIMITED VIDEO LOTTERY TERMINAL PERMITS form provided by the West Virginia Lottery. Bid forms may be downloaded and printed from the Lottery's website at [www.wvlottery.com](http://www.wvlottery.com). Hard copy forms may be obtained by contacting the Lottery at (304) 558-0500 extension 329. The following information will be required for completion of this form:

The bidder's name:  
The bidder's address:  
The bidder's telephone number:  
The bidder's LVL License Number (if the bidder is a current permit holder):  
The bidder's LVL # Permits Currently Held as of today's date (if the bidder is a current permit holder):  
The number of video lottery terminals for which permit is sought:  
The per-terminal bid amount for which the permit is sought [must be at least \$7,500]: \$  
The total bid (per-terminal bid multiplied by the number of terminals): \$  
The amount of the bid bond submitted with the bid (must equal "total bid"): \$

Additional bid information, including a sample of a completed bid, may be found online at [www.wvlottery.com](http://www.wvlottery.com). No bid shall be considered unless the amount of the bid equals or exceeds the \$7,500 minimum per-terminal bid amount specified by the Commission. Multiple bids in varying per-terminal bid amounts must be accompanied by separate bid bonds and submitted in separate, sealed envelopes. No bid shall be altered or withdrawn after the appointed hour for the opening of the bids.

No bid shall be considered unless the required bid bond accompanies the bid or was submitted to the West Virginia State Treasurer on or before 4:00 p.m. eastern standard time on Thursday, January 21, 2021. In order to have a bid considered, each person submitting a bid must furnish a bond guaranteeing payment of 100 percent of the bid amount for the permits sought by the bidder. The bond must be furnished in the form of one of the following – cash or cash equivalent, negotiable security acceptable to the State Treasurer's Office, a surety bond issued by a company authorized by the West Virginia Insurance Commissioner to do surety business in the State of West Virginia, or an irrevocable letter of credit issued by a national or state bank or other financial institution acceptable to the State Treasurer's Office. If the bid bond is furnished in cash or acceptable negotiable security, the principal shall be deposited without restriction in the West Virginia State Treasurer's office and credited to the West Virginia State Lottery Commission, and a true copy of the receipt issued by the State Treasurer shall be included in the sealed bid(s). If the bid bond is furnished in the form of an irrevocable letter of credit, the original shall be sent to the West Virginia State Treasurer's office, and a true copy of the receipt issued by the State Treasurer shall be included in the sealed bid(s). If the bid bond is furnished in the form of a surety bond, the bond shall be included in the sealed bid(s).

Permits shall be awarded to current permit holders with priority preference first and then to the persons submitting the highest per-terminal bids. No operator or retailer shall be authorized to directly or indirectly own or lease more than 675 video lottery terminals whether the permit is obtained by successful bid, by certificate of reservation or by a combination of both reservation and bidding. No retailer shall be authorized to operate more than seven (7) video lottery terminals at one licensed location, with the exception of qualified fraternal clubs and veterans' organizations, which may operate up to ten (10) video lottery terminals at one licensed location.

Minimum bid price, and reminder of licensing.

Who the bids shall be submitted to and addresses.

What must be included in the bid submissions.

Explains that permits are awarded to highest bidders. Explains bid and licensing restrictions.

Provides date and time deadline for bid submission.


Faxed bids rejected. Failure of Post Office won't validate a bid.

Includes bid bond information.

# Other Possible Types of Notice

- Commercial ads in newspapers across the state
- Lottery's website: [www.wvlottery.com](http://www.wvlottery.com)
  - The Lottery will publish notice on its website
    - Will run the entire period of the re-bid round.
    - Will include bid packet attachments.
    - Will include educational seminar presentation.
- Press release
- No individual notice
  - The Lottery will **NOT** send letters to current permit holders or to current licensees informing them of the re-bid process.





# Who May Bid & Licensing Requirements

# Who May Bid

- Anyone who:
  - Posts the 100% bid bond correctly, and
  - Timely delivers bid documents in identical form to:
    - Director of Purchasing (original)
    - State Auditor (copy of the original)
- Lottery will not permit a successful bidder to operate until properly licensed.
  - If a bidder wins permits but does not qualify for licensure, the Lottery will not issue the permits, and the bidder loses the 100% bid bond.

