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City Council Document Tracking Sheet

Meeting Date: 2/15/2012
Sponsor(s): Emanuel, Rahm (Mayor)
Type: Ordinance
Title: Amendment of Chapter 2-92 of Municipal Code regarding
phased M/WBE graduation
Committee(s) Assignment: Committee on Budget and Government Operations



BUDG.

OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

February 15, 2012

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Chief Procurement Officer, I transmit herewith an ordinance amending Chapter 2-92 of the Municipal Code regarding phased M/WBE graduation.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

ORDINANCE

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 new sections 2-92-470 and 2-92-725, as follows:

2-92-470 Established businesses participation in the M.B.E. and W.B.E. procurement program.

(a) A local business entity which meets all the requirements to be certified as an M.B.E. or W.B.E. under this article except that it has become an established business may participate in the city's minority- and women- owned business enterprise procurement program, as follows:

- (1) For a one-year period after the business entity has become an established business, only 75% of such business's participation in a city contract shall account for the M.B.E. or W.B.E., as applicable, participation requirement set forth in subsections (a) and (d) of Section 2-92-440 of this Code;
- (2) For a one-year period starting on the one-year anniversary of the date the business entity became an established business, only 50% of such business's participation in a city contract shall account for the M.B.E. or W.B.E., as applicable, participation requirement set forth in subsections (a) and (d) of Section 2-92-440 of this Code; and
- (3) For a one-year period starting on the two-year anniversary of the date the business entity became an established business, only 25% of such business's participation in a city contract shall account for the M.B.E. or W.B.E., as applicable, participation requirement set forth in subsections (a) and (d) of Section 2-92-440 of this Code.

(b) An established business entity shall not be eligible to participate in the city's minority- and women- owned business enterprise procurement program starting on the three-year anniversary of the date the business entity became an established business.

(c) The chief procurement officer shall provide notice to participating established businesses of the allowed level of participation by such businesses in the city's minority- and women- owned business enterprise procurement program.

2-92-725 Established businesses participation in the M.B.E. and W.B.E. construction procurement program.

(a) A local business entity which meets all the requirements to be certified as an M.B.E. or W.B.E. under this article except that it has become an established business may participate in the city's minority- and women- owned business enterprise construction procurement program according to the time periods and percentages set forth in subsection (a) of Section 2-92-470 of this Chapter. Such time periods and percentages shall apply to both the aspirational goals of section 2-92-690 of this Chapter and the contract specific goals of section 2-92-700 of this Chapter.

(b) An established business entity shall not be eligible to participate in the city's minority- and women- owned business enterprise construction procurement program starting on the three-year anniversary of the date the business entity became an established business.

(c) The chief procurement officer shall provide notice to established businesses of the allowed level of participation by such businesses in the city's minority- and women- owned business enterprise construction procurement program.

SECTION 2. Chapter 2-92 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

2-92-420 Definitions.

As used in Sections 2-92-420 through 2-92-570 of this chapter, the following terms shall have the following meanings:

(Omitted text is not affected by this ordinance)

(o) "Established business" means a business entity which, by virtue of its size and capacity for competing in the markets in which it operates, does not need to be a full participant in the program in order to effectuate the purposes of the program, as determined by the chief procurement officer pursuant to regulations adopted by the department of procurement services. For calendar year 2000, a business entity shall be presumed to be an established business if the business entity and its affiliates have had annual average gross receipts in excess of \$27,500,000.00 over the previous three fiscal years. For calendar year 2001 and beyond, this sum shall be adjusted upwards or downwards by applying to it a rate equal to the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) published by the United States Bureau of Labor Statistics for that calendar year. Such adjustment shall be made for a given year in January of the following year and shall remain in effect for that given year until the following year's adjustment is made. The chief procurement officer, after computing the adjustment for a given year, shall cause the new sum as adjusted to be published for five consecutive business days in two or more newspapers of general circulation in the city.

(Omitted text is not affected by this ordinance)

(u) "M.B.E. target market percentage" means, from January 1, 1991 through December 31, 1991, 5.0 percent; from January 1, 1992, through December 31, 1992, 7.0 percent; from January 1, 1993, through December 31, 1993, 9.0 percent; and from and after January 1, 1994, 10.0 percent.

(u-5) "Non-participating established business" means an established business which is not eligible to participate in the city's minority- and women- owned business enterprise procurement program.

(v) "Owned" means having all the customary incidents of ownership, including the right of disposition, and sharing in all risks and profits commensurate with the degree of ownership interest.

(v-5) “Participating established business” means an established business which is eligible to participate in the city’s minority- and women- owned business enterprise procurement program as set forth in section 2-92-470 of this chapter.

(w) “Program”, unless used as part of the term “certification program”, means the minority-owned and women-owned business enterprise procurement program established in Sections 2-92-420 through 2-92-570 of this chapter.

(Omitted text is not affected by this ordinance)

2-92-490 Duties of the chief procurement officer.

The chief procurement officer shall, in coordination with the board, perform the following duties:

(Omitted text is not affected by this ordinance)

(d) Maintain an electronic directory of certified C.E.B.s and participating established businesses, describing them by name, business address, classification and type of business. This directory shall be made available to any interested person. A local business which meets all the requirements to be certified as a C.E.B. under this chapter except for the fact that it has become an a non-participating established business since its initial certification may request to be listed in the directory, although it will remain ineligible for participation in the certification program;

(Omitted text is not affected by this ordinance)

2-92-670 Definitions.

As used in this article, the following terms shall have the following meanings:

(Omitted text is not affected by this ordinance)

(j) “Economically disadvantaged” means an individual whose personal net worth is less than \$2,000,000.00, adjusted annually for inflation, such annual adjustment to begin January 2008, based on the Consumer Price Index – Urban Wage Earners and Clerical Workers (Chicago All Items) published by the United States Bureau of Labor Statistics.

(j-5) “Established business” means a business which is not a “small business enterprise” as determined according to subsection (t) of this section.

(Omitted text is not affected by this ordinance)

(p) “Owned” means having all of the customary incidents of ownership, including the right of disposition, and sharing in all of the risks, responsibilities and profits commensurate with the degree of ownership.

(p-5) “Participating established business” means an established business which is eligible to participate in the city’s minority- and women- owned business enterprise construction procurement program as set forth in section 2-92-725 of this Code.

(Omitted text is not affected by this ordinance)

2-92-720 Contract award procedures.

(1) To achieve the aspirational goals and the contract specific goals, the executive director shall undertake, in addition to the other measures provided herein, to establish uniform procedures and criteria for certification, recertification and decertification as a M.B.E. or W.B.E. and appeals of and challenges to certification decisions, and maintain a directory of certified M.B.E.s or W.B.E.s. and participating established businesses.

(Omitted text is not affected by this ordinance)

SECTION 3. This ordinance shall take effect upon passage and approval, and shall apply retroactively to businesses that became established in calendar year 2011.