



Office of the City Clerk

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Legislation Details (With Text)

File #: O2016-6411
Type: Ordinance **Status:** Passed
File created: 9/14/2016 **In control:** City Council
 Final action: 10/5/2016

Title: Amendment of Municipal Code Chapter 2-92 by adding new Section 2-92-525 regarding bid incentives for MBE and WBE contracts

Sponsors: Austin, Carrie M., Villegas, Gilbert

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

Attachments: 1. O2016-6411.pdf

| Date | Ver. | Action By | Action | Result |
|-----------|------|---|---------------------|--------|
| 10/5/2016 | 1 | City Council | Passed | Pass |
| 10/4/2016 | 1 | Committee on Budget and Government Operations | Recommended to Pass | Pass |
| 10/4/2016 | 1 | Committee on Budget and Government Operations | Add Co-Sponsor(s) | |
| 9/14/2016 | 1 | City Council | Referred | |

ORDINANCE

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

SECTION 1. Chapter 2-92 of the Municipal Code of Chicago is hereby amended by adding a new Section 2-92-525, as follows:

2-92-525 Contracts - Bid incentive to encourage M.B.E. and W.B.E. utilization.

a) For purposes of this section, the following definitions shall 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.

"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.

b) (1) For any contract advertised after the effective date of this section, if such contract has no stated M.B.E. or W.B.E. participation goals, and where not otherwise prohibited by federal, state or local law, the chief procurement officer shall allocate to any qualified bidder the following bid incentive for utilization of: (i) M.B.E. or W.B.E. subcontractors in the performance of the contract, or (ii) M.B.E. or W.B.E. firms other than as a subcontractor during the performance of the contract:

M.B.E. or W.B.E. participation as Bid Incentive (as percentage of a percentage of the estimated contract dollar amount)

| | |
|----|-------|
| 5% | 0.75% |
|----|-------|

| | |
|-----|-------|
| 10% | 1.00% |
| 15% | 1.25% |
| 20% | 1.50% |
| 25% | 1.75% |
| 30% | 2.00% |

(2) For a bidder to qualify for an incentive under subsection (b)(1)(i) of this section, the M.B.E. or W.B.E. subcontractors that the bidder utilizes need not be certified in the area of specialty in which they are performing on the contract if: (i) such M.B.E. or W.B.E. subcontractors are certified in at least one area of specialty; and (ii) the bidder has entered into a written mentor-protégé agreement approved by the chief procurement officer with such M.B.E. or W.B.E. subcontractors to develop their capacity in becoming self-sufficient, competitive and profitable business enterprises.

(3) For a bidder to qualify for an incentive under subsection (b)(1)(ii) of this section, the M.B.E. or W.B.E. firms that the bidder utilizes shall be certified by the City of Chicago or Cook County in the area of specialty in which they are used during the performance of the contract.

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4) 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.

5) For all contracts 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 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, subcontractors' and firms', if used during the performance of the contract, 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, subcontractors and firms shall maintain all relevant records for a minimum of seven years after final acceptance of the work.

d) Upon completion of the work, any contractor that has failed to retain the percentage of M.B.E. or W.B.E. subcontractors for which a bid incentive was taken into consideration in awarding of a contract shall be fined an amount equal to three times the amount of the bid incentive allocated, unless the contractor can demonstrate that due to circumstances beyond the contractor's control, the contractor for good cause was unable to retain the percentage of M.B.E. or W.B.E. subcontractors throughout the duration of the contract period.

e) The chief procurement officer is authorized to adopt rules enabling the effective administration and enforcement of this section.

f) 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 10 days after passage and publication.

**Carrie Austin Alderman, 34th
Ward**

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