



# Office of the City Clerk

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## Legislation Text

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File #: SO2018-917, Version: 1

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### SUBSTITUTE 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 Article IX, as follows:

#### **ARTICLE IX. NON-CONSTRUCTION MID-SIZED BUSINESS INITIATIVE PROCUREMENT PROGRAM (2-92-1000, et seq.)**

##### **2-92-1000 Application of article.**

This Article shall apply to non-construction procurement 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 procurement 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 procurement 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.

##### **2-92-1010 Definitions.**

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

"Chief Procurement Officer" means the City's Chief Procurement Officer.

"Contract" means any contract, purchase order or agreement (other than a delegate agency contract or lease of real property or collective bargaining agreement or a construction contract as defined in Section 2-92-670) 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 or administered by the City of Chicago, regardless of source.

"Department of Procurement Services" or "D.P.S." 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.

"Non-construction mid-sized business initiative procurement program" or "N.M.B.I, procurement program" means the program established pursuant to this Article IX.

Page 1 of 4

"Mid-sized local business enterprise" or "M.S.B." means a local business enterprise that has gross receipts, averaged over its previous five fiscal years, that do not exceed one and a half times the size standards of minority-owned or women-owned business as set forth pursuant to Section 2-92-420(o) of this Code.

**2-92-1020 N.M.B.I, procurement 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 M.S.B.s' participation in non-construction procurement contracts. The Chief Procurement Officer is authorized to identify and offer non-construction procurement contracts for exclusive participation of M.S.B.s. The estimated costs of such contracts shall not be less than \$3,000,000 nor more than \$10,000,000.

**2-92-1030 N.M.B.I, procurement program - Eligibility.**

To be eligible for the N.M.B.I, procurement program, a business enterprise must:

- 1) be a mid-sized local business enterprise;
- 2) perform more than fifty percent of the non-construction procurement contract with its own work force or subcontractors that are mid-sized local business enterprises; and
- 3) 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.

**2-92-1040 N.M.B.I, procurement program - Presumption, attestation and notification.**

a) Minority-owned business enterprises and women-owned business enterprises, as defined in Section 2-92-420, and veteran-owned small local businesses, as defined in Section 2-92-920, shall be presumed to be M.S.B.s.

b) Except as otherwise provided in subsection (a), any business enterprise that claims to be an M.S.B. 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 M.S.B. eligibility requirements provided in Section 2-92-1030. 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) M.S.B.s and business enterprises presumed to be M.S.B.s shall notify the Department of Procurement Services of any change that affects such enterprises' M.S.B. status within five business days of the occurrence of such change. |

**2-92-1050 Reporting requirements.**

Page 2 of 4

The Chief Procurement Officer is authorized to impose reasonable reporting requirements on participants in the N.M.B.I, procurement program. Such reporting requirements shall be designed and used to evaluate the effectiveness of the program. Any N.M.B.I, procurement program participant shall comply with the reporting requirements as required by the Chief Procurement Officer.

**2-92-1060 Rules.**

The Chief Procurement Officer is authorized to adopt rules for the proper administration and enforcement of this Article IX.

**2-92-1070 Enforcement.**

a) Fraudulent misrepresentation. If the Chief Procurement Officer determines, after notice and a hearing before the Chief Procurement Officer, that any M.S.B. has made fraudulent misrepresentations to the city regarding its M.S.B. status, or has colluded with another making such fraudulent misrepresentations, the M.S.B. 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 M.S.B. shall be disqualified for collusive misrepresentations unless all parties with which the M.S.B. 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 D.P.S. not to have been involved in any misrepresentation of the status of a disqualified subcontractor included in the bid, D.P.S. 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. D.P.S. shall inform the State's Attorney of Cook County and the City of Chicago Office of Inspector General of instances of fraudulent misrepresentation and collusion.

b) False representation. 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 M.S.B. 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.

c) Other violations. Except as otherwise provided in subsections (a) and (b), any person who violates this Article IX shall be fined not less than \$1,000 nor more than \$5,000 for each offense.

SECTION 2. Severability. In the event that any section, subsection, paragraph, clause, provision or application of Article IX of Chapter 2-92 of the Municipal Code of Chicago shall be held invalid by any court, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions hereof.

SECTION 3. This ordinance shall take effect 10 days after passage and publication.

Page 4 of 4

CHICAGO March 28, 2018

**To the President and Members of the City Council:**

Your Committee on Finance having had under consideration a substitute ordinance authorizing an amendment to Chapter 2-92 of the Municipal Code of Chicago creating the Mid-Sized Business Initiative Non-Construction Program.

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Having had the same under advisement, begs leave to report and recommend that your Honorable Body pass the proposed Substitute BsBhtifcM\* Transmitted Herewith.

**This recommendation was concurred in by \_\_\_\_\_ (ar^iva voce vote")**  
**of members of the committee with \_\_\_\_\_ dissenting vote(s)7**

**Respectfully submitted**

**(signedn>**

**Chairman**