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Legislation Details (With Text)

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Type: Ordinance **Status:** Passed
File created: 5/28/2014 **In control:** City Council
Final action: 6/25/2014

Title: Amendment of Municipal Code Chapter 2-92 by adding new Sections 2-92-417 and 2-92-418 regarding bid incentives for MBE/WBE participation and small business enterprise and veteran-owned business enterprise joint ventures

Sponsors: Emanuel, Rahm, Balcer, James

Indexes: Ch. 92 Dept. of Purchases, Contracts & Supplies

Attachments: 1. O2014-4845.pdf

Date	Ver.	Action By	Action	Result
6/25/2014	1	City Council	Passed	Pass
6/24/2014	1	Committee on Budget and Government Operations	Recommended to Pass	Pass
5/28/2014	1	City Council	Referred	

OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL MAYOR

May 28, 2014

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 Alderman Baicer, an ordinance amending Chapter 2-92 of the Municipal Code regarding a small business and veteran joint venture preference.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

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 new sections 2-92-417 and 2-92-418, as follows:

2-92-417 Bid incentives -MBE/WBE requirements.

Unless otherwise prohibited by any federal, state or local law, any contract awarded based upon an allocation of a bid incentive authorized pursuant to this Article III shall be subject to the M.B.E. and W.B.E. participation provisions set forth in Articles IV and VI of this chapter. For purposes of this section "M.B.E." and "W.B.E" have the meaning ascribed to those terms in section 2-92-420.

2-92-418 Reserved. Contracts -bid incentive for small business enterprise and veteran-owned business enterprise joint ventures.

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

"Bid incentive" means an amount deducted, for bid evaluation purposes only, from the contract base bid in order to calculate the bid price to be used to evaluate the bid on a competitively bid contract.

"Construction project" has the same meaning ascribed to that term in Section 2-92-335.

"Contract" means any contract, purchase order, construction project, or other agreement (other than a delegate agency contract or lease of real property or collective bargaining agreement) awarded by the city and whose cost is to be paid from funds belonging to or administered by the city.

"Contract base bid" means the total dollar amount a contractor bids on a contract without factoring any bid incentive or percentage reductions to the bid amount.

"Eligible joint venture" means an association of one or more small business enterprises in combination with one or more veteran-owned business enterprises, proposing to perform as a single for-profit business enterprise, in which each joint venture partner contributes property, capital, efforts, skill and knowledge. Joint ventures must have an agreement in writing specifying the terms and conditions of the relationship between the partners and their respective roles in the contract.

"Small business enterprise" and "Owned" have the meaning ascribed to those terms in section 2-92-670.

"Veteran-owned business enterprise" means an enterprise which: (1) is at least 51 percent owned by one or more veterans, or in the case of a publicly held corporation, at least 51 percent of all classes of the stock of which is owned by one or more veterans, whose management, policies, major decisions and daily business operations are independently managed and controlled by one or more veterans; or (2) has been certified by the State of Illinois as a qualified service-disabled veteran-owned small business or a qualified veteran-owned small business pursuant to 30 ILCS 500/45-57.

"Veteran" means a person who has served in the United States armed forces and was discharged or separated under honorable conditions.

b) (1) Unless otherwise prohibited by any federal, state or local law, for any contract advertised, or if not advertised awarded, after the effective date of this section, the chief procurement officer shall allocate a bid incentive of 5% of the contract base price to a qualified bidder when the qualified bidder is an eligible joint venture.

The bid incentive 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 forego awarding the bid incentive under this section, under the following conditions:

i) an emergency exists:

ii) for cooperative purchasing or cooperative construction contracts:

iii) where an eligible joint venture is determined by the chief procurement officer to be unqualified, unable, or ineligible to perform the contract: or

iv) for any other factor the chief procurement officer deems to be in the city's best interest.

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

4) As a condition of being awarded the bid incentive, the eligible joint venture shall continue to meet the definition of an eligible joint venture during the term of the contract for which the bid incentive was awarded.

c) The contractor shall maintain adequate records necessary to monitor compliance with this section and shall submit such reports as required by the chief procurement officer. Full access to the contractor's and subcontractors' 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 contractor and subcontractors shall maintain all relevant records for a minimum of seven years after final acceptance of the work.

d) A bidder desiring to receive an incentive pursuant to this section shall include with its bid submission, an affidavit and other supporting documents demonstrating that the bidder satisfies all pertinent requirements as an eligible joint venture.

e) Upon completion of the work, any eligible joint venture that receives a bid preference but that fails to meet the definition as an eligible joint venture during the term of the contract for which the bid incentive was awarded shall be fined in an amount equal to three times the amount of the bid incentive awarded.

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 contract 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.

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