# Licensing Requirements

- A bidder can get licensed before or after bid.
  - It is not required to bid, but it is required to get permits.
- Must be licensed as an Operator or a Retailer.
  - A Retailer cannot lease permits to other Retailers.
  - An Operator may lease permits to Retailers, and may also be licensed as a Retailer for up to 10 retail locations.

Non-Refundable Initial & Annual Licensing Fees	
Operator	\$10,000
Retailer	\$500

# Licensing Requirements: Location

- Retailers **MUST** have location.
  - Cannot have a Retailer license without an ABCA license.
  - Cannot have an ABCA license without a location.
- Location restrictions:
  - Cannot be within 300 feet of:
    - Church
    - School
    - Day care center
  - Cannot be within 150 feet of :
    - Another LVL retail location
    - Perimeter of public park
    - Petroleum products (Gas Station), unless authorized truck stop
  - Zoning requirements set by the municipality & county.

# Licensing Requirements: Miscellaneous

- License may be denied because of a disqualifying crime:
  - If criminal conviction in the last 5 years bears a “rational nexus” to the activity required for licensure, you may be disqualified for licensure, i.e. theft, bribery or gambling offense. W.Va. Code § 29-22B-502(b)&(c)
- Must be licensed with the Secretary of State.
  - If Retailer, SOS information must match ABCA.
- Some licensing qualifications vary depending on whether the permit-holder chooses to be licensed as an Operator or a Retailer.

# When Should a Bidder Get Licensed?

- There are choices either way.
  - A bidder can pay \$10,000 for an Operator's license or \$500 for a Retailer's license, and not be a successful bidder; or
  - A bidder can be successful on permits, only to be denied licensure and lose the permits as well as the 100% bid bond.
- Ultimately, this is a business decision.

# How Long Is The License Period?

- New LVL licenses run from date of issuance to September 30.
  - If a new bidder becomes licensed...
    - On October 31, 2020, the license is good until Sept. 30, 2021.
    - On June 30, 2021, the license is good until Sept. 30, 2021.
    - *It's the same cost, so the earlier, the better!*
- LVL license renewals run from October 1 to September 30.
- The license fees are NOT prorated.

# IMPORTANT LICENSING REQUIREMENTS

- If a retail location changes.
  - Example. Retailer has a business at 123 Amity Drive and moves business to 456 Amity Drive. Retailer must:
    - Pay \$500 fee
    - Complete location transfer paperwork
    - New site survey
- If a Retailer goes through a corporate buy-out.
  - Example. Judy has a retail location and she decides to sell her business to John. He must:
    - Pay \$250 fee
    - Complete corporate buy-out paperwork
    - Background check





# The Bid Packet

# What Must Be In the Bid Submission

- Must Include:
  - Corporate & DBA Name
  - Address
  - E-mail
  - LVL License number (if current permit holder)
  - # Permits currently held (if current permit holder)
  - Number of permit bidding on
  - Per-permit bid amount
  - Total bid amount
  - 100% bid bond
  - Type of bond

**BID FOR LIMITED VIDEO LOTTERY TERMINALS PERMIT**

**Bidder's Name:** ABC Corporation

DBA – ABC's Bar & Grill

**Bidder's Address:** 12345 West Main Street

My Town, WV 25111

**E-mail Address:** abcbar@gmail.com

**Telephone Number:** (304) 899-9999

**Mailing Address:**  
*(if different than bidder's address)*

P.O. Box 1234

My Town, WV 25111-1234

**Check if applicable:**  Yes, I have permits issued in the above name, and I believe that I qualify as a current permit holder for purposes of receiving the priority and 5% preferences.

**LVL License number:** 009999

**# Permits currently held as of today's date:** 7

Number of video lottery terminals for which permit is sought: 7

Per-terminal bid amount for which the permit is sought: \$7,500.00  
(Minimum bid is \$7,500.00)

Total bid (per-terminal bid multiplied by the number of terminals): \$52,500.00

Amount of the bid bond submitted with the bid: \$52,500.00  
(Must equal "total bid")

ABC Corporation (company name)

By: Buddy Bidd  
(Signature of bidder)

Buddy Bidd  
(Print name)

President  
(Title)

Circle One:      Operator      Retailer      Fraternal/Veteran  
(Type of license for which bidder will apply / has applied)

# Bid Name

- The permit will be issued in the bidder's name
  - Example: "Bidder's name" is listed as ABC Corp., dba ABC's Bar & Grill. The permits will be issued in that name. **Permits are not transferable.** Because of this, if ABC's Bar & Grill later decides it doesn't want permits, then it must sell the entire business in order to sell the permits.
  - The Lottery recommends that bids are placed in the name of the corporation and dba.

