



WEST VIRGINIA
ALCOHOL BEVERAGE CONTROL ADMINISTRATION
FREDRIC L. WOOTON, COMMISSIONER

July 1, 2022

Subject: Phase V – Continuation of 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 V of the 2020 License Bidding Process. For 2020 and 2021, Phase I was the Purchase Option Process, Phases II, III and IV were a License Bidding Process and Phase V is a very limited License Bidding Process for one available retail outlet license.

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

1. One retail outlet license is being offered as separate and individual retail outlet.
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 Phase V the 2020 License Bidding Process, you are still required to complete a **NEW “2022-2023 WVABCA Application for Retail Outlet License”**, meet the WVABCA licensure requirements, and pay all applicable fees prior to obtaining your WVABCA license. The 2022-2023 license application should be completed after you receive notice that you have been awarded a license. Your application is due on or before September 1, 2022, but you should complete your application as soon as possible.
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. 132 retail outlet licenses were awarded.

Phase III: Phase III is complete. 2 of 4 available retail outlet licenses were awarded.

Phase IV: Phase IV is complete. 2 of 2 available retail outlet licenses were awarded.

Phase V: During Phase V of the License Bidding Process, the WVABCA and RLLB will offer for bid 1 available retail outlet license.

(1) Market Zone 12 Retail Outlet # 744 (Calhoun County)

Please review the Phase V - Market Zone Data Book for detailed descriptions of the market zones and any designated areas available at www.abca.wv.gov.

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. There are no current licensees for these licenses, so there will be no current licensee preference available;
2. WV residents that meet the resident criteria will have a 5% resident preference; and,
3. There is no right to match as there are no current licensees.

(Note: The percentage preference is 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.)

Also, on the website www.abca.wv.gov, 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. It is your responsibility to review 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. E.S.T. on **August 8, 2022**. 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.



LICENSE BID PACKET - 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. 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 addressed envelope and return to the following address **no later than 5:00 P.M. E.S.T. on August 8, 2022:**

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

NOTE: Under no circumstance will the required License Bidding documents be accepted after **5:00 P.M. E.S.T. on August 8, 2022**. 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 ADDRESSED ENVELOPE NO LATER THAN 5:00 P.M. E.S.T. ON AUGUST 8, 2022:

- LICENSE BID FORM
- 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

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)**
12	744	\$77,228.19		

*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. Please check all information, 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 September 1, 2022, or before application and operation of the retail outlet.

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 September 1, 2022, or before application and operation of the retail outlet.

Signature of Bidder: _____

Title: _____

Date: _____



STATEMENT OF UNDERSTANDING

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 September 1, 2022 or will have completed all other licensing requirements and my retail outlet will be completed and operating within 90 days of August 8, 2022. 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 bid for Retail Outlet # 744 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 on separate retail outlets, then all winning bids.)

I understand that **payment in full is due on or before September 1, 2022 or before application and operation of the retail outlet.** I further understand that I must submit my annual license application and required documentation on or before September 1, 2022 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.

Printed Name: _____ (Signature) _____
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: _____

**WEST VIRGINIA ALCOHOL BEVERAGE
CONTROL ADMINISTRATION**

**2020 RETAIL OUTLET BID PROCESS
LICENSE BID PACKET**

Phase V





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NOTE: THE FOLLOWING ADDITIONAL DOCUMENTS ARE AVAILABLE ON OUR WEBSITE AT WWW.ABCA.WV.GOV:

- WEST VIRGINIA CODE §60-3A-1 *et seq.*, as amended
- LEGISLATIVE RULE 175 CSR 1
- LEGISLATIVE RULE 175 CSR 5
- OTHER DOCUMENTS (application instructions, zone data book, signage, maps and etc.)



BACKGROUND & NEW INFORMATION

The West Virginia Legislature created the West Virginia Alcohol Beverage Control Administration ("**WVABCA**") in 1935 (See W.Va. Const. Art. IV §46 and W.Va. Code §60-1-1 et seq.) The WVABCA was organized to give effect to the mandate of the people expressed in the repeal of the state prohibition amendment, and to assure the greatest degree of personal freedom that is consistent with the health, safety, and good morals of the people of West Virginia. During the WVABCA's first 56 years of existence, the WVABCA functioned as the exclusive wholesaler and retailer of liquor in West Virginia; non-fortified wines were "privatized" in 1981.

On February 27, 1990, Senate Bill 337 discontinued the retail sale of alcoholic beverages by the State. This legislation created the Retail Liquor Licensing Board ("**RLLB**" or "**Board**") to establish market zones and bid retail liquor outlets throughout West Virginia. Currently, the RLLB is comprised of five board members, two statutory members, the Chairman of the Board who is the Secretary of Revenue, and the Secretary of the Board who is the WVABCA Commissioner. The RLLB is also comprised of gubernatorial board appointments. No member of the board may hold a retail license or have any financial interest, directly or indirectly, in any retail licensee.

During fiscal year 1991, public bids were held in August 1990, January 1991, and May 1991. This resulted in the sale of retail liquor store licenses in all 98 zones offered and the possibility of 214 privately owned liquor stores being opened in West Virginia. The sale of state-owned liquor stores and the conversion of state owned liquor inventories enabled the WVABCA to transfer revenue to the State's General Revenue Fund.

In 2000, the RLLB's license bid process utilized minimum bids which were calculated based on demographics, population and other factors. The bidding generated revenue from all issued licenses which was deposited into the General Revenue Fund based on the minimum bids and the Governor's official revenue estimate. The licenses were issued for a ten-year (10) period and expired June 30, 2010.

During the 2000 bid process, a few of the licenses did not get issued and some licenses have been abandoned. In 2006, the RLLB approved an Interim Bid and splitting of certain licenses. The licenses were rebid on a pro-rated minimum bid basis and two licenses were awarded in 2007 for the remainder of the ten-year period or until June 30, 2010.

With the passage of House Bill No. 105 ("HB 105") during the First Special Session of 2009, effective from passage, the WVABCA and RLLB were authorized to initiate the 2010 Purchase Option and 2010 License Bid Process (See West Virginia §60-3A- 1, et seq., as amended in 2009). The bill additionally contemplated utilizing the Purchase Option and License Bid Process going forward.



BACKGROUND & NEW INFORMATION

In 2019, the RLLB voted to move forward with the West Virginia Code and rules as previously authorized and utilize the same formula and assumptions for the 2020 Purchase Option and 2020 License Bid Process.

During the 2010 Purchase Option and 2010 License Bidding process 3 retail outlet licenses were not issued after all the phases of bidding.

For the 2020 Purchase Option - Phase I, Phase II, Phase III and Phase IV - 2020 License Bidding Process have been completed. Phase V – 2020 License Bidding Process is a limited License Bidding Process for 1 available retail outlet license:

(1) Market Zone 12

Retail Outlet # 744 (Calhoun County)

Please review the Phase V - Market Zone Data for detailed descriptions of the market zones and designated areas. Please also review the Phase V License Bid Supplement to make your bid. Both are available at www.abca.wv.gov.

Note: All Licensees and Potential Bidders – Take note to carefully review the enclosed materials and W. Va. Code §60-3A-1 et seq., as amended, and the legislative rules at 175 CSR 1 and 175 CSR 5, which add many requirements and restrictions on defined terms of Class A licensees or freestanding retail outlets and Class B licensees or mixed retail outlets.

***If you are awarded a retail outlet license during the License Bidding Process, the AWARD **DOES NOT** automatically constitute approval of your annual License Application. Further note, this is a “NEW” application which must be completed (not a renewal application). You are required to complete and submit your “**2022-2023 WVABCA Application for Retail Store License**” on or before September 1, 2022; it is in your best interest to apply as soon as possible after you receive notification that your bid was successful, to ensure you will meet licensure requirements and restrictions. ***

If you intend to operate a Class A freestanding liquor retail outlet, it is your responsibility to ensure that you meet or will meet the requirements and restrictions of a Class A freestanding liquor retail outlet no later than ninety (90) days after August 8, 2022. If you intend to operate a Class B mixed retail liquor outlet, it is your responsibility to ensure that you meet or will meet the requirements and restrictions of a Class B mixed retail liquor outlet no later than ninety (90) days after August 8, 2022. *

Additional Note: The WVABCA and the RLLB reserves the right to make any clarification to the License Bidding Process and/or adjust the licenses available for bid based on RLLB decisions. You must check www.abca.wv.gov for clarifications and updates.



2020 LICENSE BIDDING PROCESS OVERVIEW

The 2020 licensing bidding process will offer 182 licenses in the market zones established throughout West Virginia for the 10-year period beginning July 1, 2020. The 2020 Purchase Option and 2020 License Bidding process will consist of at least two phases which are described below:

PHASE I: In July 2019, the WVABCA and RLLB offered a Purchase Option based on the minimum bid set by the RLLB to all Active Retail Licensees who either currently operate a Class A freestanding liquor retail outlet or who will seek to operate a Class A freestanding retail liquor outlet within 90 days of July 1, 2020, all subject to the requirements in WV Code §60-3A-1, et seq., as amended, and the legislative rules at 175 CSR 1 and 175 CSR 5.

PHASE II: In December 2019, the License Bidding process commenced and was completed on January 9, 2020. Bids were awarded on or about February 12, 2020.

PHASE III: On February 23, 2020, the Phase III License Bidding commenced and was completed on April 1, 2020.

PHASE IV: On or about February 9, 2021, the Phase IV License Bidding process commenced and was completed on March 23, 2021.

PHASE V: On or about July 5, 2022 the Phase V License Bidding process will commence. The WVABCA and RLLB are authorized to establish minimum bids and offer this one available licenses to the highest bidder subject to the following preferences:

1. There are no current licensees for these licenses, so there will be no current licensee preference;
2. WV residents that meet the resident criteria will have a 5% resident preference; and
3. There is no right to match as there are no current licensees.

Note: Please review W. Va. Code §60-3A-1 et seq., as amended, and the legislative rules at 175 CSR 1 and 175 CSR 5 with respect to the definitions and requirements of both Class A and Class B licenses. A brief overview of these changes is provided in the sections that follow. It is recommended that you review the definitions, W. Va. Code §60-3A-1 et seq., as amended, and the legislative rules at 175 CSR 1 and 175 CSR 5, and also all of the requirements for both Class A and Class B retail licenses.

