



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

# Request for Quotation

RFQ NUMBER
LOT455

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF
SHELLY MURRAY 304-558-8801

RFQ COPY  
 TYPE NAME/ADDRESS HERE

VENDOR

STATE TO

LOTTERY COMMISSION

312 MACCORKLE AVENUE, SE  
 CHARLESTON, WV  
 25314-1143 558-0500

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
12/29/2009				

BID OPENING DATE: 02/04/2010 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	LS		946-20		
<p style="text-align: center;">REQUEST FOR PROPOSAL</p> <p>THE WEST VIRGINIA PURCHASING DIVISION, FOR THE AGENCY, THE WEST VIRGINIA LOTTERY, IS SOLICITING PROPOSALS FOR A CPA FIRM TO PROVIDE ANNUAL AUDIT SERVICES PER THE ATTACHED SPECIFICATIONS.</p> <p>TECHNICAL QUESTIONS MUST BE SUBMITTED IN WRITING TO SHELLY MURRAY IN THE WEST VIRGINIA PURCHASING DIVISION VIA MAIL AT THE ADDRESS SHOWN IN THE BODY OF THIS RFP, VIA FAX AT 304-558-4115, OR VIA EMAIL AT SHELLY.L.MURRAY@WV.GOV. DEADLINE FOR ALL TECHNICAL QUESTIONS IS 01/20/2010 AT THE CLOSE OF BUSINESS. ALL TECHNICAL QUESTIONS RECEIVED, IF ANY, WILL BE ADDRESSED BY ADDENDUM AFTER THE DEADLINE.</p> <p>AUDITING SERVICES</p> <p>EXHIBIT 3</p> <p>LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE UPON AWARD AND EXTENDS FOR A PERIOD OF ONE (1) YEAR OR UNTIL SUCH "REASONABLE TIME" THEREAFTER AS IS NECESSARY TO OBTAIN A NEW CONTRACT OR RENEW THE ORIGINAL CONTRACT. THE "REASONABLE TIME" PERIOD SHALL NOT EXCEED TWELVE (12) MONTHS. DURING THIS "REASONABLE TIME" THE VENDOR MAY TERMINATE THIS CONTRACT FOR ANY REASON UPON GIVING THE DIRECTOR OF PURCHASING 30 DAYS WRITTEN NOTICE.</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

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**GENERAL TERMS & CONDITIONS**  
**REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)**

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.
4. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods this Purchase Order/Contract becomes void and of no effect after June 30.
5. Payment may only be made after the delivery and acceptance of goods or services.
6. Interest may be paid for late payment in accordance with the *West Virginia Code*.
7. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
8. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
9. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
10. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern the purchasing process.
11. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
12. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, the State may deem this contract null and void, and terminate such contract without further order.
13. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at [www.state.wv.us/admin/purchase/vrc/hipaa.htm](http://www.state.wv.us/admin/purchase/vrc/hipaa.htm) and is hereby made part of the agreement. Provided that the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
14. **CONFIDENTIALITY:** The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.
15. **LICENSING:** Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, and the West Virginia Insurance Commission. The vendor must provide all necessary releases to obtain information to enable the director or spending unit to verify that the vendor is licensed and in good standing with the above entities.
16. **ANTITRUST:** In submitting a bid to any agency for the State of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will convey, sell, assign or transfer to the State of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, or person or entity submitting a bid for the same material, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

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**INSTRUCTIONS TO BIDDERS**

1. Use the quotation forms provided by the Purchasing Division. Complete all sections of the quotation form.
2. Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Unit prices shall prevail in case of discrepancy. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
4. All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130
5. Communication during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited (W.Va. C.S.R. §148-1-6.6).



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 25314-1143 558-0500

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12/29/2009				

BID OPENING DATE: 02/04/2010 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>UNLESS SPECIFIC PROVISIONS ARE STIPULATED ELSEWHERE IN THIS CONTRACT DOCUMENT, THE TERMS, CONDITIONS AND PRICING SET HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT.</p> <p>RENEWAL: THIS CONTRACT MAY BE RENEWED UPON THE MUTUAL WRITTEN CONSENT OF THE SPENDING UNIT AND VENDOR, SUBMITTED TO THE DIRECTOR OF PURCHASING THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE. SUCH RENEWAL SHALL BE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) ONE (1) YEAR PERIODS.</p> <p>CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.</p> <p>OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANSPORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK.)</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THE STATE MAY DEEM THE CONTRACT NULL AND VOID, AND TERMINATE SUCH CONTRACT WITHOUT FURTHER ORDER.</p> <p>THE TERMS AND CONDITIONS CONTAINED IN THIS CONTRACT SHALL SUPERSEDE ANY AND ALL SUBSEQUENT TERMS AND CONDITIONS WHICH MAY APPEAR ON ANY ATTACHED PRINTED</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

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**304-558-8801**

VENDOR

RFQ COPY  
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**LOTTERY COMMISSION**  
  
**312 MACCORKLE AVENUE, SE**  
**CHARLESTON, WV**  
**25314-1143 558-0500**

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
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BID OPENING DATE: **02/04/2010** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>DOCUMENTS SUCH AS PRICE LISTS, ORDER FORMS, SALES AGREEMENTS OR MAINTENANCE AGREEMENTS, INCLUDING ANY ELECTRONIC MEDIUM SUCH AS CD-ROM.</p> <p>REV. 05/26/2009</p> <p style="text-align: center;">NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p style="text-align: center;">DEPARTMENT OF ADMINISTRATION            PURCHASING DIVISION            BUILDING 15            2019 WASHINGTON STREET, EAST            CHARLESTON, WV 25305-0130</p> <p>THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:</p> <p>SEALED BID</p> <p>BUYER: <span style="float: right;">SHELLY MURRAY</span></p> <p>RFQ. NO.: <span style="float: right;">LOT455</span></p> <p>BID OPENING DATE: <span style="float: right;">02/04/2010</span></p> <p>BID OPENING TIME: <span style="float: right;">1:30 PM</span></p> <p>PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY</p>						

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12/29/2009			.	

BID OPENING DATE: 02/04/2010 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
TO CONTACT YOU REGARDING YOUR BID:						
-----						
CONTACT PERSON (PLEASE PRINT CLEARLY):						
-----						
***** THIS IS THE END OF RFQ LOT455 ***** TOTAL: _____						

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# REQUEST FOR PROPOSAL

## West Virginia Lottery RFP# LOT455

### PART 1 GENERAL INFORMATION

#### 1.1 Purpose:

The Acquisition and Contract Administration Section of the Purchasing Division, hereinafter referred to as "State", is soliciting proposals for the West Virginia Department of Tax and Revenue, Lottery Commission, hereinafter referred to as "Agency", to provide Audit Services for fiscal year ending June 30, 2010, with the option of auditing its financial statements for each of the two subsequent fiscal years. This solicitation serves as notice, pursuant to West Virginia Code §5A-3-10b, of the commodity or service being sought and is to be considered the opportunity for vendors to indicate their interest in bidding on such commodity or service.

#### 1.2 Project:

The mission or purpose of the project is to provide auditing services in accordance with generally accepted auditing standards (GAAS), Statement of Auditing Standards No. 99 (SAS 99) and any other that may apply, as well as the requirements of the State Lottery Act (W. Va. Code § 29-22-1, et seq.), Racetrack Video Lottery Act (W. Va. Code § 29-22A-1, et seq.), Limited Video Lottery Act (W. Va. Code § 29-22B-101, et seq.), Table Games Act (W. Va. Code § 29-22C-1, et seq.), and Limited Gaming Facility Act ("Greenbrier")(W. Va. Code § 29-25-1, et seq.) and other applicable laws and regulations.

#### 1.3 RFP Format:

This RFP has four parts. "Part 1" contains general information, terms and conditions; "Part 2" describes the background and working environment of the project; "Part 3" is a statement of the specifications for the services requested pursuant to this RFP, contractual requirements, and special terms and conditions; and "Part 4" explains the required format of the Bidder's response to the RFP, the evaluation criteria the State will use in evaluating the proposals received and how the evaluation will be conducted.

#### 1.4 Inquiries:

Additional information inquiries regarding specifications of this RFP must be submitted in writing to the State Buyer with the exception of questions regarding the proposal submission which may be oral. The deadline for written inquiries is identified in the Schedule of Events, Section 1.16. All inquiries of specification clarification must be addressed to:

Shelly Murray, Senior Buyer  
Purchasing Division  
2019 Washington Street, East  
P.O. Box 50130  
Charleston, WV 25305-0130  
Fax: (304) 558-4115

**The vendor, or anyone on the vendor's behalf, is not permitted to make any contact whatsoever with any member of the evaluation committee. Violation may**

result in rejection of the bid. The State Buyer named above is the sole contact for any and all inquiries after this RFP has been released.

**1.5 Vendor Registration:**

Vendors participating in this process should complete and file a ***Vendor Registration and Disclosure Statement*** (Form WV-1) and remit the registration fee. Vendor is not required to be a registered vendor in order to submit a proposal, but the **successful bidder must** register and pay the fee prior to the award of an actual purchase order or contract.

**1.6 Oral Statements and Commitments:**

Vendor must clearly understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any State personnel is **not** binding. Only the information issued in writing and added to the Request for Proposal specifications file by an official written addendum are binding.

**1.7 Economy of Preparation:**

Proposals should be prepared simply and economically, providing a straightforward, concise description of Vendor's abilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.

**1.8 Labeling of RFP Sections:**

The sections within this RFP contain instructions governing how the Vendor's proposal is to be arranged, submitted and to identify the material to be included therein.

**1.8.1 *Mandatory Requirements.***

Any specification or statement containing the word "must", "shall", or "will" are mandatory. Section 3 contains mandatory deliverables required upon contract execution. By signing and submitting a response to this RFP, the vendor agrees to all mandatory deliverables described herein. Section 4 describes RFP response requirements, which may be mandatory. The vendor is required to meet all mandatory requirements in order to be eligible for consideration and to continue in the evaluation process. Failure to meet or agree to mandatory items shall result in disqualification of the Vendor's proposal and the evaluation process will be terminated for that vendor. Decisions regarding compliance with any mandatory requirement shall be at the sole discretion of the State.

**1.8.2 *Contract Terms and Conditions:***

This Request for Proposals contains all the contractual terms and conditions under which the State of West Virginia will enter into a contract.

**1.8.3 *Informational Sections:***

All non-mandatory information specifications do not require a response from the Vendor. They are intended to aid the vendor in structuring an effective proposal capable of meeting the needs of the issuing agency.

**1.9 Proposal Format and Submission:**

**1.9.1** Each proposal should be formatted as per the outline in Part 4 of this RFP. No other arrangement or distribution of the proposal information may be made by the bidder. Failure on the part of the bidder to respond to specific requirements detailed in the RFP may be the basis for disqualification of the proposal. The State reserves the

right to waive any informality in the proposal format and minor irregularities.

1.9.2 State law requires that the original technical and cost proposal be submitted to the Purchasing Division. All proposals must be submitted to the Purchasing Division **prior** to the date and time stipulated in the RFP as the opening date. All bids will be dated and time stamped to verify official time and date of receipt.

1.9.3 Vendors mailing proposals should allow sufficient time for mail delivery to ensure timely arrival. In accordance with West Virginia Code §5A-3-11, the Purchasing Division cannot waive or excuse late receipt of a proposal which is delayed and late for any reason. Any proposal received after the bid opening date and time will be immediately disqualified in accordance with State law and the administrative rules and regulations.

**Vendors responding to this RFP shall submit:**

One original technical and cost  
plus 7 convenience copies to:

Purchasing Division  
2019 Washington Street, East  
P.O. Box 50130  
Charleston, WV 25305-0130

The outside of the envelope or package(s) should be clearly marked:

Buyer: Shelly Murray  
Req#: LOT455  
Opening Date: 02/04/2010  
Opening Time: 1:30 pm

**1.9.4. Best Value Purchasing Standard Format**

All Requests for Proposals should follow the standard format defined by the Purchasing Division. This format addresses required areas and enables the agency to modify the background and scope of work to meet its needs.

