



# City of Chicago



**F2023-98**

Office of the City Clerk

## Document Tracking Sheet



**Date:**

5/12/2023

**Sponsor(s):**

Lightfoot (Mayor)

**Type:**

Communication

**Title:**

Executive Order No. 2023-14 (Procurement and Payment  
for City's Contracted Vendors and Approved Development  
Projects)

**Committee(s) Assignment:**



**OFFICE OF THE MAYOR  
CITY OF CHICAGO**

**LORI E. LIGHTFOOT**  
MAYOR

**EXECUTIVE ORDER NO. 2023-14**

**WHEREAS**, in recent years, the City of Chicago has prioritized a more inclusive and equitable approach towards contracting to counter decades of disinvestment in communities across the City and continuing disparities in market participation by minorities and women in the wider economy; and

**WHEREAS**, the City of Chicago possesses one of the most robust, dynamic, and diverse economies in the world; and

**WHEREAS**, the City of Chicago, despite its great wealth and productivity, nevertheless possesses an unfortunate legacy of racial, ethnic, gender-based, and economic inequities, discrimination, and disparities in health, wealth and wellbeing; and

**WHEREAS**, Mayor Lightfoot has previously mandated Minority-Owned Business Enterprise and Women-Owned Business Enterprise Utilization Planning and Quarterly Reporting, as well as Business Diversity Reporting in Executive Order 2021-2; and

**WHEREAS**, the City Council under Mayor Lightfoot's leadership codified the Office of Contracting Equity with increased resources in the Department of Procurement Services; and

**WHEREAS**, ensuring prompt payment of all City vendors is vital to the economic vitality of City vendors and the economy of the City of Chicago as a whole, and will incentivize more companies to consider future bid opportunities with the City; and

**WHEREAS**, to improve the timeliness of City payment to vendors, the Department of Finance and the Department of Procurement Services issued the Report of the Prompt Payment Working Group and established the Prompt Payment Initiative under the direction of Mayor Lightfoot; and

**WHEREAS**, the unbundling of contracts into smaller or more targeted scopes of work creates additional opportunities for local small and mid-sized businesses to undertake City of Chicago contracts; and

**WHEREAS**, in the past there has been a common reliance on bid waivers when procuring general contracting services under redevelopment agreements for the Department of Housing and Department of Planning and Development; and

**WHEREAS**, prior to the Lightfoot administration, cost estimating and development consultants were often not included as eligible costs within development budgets, creating a barrier for small businesses to bid on development-related contracts with Department of Housing or Department of Planning and Development; and

**WHEREAS**, the Department of Housing released a Racial Equity Impact Assessment on its Qualified Allocation Plan in 2021 to ensure that developments supported by Low-Income Housing Tax Credits (LIHTC) are equitably allocated to address the needs of communities of color and working-class families, including by ensuring Black, Indigenous, people of color (BIPOC) developers and service providers benefit from LIHTC; and

**WHEREAS**, the participation of small, local, and minority- and women-owned businesses in all City of Chicago procurement is of paramount importance to the further development of Chicago into a more equitable and just city; and

**WHEREAS**, City of Chicago's contracted vendors and City-approved development projects are a significant source of jobs, and the City of Chicago is committed to ensuring there is equitable access to these workforce opportunities, particularly for residents of historically disinvested communities; and

**WHEREAS**, all City of Chicago procurement must strive to meet top standards of fairness, efficiency and stewardship of taxpayer dollars, while also advancing the goals of equity, diversity and inclusion; now, therefore,

**I, LORI E. LIGHTFOOT, Mayor of the City of Chicago, do hereby order as follows:**

## **SECTION 1. DEFINITIONS.**

As used in this Executive Order,

"Assist Agency" means a non-profit organization, chamber of commerce, or similar organization that seeks to advance the interests of small, minority-owned, women-owned, and other historically underutilized businesses.

"Best efforts" means actions undertaken by DPS and City Departments that the Chief Procurement Officer or their designee has determined, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program's requirements.

"Certified Firms" means firms possessing certifications recognized by the City pursuant to Chapter 2-92 of the Code or 49 CFR Parts 23 or 26.

"Contract" means: (1) a contract for the City to purchase goods or services regardless of the contracting City department or agency, or (2) a Redevelopment Agreement; 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.

"Contracting Authority" means legal authorization for a City entity to enter into a Contract.