# Bid Bonds

- Each bid must include a 100% bid bond.
  - 100% bid bond = 100% of the bid
  - Example. Adam bids \$10,000 per-permit for 7 permits. His bid bond must be in the amount of \$70,000.
- What happens to the bond after the bid?
  - If the bidder is successful, then the Lottery will retain the full bid bond.
  - If the bidder is unsuccessful, then the Lottery will refund it to the bidder.
    - Failure to get a license or inability to meet the 90-day requirement (discussed later) are not causes for bid refunds.

# Acceptable Types of Bonds

- Types of Bonds (must remain open through September 30, 2021):
  - Insurance (surety)
  - Negotiable securities
  - Cashier's check deposited with WV State Treasurer's Office
  - Irrevocable letter of credit
- Legal authority: W.Va. Code § 29-22B-1109

# Surety Bonds

- Surety Bonds
  - Must be issued by a surety company authorized to do business with the state
  - Lottery will provide a list of acceptable surety companies from the WV Insurance Commission in the Bid Packet.

Bidder binds itself to WV & the Lottery Commission in an expressed dollar amount.

Bid bond will be returned ONLY if bid is rejected or winning bidder pays the full amount to the Lottery.

The Surety Company and the Bidder-Corp. must be licensed to do business in WV.

## BID BOND

KNOW ALL MEN BY THESE PRESENTES, That we, the undersigned, \_\_\_\_\_ of \_\_\_\_\_ as Principal, and \_\_\_\_\_ of \_\_\_\_\_ a corporation organized under the laws of the State of \_\_\_\_\_ with its principal office in the City of \_\_\_\_\_, \_\_\_\_\_, as Surety, are held and firmly bound unto the State of West Virginia, West Virginia State Lottery Commission, as Obligee, in the penal sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) for the payment of which, well and truly to be made, we jointly and severally bind ourselves, our heirs, administrators, executors, successors and assigns.

The Condition of the above obligation is such that whereas the Principal has submitted to the Purchasing Division of the West Virginia Department of Administration a certain bid concerning limited video lottery permits as required by W.Va. Code §29-22B-1109, attached hereto and made a part hereof.

NOW THEREFORE,

(A) If said bid shall be rejected, or  
(B) If said bid shall be accepted and the Principal shall pay the amount of the bid to the Obligee along with payment of any other fees or the posting of any other bonds legally required to be paid or posted by the Principal to the Obligee, then this obligation shall be null and void, otherwise this obligation shall remain in full force and effect. It is expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the Obligee may accept such bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, Principal and Surety have hereunto set their hands and seals, and such of them as are corporations have their caused their corporate seals to be affixed hereto and these presents to be signed by their proper officers, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

Principal Corporate Seal

\_\_\_\_\_  
(Name of Principal)

By \_\_\_\_\_  
(Must be President or Vice President)

Surety Corporate Seal

\_\_\_\_\_  
Title

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Attorney-in-Fact)

**IMPORTANT:** Surety executing bonds must be licensed in West Virginia to transact surety insurance. Corporate seals must be affixed, a power of attorney must be attached, and a West Virginia resident agent must sign or countersign.



# Irrevocable Letter of Credit

- Irrevocable Letter of Credit
  - Must be issued by a financial institution acceptable to the Commission.
    - The Commission will accept letters of credit from a government-regulated financial institution.
    - Must remain open through September 30, 2021
  - Original must be sent to the WV State Treasurer's Office.
    - WV State Treasurer's Office will issue a receipt to be submitted with bid.

# IRREVOCABLE LETTER OF CREDIT

November 13, 2020

John A. Myers, Director  
West Virginia State Lottery Office  
P.O. Box 2067  
Charleston, WV 25327-2067

**RE: IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_**

Dear Director Myers:

We, \_\_\_\_\_(the financial institution), hereby establish in favor of the State of West Virginia for the use of the State Lottery Commission our *Irrevocable Letter of Credit* available by draft of the Director of the State Lottery Office drawn at this Bank at our banking house in \_\_\_\_\_(city), for the fixed amount of \$ \_\_\_\_\_, for the account of \_\_\_\_\_(bidder), providing 100% bid bond indemnification to the State Lottery Commission to secure payment of the permit-holders bid to the Lottery as set forth in Chapter 29, Article 22B, section 1109 of the West Virginia Code.

