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Legislation Text

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OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL
MAYOR

February 10, 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 of the Municipal Code regarding local contractor hours.

Your favorable consideration of this ordinance will be appreciated.

Mayor

Very truly yours,

ORDINANCE

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

SECTION 1. Section 2-92-390 of the Municipal Code of Chicago is hereby amended by adding the language underscored and by deleting the language struck through, as follows:

2-92-390 Equal employment opportunity regulations for contracts - Enforcement.

a) If there exists evidence that minorities and/or women are under-represented in a contractor's work force, by comparison thereof to the labor force available within the population of the City of Chicago as

established in the most recent federal census or in statistics compiled by the U.S. Department of Labor, if more recent, such contractor shall forthwith take appropriate remedial action to achieve compliance with applicable federal laws and regulations.

b) £1) For any construction project having an estimated contract value of \$100,000.00 or more, and which is directly supervised by the City of Chicago, beginning with the calendar year 1984, the city shall have as its yearly equal employment opportunity goals the following percentages of construction aggregated work hours in each of the categories of construction journeyworker and apprentice:

(4- A) At least 25 percent by minorities, as described in subsection (c) of this section; (2 B) At least seven percent by women.

2) For any construction project having an estimated contract value of \$100,000.00 or more, which is directly supervised by the City of Chicago, beginning with the calendar year 1984, the city shall have as its yearly employment opportunity goals the following percentages of construction aggregated work hours in the category of construction laborer:

(4 A) At least 40 percent by minorities, as described in subsection (c) of this section; (2 B) At least ten percent by women.

3) In order to effectuate the achievement of these goals, the chief procurement officer shall employ the canvassing formula described in subsection (b c) of this section in the bidding for and in the awarding of all contracts involving construction projects having an estimated contract value of \$100,000.00 or more and which are directly supervised by the City of Chicago.

These goals shall also apply to construction projects subsidized in part with federal revenues pursuant to congressionally created grant programs which are intended to encourage economic revitalization including improved opportunities for the poor, minorities, and unemployed within the municipality to which the grant was given (including, without limitation, Community Development Block Grants, Urban Development Action Grants and Economic Development Administration Grants), and shall be monitored by the supervising department.

c) Fulfillment of these equal employment opportunity goals for construction projects having an estimated contract value of \$100,000.00 or more which are directly supervised by the City of Chicago will be achieved through contracts which shall include the following language:

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In accordance with Chapter 2-92 of the Municipal Code of Chicago, and in order to promote equality of opportunity for minority and female personnel on this project, the City of Chicago has established the following canvassing formula for the purpose of evaluating proposals and awarding the contract.

Each bidder is invited to propose the minority and female employee utilization goals for the project, as percentages of the journeyworker and apprentice and laborer hours to be expended in the construction of the project. Lines 2, 4, and 6 in the formula shall not be greater than 70 percent in each category, for the purpose of canvassing only. The 70 percent limit shall not deter or restrict the fuller utilization of minority employees for the project, but shall only serve as a limiting figure for use in the formula. Similarly, lines 8, 10, and 12 shall not be greater than 40 percent in each category, for the purpose of canvassing only. Actual amounts of minority and female work will be measured for the total hours of construction workers employed on the projects within each of the categories of journeyworkers, apprentice, laborers by the contractor and all of the worksite subcontractors.

Canvassing Formula

Line 1. Base bid, in figures

Line 2. Percentage of the total journeyworker hours that the contractor proposes to be worked by minority journeyworkers during construction of the project. Maximum figure r\$0 JO.

Line 3. Multiply line 2 by line 1 by 0.04

Line 4. Percentage of the total apprentice hours that the contractor proposes to be worked by minority apprentices during construction of the project. Maximum figure t-5Q JO

Line 5. Multiply line 4 by line 1 by 0.03

Line 6. Percentage of the total laborer hours that the contractor proposes to be worked by minority laborers during construction of the project. Maximum figure JO.

Line 7. Multiply line 6 by line 1 by .01.

