



City of Chicago



O2018-917

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 2/28/2018

Sponsor(s): Villegas (36)
Sawyer (6)

Type: Ordinance

Title: Amendment of Municipal Code Chapter 2-92 by adding new Article IX entitled "Mid-Sized Business Initiative Non-Construction Program"

Committee(s) Assignment: Committee on Finance

ORDINANCE

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

SECTION 1. Article 2-92 is hereby amended by adding the language underscored, as follows:

ARTICLE IX. MID-SIZED BUSINESS INITIATIVE NON-CONSTRUCTION PROGRAM

2-92-970 Application of article.

This article shall apply to non-construction contracts. This article is enacted pursuant to the home rule powers of the city and supersedes any inconsistent provision of any law or regulation of the State of Illinois to the extent such inconsistency is permitted under the home rule powers of the city. This article shall not apply to any contract to the extent that it is inconsistent with procedures or standards required by any law or regulation of the United States or the State of Illinois to the extent such inconsistency is not permitted under the home rule powers of the city. In connection with any non-construction contract funded in whole or in part from state or federal sources, state or federal standards and regulations shall control to the extent this article is inconsistent with such federal or state standards.

2-92-980 Definitions.

For purposes of this Article VII, the following definitions shall apply:

“Chief procurement officer” means the city's chief procurement officer.

“Non-Construction contract” means a contract, purchase order or agreement (other than a lease of real property) for any contract entered into by the City of Chicago, awarded by any officer or agency of the city other than the city council, and whose cost is to be paid from funds belonging to the city, except for those for construction, including the construction, improvement or repair of any building, road, bridge, sidewalk, alley, or other structure or infrastructure.

“Department of procurement services” or “DPS” means the city's department of procurement services.

“Local business enterprise” means a business entity located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State of Illinois (the “Six County Region”), which has the majority of its regular, full-time work force located within the Six County Region

“Mid-sized Non-Construction Business Initiative program” or “MBI program” means the program established pursuant to this Article IX.

“Mid-sized local business enterprise” or “MSB” means a local business enterprise that has gross receipts, averaged over its previous five fiscal years, or number of employees, per pay period averaged over the past 12 months, that do not exceed one and a half times the size standards set forth in 13 C.F.R. Part 121.

2-92-990 MBI program – Established.

Unless otherwise prohibited by any federal, state or local law, the chief procurement officer shall establish a race- and gender-neutral program to increase MSBs' participation in contracts. The chief procurement officer is authorized to identify and offer contract projects for exclusive participation of MSBs. The estimated costs of such projects shall not be less than \$3,000,000 nor more than \$10,000,000.

2-92-1000 MBI program – Eligibility.

To be eligible for the MBI program, a business enterprise must:

- (1) be a mid-sized local business enterprise;
- (2) be in business for at least two years at the time the business enterprise claims to be eligible for the MBI program;
- (3) perform more than fifty percent of the work on the non-construction project with its own work force or subcontractors that are mid-sized local business enterprises; and
- (4) be independent, and must not be an affiliate or subsidiary of any other business enterprise. For purposes of this subsection, the chief procurement officer shall have the sole authority to determine the independence of a business enterprise.

2-92-1010 MBI Non-construction program – Presumption, attestation and notification.

(a) Minority-owned business enterprises and women-owned business enterprises, as defined in Section 2-92-670, shall be presumed to be MSBs.

(b) Except as otherwise provided in subsection (a), any business enterprise that claims to be an MSB shall at the time of such claim, and annually thereafter, submit an affidavit, in a form prescribed by the chief procurement officer, attesting that it meets the MSB eligibility requirements provided in Section 2-92-1000. The chief procurement officer is authorized to investigate the accuracy of the information

provided in, and require documents and information in support of, such affidavits.

(c) MSBs and business enterprises presumed to be MSBs shall notify the department of procurement services of any change that affects such enterprises' MSB status within five business days of the occurrence of such change.

2-92-1020 Reporting requirements.

The chief procurement officer is authorized to impose reasonable reporting requirements on participants in the MBI non-construction program. Such reporting requirements shall be designed and used to evaluate the effectiveness of the program. Any MBI non-construction program participant shall comply with the reporting requirements as required by the chief procurement officer.

2-92-1030 Rules and regulations.

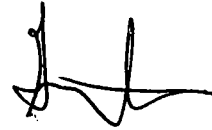
The chief procurement officer is authorized to adopt rules and regulations for the proper administration and enforcement of this Article VII.

2-92-1040 Enforcement.

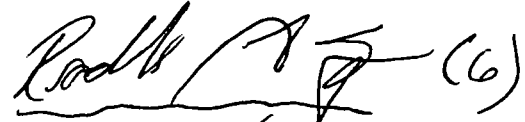
(a) *Fraudulent misrepresentation.* If the chief procurement officer determines, after notice and a hearing before the chief procurement officer, that any MSB has made fraudulent misrepresentations to the city regarding its MSB status, or has colluded with another making such fraudulent misrepresentations, the MSB shall be declared ineligible to contract or subcontract on additional contracts. Upon making a finding of ineligibility, the chief procurement officer shall determine the period of ineligibility imposed, which may include permanent or indefinite ineligibility, or ineligibility for a lesser duration. No MSB shall be disqualified for collusive misrepresentations unless all parties with which the MSB was found to have colluded with are also disqualified. The city shall regard as nonresponsive any bid submitted during such period of ineligibility which includes a disqualified entity as a contractor, subcontractor or member of a joint venture. In the event that a contractor submitting a bid is determined by DPS not to have been involved in any misrepresentation of the status of a disqualified subcontractor included in the bid, DPS may allow the contractor to discharge the disqualified subcontractor and, if possible, identify and engage a qualified subcontractor as its replacement for inclusion in the bid. The consequences provided herein shall be in addition to any other criminal or civil liability to which such entities may be subject DPS shall inform the State's Attorney of Cook County of instances of fraudulent misrepresentation and collusion.

(b) In addition to any other penalty imposed by law, any person who knowingly obtains, or knowingly assists another in obtaining, a contract with the city by falsely representing that the entity, or the entity assisted, is an MSB is guilty of a misdemeanor, punishable by incarceration in the county jail for a period not to exceed six months or a fine of not less than \$5,000 and not more than \$10,000, or both.

SECTION 2. This ordinance is effective on passage and publication.



GILBERT VILLEGAS
Alderman, 36th Ward



Rodrick T. Sawyer-6