



# Office of the City Clerk

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## Legislation Text

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OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL MAYOR

November 1, 2016

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

Ladies and Gentlemen:

I transmit herewith, together with Alderman Thompson, an ordinance amending Section 2-92-412 of the Municipal Code regarding a bid preference.

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 2-92-412 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by inserting the language underscored, as follows

#### **2-92-412 Contracts - Bid preference for city-based businesses.**

- a) For purposes of this section only, the following definitions shall apply:

"City-based business" means a person who (i) conducts meaningful day-to-day business operations at a facility located within the city and that facility is the place of employment for the majority of its that person's regular, full-time workforce; (ii) holds all appropriate city licenses; and (iii) is subject to applicable city taxes.

"City residents" has the meaning ascribed to the term in Section 2-92-330.

"Contract" means any contract, purchase order or agreement awarded by the city and whose cost is to be paid from funds belonging to or administered by the city; provided that a contract the term "contract" does not include: (i) a delegate agency contract; (ii) a lease of real property; or (iii) a collective bargaining agreement.

"Prime Contractor" means a person who is a city- based business and the primary contractor on a contract. A "Prime Contractor" does not include any subcontractors.

"City resident employee" means an individual who resides in the City and who is employed by a prime contractor in a permanent, full-time employment and whose work is not counted towards the work hours required by Section 2-92-330.

"Socio-economically disadvantaged area" means an area within the City that meets the criteria for designation as socio-economically disadvantaged area as set forth in rules promulgated by the City's Commissioner of Planning and Development pursuant to Section 2-92-390.

b) (1) Unless otherwise prohibited by any federal, state or local law, for any contract having an estimated contract value of \$100,000.00 or more, ~~advertised, or if not advertised awarded, after the effective date of this section,~~ the chief procurement officer shall allocate to any qualified bidder that is a prime contractor a bid preference of: (i) 2 percent of the contract base bid; or (ii) 4 percent of the contract base bid, if the majority of such prime contractor's employees are city resident employees; or (iii) 6 percent of the contract base bid, if such prime contractor is eligible for an incentive under subsection (b)(1)(ii) and the majority of such contractor's city resident employees are residents of a socio-economically disadvantaged area.

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If a ~~Prime Contractor~~ prime contractor is allocated a bid preference pursuant to this section, the prime contractor shall not be eligible to receive a bid incentive pursuant to Section 2-92-410.

The bid preference 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 determine not to allocate a bid preference 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 preference is not in the city's best interest.

3) For all contracts advertised for bid solicitation after the effective date of this section, the chief procurement officer shall include the a bid preference 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 a period of no less than 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 ~~contractor~~ contract, that the bidder or prime contractor submit an affidavit and other supporting documents demonstrating that the bidder or prime contractor is a city-based business and, if applicable, an affidavit and other supporting documents demonstrating that the bidder or prime contract is eligible for a four-percent or six-percent bid preference under this section.

e) Upon completion of the work, any prime contractor that has failed to remain a city-based business, or, if applicable, a city-based business eligible for a four-percent or six-percent bid preference, for which a bid preference was taken into consideration in awarding of a contract shall be fined in an amount equal to three times the amount of the bid preference 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 remain a city-based business, or, if applicable, a city-based business eligible for a four-percent or six-percent bid preference, throughout the duration of the contract period.

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

SECTION 2. The changes effected by this ordinance shall apply to contracts advertised, or if not advertised awarded, after the effective date of this ordinance.

SECTION 3. This ordinance shall take effect upon its passage and publication.

