

## **Frequently Asked Questions: Auctioning of Expired Licenses**

The following Q&As address questions regarding the auctioning of expired licenses pursuant to Act 39 of 2016 and Act 85 of 2016.

### **1. Does Act 39 provide for the auctioning of expired licenses?**

Yes. Act 39 requires the PLCB to auction expired restaurant liquor licenses, in cases where the licenses were non-renewed, revoked by an administrative law judge, or are no longer eligible for safekeeping. This applies to all restaurant liquor licenses that expired from 2000 to the present, and restaurant liquor licenses that may expire in the future.

### **2. What type of licenses may the PLCB auction?**

Act 39 only provides for the auctioning of restaurant liquor licenses.

### **3. How many licenses will be auctioned each year?**

The PLCB has discretion to determine how many licenses will be auctioned at one time or how many auctions will be conducted within a year, so long as no more than fifty restaurant liquor licenses are auctioned per county per year. Any licenses not bid on at auction will be available for sale at future auctions.

### **4. When is an expired license available for auction?**

An expired restaurant liquor license is available for auction the day after the appeal period ends or after two years pass under section 470 of the Liquor Code (renewal of licenses).

### **5. Are there any restrictions as to who can apply to purchase an auctioned license?**

Anyone precluded from holding a license under section 411 or 443 (interlocking business prohibitions) of the Liquor Code or anyone of bad repute cannot apply to purchase an auctioned license. For example, someone who already holds a distributor license cannot apply for a license being auctioned because a distributor is precluded from holding a retail liquor license.

## **6. When will the auctions occur?**

Act 85 allows the PLCB to set the dates, times, and other conditions for the auctioning of licenses.

Auctions will occur on dates to be determined by the PLCB. Bids for the first auction are due by noon on October 27, 2016. The PLCB will post notice of each auction, including a listing of all the licenses that are to be available for that auction, several weeks prior to the auction date. The notice for the first auction was posted on September 13, 2016 on the following Department of General Services website: [www.emarketplace.state.pa.us](http://www.emarketplace.state.pa.us). The first auction will be listed as Invitation for Bids (IFB) # 260317; future auctions will have different numbers and may be conducted via a different method.

## **7. How will the auctions be conducted?**

The manner of conducting the auction is within the PLCB's discretion. However, Act 35 sets the minimum bid for a license at \$25,000.00. Bid amounts must be in whole dollars. The highest bidder wins the right to file an application for transfer of the auctioned license with the PLCB.

## **8. How do you bid on a license at auction?**

For the first auction, bidders will be required to submit their bid(s) by October 27, 2016 at noon. Each bid package must include two items: a PLCB Bid Sheet for the particular license, properly signed and sealed, and a bid guarantee in the amount of \$5,000.00. Each sealed bid package must be contained in a sealed envelope, labeled on the outside with the IFB number, the auction number of the license, and the name of the person or entity bidding. Please refer to the IFB for more specifics on how to bid.

Bid packages must be hand carried or mailed to:

PLCB Purchasing & Contract Administration Division  
Invitation for Bid #260317  
Northwest Office Building, Room 316  
Harrisburg, PA 17124-0001

Any questions about the IFB must be submitted in writing by noon on September 27, 2016 to [RA-LBLicenseAuction@pa.gov](mailto:RA-LBLicenseAuction@pa.gov). Answers to all questions will be posted by October 5, 2016 at noon to the DGS website [www.emarketplace.state.pa.us](http://www.emarketplace.state.pa.us).

**9. Can I find out how many bids have been received, how much the bids are for or who is bidding?**

Bid information including number of bids received per license, bid amounts and bidder identifications will not be disclosed until sealed bids are opened on Oct. 31. This is standard procedure for an invitation for sealed bids.

