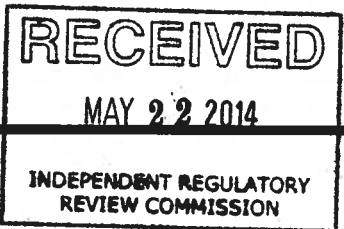


3039



Cooper, Kathy

From: Danielle Friedman <dfriedmanesq@gmail.com>
Sent: Wednesday, May 21, 2014 6:46 PM
To: dweldon@philapark.org
Cc: IRRC; NickMicc@pahousegop.com; kgillesp@pahousegop.com; rtomlinson@pasen.gov
Subject: IRRC Number 3039/Regulation #126-6
Attachments: MA-1_20140515120414.pdf

Dear Mr. Weldon:

As a medallion owner and as a potential bidder in the pending auction of taxicab medallions in Philadelphia, I have a number of concerns with the Philadelphia Parking Authority's Final Regulations. Some of my concerns are outlined below:

1. § 1013.32(b), states that a person that is **not** a medallion taxicab certificate holder must submit form SA-1 in order to qualify as a bidder in the auction. However, it is not clear who is considered a medallion certificate holder. For example, if am a shareholder of XYZ, Corp., which owns a taxicab medallion, but I want to bid in the auction under a new corporation in which I am a shareholder, ABC, Corp., which does not yet own any medallions, am I still considered a medallion certificate holder?
2. Additionally, SA-1 states that an applicant has to submit a **non-refundable** fee to the PPA, however, it does not specify what this fee will be. Is it accurate that these fees are truly non-refundable? SA-1 merely states that the fee must be a percentage, but what is it a percentage of? How can anyone participate in the auction if it is not clear what application fees must be submitted and whether they are refundable? If there are 500 new bidders, will the PPA be collecting 500 non-refundable fees?
3. When is an applicant's completed SA-1 to be published in the PA Bulletin, before or after bidding? The regulations do not say. If before and the SA-1 is approved, will the PPA issue the prospective bidder a certificate of public convenience? This is separate from an actual medallion. Also If the SA-1 is published before bidding and that bidder is protested, does that mean that bidder has to deal with a protest prior to even knowing whether he or she will successfully obtain a medallion?
4. §1013.35(a)(4)(i) states that a deposit of 10% of the bid amount must be included with each bid. This deposit will be **non-refundable** as to the highest conforming bidder and credited towards the sale price *if the sale is approved*. What happens to the deposit if the PPA **does not** approve the sale? While unsuccessful bidders get their deposits returned, nothing is mentioned about successful bidders who are otherwise not approved by the PPA. The PPA has a conflict of interest here. They are the ones who decide if a sale is approved and they do not provide any reasons as to why a sale would not be approved. Keep in mind, at this point all necessary applications and bid paperwork have been submitted so there is no indication as to why a sale would not be approved. The regulations need to be clear on this issue.
5. What happens to bidders deposits and application fees if protests are filed against the applicants?
6. The estimated amount being submitted to the PPA in deposits may reach \$2.5 million in addition to any application fees the PPA may collect. How will this money be handled? Will it be held in escrow? Will unsuccessful bidders have their deposits plus interest returned to them? Will the deposits go in the PPA's general fund? Again, the regulations are silent.
7. Nothing in the regulations mention how a bidder will get title to the physical medallion even if a protest is filed against the issuance of a certificate of public convenience to said bidder.
8. §1013.35(a)(4)(ii) states that bidders need loan commitment letters from lenders for no less than 80% of the bid amount. In Philadelphia there are no direct medallion lending institutions. All financing transactions must go through a third-party broker, thus bid amounts will be revealed to these third parties, jeopardizing the confidentiality of the sealed bid process.

