

THE PHILADELPHIA PARKING AUTHORITY

In Re: Proposed Rulemaking Order :
Philadelphia Taxicab and :
Limousine Regulations : Docket No. 126-6
: :
:

PROPOSED RULEMAKING ORDER

BY THE AUTHORITY:

In accordance with the act of July 16, 2004, (P.L. 758, No. 94), *as amended*, 53 Pa.C.S. §§5701 *et seq.*, (the “act”),¹ the Authority formally commences its rulemaking process to promulgate regulations to provide regulations related to the sale of taxicab medallions by the Authority. The Authority seeks comments from all interested parties on these proposed regulations, which are found at Annex A to this Order.

A. Background and discussion.

Pursuant to Section 23 of the Act, the Authority initiated regulatory oversight of taxicab and limousine service providers in Philadelphia on April 10, 2005. The Authority’s regulations may be found at 52 Pa. Code Part II. The Authority has been authorized by the Legislature through the act of July 5, 2012, (P.L. 1022, No. 119) (“Act 119”) to issue up to 150 new taxicab medallions over the next 10 years², including medallions designated only for use on wheelchair accessible vehicles.³ When the Authority assumed regulatory responsibility over all taxicabs and limousines in Philadelphia from the Pennsylvania Public Utility Commission (“PUC”) in 2005, all statutorily authorized medallions had already been sold by the PUC. The Authority seeks to promulgate this regulation to provide procedures for the sale of medallions.⁴

B. The regulation.

SUBCHAPTER C. MEDALLIONS SALES BY THE AUTHORITY.

We propose amending Chapter 1013 “Medallion Taxicabs” to add a new subchapter titled Medallion Sales by the Authority. When the Authority initiated regulation of taxicabs and limousines in 2005, all of the statutorily authorized taxicab medallions had already been issued by the PUC. The Authority’s regulations already provide extensive procedures related to the sale of medallions and other transferable rights between regulated parties, but contain no provisions related to the sale of medallions by the Authority. This regulation is intended to fill that void.

¹ See 53 Pa.C.S. §§ 5722 and 5742 .

² See 53 Pa.C.S. § 5711(c)(2)

³ See 53 Pa.C.S. § 5711(c)(2.1).

⁴ The Authority may sell medallions by bid or public auction. 53 Pa.C.S. § 5717(b)(1).

§ 1013.31. *Purpose and definitions.*

We propose adding this section to identify the purpose of the proposed subchapter and to provide certain definitions.

The term “bidder” identifies those who may purchase a medallion from the Authority through the submission of a bid. The term is restricted to existing medallion owners and those who have submitted an application to become a medallion owner as provided in § 1013.32 (relating to bidder qualifications). We believe that existing medallion owners and those who have been prequalified, or at least previewed, before the bidding date will have a higher likelihood of successfully completing the sale process and otherwise comply with the requirements of the act and the regulations.

Most medallion owners are small corporations and many of those corporations are controlled through stock or other forms of ownership by only a few individuals. For purposes of transparency the term “bidder” includes a person with a controlling interest in an entity that is a bidder. The term person with a controlling interest is defined in § 1011.2 (relating to definitions) and used here as anticipated in Section 5717(b)(5)(ii) of the act.

The term “closing deadline” identifies the date that the sale of a medallion through the bid process must be completed. The purpose of setting a deadline is to hasten the deployment of the medallions into service following the bid date. The closing deadline will be identified in the notice of the bidding date, which will be published in the *Pennsylvania Bulletin*.

The term “special restrictions” identifies requirements that may be placed on a medallion prior to sale, such as a requirement that the medallion only be attached to a wheelchair accessible vehicle. Special restrictions related to a given medallion will be included in the notice of the bidding date related to the respective medallion.

The term “upset price” identifies the minimum bid that will be accepted for a medallion.

§ 1031.32. *Bidder qualifications.*

We propose adding this section to establish bidder threshold requirements. In order to participate in a public bid for a medallion, the bidder must be an existing medallion owner or have already submitted an application for that certification. We believe that existing medallion owners and those who have been prequalified, or at least previewed, before the bidding date will have a higher likelihood of successfully completing the sale process and otherwise comply with the requirements of the act and the regulations. The bidder must be in good standing with the Authority, meaning they are otherwise eligible to obtain or renew a medallion certificate of public convenience. Bids submitted by unqualified bidders will be considered non-responsive.

§ 1013.33. General Provisions.

We propose adding this section to clarify that Authority sales of medallions will be through sealed public bids and that medallions may be sold with special restrictions, such as the need to be attached to a wheelchair accessible vehicle as anticipated in Section 5717(c)(1) of the act.

§ 1013.34. Notice of medallion sale by the Authority.