Further note: The percentage preference is 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.



2020 LICENSE BIDDING PROCESS OVERVIEW

Minimum Bid Formula and Purchase Option:

For the 10-year period beginning on July 1, 2010, and for every 10-year license period beginning July 1st thereafter (July 1, 2020), the Commissioner shall determine the minimum bid based upon a review of the inflation data, demographic data, sales data at each retail outlet and such other factors that are relevant for the State to generate revenues.

The RLLB approved the following formula in 2010 and again in 2020:

2020 Minimum Bid Formula:

The formula to calculate the minimum bids is as follows:

$$Z = X(B) + Y_a(B) + [.50(B) + .50(C)]$$

Notwithstanding the above formula to calculate minimum bids, in the event that a retail outlet's 10-year minimum bid calculated by the formula is below the retail outlet's previous 10-year period actual bid, the RLLB has directed the Commissioner to use the retail outlet's previous 10-year period's actual successful bid as its current 10-year period minimum bid.

The Commissioner is authorized by the RLLB to make assumptions on the time periods, indexes and practical application of the formulas and methodology to determine the inflation factor and sales factor, and to make the necessary calculations.

In addition, 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.

If during the initial solicitation of bids for the current 10-year license period no successful bids are received for a particular retail outlet, the board may adjust the minimum bid, in its statutory discretion, and rebid any such remaining retail outlets in subsequent bidding. For Phase IV Minimum Bids, the RLLB determined that since the 2 retail outlet licenses were moved to new market zones, the minimum bid would set by the average 2020 minimum bid of the existing retail outlets in the new market zones.



2020 LICENSE BIDDING PROCESS OVERVIEW

For Phase V Minimum Bids – The RLLB determined that for the 1 retail outlet license, the minimum bid would set by calculating the average minimum bid for the surrounding market zones with a 25% discount based on the remainder of the 10-year license period.

Minimum Bid Methodology: NA for Phase V

The methodology of the formula is: (i) Z = 2020 Minimum Bid; (ii) B = 2010 Minimum Bid; (iii) X = Inflation Factor; (iv) Y_a = Sales Factor; and (v) C = 2010 Actual Bid paid for a retail outlet in 2010 or the 2010 Minimum Bid, whichever is higher.

Inflation Factor:

The inflation factor was calculated by comparing the CPI-U index for Alcohol as of December 2008 which was 217.975 to the CPI-U Index for Alcohol as of December 2018 which was 251.131. The resulting inflation factor was 15.2%. This inflation factor was used for all minimum bid formula calculations.

Sales Factor:

The sales factor was calculated by using actual sales data from each retail location for the period of time covering 2010-2018. This sales data was used to calculate the average percentage increase (or decrease) in sales for each retail location.

The RLLB applied a sales factor as follows:

Sales Increase (Decrease)	Sales Factor
Retail outlet with sales increase in excess of 15%	0%
Retail outlet with sales increase in excess of 5%, but not greater than 14.99%	5% or .05
Retail outlet with sales increase of 4.99% or less, or retail outlet with sales decrease	10% or .10

Purchase Option: NA for Phase V

The Purchase Option will be offered to all Active Retail Licensees who either operate or seek to operate a Class A retail license or freestanding liquor retail outlet, and who elect to pay 10% over and above the minimum bid set by the RLLB for each active retail license operated by an Active Retail Licensee (the Purchase Option limit is for 4 licenses), all subject to the requirements of the code and the rules.



2020 LICENSE BIDDING PROCESS OVERVIEW

Timeline:

Phase I - COMPLETED:

If an Active Retail Licensee who met the Class A licensee requirements chose to execute the Purchase Option, then the required Purchase Option documents must have been returned to the WVABCA on or before August 15, 2019. All licensees qualifying for the Purchase Option were notified of the award on or about September 9, 2019 and the purchase option payments and deferred payment financing documents and payments were due on November 7, 2019.

Phase II - COMPLETED:

Retail Outlet license bids were received on January 9, 2020. On or about February 12, 2020, 132 retail outlet licenses were or will be awarded retail outlet licenses.

Phase III: - COMPLETED:

Retail Outlet license bids were received on February 23, 2020. On April 1, 2020, 2 retail outlet licenses were awarded retail outlet licenses.

Phase IV: - COMPLETED:

Retail Outlet license bids were received on March 12, 2022. On March 23, 2021, 2 Retail Outlet licenses were awarded.

Phase IV: License Bid packets, Bid Supplements and Market Zone Data are scheduled to be posted on the WVABCA website with notices mailed to current licensees on or about July 5, 2022. Advertisement of all licenses being offered up for bid is scheduled for 1st publications beginning on or about June 20, 2022, and second publication on or about June 27, 2022. Bids must be received by the Consultant no later than 5:00 PM E.S.T. on August 8, 2022, with a bid opening on or about August 10, 2022, and then the successful winning bids tentatively scheduled to be awarded on or before the end of August 2022.

NOTE: All current and potential licensees must thoroughly review W. Va. Code §60-3A-1 et seq., as amended, and the legislative rules at 175 CSR 1 and 175 CSR 5 (the “code and the rules”), to become familiar with the 2020 License Bid process rules and requirements.



DEFINITION OF CLASS A LICENSE

W. Va. Code §60-3A-1 et seq., as amended, and the legislative rules at 175 CSR 1 and 175 CSR 5 adds many requirements and restrictions on defined terms of Class A licensees or freestanding retail outlets and Class B licensees or mixed retail outlets. Previous definitions from 2000-2010, where A and B licenses focused on multiple versus single licenses are not applicable. Current and potential licensees should thoroughly review W. Va. Code §60-3A-1 et seq., as amended, and the legislative rules at 175 CSR 1 and 175 CSR 5 (the “code and the rules”), to determine your compliance with the new requirements. A brief summary of each license type is provided below:

[CLASS A LICENSE:](#)

A “**Class A Retail License**” is a retail license permitting the retail sale of liquor at a freestanding retail outlet. A freestanding liquor retail outlet is a retail outlet that sells only liquor, beer, non-intoxicating beer and other alcohol-related products, including tobacco-related products.

Per §175-1-3.1.a., “A Class A retail license or freestanding liquor retail outlet shall **only** sell West Virginia product, wine, beer, non-intoxicating beer and other alcohol related products, including tobacco related products throughout the entire retail floor space and shelving of the retail outlet which shall, at minimum, be **750 square feet**, as measured by the Commissioner, and further shall maintain displayed inventory and inventory as required by 175 CSR 5, all subject to the requirements of the code and the rules”.

Per §175-5-5.2.e.2.A., a Class A freestanding liquor retail outlet **must** maintain a displayed inventory of **at least 4 brands** of each West Virginia product and sufficient quantities of displayed inventory and inventory to service consumer demand.

Those retailers meeting the requirements of a Class A license are eligible for the Purchase Option and the related Deferred Payment Financing Option.

See also “Other Key Definitions”.



DEFINITION OF CLASS B LICENSE

CLASS B LICENSE:

A “**Class B Retail License**” is a retail license permitting the sale of West Virginia product or alcoholic liquors at a mixed retail outlet, subject to the requirements of the code and the rules. A mixed retail liquor outlet is defined as a retail outlet that sells liquor, wine, beer, non-intoxicating beer and other alcohol-related products, in addition to convenience and other retail products.

Per §175-1-3.1.b., a Class B retail license or mixed retail liquor outlet shall only sell West Virginia Product, wine, beer, nonintoxicating beer and other alcohol related products, including tobacco related products, in addition to convenience and other retail products. West Virginia Product, wine, beer and nonintoxicating beer shall be sold in the prominently marked restricted area of floor space of the mixed retail liquor outlet, which shall, at minimum, be 150 square feet, and such products shall not be highly visible, displayed or available for sale outside the restricted area, and further shall maintain displayed inventory and inventory as required by 175 CSR 5, all subject to the requirements in the rules.

Legislative Rule §175-5-5.2.e.3., sets minimum standards for the display of inventory in retail outlets operating pursuant to a Class B retail license which includes, without limitation, the requirements that a minimum square footage of the displayed inventory available for purchase at the retail outlet be composed of liquor products; that liquor available for sale in the retail outlet is placed only in an area of the retail outlet that prominently displays WVABCA approved signage identifying the area as a restricted area and stating that no one under the age of 21 may purchase liquor, wine or beer; and that the area (see WVABCA website) is separate and apart from other retail floor space and is not highly visible to persons outside of the restricted area.

A summary of the applicable **minimum requirements** are outlined below:

- A mixed retail liquor outlet may **only** sell West Virginia product (a defined term), wine, beer, non-intoxicating beer, and other alcohol related products, including tobacco related products, in addition to convenience and other retail products. West Virginia product, wine, beer, and non-intoxicating beer **must** only be sold in the restricted area retail floor space of the mixed retail liquor outlet and such products **cannot** be highly visible, viewable, displayed or available for sale outside the restricted area.
- All Class B retail licenses or mixed retail liquor outlets must have a minimum of 150 square feet of retail floor space, as measured by the Commissioner, devoted solely to the retail sale of West Virginia product and no limit on the amount of total retail floor space.



DEFINITION OF CLASS B LICENSE

- Retail outlets with 150 square feet to 449 square feet of retail floor space, as measured by the Commissioner, devoted solely to the retail sale of West Virginia product, **must** maintain a displayed inventory of at least **2 brands** of each West Virginia product and sufficient quantities of displayed inventory and inventory to service consumer demand.
- Retail outlets with 450 square feet up to 749 square feet of retail floor space, as measured by the Commissioner, devoted solely to the retail sale of West Virginia product **must** maintain a displayed inventory of at least **3 brands** of each West Virginia product and sufficient quantities of displayed inventory and inventory to service consumer demand.
- Retail outlets with 750 square feet and above of retail floor space as measured by the Commissioner, devoted solely to the retail sale of West Virginia product **must** maintain a displayed inventory of at least **4 brands** of each West Virginia product and sufficient quantities of displayed inventory and inventory to service consumer demand.
- All Class B retail licenses or mixed retail liquor outlets **must** restrict the view of the retail floor space devoted solely to the sale of West Virginia product, wine and non-intoxicating beer by constructing barriers, shelving or other apparatus of sufficient height and width, as approved by the Commissioner, that will prevent persons from viewing the items in the restricted area making such items not highly visible.
- Restricted Area is separate retail floor space devoted solely to the sale of West Virginia product, wine and non-intoxicating beer and **must** be prominently marked with signage located in the retail floor space consisting of at least **SIX SIGNS** sized at a **MINIMUM OF 24 INCHES IN HEIGHT BY 24 INCHES IN WIDTH** with prominent and highly visible uppercase and bold lettering indicating that persons are entering a restricted liquor, wine and beer area, and **“NO PERSON UNDER THE AGE OF 21 MAY PURCHASE LIQUOR, WINE OR BEER”**, all in the form, color, lettering and with the ABCC logo as provided in a format approved by the Commissioner (**see WVABCA website for approved signage – signage must be printed and maintained in good standard by all such licensees**).
- In 2020, Failure to provide a secure Restricted Area with a restricted view and failure to provide sufficient quantities of WV Product to serve WV consumers could result in sanctions against a licensee.