1. Hereunder \_\_\_\_\_(funds) are available to you, or your successor as Director of the State Lottery Office, by drafts of the Director of the State Lottery Office drawn on us if presented on or before September 30, 2021. Drafts must be marked Drawn Under Irrevocable Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_”.

2. Any draft hereunder shall be accompanied by a written certification by the Director of the State Lottery Office that \_\_\_\_\_(bidder) has failed to pay the amount of money bid to the Lottery Commission for a permit to purchase or lease one or more video lottery terminals to be used in connection with the limited video lottery program administered by the West Virginia State Lottery Commission.

3. All drafts drawn under and in compliance with the terms of this Irrevocable Letter of Credit will be duly honored upon delivery of documents as specified if presented on or before the current or a future date of expiration.

Very truly yours,

\_\_\_\_\_  
(financial institution)

By: \_\_\_\_\_  
(printed name)

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(title)



## State of West Virginia

JOHN D. PERDUE  
GOV. TREASURER

OFFICE OF THE STATE TREASURER  
CHARLESTON, WV 25305  
PHONE: (304) 558-1000 FAX: (304) 558-4027  
1-800-422-7469  
www.wvtreasury.com

JOSH STOWERS  
ASSTANT STATE TREASURER

Date

Company Name

Address

City, State, Zip

Dear Sir/Madam:

This is to certify that the West Virginia State Treasurer's Office has received from your firm a Letter of Credit number \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ with an expiration date of \_\_\_\_\_ payable to the State of West Virginia. This letter of credit is received as a bid bond in accordance with the requirements of West Virginia Code Section 29-22B-1109.

Sincerely,

\_\_\_\_\_  
Name of Safekeeping Staff

\_\_\_\_\_  
Title of Safekeeping Staff

# Negotiable Securities & Cashier's Checks

- Both Negotiable Securities and Cashier's Checks MUST be deposited, without restriction, in the WV State Treasurer's Office and credited to the Lottery Commission.
- WV State Treasurer's Office will issue receipt for the deposit to be submitted with bid.



State of West Virginia

JOHN D. PERDUE  
STATE TREASURER

OFFICE OF THE STATE TREASURER  
CHARLESTON, WV 25305  
PHONE: 304-558-5000 FAX: 304-558-4097  
1-800-422-7498  
www.5/11/2017

JOSH STOWERS  
ASSISTANT STATE TREASURER

Date

ABC Company  
Company Name

1234 Main Street  
Address

Charleston, WV, 12345  
City, State, Zip

Dear Sir/Madam:

This is to certify that the West Virginia State Treasurer's Office has received from your firm a cashier's/certified check number 123456789 in the amount of \$ 50,000.00 dated 5/10/2017 payable to the State of West Virginia. This check is received as a bid bond in accordance with the requirements of West Virginia Code Section § 29-22B-1101 and §29-22B-1109.

Sincerely,

Brant Gibson

Name of Safekeeping Staff

Director Of EFT & Financial Services

Title of Safekeeping Staff

# Lockbox for WV State Treasurer's Office

- Due to Covid-19 pandemic it is recommended that payment or Irrevocable Letter of Credit be sent to the WV State Treasurer's Office via U.S. Mail to a lockbox:

WV Lottery

PO Box 40239

Charleston, WV 25364

- Lockbox will be checked daily by the WV State Treasurer's Office.
- Please remit early so the Treasurer's Office has time to process and mail back bidder's receipt.

# The Bid Envelopes

- Purchasing Bid Envelope Must Include:
  - ORIGINAL Bid Sheet
  - ORIGINAL Bid Bond (i.e. Treasurer's Receipt or Surety Bond)
- Auditor's Bid Envelope Must Include:
  - COPY of Original Bid Sheet
  - COPY of Original Bid Bond (i.e. Treasurer's Receipt or Surety Bond)
- The Purchasing Bid Envelope and the Auditor's Bid Envelope must contain **IDENTICAL** information. Otherwise the bid will be **REJECTED**.
- The Lottery GREATLY PREFERS that all bids are submitted via Certified U.S. Mail due to Covid-19 guidelines.
  - Bids may not be sent via fax.