"City" means the City of Chicago.

"Code" means the Municipal Code of Chicago.

"Delegate Agency Contract" means a contract with a not-for-profit or for-profit organization which provides social services (including but not limited to job training and placement, education, child day care, emergency shelter, home-delivery meals, and health care) to targeted communities under agreements with the City.

"DPS" means the City Department of Procurement Services.

"MBE" and "WBE" have the meaning ascribed to those terms in Section 2-92-420 or Section 2-92-670, as appropriate, of the Code.

"Redevelopment Agreement" means any redevelopment or similar agreement involving the construction or rehabilitation of real estate with an expected grant or loan by the City of funds of \$1,000,000.00 or more (or such other amount as determined by the Chief Procurement Officer from time to time), and which does not involve a grant under Chapter 16-14 of the Code. (Neighborhood Opportunity Fund).

"SEDA" and "Socio-Economically Disadvantaged Area" have the same meaning ascribed to the term "socio-economically disadvantaged area" in Section 2-92-412(a) of the Code.

"Unbundling" means separating a proposed scope of services to be awarded through the procurement process into separate, smaller scopes of services.

## **SECTION 2. MBE AND WBE GOALS AND CERTIFIED FIRM DATA.**

Unless otherwise determined by the Chief Procurement Officer, or otherwise required by law or funding source, all Contracts, regardless of the Contracting City department or agency and regardless of whether done through the Contracting Authority granted to the Chief Procurement Officer or another department's Contracting Authority, shall include Contract-specific MBE and WBE participation goals as set forth in the Code or any applicable executive order.

In accordance with the requirement in Sections 2-92-500 and 2-92-750 of the Code, all Contract data on MBE and WBE utilization will be reported by departments to DPS on a quarterly basis for the first and second quarters of 2023 by July 30, 2023, and thereafter on a quarterly basis submitted no more than 30 days after the end of the quarter.

Departments will collaborate with DPS, Department of Finance, and Department of Assets and Information Services (“AIS”) to annually post data on all City Contracts on a public dashboard or database, beginning on or before August 31, 2023, and then annually thereafter for the preceding 12-month period.

All Contracting departments shall request from vendors, where applicable, information regarding the subcontractors used on the Contract, including their names, locations, whether the subcontractors are Certified Firms, and, if so, the type of Certified Firm.

### **SECTION 3. DEPARTMENTAL PROCUREMENT REQUIREMENTS.**

The Chief Procurement Officer, in consultation with the Comptroller and the Corporation Counsel, shall develop standards to direct departments exercising Contracting Authority beyond the Contracting Authority granted to the Chief Procurement Officer on soliciting bids and/or Requests for Proposals (“RFPs”), evaluating bids and/or RFPs, certifying compliance with procurement requirements, and auditing Contract performance.

The standards established by the Chief Procurement Officer shall include, without limitation, the following factors as criteria in awarding Contracts:

- (i) the financial wellbeing and financial track record and capacity of a proposed Contracting entity;
- (ii) the financial impact of the Contract on the City;
- (iii) the qualifications, track record, and expertise of a Contracting entity, and their subcontractors, if applicable for the proposed scope of work; and
- (iv) to the extent compatible with funding source and appropriate to the transaction, in the context of competitive awards based on best value rather than low bid, to also consider a proposer's status as a local business or small local business, the diversity of its workforce, and its commitment to local and SEDA hiring.

All City departments exercising Contracting Authority beyond the Contracting Authority granted to the Chief Procurement Officer shall comply with the standards established by the Chief Procurement Officer pursuant to this Section. At or prior to the time of award, a City department head exercising such Contracting Authority shall sign and certify that such department has complied with the Contracting standards issued by the Chief Procurement Officer.

DPS and Department of Finance are directed to develop and implement an annual training program and annually distribute procurement standards for Commissioners and departmental staff overseeing procurement. Training topics shall include, but are not limited to: Contract scoping; evaluation committee processes and selection criteria; Certified Firm market assessments, plans, and Contract goals; workforce data, goals and requirements (SEDA, Chicago resident, project area); conflict of interest policies; processing invoices; and assessing appropriate Contract term length and renewal options.

The Department of Finance and DPS, pursuant to Section 2-32-205 of the Code, shall implement a regular auditing schedule of City Contract compliance and of procurement processes conducted by departments exercising Contracting Authority beyond the Contracting Authority granted to the Chief Procurement Officer. The Comptroller shall report the results of such audits to the Chief of Staff and Chief Procurement Officer on a regular basis, which shall occur not less than annually.

