



**STATE OF WEST VIRGINIA
DEPARTMENT OF REVENUE
ALCOHOL BEVERAGE CONTROL ADMINISTRATION**

900 Pennsylvania Ave., 4th Floor
Charleston, West Virginia 25302

FREDRIC L. WOOTON
COMMISSIONER

(304)-356-5500

DAVE HARDY
CABINET SECRETARY

February 24, 2020

Subject: Phase III - 2020 Liquor License Bidding Process Notification

Dear Potential Bidder:

The West Virginia Alcohol Beverage Control Administration (“WVABCA”) and the Retail Liquor Licensing Board (“RLLB”) are initiating Phase III of the 2020 License Bidding Process. For 2020, Phase I was the Purchase Option Process, Phase II was a License Bidding Process and Phase III is a limited License Bidding Process for 4 available retail outlet licenses.

Before Phase III is explained, there are some preliminary matters to understand:

1. Four licenses are being offered as individual retail outlet licenses.
2. Please be advised that the RLLB may, at any time during the 10-year license period, add licenses, delete inactive licenses or move inactive licenses to, from or between market zones based on various factors, including but not limited to economic, demographic, sales and/or community demand.
3. If you are awarded a license during the 2020 License Bidding Process, you are still required to complete a **NEW “2020-2021 WVABCA Application for Retail Outlet License”**, meet the WVABCA licensure requirements, and pay all applicable fees prior to obtaining your WVABCA license. The 2020-2021 license application should be completed after you receive notice that you have been awarded a license. Your application is due on or before June 30, 2020, but you should complete your application as soon as possible to avoid any possible delays in issuing the license, since the WVABCA is renewing approximately 5000 licenses during the same timeframe.
4. The RLLB reserves the right to make clarifications to the License Bidding Process and/or adjust the licenses available for bid based on RLLB decisions. Check www.abca.wv.gov for clarifications and updates to the bid process.

Phase I: Phase I is complete. 49 active retail licenses elected the Purchase Option and will operate as Class A freestanding liquor retail outlets pursuant to the Rules and the Code.

Phase II: Phase II is complete. 128 retail outlet licenses were or will be awarded licenses.

Phase III: During Phase III of the License Bidding Process, the WVABCA and RLLB will offer for bid 4 available retail outlet licenses.

(1) Market Zone 11	Retail Outlet # 641	(Cabell County)
(2) Market Zone 34 (Designated Area or DA)	Retail Outlet # 541	(Jefferson County)
(3) Market Zone 57	Retail Outlet # 670	(Mingo County)
(4) Market Zone 92	Retail Outlet # 728	(Wetzel County)

Please review the Phase III - Market Zone Data Book for detailed descriptions of the market zones and designated areas. Retail outlet licenses will be awarded to the highest bidder subject to the following preferences (Note: The winning successful bidder may choose to operate a Class A freestanding liquor retail outlet or a Class B mixed retail liquor outlet):

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1. Current licensees will have a 5% current licensee preference for the retail outlets licensed and operated by them;
2. WV residents that meet the resident criteria will have a 5% resident preference; and,
3. Unsuccessful current licensees will have the right to match the highest bidder for the retail outlets licensed and operated by them, all subject to the requirements set forth in WV Code §60-3A-1, et seq., as amended, and the rules at 175 CSR 5.

(Note: The percentage preferences are only used to calculate the successful winning bidder. The dollar amount to be remitted to the State of West Virginia, if you are the successful winning bidder, is your actual bid amount, unless you are a current licensee exercising the right to match.)

Included with this letter, you will find a License Bidding Packet (“Packet”). This Packet contains information regarding the License Bidding Process, as well as the forms and documents that must be completed and submitted to Smith, Cochran & Hicks, P.L.L.C. (“Consultant”), if you choose to participate in the License Bidding Process. Additional information is available on our website at www.abca.wv.gov, and it is your responsibility to continually check the information (Zone Maps, Zone Data, Retail Outlet Information and other Supplemental Information) and any updates.

The deadline to return the required forms and documents (the License Bid Form and Proof of Residency, if applicable; Statement of Understanding; Release of Information & Waiver of Confidentiality of Records; Authorization to Release Information; and, Cashier’s Check or Money Order, Bid Surety Bond or Irrevocable Letter of Credit) to the Consultant is 5:00 P.M. on March 17, 2020. Any late forms will be rejected, and your Packet will **not** be considered during the bid evaluation process.

In addition to the enclosed information, you should thoroughly review WV Code §60-3A-1, et seq. as amended, and the related Legislative Rules 175 CSR 1 and 175 CSR 5 (the “code and rules”), to determine your compliance with the requirements. Supplemental information will be available on our website at www.abca.wv.gov.

Should you have any questions, or need assistance, please do not hesitate to contact the WVABCA, at (304) 356-5500.