1.9.4.1 *Evaluation Criteria:* All evaluation criteria must be clearly defined in the specifications section and based on a 100 point total score. Based on a 100 point total, cost shall represent a minimum of 30 of the 100 total points in the criteria.

1.9.4.2 *Proposal Format and Content:* Proposals shall be requested and received in two distinct parts: Technical and Cost. The cost portion shall be sealed in a separate envelope and will not be opened initially.

1.9.4.3 *Technical Bid Opening:* The Purchasing Division will open only the technical proposals on the date and time specified in the Request for Proposal. The Purchasing Division representative will read aloud the names of those who responded to the solicitation. The Purchasing Division Buyer will confirm that the original packages contain a separately sealed cost proposal prior to providing the courtesy copies to the agency to begin the evaluation process.

1.9.4.4 *Technical Evaluation:* The pre-selected, approved evaluation committee will review the technical proposals, deduct appropriate points for deficiencies and make a



final written consensus recommendation to the Purchasing Division Buyer. If the Buyer approves the committee's recommendation, the technical evaluation will be forwarded to an internal review committee within the Purchasing Division.

1.9.4.5 *Cost Bid Opening*: Upon approval of the technical evaluation from the internal review committee, the Purchasing Division shall schedule a time and date to publicly open and read aloud the cost proposals. The agency and the vendors shall be notified of this date.

1.9.4.6 *Cost Evaluation and Resident Vendor Preference*: The evaluation committee will review the cost proposals, assign appropriate points and make a final consensus recommendation to the Purchasing Division. In accordance with West Virginia Code §5A-3-37, the Purchasing Division will make the determination of the Resident Vendor Preference, if applicable. Resident Vendor Preference provides an opportunity for qualifying vendors to request at the time of bid preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the West Virginia Code. A certificate of application is used to request this preference. A West Virginia vendor may be eligible for two 2.5% preferences in the evaluation process.

1.9.4.7 *Contract Approval and Award*: After the cost proposals have been opened, the evaluation committee completes its review and prepares the final evaluation making its recommendation for contract award based on the highest scoring vendor. The final evaluation is submitted to the Purchasing Division buyer. Once approved by the buyer, the final evaluation must be reviewed and approved by the Purchasing Division internal review committee. The contract is prepared and signed in the Purchasing Division, forwarded to the Attorney General's Office for approval as to form, encumbered and mailed to the appropriate parties.

**1.10 Rejection of Proposals:**

The State shall select the best value solution according to the evaluation criteria. However, the State reserves the right to accept or reject any or all proposals, in part or in whole at its discretion. The State reserves the right to withdraw this RFP at any time and for any reason. Submission of, or receipt by the State of proposals confers no rights upon the bidder nor obligates the State in any manner.

A contract based on this RFP and the Vendor's proposal, may or may not be awarded. Any contract resulting in an award from this RFP is not valid until properly approved and executed by the Purchasing Division and approved as to form by the Attorney General.

**1.11 Incurring Costs:**

The State and any of its employees or officers shall not be held liable for any expenses incurred by any bidder responding to this RFP for expenses to prepare, deliver the proposal, or to attend any mandatory prebid meeting or oral presentations.

**1.12 Addenda:**

If it becomes necessary to revise any part of this RFP, an official written addendum will be issued by the State to all bidders of record.

**1.13 Independent Price Determination:**

A proposal will not be considered for award if the price in the proposal was not arrived at

independently without collusion, consultation, communication or agreement as to any matter relating to prices with any competitor unless the proposal is submitted as a joint venture.

**1.14 Price Quotations:**

The price(s) quoted in the bidder's proposal will not be subject to any increase and will be considered firm for the life of the contract unless specific provisions have been provided for adjustment in the original contract.

**1.15 Public Record:**

*1.15.1 Submissions are Public Record.*

All documents submitted to the State Purchasing Division related to purchase orders or contracts are considered public records. All bids, proposals or offers submitted by bidders shall become public information and are available for inspection during normal official business hours in the Purchasing Division Records and Distribution center after the bid opening.

*1.15.2 Written Release of Information.*

All public information may be released with or without a Freedom of Information request, however, only a written request will be acted upon with duplications fees paid in advance. Duplication fees shall apply to all requests for copies of any document. Currently the fees are \$0.50/page, or a minimum of \$10.00 per request which ever is greater.

*1.15.3 Risk of Disclosure.*

The only exemptions to disclosure of information are listed in West Virginia Code §29B-1-4. Primarily, only trade secrets, as submitted by a bidder, are exempt to public disclosure. The submission of any information to the State by a vendor puts the risk of disclosure on the vendor. The State does not guarantee non-disclosure of any information to the public.

**1.16 Schedule of Events:**

Vendor's Written Questions Submission Deadline	.....01/20/2010
Addendum Issued	.....TBD
Bid Opening Date	.....02/04/2010
Oral Presentation	.....TBD

**1.17 Mandatory Prebid Conference: Not Applicable**

**1.18 Purchasing Affidavit:**

West Virginia Code §5A-3-10a requires that all bidders submit an affidavit regarding any debt owed to the State. The affidavit must be signed and submitted prior to award. It is preferred that the affidavit be submitted with the proposal.

**1.19 General Terms and Conditions:**

By signing and submitting its proposal, the successful Vendor agrees to be bound by all the terms contained in this RFP.

*1.19.1 Conflict of Interest:*

Vendor affirms that it, its officers or members or employees presently have no interest and shall not acquire any interest, direct or indirect, which would conflict or compromise

in any manner or degree with the performance or its services hereunder. The Vendor further covenants that in the performance of the contract, the Vendor shall periodically inquire of its officers, members and employees concerning such interests. Any such interests discovered shall be promptly presented in detail to the Agency.

*1.19.2 Prohibition Against Gratuities:*

Vendor warrants that it has not employed any company or person other than a bona fide employee working solely for the vendor or a company regularly employed as its marketing agent to solicit or secure the contract and that it has not paid or agreed to pay any company or person any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award of the contract.

For breach or violation of this warranty, the State shall have the right to annul this contract without liability at its discretion or to pursue any other remedies available under this contract or by law.

*1.19.3 Certifications Related to Lobbying:*

Vendor certifies that no federal appropriated funds have been paid or will be paid, by or on behalf of the company or an employee thereof, to any person for purposes of influencing or attempting to influence an officer or employee of any Federal entity, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Vendor shall complete and submit a disclosure form to report the lobbying.

Vendor agrees that this language of certification shall be included in the award documents for all sub-awards at all tiers, including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements, and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this contract was made and entered into.

*1.19.4 Vendor Relationship:*

The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by the parties to this contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents.

Vendor shall be responsible for selecting, supervising and compensating any and all individuals employed pursuant to the terms of this RFP and resulting contract. Neither the Vendor, nor any employees or contractors of the vendor, shall be deemed to be employees of the State for any purposes whatsoever.

Vendor shall be exclusively responsible for payment of employees and contractors for all

wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, and licensing fees, etc. and the filing of all necessary documents, forms and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including but not limited to the foregoing payments, withholdings, contributions, taxes, social security taxes and employer income tax returns.

The Vendor shall not assign, convey, transfer or delegate any of its responsibilities and obligations under this contract to any person, corporation, partnership, association or entity without expressed written consent of the Agency.

*1.19.5 Indemnification:*

The Vendor agrees to indemnify, defend and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person or firm performing or supplying services, materials or supplies in connection with the performance of the contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use or disposition of any data used under the contract in a manner not authorized by the contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees or subcontractors to observe State and Federal laws, including but not limited to labor and wage laws.

*1.19.6 Contract Provisions:*

After the successful Vendor is selected, a formal contract document will be executed between the State and the Vendor. In addition, the RFP and the Vendor's response will be included as part of the contract by reference. The order of precedence is the contract, the RFP and the Vendor's proposal in response to the RFP.

*1.19.7 Governing Law:*

This contract shall be governed by the laws of the State of West Virginia. The Vendor further agrees to comply with the Civil Rights Act of 1964 and all other applicable laws and regulations, Federal, State and Local Government.

*1.19.8 Compliance with Laws and Regulations:*

The vendor shall procure all necessary permits and licenses to comply with all applicable laws, Federal, State or municipal, along with all regulations, and ordinances of any regulating body.

The Vendor shall pay any applicable sales, use or personal property taxes arising out of this contract and the transactions contemplated thereby. Any other taxes levied upon this contract, the transaction, or the equipment, or services delivered pursuant here to shall be borne by the contractor. It is clearly understood that the State of West Virginia is exempt from any taxes regarding performance of the scope of work of this contract.

*1.19.9 Subcontracts/Joint Ventures:*

The Vendor is solely responsible for all work performed under the contract and shall

assume prime contractor responsibility for all services offered and products to be delivered under the terms of this contract. The State will consider the Vendor to be the sole point of contact with regard to all contractual matters. The Vendor may, with the prior written consent of the State, enter into written subcontracts for performance of work under this contract; however, the vendor is totally responsible for payment of all subcontractors.

*1.19.10 Term of Contract & Renewals:*

This contract will be effective (date set upon award) and shall extend for the period of one (1) year, at which time the contract may, upon mutual consent, be renewed. Such renewals are for a period of up to one (1) year, with a maximum of two (2) one year renewals, or until such reasonable time thereafter as is necessary to obtain a new contract. The "reasonable time" period shall not exceed twelve (12) months. During the "reasonable time" period Vendor may terminate the contract for any reason upon giving the Agency ninety (90) days written notice. Notice by Vendor of intent to terminate will not relieve Vendor of the obligation to continue to provide services pursuant to the terms of the contract.

Any change in Federal or State law, or court actions which constitute binding precedent in West Virginia, and which significantly alters the Vendor's required activities or any change in the availability of funds, shall be viewed as binding and shall warrant good faith renegotiation of the compensation paid to the Vendor by the Agency and of such other provisions of the contract that are affected. If such renegotiation proves unsuccessful, the contract may be terminated by the State upon written notice to the Vendor at least thirty (30) days prior to termination of this contract.

*1.19.11 Non-Appropriation of Funds:*

If the Agency is not allotted funds in any succeeding fiscal year for the continued use of the service covered by this contract by the West Virginia Legislature, the Agency may terminate the contract at the end of the affected current fiscal period without further charge or penalty. The Agency shall give the vendor written notice of such non-allocation of funds as soon as possible after the Agency receives notice. No penalty shall accrue to the Agency in the event this provision is exercised.

*1.19.12 Contract Termination:*

The State may terminate any contract resulting from this RFP immediately at any time the Vendor fails to carry out its responsibilities or to make substantial progress under the terms of this RFP and resulting contract. The State shall provide the Vendor with advance notice of performance conditions which are endangering the contract's continuation. If after such notice the Vendor fails to remedy the conditions contained in the notice, within the time period contained in the notice, the State shall issue the Vendor an order to cease and desist any and all work immediately. The State shall be obligated only for services rendered and accepted prior to the date of the notice of termination.

The contract may also be terminated by the State with thirty (30) days prior notice.

*1.19.13 Changes:*

If changes to the original contract become necessary, a formal contract change order will be negotiated by the State, the Agency and the Vendor, to address changes to the terms and conditions, costs of work included under the contract. An approved contract change

order is defined as one approved by the Purchasing Division and approved as to form by the West Virginia Attorney General's Office, encumbered and placed in the U.S. Mail prior to the effective date of such amendment. An approved contract change order is required whenever the change affects the payment provision or the scope of the work. Such changes may be necessitated by new and amended Federal and State regulations and requirements.