Nothing in this Section shall apply to any Contract initiated by the Department of Planning and Development or the Department of Housing.

#### **SECTION 4. PROMPT PAYMENT INITIATIVES.**

To ensure that all vendors are paid promptly, the Comptroller is directed to develop procedures governing all aspects of payment processing to City vendors for all City departments with a goal of issuing all vendor payments within 30 days of the receipt of a completed, accurate invoice, hereinafter "Prompt Payment Procedures". The Prompt Payment Procedures must be completed on or before August 31, 2023, circulated amongst City departments and the prompt payment working group, and be finalized on or before September 30, 2023. The Comptroller is further directed to develop and implement accelerated and advance payment programs, hereinafter "Accelerated and Advance Payment Programs". The Comptroller shall issue procedures for the Accelerated and Advance Payment Programs on or before October 31, 2023, and such procedures shall become finalized on or before December 31, 2023.

All City departments are ordered to comply with procedures for vendor payments issued by the Comptroller and to participate in any accelerated and advance payment programs developed and implemented by the Comptroller.

#### **SECTION 5. UNBUNDLING CONTRACT SCOPES.**

Prior to submitting a requisition to DPS or exercising Contracting Authority beyond the Contracting Authority granted to the Chief Procurement Officer, all departments should consider the following regarding Unbundling Contract scopes, except for Redevelopment Agreements:

- (a) whether the project can be unbundled or separated into multiple Contracting opportunities;

- (b) for goods or services needed throughout the entire City, whether the requirement can be separated into areas or zones of the City (e.g. North, South, East, West, and Central); and
- (c) whether the project can be solicited under City small and local business programs set forth in Chapter 2-92 of the Code.

Except for small orders, a memorandum stating the submitting department's efforts regarding Unbundling the project must be submitted with each Contract requisition that is submitted to DPS to procure a good or service. All departments shall confer and coordinate with DPS to ensure that the Contract solicitation is aligned with the goal of providing opportunities for small- and mid-sized local businesses.

All departments exercising Contracting Authority outside the Contracting Authority granted to the Chief Procurement Officer shall use Best Efforts to unbundle Contract scopes, where possible and appropriate.

When administering Redevelopment Agreements, the Department of Planning and Development and the Department of Housing shall encourage developers, general contractors, and subcontractors to use Best Efforts to unbundle their Contract scopes.

## **SECTION 6. EQUITABLE PROCUREMENT FOR DEVELOPMENT PROJECTS.**

As used in this Section, "Competitive Bid" means the process of inviting and obtaining bids from competing contractors by which an award is made to the lowest responsive bid from a responsible bidder meeting written specifications. The process provides potential bidders with a reasonable opportunity to win a Contract.

All Contract solicitations for general contractors and their sub-contractors for Redevelopment Agreements shall be done through a Competitive Bid process, unless the relevant commissioner, not a designee, personally certifies that they have reviewed a written request by a developer to waive the Competitive Bid Process and that said relevant commissioner finds that proceeding without a Competitive Bid Process is in the best interest of the City. The commissioner's certification shall explain in detail the circumstances and benefit to the City that justify issuing a Competitive Bid Process waiver in this instance. Such review shall be conducted pursuant to written procedures established by such commissioner. Any such waiver and commissioner's certification shall be included as exhibits to any associated Redevelopment Agreement.

Unless otherwise required by a funding source, the Commissioner of Planning and Development and the Commissioner of Housing shall encourage the inclusion of third-party cost estimating as an allowable expense within Redevelopment Agreement budgets.

The Commissioner of Planning and Development and Commissioner of Housing are encouraged to annually assess their policies and procedures to ensure both City-funded and City-approved

development projects are maximizing diverse local business participation and are advancing health and racial equity outcomes in communities.

DOH and DPD are encouraged to partner to develop and annually review procurement standards for City-supported construction projects, including criteria comparable to those set forth in Section 3. Both departments shall offer trainings to new staff on these standards and ongoing compliance.

This Section shall only apply to Contracts where the application for a grant or loan was submitted to the Department of Planning and Development or the Department of Housing after the effective date of this Executive Order.

