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Legislation Text

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OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

June 22, 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 to establish veteran-related preferences.

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. Chapter 2-92 of the Municipal Code of Chicago is hereby amended by adding a new

Section 2-92-407, as follows:

2-92-407 Contracts - Bid incentive for utilization of veteran-owned 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.

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

"Veteran-owned subcontractor" means a subcontractor that: (i) is a veteran-owned small local business, as the term is defined in Section 2-92-418; (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.

b) (D 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.

*Total Dollar Value of Work Performed by Veteran-Bid Incentive
Owned Subcontractors as a Percentage of the
Total Contract Value*

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.

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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;

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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.

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

e) 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.

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

g) 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.

h) 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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SECTION 2. Section 2-92-418 of the Municipal Code of Chicago is hereby amended by deleting the language stricken and inserting the language underscored, as follows:

2-92-418 Contracts - Bid incentives for small business enterprise and veteran-owned business enterprise

(Omitted text is not affected by this ordinance)

"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; or (2) has been 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.

"Veteran-owned small local business" means a business that is both a veteran-owned business enterprise and a small local business enterprise as defined in Section 2-92-670.

(Omitted text is not affected by this ordinance)

(b) (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[^].

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.

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(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.

c) 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.

d) 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.

e) 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.

(Omitted text is not affected by this ordinance)

SECTION 3. This ordinance shall take effect following passage and publication.