**10. What is a bid guarantee?**

A bid guarantee is a certified check, cashier's check, or a Bid Bond in the amount of \$5,000.00, payable to the Commonwealth of Pennsylvania, Pennsylvania Liquor Control Board. Its purpose is to demonstrate the bidder's intent to follow through with his/her bid. If a bidder submits a winning bid, but fails to pay the bid amount within the required time, the bid guarantee is forfeited to the Commonwealth. Forfeiture of the bid guarantee may also occur if the winning bidder fails to timely file a transfer application or if he/she was precluded from filing a bid (see question 5).

**11. Where do I obtain a bid guarantee?**

Generally, certified checks and cashier's checks are available from banks and other financial institutions. Bid Bonds are generally obtained from licensed insurance underwriters. Bidders are encouraged to consult with their private counsel and/or financial advisors. Please note that Bid Bonds are not the same as Performance Bonds. Performance Bonds are not required for this IFB.

**12. Can you bid on more than one license?**

Yes. Each license being auctioned will be assigned an auction number, and bidders may bid on one or more licenses as long as they submit separate bid packages for each license. Each PLCB Bid Sheet is specific to a particular license. No conditional bids will be accepted.

**13. Can you withdraw your bid before the deadline?**

Yes. For the first auction, bids may be withdrawn up to two hours before the deadline, i.e. by October 27, 2016 at 10:00 a.m. To withdraw a bid, you must contact the PLCB by e-mail at [RA-LBLicenseAuction@pa.gov](mailto:RA-LBLicenseAuction@pa.gov). See the IFB for details on how to do this.

**14. When/how will the winning bidder find out if he/she has won?**

For the first auction, bids will be opened starting at 9:00 a.m. on October 31, 2016, in sequence starting with all bids for license #1 and continuing until all bids for all licenses have been opened. The bid opening shall be public; however, due to space constraints, it is

requested that bidders limit attendance to two persons per bidding party or entity. Attendance at the bid opening is optional and is not a requirement for participation in the IFB. In the event that bid opening is not completed by 5:00 p.m. on October 31, 2016, the PLCB will suspend the bid opening and resume opening bids the following day.

The PLCB will provisionally award each license auctioned to the qualified bidder submitting the responsive bid having the highest bid amount. Such awards will be made via a formal Notice of Selection. No awards will be made at the bid openings.

Once all bids have been opened, finalized and provisionally awarded as set forth above, full results of the IFB will be posted within two business days to the DGS website at <http://www.emarketplace.state.pa.us>.

**15. When must the winning applicant pay the bid amount?**

The bid amount must be paid within fourteen days of the Notice of Selection via cashier's check, certified check, or any other form of payment approved by the PLCB. If the winning bidder fails to pay within fourteen days, the winning bidder will forfeit his/her bid guarantee and the second highest bidder will then have the opportunity to apply for the auctioned license, so long as his/her bid is at least \$25,000.00. The PLCB must hold the bid amount in escrow, pending approval of the bidder's license application.

**16. What happens if the transfer is ultimately refused?**

If the application for transfer is ultimately refused, a new transfer application must be submitted within thirty days of the final refusal decision or the license reverts to the PLCB so that it can be auctioned at a later time. If the second transfer application is also ultimately refused, the license reverts to the PLCB so that it can be auctioned at a later time.

Any licenses not sold will be available for sale at future auctions.

**17. Will the escrowed amount be returned to the bidder if the transfer is not approved?**

Yes.

**18. Can the auctioned license be transferred anywhere in Pennsylvania or must it remain in the county and municipality in which it was originally issued?**

The auctioned license, once awarded, is treated just as any other application for transfer would be treated. Thus, it must remain in the county in which it was issued, and if the

applicant wishes to transfer it to a different municipality in that county, the regular transfer statutes and regulations on intermunicipal transfers would apply.

**19. Is the auctioned license subject to the payment of past fines, liens, suspensions, and judgments?**

As set forth in Act 39, once a license becomes available for auction, that license is no longer subject to the payment of past fines, liens, suspensions, and judgments.