



# City of Chicago



O2015-1401

Office of the City Clerk

## Document Tracking Sheet

**Meeting Date:** 3/18/2015

**Sponsor(s):** Emanuel (Mayor)

**Type:** Ordinance

**Title:** Amendment of Municipal Code Chapter 2-92 by adding new Section 405 and modifying Section 412 regarding City contract bid preference/incentive

**Committee(s) Assignment:** Committee on Budget and Government Operations

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OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

March 18, 2015

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, together with Aldermen Austin, Brookins, Dowell, Lane, Mitts, Solis, Cochran, Graham, and M. O'Connor an ordinance amending the Municipal Code by adding a new Section 2-92-405 regarding a bid incentive.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Rahm Emanuel".

Mayor

## ORDINANCE

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

**SECTION 1.** Article III of Chapter 2-92 of the Municipal Code of Chicago is hereby amended by adding a new section 2-92-405, by deleting the language struck through and by adding the language underscored, as follows:

**2-92-405 Contracts – Bid preference for utilization of project-area subcontractors.**

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

“Construction project” means any project to be paid for by the city, but which is not funded in whole or part by any federal or state funds, to construct, remodel or reconstruct any public works, public buildings, public structures, roadways, parkways, bridges, parking facilities or parks, or any portion of any of the same, belonging to the city within its geographical boundaries as they exist or shall exist in the future.

“Department” means the department of procurement services.

“Project-area subcontractor” means a person who: (i) conducts meaningful day-to-day business operations at a facility located within that part of the city designated as the project area in the information for bidders issued by the department and that facility is the place of employment for the majority of that person’s regular, full-time workforce; (ii) holds all appropriate city licenses; and (iii) is subject to applicable city taxes; provided that a project-area subcontractor shall not include the prime contractor.

“Prime Contractor” means a person who is the primary contractor on a contract.

(b) (1) For any construction project advertised after the effective date of this section and where not otherwise prohibited by federal, state or local law, the chief procurement officer shall allocate to any qualified bidder the following bid preference for utilization of project-area subcontractors in the performance of the contract.

<b>Total dollar value of work performed by project-area subcontractors as a percentage of the total contract value</b>	<b>Bid Preference</b>
1 to 16%	0.5% of the contract base bid
17 to 32%	1% of the contract base bid
33 to 49%	1.5% of the contract base bid
50% or greater	2% of the contract base bid

If a project-area subcontractor subcontracts part of the work to another contractor, only the value of work performed by the project-area subcontractor’s employees shall count towards the bid preference, unless the sub-subcontractor is a project-area subcontractor.

The bid preference 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.

(3) For all construction projects advertised after the effective date of this section, the chief procurement officer shall include the bid preference provision consistent with this section in all such advertising.

(c) 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 and subcontractors shall maintain all relevant records for a period of at least three years after the expiration of the contract.

(d) 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 project-area subcontractor submit an affidavit and other supporting documents demonstrating that a subcontractor is a project-area subcontractor.

(e) Upon completion of the work, any prime contractor that has failed to retain the percentage of project-area subcontracts for which a bid preference was taken into consideration in awarding of a contract shall be fined an amount equal to three times the amount of the bid preference 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 project-area subcontractors throughout the duration of the contract period.

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

(g) This section shall not apply to any construction project to the extent that the requirements imposed by this section are 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 law or the home rule powers of the city.

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

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

"City-based business" means a person who (i) conducts meaningful day-to-day business operations at a facility located within the city and ~~reports such facility to the Internal Revenue Service as a~~ that facility is the place of employment for the majority of its ~~that person's~~ regular, full-time workforce; (ii) holds ~~any~~ all appropriate city licenses ~~license~~; and (iii) is subject to applicable city taxes.

*(Omitted text is unaffected by this ordinance)*

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