As soon as possible after receipt of a written change request from the Agency, but in no event more than thirty (30) days thereafter, the Vendor shall determine if there is an impact on price with the change requested and provide the Agency a written statement to identifying any price impact on the contract or to state that there is no impact. In the event that price will be impacted by the change, the Vendor shall provide a description of the price increase or decrease involved in implementing the requested change.

**NO CHANGE SHALL BE IMPLEMENTED BY THE VENDOR UNTIL SUCH TIME AS THE VENDOR RECEIVES AN APPROVED WRITTEN CHANGE ORDER.**

1.19.14 *Invoices, Progress Payments, & Retainage:* (Agency Option if appropriate.)  
The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To" pursuant to the terms of the contract. Progress payments may be made at the option of the Agency on the basis of percentage of work completed if so defined in the final contract. Any provision for progress payments must also include language for a minimum 10% retainage until the final deliverable is accepted.

If progress payments are permitted, Vendor is required to identify points in the work plan at which compensation would be appropriate. Progress reports must be submitted to Agency with the invoice detailing progress completed or any deliverables identified. Payment will be made only upon approval of acceptable progress or deliverables as documented in the Vendor's report. Invoices may not be submitted more than once monthly and State law forbids payment of invoices prior to receipt of services.

1.19.15 *Liquidated Damages:* Not Applicable

1.19.16 *Record Retention (Access & Confidentiality):*  
Vendor shall comply with all applicable Federal and State of West Virginia rules and regulations, and requirements governing the maintenance of documentation to verify any cost of services or commodities rendered under this contract by Vendor. The Vendor shall maintain such records a minimum of five (5) years and make available all records to Agency personnel at Vendor's location during normal business hours upon written request by Agency within 10 days after receipt of the request.

Vendor shall have access to private and confidential data maintained by Agency to the extent required for Vendor to carry out the duties and responsibilities defined in this contract. Vendor agrees to maintain confidentiality and security of the data made available and shall indemnify and hold harmless the State and Agency against any and all claims brought by any party attributed to actions of breach of confidentiality by the Vendor, subcontractors or individuals permitted access by Vendor.

## PART 2 OPERATING ENVIRONMENT

### 2.1 Location:

The West Virginia Lottery headquarters is located at 312 MacCorkle Avenue, S.E., Charleston, West Virginia. A regional office is located at 100 Municipal Plaza, Suite 500, Weirton, WV 26062. A “hot back-up” computer facility is located in the Middletown Mall in the town of White Hall (Marion County) West Virginia.

### 2.2 Background:

A copy of the most recent audited monthly financial statements is enclosed, see Attachment A, for extensive background information about the Lottery. The “Notes to Financial Statements” (Note 2 – Lottery Game Operations) provides an overview of the organization. Also, to view the Comprehensive Annual Financial Report (CAFR) for June 30, 2008, please visit <http://www.wvlottery.com/aboutus/annualreports.aspx>.

#### 2.2.1 Finance and Administration Division:

The Finance and Administration Division is managed by a deputy director, a chief accountant, two accounting managers and consists of seventeen other active employees. The principal functions performed and the number of employees assigned to each are as follows:

<u>Functional Title</u>	<u>Number of Employees</u>
Administrative Assistant	1
Financial Reporting Specialist	2
On-line Accountant	1
Instant Accountant	1
Limited Video Lottery Accountant	1
Table Games Accountant	1
Racetrack Video Lottery Accountant	1
Accounts Payable Supervisor	1
Purchasing Agent	1
Purchasing Assistant (vacant)	1
General Accountant	1
Accounting Technician IV	1
Prize Validation Coordinator	1
Prize Validation Unit Leader	1
Prize Validation Clerks	2

#### 2.2.2 Computer Systems:

A daily reconciliation of on-line operation is performed on the West Virginia Lottery’s computer by means of a set of software procedures called the Internal Control System (ICS). GTECH, the current on-line & instant games vendor, provides the West Virginia Lottery with log files of all on-line transactions recorded during the day’s activities. The Lottery processes these files on its ICS computer and processes them through the ICS. While doing this, ICS:

- 1) Verifies that the correct date is being processed.

- 2) Processes the transactions and the drawings occurring on that day.
- 3) Produces prize reports similar to those provided by GTECH after each drawing is held, which are reconciled to GTECH prize reports.
- 4) Produces control total reports. The Lottery balances these reports by comparison to similar reports printed by GTECH during their end of day processing. If the transactions processed by ICS do not balance with those processed by GTECH, ICS will generate a report of all retailers who are not in balance and the amount (either plus or minus) by which they differ.

Accounting reports are generated on a daily and weekly basis and provide financial data for sales, cancels (discontinued tickets), accounts receivable, prizes paid and remaining liabilities. Drawing reports which give handle (total) amounts and prizes won are produced daily for Daily 3, Daily 4, and Travel Keno, semi-weekly for Powerball® and Hot Lotto™ and four days a week for CASH25.

Electronic fund transfer files are produced on a weekly basis of all outstanding instant and/or on-line retailer balances. These files are processed by the State Treasurer's Office to transfer funds from the retailer bank accounts to the Lottery bank account. Funds due the Lottery from racetrack video licensees are electronically transferred daily.

Personal computers are used throughout the Lottery's Finance and Administration division to summarize daily and weekly reports of sales, prize liability, and payout activities provided by GTECH and the Lottery's video systems. Personal computers are also used to accumulate, classify and summarize personal services and other administrative expenses accrued by the Lottery for use in producing the monthly journal entries for the financial statements and other related reports. Microsoft Great Plains Dynamics General Ledger software is used to produce the monthly financial statements.

WVL regulates Traditional Lottery, Racetrack Video Lottery, Limited Video Lottery and Table Games across the state. Each of the states four racetracks, located in Jefferson County, Monongalia County, Ohio County and Kanawha County, operate Racetrack Video Lottery terminals. Three of the four racetracks currently operate Table Games. On December 5, 2009 Jefferson County voters voted to allow table games at Charles Town Races & Slots. WVL also regulates a Limited Gaming Facility located in Greenbrier County. The Limited Gaming Facility currently operates both Video Lottery terminals and Table Games.

Racetrack Video Lottery, as of July 31, 2009, has 11,297 machines available for play, of which 422 are coin-drop and 10,875 are TITO (Ticket In Ticket Out) at the four racetracks in West Virginia. The daily reports are reviewed for accuracy before video gross terminal income from each track is remitted to the Lottery through electronic transfer of funds. Settlements are distributed weekly to



recipients as allowed by the Racetrack Video Lottery Act, W. Va. Code §29-22A-1, et seq.

Limited Video Lottery (LVL), as of July 31, 2009, has approximately 8,000 machines available for play throughout the state in retail locations restricted for adult amusement. LVL permit holder funds are electronically swept on a monthly basis.

Table Games, as of July 31, 2009, has approximately 240 tables available for play at 3 of the state's 4 Racetracks. Racetracks submit a weekly ACH tax remittance and tax return for the thirty-five percent tax on revenue generated through table games.

The following is a listing of computer hardware and software used by the Lottery and its vendors. The On-line/Instant system is subject to a SAS70. The Aegis system used for Video Lottery is an agency owned and operated system for which the auditor will need to perform such tests as necessary to achieve their reasonable comfort level:

On-Line/Instant	GTECH ES	IBM 3500 Cisco	Windows Server 2003/RHAS Switches, Routers and Firewalls
Video	Scientific Games Aegis	HP ProLiant Cisco	Windows Server 2003 Switches, Routers and Firewalls
Lottery ICS	GTECH/Elsym	IBM 3500 Adtran	Windows Server 2003/RHAS
Lottery/Accounting	N/A	Personal Computers	Windows/EXCEL. ACCESS,WORD Great Plains Dynamics

### 2.2.3 Internal Audit Function:

The West Virginia Lottery has maintained an internal audit function for the past eighteen years. The internal auditor reports to the lottery director and is staffed by three employees, who will be available to the auditor as needed during the audit.

## PART 3 PROCUREMENT SPECIFICATIONS

### 3.1 General:

The West Virginia Lottery (WVL) seeks a qualified certified public accounting firm [the auditor] to audit its financial statements for the fiscal year ending June 30, 2010, with the option to audit for each of the two (2) subsequent fiscal years. GTECH Corporation is the current on-line & instant ticket vendor for Fiscal Year ending June 30, 2010. The WVL plans to have a SAS 70 audit for the year ending June 30, 2010 issued prior to the completion of the current fiscal year end audited financial statements. The WVL currently has a contract with Scientific Games Corporation located in Alpharetta, Georgia for printing of instant tickets. The WVL had a SAS 70 audit for the year ending June 30,

2009, and plans to have year ending June 30, 2010, issued prior to the completion of the current fiscal year end audited financial statements.

### **3.2 Scope of Work:**

The auditor will express an opinion on the fair presentation of financial statements in conformity with generally accepted accounting principles.

Additionally, the auditor will be required to prepare all supporting schedules required by the Department of Administration for the preparation of the state's Comprehensive Annual Financial Report (CAFR).

The auditor shall also be responsible for assisting in the implementation of required supplementary information required by the Governmental Accounting Standards Board (GASB) as mandated by generally accepted auditing standards.

#### *3.2.1 Independence:*

The auditor must provide an affirmative statement that it is independent of the West Virginia Lottery as defined by generally accepted auditing standards and the U.S. General Accounting Office's Government Auditing Standards (1988).

The firm also must provide an affirmative statement that it is independent of the State of West Virginia and any other component units of that entity, as defined by those same standards.

#### *3.2.2 Auditing Standards:*

To meet the requirements of this request for proposal, the audit shall be performed in accordance with generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants.

#### *3.2.3 Reports:*

*3.2.3.1 Financial Statement Report:* Following the completion of the audit of the fiscal year's financial statements ending June 30, 2010, the auditor shall issue a report on the fair presentation of the financial statements in conformity with generally accepted accounting principles.

In addition, the auditor must provide an "in-relation-to" report on the supporting schedules based on the auditing procedures applied during the audit of the general purpose financial statements.

The auditor shall communicate in a letter to management any reportable conditions found during the audit. A reportable condition shall be defined as a significant deficiency in the design or operation of the internal control structure, which could adversely affect the organization's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.

*3.2.3.2 Irregularities and illegal acts.* Auditors shall be required to make an immediate, written report of all irregularities and illegal acts of which they become aware to the following parties:

- (a) Lottery Director
- (b) Lottery Counsel
- (c) Finance/Audit Committee of the State Lottery Commission

3.2.3.3 *Reporting to Lottery Finance/Audit Committee:* The auditor shall report to the West Virginia Lottery Commission's Finance/Audit Committee each of the following within 60 days of the issuance of the audit:

- (a) The auditor's responsibility under generally accepted auditing standards
- (b) Significant accounting policies
- (c) Management judgments and accounting estimates
- (d) Significant audit adjustments
- (e) Other information in documents containing audited financial statements
- (f) Disagreements with management
- (g) Management consultation with other accountants
- (h) Major issues discussed with management prior to retention
- (i) Difficulties encountered in performing the audit

3.2.4 *Special Considerations:*

The West Virginia Lottery will send its comprehensive annual financial report to the Government Finance Officers Association of the United States and Canada for review in its Certificate of Achievement for Excellence in Financial Reporting program. The auditor will provide special assistance to the Lottery to meet the requirements of that program which include:

- A) Advise the agency on the technical standards necessary to file a CAFR for an enterprise fund.
- B) Review the agency's CAFR documents and assist in the development of meaningful statistical charts and data.
- C) Formulation of the auditor's report to be included in the CAFR.
- D) Proofreading of the CAFR prior to filing to assure financial data and context of discussions are appropriate.

The financial statements of the WVLC must be included as a component unit of the financial statements of the State of West Virginia. The auditor will provide special assistance to the State of West Virginia's auditors.