See also **“Other Key Definitions”**.



OTHER KEY DEFINITIONS

Provided below is a listing of other key definitions that you **must** be familiar with:

- An “**Active Retail License**” is a current license for a retail outlet that has been open and in continuous operation for a period of not less than 12 months prior to July 1, 2010, or July 1st for every ten-year (10) license period thereafter (July 1, 2019 or 12 months prior to July 1, 2020 for the 2020 Purchase Option and 2020 License Bidding process).
- An “**Active Retail Licensee**” is a person who holds an active retail license as of June 2, 2009, that person’s successor, or any person who holds and operates an active retail license when it expires at the end of a 10-year period (for the 2020 Purchase Option and 2020 License Bidding process, June 30, 2020).
- An “**Alcohol Related Product**” includes non-alcoholic beer or beverages; non-alcoholic mixers; decanters; glass or plastic cups; openers, corks or stoppers; gift bags; books, magazines or novelties; traditional West Virginia lottery products, such as: instant games, Keno, Powerball, Hot Lotto, daily games and Cash 25, but not limited video lottery; or such other alcohol related items as determined by the Commissioner on a case-by-case basis.
- A “**Class A Retail License**” is a retail license permitting the retail sale of liquor at a freestanding liquor retail outlet.
- A “**Class B Retail License**” is a retail license permitting the retail sale of liquor at a mixed retail liquor outlet.
- “**Displayed Inventory**” is defined as the current inventory of West Virginia product in the quantity as required for a Class A retail license or a Class B retail license that is available for sale in the set square footage of retail floor space of a retail outlet as established for a freestanding liquor retail outlet or a mixed retail liquor outlet and in sufficient quantities to service consumer demand at the retail outlet.
- A “**Freestanding Liquor Retail Outlet**” is a retail outlet that only sells liquor, beer, non-intoxicating beer and other alcohol-related products, including tobacco and tobacco-related products.
- “**Inventory**” means the inventory of West Virginia product available at a retail outlet that is maintained in non-retail floor space of the retail outlet.
- A “**Licensed Retailer**” is the holder of a retail license.



OTHER KEY DEFINITIONS

- A “**Mixed Retail Liquor Outlet**” is a retail outlet that sells liquor, beer, non-intoxicating beer and other alcohol-related products, including tobacco and tobacco-related products, **as well as** convenience and other retail products.
- A “**Retail Outlet**” is a specific location or store where West Virginia product may be lawfully sold by a retail licensee in the original package for consumption off the premises.
- A “**Tobacco Related Product**” means tobacco; snuff; chew tobacco; pipe tobacco, cigarettes, specialty cigarettes; cigars; pipes; hookahs; rolling papers; matches; lighters; lighter fluid; tobacco water; tobacco topical paste; cigar cutters or punches; humidors and products to maintain a humidor; nicotine gum; smoking prevention products; smoke cleaning products or smoke smell erasing products; other tobacco-related products or accessories; or such other tobacco-related items as determined by the Commissioner, on a case by case basis, after receipt of a written request from an Active Retail Licensee which must be sent to the Commissioner’s office via certified mail.
- A “**West Virginia Product**” includes all bourbon, brandy, cognac, cordials, gin, grain alcohol, rye, rum, scotch, tequila, vermouth, vodka, aperitifs, pre-mixed cocktails, fortified wines, spirit blends, marsala, sake, sherry and all other liquor types and classes as approved by the Commissioner on the WVABCA retail liquor product list.



CLASS A LICENSE FACTS AND REQUIREMENTS

- Must be a freestanding liquor retail outlet and sell only West Virginia product, wine, beer, non-intoxicating beer, tobacco-related products, and alcohol-related products (See “Other Key Definitions”).
- No limit on the number of retail outlets that can become a freestanding liquor retail outlet.
- Must not have direct access to another business and must be separate and apart from other businesses.
- Annual license fee is \$2,000, plus \$100 operational fee for a total of \$2,100 (plus fees for beer and wine).
- Owner(s), officers, partners or members **must** all be U.S. citizens of good moral character.
- The Class A 10-year License will expire on June 30, 2030.
- Eligible for Purchase Option provided licensee meets the active retail licensee definition, the Class A license requirements and store operational requirements.
- An eligible licensee must 1st be an Active Retail Licensee (See “Other Key Definitions”).
- An Active Retail Licensee is limited to exercise the Purchase Option for up to 4 stores currently and actively operated by a licensee that meet or will meet the new requirements.
- If Purchase Option is exercised, the Active Retail Licensee is eligible to apply for a Deferred Payment Financing Option.
- Failure to meet the Purchase Option and Deferred Payment Financing Option requirements could result in the loss, suspension or revocation for an Active Retail Licensee.
- Must have a minimum of **750 square feet** of retail floor space, as measured by the Commissioner, devoted to the retail sale of West Virginia product, wine and non-intoxicating beer.
- Must maintain a displayed inventory of at least **4** brands of each West Virginia product and sufficient quantities of displayed inventory and inventory to service consumer demands (See “Other Key Definitions”).
- All orders placed by a licensed retailer for West Virginia product must be placed via the WVABCA’s Online Portal ordering system. Further a licensed retailer shall submit all Form 190s monthly via the WVABCA’s Online Portal – Form 190 system. Therefore, the licensed retailer must have compatible computer systems and reliable high-speed internet access.
- Licensees must contact the WVABCA IT Department to set up an online ordering account.
- The WVABCA shall not deliver a regular or special order for fewer than 25 cases of West Virginia product or alcoholic liquors to a licensed retailer. Therefore, a licensed retailer must order 25 cases or more to receive the order on its delivery day.
- Licensees shall verify the accuracy of all delivered orders and acknowledge the verification of the order.
- Retail licensees may **not** sell liquor on Christmas day or Easter Sunday, or between 12:00 midnight and 8 o’clock a.m. on weekdays and Saturdays or between the hours of 12:00 midnight and 1:00 pm on Sundays.
- Licensees should periodically browse the WVABCA’s website (www.abca.wv.gov) and the **WVABCA portal for updates and information on new products**.



CLASS B LICENSE FACTS AND REQUIREMENTS

- May sell liquor, wine, beer, non-intoxicating beer, tobacco-related products, and alcohol-related products, convenience products as well as other retail products (See “Other Key Definitions”).
- Annual license fee is \$2,000, plus \$100 operational fee for a total of \$2,100 (plus fees for beer and wine).
- Owner(s), officers, partners or members **must** all be U.S. citizens of good moral character.
- The Class B 10-year License will expire on June 30, 2030.
- Licensees operating a Class B mixed retail liquor outlet are **NOT** eligible for Purchase Option.
- Licensees operating a Class B mixed retail liquor outlet are **NOT** eligible for the Deferred Payment Financing Option.
- Must have a minimum of **150 square feet** of retail floor space, as measured by the commissioner, devoted solely to the retail sale of West Virginia product and no limit on the amount of total floor space.
- Must **restrict** the view of the retail floor space devoted solely to the sale of West Virginia product, wine and non-intoxicating beer by constructing barriers, shelving or other apparatus of sufficient height and width, as approved by the Commissioner, that would prevent persons who are outside the restricted area from viewing the items located inside the restricted area making such items not highly visible. This area must be secure and maintain sufficient quantities of WV Product to serve WV consumers.
- Separate retail space must be prominently marked with signage which consists of at least six (6) signs sized at a minimum of 24 inches in height by 24 inches in width with prominent and highly visible uppercase and bold lettering indicating that persons are entering a restricted liquor, wine and beer area (i.e., “YOU ARE ENTERING A RESTRICTED LIQUOR, WINE AND BEER AREA” and “NO PERSON UNDER 21 MAY PURCHASE LIQUOR, WINE OR BEER”). All signage must be displayed and be approved by the WVABCA (**PDF versions are available at www.abca.wv.gov**).
- Maintain square footage and minimum inventory amounts as specified in §175 CSR 5 §5.2.e.3.
- All orders placed by a licensed retailer for West Virginia product must be placed via the WVABCA’s Online Portal ordering system. Further a licensed retailer shall submit all Form 190s monthly via the WVABCA’s Online Portal – Form 190 system. Therefore, the licensed retailer must have compatible computer systems and reliable high-speed internet access.
- Licensees must contact the WVABCA IT Department to set up an online ordering account.
- The WVABCA shall not deliver a regular or special order for fewer than 25 cases of West Virginia product or alcoholic liquors to a licensed retailer. Therefore, a licensed retailer must order 25 cases or more to receive the order on its delivery day.
- Licensees shall verify the accuracy of all delivered orders and acknowledge the verification of the order.
- Retail licensees may **not** sell liquor on Christmas day or Easter Sunday, or between 12:00 midnight and 8 o’clock a.m. on weekdays and Saturdays or between the hours of 12:00 midnight and 1:00 pm on Sundays.
- Licensees should periodically browse the WVABCA’s website (**www.abca.wv.gov**) and the **WVABCA portal for updates and information on new products**.



FREQUENTLY ASKED QUESTIONS

GENERAL:

- 1. Where can I find the most up-to-date information about the 2020 Purchase Option and License Bidding process?**

The most current information regarding the 2020 Purchase Option and License Bidding process is available on our website at www.abca.wv.gov.

