



2011 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, 2011 and ending June 30, 2021.

**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:**

Pat Bright at 304-558-0500 ext. 351;
Stacy Acree at 304-558-0500 ext. 352; or
Mara Pauley at 304-558-0500 ext. 329



**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)
- Receipt for Deposit with the Treasurer's Office (Sample B)
- Procedure for Processing Negotiable Securities Bid Bond
(Procedure WVSTO-A)
- Procedure for Processing Cash Bid Bond (Procedure WVSTO-B)
- Request to Invest – West Virginia Consolidated Investment Fund
Form
- Form W-9
- Irrevocable Letter Of Credit Form
- Bid 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. Bids will be awarded to the highest bidder first, down to the lowest bidder. **The Lottery will reject any bid that does not meet or exceed the third round minimum bid amount of \$7,000 per-permit.**

Each bidder must have one permit for every one machine he/she wishes to purchase. *Example:* If you want to purchase five (5) machines, then you must bid on five (5) permits. If you want 100 machines, then you must bid on 100 permits. No person shall be authorized to directly or indirectly own or lease more than 675 video lottery terminal permits – regardless if the permit is obtained by successful bid, Certificate of Reservation (COR), or by a combination of both bidding and COR.

If you are a retailer, you may not have more permits issued to you than the number of licensed retail locations, multiplied by the maximum number of permits each location is permitted under the law. If you are a regular retailer, you may not have more than five (5) permits per location. *Example:* If you are a regular retailer with five (5) locations, then you may not have more than 25 permits issued to you [5 permit cap per location x 5 locations = 25 permits].

If you are a retailer that qualifies as a Fraternal or Veterans' organization as established by an Internal Revenue Service (IRS) Code 501(c) designation, you 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 submits a 100% bid bond may be eligible to win permits. Although you are not required to be licensed before bidding on and/or winning permits, permits *will not* be issued until you are licensed as either an LVL retailer or operator.

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.



Alternatively, if you win permits but are unable to become licensed, then you will lose the permits and your 100% bid bond (cash, irrevocable letter of credit or surety bond) will be forfeited to the State. *To obtain a licensing packet, please contact Kitty Lamb at 304-558-0500 ext. 278.*

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

Completing the Bid Form

The “**BID FOR LIMITED VIDEO LOTTERY TERMINAL PERMITS**” (the blank form) requires that bidders include their name, address, the name of the bidder’s corporation, LLC, partnership, etc. (if established), telephone number, LVL license number (if current permit holder), per-terminal permit bid amount, the number of permits you are bidding on, and the total bid amount. 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 \$7,000 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 10 permits, you may submit one bid for five (5) permits at \$8,000 per-permit and one bid for five (5) permits at \$7,000 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.

If you are a retailer, you may bid under the name of your corporation or your d/b/a (“doing business as”) name. *Example:* If your corporation is ABC Corp., you may bid under ABC Corp., or you may bid under ABC Corp., d/b/a ABC’s Bar & Grill.

Applying for the 5% Preference

Current permit holders are eligible to receive a 5% preference on their bids. A “current permit holder” is a bidder who currently holds permits for the 2001-2011 timeframe.



Those who hold permits solely by Certificate of Reservation (COR) DO NOT qualify for the 5% preference. A licensed LVL retailer who has video lottery terminals solely by leasing the terminals from an operator also DOES NOT qualify for the 5% preference. Finally, those who hold permits solely from the award of permits from the bid openings held on October 18, 2010 and/or February 18, 2011 or the match option rounds for the permit period of 2011-2021 DO NOT qualify for the 5% preference.

In order to receive the 5% preference, a current permit holder must bid at least the \$7,000 per-permit minimum bid amount and must indicate eligibility for the 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.

In the event that a current permit holder does not bid at least \$7,000 per-permit; does not indicate eligibility for the 5% preference on the Bid Form; does not bid in the proper name; or does not provide a proper LVL license number, the Lottery will not be responsible for a failure to credit 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 five (5) permits at the minimum \$7,000 per-permit amount, your bid bond must be submitted in the amount of \$35,000 [5 permits x \$7,000 = \$35,000]. **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 11:00 a.m. on June 10, 2011:

West Virginia Treasurer's Office Deposit Receipt: Proving that the cash, certified check or accepted negotiable security was deposited without restriction at the West Virginia Treasurer's Office and credited to the West Virginia State Lottery Commission. Deposits are accepted if hand-delivered to the West Virginia Treasurer's Office located in the Main Capitol Building, Room E-145, in Charleston, WV. Deposits are also accepted via certified mail to Building 1, Room E-145, 1900 Kanawha Boulevard, East, Charleston, WV 25305. However, **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 United States Postal Service or a courier service to make timely delivery of any bid shall not act to validate any bid. If you mail a deposit



to the Treasurer's Office, please put a note with your check, W-9, and Request to Invest form stating that it is for the Limited Video Lottery Permit Bid.