# The Purchasing & Auditor's Bid Envelope

- Both envelopes must be SEALED.
- Mark the outside of each envelope EXACTLY as follows:

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

- Bidder's name is **NOT** to be on the outside of envelope.
- Must mark outside of envelope even if hand-delivered.
- The Bid Packet will include the addresses for Purchasing and the Auditor's Office.



For the 1<sup>st</sup> Competitive Bid,  
all bids MUST be received  
by BOTH the Director of Purchasing  
and the State Auditor

**between November 13, 2020  
and 4:00 pm on January 21, 2021.**

Any bid that is received  
TOO EARLY or TOO LATE  
by either Purchasing or the Auditor  
will be **REJECTED**.

# How To Get the Bid Packet

- Lottery Contact Person is:
  - Mara Dawson @ ext. 329 or
  - Melissa Whitley @ ext. 257 or
  - Scott Wright @ ext. 351
- Phone: 304-558-0500
- U.S. Mail: P.O. Box 2067, Charleston, WV 25327
- Visit the Lottery Website
  - [www.wvlottery.com](http://www.wvlottery.com)
  - Please be sure to download and print ALL bid documents posted on the website.



# Opening Bid Day

# Opening the Bids

- Representatives of Purchasing, the State Auditor, and the Lottery will be physically present at the same venue, on the same day, at the same time.

# Opening the Bids

- The Purchasing and Auditor reps will open their respective bid envelopes and will alphabetize the bidders.
- Purchasing will read each bid out loud.
  - Any bid bond less than 100% will be rejected.
- The Auditor rep will announce whether their bid documents match those of Purchasing.
  - If the documents do not match, the bid is rejected.
- Lottery accountants will enter the information into a spreadsheet. They will calculate in the 5% preference and determine qualification of priority preference for current permit holders. They will then determine the permit winners.

# The 5% Preference

- The Lottery will add 5% to each bid submitted by a “current permit holder.”
  - Bidder must add license number on bid sheet.
  - The law defines a “current permit holder” as a person who holds a permit in the 10-year permit-period preceding the bid.
  - Those who hold permits solely by Certificate of Reservation do not qualify for the preference.
    - Preference is only for those who hold permits by bid.
  - Legal Authority: W.Va. Code § 29-22B-1108

# The 5% Preference

- Preference ONLY applies if the bid meets or exceeds the minimum bid price.
  - Must meet the minimum bid without the 5% add-on.
  - Example. The minimum bid is \$10,000 per-permit. Permit holder Paula bids on 100 permits at \$9,750 per-permit. Even though her bid would have reached \$10,000 with the 5% preference, she will not receive preference, and her bid will be rejected.

# The 5% Preference

- The preference follows the current permit holder, and not the number of permits.
  - Example. During the 2011-2021 permit-period, Curtis the Current Permit Holder has 50 permits. Curtis bids on 100 permits for the 2021-2031 permit-period. Curtis will benefit from the 5% preference for his bid on all 100 permits.



# The 5% Preference:

## **IMPORTANT REQUIREMENT**

- In order to receive the preference, a current permit holder **MUST** bid under the same name as is on his current permits.
  - Example. Opie holds 100 permits under ABC Corp. If Opie bids under his new corporation, Opie's Games, Inc., he will not receive the 5% preference.
  - The Lottery will award the preference by cross-checking the bidder's name against the names of current permit holders by license number.

# Priority Preference – HB4647

## Effective June 1, 2020

- Current permit holders will be given priority preference to reacquire the number of bid permits they currently hold at the minimum stated bid price
  - For example if you currently hold 50 permits and bid on 100 permits, the priority preference will apply to only 50 permits.
- Bids will be awarded to current permit holders before any new bidders
- Current permit holders **MUST** enter license number and # of permits currently held on bid sheet to obtain priority preference
  - The Lottery will award the preference by cross-checking the bidder's name against the names of current permit holders by license number.

