Legislation Details (With Text)

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File created:	5/24/2017	**In control:**	City Council
		Final action:	6/28/2017
Title:	Amendment of Municipal Code Sections 2-92-337 and 2-92-586 to expand Business Enterprises for People with Disabilities Program		
Sponsors:	Emanuel, Rahm, Villegas, Gilbert, O'Shea, Matthew J., Austin, Carrie M.		
Indexes:	Ch. 92 Dept. of Purchases, Contracts & Supplies		
Attachments:	1. O2017-3899.pdf		

Date	Ver.	Action By	Action	Result
6/28/2017	1	City Council	Passed	Pass
6/27/2017	1	Committee on Budget and Government Operations	Recommended to Pass	Pass
5/24/2017	1	City Council	Referred	

OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL MAYOR

May 24, 2017

TO THE HONORABLE, THE CITY COUNCIL OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Chief Procurement Officer and the Commissioner of the Mayor's Office for People with Disabilities, I transmit herewith, together with Aldermen Villegas, O'Shea and Austin, an ordinance amending Chapter 2-92 of the Municipal Code to expand the Business Enterprises For People With Disabilities Program.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

ORDINANCE

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

SECTION 1. Section 2-92-337 of the Municipal Code of Chicago is hereby amended by inserting the language underscored and by deleting the language struck through, as follows:

2-92-337 Contracts - B.E.P.D. utilization as prime contractor or subcontractor.

(a) For purposes of this section only the following definitions apply:

"Business Enterprise owned or operated by People with Disabilities" or "B.E.P.D." has the same meaning ascribed to it in Section 2-92-586.

"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.

"Construction project" has the same meaning ascribed to it in Section 2-92-335.

"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.

"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.

~~"Earned credit" means the amount of the bid incentive allocated to a contractor upon completion of a contract in which the contractor met or exceeded his or her goals for the utilization of B.E.P.D.s in the performance of the contract.~~

~~"Earned credit certificate" means a certificate issued by the chief procurement officer evidencing the amount of earned credit a contractor has been awarded.~~

(fe) ~~The chief procurement officer shall award a bid incentive to a contractor for utilization of a B.E.P.D. as a prime contractor or subcontractor in accordance with the provisions of this section. The bid incentive 6hall be earned in the performance of a contract; provided that the bid incentive earned in the performance of the contract shall only be applied to a future contract.~~

(e)(b) (1) For any contract advertised for competitive bid awarded 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 a B.E.P.D. as a prime contractor or subcontractor in the performance of the contract.

Percentage of total dollar contract amount	*Bid incentive*
performed by B. E. P. D. ~~2 to 5% 6 to 10~~ 2 to 5% ~~11% or more~~ 6 to 9%	~~1/2% of the contract base bid~~ 1 % of the contract base bid 2% of the contract base bid

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10 to 13% 3% of the contract base bid

14% or more 4% of the contract base bid

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

For all contracts advertised after the effective date of this section, the chief procurement officer shall include the bid incentive provision in all such advertisements.

(2) ~~A6 part of the contract close-out procedure, if the chief procurement officer determines that the contractor has successfully met his or her B.E.P.D. utilization goal6 either as a prime contractor or with subcontractors, the chief procurement officer 6hall 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 i ncentive for any future contract bid.~~

~~The earned credit certificate is valid for three years from the date of issuance and 6hall not be applied towards any future contract bid after the expiration of that period.~~

~~The contractor may apply the earned credit certificate on multiple future contract bids during the three-year period in which the certificate is valid, but may only receive one bid incentive for bid e valuation purposes on one contract award. If the contractor applies the earned credit certificate on multiple contract bids and is the lowest responsive and responsible bidder on more than one contract bid, the earned credit certificate shall be applied to the contract bid first to be advertised by the department of procurement se rvices, or if multiple contract bids were advertised on the same date, the earned credit certificate shall be app lied only to the contract bid with the greatest dollar value.~~

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;

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iii) the chief procurement officer otherwise concludes that the allocation of a bid incentive is not in the city's best interest.

(d)(c) 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 a period of at least three years after final acceptance of the work.

(d) Upon completion of the work, any prime contractor that has failed to retain the percentage of B.E.P.D. 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 prime contractor can demonstrate that due to circumstances

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beyond the prime contractor's control, the prime contractor for good cause was unable to retain the percentage of B.E.P.D. subcontractors throughout the duration of the contract period.

(e) The chief procurement officer is authorized to adopt, promulgate and enforce reasonable rules a~~nd regulations~~ pertaining to the administration and enforcement of this section.

SECTION 2. Section 2-92-586 of the Municipal Code of Chicago is hereby amended by inserting the language underscored and by deleting the language struck through, as follows:

2-92-586 Contracts - Business enterprises owned or operated by people with disabilities.

(a) Whenever used in this section, unless the context otherwise requires, the following words and phrases have the following meanings:

1) "Business enterprise owned or operated by people with disabilities" or "B.E.P.D." means: (A) a business certified by the State of Illinois as a qualified service-disabled veteran-owned small business pursuant to 30 ILCS 500/45-57; or (B) an entity, except for those entities that constitute an established business based on the size standards set forth in Section 2-92-420 of the Municipal Code, or individual that is certified by the chief procurement officer or a certifying agency in accordance with Section 2-92-495 of this Code, as meeting one of the following criteria: [1]

i) A for-profit corporation, partnership, association, business trust, estate, or other legal entity that is either owned (directly, indirectly or beneficially) 51 percent or more by one or more individuals with disabilities and whose management and daily business operations are controlled by one or more individuals with disabilities; or

ii) A nonprofit corporation that employs individuals with disabilities, pays them an hourly wage that is not less than the federal minimum wage and not on a piece work basis, and a) whose management and daily business operations are controlled by one or more individuals with disabilities, and b) whose corporate purpose includes providing, directly or indirectly, services to individuals with disabilities; or

iii) An individual with a disability who is contracting with the city as a sole proprietorship or individually.

2) "Disability" ~~means,~~ means: (i) with respect to any individual:

(tA) A ~~medically diagnosed severe~~ a physical or mental impairment that substantially limits one or more of the major life activities of that individual, such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance or work skills in terms of employability;

(UB) A a record of such an impairment; or

(i«C) ~~Being~~ being regarded as having such an impairment; or

(ii) with respect to a veteran, a disability incurred in the line of duty in the active military, naval, or air service as described in 38 U.S.C. 101(16) and

determined to be a 10 percent or more disability by the United States Department of Veterans Affairs or the United States Department of Defense.

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(Omitted text is not affected by this ordinance) SECTION 3. This ordinance shall take effect 30 days after its passage and publication.