3.2.5 *Working Paper Retention and Access to Working Papers:*

All working papers and reports must be retained, at the auditor's expense, for a minimum of three (3) years, unless the firm is notified in writing by the West Virginia Lottery of the need to extend the retention period. The auditor will make working papers available, upon request, to the West Virginia Lottery.

In addition, the successful bidder shall respond to the reasonable inquiries by the West Virginia Lottery Commission or its successor auditors and allow its successor auditors to review working papers relating to the matters of continuing account significance.

3.2.6 *Contact Person/Organizational Chart:*

The auditor's principal contact will be the internal auditors who will coordinate the assistance to be provided by the West Virginia Lottery to the auditor. An organizational chart containing a list of key positions is in Attachment B.

### 3.2.7 *Date Audit May Commence:*

The WVWL will have records ready for audit and management personnel available to meet with the auditor after its June 30, 2010, year-end.

The auditor shall have drafts of the audit report(s) and recommendations to management available for review by the deputy director of finance and administration and internal auditors by August 31<sup>st</sup> immediately following the fiscal year-end under audit.

The deputy director of finance and administration will complete a review of the draft report as expeditiously as possible. During that period, the auditor should be available for any meetings that may be necessary to discuss the audit reports.

The auditor shall prepare the final financial statements, notes, management letter and all required supplementary schedules and statistical data by the second Friday of September immediately following the fiscal year-end under audit.

The following reports must be delivered to the deputy director of finance and administration:

- (a) Financial Statements with Additional Information – statewide CAFR, ten (10) copies.
- (b) Audit Results – Management Letter, twenty (20) copies.
- (c) Financial Statements, fifty (50) copies.

### 3.2.8 *Assistance To Be Provided to the Auditor and Report Preparation:*

#### 3.2.8.1 *Finance Department and Clerical Assistance:*

The finance department and management staff will be available during the audit to assist the firm by providing information, documentation and explanations. The preparation of confirmations will be the responsibility of the auditor.

#### 3.2.8.2 *Work Area, Telephone, Photocopying and Fax Machines:*

The West Virginia Lottery will provide the auditor with reasonable workspace, desks and chairs. The auditor will also be provided with access to telephone lines, photocopying facilities and fax machines as appropriate.

#### 3.2.8.3 *Report Preparation:*

Report preparation, editing and printing shall be the responsibility of the auditor.

## 3.3 **Special Terms and Conditions:**

### 3.3.1 *License Requirements:*

An affirmative statement must be included indicating that the firm and all assigned key professional staff are properly licensed to practice in West Virginia.

### 3.3.2 *Partner, Supervisory and Staff Qualifications*

The vendor must furnish the Lottery with evidence of its ability to provide experienced personnel in government financial auditing sufficient to provide a

quality audit on time as scheduled. Documentation to verify the experience and qualifications of the personnel assigned to manage the Lottery's account must be provided to verify each proposed individual's credentials and the credentials of individuals proposed as sub-contractors, if applicable. The vendor's management level and key personnel proposed for this account must have five years of experience in the areas of expertise requested in this Request for Proposal. Should a proposed individual lack five (5) years of professional work experience, the successful bidder shall submit any and all documentation, including educational achievement that may compensate for the desired experience. The auditor must have a minimum of 6 CPA's in the firm with a minimum of two CPA's having comprehensive knowledge of the lottery and gaming industries demonstrated by direct industry experience or prior audit experience of a lottery. If the successful bidder substitutes staff for the account, at any time during the term of the contract or possible extension years, the experience and qualification levels must be of a similar quality to the level of those initially proposed. The Lottery reserves the right to request staff changes throughout the term of the contract.

### 3.3.3 Approval of Staffing

The Agency has the right to refuse the services of any on-site employee of the successful bidder based on the employee's competence or criminal background. All management, supervisory, and key personnel who will be active in the audit shall be subject to initial and periodic background checks using the Agency's electronic fingerprint capture system. An individual shall be removed from supporting the contract as an outcome of adverse results from the background checks. In the case of a criminal background refusal, the basis for refusal shall be a conviction of any felony or any crime related to theft, gambling, or involving moral turpitude.

### 3.3.4 Confidentiality

Auditor shall have access to private and confidential data maintained by WVLT to the extent required for auditor to carry out the duties and responsibilities defined in this contract. The auditor agrees to maintain confidentiality and security of the data made available and shall indemnify and hold harmless the State and WVLT against any and all claims brought by any party attributed to actions of breach of confidentiality by the auditor or individuals permitted access by the auditor.

3.3.5 *Performance Bond:* The successful vendor shall furnish a performance bond for 100% of the amount of the contract. Bonds may be provided in the form of a certified check or bond furnished by a solvent surety company authorized to do business in the State of West Virginia.

3.3.6 *Insurance Requirements:* Insurance certificates are required prior to award but are not required at the time of bid.

3.3.6.1 Public Liability with limits of \$500,000 for any one person, and \$1,000,000 for any one occurrence of personal injury, as well as \$1,000,000 for any one occurrence of property damage.

3.3.6.2 Errors and Omissions in the amount of \$1,000,000 for the selected Vendor for any losses the Agency may incur resulting from the intentional or negligent acts of the Vendor. The Errors and Omissions insurance coverage will remain in effect during the entire contract period, any extensions thereof, and for one (1) year after the contract terminates.

3.3.6.3 A Fidelity Bond or insurance in the amount of \$1,000,000 covering any losses incurred by the Agency due to the fraudulent or dishonest acts on the part of the Vendor, or the Vendor's officers, employees, agents or subcontractors.

3.3.7 *License Requirements: N/A*

3.3.8 *Litigation Bond: N/A*

## **PART 4 PROPOSAL FORMAT AND RESPONSE REQUIREMENTS**

### **4.1 Vendor's Proposal Format:**

The proposal should be formatted in the same order, providing the information listed below:

Title page - Should state the RFP Subject and number, the name of the Vendor, Vendor's business address, telephone number, name of authorized contact person to speak on behalf of the Vendor, dated and signed.

Table of Contents - Clearly identify the material by section and page number.

#### **Section 1 - A133 Audits**

Describe the experience of the audit firm as well as the audit staff assigned to the agency audit in Audits of Governmental Agencies. Disclose the name & number of Governmental Agency audits completed.

#### **Section II - Lottery/Gaming Industry Experience**

Describe the experience of the audit firm as well as the audit staff assigned to the agency audit in audits performed on governmental lotteries or any other gaming agencies. Revenue sources must include revenue of Traditional lotteries, Video Lottery & Table Games. Auditor should have experience with gaming industry IT systems and subsequent internal controls. Disclose the name & number of said audits completed.

#### **Section III- CAFR**

The auditor should provide WVLT with number of Comprehensive Annual Financial Reports assisted with and successful achievement of the GFOA Certificate of Excellence in Financial Reporting.

#### **Section IV – Staffing**

Auditor should provide WVLT with number of CPA's on staff and number of said CPA's prior auditing experience of a lottery/gaming agency. The Auditor should also provide resumes of audit staff assigned to the agency audit.

## Section V – Cost

If applicable, sign and submit the attached Resident Vendor Preference Certificate with the proposal.

### 4.2 Evaluation Process:

#### 4.2.1 Method of Evaluation:

The proposals will be evaluated by a committee of three (3) or more individuals in accordance with the criteria stated. The Auditor who meets all the mandatory specifications and attains the highest point score of all auditors shall be awarded the contract. The selection of the successful auditor will be made by a consensus of the evaluation committee.

### 4.3 Evaluation Criteria: The following are the evaluation factors and maximum points possible for technical point scores:

Section	Description	Total Points
I	A133 Audits	10
II	Gaming Specific Audits	25
III	CAFR	20
IV	Staffing	15
V	Cost	30
	Total	100

Each cost proposal cost will be scored by use of the following formula for all vendors who attained the Minimum acceptable score:

$$\frac{\text{Lowest price of all proposals}}{\text{Price of Proposal being evaluated}} \times 30 = \text{Price Score}$$

### 4.4 Minimum Acceptable Score:

Vendors must score a minimum of 70% of the total technical points possible. The technical points are listed above in Section 4.3. The minimum qualifying score on the technical portion is 49 points. All vendors not attaining the minimum acceptable score (MAS) shall be disqualified and removed from further consideration.

The State will select the successful vendor's proposal based on best value purchasing which is not necessarily the vendor with the lowest price. Cost is considered but is not the sole determining factor for award. The State does reserves the right to accept or reject any or all of the proposals, in whole or in part, without prejudice, if to do so is felt to be in the best interests of the State.

Vendor's failure to provide complete and accurate information may be considered grounds for disqualification. The State reserves the right, if necessary, to ask vendors for additional information to clarify their proposals.



4.5 Cost Bid

SCHEDULE OF TOTAL PROFESSIONAL FEES AND EXPENSES FOR THE ANNUAL FINANCIAL AUDIT.

	Hours	Hourly Rates	Total
Partners, Members	_____	_____	_____
Managers	_____	_____	_____
Supervisory Staff	_____	_____	_____
Staff	_____	_____	_____
Other (specify)	_____	_____	_____
Total all-inclusive maximum price for the annual audit and other services as required in this request for proposal			\$ =====

## Attachment A

**WEST VIRGINIA LOTTERY**  
**STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN FUND NET ASSETS**  
**FOR THE TWELVE MONTH PERIOD ENDED JUNE 30, 2009**

(In Thousands)

-Unaudited-

	YEAR TO DATE	
	2009	2008
Lottery revenues		
On-line games	84,241	87,177
Instant games	113,854	110,862
Racetrack video lottery	848,233	897,953
Limited video lottery	412,489	411,587
Table games	34,219	15,877
	<u>1,493,036</u>	<u>1,523,456</u>
Less commissions		
On-line games	5,901	6,114
Instant games	7,969	7,762
Racetrack video lottery	463,649	487,276
Limited video lottery	202,120	205,637
Table games	13,458	6,249
	<u>693,097</u>	<u>713,038</u>
Less on-line prizes	42,451	44,544
Less instant prizes	76,999	76,626
Less ticket costs	1,528	1,676
Less vendor fees and costs	5,935	5,928
	<u>126,913</u>	<u>128,774</u>
	<u>673,026</u>	<u>681,644</u>
Gross profit		
Administrative expenses		
Advertising and promotions	7,160	8,658
Wages and related benefits	9,645	7,885
Telecommunications	2,208	2,275
Contractual and professional	5,030	4,099
Rental	727	685
Depreciation and amortization	1,988	732

## West Virginia Lottery RFP – LOT 455 – Audit Services

Other administrative expenses	994	1,540
	<u>27,752</u>	<u>25,874</u>
Other Operating Income	<u>11,401</u>	<u>11,937</u>
Operating Income	<u>656,675</u>	<u>667,707</u>
Nonoperating income (expense)		
Investment income	2,721	9,572
Nonoperating income - OPEB	-	472
Interest expense	(2)	(13)
Distributions to municipalities and counties	(8,085)	(8,067)
Distributions to racetracks-capital reinvestment	(15,983)	(17,988)
Distributions to the State of West Virginia	<u>(616,623)</u>	<u>(631,155)</u>
	<u>(637,972)</u>	<u>(647,179)</u>
Net income	<u>18,703</u>	<u>20,528</u>
Net assets, beginning of period	<u>64,485</u>	<u>43,957</u>
Net assets, end of period	<u><u>83,188</u></u>	<u><u>64,485</u></u>

The accompanying notes are an integral part of these financial statements.