Please understand that limited information may be available since this is a bid process and certain information could jeopardize your status as a bidder.

Sincerely,




Fredric L. Wooton
Commissioner

DISCLAIMER: THE WVABCA AND THE RLLB CANNOT GUARANTEE THAT THE LIQUOR LICENSING PROCESS WILL RESULT IN PROFITABLE VENTURES FOR ALL LICENSEES AS THE LICENSEE MUST DETERMINE MANY OF THE FACTORS INFLUENCING THE SUCCESS OF THE INVESTMENT IN THE LICENSE SUCH AS RETAIL PRICES, STORE HOURS, PRODUCT MIX, ADMINISTRATIVE EXPENSES AND MANY OTHER FACTORS. AS A RESULT, CURRENT LICENSEES AND POTENTIAL BIDDERS SHOULD CONSIDER THE INHERENT RISKS ASSOCIATED WITH THIS INVESTMENT, AND BID AT THEIR OWN RISK.



INSTRUCTIONS

IMPORTANT: Review WV Code §60-3A-1, et seq., as amended, and the Legislative Rules 175 CSR 1 and 175 CSR 5 (the “Code and the Rules”) to determine if you will meet Class A or Class B license requirements. 
STOP! Please, visit www.abca.wv.gov to download and review these documents prior to proceeding.

If you choose to participate in the 2020 License Bidding Process, please follow the instructions below:

1. Complete, sign and date the “**License Bid Form**” included in the License Bidding Packet. In order for a bid to be considered during the evaluation process, your 2020 actual bid amount **must** be at or above the **minimum bid amount** established by the RLLB.
2. Provide Proof of residency, if applicable.
3. Complete, sign and date the “**Statement of Understanding**”.
4. Complete, sign and date the “**Release of Information & Waiver of Confidentiality of Records**” and “**Authorization to Release Information**” included in the License Bidding Packet.
5. Enclose a “**Cashier’s Check**” or “**Money Order**” (payable to the WVABCA), “**Bid Surety Bond**” or “**Irrevocable Letter of Credit**” (see Forms in Packet), in the amount of 25% of your actual License Bid amount.
6. Check the WVABCA website at www.abca.wv.gov for any clarifications, zone data and any supplemental information.
7. Place all required documents in an envelope labeled “Phase III – 2020 License Bid Process” and return to the following address **no later than 5:00 P.M. on March 17, 2020:**

Smith, Cochran & Hicks, P.L.L.C.
Attn: Patrick C. Smith, CPA – Phase III
3510 MacCorkle Avenue, SE
Charleston, WV 25304

NOTE: Under no circumstance will the required License Bidding documents be accepted after **5:00 P.M. on March 17, 2020**. You must submit a **separate** packet of License Bidding documents for each retail outlet for which you are submitting a bid. **Failure to return all required information by the above-referenced deadline will result in the disqualification of your bid.** Should you have any questions or need further assistance, please contact the WVABCA or the Consultant, who will provide limited information due to the bid process.

WARNING: YOU MUST INDICATE ON YOUR LICENSE BID FORM WHETHER YOU INTEND TO OPERATE A CLASS A OR CLASS B RETAIL LIQUOR OUTLET. YOU MUST CAREFULLY REVIEW THE CLASS A AND CLASS B LICENSE REQUIREMENTS. FAILURE TO MEET THE REQUIREMENTS APPLICABLE TO YOUR LICENSE TYPE COULD RESULT IN THE REVOCATION OF YOUR LICENSE AND FORFEITURE OF FUNDS.

DISCLAIMER: THE WVABCA AND THE RLLB CANNOT GUARANTEE THAT THE LIQUOR LICENSING PROCESS WILL RESULT IN PROFITABLE VENTURES FOR ALL LICENSEES AS THE LICENSEE MUST DETERMINE MANY OF THE FACTORS INFLUENCING THE SUCCESS OF THE INVESTMENT IN THE LICENSE SUCH AS RETAIL PRICES, STORE HOURS, PRODUCT MIX, ADMINISTRATIVE EXPENSES AND MANY OTHER FACTORS. AS A RESULT, CURRENT LICENSEES AND POTENTIAL BIDDERS SHOULD CONSIDER THE INHERENT RISKS ASSOCIATED WITH THIS INVESTMENT, AND BID AT THEIR OWN RISK.



