



# Office of the City Clerk

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## Legislation Details (With Text)

**File #:** SO2015-1401  
**Type:** Ordinance  
**Status:** Passed  
**File created:** 3/18/2015  
**In control:** City Council  
**Final action:** 4/15/2015  
**Title:** Amendment of Municipal Code Chapter 2-92 by adding new Sections 405, 410 and modifying Sections 410 and 412 regarding city contract bid preference for utilization of project area subcontractors and Chicago-based businesses  
**Sponsors:** Emanuel, Rahm, Austin, Carrie M., Brookins, Jr., Howard, Dowell, Pat, Lane, Lona, Mitts, Emma, Solis, Daniel, Willie B. Cochran, Graham, Deborah L., O'Connor, Mary  
**Indexes:** Ch. 92 Dept. of Purchases, Contracts & Supplies  
**Attachments:** 1. SO2015-1401.pdf, 2. O2015-1401.pdf

Date	Ver.	Action By	Action	Result
4/15/2015		City Council	Passed as Substitute	Pass
4/14/2015	1	Committee on Budget and Government Operations	Recommended to Pass	Pass
3/18/2015	1	City Council	Referred	

### SUBSTITUTE 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 incentive 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; (iii) is a small business enterprise; and (iv) 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.

"Small business enterprise" means a small business as defined by the U.S. Small Business Administration, pursuant to the business size standards found in 13 C.F.R. Part 121, relevant to the scope of work the business seeks to perform on city contracts. A business is not an eligible small business enterprise in any city fiscal year in which its gross receipts, averaged over the firm's previous five fiscal years, exceed the size standards of 13 C.F.R. Part 121.

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 incentive for utilization of project-area subcontractors in the performance of the contract

**Bid Incentive**

0.5% of the contract base bid 1 % of the contract base bid 1.5% of the contract base bid 2% of the contract base bid

**Total dollar value of work performed by project-area subcontractors as a percentage of the total contract value**

1 to 16% 17 to 32% 33 to 49% 50% or greater

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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 incentive, unless the sub-subcontractor is a project-area subcontractor.

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.

A contractor shall not be eligible to receive in one contract bid, the bid incentive allocated pursuant to this section and that allocated pursuant to section 2-92-410.

2) The chief procurement officer may determine not to allocate a bid incentive 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 incentive 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 incentive 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 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 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.

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2-92-410 Contracts - Bid incentive for certain city- based manufacturers.

*(Omitted text is unaffected by this ordinance)*

(b) (1) Unless otherwise prohibited by any federal, state or local law, for any contract for goods having an estimated contract value of \$100,000 or more advertised, or if not advertised awarded, after the effective date of this section, the chief procurement officer shall allocate to any qualified bidder the following bid incentive:

Total Dollar Value of Locally Manufactured Goods Provided in the Contract	Bid Incentive
25% to 49%	1 % of the contract base bid
50% to 74%	1.5% of the contract base bid
75% or greater	2% of the contract base bid

Provided that for any contract subject to this section, if a contractor is allocated a bid preference pursuant to Section 2-92-412 or a bid incentive pursuant to Section 2-92-405, the contractor shall not be eligible to receive the bid incentive allocated pursuant to this section

*(Omitted text is unaffected by this ordinance)*

**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 afly 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.

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CHICAGO, April 15, 2015

To the President and Members of the City Council:

Your Committee on the Budget and Government Operations, having had under consideration an Ordinance authorizing an amendment to Section 2-92 of the Municipal Code of Chicago necessary to establish bid preference guidelines for project area subcontractors; and having been presented with a proposed Substitute Ordinance by the Department of Law; and having had the same under advisement, begs leave to report and recommend that Your Honorable Body pass the Substitute Ordinance transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the Committee.

Carrie M. Austi Chairman