- 2. How long are licenses valid?**

*The 2020 licensing process will issue licenses in market zones throughout West Virginia for 10 years beginning July 1, 2020, once the license is issued, and expiring on June 30, 2030. **The Phase V Retail Outlet license being bid will be for the balance of the remaining 10-year period until June 30, 2030.***

- 3. How many licenses will be offered during the 2020 retail outlet bid process?**

The 2020 licensing process will offer approximately 182 licenses in the market zones established throughout West Virginia for the 10-year period beginning July 1, 2020. Phase I of the 2020 licensing process involved mailing Purchase Option packets to all Active Retail Licensees. Those licenses held by Active Retail Licensees that are eligible for the Purchase Option and met the statutory and licensing requirements will not be available for bidding. The remaining licenses (approximately 132) were advertised and bid in Phase II of the 2020 retail outlet bid process. A separate Phase III offered 4 available retail outlet licenses. A separate Phase IV was offered 2 available retail outlets. Lastly, a separate Phase V will offer one available Retail Outlet a License Bid packet, Bid Supplement and Market Zone Data will be available to all current licensees and potential bidders on the WVABCA website.

- 4. Can the RLLB move licenses from one market zone to another and/or add additional licenses to certain market zones at a later date?**

Yes. The RLLB is charged with licensing liquor stores in a manner so that licensing and sales revenues are maximized for the State of West Virginia. To that end, 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. The 2 retail outlets being offered in Phase IV were moved from unbid locations that were in other Market Zones.



FREQUENTLY ASKED QUESTIONS

5. How much is the annual licensing fee for a Class A license – liquor only?

The annual fee for Class A license is \$2,000, plus \$100 operational fee for a total of \$2,100, plus additional license fees for beer, growler and wine off-premises sales (other additional licenses such as, wine delivery with a gift basket, curbside beer, curbside wine and curbside liquor sales are also available).

6. How much is the annual licensing fee for a Class B license – liquor only?

The annual fee for Class B license is \$2,000, plus \$100 operational fee for a total of \$2,100, plus additional license fees for beer, growler and wine off-premises sales (other additional licenses such as, wine delivery with a gift basket and curbside beer and/or curbside wine are also available).

7. Must I complete a 2020-2021 WVABCA license application?

*Yes, all licensees must complete a 2020-2021 WVABCA Application for Retail Store License prior to June 30, 2020. Please note that this is a “NEW” application, and not a renewal application. It is strongly suggested that all winning successful bidders (upon receiving notice) remit payment in full for retail outlet license and submit the new application and fees in advance of June 1, 2020 to ensure licensure in case of any unforeseen delays. **For the Phase V applicant the 2022-2023 WVABCA application for Retail Store License must be completed by September 1, 2022***

8. What is a Class A retail license?

A “Class A retail license” is a retail license permitting the retail sale of liquor at a freestanding liquor retail outlet.

9. What is a Class B retail license?

A “Class B retail license” is a retail license permitting the retail sale of liquor at a mixed retail liquor outlet.

10. What is a “freestanding liquor retail outlet”?

A “freestanding liquor retail outlet” is a retail outlet that only sells liquor, beer, non-intoxicating beer and other alcohol-related products, including tobacco and tobacco-related products.

11. What is a “mixed retail liquor outlet?”

A “mixed retail liquor outlet” is a retail outlet that sells liquor, beer, non-intoxicating beer and other alcohol-related products, including tobacco and tobacco-related products, as well as convenience and other retail products.



FREQUENTLY ASKED QUESTIONS

12. What is an “alcohol-related product”?

“Alcohol-related products” include non-alcoholic beer or beverages; non-alcoholic mixers; decanters; glass or plastic cups; openers, corks or stoppers; gift bags; books, magazines or novelties; traditional West Virginia lottery products, such as: instant games, Keno, Powerball, Hot Lotto, daily games and Cash 25, but not limited video lottery; or such other alcohol related items as determined by the Commissioner on a case by case basis.

13. What is a “tobacco-related product”?

A “tobacco-related product” is defined as tobacco; snuff; chew tobacco; pipe tobacco; cigarettes, specialty cigarettes; cigars; pipes; hookahs; rolling papers; matches; lighters; lighter fluid; tobacco water; tobacco topical paste; cigar cutters or punches; humidors and products to maintain a humidor; nicotine gum; smoking prevention products; smoke cleaning products or smoke smell erasing products; other tobacco-related products or accessories; or such other tobacco-related products as determined by the Commissioner on a case-by-case basis.

14. What is a “West Virginia product”?

A “West Virginia product” includes all bourbon, brandy, cognac, cordials, gin, grain alcohol, rye, rum, scotch, tequila, vermouth, vodka, aperitifs, pre-mixed cocktails, fortified wines, spirit blends, marsala, sake, sherry and all other liquor types and classes as approved by the Commissioner on the WVABCA retail liquor product list.

15. May I sell West Virginia Lottery products?

Yes, refer to Question #12 above.

16. May I sell mixers, soft drinks, etc.?

Yes, refer to Question #12 above.

17. What if I want to sell an item not listed in the definitions?

Prior to selling an item not listed in the definitions, you must contact the WVABCA and obtain the Commissioner’s approval.

18. Must all orders be placed via the WVABCA’s Online Portal ordering system?

Yes, orders for West Virginia product or alcoholic liquors must be made by licensed retailers utilizing the WVABCA’s Online Portal ordering system. Only during emergency situations, as authorized by the Commissioner, are licensed retailers permitted to place telephone or fax orders with the WVABCA.



FREQUENTLY ASKED QUESTIONS

19. What are the computer and internet requirements?

The best results will be achieved with high-speed internet access and with computers with faster processing speeds.

20. Do I need a password and a user account to place online orders?

Yes, please contact Kim Canterbury Hayes with the WVABCA IT Department at Kimberly.D.Canterbury@wv.gov if you need to have a user account set up.

21. What if I do not have internet service available in my area?

If internet service is unavailable in your area, please contact the WVABCA to make alternate arrangements. This situation is the only scenario in which the Commissioner may waive the requirement that orders be placed via the WVABCA's Online Portal ordering system after all alternatives are considered. Please note that prior to placing any order via telephone, fax or other means, authorization must be obtained from the Commissioner.

22. What is WVABCA's website address?

Go to www.abca.wv.gov.

23. Are there liquor order minimums?

No, there are not order minimums. However, the WVABCA shall not deliver a regular or special order for fewer than 25 cases of West Virginia product or alcoholic liquors to a licensed retailer. If your order is for less than 25 cases, it will be delivered when your combined orders total 25 cases or more. With prior approval, you are permitted to schedule a pick-up for orders of less than 25 cases on a regular order day.

24. How can I remit payment for liquor orders to the WVABCA?

*The WVABCA can accept funds via electronic funds transfer (EFT), certified check or money order. Please contact **Julia Jones** at Julia.M.Jones@wv.gov to set up an account if you are not a current licensee.*

25. What are the hours of operation for a retail liquor outlet?

With passage of SB 2020 during the 2021 regular Legislative Session, retail liquor outlets may now operate and conduct sales all days of the week from 6 a.m. until midnight, except for Easter and Christmas. All liquor areas must be closed until and after the permitted hours of operation. The hours of operation are now consistent with beer and wine Sunday off-premises hours of operation.



FREQUENTLY ASKED QUESTIONS

26. What are other requirements for operating a retail liquor outlet?

Retail liquor outlets must order all liquor via the WVABCA's Online Portal Order Entry System, and also utilize the WVABCA's Online Portal Form 190 system for reporting private club liquor sales. Private club's located in your retail liquor outlet's market zone a contiguous market zone may purchase liquor from your retail liquor outlet or other retail liquor outlets in the market zone or a contiguous market zone. Private club's may not purchase wine and beer from a retail liquor outlet. Further, a retail liquor outlet must maintain adequate stock of WV Product, as determined by the WVABCA, operate the business in a commercially reasonable manner and meet all restricted area requirements. Please carefully review many other additional requirements listed in W. Va. Code §60-3A-1 et seq., as amended, and the rules at 175 CSR and 175 CSR 5.

LICENSE BIDDING PROCESS:

1. When will License Bidding Packets be mailed?

Phase V License Bidding Information will be mailed to current licensees on or about July 5, 2022. The WVABCA will publish notification of the License Bidding process beginning on or about June 20, 2022 and on or about June 27, 2022 as required by the Code and rules. The License Bidding Information will be available on the WVABCA website and direct potential bidders to the WVABCA website for bid documents at www.abca.wv.gov.

2. What retail outlet licenses are available for bid during the 2020 License Bidding Process?

*Included with this mailing, you will find a separate document entitled "**Retail Outlet Licenses Available for Bid**" which includes those licenses that are available for bid during Phase IV of the 2020 License Bidding Process. You must submit a separate bid and cashier's check/money order, bid surety bond, or irrevocable letter of credit for each retail outlet license for which a bid is being submitted. Phase V is offering one retail outlet for bid.*

3. Will there be a "minimum" bid?

*Yes, all licenses will be subject to a minimum bid (See below for more details regarding minimum bid). **For Phase V Minimum Bids** – The RLLB determined that since only one retail outlet license was reissued, the minimum bid would set by the average of the minimum bids from the surrounding market zones with a 25% discount based on the remainder of the 10-year license period.*



FREQUENTLY ASKED QUESTIONS

4. How were 2020 minimum bid amounts calculated?

The minimum bids were calculated based upon a review of the inflation data, demographic data, sales data at each retail outlet and such other factors that are relevant for the State to generate revenues as required by West Virginia Code §60-3A-1 et seq.

The formula to calculate the minimum bids, as approved by the RLLB is as follows:

$$Z = X(B) + Y_a(B) + [.50(B) + .50(C)]$$

The methodology of the formula is: (i) Z = 2020 Minimum Bid; (ii) B = 2010 Minimum Bid; (iii) X = Inflation Factor; (iv) Y_a = Sales Factor; and (v) C = 2010 Actual Bid paid for a retail outlet in 2010 or the 2010 Minimum Bid, whichever is higher (Refer to the section titled "2020 Purchase Option and 2020 License Bidding Process Overview" for additional information).