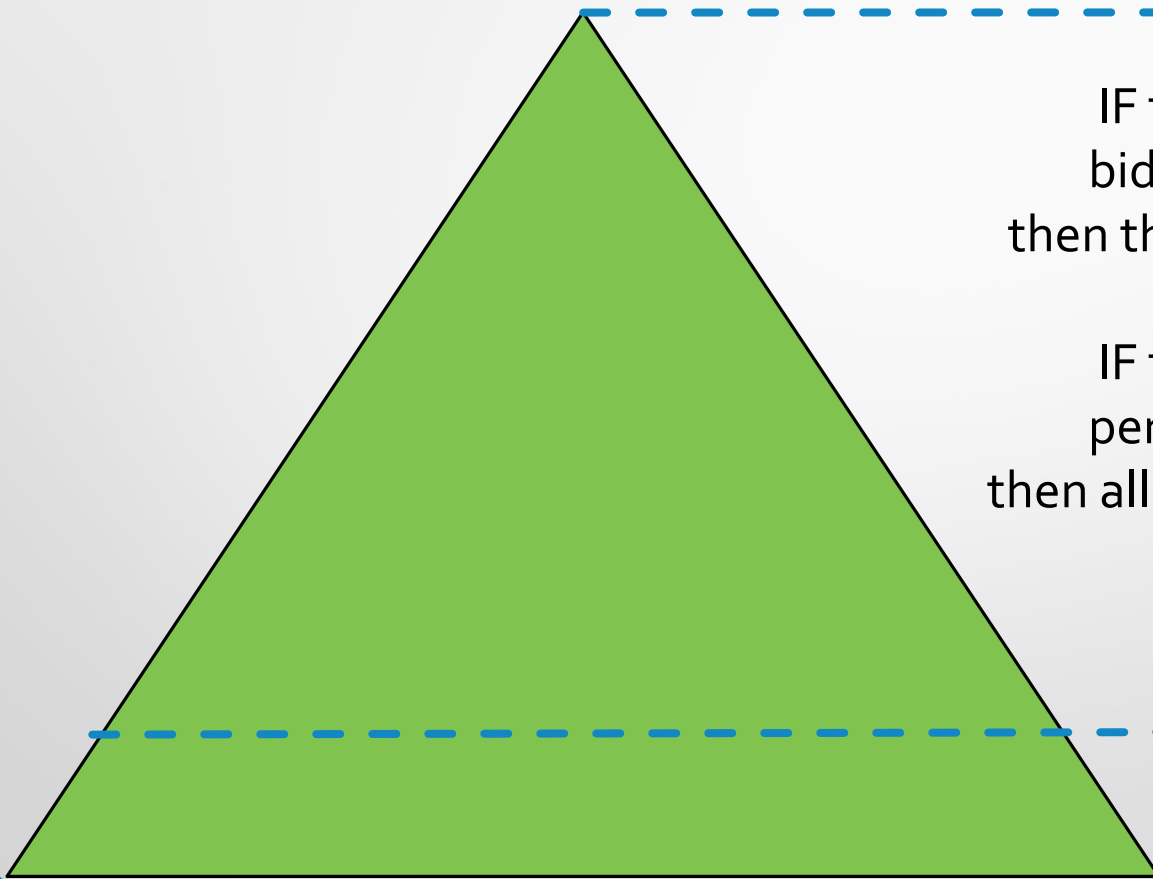


# Awarding the Permits

# Awarding Permits

- Permits will be granted through priority preference first.
- Permits will then be granted based on the highest bid.
  - Permits and bids are statewide.
    - Bidders are not bidding against specific individuals.
    - Bidders are not bidding for specific locations.
  - The Lottery looks solely at the amount of the bid.
    - With the exception of determining the priority preference and 5% preference, the Lottery does not take into account WHO is bidding.
    - The Lottery does not take into account WHERE the bidder is located or WHERE the bidder may want to place the permits.

Priority Preference wins Permits First.  
Highest Per-Permit Bid Will Win Permits Next.  
The 2<sup>nd</sup> highest bid will win next.  
Then the 3<sup>rd</sup> highest, then the 4<sup>th</sup>.  
And so on and so forth.



IF there are more  
bids than permits,  
then the lowest bids lose.

IF there are more  
permits than bids,  
then all proper bidders win.

The Commission  
Sets Minimum Bid

*Anything below  
this point is rejected.*

# Breaking Ties

- The Lottery will break ties by drawing lots.
  - This only comes into play when there are more bids than permits, and there are multiple bids at the same bottom price level.
  - A determination by lots may be drawn out of a physical hat or drum, or it may be an electromechanical drawing.

