Legislation Details (With Text)

File #:	O2016-8625		
Type:	Ordinance	**Status:**	Passed
File created:	12/14/2016	**In control:**	City Council
		Final action:	1/25/2017
Title:	Amendment of Municipal Code Sections 2-92-336 and 2-92-440 regarding MBE/WBE contract award goal fulfillment and apprentice utilization		
Sponsors:	Emanuel, Rahm		
Indexes:	Ch. 92 Dept. of Purchases, Contracts & Supplies		
Attachments:	1. O2016-8625.pdf		

Date	Ver.	Action By	Action	Result
1/25/2017	1	City Council	Passed	Pass
1/24/2017	1	Committee on Budget and Government Operations	Recommended to Pass	Pass
12/14/2016	1	City Council	Referred	

OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL
MAYOR

December 14, 2016

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 an ordinance amending Chapter 2-92 regarding M/WBE goal fulfillment.

Your favorable consideration of this ordinance will be appreciated.

Mayor

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Very truly yours,

ORDINANCE

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

SECTION 1. Section 2-92-440 of the Municipal Code of Chicago is hereby amended by inserting the language underscored and by deleting the language struck through, as follows:

2-92-440 Award goal - Implementation.

In order to achieve the goal stated in Section 2-92-430 of this chapter, the chief procurement officer shall undertake, in addition to the other measures provided herein, the following measures:

a) Insert within specifications for each contract let through competitive bidding with an estimated value in excess of $10,000.00 a requirement that the contractor commit to the expenditure of at least the M.B.E. percentage of the dollar value of the contract with one or more ~~M.B.E.'s~~ M.B.E.s and at least the W.B.E. percentage of the dollar value with one or more ~~W.B.E.'s~~ W.B.E.s, or make good faith efforts to do so. This commitment may be met by the contractor's status as M.B.E. or W.B.E., or by joint venture with one or more ~~M.B.E s or W.B.E.'s~~ M.B.E.s or W.B.E.s as prime contractor (to the extent of the ~~M.B.E. or W.B.E.~~ M.B.E.'s or W.B.E.'s participation in such joint venture), or by subcontracting a portion of the work to one or more ~~M.B.E.'6 or W.B.E.'s~~ M.B.E.s or W.B.E.s, or by purchase of materials or services for the work from one or more ~~M.B.E.'s or W.B.E.'s~~ M.B.E.s or W.B.E.s, ~~or by the indirect participation of M.B.E.'6 or W.B.E.'s in othe r aspects of the contractor's business (but no dollar of such indirect M.B.E. or W.B.E. participation shall be cred ited more than once against a contractor's M.B.E. or W.B.E. commitment with respect to all contracts of such contractor),~~ or by any combination of the foregoing. In determining whether a contractor has made good faith efforts, the chief procurement officer shall consider the factors enumerated in Section 2-92-720(c)(iii) of this chapter, and the indirect participation of M.B.E.s or W.B.E.s in other aspects of the contractor's business (but no dollar of such indirect M.B.E. or W.B.E. participation shall be credited more than once against a contractor's good faith efforts to achieve the M.B.E. or W.B.E. commitment with respect to all contracts of such contractor):

b) Review each proposed contract modification request that, by itself or aggregated with previous modification requests, increases the contract value by ten percent of the initial contract value or $50,000.00, whichever is greater, for opportunities to increase participation of ~~M.B.E.'s or W.B.E.'s~~ M.B.E.s or W.B.E.s already involved in the contract;

(Omitted text is not affected by this ordinance)

f) Send notices to ~~M.B.E.'s and W.B.E.'s~~ M.B.E.s and W.B.E.s who have been identified as subcontractors in accordance with Section 2-92-440 (e)(i) of this chapter, including therein notification of this right of arbitration provided in Section 2-92-440(e)(ii) of this chapter;

g) To the extent practicable, award contracts requiring the expenditure of funds not exceeding $10,000.00 to qualified ~~M.B.E.'s and W.B.E.'s~~ M.B.E.s and W.B.E.s. Contracts so awarded to ~~M.B.E.'s and W.B.E.'s~~ M.B.E.s and W.B.E.s shall be considered target market contracts for purposes of satisfying the requirements of Section 2-92-460(a) of this chapter;

h) Include ~~M.B.E.'6 and W.B.E.'s~~ M.B.E.s and W.B.E.s on solicitation mailing lists, and encourage that they be solicited for suitable contracts;

(i) Include with the bid specifications for each competitively bid contract a list of certified ~~M.B.E.'6 and W.B.E.'s~~ M.B.E.s and W.B.E.s that are available to perform the work required by the specifications or otherwise make such a list available to potential bidders;

(Omitted text is not affected by this ordinance)

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SECTION 2. Section 2-92-336 of the Municipal Code of Chicago is hereby amended by inserting the language underscored and by deleting the language struck through, as follows:

2-92-336 Contracts - Ex-offender apprentice utilization.

(Omitted text is not affected by this ordinance)

(b)(1) For any construction project advertised after the effective date of this section having an estimated contract value of $100,000.00 or more, 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 apprentices in performance of the total labor hours performed under the contract.

(2-)~~-The Chief Procurement Officer is authorized to limit or preclude the use of apprentices for a particul ar contract if 6he determines, following consultation with the Commissioner of Family and Support Services, that the nature of the underlying offense raises concerns of suitability for that contract.~~

Total Labor Hours Performed By Apprentices	Bid Incentive
5 to 10%	112% of the contract base bid
11 to 15%	1 % of the contract base bid

The bid incentive shall be calculated and applied in accordance with subsection ~~(c)(2)~~ (b)(3). The bid incentive does not affect the contract price and is used only to calculate an amount to be used in evaluating the bid.

For all construction projects advertised after the effective date of this section, the chief procurement officer shall include the bid incentive provision in all such advertisements, unless the limitation or preclusion of subsection (b)(2) applies.

2) The Chief Procurement Officer is authorized to limit or preclude the use of apprentices for a particular contract if she determines, following consultation with the Commissioner of Family and Support Services, that the nature of the underlying offense raises concerns of suitability for that contract.

3) As part of the contract close-out procedure, if the chief procurement officer determines that the contractor has successfully met its apprentice utilization goals, the chief procurement officer shall issue an earned credit certificate that evidences the amount of earned credits allocated to the contractor. The contractor may apply the earned credits as the bid incentive for any future construction project contract bid of equal or greater dollar value.

The earned credit certificate is valid for three years from the date of issuance and shall not be applied

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towards any future contract bid after the expiration of that period.

The contractor may apply the earned credit certificate on multiple future construction project contract bids during the three-year period in which the certificate is valid, but may only receive one bid incentive for bid evaluation purposes on one construction project contract award. If the contractor applies the earned credit certificate on multiple construction project bids and is the lowest responsive and responsible bidder on more than one construction project bid, the earned credit certificate shall be applied to the construction project first to be advertised by D.P.S., or if multiple construction project bids were advertised on the same date, the earned credit certificate shall be applied only to the construction project with the greatest dollar value.

(dc) The contractor shall maintain accurate and detailed books and records necessary to monitor compliance with this section and shall submit such reports as required by the chief procurement officer, or the commissioner of the supervising department.

Full access to the contractor's and subcontractors' records shall be granted to the chief procurement officer, the commissioner of the supervising department, or any duly authorized representative thereof. The contractor and subcontractors shall maintain all relevant records for at least three years after final acceptance of the work.

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

SECTION 3. This ordinance shall take effect upon passage and approval.

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