Notwithstanding the above formula to calculate minimum bids, in the event that a retail outlet's 10-year minimum bid calculated by the formula is below the retail outlet's previous 10-year period actual bid, the RLLB has directed the Commissioner to use the retail outlet's previous 10-year period's actual successful bid as its current 10-year period minimum bid.

NOTE: For Phase V Minimum Bids – *The RLLB determined that since only one retail outlet license was reissued, the minimum bid would set by the average of the minimum bids from the surrounding market zones with a 25% discount based on the remainder of the 10-year license period.*

5. Who selected the formula?

The RLLB selected the formula that is used to determine minimum bids.

6. How was the Inflation Factor calculated?

The Inflation Factor was calculated by comparing the CPI-U index for Alcohol as of December 2008 which was 217.975 to the CPI-U Index for Alcohol as of December 2018 which was 251.131. The resulting inflation factor was 15.2%.

7. How was the Sales Factor calculated?

The Sales Factor was calculated by using actual sales data from each retail location for the period of time covering 2010-2018. This sales data was used to calculate the average percentage increase (or decrease) in sales for each retail location during the time period.



FREQUENTLY ASKED QUESTIONS

8. What documents do I need to complete and return if I choose to bid?

If you choose bid, you must complete and return the following documents:

- **License Bid Form**
- **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 in the dollar amount of 25% of your actual license bid amount (Appendices E & F)**

9. What is my deadline to bid?

*The WVABCA will hold a bid opening tentatively scheduled for mid-August 2022. All required Bid documents **must be received** by the Consultant, Smith Cochran & Hicks in an envelope labeled **"2020 License Bid Process"** and addressed to the Consultant, Smith Cochran & Hicks, no later than 5:00 P.M. E.S.T. on August 8, 2022 (mail your packets well in advance of the deadline to ensure receipt on or before the deadline). Please refer to the Instructions included in the License Bidding Packet, Bid Supplement and Market Zone Data (available at www.abca.wv.gov) for a listing of those items required to be submitted to the Consultant.*

10. Where should I send my License Bid Packet?

All License Bid Packets must be returned to the Consultant no later than 5:00 p.m. E.S.T, on or before August 8, 2022 at the following address:

Smith, Cochran & Hicks, P.L.L.C.
Attn: Patrick C. Smith, CPA
3510 MacCorkle Avenue, S.E.
Charleston, WV 25304

11. Will you accept my bank's standard "Irrevocable Letter of Credit"?

If your bank's standard "Irrevocable Letter of Credit" contains the required provisions as outlined in Appendix E ("Approved Format for Irrevocable Letter of Credit"), it will be accepted.

12. What if my bank's standard "Irrevocable Letter of Credit" does not contain all of the required provisions as outlined in Appendix E?



FREQUENTLY ASKED QUESTIONS

If your bank's standard "Irrevocable Letter of Credit" does not contain all of the provisions as outlined in Appendix E ("Approved Format for Irrevocable Letter of Credit"), it will not be accepted by the WVABCA. As an alternative, you may submit a bid bond or cashier's check in the amount of 25% of your actual bid amount.

- 13. My bank's standard "Irrevocable Letter of Credit" does not contain all of the required provisions as outlined in Appendix E. Is it permissible for my bank "copy and paste" the approved language included at Appendix E onto bank letterhead, provided the document is properly executed?**

Yes, your bank may copy and paste the language included at Appendix E ("Approved Format for Irrevocable Letter of Credit". The approved format must be placed on your bank's letterhead and it must name the West Virginia Alcohol Beverage Control Administration as the Beneficiary. In addition, your bank must clearly indicate the amount of credit and the expiration date.

- 14. How long must my Irrevocable Letter of Credit be valid?**

Your "Irrevocable Letter of Credit" must be valid through July 15, 2023.

- 15. Who should I make my cashier's check payable to?**

Your cashier's check must be made payable to the "West Virginia Alcohol Beverage Control Administration", or the "WVABCA". In addition, you must also specify the number of the retail outlet for which you are placing a bid on the face of the cashier's check.

- 16. If I submit a cashier's check in lieu of a Bid Bond or Irrevocable Letter of Credit, and I am not the successful bidder, will my cashier's check be mailed back to me?**

Yes, if you submit a cashier's check and you are not the successful bidder, your cashier's check will be mailed back to you.

- 17. On the "Release of Information and Waiver of Confidentiality of Records" form, what is the proper name (or names) to be placed on that form?**

On the "Release of Information & Waiver of Confidentiality of Records" form, the form states that the Applicant/Entity Name should be listed. If you are completing the form on behalf of a business entity (i.e., corporation, partnership, etc.) you must list the name of your business, including a "dba" name, if applicable. If you are a sole proprietorship with an individual who is the owner, you must list the individual owner's name.



FREQUENTLY ASKED QUESTIONS

18. On the “Authorization to Release Information” form, to whom should the information be released on Question 1?

On the “Authorization to Release Information” you must list the business entity or owner’s (if a sole proprietorship) name as the “Name of Taxpayer”. Additionally, you must state that the information may be released to the WVABCA as the licensing agency. WVABCA’s address is 900 Pennsylvania Avenue, 4th Floor, Charleston, WV 25302. Further, the effective period of this waiver in Question 2, should be June 30, 2023.

19. May I bid on multiple retail outlet licenses? NA for Phase V

Yes, you are permitted to bid on multiple retail outlet licenses subject to the provisions of the Code and the Rules. For additional information, please visit www.abca.wv.gov.

20. If I bid on multiple retail outlet licenses, do I need to complete a separate License Bidding Packet for each retail license that I am bidding on? NA for Phase V

Yes, you are required to complete and submit a separate License Bidding Packet for each retail outlet license for which a bid is submitted. You may contact the WVABCA or download additional blank License Bidding Packets from www.abca.wv.gov.

21. Is there a limit on how many retail outlet licenses I may own?

Yes, a licensee is not permitted to own more than 54 retail outlet licenses. A bidder may, however, submit bids on more than 54 retail outlet licenses. In such an instance, the bidder should submit a prioritized list of the licenses in numerical order for which they are bidding. If the bidder is not successful on any of the retail outlet licenses listed, those retail outlet licenses will be removed from the list in descending order and replaced (in ascending order) with any retail outlet license listed above number 54 on their list for which they are the successful bidder.

22. When will Bids be awarded?

Letters and information regarding successful winning bidders are tentatively scheduled to be mailed by end of August 2022.

23. I am the winning successful bidder. Do I still need to complete and submit my “2022-2023 Application for Retail Store License”?

Yes, you are required to still complete and submit a “2022-2023 WVABCA Application for Retail License”. In addition, it is your responsibility to ensure that you either currently meet, or will meet,



FREQUENTLY ASKED QUESTIONS

the requirements and restrictions of a Class A freestanding liquor retail outlet or Class B mixed retail liquor outlet no later than 90 days after August 8, 2022.

24. Do I need to complete a separate License Bid Packet for each separate retail outlet license that I currently operate? NA for Phase V

Yes, you must complete a separate License Bid Packet for each license you currently hold and operate (and intend to bid on the retail outlet) or for each retail outlet license that you wish to enter a bid.

25. Can I bid on a retail outlet license if myself, my business partner(s) or my family partner(s) own, operate or are otherwise involved in the liquor, wine and beer industry on the wholesale level, supplier level, broker level or the manufacturer/producer/importer levels of the “3 Tier System”?

No, you may not cross tiers in the “3 Tier System”. This would be a violation of federal law, including Tied House laws. If you are involved at the retail level in the liquor, wine or beer industry, then you may participate in a retail liquor outlet (and be licensed). However, any non-retailers who are involved in the liquor, wine or beer industry at different tier levels may not bid on a retail liquor outlet. Such bids will be rejected.

26. Does a licensee have to be a West Virginia resident in order to bid on a retail outlet license?

No, persons residing in West Virginia or any other state are permitted to hold a license. However, please note that West Virginia residents are eligible for a 5% residential bid preference. All bidders must be US citizens.

27. Is the State of West Virginia offering a deferred payment financing option?

No, a deferred payment financing option is not available during the License Bidding Process.

28. I am an Active Retail Licensee but chose not to exercise my Purchase Option. Do I receive any bid preferences? NA for Phase V

Yes, as a current licensee who owns and operates all of your retail outlets. However, in Phase IV of the License Bidding Process there are no current licensees so the preference will effectively not be available.

29. In the License Bidding Process, do I receive any preference as a current licensee? NA for Phase V

Yes, as a current licensee, you will receive a 5% current licensee’s preference and you will have the right to match the highest bidder’s bid amount, if you are unsuccessful and you have bid at or above the minimum bid (See section 13 of 175 CSR 5 for more information on the preference



FREQUENTLY ASKED QUESTIONS

calculation). However, in Phase IV of the License Bidding Process there are no current licensees and therefore there is no current license preference and no right to match.

30. Are there any additional bidder preferences?

Yes, there is a 5% residential preference (See Section 12 of 175 CSR 5 for more information on the preference calculation) for bidders who establish they are WV residents.

31. If I am eligible for the residential preference, what do I need to submit as “proof of residency”?

Please refer to Appendix D (“Residential Bid Preferences”).

32. How is the “current licensee” preference calculated?

N/A. See response to #28.

33. How is the “residential” preference calculated?

The 5% residential preference shall be computed by adding 5% of the bid price to the bid price submitted by the West Virginia resident bidder for that retail outlet license. Please refer to Appendix D for additional information on the residential bid preference.

Example: The minimum bid for a retail outlet license is \$300,000. Two (2) bids are received. A West Virginia resident bidder submits a bid of \$305,000 and a nonresident submits a bid of \$310,000 for that retail outlet license. The bid is awarded to the West Virginia resident bidder. The West Virginia resident’s bid of \$305,000 plus \$15,250, or 5% of \$305,000 equals \$320,250, which is greater than the \$310,000 bid submitted by the nonresident bidder. The West Virginia resident would remit \$305,000.

Note: *The 5% residential preference percentage is only used to calculate the successful winning bidder, not to increase any actual bid payment due and payable to the State of West Virginia.*

34. If I am awarded a retail outlet license as a result of one or both of the percentage bid preferences being applied, does it affect the amount I am required to pay for the retail outlet license?

