



City of Chicago



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Office of the City Clerk

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Meeting Date:	5/24/2017
Sponsor(s):	Emanuel (Mayor)
Type:	Ordinance
Title:	Amendment of Municipal Code Section 2-92-250 regarding retainage requirements covering contract performances
Committee(s) Assignment:	Committee on Budget and Government Operations

BUDG.



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OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

May 24, 2017

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 contract retainage requirements.

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. Section 2-92-250 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

2-92-250 Retainage to cover contract performance.

A. ~~Every contract~~ Except as otherwise provided in subsection (B), a contract for the construction of any public improvement or other public work ~~shall~~ may include terms providing for retainage. ~~in an amount determined by~~ Such terms may be included in such contracts when the chief procurement officer determines that their inclusion is in the best interest of the City, to reasonably ensure the contractor's proper and complete performance of the work covered by the contract and the contractor's complete compliance with the terms and conditions of the contract.

B. ~~However, terms~~ Terms providing for retainage shall not be included, unless the chief procurement officer ~~determines their inclusion is in the best interest of the City~~ contract is funded by a source that requires retainage, when:

1. The contract is federally funded and is subject to regulation governing prompt payment to disadvantaged business enterprise participants in the contract, ~~or;~~

2. Quantities and delivery are indefinite at the time of advertisement and the contract will be paid on a unit price ~~basis.~~ basis; or

3. The contract provides for participation goals, as authorized by law, for minority-owned business enterprises or women-owned business enterprises, as these terms are defined in 2-92-670.

BC. When terms providing for retainage are included in a contract, the following requirements shall apply:

(1) The retainage amount shall be determined by the chief procurement officer and shall be specified at the time of advertisement. The retainage amount ~~and~~ shall not be more than five percent of the contract amount, including the value of all change orders. ~~The retainage amount shall not be less than two percent of the contract amount as originally awarded unless both quantities and delivery dates are indefinite at the time of advertisement.~~

~~C.(2)~~ The retainage amount shall be retained from the various periodic payment estimates according to a schedule specified in the contract that in the judgment of the chief procurement officer will serve to adequately protect the city, taking into account the term, value and other elements of the contract.

D.(3) Upon substantial completion of the public work, as determined by the chief procurement officer, and prior to computation of the final quantities, a portion, specified in the contract, of the retainage amount shall be released to the contractor.

E.(4) ~~However, the City~~ Notwithstanding subsection (C)(3) of this Section, the chief procurement officer may from time to time release amounts to the contractor from the retainage amount for retainage owed by the contractor to certain subcontractors upon receipt of appropriate documentation from the contractor showing that all the tasks called for in the subcontract have been satisfactorily completed. The contractor must pay all retainage owed to each subcontractor for satisfactory completion of the subcontractor's accepted work promptly after the portion of the retainage amount is released by the ~~City~~ the chief procurement officer.

F.(5) Upon (4*i*) final acceptance of the work, (2*ii*) the contractor's compliance with the contract's conditions for payment and performance of the work covered by the contract in accordance with the terms and conditions thereof and compliance with all other terms and conditions of the contract, (3*iii*) payment to all subcontractors, workers, employees, suppliers and material men for work performed and materials supplied, and (4-*iv*) computation of the final quantities of work, the retainage amount, less any damages or other amounts that the chief procurement officer determines should be deducted, shall be paid to the contractor as final payment.

SECTION 2. This ordinance shall take effect 30 days after its passage and publication.