## **SECTION 7. SOCIO-ECONOMICALLY DISADVANTAGED AREA RESIDENTS DATA COLLECTION AND INCLUSIVE WORKFORCE PLANS.**

The City currently assesses the proposed and actual employment of City and project area residents in development projects requiring planned development zoning approval. Where legally permissible, the Department of Planning and Development and the Department of Housing are hereby directed to require developers seeking City Redevelopment Agreement or planned development zoning approval to submit, in a form directed by the Departments, the proposed and actual percentage of total construction work hours by workers who reside in SEDA.

If the Department of Planning and Development and the Department of Housing already require a developer to submit certified payroll data for the 50-percent Chicago resident labor hour goal compliance, SEDA resident participation can be aggregated and reported using that data source. SEDA participation data will be gathered at multiple stages of a project's approval and construction process and at the stage of Certificate of Occupancy from the Department of Buildings. The Department of Planning and Development and the Department of Housing shall also solicit an applicant's plan to encourage participation of SEDA residents and broadly ensure a socially and economically diverse and inclusive workforce in the design, engineering, and construction of the proposed project.

The Department of Planning and Development, the Department of Housing, and DPS will collaborate with the Department of Assets, Information and Services to annually post Contract workforce data, including Chicago resident and SEDA resident labor hours, from all Contracts on a public dashboard or database. Such report shall be inclusive of workforce data, including Chicago resident and SEDA resident labor hours, for all Redevelopment Agreements and construction Contracts for which certified payrolls or other relevant data are submitted by the contractor. This report will be made available annually to the Mayor and the City Council.

The Department of Planning and Development is further ordered to update and publicly post its map of Socio-Economically Disadvantaged Areas based on the latest census data within three years of the public release of said data. The Department of Planning and Development, the Department of Housing, DPS, and other departments as deemed necessary will also produce a recommendation by December 31, 2023, for the Mayor and the City Council Committee on



Contracting Oversight and Equity and Committee on Workforce Development regarding the creation of SEDA workforce goals on City construction Contracts within the Code.

This Section shall only apply to any Contract solicitation initiated by the Department of Planning and Development or the Department of Housing after the effective date of this Executive Order.

#### **SECTION 8. CONTRACT OUTREACH AND TRANSPARENCY.**

DPS and all other departments exercising Contracting Authority outside Contracting Authority granted to the Chief Procurement Officer shall make Best Efforts to ensure that the public at large, especially historically marginalized groups and small local businesses, are made aware of opportunities to bid on Contracts.

Departments shall promote such Contracting opportunities through website listings, the City's buying plan, Assist Agency partnerships, communications with aldermanic offices, outreach to various trade associations, and any other appropriate means of communication. Departments shall make it a priority to ensure that such communications are made in channels reasonably calculated to inform small local and diverse businesses of the advertised Contracting opportunities.

Departments shall also collaborate to develop and implement individual or joint public trainings, where appropriate, for small businesses and entrepreneurs on how to bid on Contracting opportunities with the City, obtain relevant certifications, participate in incentive programs, and comply with City Contracting requirements.

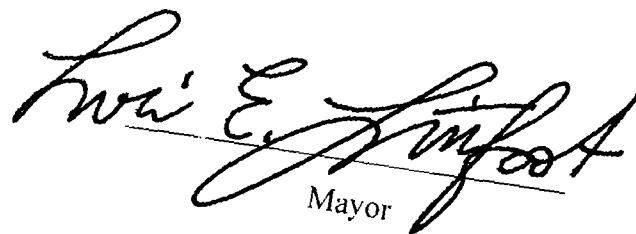
#### **SECTION 9. SEVERABILITY.**

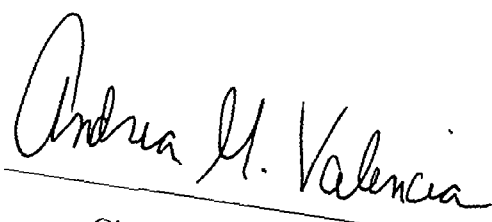
The provisions of this Executive Order are declared to be separate and severable. The invalidity of any provision of this Executive Order, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this Executive Order, or the validity of its application to other persons or circumstances.

#### **SECTION 10. EFFECTIVE DATE.**

This order shall take effect upon its execution and filing with the City Clerk.

Received and filed May 12, 2023

  
Mayor

  
City Clerk

Chicago City Clerk - Council Div.  
2023 MAY 12 PM 12:18