*No, the preference percentages are only used to calculate the successful winning bidder, not to increase or decrease the actual bid payment that is due and payable to the State of West Virginia. If you are the successful winning bidder, the amount you will be required to remit to the State of West Virginia is your actual bid amount unless you are a current licensee who exercises the right to match the highest bid price. **For Phase V of the License Bidding Process there is no current license preference or right to match, since there is no current licensee for the retail outlet.***



FREQUENTLY ASKED QUESTIONS

Example: The minimum bid for a retail outlet license is \$300,000. Two (2) bids are received. Both bidders are West Virginia residents. A current licensee submits a bid of \$305,000 and a second party submits a bid of \$310,000 for that retail outlet license. The bid is awarded to the current licensee. The current licensee's bid of \$305,000 plus \$15,200, or 5% of \$305,000 (residential bid preference), equals \$315,250. The current licensee's bid is greater than the second party's bid of \$310,000 which is calculated as follows: \$310,000 actual bid amount less \$15,500, or 5% of \$310,000 (current licensee preference available to current licensee), plus \$15,500, or 5% of \$310,000 (residential preference), equals \$310,000. The successful current licensee bidder would remit \$305,000.

Note: The preference percentages are only used to calculate the successful winning bidder, not to increase or decrease any actual bid payment due and payable to the State of West Virginia.

35. If I am a current licensee, who after application of one or both bidder preferences, is not the high bidder, do I still have the right to match the highest bid?

N/A. See response to #28.

36. If I am awarded a retail outlet license during the License Bidding Process, may I sell, lease or transfer my retail outlet license at a later date? NA for Phase V

Yes, once your license has been issued and provided you have obtained the Commissioner's prior written approval, you are permitted to sell, lease or transfer your retail outlet license to a qualified individual or entity at a later date. The transferee may then elect to operate either a Class A license or a Class B license.

37. Can a successful bidder change the title of their retail liquor operation or its business name after the bidding procedure has been completed?

Yes, a successful bidder may change the title of their retail liquor store or business name at a later date provided the principal owners of the business remain the same. If you desire to make such a change, you must notify the WVABCA Licensing Division in writing and submit all required documentation and any fees associated with the change.

38. Is the RLLB permitted to add or move retail outlet licenses at a later date?

Yes, the RLLB may, at any time during the ten-year license period, add retail outlet licenses, delete inactive retail outlet licenses or move inactive retail outlet licenses to, from or between market



FREQUENTLY ASKED QUESTIONS

zones based on various factors, including but not limited to economic, demographic, sales and/or community demand.

Bidder Questions from 2010:

- 39. When you are the winning successful bidder for a retail outlet what does that give you? Such as only the right to open a store or does it come w/anything else like any type of stock or inventory or give you anything else for your store, or allow money towards anything?**

The winning successful bidder for a retail outlet has the privilege to open a retail outlet in the Market Zone set for the retail outlet won. A winning successful bidder In Phase V must operate a retail outlet within 90 days of August 8, 2022 (See 175 CSR 5). Failure to do so will result in the revocation of the license and loss of monies paid (See 175 CSR 5).

The winning successful bidder must also meet the WVABCA licensing requirements, background check, submit all documents, meet inspection requirements and pay all fees prior to selling any liquor.

The retail outlet is a private entity. A retail outlet must purchase its own: decorations; display units; storage units; and inventory. All liquor, beer (over 15% alcohol by volume), sake, certain wines and other West Virginia product must be purchased from the WVABCA via electronic funds transfer. (See 175 CSR 1).

The retail outlet as a private entity may choose whether to operate as a Class A license or Class B license and then meet the requirements of the particular license making the requisite expenditures to meet those requirements.

A license to sell nonintoxicating beer (15% or less alcohol by volume) is a separate license with a separate fee. Nonintoxicating beer is purchased from a licensed Beer Distributor.

A license to sell wine is a separate license with a separate fee. Certain wines are purchased from a licensed Wine Distributor.

- 40. I am planning on having a partner to bid on retail outlet licenses or open the retail outlet with me, does this mean that we both need to file for everything together or does only one person need to file everything?**



FREQUENTLY ASKED QUESTIONS

All partners shall be listed on the submitted documentation and must meet all licensing requirements. (See 175 CSR 1 and 175 CSR 5).

41. When buying inventory what is the basic cost for a normal 25 case order (a minimum order) that is listed in the WVABCA Quarterly Spirits Pricing Publication?

The price per case varies. Also depending on the type of retail outlet you will be operating a freestanding liquor retail outlet (Class A) or a mixed retail liquor retail outlet (Class B) and the size of your business your inventory levels would be different (See requirements in 175 CSR 1, 175 CSR 5 and License Bid Packet) and (See Quarterly Spirits Pricing publication on www.abca.wv.gov).

42. What is average cost of the initial stocking for a new store, or are we set on consignment?

No consignment sales. Each retail outlet must purchase and own its own inventory. (See 175 CSR 1 and 175 CSR 5).

43. Are all mark ups standard and set by the state, or does the owner of the store set prices at their own judgment?

See W. Va. Code §60-3A-17, a retail outlet licensee must sell liquor at a minimum of 110% of its cost. The WVABCA checks and enforces this pricing requirement.

44. I am interested in purchasing a retail outlet in _____ County I believe that it will be in the Zone __, but what section do I need to bid in to get the area around a specific location?

Certain retail outlets are restricted to Designated Areas or specific geographic regions as noted in the License Bid packet and other areas are Dry Market Areas where no retail outlets are permitted. Any unrestricted Zone or Retail Outlet may be located anywhere within a Zone subject to the WVABCA licensing requirements in 175 CSR 1, 175 CSR 5 and the Rules (See Appendix B - Retail Outlet License Available for Bid).

45. In the requirements I read that a freestanding liquor retail outlet has to be a freestanding building with no business on either side?

Please review 175 CSR 5 §5.2.e.2.C.

46. In the License Bid Packet, if there is a retail outlet available in Zone __, does it include the store, building, inventory, rent, shelving? Are you getting someone else's business, what does this retail outlet license come with, and where is it located?

You are not buying anyone's business. You must build, lease, construct or otherwise operate a retail outlet within 90 days of August 8, 2022 (See 175 CSR 5). Failure to be in operation on or



FREQUENTLY ASKED QUESTIONS

before 90 days from August 8, 2022 will result in the revocation of your license and a loss of any monies paid (See 175 CSR 5).

47. Do private clubs buy from the state or from the retail outlets?

See 175 CSR 5 private clubs may only purchase from any retail outlet within the Zone or a Contiguous Zone where the private club is located. Private clubs are prohibited from purchasing from out of state and bootlegging liquor into West Virginia (See 175 CSR 2). Delivery of alcoholic liquors by a retail outlet is prohibited (See 175 CSR 5). The private clubs must transfer their own purchases from the retail outlet to their private club (See 175 CSR 2).

48. When placing a bid on a retail outlet, explain what is the actual amount of the cashier's check or money order, irrevocable letter of credit or surety bond?

See License Bid Process FAQ #8. The amount enclosed to secure your bid is 25% of your actual bid amount whether it is cashier's check or money order, irrevocable letter of credit or surety bond.

49. Also, if you are not the successful winning bidder, is 100% of your money refunded?

See License Bidding Process FAQ # 16.

50. What happens if I do not remit payment in full for my retail outlet license?

If a successful bidder fails to remit payment in full for their retail outlet license on or before September 1, 2022, the cashier's check/money order, bid bond or the letter of credit provided for in W.Va. Code §60-3A-11 and 175 CSR 5-12, both as amended, will be forfeited and the bidder will not be issued the retail outlet license. In addition, the bidder will be prohibited from bidding on or purchasing a retail outlet license in the future. The WVABCA may also sanction or revoke any additional retail outlet licenses won or held by such bidder.



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, LICENSEES AND POTENTIAL BIDDERS SHOULD CONSIDER THE INHERENT RISKS ASSOCIATED WITH THIS INVESTMENT AND BID AT THEIR OWN RISK.

Appendix

A



RETAIL OUTLET LICENSES AUTHORIZED

Provided below is a listing of all liquor licenses (181) that are authorized in the State of West Virginia. **Please note that this listing does not represent those licenses that are available for bid.** Please refer to the “Retail Outlet Licenses Available for Bid” section of this packet (Appendix B) for a listing of those licenses that are available for bid (also see “Zone Maps”).

Zone	County	Number of Licenses	Zone	County	Number of Licenses
1	Barbour	1	33	Jackson	1
2	Barbour	1	34	Jefferson	3
3	Berkeley	6	35	Jefferson	2
4	Berkeley	2	36	Kanawha	7
5	Boone	1	37	Kanawha	7
6	Boone	1	38	Kanawha	6
7	Braxton	2	39	Lewis	2
8	Brooke	2	40	Lincoln	1
9	Brooke	1	41	Logan	2
10	Cabell	7	42	Logan	1
11	Cabell	2	43	Marion	2
12	Calhoun	1	44	Marion	1
13	Clay	1	45	Marion	2
14	Doddridge	1	46	Marshall	2
15	Fayette	2	47	Mason	2
16	Fayette	2	48	Mason	1
17	Gilmer	1	49	McDowell	1
18	Grant	2	50	McDowell	1
19	Greenbrier	2	51	McDowell	0
20	Greenbrier	2	52	Mercer	3
21	Greenbrier	1	53	Mercer	3
22	Hampshire	2	54	Mineral	2
23	Hancock	1	55	Mineral	1
24	Hancock	1	56	Mingo	1
25	Hancock	2	57	Mingo	0
26	Hardy	1	58	Mingo	1
27	Hardy	1	59	Mingo	1
28	Harrison	3	60	Monongalia	2
29	Harrison	1	61	Monongalia	4
30	Harrison	2	62	Monongalia	3
31	Harrison	1	63	Monroe/Greenbrier	2
32	Jackson	1	64	Morgan	2



RETAIL OUTLET LICENSES AUTHORIZED

Zone	County	Number of Licenses
65	Nicholas	1
66	Nicholas	2
67	Ohio	5
68	Pendleton	1
69	Pleasants	1
70	Pocahontas	2
71	Pocahontas	0
72	Preston	1
73	Preston	2
74	Putnam	3
75	Putnam	2
76	Raleigh	5
77	Raleigh	2
78	Raleigh	2
79	Randolph	2
80	Randolph	1
81	Ritchie	1
82	Roane	1
83	Summers	1
84	Taylor	1
85	Tucker	1
86	Tucker	2
87	Tyler	1
88	Upshur	1
89	Wayne	2
90	Webster	1
91	Wetzel	1
92	Wetzel	0
93	Wirt	1
94	Wood	6
95	Wood	1
96	Wyoming	1
97	Wyoming	1
98	Wyoming	1

Appendix

B



RETAIL OUTLET LICENSES AVAILABLE FOR BID

There are a total of 182 licenses authorized in the State of West Virginia (see Appendix A for a complete listing). During Phase I, the Purchase Option Process, 49 active retail licensees exercised the Purchase Option on previously licensed retail outlet licenses. During Phase II, approximately 128 retail outlet licenses were awarded. During Phase III, approximately 2 retail outlet licenses were awarded. During Phase IV, 2 retail outlet licenses were awarded. Phase V one retail outlet is available for bid

Provided below is a listing of one retail outlet license that will be offered during Phase V of the License Bid Process.