## West Virginia Lottery RFP – LOT 455 – Audit Services

**WEST VIRGINIA LOTTERY**  
**BALANCE SHEETS**  
(In Thousands)  
-Unaudited-

	June 30, 2009	June 30, 2008
<b>ASSETS</b>		
Current Assets:		
Cash and cash equivalents	225,355	180,463
Accounts receivable	33,311	36,846
Inventory	649	300
Current portion of investments held in trust	-	10
Other assets	2,555	2,595
Total Current Assets	<u>261,870</u>	<u>220,214</u>
Noncurrent Assets:		
Restricted cash and cash equivalents	69,870	58,487
Investments held in trust, less current portion	-	126
Capital assets	17,641	17,598
Less accumulated depreciation and amortization	<u>(14,335)</u>	<u>(12,347)</u>
Net Capital Assets	<u>3,306</u>	<u>5,251</u>
Total Noncurrent Assets	<u>73,176</u>	<u>63,864</u>
Total Assets	<u><u>335,046</u></u>	<u><u>284,078</u></u>
<b>LIABILITIES AND NET ASSETS</b>		
Current Liabilities:		
Accrued nonoperating distributions to the State of West Virginia	202,184	166,967
Estimated prize claims	12,939	12,967
Accounts payable	1,716	2,693
Other accrued liabilities	35,019	36,837
Current portion of deferred jackpot prize obligations	-	129
Total Current Liabilities	<u>251,858</u>	<u>219,593</u>
Deferred jackpot prize obligations, less current portion	-	-
Total Liabilities	<u>251,858</u>	<u>219,593</u>

## West Virginia Lottery RFP – LOT 455 – Audit Services

Net Assets:		
Invested in capital assets	3,306	5,251
Unrestricted assets (deficit)	(2,806)	(4,751)
Unrestricted assets- Committed ( see note 11)	12,818	5,498
Restricted assets ( see note 10)	<u>69,870</u>	<u>58,487</u>
Total Net Assets	<u>83,188</u>	<u>64,485</u>
Total Liabilities and Net Assets	<u><u>335,046</u></u>	<u><u>284,078</u></u>

The accompanying notes are an integral part of these financial statements.

**WEST VIRGINIA LOTTERY**  
**STATEMENTS OF CASH FLOWS**  
**FOR THE TWELVE MONTH PERIOD ENDED JUNE 30, 2009**

(In Thousands)

-Unaudited-

	2009	2008
Cash flows from operating activities:		
Cash received from customers and other sources	1,507,972	1,531,642
Cash payments for:		
Personnel costs	(9,364)	(7,813)
Suppliers	(19,978)	(10,808)
Other operating costs	(819,998)	(840,186)
Cash provided by operating activities	<u>658,632</u>	<u>672,835</u>
Cash flows from noncapital financing activities:		
Nonoperating distributions to the State of West Virginia	(581,406)	(644,366)
Distributions to municipalities and counties	(8,108)	(8,049)
Distributions to racetrack from racetrack cap. reinv. fund	(15,370)	(20,997)
Deferred jackpot prize obligations and related interest paid	(1)	(12)
Cash used in noncapital financing activities	<u>(604,885)</u>	<u>(673,424)</u>
Cash flows from capital and related financing activities:		
Purchases of capital assets	<u>(329)</u>	<u>(4,690)</u>
Cash flows from investing activities:		
Maturities of investments held in trust	136	182
Investment earnings received	<u>2,721</u>	<u>9,558</u>
Cash provided by investing activities	<u>2,857</u>	<u>9,740</u>
Increase (decrease) in cash and cash equivalents	56,275	4,461
Cash and cash equivalents - beginning of period	<u>238,950</u>	<u>234,489</u>
Cash and cash equivalents - end of period	<u><u>295,225</u></u>	<u><u>238,950</u></u>
Reconciliation of operating income to net cash provided by operating activities:		
Operating income	656,675	667,707
Adjustments to reconcile operating income to cash provided by operating activities:		
Depreciation and amortization	1,988	732

## West Virginia Lottery RFP – LOT 455 – Audit Services

Changes in operating assets and liabilities:		
(Increase) decrease in accounts receivable	3,535	(3,751)
(Increase) decrease in inventory	(348)	132
(Increase) decrease in other assets	40	(1,432)
Increase (decrease) in estimated prize claims	(29)	(625)
Increase (decrease) in accounts payable	(976)	1,241
Increase (decrease) in other accrued liabilities	(2,253)	8,831
	<hr/>	<hr/>
Cash provided by operating activities	658,632	672,835
	<hr/>	<hr/>

The accompanying notes are an integral part of these financial statements.

## NOTE 1 - LEGISLATIVE ENACTMENT

The West Virginia Lottery (Lottery) was established by the State Lottery Act (Act) passed April 13, 1985, which created a special fund in the State Treasury designated as the “State Lottery Fund.” The purpose of the Act was to establish and implement a state-operated lottery under the supervision of a state lottery commission (Commission) and a director. The Commission, consisting of seven members and the Director are appointed by the Governor. Under the Act, the Commission has certain powers and the duty to establish rules for conducting games, to select the type and number of gaming systems or games and to enter into contracts and agreements, and to do all acts necessary or incidental to the performance of its duties and exercise of its power and duty to operate the Lottery in a highly efficient manner. The Act provides that a minimum annual average of 45% of the gross amount received from each lottery shall be allocated for prizes and also provides for certain limitations on expenses necessary for operation and administration of the Lottery. To the extent available, remaining net profits are to be distributed to the State of West Virginia. As the State is able to impose its will over the Lottery, the Lottery is considered a component unit of the State and its financial statements are presented in the comprehensive annual financial report of the State as a blended proprietary fund component unit.

## NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A summary of the significant accounting policies of the Lottery is presented below.

**BASIS OF PRESENTATION** – The West Virginia Lottery is a component unit of the State of West Virginia, and is accounted for as a proprietary fund special purpose government engaged in business type activities. In accordance with Governmental Accounting Standards Board (GASB) Statement No. 34, “Basic Financial Statements and Management’s Discussion and Analysis for State and Local Governments,” and with accounting principles generally accepted in the United States of America, the financial statements are prepared on the accrual basis of accounting which requires recognition of revenue when earned and expenses when incurred. As permitted by Governmental Accounting Standards Board (GASB) Statement No. 20, “*Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities That Use Proprietary Fund Accounting*,” the Lottery has elected not to adopt Financial Accounting Standards Board (FASB) statements and interpretations issued after November 30, 1989 unless the GASB specifically adopts such FASB statements or interpretations.

The Lottery is included in the State’s basic financial statements as a proprietary fund and business type activity using the accrual basic of accounting. Because of the Lottery’s presentation in these financial statements as a special purpose government engaged in business type activities, there may be differences in presentation of amounts reported in these financial statements and the basic financial statements of the State as a result of major fund determination.

**USE OF ESTIMATES** – The preparation of the financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make certain



**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)**

estimates and develop assumptions that affect the amounts reported in the financial statements and related notes to financial statements. Actual results could differ from management's estimates.

**LOTTERY GAME OPERATIONS** – The West Virginia Lottery derives its revenues from four basic types of lottery games: instant, on-line, video type games, and table games. The Lottery develops multiple game themes and prize structures to comply with its enabling legislation, including aggregate annual minimum prize provisions. All bonded retailers and agents comprised principally of grocery and convenience stores serve as the primary distribution channel for instant and on-line lottery sales to the general public.

The Lottery has contracted with a private vendor to manufacture, distribute, and provide data processing support for instant and on-line games. Under the terms of the agreements, the Lottery pays a percentage of gross revenues or gross profits for the processing and manufacture of the games.

Revenue from instant games is recognized when game tickets are sold to the retailers, and the related prize expense is recorded based on the specific game prize structure. Instant ticket sales and related prizes do not include the value of free plays issued for the purpose of increasing the odds of winning a prize.

Sales of on-line lottery tickets are made by licensed agents to the public with the use of computerized terminals. On-line games include POWERBALL®, a multi-state “jackpot” game; HOT LOTTO®, a multi-state “lotto” game; Cash25 “lotto” game; Daily 3 and 4 “numbers” games; and Travel, a daily “keno” game. Revenue is recognized when the agent sells the tickets to the public. Prize expense is recognized on the basis of actual drawing results.

Commissions are paid to instant game retailers and on-line agents at the rate of seven percent of gross sales. A portion of the commission not to exceed one and one quarter percent of gross sales may be paid from unclaimed prize moneys. The amount paid from unclaimed prize moneys is credited against prize costs. In addition, retailers and agents are paid limited bonus incentives that include prize shares on winning tickets they sold and a ticket cashing bonus on winning tickets they cash. On a weekly basis, retailers and agents must remit amounts due to the Lottery. Retailers may not be able to order additional instant tickets if payment has not been made for the previous billing period, while an agent's on-line terminal may be rendered inactive if payment is not received each week. No one retailer or agent accounts for a significant amount of the Lottery's sales or accounts receivable. Historically credit losses have been nominal and no allowance for doubtful accounts receivable is considered necessary.

Racetrack video lottery is a self-activated video version of lottery games. The board-operated games allow a player to place bets for the chance to be awarded credits which can either be redeemed for cash or be replayed as additional bets. The coin operated games allow a player to use coins, currency, or tokens to place bets for the chance to receive coin or token awards which

**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)**

may be redeemed for cash or used for replay in the coin operated games. The racetrack video lottery games' prize structures are designed to award prizes, or credits, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. The Lottery recognizes as racetrack video lottery revenue "gross terminal income" equivalent to all wagers, net of related prizes. Amounts required by statute to be paid to the private and local government

entities are reported as commissions. Racetrack video lottery legislation has established specific requirements for racetrack video lottery and imposed certain restrictions limiting the licensing for operation of racetrack video lottery games to horse and dog racetracks in West Virginia, subject to local county elections permitting the same. The legislation further stipulates the distribution of revenues from racetrack video lottery games, and requires any licensed racetrack to be responsible for acquiring the necessary equipment and bearing the risk associated with the costs of operating and marketing the games.

Limited video lottery is also a self-activated video version of lottery games, which were first placed in operation in December 2001, located in limited licensed retailer areas restricted for adult amusement. The games allow a player to use currency to place bets for the chance to receive free games or vouchers which may be redeemed for cash. The limited video lottery games' prize structures are designed to award prizes, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. The Lottery recognizes as limited video lottery revenue "gross terminal income" equivalent to all wagers, net of related prizes. Amounts required by statute to be paid to private entities are reported as commissions. Limited video lottery permit holders are statutorily responsible for acquiring equipment and bearing the risk associated with the costs of operating the games.

Table games are lotteries as each game involves consideration, the possibility of a prize, and their outcome is determined predominantly by chance, which the common law of West Virginia has long held are the three essential elements of a lottery. Table games are the exclusive intangible intellectual property of the state of West Virginia. Table games legislation has established specific requirements for table games and imposed certain restrictions limiting the licensing for operation of table games to horse and dog racetracks in West Virginia, subject to local county elections permitting the same. Each racetrack licensed as an agent of the Lottery Commission to operate West Virginia table games shall have written rules of play for each table game it operates which must be approved by the Commission. All wagers and pay-offs of winning wagers shall be made according to those rules of play. For the privilege of holding a table games license, there is levied a privilege tax of thirty-five percent of each licensee's adjusted gross receipts for the operation of West Virginia Lottery table games. Amounts required by statute to be paid to private and local government entities are reported as commissions. The legislation further stipulates the distribution of revenues from West Virginia table games,

**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)**

And requires any licensed racetrack to be responsible for acquiring the necessary equipment and bearing the risk associated with the costs of operating and marketing the games.

**CASH AND CASH EQUIVALENTS** – Cash and cash equivalents primarily consist of interest-earning deposits with the West Virginia Board of Treasury Investments (BTI) and are recorded at fair value.

**INVENTORY** – Inventory consists of instant game tickets available for sale to approved Lottery retailers and are carried at cost.

**OTHER ASSETS** – Other assets consist primarily of deposits restricted for payment of certain Multi-State Lottery Association activities.

