



# City of Chicago



SO2018-4173

Office of the City Clerk

## Document Tracking Sheet

**Meeting Date:**

5/25/2018

**Sponsor(s):**

King (4)  
Dowell (3)  
Burnett (27)  
Waguespack (32)  
Santiago (31)  
Cochran (20)  
Burke (14)  
Cappleman (46)  
Munoz (22)  
Ervin (28)  
Taliaferro (29)  
Reboyas (30)  
Villegas (36)  
Mitts (37)  
Pawar (47)  
Austin (34)  
Maldonado (26)  
Ramirez-Rosa (35)  
Scott, Jr. (24)  
Harris (8)  
Smith (43)  
Sawyer (6)  
Tunney (44)  
Mitchell (7)  
Beale (9)  
Curtis (18)  
Cardenas (12)  
Foulkes (16)  
Lopez (15)  
Arena (45)  
Moore (17)  
Moore (49)

**Type:**

Ordinance

**Title:**

Amendment of Municipal Code Sections 2-92-412 and 2-92-407 regarding bid incentives for diverse management and workforce for employees, contracts and leases

**Committee(s) Assignment:**

Committee on Budget and Government Operations

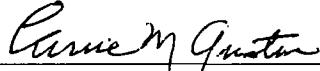
CHICAGO, June 27, 2018

To the President and Members of the City Council:

Your Committee on the Budget and Government Operations, having had under consideration an Ordinance introduced by Alderman Sophia King (4), and others, authorizing an amendment to Chapter 2-92 of the Municipal Code of Chicago necessary to provide bid incentives for a diverse workforce and/or diverse management ; and having been presented with a proposed amendment by Alderman King and Alderman Michelle Harris (8) and having had the same under advisement, begs leave to report and recommend that Your Honorable Body pass the Ordinance, as amended, transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the Committee.

~~\_\_\_\_\_ members of the Committee with \_\_\_\_\_ dissenting vote(s).~~

(Signed)   
Carrie M. Austin  
Chairman

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**ORDINANCE**  
**AS AMENDED**

**WHEREAS**, the City of Chicago has a compelling interest in promoting economic equality among its residents and businesses; and

**WHEREAS**, the City's interest in the economic and social wellbeing of all its residents can be furthered through the enhanced and continued implementation of the Minority and Woman Owned Business Enterprise Procurement Program; and

**WHEREAS**, the program strengthens and enhances employment opportunities for local residents; therefore

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1.** Chapter 2-92 of the Municipal Code of Chicago is hereby amended by adding a new Section 2-92-407, by deleting the language struck through and by inserting the language underscored, as follows:

**2-92-412 Contracts – Bid preference for city-based businesses.**

(b) (1) Unless otherwise prohibited by any federal, state or local law, for any contract having an estimated contract value of \$100,000.00 or more, the chief procurement officer shall allocate to any qualified bidder that is a prime contractor a bid preference of: (i) ~~2~~ 4 percent of the contract base bid; or (ii) ~~4~~ 6 percent of the contract base bid, if the majority of such prime contractor's employees are city resident employees; or (iii) ~~6~~ 8 percent of the contract base bid, if such prime contractor is eligible for an incentive under subsection (b)(1)(ii) and the majority of such contractor's city resident employees are residents of a socio-economically disadvantaged area.

**2-92-407 Contracts – Bid incentive to encourage diverse management and workforce.**

(a) For purposes of this section only, the following definitions shall apply:

“Contract” means any contract, purchase order or agreement awarded by the city and whose cost is to be paid from funds belonging to or administered by the city; provided that the term “contract” does not include: (i) a delegate agency contract; (ii) a lease of real property; or (iii) a collective bargaining agreement.

“Diverse” means any of the following racial or ethnic groups:

African-Americans or Blacks (persons having origins in any of the Black Racial groups of Africa);

Hispanics (persons of Spanish culture with origins in Mexico, South or Central America or the Caribbean Islands, regardless of race);

Asian-Americans (persons having origins in any of the original peoples of East Asia, Southeast Asia, the Indian subcontinent, or the Pacific Islands); and

Other groups, or other individuals, found by the board to be socially and economically disadvantaged and to have suffered actual racial, ethnic or gender discrimination and decreased opportunities to compete in Chicago area markets or to do business with the city.

“Prime Contractor” means the primary contractor on a contract. A “Prime Contractor” does not include any subcontractors.

“Management” means business owners, partners and any others who have a fiduciary duty to the business.

“Workforce” means all who are employed by a prime contractor in a permanent, full-time employment capacity.

(b) (1) Unless otherwise prohibited by any federal, state or local law, for any contract having an estimated contract value of \$100,000 or more advertised, or if not advertised awarded by competitive bid, after the effective date of this ordinance, the chief procurement officer shall allocate to any qualified bidder the following bid incentive for diverse management and diverse workforce:

<u>Total Percent of Prime Contractor Management That Is Diverse</u>	<u>Bid Incentive</u>
<u>10% to 20%</u>	<u>0.5% of the contract base bid</u>
<u>Greater than 20% up to 40%</u>	<u>2% of the contract base bid</u>
<u>Greater than 40%</u>	<u>4% of the contract base bid</u>

<u>Total Percent of Prime Contractor Workforce That Is Diverse</u>	<u>Bid Incentive</u>
<u>10% to 20%</u>	<u>2% of the contract base bid</u>
<u>Greater than 20% up to 40%</u>	<u>4% of the contract base bid</u>
<u>Greater than 40%</u>	<u>6% of the contract base bid</u>

A prime contractor may qualify for and apply both the diverse management and diverse workforce bid incentives.

The bid incentive is used only to calculate an amount to be used in evaluating the bid to determine the low bidder, and it does not affect the contract price.

(2) The chief procurement officer may determine not to allocate a bid preference under this section, under the following conditions:

(i) an emergency exists;

(ii) for cooperative purchasing or cooperative construction contracts; or  
(iii) the chief procurement officer otherwise concludes that the allocation of a bid preference is not in the city's best interest.

(c) For all contracts advertised for bid solicitation, the chief procurement officer shall include a bid preference provision consistent with this section in all such advertising.

(d) The prime contractor shall maintain records adequate to monitor compliance with this section and shall submit such reports as required by the chief procurement officer. Full access to the prime contractor's records shall be granted to the chief procurement officer, the commissioner of the supervising department, the inspector general, or any duly authorized representative thereof. The prime contractor shall maintain all relevant records for a period of no less than three years after the expiration of the contract.

(e) The chief procurement officer may require, at the time of submission of a bid or at any time during the term of the contract, that the bidder or prime contractor submit an affidavit and other supporting documents demonstrating that the bidder or prime contractor is eligible for the diverse management and/or diverse workforce bid incentives.

(f) Upon completion of the work, any prime contractor that has failed to retain the percentage of diverse management and/or diverse workforce for which a bid incentive was taken into consideration in awarding of a contract shall be fined in an amount equal to three times the amount of the bid incentive allocated, unless the prime contractor can demonstrate that due to circumstances beyond the prime contractor's control, the prime contractor for good cause was unable to retain the percentage of diverse management and/or diverse workforce throughout the duration of the contract period.

(g) The chief procurement officer is authorized to adopt, promulgate and enforce reasonable rules pertaining to the administration and enforcement of this section.

**SECTION 2.** This ordinance shall take effect upon its passage and approval.

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Sophia D. King  
Alderman, 4<sup>th</sup> Ward