For additional information about all retail outlet licenses, you must review the “**Zone Map**” available at www.abca.wv.gov.

Market Zone	Retail Outlet Number	Minimum Bid
12	744	\$77,228.19

Appendix C



DRY AREA

The Market Zones represent the market areas within the State in which successful 2020 bidders and purchasers may locate their retail liquor outlets for off-premises sales of alcoholic liquors (liquor and wine).

In certain areas of the State, however, there are “DRY” areas in which the retail sale of liquor and wine are prohibited by local municipality or county ordinance.

The Market Zones established by the Retail Liquor Licensing Board encompass the dry areas. As a result, it is important that interested bidders, purchasers or Class B wine carry-outs be familiar with the “Dry Areas” in the Market Zones which are affected by local and/or county ordinances.

Per HB 4524, passed during the 2020 Regular Legislative Session, as of July 1, 2020, only 2 areas in the state have met the requirements set forth in the bill to vote, and certify the results of the vote, affirming its status as a “dry” area

(See HB 4524 - <https://abca.wv.gov/Documents/Leg2020/HB.4524.pdf>).

A list of the “DRY” market areas of the State of West Virginia are presented below.

COUNTY “DRY” MARKET AREA

Preston Only the Town of Brandonville is dry

If any of these “DRY” market areas are of interest for bidding and/or purchasing a retail liquor outlet, or wine carryout, please be advised to verify the boundaries of the “DRY” versus “WET” status (i.e. permits the lawful off-premises retail sale of liquor and wine) of the area with local government officials as well as the procedures necessary to convert a “DRY” area to a “WET” area.

Appendix

D



RESIDENTIAL BID PREFERENCES

Preference for Resident Bidders:

1. In determining the highest bidder for retail liquor store licenses, a 5% preference for West Virginia resident bidders, shall be computed by adding 5% of the bid price to the bid price submitted by the resident bidder for a retail license. This preference shall be forfeited by any resident bidder who fails to submit the minimum bid amount specified by the Retail Liquor Licensing Board ("RLLB") for a particular retail outlet license.
2. This preference shall not be added to the amount of any bid that is less than the minimum amount specified by the RLLB for that retail outlet license.
3. A bidder shall be considered a West Virginia resident if the bidder:
 - a. Being an individual, has resided in West Virginia for at least 4 years during the 48 consecutive month period immediately prior to the date on which the bid is opened; or:
 - b. Being a person other than an individual, has had its headquarters or principal place of business in this state for at least 4 years during the 48 consecutive months immediately prior to the date on which the bid is opened.
4. "Headquarters" or "principal place of business" means the place where the majority of the governing power of a bidder resides and is executed.
5. In order to qualify as a resident bidder, a person other than an individual, means a bidder who in each year of the 4-year period during the 48 consecutive months immediately prior to the date on which the bid is opened, did as follows:
 - a. Had registered in accordance with W. Va. Code §11-12-1 et seq., ("Business Registration Tax") to transact business within the State of West Virginia;
 - b. Maintained its headquarters or principal place of business in this State; this can be certified by the chief operating officer, by whatever name called, of the person certifying, under penalty of perjury, the period of time the person's headquarters or principal place of business was continuously located in this state, as of the date the affidavit is signed, and stating that the address will remain the same as of the date on which the bids are opened;
 - c. Had actually paid, and not just applied to pay, county personal property taxes on the equipment used in the regular course of its business activity;
 - d. Had actually paid, and not just applied to pay, required business taxes imposed by W. Va. Code §11-1-1 et seq. and the State of West Virginia; a



RESIDENTIAL BID PREFERENCES

resident bidder shall give written consent to the West Virginia State Tax Commissioner authorizing disclosure to the WVABCA Commissioner of appropriate information which will verify that the bidder has paid the required business taxes, but such information shall not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential. An “Authorization to Release Information” form is attached which has been prepared by the West Virginia State Tax Commissioner for this purpose. Bidders shall complete this form and mail it to the West Virginia State Tax Commissioner, 1001 Lee St. E., Charleston, WV 25301; and

- e. A bidder who is other than an individual and is claiming a preference for residential bidders, shall submit documents in its bid package which prove its entitlement to this preferential treatment. Such documents will have to indicate that the requirements stated in this subsection have been satisfied.
6. A bidder who is an individual may prove that he or she continuously resided in this state during the 48 month period immediately preceding the opening of his bid by submitting with his or her bid form an affidavit signed, under penalty of perjury, certifying the period of time the individual continuously resided in this state, as of the date the affidavit is signed, stating that he or she intends to be a resident of this state on the day his or her bid is opened and true copies of any 2 of the following documents:
- a. Copies of receipts from the sheriff of a county indicating payment of personal property taxes and/or real estate taxes for each of the 4 years which indicate a West Virginia address for the bidder;
 - b. Copies of West Virginia Department of Motor Vehicle documents such as a driver’s license, registration card, or certificate of title of a motor vehicle indicating a West Virginia address for the bidder during those 4 years;
 - c. Certification from the West Virginia State Tax Commissioner that the bidder had filed West Virginia Resident Income Tax Returns for the previous 4-year period prior to the bid which indicated a West Virginia residence address for the bidder;
 - d. Copies of insurance policies on the person’s primary residence, whether owned or rented, showing its location for each of the 4 years immediately preceding the day the person’s bid is opened;
 - e. A letter signed by the clerk of the individual’s county of residence certifying the date on which the individual registered to vote in that county and that the



RESIDENTIAL BID PREFERENCES

individual is still eligible to vote in that county and that the individual has remained eligible to vote in any election held in the 48 month period immediately preceding the opening of the bids; and if during such 4-year period the individual resided in 2 or more West Virginia counties, the separate certificates from the clerk of each county in which the individual resided will be accepted; and

- f. Copies of any documents mentioned above shall be submitted with the bid form by any individual bidder who desires to be granted a Preference for Residence Bidders;
7. A bidder who believes he meets the requirements for residency must affirmatively assert their claim on the License Bid Form to receive this preferential treatment.

Appendix

E



APPROVED FORMAT FOR IRREVOCABLE LETTER OF CREDIT

Agreement

In consideration of your issuing the standby letter of credit applied for therein called the “credit”, We (“Applicant and Correspondent Bank”) hereby agree as follows:

1. We agree to pay to you (“WVABCA”) on demand, at your address and in United States currency, the amount of each draft payable in United States currency and drawn under the credit or purporting to be drawn.
2. We agree to pay to you on demand, at your address and in United States currency, the equivalent (at your then selling rate for cable transfers to the place where and in the currency in which such draft or instrument is payable) of the amount of each draft payable in other than United States currency and drawn under the credit, or purporting to be drawn.
3. We agree to pay to you on demand a commission for the credit at such rate as you have quoted to us, together with the amount of any and all charges and expenses paid or incurred by you or by any of your agents or correspondents in connection with the credit. In addition to such commission and any such charges and expenses, we agree that if at any time any applicable law, rule or regulation or the interpretation or administration thereof by any governmental authority:
 - a. Shall subject you to any tax, duty or other charge with respect to this agreement, or shall materially change the basis of taxation of payments to you of the principal of or interest on any amounts payable by us under this agreement (except for the imposition of or changes in respect of the rate of tax on your overall net income); or
 - b. Shall impose or deem applicable or increase any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by you because of this agreement or the credit; or
 - c. Shall require you to include the credit in your calculations relating to your capitalization, and if the result is to increase the cost to you of maintaining the credit, or to reduce the amount of any sum received or receivable by you under this agreement, then within 30 days after demand we agree to pay you such additional amount or amounts as will compensate you for such increased cost or reduction. Your certificate in reasonable detail setting forth the basis for the determination of such additional amount or amounts shall be conclusive evidence of such amount or amounts.
4. All amounts payable by us under paragraphs 1 and 2 of this agreement shall, if unpaid, bear interest from the date of demand; all other amounts payable by us under any provision of this agreement, except this paragraph 4, shall, if unpaid, bear interest from the date you are first entitled to demand payment thereon, regardless of whether you actually do make demand. In all cases, such indebtedness shall bear interest at an annual rate equal to the highest rate or rates of interest payable by us (for periods of time such indebtedness is outstanding) pursuant to the provisions of any



APPROVED FORMAT FOR IRREVOCABLE LETTER OF CREDIT

promissory note issued or endorsed by us and held by you, or, for periods of time during which no such promissory note is outstanding at (check one): ____ the annual rate of ____%, ____ an annual rate that shall be ____ % in excess of the base rate in effect from time to time, and that shall change when and as the base rate changes. “Base rate” means the rate of interest established by _____ from time to time as its “base” or “prime” rate. We agree to pay such interest to you, on a monthly basis and also on demand, based on a 360 day year.

5. Except to the extent we may hereafter give you contrary instructions in writing:
 - a. Your duty and that of your correspondents to examine certificates and other documents received by you or them under, or purporting to be under, the credit, shall be fully discharged if you or they exercise reasonable care to ascertain that they appear on their face to be in accordance with the terms of the credit.
 - b. Your liabilities and responsibilities and those of your correspondents shall be strictly limited in accordance with the most current revision of the Uniform Customs and Practice for Documentary Credits (2007 Revision), ICC Publication Number 600 (“UCP600”), effective July 1, 2007.
 - c. You and your correspondents may receive and accept or pay as complying with the terms of the credit any drafts, documents or statements, otherwise in order, which may be signed by the administrator, executor, trustee in bankruptcy of or receiver of any of the property of (or any similar representative or trustee for), the person in whose name the credit provides that any such drafts, documents or statements must be drawn or issued.