# Announcing Winners

- For the 1<sup>st</sup> Bid Round, winners should be announced by January 29, 2021.
  - The Lottery will send certified letter to all bidders informing them of whether or not their bid was successful.
  - Successful bidders will also be posted on the Lottery's website.
    - Per-permit price
    - Number of permits won.
- No one person may directly or indirectly own or win more than 675 permits.

# Retailer Wins Own Permits

- SITUATION: At the time of the bid, Operator has a contract with Retailer to lease machines. On its face, the terms of the filed contract extend beyond June 30, 2021. Both the Operator and Retailer bid on and win permits during the bid. Both want to place 7 machines in Retailer's location.
- QUESTION: On July 1, 2021, whose machines will the Commission enable?



# Retailer Wins Own Permits

- ANSWER: The Lottery will keep the Operator's machines enabled UNTIL either:
  - The Operator releases the Retailer, in writing, from the filed contract;
  - A Court issues an order requiring the Lottery to allow the Retailer to place his own terminals in his location;
  - A Court determines that the contract is invalid; or
  - The terms of the filed contract lapse.

# Retailer Wins Own Permits

- Where does that leave the Retailer?
  - For Retailers in this situation, the Lottery will WAIVE the 90-day requirement until a Court of Law makes a final determination, provided the Lottery receives advanced written notice requesting an extension to the deadline.
    - If the Lottery does not receive notice prior to July 1, 2021 that the matter is in court, then the 90-day requirement will be applied to the Retailer.
    - Retailer can't lease the permits to another location, but if he has or gets another licensed location, he can place the permits in that other location.



# The Match Option

# Following the 1<sup>st</sup> Bid Round

- IF and only if there are still permits available following the Bid Round, then the Lottery will allow qualified persons to obtain permits by matching the highest bid in the Bid Round.

# Who Qualifies For This?

- Persons who were considered “current permit holders” in the Bid Round; AND
- Those who submitted bids in the Bid Round that matched or exceeded the minimum bid price.

# Notification & Payment

- The Lottery will send certified letters to all Match Option qualifying individuals following the Bid Round. This letter will include:
  - The deadline for submitting the request;
  - A Match Option Form on which to submit the request;
  - The per-permit price (equal to the highest bid); and
  - The individual to submit the request and payment to at the WV Lottery.
- Payment must be made immediately in full to the WV Lottery by:
  - Cashier's check, or
  - Money order

# Example

- Following the Bid Round, there are 1,000 permits remaining. The highest bid was \$20,000 per-permit. Curtis had permits during the 2011-2021 permit-period. He bid on permits during the Bid Round. Curtis will be given the option to obtain more permits by matching the highest bid at \$20,000 per-permit.

# If Demand Exceeds Supply

- If current permit holders request more permits than are available, then the Lottery will draw lots to determine who wins.
  - Same process as if there was a tie during the bid.
- The Lottery will NOT take permits from persons who won during the Bid Round.





# Buying Machines for 2021-2031

# Video Lottery Terminals (VLTs)

- The re-bid ONLY relates to bidding permits. When bidding, you are NOT bidding on the actual video lottery machines!
- To obtain VLTs, you must go through a licensed LVL Manufacturer. At this time, they are:
  - Grand Vision Gaming, LLC
  - International Gaming Technology (IGT)
  - Scientific Games International, Inc.

# VLT Testing

- All hardware and software used in video lottery gaming is subjected to several levels of testing.
  - Original certification of products is performed by Gaming Labs International (GLI), an independent testing consultant.
  - Next, the Lottery test lab staff audit games on a test system before those games are presented to the Commission for approval.

# The 90-Day Requirement

- New permit holders will have only 90 days from the time the permit is issued to get their machines in operation. W.Va. Code § 29-22B-1113
  - The 90-Day Clock starts at time of licensure or on July 1, 2021 – *whichever comes last*.
    - Successful bidders MUST submit their licensing applications to the Lottery no later than July 1, 2021.

# The 90-Day Requirement

- What Must Be Accomplished In Those 90 Days:
  - Order machines from licensed manufacturer
  - Legally transfer the machines into WV
  - An Operator must have a contract with a licensed Retailer or have a licensed retail location, in order to place the machines.
  - Machines must be installed and in operation within 90 days.
    - They cannot operate without first achieving a “handshake” with the Lottery’s central computer, which is by cellular communication.