CHECKLIST

REMINDER: YOU MUST COMPLETE AND RETURN THE FOLLOWING DOCUMENTS TO THE CONSULTANT IN AN ENVELOPE LABELED “PHASE III – 2020 LICENSE BID PROCESS” NO LATER THAN 5:00 P.M. ON MARCH 17, 2020:

- LICENSE BID FORM – PHASE III
- PROOF OF RESIDENCY (IF APPLICABLE)
- STATEMENT OF UNDERSTANDING
- RELEASE OF INFORMATION & WAIVER OF CONFIDENTIALITY OF RECORDS
- AUTHORIZATION TO RELEASE INFORMATION
- CASHIER’S CHECK/MONEY ORDER, BID SURETY BOND, OR IRREVOCABLE LETTER OF CREDIT

NOTE: CHECK WWW.ABCA.WV.GOV FOR **ANY SUPPLEMENTAL INFORMATION, CLARIFICATIONS, ZONE MAPS, ZONE DATA AND UPDATES.**

IF YOU HAVE ANY QUESTIONS OR NEED ADDITIONAL ASSISTANCE, PLEASE CONTACT THE WVABCA OR THE CONSULTANT, WHO WILL ONLY PROVIDE LIMITED INFORMATION SINCE THIS IS A BID PROCESS.

IMPORTANT: FOR ANY BID TO BE CONSIDERED DURING THE EVALUATION PROCESS, THE 2020 ACTUAL BID AMOUNT MUST BE AT OR ABOVE THE MINIMUM BID AMOUNT ESTABLISHED BY THE RLLB.



LICENSE BID FORM – Phase III

Bidder Information:

Full Name: _____

Business/DBA Name: _____

Street Address: _____

City, State and Zip Code: _____

Phone w/ Area Code: _____

Are you claiming the current licensee preference? Yes No (If yes, please indicate your current WVABCA Retail Outlet Number: _____)

Are you claiming the residency preference (If yes, proof of residency must be attached)? Yes No

License Bid Information:

Market Zone	Retail Outlet Number	2020 Minimum Bid	My 2020 Actual Bid*	Amount Included (25% of 2020 Actual Bid)**

***To be considered during the evaluation process, your 2020 actual bid amount must be at or above the minimum bid amount established by the RLLB. You must also carefully review the listing of available licenses, zone data, all other information and related 2020 Minimum Bid amounts. If you indicate an incorrect market zone, retail outlet number, 2020 minimum or actual bid amount, your bid may be disqualified or you may be bound to the bid as written.**

****Include a Cashier's Check or Money Order, Bid Surety Bond or Irrevocable Letter of Credit in the amount of 25% of your actual bid amount.**

Type of Bond: Cashier's Check/Money Order Bid Surety Bond Letter of Credit

Please check the applicable box below:

I intend to operate a Class A freestanding liquor retail outlet. I have read the requirements of the West Virginia Code and Rules pertaining to the License Bidding Process and understand that I shall meet the applicable Class A license requirements pursuant to the code and rules. I further understand that if my bid is successful, I am required to remit payment in full for my license on or before June 30, 2020, or as soon as possible.

I intend to operate a Class B mixed retail liquor outlet. I have read the requirements of the West Virginia Code and Rules pertaining to the License Bidding Process and understand that I shall meet the applicable Class B license requirements pursuant to the code and rules. I further understand that if my bid is successful, I am required to remit payment in full for my license on or before June 30, 2020, or as soon as possible.

Signature of Bidder: _____

Title: _____

Date: _____



STATEMENT OF UNDERSTANDING – Phase III

Date: _____, 20__

I, _____, acknowledge and agree that I have read and understood the requirements of the West Virginia Code and Rules (“code and rules”) pertaining to the License Bidding Process and I shall meet the applicable Class A or Class B license requirements pursuant to the code and rules. I shall meet the requirements and operate a freestanding liquor retail outlet or a mixed retail liquor outlet on or before July 1, 2020 or will have completed all other licensing requirements and my retail outlet will be completed and operating within 90 days of July 1, 2020. I further agree that I shall order all liquor online via the WVABCA’s Online Portal Order Entry System, and also utilize the WVABCA’s Online Portal Form 190 system. Moreover, I acknowledge that I must maintain adequate stock of WV Product, as determined by the WVABCA, and meet all restricted area requirements.

I further understand and agree that failure to meet the requirements of the code and rules will result in the immediate revocation of this license and the forfeiture of all moneys paid toward this license.

I intend to operate a (check the box): **Class A License** **Class B License**

By checking the box above and signing below, I understand and agree that, if I am the successful high bidder, I am required to pay the total amount of my actual 2020 bid for Retail Outlet # _____ which is \$_____. (If you are the winning successful bidder make sure you have enough funds available to promptly pay for the winning bid, or, if you are making multiple bids, all winning bids.)

I understand that **payment in full is due on or before June 30, 2020 or as soon as possible**. I further understand that I must submit my annual license application and required documentation well in advance (30-60 days) of June 30, 2020 in order to complete my WVABCA licensing requirements.

I am also enclosing a Cashier’s Check or Money Order made payable to the WVABCA, a Bid Surety Bond issued by a surety bond company authorized to do business with the State, or an Irrevocable Letter of Credit (see examples included in License Bidding Packet), equal to **25%** of my License Bid amount.