**CAPITAL ASSETS** – The Lottery leases, under a cancelable operating lease, its office and warehouse facilities. The Lottery also leases various office equipment under agreements considered to be cancelable operating leases. Rental expense for the twelve months ended June 30, 2009 and June 30, 2008 approximated \$727,138 and \$685,268, respectively.

The Lottery has adopted a policy of capitalizing assets with individual amounts exceeding \$25,000. These assets include leasehold improvements, contributed and purchased equipment, comprised principally of technology property, office furnishings and equipment necessary to administer lottery games, are carried at cost. Depreciation is computed by the straight-line method using three to ten year lives.

**COMPENSATED ABSENCES** – The Lottery has accrued \$467,815 and \$371,165 of at June 30, 2009 and 2008, respectively, for estimated obligations that may arise in connection with compensated absences for vacation at the current rate of employee pay. Employees fully vest in all earned but unused vacation. To the extent that accumulated sick leave is expected to be converted to benefits on termination or retirement, the Lottery participates in an other postemployment benefits plan (see Note 15).

**NET ASSETS** – Net assets are presented as restricted, unrestricted and invested in capital assets which represents the net book value of all property and equipment of the Lottery.

**OPERATING REVENUES AND EXPENSES** – Operating revenues and expenses for proprietary funds such as the Lottery are revenues and expenses that result from providing services and producing and delivering goods and/or services. Operating revenues for the Lottery are derived from providing various types of lottery games. Operating expenses include commissions, prize costs, other direct costs of providing lottery games, and administrative expenses. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

**NOTE 3 - CASH AND CASH EQUIVALENTS**

At June 30, 2009 the carrying amounts of deposits (overdraft) with financial institutions were (\$23) thousand with a bank balance (overdraft) of \$29 thousand. Of this balance \$100 thousand was covered by federal depository insurance with the remaining balance collateralized with securities held by the State of West Virginia's agent in the State's name.

A summary of the amount on deposit with the West Virginia Board of Treasury Investments (BTI) is as follows (in thousands):

	<u>June 30, 2009</u>	<u>June 30, 2008</u>
Amount on deposit with the BTI	<u>\$295,248</u>	<u>\$239,002</u>

The deposits with the BTI are part of the State of West Virginia's consolidated investment cash liquidity pool and are not separately identifiable as to specific types of securities. Investment income is pro-rated to the Lottery at rates specified by the BTI based on the balance of the deposits maintained in relation to the total deposits of all state agencies participating in the pool. Such funds are available to the Lottery with overnight notice.

**NOTE 4 – CAPITAL ASSETS**

A summary of capital asset activity for the period ended June 30, 2009 is as follows (in thousands):

## Capital Assets:

	<u>Historical Cost</u> <u>At June 30, 2008</u>	<u>Additions</u>	<u>Deletions</u>	<u>Historical Cost</u> <u>At June 30, 2009</u>
Construction in Progress	\$ 285	\$ -	\$ (285)	\$ -
Improvements	1,120	50	-	1,170
Equipment	16,193	278	-	16,471
	<u>\$ 17,598</u>	<u>\$ 328</u>	<u>\$ (285)</u>	<u>\$ 17,641</u>
Accumulated Depreciation:				
	<u>Historical Cost</u> <u>At June 30, 2008</u>	<u>Additions</u>	<u>Deletions</u>	<u>Historical Cost</u> <u>At June 30, 2009</u>
Improvements	\$ 1,002	\$ 78	\$ -	\$ 1,080
Equipment	11,345	1,910	-	13,255
	<u>\$ 12,347</u>	<u>\$ 1,988</u>	<u>\$ -</u>	<u>\$ 14,335</u>

**NOTE 5 - PARTICIPATION IN THE MULTI-STATE LOTTERY**

The Lottery is a member of the Multi-State Lottery (MUSL), which operates the semi-weekly POWERBALL® jackpot lotto game and HOT LOTTO® game, on behalf of participating state lotteries. Each MUSL member sells game tickets through its agents and makes weekly wire transfers to the MUSL in an amount equivalent to the total prize pool less the amount of prizes won in each state. Lesser prizes are paid directly to the winners by each member lottery. The prize pool for POWERBALL®, and HOT LOTTO® is 50% of each drawing period's sales, with minimum jackpot levels. Revenues derived from the Lottery's participation in the MUSL POWERBALL® jackpot game for the month and year-to-date periods ended June 30, 2009 were \$3,360,983 and \$51,016,100 while related prize costs for the same periods were \$1,635,722 and \$25,510,333. Revenues derived from the Lottery's participation in the HOT LOTTO® game for the month and year-to-date periods ended June 30, 2009 were \$548,206 and \$4,881,127 while related prize costs for the same periods were \$272,755 and \$2,440,802.

MUSL places 2% of each POWERBALL® drawing period's sales in separate prize reserve funds that serve as a contingency reserve to protect the respective MUSL Product Groups from unforeseen prize liabilities. Currently, the MUSL Board of Directors has placed a \$75,000,000 limit on the POWERBALL® Prize Reserve Fund and a \$25,000,000 limit on the Set Prize Reserve Fund. These funds can only be used at the discretion of the respective MUSL Product Group. Once the prize reserve funds exceed the designated limit, the excess becomes part of that particular prize pool. Prize reserve fund monies are refundable to MUSL Product Group members if the MUSL disbands or, after one year, if a member leaves the MUSL. At June 30, 2009 the POWERBALL® prize reserve fund had a balance of \$104,973,137 of which the Lottery's share was \$2,380,055. The Lottery has charged amounts placed into the prize reserve funds to prize costs as the related sales have occurred.

**NOTE 6 - RACETRACK VIDEO LOTTERY**

The Racetrack Video Lottery legislation stipulates the distribution of racetrack video lottery revenues. This legislation has been amended since inception to restate revenue distribution based on revenue benchmarks. Initially, four percent (4%) of gross terminal revenue is allocated for lottery administrative costs. Sixty-six percent (66%) of net terminal revenue (gross less 4%) is allocated in lieu of commissions to: the racetracks (47%); other private entities associated with the racing industry (17%); and the local county and municipal governments (2%). The remaining revenues (34%) of net terminal revenue is allocated for distribution to State as specified in the Racetrack Video Lottery Act or subsequent State budget, as described in the Note 9 titled "Nonoperating Distributions to the State of West Virginia."

**NOTE 6 - RACETRACK VIDEO LOTTERY (continued)**

The first benchmark occurs when the current year net terminal revenue meets the fiscal year 1999 net terminal revenue. The counties and incorporated municipalities split 50/50 the two percent (2%) net terminal revenue.

The second benchmark occurs when the current year gross terminal revenue meets the fiscal year 2001 gross terminal revenue. The four percent (4%) is no longer allocated for lottery

administrative costs; instead the State receives this for distribution as specified by legislation or the State budget.

The final benchmark occurs when the current year net terminal revenue meets the fiscal year 2001 net terminal revenue. At this point a 10% surcharge is applied to net terminal revenue, with 58% of the surcharge allocated for distribution to the State as specified by legislation or the State budget, and 42% of the surcharge allocated to separate capital reinvestment funds for each licensed racetrack. After deduction of the surcharge, 55% of net terminal revenue is allocated in lieu of commissions to: the racetracks (42%); other private entities associated with the racing industry (11%); and the local county and incorporated municipality governments (2%). The remaining net terminal revenue (45%) is allocated for distribution to the State as specified in the Racetrack Video Lottery Act or subsequent State budget, as described in Note 9. Amounts from the capital reinvestment fund may be distributed to each racetrack if qualifying expenditures are made within the statutory timeframe; otherwise amounts accumulated in the fund revert to the state excess lottery revenue fund.

The WV Lottery, along with the Rhode Island and Delaware lotteries, participate in Multi-Jurisdictional Wide Area Progressive (MWAP) video games. This allows each of the lotteries to offer a higher progressive jackpot than they could generate alone. MUSL manages the progressive games and charges each participant a MWAP contribution fee of 4% of the amount wagered. A summary of racetrack video lottery revenues for the month ended June 30, 2009 and year-to-date follows (in thousands):

## West Virginia Lottery RFP – LOT 455 – Audit Services

	<u>Month</u>		<u>Year- to -Date</u>	
	<u>2009</u>	<u>2008</u>	<u>2009</u>	<u>2008</u>
Total credits played	\$ 693,189	\$ 742,763	\$ 8,690,994	\$9,309,132
Credits (prizes) won	(625,228)	(670,468)	(7,838,424)	(8,407,279)
MWAP Contributions	(354)	(340)	(4,337)	(3,900)
Gross terminal income	<u>67,607</u>	<u>71,955</u>	<u>848,233</u>	<u>897,953</u>
Administrative costs	-	-	(17,524)	(17,524)
Net Terminal Income	<u>67,607</u>	<u>71,955</u>	<u>830,709</u>	<u>880,429</u>
Less distribution to agents	(32,127)	(34,193)	(463,649)	(487,276)
Racetrack video lottery revenues	<u>\$ 35,480</u>	<u>\$ 37,762</u>	<u>\$367,060</u>	<u>\$ 393,153</u>

A summary of video lottery revenues paid or accrued for certain state funds to conform with the legislation follows (in thousands):

	June 30, 2009	Year-to Date
State Lottery Fund	\$ -	\$130,125
State Excess Lottery Revenue Fund	30,418	178,902
Capital Reinvestment Fund	2,726	15,983
Tourism Promotion Fund 1.375%	803	10,673
Development Office Promotion Fund .375 %	219	2,911
Research Challenge Fund .5 %	292	3,881
Capitol Renovation & Improvement Fund .6875 %	402	5,337
Parking Garage Fund .0625 %	36	485
Parking Garage Fund 1 %	-	500
Cultural Facilities & Capitol Resources Fund .5 %	-	1,500
Capitol Dome & Capitol Improvements Fund .5 %	584	5,763
Worker's Compensation Debt Reduction Fund 7 %	-	11,000
Total nonoperating distributions	<u>\$35,480</u>	<u>\$ 367,060</u>

**NOTE 7 - LIMITED VIDEO LOTTERY**

Limited video lottery legislation passed in 2001 has established specific requirements imposing certain restrictions limiting the licensing for the operation of limited video lottery games to 9,000 terminals placed in licensed retailers. These licensed retailers must hold a qualifying permit for the sale and consumption on premises of alcohol or non-intoxicating beer. The Lottery has been charged with the administration, monitoring and regulation of these machines. The legislation further stipulates the distribution of revenues from the limited video lottery games, and requires any licensees to comply with all related rules and regulations of the Lottery in order to continue its retailer status. The Limited Video Lottery legislation stipulates that 2% of gross terminal income be deposited into the state lottery fund for administrative costs. Then, the state share percentage of gross profit is to be transferred to the State Excess Lottery Revenue Fund. Such percentage is between 30 and 50 percent and is subject to change

on a quarterly basis. Two percent is distributed to counties and incorporated municipalities in the manner prescribed by the statute. The remaining amount of gross profit is paid to retailers and/or operators as prescribed in the Act, and is recorded as limited video lottery commissions in the financial statements. Municipal and county distributions are accounted for as nonoperating expenses. A summary of limited video lottery revenues for the month ended June 30, 2009 and year-to-date follows (in thousands):

	<u>Month</u>		<u>Year- to -Date</u>	
	<u>2009</u>	<u>2008</u>	<u>2009</u>	<u>2008</u>
Total credits played	\$382,191	\$410,962	\$4,925,431	\$5,003,696
Credits (prizes) won	(349,841)	(377,415)	(4,512,942)	(4,592,109)
Gross terminal income	\$32,350	\$33,547	\$412,489	\$411,587
Administrative costs	(646)	(670)	(8,249)	(8,231)
Gross Profit	31,704	32,877	\$404,240	\$403,356
Commissions	(15,852)	(16,438)	(202,120)	(205,637)
Municipalities and Counties	(634)	(658)	(8,085)	(8,067)
Limited video lottery revenues	<u>\$15,218</u>	<u>\$15,781</u>	<u>\$194,035</u>	<u>\$189,652</u>



**NOTE 8 – TABLE GAMES**

Table Games legislation passed in 2007 per House Bill 2718. Table games include blackjack, roulette, craps, and various types of poker. Each racetrack licensee is subject to a privilege tax of thirty five percent (35%) of adjusted gross receipts which will be deposited weekly into the Racetrack Table Games Fund.