In the past, the Lottery has allowed bidders to enclose a certified check in the bid submission, instead of depositing them with the West Virginia Treasurer's Office. ***This practice will no longer be accepted.*** The Lottery will only accept a receipt from the West Virginia Treasurer's Office proving that you deposited cash, a certified check or an acceptable form of negotiable security with the West Virginia Treasurer's Office.

The Lottery will only accept a receipt from the West Virginia Treasurer's Office proving that you deposited cash, a certified 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 NEGOTIABLE SECURITIES BID BOND WITH THE WEST VIRGINIA STATE TREASURER'S OFFICE (Procedure WVSTO-A)" and/or "PROCEDURE FOR PROCESSING CASH BID BOND WITH THE WEST VIRGINIA STATE TREASURER'S OFFICE (Procedure WVSTO-B)."

Important Note: If you plan to submit a bid bond via ACH, wire transfer, U.S. Treasury Bond or any other form of cash or accepted negotiable security, other than a cashier's check, you must make prior arrangements with the State Treasurer's Office by contacting *Michelle Painter, EFT & Financial Services Director, at (304) 340-1565.* Questions regarding acceptable forms of negotiable securities should also be directed to the contact above.

2. Irrevocable Letter of Credit: 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." *Bidders cannot post an Irrevocable Letter of Credit with the State Treasurer's Office. An original, fully executed Irrevocable Letter of Credit must be*



included in your bid submission. All Irrevocable Letters of Credit should be held open and funds made available until August 31, 2011 or later.

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 July 2010. *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.*

Important Note for Third Bid Round: If you were partially or wholly unsuccessful in the October 18, 2010 and/or February 18, 2011 bid round, you *may* use the bid bond previously posted to request permits in the Third Bid Round in an amount not to exceed the amount of the bond that you are entitled to be refunded or released back to you. For example, if you posted a cash bond with the Treasurer’s office and submitted a receipt for a bid bond for \$120,000.00 in the February 18, 2011 bid round for 20 permits at \$6,000.00 per permit and you successfully won 5 permits (5 x \$6,000.00 = \$30,000.00), then you would be entitled to a refund of \$90,000.00 (\$120,000.00 - \$30,000.00 = \$90,000.00) from the bond. You can use the same bond to request additional bids in the third bid round up to \$90,000.00.

If your bid for the third round exceeds the amount of the refund you are entitled to, *then you must submit the additional amount between the total amount of your third round bid and the current bond available to the Treasurer’s Office as instructed and submit a **new** receipt from the Treasurer’s Office equaling 100% of your third round bid with your third round bid form. If the previously submitted insurance bond or letter of credit specifically states on its face that it is for the February 18, 2011 bid opening, the bond shall **NOT** be used for the third bid round.*

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 11:00 a.m. on June 10, 2011 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 *and/or* Receipt of Deposit from the State Treasurer's Office
- Mark the outside of the SEALED Bid Envelope EXACTLY as shown below:

	<u>SEALED BID</u>
Buyer:	West Virginia Lottery Buyer
Req:	Limited Video Lottery Permit Bids
Date:	June 10, 2011
Time:	(Bid 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 11 a.m.

- If you are going to hand-deliver your bid you must (**bid envelopes may be delivered to the State Purchasing Office between 9:00 a.m. – 4:00 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 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 and/or Receipt of Deposit from the State Treasurer's Office.

If the Bid Sheet and Bid 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 Buyer
Req:	Limited Video Lottery Permit Bids
Date:	June 10, 2011
Time:	(Bid 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 11 a.m.

- If you are going to hand-deliver your bid you must (**bid envelopes may be delivered to the State Auditor's Office between 9:00 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-118
Charleston, WV 25305-0230

The OUTER envelope may have your return address on it.



Awarding Permits

At 1:30 p.m. on June 10, 2011, 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 312 MacCorkle Avenue, S.E. Charleston, West Virginia 25314.***

NOTICE:

Any bid not received by both the State Purchasing Division and the State Auditor's Office by 11:00 a.m. on June 10, 2011 will be rejected. Any bid that does not meet or exceed the \$7,000 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 \$7,000 per-permit, the Lottery will view the bid as \$7,350 per-permit [$\$7,000 \times 5\% = \$7,350$], even though Current Permit Holder will only need to pay the \$7,000 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 2001-2011 permit-period, but bids on 100 permits for the 2011-2021 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 to the highest per-permit bid price first, down to the lowest proper bidder. **The Lottery will send certified letters to all bidders notifying them of whether their bid(s) was or was not successful. 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 his/her 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 Pauley at the West Virginia Lottery on or before the close of business on June 17, 2011 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 his/her 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 17, 2011, or the bidder will be in a 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 17, 2011. 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 go against the 100% bid bond posted (Irrevocable Letter of Credit, Negotiable Security or Surety Bond) in order to receive payment. As a result, a default bidder will not only forfeit permits won during the bid process, but will also lose 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 August 31, 2011.

Unsuccessful Bids

If a bidder is unsuccessful, the bid bond shall 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 timeframe in which bid bonds will be released following the completion of each Competitive Bid.