# Cost Estimates for Start-Up or Replacement

	Cost Estimate	Additional
<b>Machine</b>	\$10,000 to \$15,000	<ul style="list-style-type: none"> <li>Pricing is based on Manufacturers' pricing and is not subject to Lottery control.</li> </ul>
<b>Controller Unit</b>	\$4,000	<ul style="list-style-type: none"> <li>This serves as the intermediate host between the machine and the central management system at Lottery HQ.</li> <li>Provides the location with daily reports of cash flow/revenue and validates tickets.</li> </ul>
<b>Cellular</b>	\$70 Monthly	<ul style="list-style-type: none"> <li>This is contracted through Scientific Games</li> </ul>
<b>Software w/Machine Purchase</b>	\$0 to \$3,000	<ul style="list-style-type: none"> <li>May be included with purchase of older games (depends on purchase agreement)</li> <li>Newly released or premium games usually higher</li> </ul>
<b>Software w/o Machine Purchase</b>	\$1,500 to \$3,000	<ul style="list-style-type: none"> <li>Varies depending on manufacturer</li> <li>Contact manufacturer for pricing</li> </ul>

# Bringing Machines Into WV

- Manufacturers will not ship VLTs into WV without the approval of LVL Security.
  - Security must be present at the time that VLTs are initially shipped into the jurisdiction.
  - Security will cut the seal off the truck, check the order number, and then enter the seal into the logic area.
  - In addition to shipping papers, permit holders must have completed the Lottery installation paperwork in order to have the machines installed in a location so that they may operate for play.

# The Johnson Act

- Upon initial shipment into WV, VLT owners must register the machines with the U.S. Department of Justice's Criminal Division.
  - Owners must re-register VLTs each December, regardless of whether the VLTs have been moved.
  - For further information, please contact the Dept. of Justice's Criminal Division.
    - DOJ Switchboard: 202-514-2000
    - Website: <http://www.justice.gov/criminal/index.html>



# What To Do With Old Machines

- 2 Situations May Arise:
  - Current Permit Holder obtains less permits in the re-bid than he currently holds.
  - Current Permit Holder wants to up-grade.
- 3 Options for Old Machines
  - Destruction of VLTs
  - Manufacturer Buy-Back or Trade-In
  - Move Machines Out of WV

# Destruction

- Prior to the destruction of machines, the owners, may remove certain technical parts from the VLTs.
  - Cannibalization is for the purpose of using the parts for repairs on other VLTs.
  - Must be approved by LVL Security.

# Moving Machines Out of State

- Machines must be moved out of WV in accordance with both Federal & State laws.
  - The Lottery must be involved in order to assure that movement is in compliance with WV law.
  - The Lottery can NOT advise on what steps are necessary in order to comply with Federal laws or in order to avoid violating the laws of other states.

# Destruction, Buy-Back, & Move-Out

- VLT Owner must give LVL Security the information on the Lottery Intrastate Transportation form.
- LVL Security will verify:
  - Ownership of the machine
  - Machine location
  - License, serial, and VGM numbers
- LVL Investigator will:
  - Remove the Decals
  - Remove the software kits
  - Must be present at time of destruction/transportation

# Service Technicians

- All permit holders are responsible for hiring Service Technicians to make machine repairs.
  - Service technicians must be:
    - Trained
    - Licensed
  - Service technicians may not enter the logic area of a VLT without an LVL Investigator.
  - Licensed Operators and Retailers may also hold a Service Technician license.

# An Advertisement Reminder

- The LVL Act has VERY strict prohibitions on any type of LVL advertisement.
  - You can NOT advertise:
    - That your location offers LVL for play.
    - That you have machines you want to sell.
    - That your selling a business that currently has LVL.
  - “Advertisements” include:
    - Flyers
    - Classified ads in newspapers
    - Facebook, Twitter, or any other social media
- The only authorized advertisement is the furnished red dot decal alerting the public that your location offers WV Lottery products.

# When In Doubt, Just Ask!

**Lottery HQ Main Number: 304-558-0500**

<b>Name</b>	<b>Extension</b>	<b>Area of Expertise</b>
David Bradley	246	LVL Security
June Somerville	300	Re-Bid Laws
Elizabeth Webb	213	Licensing
Mara Dawson	329	Bid Bond/CORs
Melissa Whitley	257	Bid Packet
Dustin Lamar	235	Video Lottery Terminals

*We want to make sure you get the best, most accurate information, so depending on the question, your call may be transferred to other Lottery divisions.*