We propose adding this section to identify the minimum information that will be provided in a notice of a medallion sale. The notice is required by section 5717(b)(1) and must be published in the *Pennsylvania Bulletin* at least 60 days before bids are due.

§ 1013.35. Procedures for Bidding.

We propose adding this section to identify bidding procedures. The regulation is specific as to the manner in which the sealed bid must be submitted and what must be enclosed with the bid, including a non-refundable \$5,000 deposit charged to the highest conforming bidder and which will be applied to the successful bidder's purchase price. The regulation also specifically identifies criteria for the immediate identification of a bid as "non-responsive".

§ 1013.36. Bid Opening.

We propose adding this section to provide procedures related the opening of sealed bids. Bids will be opened at the time and location designated in the notice required by § 1013.34. The procedure for dealing with high bids is also provided. All bidders or a qualified representative of the bidder must be present at the bid opening. Successful bidders will be specifically identified in a list published on the Authority's website. Unsuccessful bidders will also be identified in descending order from highest bid.

§ 1013.37. Medallion bid approval process and closing on sale.

We propose adding this section to identify the process through which successful bidders will be vetted for final approval of the medallion sale. The review process will proceed in a substantially similar manner to that applied to any buyer of a medallion (from a third party) as provided in this part. The proposed sale will be published in the *Pennsylvania Bulletin*, subject to protest and require Board approval before closing may be scheduled. Medallions will be sold with the anticipation that the buyers intend to use them as required by law and these regulations. Rapid turn around sales or "flipping" are discouraged. The proposed regulation is intended to discourage this behavior through graduated fee transfer disincentives during the first 3 years after purchase, with certain specified exemptions to address cases in which the sale is at no fault or design of the owner.

CONCLUSION

The Authority, therefore, formally commences its rulemaking process to promulgate this regulation to become part of 52 Pa. Code Part II in a manner consistent with Annex A to this Order. The Authority seeks comments from all interested parties on this proposed body of regulations, which are found at Annex A to this Order. The Authority hereby advises that all comments submitted in response to this Order will be posted, without redaction of name, address, or other personal information or comment provided, on the website of the Independent Regulatory Review Commission, which may be reached at 717-783-5417.

Accordingly, under sections 13 and 17 of the Act, 53 Pa.C.S. §§ 5722 and 5742; section 5505(d) of the Parking Authorities Act, act of June 19, 2001, (P.L. 287, No. 22), *as amended*, 53 Pa. C.S. §§ 5505(d)(17), (d)(23), (d)(24); sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No. 240, 45 P.S. §§ 1201-1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; section 204(b) of the Commonwealth Attorneys Act, 71 P.S. 732.204(b); section 745.5 of the Regulatory Review Act, 71 P.S. § 745.5, and Section 612 of the Administrative Code of 1929, 71 P.S. § 232, and the regulations promulgated at 4 Pa. Code §§ 7.231-7.234 the Authority proposes adoption of the regulations set forth in Annex A, attached hereto;

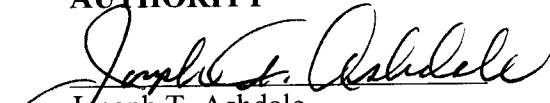
THEREFORE,

IT IS ORDERED:

1. That a proposed rulemaking be opened to consider the regulation set forth in Annex A.
2. That the Executive Director shall submit this proposed rulemaking Order and Annex A to the Office of Attorney General for review as to form and legality.
3. That the Executive Director shall submit this proposed rulemaking Order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.
4. That the Secretary of the Board shall certify this proposed rulemaking Order and Annex A and that the Executive Director shall deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
5. That an original and 15 copies of any written comments referencing the docket number of the proposed regulation be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Philadelphia Parking Authority, Attn: General Counsel, 701 Market Street, Suite 5400, Philadelphia, PA 19106.
6. That a copy of this proposed rulemaking Order and Annex A shall be served on the City of the First Class Taxicab and Limousine Advisory Committee and a copy shall be posted on the Authority's website at www.philapark.org/tld.

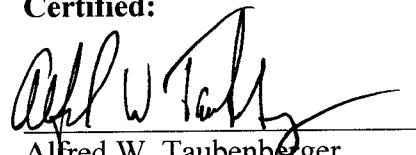
7. That the contact person for this proposed rulemaking is James R. Ney, Director, Taxicab and Limousine Division, (215)-683-9417.

**THE PHILADELPHIA PARKING
AUTHORITY**



Joseph T. Ashdale
Chairman
(SEAL)

Certified:



Alfred W. Taubenberger
Vice-Chairman/Secretary
(SEAL)

ORDER ADOPTED: September 25, 2013

ORDER ENTERED: September 25, 2013