6. You shall assume no liability or responsibility:
 - a. For the form, sufficiency, accuracy, genuineness, falsification or legal effect of any documents or statements;
 - b. For the consequences arising out of any delay and/or loss in transit of any messages, letters or documents, or the delay, mutilation or other errors arising from the transmission of cables, emails, wires, faxes, telegrams or telex; or
 - c. For consequences arising out of the interruption of your business by acts of God, riots, civil commotions, insurrections, wars or other causes beyond your control or by any strikes or walkouts.
 - d. None of the foregoing acts or things shall in any way affect or impair any of our obligations or any of your rights and powers specified in or arising under this agreement. In furtherance and extension and not in limitation of the specific provisions set forth above, we agree that any action taken or omitted by you or by your correspondents under or in connection with the credit, if taken or omitted with honesty in fact, shall be binding on us



APPROVED FORMAT FOR IRREVOCABLE LETTER OF CREDIT

and shall not put you or your correspondents under any resulting liability to us. We further agree that we will indemnify you and your correspondents, and also your and their officers, employees and agents, and hold you and all of them harmless from and against each and every claim, demand, action, or suit which may arise against you or them by reason of any action taken or omitted (from and against each and every claim, demand, action or suit which may arise against you or them by reason of any action taken or omitted) pursuant to this agreement.

7. We agree to pay to you on demand any and all expenses, including reasonable attorneys' fees and legal expenses, incurred or paid by you in protecting or collecting our indebtedness to you under this agreement or in protecting, exercising or enforcing any or all of your rights and remedies against us.
8. Should any of the following events of default occur, and if at the time of any such event there remains any portion of the Credit undisbursed, we shall, upon your demand, pay to you for application to drawings under the Credit the entire amount which has not been drawn:
 - (i) we default in respect of any payment due you under this agreement;
 - (ii) we default in the payment of any indebtedness which we may have for the repayment of borrowed monies;
 - (iii) we become insolvent, fail to pay our debts generally as they become due, make any assignment for the benefit of creditors, file or suffer the filing of any petition or action for relief under the provisions of the United States Bankruptcy Code or other similar laws for the relief of or relating to, debtors;
 - (iv) there is a voluntary or involuntary appointment of a receiver, trustee, custodian or similar official to take possession of any of our property;
 - (v) there is an attachment of any material involuntary lien of any kind to our property or assets; or
 - (vi) any representation made in any financial statement or in any other statement or document presented to you by or on our behalf is, in any material respect, false or misleading when made. Any amount so paid which has not been drawn on the expiry date of the Credit shall be repaid to us.
9. We further agree that:
 - a. This agreement and your rights hereunder shall continue unimpaired and shall be binding upon us notwithstanding any delay, extension of time, increase in amount, renewal, compromise or other indulgence or modification granted or agreed to by you, with or without notice to or approval by us (or any of us) in respect of the credit or any of our indebtedness to you under this agreement.
 - b. You shall not be deemed to have waived or released any of your rights or remedies (whether specified in or arising under this agreement or otherwise available to you by law or



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agreement) unless you have signed a written waiver or release. Delay or failure to act on your part shall not constitute a waiver of or otherwise preclude enforcement of any of your rights and remedies. All of your rights and remedies shall be cumulative and may be exercised singularly or concurrently. You need not resort to any particular right or remedy before exercising or enforcing any other, and your resort to any right or remedy shall not preclude the exercise of enforcement of each other's right and remedy.

- c. This agreement shall be governed by the laws of the state where your main banking office is located.
- d. If any provision or clause of this agreement or the application thereof to any person or circumstance is invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect other provisions, clauses or applications of this agreement which can be given effect, and this agreement shall be construed as if the invalid or illegal or unenforceable provision, clause or application has never been contained herein.
- e. If the application is signed by or on behalf of several of us, this agreement shall be construed and interpreted so as to establish in all instances the joint and several obligations of each of us and this agreement shall be fully binding upon and enforceable against either, any or all of us. Each of us shall be deemed to be the agent of any others, and except as expressly provided otherwise herein, you may act at the direction or request of any one or more of us and you may give a notice or notices (whether or not required to be given), to any one or more of us, all as you may from time to time elect, without notice to or approval by the others. You may terminate this agreement with respect to, or release or discharge, any one or more of us without affecting or impairing the obligations of the rest of us. The death, incompetence or dissolution of any of us or any change in the composition of any partnership or any other firm which may be a party hereto shall not affect in any way the credit or any rights with respect to indebtedness incurred under this agreement or with respect to transactions theretofore initiated. In this agreement, the terms "we," "us," and "our" refer to any one or more applicants and correspondent banks that have executed the application, and the terms "you" and "your" refer to the bank to which such application is directed.
- f. This agreement is without limitation as to duration or amount and shall be binding upon our respective heirs, legal representatives, successors and assigns and shall inure to the benefit of and be enforceable by you, your successors and assigns. You may assign or transfer this agreement and you shall thereafter be forever relieved and fully discharged from any liability or responsibility with respect thereto, but you shall retain all of your rights and remedies specified in or arising under this agreement with respect to any and all instruments and rights not so assigned or transferred.
- g. Unless you agree otherwise, the credit shall be subject to Uniform Customs and Practice for Documentary Credits (2007 revision), ICC Publication number 600 effective July 1,



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2007, but all of your rights arising under said Customs and Practice shall be in addition to, and not in limitation of, your rights under this agreement.

- h. The minimum bid on this retail outlet # _____ is \$ _____. My actual bid is \$ _____. Twenty-five percent (25%) of my actual bid secured by this document and the undersigned is \$ _____.

We waive notice of your acceptance of this agreement.

Dated this _____ day of _____, 20____

APPLICANT

Company or individual name

Authorized signature

Title

CORRESPONDENT BANK

Bank name

Authorized signature

Title

Address:

Phone Number:

Appendix

F



APPROVED FORMAT FOR BID SURETY BOND

Bid Surety Bond

KNOW ALL MEN BY THESE PRESENTS, That we, the undersigned, _____ (A) _____ of, _____ (B) _____, _____ (C) _____, as an Active Retail Licensee (“Licensee”), and _____ (D) _____ of _____ (E) _____, _____ (F) _____, a corporation organized and existing under the laws of the State of _____ (G) _____ with its principal office in the City of _____ (H) _____, as Surety, are held and firmly bound unto The State of West Virginia, as Obligee, in the penal sum of _____ (I) _____ (\$ _____ (J) _____) 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 the Licensee has submitted to the West Virginia Alcohol Beverage Control Administration an executed Bid Form and Statement of Understanding indicating their bid for a retail liquor outlet license for the ten (10) year period beginning July 1, 2020 and through June 30, 2030.

NOW THEREFORE,

- (a) If the Bid is rejected or unsuccessful, or
- (b) If the Bid is accepted and successful, the Licensee shall complete an application and be approved for licensure in accordance with the terms outlined in the Letter of Intent attached hereto, and shall in all other respects perform the agreement created by the execution of said Letter of Intent 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, violations of Chapter 60 of the West Virginia Code or the applicable Rules 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 time within which the Obligee may accept such bid: and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, Licensee and Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be affixed hereto and these presents to be signed by their proper officers, this _____ (K) _____ day of _____ (L) _____, 20____ (M) _____.



APPROVED FORMAT FOR BID SURETY BOND

Licensee Corporate Seal (if applicable)

(O)

(R)
Surety Corporate Seal

(N)

(Name of Licensee)

By: (P)

(Must be President or
Principal/Managing
Owner)

(Q)

Title

(S)

(Name of Surety)

(T)

Attorney-in-Fact

IMPORTANT – Surety executing bonds must be licensed in West Virginia to transact surety insurance. Raised Corporate Seals must be affixed and a Power of Attorney must be attached.

- (A) Your Company Name
- (B) City, Location of your Company
- (C) State, Location of your Company
- (D) Surety Corporate Name
- (E) City, Location of Surety
- (F) State, Location of Surety
- (G) State of Surety Incorporation
- (H) City of Surety Incorporation
- (I) Minimum amount of acceptable bid bond is 25% of the Actual Bid amount.
- (J) Amount of bond in figures
- (K) Day of the month

- (L) Month
 - (M) Year
 - (N) Name of Corporation
 - (O) Raised Corporate Seal of Principal
 - (P) Signature of President/Principal/Managing Owner
 - (Q) Title of person signing
 - (R) Raised Corporate Seal of Surety
 - (S) Corporate Name of Surety
 - (T) Signature of Attorney in Fact of the Surety
- NOTE:** Dated, Power of Attorney with Raised Surety Seal must accompany this bid bond.

Appendix

G



NOTICE TO ALL BIDDERS FOR RETAIL LICENSES REGARDING RETAIL DEALER REGISTRATION

Retail Dealers Must Register with TTB

Although the special tax for retail dealers has been repealed, every retail dealer is still required to register with TTB using [TTB F 5630.5d](#).

Also remember that you still must pay any past due tax liabilities that were incurred for periods before the effective date of the repeal using [TTB F 563 0.5a](#).

For more information, call 877-882-3277 or visit the [Special \(Occupational\) Tax Frequently Asked Questions](#) page at [TTB.gov](#).

See also the following TTB advisory link:
https://www.ttb.gov/public_info/5170-2a.htm

IMPORTANT: YOU ARE NO LONGER REQUIRED TO REMIT COPIES OF YOUR TAX STAMPS TO THE WVABCA. HOWEVER, IT IS YOUR RESPONSIBILITY TO PROPERLY REGISTER YOUR BUSINESS WITH THE TOBACCO TAX AND TRADE BUREAU (TTB). ON AN ANNUAL BASIS, THE TOBACCO TAX AND TRADE BUREAU WILL PROVIDE THE WVABCA WITH A LISTING OF THOSE PRODUCERS AND DEALERS THAT ARE CURRENTLY REGISTERED IN WEST VIRGINIA.

For additional information, please visit www.ttb.gov.