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City Council Document Tracking Sheet

Meeting Date: 6/6/2012

Sponsor(s): Emanuel, Rahm (Mayor)

Type: Ordinance

Title: Amendment of Chapter 2-92 of Municipal Code of Chicago
by adding new Section 2-92-615 regarding competitive
proposals and master agreements

Committee(s) Assignment: Committee on Budget and Government Operations

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SUBSTITUTE
ORDINANCE

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

SECTION I. Chapter 2-92 of the Municipal Code of Chicago is hereby amended by adding a new section 2-92-615, as follows:

2-92-615 Requests for proposals and requests for qualifications.

(a)(i) When the chief procurement officer determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the city, she may enter into contracts through competitive sealed proposals.

(ii) In addition to any other factor that may be provided by rule, the chief procurement officer shall consider the following factors in determining whether competitive sealed bidding is not practicable or not advantageous to the city:

- (1) whether the contract needs to be other than a fixed-price type;
- (2) whether oral or written discussions and negotiations need to be conducted with responsible vendors concerning technical and price aspects of their proposals;
- (3) whether responsible vendors may need to be afforded the opportunity to revise their proposals, including price;
- (4) whether award of the contract need to be based upon a comparative evaluation of differing price, quality, and contractual factors in order to determine the most advantageous offer to the city. Quality factors include technical and performance capability and the content of the technical proposal;
- (5) whether the primary consideration in determining the award of the contract may not be price;
- (6) whether the contract by its nature is not adapted to award by competitive bidding, including, but not limited to, a contract for the service of an individual possessing a high degree of professional skill where the ability or fitness of the individual plays an important part;
- (7) whether prior city procurements indicate that competitive sealed proposals may result in more beneficial contracts for the city; and

(8) whether the factors listed in subsection (a)(ii)(1) to (a)(ii)(5) of this Section are desirable, in conducting a procurement, rather than necessary; if they are, then such factors may be used to support a determination that competitive sealed bidding is not advantageous.

(iii) Proposals shall be solicited through a request for proposals, which may specify the required format, and submission deadline and location, for proposals.

(iv) The chief procurement officer is authorized to conduct discussions and negotiations with responsible vendors for clarification and to obtain best and final offers. Responsible vendors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals.

(v) The chief procurement officer is authorized to select one or more responsible vendors whose proposal is determined in writing to be the most advantageous to the city, taking into consideration all evaluation factors, and to enter into agreements with such vendors, containing terms the chief procurement officer deems reasonable.

(b) The chief procurement officer is further authorized to enter into contracts in the form of master agreements with one or more entities for the provision of goods, work, or services, including the purchase of hardware, peripherals, technology services, and the licensing of software, through a request for qualifications or request for proposals process. Each master agreement shall contain terms the chief procurement officer deems reasonable, and the chief procurement officer, or her designee, is authorized to award task orders and revise product offerings and service offerings and associated pricing under such master agreements. The chief procurement officer shall promulgate rules governing the task order, ordering and amendment procedures. The chief procurement officer or her designee is authorized to sell used or undesired equipment back to the reseller or manufacturer or to recycle used or undesired equipment that the chief procurement officer has deemed obsolete. For purposes of this subsection, "master agreement" means a contract that the city enters with one or more entities for the provision of goods, work, or services through a request for qualifications or request for proposals process which shall contain terms that apply to goods, work, or services rendered under the contract, including terms for awarding of task orders, and terms for revising product offerings, service offerings and pricing.

(c) Public notice of the requests for proposals and requests for qualifications contemplated by this section shall be given in the manner set forth for soliciting competitive bids in section 8-10-7 of the Municipal Purchasing Act, and shall specify those criteria that the chief procurement officer deems necessary to determine whether respondents are qualified to provide the type of goods, work or services addressed by the request.

(d) Before entering any agreement pursuant to this section, the chief procurement officer first shall evaluate the feasibility of MBE/WBE participation, and shall, if such participation is feasible, make all reasonable efforts to include such participation, at the levels contemplated by this chapter, in such agreement.

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

(f) This section shall not apply to construction contracts, as the term "construction contract" is defined in section 2-92-670(e) of this Code.

SECTION II. Section 2-92-010 of the Municipal Code of Chicago is hereby amended by adding the underlined text and deleting the struck-through text, as follows:

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 ~~section~~ chapter, "Municipal Purchasing Act").

SECTION III. This ordinance shall take effect upon passage and approval.