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Legislation Details (With Text)

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Type: Ordinance **Status:** Failed to Pass
File created: 5/24/2017 **In control:** City Council
Final action:
Title: Amendment of Municipal Code Chapter 2-92 by adding new Article VIII entitled "Veteran-Owned Business Enterprise Procurement Program"
Sponsors: Villegas, Gilbert, Cardenas, George A., Burke, Edward M., O'Shea, Matthew J., Solis, Daniel, Taliaferro, Chris, Santiago, Milagros, Reboyras, Ariel, Austin, Carrie M.
Indexes: Ch. 92 Dept. of Purchases, Contracts & Supplies
Attachments: 1. O2017-3892.pdf

Date	Ver.	Action By	Action	Result
5/29/2019	1	City Council	Failed to Pass	
5/24/2017	1	City Council	Referred	

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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 VIII, as follows:

ARTICLE VIII. VETERAN-OWNED BUSINESS ENTERPRISE PROCUREMENT PROGRAM

2-92-910 Application of article.

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 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 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.

2-92-920 Definitions.

For purposes of this Article VIII, 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.

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

"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.

"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.

"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.

"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

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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.

"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.

"Owned" means having all of the customary incidents of ownership, including the right of disposition, and sharing in all of the risks, responsibilities and profits commensurate with the degree of ownership.

"Prime contractor" means a person who is the primary contractor on a contract.

"Small business enterprise" means: (i) for a construction business enterprise, a small business enterprise, as the term is defined in Section 2-92-670; or (ii) for a non-construction business enterprise, a business enterprise which is not an established business, as the term is defined in Section 2-92-420.

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

"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; and (2) has been: (i) certified by the City as a veteran-owned small local business pursuant to Section 2-92-930; (ii) certified by the County of Cook as a veteran business enterprise; (iii) 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; or (iv) verified and approved by the United States Department of Veterans Affairs as a service-disabled veteran-owned small business or a veteran-owned small business.

"Veteran-owned small local, business" means a veteran-owned business enterprise which is also a local business enterprise and a small business enterprise, and which has been certified by the City as a veteran-owned small local business pursuant to Section 2-92-930.

"Veteran-owned subcontractor" means a subcontractor that: (i) is a veteran-owned small local business; (ii) holds all appropriate City licenses; and (iii) is subject to applicable City taxes; provided that a veteran-owned subcontractor shall not include the prime contractor.

2-92-930 Veteran-owned small local business - certification and reporting.

The Chief Procurement Officer is authorized to certify veteran-owned small local businesses. The Chief Procurement Officer shall provide a semi-annual report to the City

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Council Committee on the Budget and Government operations regarding veteran-owned small local businesses certified by the City.

2-92-940 Bid incentive for utilization of veteran-owned subcontractors.

(a) (1) For any construction project advertised after the effective date of this section, the Chief Procurement Officer shall allocate to any qualified bidder the following bid incentive for utilization of veteran-owned subcontractors in the performance of the contract.

<i>Total Dollar Value of Work Performed by Veteran-Owned Subcontractors as a Percentage of the Total Contract Value</i>	<i>Bid Incentive</i>
1 to 16%	0.5% of the contract base bid
17 to 32%	1 % of the contract base bid
33 to 49%	1.5% of the contract base bid
50% or greater	2% of the contract base bid

If a veteran-owned subcontractor subcontracts part of the work to another contractor, only the value of work performed by the veteran-owned subcontractor's employees shall count towards the bid incentive, unless the sub-subcontractor is a veteran-owned 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.

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(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.

b) 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 at least three years after the expiration of the contract.

c) 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 veteran-owned subcontractor submit an affidavit and other supporting documents demonstrating that a subcontractor is a veteran-owned subcontractor.

d) Upon completion of the work, any prime contractor that has failed to retain the percentage of veteran-owned 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 veteran-owned subcontractors throughout the duration of the contract period.

e) The bid incentive established in this section may not be combined with any other procurement set-aside benefit for a veteran-owned business enterprise under the Code.

2-92-950 Bid incentive for eligible joint ventures and veteran-owned small local businesses.

(a) (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 percent of the contract base price to a qualified bidder when the qualified bidder is an eligible joint venture or veteran-owned small local business.

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:

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iii) where an eligible joint venture or veteran-owned small local business 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 or veteran-owned small local business shall continue to meet the definition of an eligible joint venture or veteran-owned small local business during the term of the contract for which the bid incentive was awarded.

b) 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.

c) 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 or veteran-owned small local business.

d) Upon completion of the work, any eligible joint venture or veteran-owned small local business that receives a bid preference but that fails to meet the definition as an eligible joint venture or veteran-owned small local business 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.

2-92-960 Rules and regulations.

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

SECTION 2. Chapter 2-92 of the Municipal Code of Chicago is amended by repealing sections 2-92-407 and 2-92-418.

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SECTION 3. Section 2-92-930, created in SECTION 1 of this ordinance, shall take effect upon its passage and publication. The remainder of this ordinance shall take effect 90 days after its passage and publication.