Line 8. Percentage of the total journeyworker hours that the contractor proposes to be worked by female journeyworkers during construction of the project. Maximum figure AQ .15.

Line 9. Multiply line 8 by line 1 by 0.04.

Line 10. Percentage of the total apprentice hours that the contractor proposes to be worked by female apprentices during construction of the project. Maximum figure ,40.15.

Line 11. Multiply line 10 by line 1 by 0.03.

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Line 12. Percentage of the total laborer hours that the contractor proposes to be worked by female laborers during construction of the project. Maximum figure r40 .15.

Line 13. Multiply line 12 by line 1 by 0.01

Line 14. Summation of lines 3, 5, 7, 9, 11, and 13.

Line 15. Subtract line 14 from line 1 = award criteria figure.

The bidder shall complete the canvassing formula and transfer the final award criteria figure, line 15, to the space provided on the itemized proposal sheet. A contract in the amount of the total base bid will be

awarded to the responsible bidder with the lowest award criteria figure. The city reserves the right to revise all arithmetic calculations for correctness. The contractor is obliged during the construction of the project to fulfill every numerical commitment made under the canvassing formula categories. Therefore, every limiting condition or circumstance which may affect referral, hiring, or deployment of construction trades employees must be taken into account by the bidder before the commitment is proposed. Limits imposed by the policies or circumstances of labor organizations or other referral resources, for example, should be anticipated by the bidder, since relief from the contractor's obligations as established under the canvassing formula is not available due to such circumstances found to exist during construction. Also, if journeyworkers will not be employed in the project, or apprentices, or laborers, then the proposal made in the appropriate lines, lines 2 and 8, or lines 4 and 10 or 6 and 12, should be entered as "0 percent", since no journeyworker or apprentice or laborer hours are reported after construction, this will be computed by the city as 0 percent minority/female hours achieved.

If commitments are made in the apprentice category, lines 4 and 10, the total apprentice hours to be employed on the project should be anticipated to be a substantial number of hours; since it is the intention of the city that where a commitment for a percentage of minority or female apprentices has been made, the percentage may be counted as fulfilled only as long as there were provided at least 40 actual hours of minority or female employment as apprentices. For this reason, where a minority or female percentage commitment has been made, if in the final audit of the performance of the contract there are less than 40 actual hours of minority or female apprentice work performed ~~hours counted~~, then the number of minority or female apprentice hours will be counted by the City as "0" for the purpose of measuring the achievement towards the apprentice canvassing formula goal.

Therefore, notice that when the contractor is performing at a level under a minority or female apprentice goal, line 4 or line 10 above, the contractor will be subject to the full amount of liquidated damages, see lines 5 and 11, if at least 40 actual hours of minority or female apprenticeship work are not achieved. When the bidder foresees that this minimum amount of apprenticeship is not available to the project, then "0" should be put in lines 4 and 10 as the percentage commitment for apprentices.

The contractor is obligated to meet the total commitment made in each category, subject to liquidated damages as described below for noncompliance. The contractor hereby consents and agrees that, in the event of failure to comply with each of the minimum commitments submitted with the proposal on lines 2, 4, 6, 8, 10 and 12 of the canvassing formula, covering journeyworkers, apprentices, and laborers, respectively, the following shall apply to determine a monetary sum to be withheld from the final payment to the contractor.

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In calculating the aggregated work hours toward the utilization goals for construction journeyworkers, apprentices, or laborers under this subsection, the contractor shall be given 150% credit for every work hour performed by a minority or woman worker residing within a socio-economically disadvantaged area. The criteria for designation of an area as socio-economically disadvantaged will be set forth in rules promulgated by the Commissioner of Planning and Development. Such criteria shall include, but not be limited to, the median family income of an area.

(Omitted text is unaffected by this ordinance)

(e) The chief procurement officer is authorized to adopt rules for the proper administration of this section.

SECTION 2. This ordinance shall take effect after its passage and approval and shall apply to

contracts advertised after the effective date of this ordinance.