



# Office of the City Clerk

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## Legislation Text

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Chicago City Council July 24<sup>th</sup>, 2019

**REFERRED TO COMMITTEE ON FINANCE Ordinance**  
**Transparency and Accountability in Contract Change Orders**

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

SECTION 1. Chapter 2-92 of the Municipal Code is hereby amended by deleting the stricken text and adding the underscored text as follows:

**ARTICLE I. DEPARTMENT ESTABLISHMENT AND OPERATION**

**2-92-010 Establishment - Composition - Chief procurement officer.**

There is hereby established an executive department of the city which shall be known as the department of procurement services (for purposes of this chapter, "D.P.S."). The department shall include such assistants and employees as may be provided for in the annual appropriation ordinance. The head of the department shall be the chief procurement officer whose appointment, powers, functions, duties and obligations are provided for by the "Municipal Purchasing Act for Cities of 500,000 or More Population", codified at 65 ILCS 5/8-10-1, et seq., as amended (for purposes of this chapter, "Municipal Purchasing Act"). The chief procurement officer shall be appointed by the mayor, subject to approval by the city council. The chief procurement officer shall provide direction and require assistance and input from other city departments to develop and implement department procurement plans. The chief procurement officer is authorized to engage one or more agents in the performance of his or her functions, including, but not limited to, conducting procurements using innovative methods as provided in section 2-92-640 of this Code, or the disposal of city surplus goods and equipment, old fleet vehicles or salvage and scrap.

The chief procurement officer is authorized to: (i) administer Article II of Chapter 1-23 of the Code, as supplemented by Section 2-92-320; (ii) implement standards for ineligibility under said Article II comparable to those set forth in Section 8-10-11 of the Municipal Purchasing Act; and (iii) promulgate rules to administer and enforce the foregoing code provisions and standards.

**2-92-015 Term - Removal for cause.**

The chief procurement officer shall hold office for a term of four years and until his successor is appointed and qualified.

The chief procurement officer may be removed from office for cause after public hearing before the city council at which hearing the chief procurement officer, with counsel, shall be entitled to be heard.

**2-92-017 Transfer of rights, powers and duties.**

The chief procurement officer and the department of procurement services shall assume all rights, powers, duties, obligations and responsibilities of the executive director of compliance and the office of compliance related to the city's MBE and WBE procurement programs, including:

- a) All personnel, books, records, property and funds related to the city's MBE and WBE procurement programs;
- b) The administration of any federal, state, local or private grant or loan programs, except to the extent prohibited by the grantor or grant agreement, related to the city's MBE and WBE procurement programs; and
- c) The rights and duties under existing contracts, appropriations, grant agreements, redevelopment agreements, leases, indentures or other agreements or ordinances related to the city's MBE and WBE procurement programs.

All rules or regulations issued by the executive director of compliance relating to the city's MBE and WBE procurement programs, in effect as of January 1, 2012. shall remain in effect until amended or repealed by the chief procurement officer.

#### 2-92-020 Revolving funds.

Any revolving fund which may be established hereafter shall be maintained and used subject to the provisions of Sections 2-32-250 through 2-32-340, both included, of this code.

#### 2-92-030 Contractors' bonds - Required when - Conditions.

Whenever any public work, construction or improvement is let by contract involving the expenditure of more than \$100,000.00, unless the city council approves the letting of the contract without bond, the chief procurement officer shall take a bond, with good and sufficient sureties, in such amount as shall be adequate not only to insure the performance of the work in the time and manner required in such contract, but also to save, indemnify, and keep harmless the city against all liabilities, judgments, costs, and expenses which may in any way accrue against the city in consequence of the granting of the contract, or which may in any way result from the carelessness or neglect of the person to whom the contract is let, or his agents, employees or workmen, in any respect whatever. It shall be so conditioned also, that when any judgment shall be recovered against the city by reason of the carelessness or negligence of such person so contracting, or his agents, employees, or workmen, and when due notice of the pendency of such suit has been given by the city to such person, such judgment shall be conclusive against such person and his sureties on such bond, not only as to the amount of damages, but also as to their liability. It shall be conditioned further to provide for the payment of all claims and demands whatsoever which may accrue to each and every person who shall be employed by such contractor, or any assignee or subcontractor of such contractor in or about the performance of such contractor.

It shall be conditioned, also, for the payment of all claims and demands whatsoever which may accrue to each and every such person so employed or to the beneficiaries of any such person,

under the laws of the state relating to compensation to workmen for accidental injuries or death, and said bond shall contain a provision that the contractor shall insure his liability to pay the compensation and shall pay all

claims and demands for compensation for accidental injuries or death under the provisions of the Workers' Compensation Act, codified at 820 ILCS 305/1, et seq., as amended, and also that when any judgment or award of any board of arbitrators shall be rendered against the city in any suit or claim arising under the aforementioned act, such judgment or award shall be conclusive against such person and his sureties on such bond, not only as to the amount of damages, but as to their liability.

For those contracts involving the expenditure of more than \$100,000.00 where a bond is required pursuant to this section, the bond shall be for a sum no less than the greater of \$100,000.00 or ten percent of the total amount which the city is obliged to pay under such contract.

#### 2-92-040 Contractors' bonds - Sureties.

Before the letting of any contract on which bonds are required to be taken by the chief procurement officer, the sureties thereon shall, in all cases, at the time the bond is issued, be listed in the most recently published "Listing of Approved Sureties" of the U.S. Department of the Treasury, with underwriting limitations in excess of the contract price. If at any time the sureties, or any one of them, upon any such bond shall become insolvent, or shall in the opinion of the chief procurement officer be unsatisfactory, or unable to respond in damages in case of liability on such bond, the chief procurement officer shall notify the principal or principals on such bond, and direct that satisfactory sureties be provided forthwith. No payment shall be made on account of work done by such principal or principals until satisfactory sureties have been provided as directed. In case of the neglect, failure, or refusal of such principal or principals to provide satisfactory sureties when so directed within 10 days after such notification, the chief procurement officer may declare the contract of such principal or principals forfeited, but such forfeiture shall not release the principal or principals, or their sureties, from any liability which may have accrued prior to the date of the forfeiture.

#### 2-92-050 Execution of contracts and bonds.

All contracts and bonds shall be taken in the name of, and run to, the city. No contract shall be binding upon the city, nor shall any work contracted for be commenced, or any materials or supplies be delivered thereunder, until the contract, in the requisite number of copies, has been duly executed: provided that, for any contract that commits the city to pay more than \$100,000 for any service, change orders to that contract that, independently or cumulatively, commit the city to pay more than 10% of the initial value of the contract shall not be binding on the city unless the change orders are approved by the city council. Of every contract one executed copy shall be filed and kept in the office of the chief procurement officer, another in the office of the comptroller, another with the city council, and one shall be given to the contractor. The number of executed copies shall be more than threefour when necessary.

It shall be the duty of the chief procurement officer to insert in any contract through which the city is committed to pay more than \$100,000 to obtain any service (including but not limited to service associated with public works, public improvements, construction, water supply, or sewer)

a provision to confirm that change orders to the contract that, independently or cumulatively, commit the city to pay more than 10% of the initial value of the contract shall not be binding on the city unless such change orders (a) are approved by the city council; and (b) are subject to the identical Minority-Owned and Women-Owned Business Enterprise Program participation requirements as were established in the contract.

**4** 2-92-060 Contracts must designate fund for payment.

Every contract shall specify the fund from which the obligation of the city is to be paid.

SECTION 2. This Ordinance shall take effect immediately.