The signature below indicates that I have read, understood and agree with all the information in the License Bidding Packet, the West Virginia Code and Rules, and further that I am fully aware and understand the penalties associated with failure to meet the requirements in my Statement of Understanding. This Statement of Understanding is bound by the laws of the State of West Virginia.

_____ (Signature)

Printed Name: _____

_____ Date

WVABCA Retail Outlet #: _____



RELEASE OF INFORMATION AND WAIVER OF CONFIDENTIALITY OF RECORDS

Applicant/Entity Name: _____

Doing Business As (DBA) Name: _____

I (or we), having made application with the West Virginia Alcohol Beverage Control Administration (“WVABCA”) for issuance of a license to sell alcoholic beverages within the State of West Virginia, hereby waive the benefit of any municipal, county, state, or federal statute, rule, ordinance, regulation or other law prescribing the confidentiality of any records or documents, whether formal or informal, pending or closed, maintained by any public or private agency or organization as those records or documents pertain to residency, business location, business activities, education and/or training, employment, criminal history, civil litigation, or law enforcement investigation.

I (or we), hereby authorize and request every public or private agency, organization, or person maintaining such records to furnish to the WVABCA, or their agents or representatives, any information contained therein and to permit them to inspect and make copies of such records and documents.

I (or we), hereby authorize the WVABCA to disclose any information pertaining to the licensure to any municipal, county, state, federal or private agency or organization that has any interest in the licensing of said applicant.

I (or we), hereby release the WVABCA, their agents and representatives, and any agency, organization, or person furnishing information from all liability arising out of any investigation concerning the applicant. I (or we) further agree that a copy of this Release and Waiver shall function as an original.

I (or we) acknowledge that by affixing a signature(s) below gives this document full force and upon this date all aforementioned information may be received and shared as prescribed.

Name (Must include owner’s, officer’s, member’s and manager’s printed and written signature)	Title	Date



AUTHORIZATION TO RELEASE INFORMATION

Name of Taxpayer: _____ Date: _____

Address: _____

City: _____ State: _____ Zip Code: _____

West Virginia Identification Number or Social Security Number: _____

The above-named taxpayer does hereby waive the confidentiality provisions of the West Virginia Code §11-10-5d, §11-1A-23 and any other confidentiality statutes or rules to the following extent:

1. Persons to whom information may be released:

Name: _____ Capacity: _____

Address: _____

2. Effective period of this waiver:

Authorization terminates: _____
Month Day Year

Until my liability for West Virginia taxes is liquidated

Other (explain): _____

3. Taxes and/or credits to which this waiver applies:

	W. Va. Code		W. Va. Code
___ Beer Barrel Tax	11-16	___ Severance Tax	11-13A
___ Business and Occupation Tax	11-13	___ Soft Drink Tax	11-19
___ Business Franchise Tax	11-23	___ Telecommunications Tax	11-13B
___ Business Investment and Jobs Expansion Credit (Super Credit)	11-13C	___ Use Tax	11-15A
___ Business Registration Tax	11-12	___ Wine Liter Tax	60-8
___ Cigarette Tax	11-17	___ Charitable Raffle Boards and Games	47-23
___ Consumer Sales and Service Tax	11-15	___ Solid Waste Fee	20-5F
___ Corporate Net Income Tax	11-24	___ Corporate License Tax	11-12C
___ Employers Withholding Tax	11-10	___ Minimum Severance Tax on Coal	11-12B
___ Estate Tax	11-11	___ Health Care Provider Taxes	11-27
___ Gasoline & Special Fuel Excise Tax	11-14	___ All of the above applicable to the taxpayer	
___ Inheritance Tax	11-11	___ Property Taxes	
___ Motor Carrier Road Tax	11-14A	___ OTHER	
___ Personal Income Tax	11-21		

4. Information to be released: (describe specifically): _____



AUTHORIZATION TO RELEASE INFORMATION

5. Reason(s) why information is to be released: _____

This waiver will be effective only to the extent explained above and any other release of information is not permitted without additional authorization. Additionally, information will be released only to the extent necessary to comply with this request for information, and will not be disclosed if the Tax Commissioner determines that such disclosure would seriously impair administration of this State's tax laws.

This waiver must be signed by the taxpayer. If this waiver is by a corporation, it must be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized so to act. In the case of a partnership, as defined for federal income tax purposes, this waiver shall be signed by a partner or any employee of the partnership duly authorized so to act. The fact that an individual's name is signed on the waiver shall be prima facie evidence that such individual is authorized to sign the waiver on behalf of the corporation or partnership.

Signature: _____

Capacity: _____

Date: _____

State of West Virginia,
County of, _____,
to-wit, _____

This day appeared before me the undersigned notary public, who acknowledge under the oath the signature above.

Notary Public: _____

Date: _____

My commission expires: _____