9. When the proposed regulations were released back in October 2013, they referred to Form MA-1 "Official Bid Form for Medallion Sales". This form was not published until recently and thus it was impossible to comment on MA-1 during the commenting period. This in itself is a violation of the Commonwealth Documents Law. Now that it has been released (attached hereto, it can be found on the PPA's website) there a number of problems with the form:
 - a. MA-1 has a lot of references to Form SA-1. The current SA-1 that is on the PPA's website contains a lot of errors and was created prior to the PPA's adoption of its most current regulations in 2011, thus it is out of date. SA-1 is inaccurate and does not contain complete instructions. The PPA has been notified of these problems many times in the past. How can a regulatory agency have such an inadequate form on its website for 3.5 years? How could the PPA knowingly refer to such an inaccurate form in its final regulations, especially in the context of such a huge event like a medallion auction? SA-1 should have been revised a long time ago and step-by-step instructions should have been provided then.
 - b. MA-1 again raises the issue of who is considered a medallion owner, as stated in paragraph 1 of this email.
 - c. MA-1 again raises the issue of the PPA keeping a deposit if they do not approve the sale of an otherwise successful bidder. Where did the PPA get the right to keep a bidder's deposit if the sale is not approved?
 - d. Paragraph 1 of MA-1 contains a typo. It should read "from" not "form".
 - e. How can an individual comply with Paragraph 4 of MA-1 if they intend to bid on multiple medallions? Are they permitted to do so? The regulations do not say.
 - f. Is a bidder in violation of Paragraph 7 of MA-1 if a protest is filed against them and they cannot close within the time period specified by the PPA?
10. Generally the PPA should ensure that all potential bidders are aware of the situations in which they may lose their substantial deposits. Without clear and concise regulations and accurate forms with clear instructions, the PPA cannot ensure that bidders will be fully aware of what is required of them and how their property will be safeguarded.

Thank you for your consideration. Please take the time to consider these issues prior to passing the final regulations.

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**PHILADELPHIA PARKING AUTHORITY
TAXICAB AND LIMOUSINE DIVISION**

OFFICIAL BID FORM FOR MEDALLION SALES

I, _____, on behalf of _____,
Print name Print entity name if applicable

bid the sum of \$ _____ .00 for Medallion No. _____.

I have included the required deposit in the amount of \$ _____ .00 by certified check, bank check or money order drawn on a Federal or State insured bank, payable to the "Philadelphia Parking Authority". The deposit is non-refundable as to the highest bidder and credited toward the sale price if the sale is approved.

My CPC No. is _____ . The name of the company for which
If applicable
the CPC was issued is _____.

If you do not have a CPC you must file an SA-1. The date the SA-1 was filed is _____.

I, _____ as bidder for _____ make the
Company name

following verified statements:
Print name of bidder

1. I have not relied on any statements or representations from the Authority in determining the amount of my bid.
2. I have not colluded, consulted, cancelled, communicated or agreed in any way with any other bidder or prospective bidder for the purpose of restricting competition or of inducing any other prospective bidder to submit or not to submit a bid for the purpose of restricting competition.
3. I have not disclosed any bid price, directly or indirectly, to any other bidder for the purpose of restricting competition or of inducing any other prospective bidder to submit or not submit a bid for the purpose of restricting competition.
4. I am not an owner, partner, member, shareholder or key employee of any other bidder and I do not have controlling influence over any other bidder.
5. I am familiar with the Rules and Regulations of the PPA Taxicab and Limousine Division governing the ownership of taxicab Medallions

and agree to comply with the same at all times, including the requirements regarding the completion of this transaction if I am a successful bidder.

6. I have read the regulations relating to criteria for taxicab ownership and am qualified to own a medallion taxicab.
7. If I am a winning bidder, I understand that the failure to complete the closing of this transaction within the time period specified by the PPA TLD rules and regulations will result in the forfeiture of the deposit made by me.

VERIFICATION

I, _____ on behalf of _____
print name & office corporation or other entity
hereby verify that the above statements made for this Bid process are true and correct to the best of my knowledge, information and belief.
I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Date

Signature

The broker or attorney that will submit the SA-1 on my behalf is _____.

ADDITIONAL INSTRUCTION INFORMATION

Please submit a list on a separate sheet of all Medallions currently owned by you as a shareholder, member or individual in all companies that you are affiliated with.

If the bidder does not own a PPA Certificate of Public Convenience to operate a Medallion taxicab in Philadelphia, the bidder is required to submit an SA-1 within 30 days of the Notice of Medallion Sale appearing in the Pennsylvania Bulletin. If the bidder is not notified that the application is denied, the bidder will be permitted to submit a bid for the sale that this bid form is intended for. All sections of the SA-1 are to be filled out unless they pertain to a seller, information concerning limousine service or dispatch service.

If the bidder does own a Certificate of Public Convenience to operate a Medallion taxicab in Philadelphia, the bidder is required to submit an SA-1, but does not have to complete all sections of the Application. It is unnecessary to fill out any sections concerning limousine service or dispatch service. Please fill out the following:

1. Numbers 1-7 of the SA-1.
2. The Applicant's signature box on Page 6.
3. Verification for Applicant on Page 7.
4. The company ownership form on Page 13 if there are any changes since it was last filed with the TLD.

See 52 Pa. Code 1013.31 et seq. for details concerning Medallion Sales by the Authority.