From the gross amounts deposited into the Racetrack Table Games Fund, the Commission, on a monthly basis shall:

Retain 3% of the adjusted gross receipts for administrative expenses of which at least \$100,000 and not more than \$500,000 annually will be transferred to the Compulsive Gambling Treatment Fund. Transfer two and one-half percent of adjusted gross receipts from all thoroughbred racetracks with West Virginia Lottery table games to the special funds established by each thoroughbred racetrack table games licensee for the payment of regular racetrack purses to be divided equally among each licensee and transfer two and one-half percent of adjusted gross receipts from all greyhound racetracks with West Virginia Lottery table games to the special funds established by each greyhound racetrack table games licensee for the payment of regular racetrack purses to be divided equally among each licensee. Transfer two percent of the adjusted gross receipts from all licensed racetracks to the Thoroughbred Development Fund and the Greyhound Breeding Development Fund to be divided pro rata among the development funds. Transfer one percent of the adjusted gross receipts from each licensed racetrack to the county commissions of the counties where racetracks with West Virginia Lottery table games are located to be divided pro rata among the counties. Transfer two percent of the adjusted gross receipts from each licensed racetrack to the governing bodies of municipalities within counties where racetracks with West Virginia Lottery table games are located as prescribed by statute. And transfer one-half of one percent of the adjusted gross receipts to the governing bodies of municipalities in which a racetrack table games licensee is located to be divided equally among the municipalities. The Commission will distribute the remaining amounts, hereinafter referred to as the net amounts in the Racetrack Table Games Funds as follows:

- 1) Transfer four percent into a special fund to be established by the Racing Commission to be used for payment into the pension plan for all employees of each licensed racing association;
- 2) Transfer ten percent, to be divided and paid in equal shares, to each county commission in the state where table games are not located;
- 3) Transfer ten percent, to be divided and paid in equal shares, to the governing bodies of each municipality in the state where table games are not located; and
- 4) Transfer seventy-six percent to the State Debt Reduction Fund.

The cash transferred to the State Debt Reduction Fund in the current month is included in Note 9-Nonoperating Distributions to the State of West Virginia. The table games adjusted gross receipts for the month and year-to-date periods ended June 30, 2009 were \$8,338,708 and \$97,768,861, respectively. The following table shows the month and year -to- date totals of the privilege tax and the accrued distributions (in thousands) to be transferred in the subsequent month:

	<u>Current</u>	<u>Month</u>	<u>Year- to -Date</u>	
	2009	2008	2009	2008
Table Games Privilege Tax	\$ 2,919	\$ 2,129	\$34,219	\$15,877
Interest on Table Games Fund	-	3	22	29
Administrative Costs	<u>(250)</u>	<u>(182)</u>	<u>(2,933)</u>	<u>(1,361)</u>
Total Available for Distribution	2,669	1,950	31,308	14,545
<u>Less Distributions:</u>				
Racetrack Purse Funds	209	153	2,444	1,134
Thoroughbred & Greyhound Development Funds	167	121	1,955	907
Racing Commission Pension Plan	80	59	939	437
Municipalities/Counties	<u>692</u>	<u>505</u>	<u>8,120</u>	<u>3,771</u>
Total Distributions	1,148	838	13,458	6,249
State Debt Reduction Fund	<u>\$1,521</u>	<u>\$1,112</u>	<u>\$17,850</u>	<u>\$8,296</u>

#### NOTE 9- NONOPERATING DISTRIBUTIONS TO THE STATE OF WEST VIRGINIA

The Lottery periodically distributes surplus funds, exclusive of amounts incurred and derived from limited video lottery and a portion of racetrack video lottery funds, to the State of West Virginia in accordance with the legislation. For the year ending June 30, 2009 the State Legislature budgeted \$168,151,542 of estimated profits of the Lottery for distributions to designated special revenue accounts of the State of West Virginia. With regard to the State Lottery Fund, legislation stipulates that debt service payments be given a priority over all other transfers in instances where estimated profits are not sufficient to provide for payment of all appropriated distributions. Debt service payments of \$1,800,000 and \$1,000,000 per month for the first ten months of each fiscal year currently have such priority. Transfers made pursuant to the State Excess Lottery Revenue Fund have similar requirements; currently payments are \$3,608,834 per month for the first ten months of each fiscal year. In addition, Legislation provides that, if in any month, there is a shortage of funds in the State Excess Lottery Revenue Fund to make debt service payments, the necessary amount shall be transferred from the State Lottery Fund to cover such shortfall, after the State Lottery Fund debt service payments have been made. Repayments to the State Lottery Fund are required to be made in subsequent months as funds become available. During the month ended June 30, 2009 the Lottery made such distributions and accrued additional distributions of \$29,970,243. The Lottery is a non-appropriated state agency and therefore does not have a budget adopted by the Legislature. Since the enactment of the Racetrack Video Lottery Act, the Lottery is also statutorily required to distribute income from racetrack video lottery operations as described in Note 6. As of June 30, 2009 the Lottery accrued additional distributions relating to racetrack video lottery operations of \$766,084.

Note 7 describes the Limited Video Lottery Act and the statutory distributions required to be made from limited video lottery operations. Note 8 describes the Table Games Act and the statutory distributions required to be made from table games operations.

**NOTE 9- NONOPERATING DISTRIBUTIONS TO THE STATE OF WEST VIRGINIA (continued)**

A summary of the cash distributions made to certain state agencies to conform to the legislation follows (in thousands):

<u>BUDGETARY DISTRIBUTIONS</u>	<u>June 30, 2009</u>	<u>Year-to-Date</u>
<u>State Lottery Fund:</u>		
Community and Technical College	\$ 5,000	\$ 5,000
Bureau of Senior Services	-	58,815
Department of Education	-	35,191
Library Commission	-	11,554
Higher Education-Policy Commission	-	11,049
Tourism	-	7,961
Natural Resources	-	3,492
Division of Culture & History	-	5,880
Department of Education & Arts	-	1,213
Building Commission	-	9,997
School Building Authority	-	18,000
Total State Lottery Fund	\$ 5,000	\$ 168,152
 <u>State Excess Lottery Revenue Fund:</u>		
Economic Development Fund	\$ -	\$ 19,000
Higher Education Improvement Fund	-	10,000
General Purpose Account	-	65,000
Higher Education Improvement Fund	-	27,000
State Park Improvement Fund	-	5,000
School Building Authority	-	19,000
Refundable Credit	315	7,372
Excess Lottery Surplus	37,025	135,700
West Va. Infrastructure Council	-	40,000
Total State Excess Lottery Revenue Fund	\$ 37,340	\$ 328,072
SB 1015, 2001	24,845	24,845
Total Budgetary distributions:	\$ 67,185	\$ 521,069
Veterans Instant Ticket Fund	\$ 44	\$ 862
 <u>Other Racetrack Video Lottery distributions:</u>		
Tourism Promotion Fund 1.375%	\$ 995	\$ 10,668
Development Office Promotion Fund .375%	272	2,910
Research Challenge Fund .5%	362	3,879
Capitol Renovation & Improvement Fund .6875%	498	5,334
Parking Garage Fund .0625 %	45	485
Parking Garage Fund 1 %	-	500

## West Virginia Lottery RFP – LOT 455 – Audit Services

Cultural Facilities & Cap. Resources Fund .5%	-	1,500
Capitol Dome & Cap. Improvements Fund .5%	724	5,759
Workers Compensation Debt Reduction Fund 7%	-	11,000
Total	<u>\$ 2,896</u>	<u>\$ 42,035</u>
Table Games State Debt Reduction Fund	\$ 1,431	17,440
Total nonoperating distributions to the State of West Virginia (cash basis)	\$ 71,556	\$ 581,406
Accrued nonoperating distributions, beginning	(239,912)	(166,967)
Accrued nonoperating distributions, end	<u>202,184</u>	<u>202,184</u>
Total nonoperating distributions to the State of West Virginia	<u>\$ 33,828</u>	<u>\$ 616,623</u>

**NOTE 10 – RESTRICTED NET ASSETS**

On June 14, 2006, House Bill 106 was enacted by the West Virginia State Legislature to set aside unexpended administrative expenses of the Lottery up to the limits for such expenses established by the enabling legislation of traditional, racetrack video lottery, and limited video lottery games in an amount not to exceed \$20,000,000 beginning in fiscal year 2006 and each year through fiscal year 2012. These assets are to be set aside for the design and construction of a building for the use of the Lottery and certain other State of West Virginia governmental entities. The lottery contributed \$10,817,386 to the fund for fiscal year 2009 plus related interest of \$566,293.

**NOTE 11 – COMMITMENTS**

The Lottery Commission has set aside funds as unrestricted net assets for the acquisition of future assets. As of June 30, 2009, a balance of \$12,817,601 is available for this purpose.

**NOTE 12 - DEFERRED JACKPOT OBLIGATIONS AND INVESTMENTS HELD IN TRUST**

Prior to becoming a member of the Multi-State Lottery in 1988, the prize structure of certain games operated solely by the Lottery included jackpot prizes. The Lottery, at its discretion, could choose to award such prizes in the form of either a lump sum payment or in equal installments over a period of 10 or 20 years, through June 30, 2009, the Lottery has awarded twenty-one deferred jackpot prizes totaling approximately \$28,868,786. Deferred prize awards were recognized as prize liabilities equivalent to the present value of future prize payments discounted at interest rates for government securities in effect on the date prizes were won. The imputed

interest portion of the deferred prize is calculated using the effective interest method at rates ranging from 7.11% to 9.13%.

A summary of the present value of the remaining obligations for deferred jackpot prize awards follows (in thousands):

	<u>June 30, 2009</u>	<u>June 30, 2008</u>
Present value of deferred prize award obligations:		
Discounted obligations outstanding	\$ -	\$ 120
Imputed interest accrued	<u>-</u>	<u>9</u>
	-	129
Less current portion of discounted obligations and accrued interest	<u>-</u>	<u>(129)</u>
Long-term portion of deferred prize award obligations	<u>\$ -</u>	<u>\$ -</u>

Cash payments on deferred prize obligations for the year are as follows (in thousands):

<u>Year Ended</u>	Original Obligations <u>Outstanding</u>	Discounted Imputed <u>Interest</u>	<u>Total</u>
June 30, 2009*	<u>120</u>	<u>10</u>	<u>130</u>
	<u>\$ 120</u>	<u>\$ 10</u>	<u>\$ 130</u>

\*Paid 8/15/2008

The Lottery has purchased long-term investments consisting principally of zero coupon government securities to fund deferred jackpot prize award obligations. Such investments are maintained in a separate trust fund administered by the West Virginia Board Of Treasury Investments on behalf of the Lottery and the jackpot prize winners, with investment maturities approximating deferred prize obligation installment due dates. Investments are carried at fair value determined by quoted market prices for the specific obligation or for similar obligations. Changes in fair value are included as part of investment income. In accordance with Statement No. 3 of the Government Accounting Standards Board, these investments are classified as to level of risk in Category 1, which includes investments that are insured or registered, or for which the securities are held by the State or its agent in the State's name.

**NOTE 13 - RETIREMENT BENEFITS**

All full-time Lottery employees are eligible to participate in the State of West Virginia Public Employees' Retirement System (PERS), a cost-sharing multiple-employer defined benefit public employee retirement system. The PERS is one of several plans administered by the West Virginia Consolidated Public Retirement (CPRB) under the direction of its Board of Trustees, which consists of the Governor, State Auditor, State Treasurer, Secretary of the Department of Administration, and nine members appointed by the Governor. CPRB prepares separately issued financial statements covering all retirement systems it administers, which can be obtained from Consolidated Public Retirement Board, Building 5, Room 1000, State Capitol Complex, Charleston, West Virginia 25305-0720. Employees who retire at or after age sixty with five or more years of contributory service or who retire at or after age fifty-five and have completed twenty-five years of credited service with age and credited service equal to eighty or greater are eligible for retirement benefits as established by State statute. Retirement benefits are payable monthly for life, in the form of a straight-line annuity equal to two percent of the employee's average annual salary from the highest 36 consecutive months within the last 10 years of employment, multiplied by the number of years of the employee's credited service at the time of retirement. Covered employees are required to contribute 4.5% of their salary to the PERS. The Lottery is required to contribute 10.5% of covered employees' salaries to the PERS. The required employee and employer contribution percentages have been established and changed from time to time by action of the State Legislature. The required contributions are not actuarially determined; however, actuarial valuations are performed to assist the Legislature in determining appropriate contributions. The Lottery and employee contributions, for the period ending June 30, 2009 are as follows (in thousands):

	<u>June</u> <u>30,</u> <u>2009</u>	<u>Year-to Date</u>
Lottery contributions	\$58	\$666
Employee contributions	26	290
Total contributions	<u>\$84</u>	<u>\$956</u>

**NOTE 14 - RISK MANAGEMENT**

The Lottery is exposed to various risks of loss related to torts; theft of, or damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The Lottery participates in several risk management programs administered by the State of West Virginia. Each of these risk pools have issued separate audited financial reports on their operations. Those reports include the required supplementary information concerning the reconciliation of claims liabilities by type of contract and ten-

year claim development information. Complete financial statements of the individual insurance enterprise funds can be obtained directly from their respective administrative offices.

## **WEST VIRGINIA WORKERS' COMPENSATION COMMISSION (WCC)**

The State of West Virginia operated an exclusive state-managed workers' compensation insurance program (WCC) prior to December 31, 2005. A framework for the privatization of workers' compensation insurance in West Virginia was established with the passage of Senate Bill 1004 and the WCC trust fund was terminated effective December 31, 2005. A privatized business entity, BrickStreet Administrative Services (BAS), was established and became the administrator of the WCC Old Fund, beginning January 1, 2006, and thereafter for seven years, and will have all administrative and adjudicatory authority previously vested in the WCC trust fund in administering old law liabilities and otherwise processing and deciding old law claims. BAS will be paid a monthly administrative fee and rated premium to provide a prompt and equitable system for compensation for injury sustained in the course of and growing out of employment. The monthly administrative fee for the West Virginia Lottery has been set at a level consistent with prior year payments and the new rate or premium will be established on an experience rated basis. The West Virginia Lottery is required to participate in the new BrickStreet Administrative Services (BAS) experience rated pool, which is expected to be rate adjusted on a quarterly basis.

## **PUBLIC EMPLOYEES' INSURANCE AGENCY (PEIA)**

The Lottery participates in the Public Employees' Insurance Agency which provides an employee benefit insurance program to employees. PEIA was established by the State of West Virginia for State agencies, institutions of higher education, Boards of Education and component units of the State. In addition, local governmental entities and certain charitable and public service organizations may request to be covered by PEIA. PEIA provides a base employee benefit insurance program which includes hospital, surgical, major medical, prescription drug and basic life and accidental death. Underwriting and rate setting policies are established by PEIA. The cost of all coverage as determined by PEIA shall be paid by the participants. Premiums are established by PEIA and are paid monthly, and are dependent upon, among other things, coverage required, number of dependents, state vs. non state employees and active employees vs. retired employees and level of compensation. Coverage under these programs is limited to \$1 million lifetime for health and \$10,000 of life insurance coverage.

The PEIA risk pool retains all risks for the health and prescription features of its indemnity plan. PEIA has fully transferred the risks of coverage to the Managed Care Organization (MCO) Plan to the plan provider, and has transferred the risks of the life insurance coverage to a third party insurer. PEIA presently charges equivalent premiums for participants in either the indemnity plan or the MCO Plan. Altogether, PEIA insures approximately 205,000 individuals, including participants and dependents.

## **BOARD OF RISK AND INSURANCE MANAGEMENT (BRIM)**

The Lottery participates in the West Virginia Board of Risk and Insurance Management (BRIM), a common risk pool currently operating as a common risk management and insurance program

for all State agencies, component units, and other local governmental agencies who wish to participate. The Lottery pays an annual premium to BRIM for its general insurance coverage. Fund underwriting and rate setting policies are established by BRIM. The cost of all coverage as determined by BRIM shall be paid by the participants. The BRIM risk pool retains the risk of the first \$1 million per property event and purchases excess insurance on losses above that level. Excess coverage, through an outside insurer under this program is limited to \$200 million per event, subject to limits on certain property. BRIM has \$1 million per occurrence coverage maximum on all third-party liability claims.

#### **NOTE 15 – OTHER POSTEMPLOYMENT BENEFITS (OPEB)**

The Lottery participates in the West Virginia Other Postemployment Benefits Plan (OPEB Plan) of the West Virginia Retiree Health Benefit Trust Fund (Trust), a cost-sharing multiple-employer defined benefit postemployment healthcare plan administered by the West Virginia Public Employee Insurance Agency (WVPEIA). The OPEB Plan provides retiree post-employment health care benefits for participating state and local government employers. The provisions of the Code of West Virginia, 1931, as amended (the Code), assigns the authority to establish and amend benefit provisions to the WVPEIA board of trustees. The WVPEIA issues a publicly available financial report that includes financial statements and required supplementary information for the OPEB Plan. That report may be obtained by writing to Public Employees Insurance Agency, 601 57<sup>th</sup> Street, South East, Suite 2, Charleston, West Virginia, or by calling 1-888-680-7342.

##### Funding Policy

The Code requires the OPEB Plan bill the participating employers 100% of the annual required contribution (ARC), an amount actuarially determined in accordance with the parameters of GASB Statement 45. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost each year and amortize any unfunded actuarial liabilities (or funding excess) of the plan over a period not to exceed thirty years. State of West Virginia plan employers are billed per active health policy per month.

The ARC rate is \$388 and \$461 per employee per month for the years ending June 30, 2009 and 2008 respectively. Through June 30, 2009 and 2008, the Lottery has paid premiums of \$185,563 and \$98,625. For year ended June 30, 2008 (initial year of the Lottery's participation in the Trust), the State of West Virginia, on the Lottery's behalf, paid \$472,247 towards the Annual Required Contribution. As of June 30, 2009 and 2008, the Lottery has recorded a liability of \$251,867 and \$10,073 on its balance sheet for OPEB.

#### **NOTE 16 – NEW ACCOUNTING PRONOUNCEMENTS**

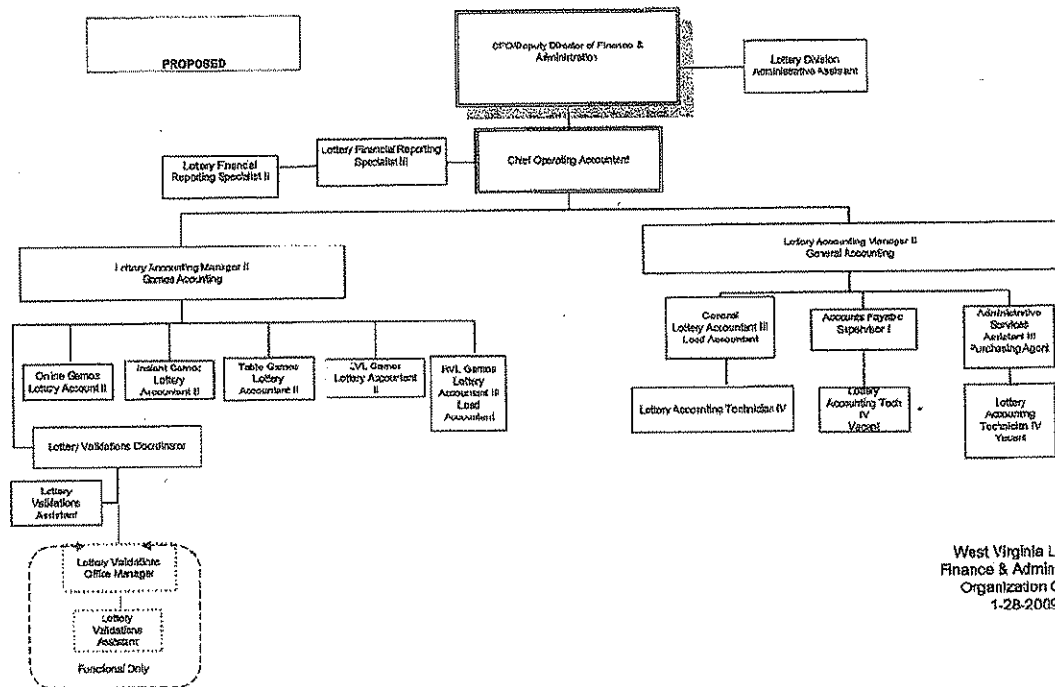
The Governmental Accounting Standards Board (GASB) issued Statement No. 50, Pension Disclosures, an amendment of GASB Statements No. 25 and No. 27, in 2007. This Statement more closely aligns the financial reporting requirements for pensions with those for other



postemployment benefits (OPEB) and, in doing so, enhances information disclosed in notes to the financial statements or presented as required supplementary information (RSI) by pension plans and by employers that provide pension benefits. The reporting changes required by this Statement amend applicable note disclosure and RSI requirements of Statements No. 25, Financial Reporting for Defined Benefit Pension Plans and Note Disclosures for Defined Contribution Plans, and No. 27, Accounting for Pensions by State and Local Governmental Employers, to conform with requirements of Statements No. 43, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans, and No. 45, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions. This Statement is effective for periods beginning after June 15, 2007, and management has not yet determined what impact, if any, it will have on the financial statements.

# Attachment B

## West Virginia Lottery Finance & Administration



West Virginia Lottery Finance & Administration Organization Chart 1-28-2009

RFQ No. \_\_\_\_\_

STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**West Virginia Code §5A-3-10a states:** No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars in the aggregate.

**DEFINITIONS:**

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions. "Political subdivision" means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. "Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceed five percent of the total contract amount.

**EXCEPTION:** The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

Under penalty of law for false swearing (*West Virginia Code* §61-5-3), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

**WITNESS THE FOLLOWING SIGNATURE**

Vendor's Name: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_, to-wit:

Taken, subscribed, and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission expires \_\_\_\_\_, 20\_\_.

**AFFIX SEAL HERE**

**NOTARY PUBLIC** \_\_\_\_\_

State of West Virginia  
**VENDOR PREFERENCE CERTIFICATE**

Certification and application\* is hereby made for Preference in accordance with *West Virginia Code*, §5A-3-37. (Does not apply to construction contracts). *West Virginia Code*, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the *West Virginia Code*. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

1. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 \_\_\_\_\_ Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or**,  
 \_\_\_\_\_ Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or**,  
 \_\_\_\_\_ Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or**,
2. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 \_\_\_\_\_ Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or**,
3. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 \_\_\_\_\_ Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or**,
4. **Application is made for 5% resident vendor preference for the reason checked:**  
 \_\_\_\_\_ Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; **or**,
5. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**  
 \_\_\_\_\_ Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; **or**,
6. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**  
 \_\_\_\_\_ Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

**Under penalty of law for false swearing (West Virginia Code, §61-5-3), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.**

Bidder: \_\_\_\_\_ Signed: \_\_\_\_\_

Date: \_\_\_\_\_ Title: \_\_\_\_\_

\*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.