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City Council Document Tracking Sheet

Meeting Date:	3/13/2013
Sponsor(s):	Emanuel, Rahm (Mayor)
Type:	Ordinance
Title:	Amendment of Chapter 2-92 of Municipal Code regarding work performed by residents of construction project areas
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 1. Section 2-92-330 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

2-92-330 Contracts – Percentages of city and project area residents worker hours – Enforcement.

(a-1) For purposes of this section,

"City residents" means persons domiciled within the city.

"Project area residents" means persons domiciled within that part of the city designated as the project area in the information for bidders issued by D.P.S.

"Domicile" means an individual's one and only true, fixed and permanent home and principal establishment.

"Eligible residents" means city residents and project area residents.

(a) For any construction project advertised, or if not advertised, awarded, by the city that has after the effective date of this ordinance having an estimated contract value of $100,000.00 or more, and where not otherwise prohibited by federal, state or local law, the total hours worked by persons on the site of the construction project by employees of the contractor and subcontractors shall be performed (i) at least 50 percent by actual city residents of the City of Chicago; and (ii) at least 7.5 percent by project area residents. Work hours performed by project area residents shall be considered to be work hours performed by city residents for purposes of calculating the minimum work hour percentage required to be performed by city residents.

This minimal These minimum percentages of work hours for Chicagoans eligible residents shall not be understood as limiting or deterring the fuller utilization of Chicagoans eligible residents beyond this level these levels, but is are intended instead as a minimal minimum requirements. contractors Contractors shall make good faith efforts to utilize qualified eligible residents of the City of Chicago in unskilled and skilled labor positions. The chief procurement officer shall separately monitor the utilization of eligible residents of the city in skilled and unskilled positions, and shall report his findings to the city council committee on the budget and government operations when substantially all of the construction contracts for each construction season have been closed. The chief procurement officer shall also report whether he has determined that separate minimum percentages of Chicagoans eligible residents are warranted for skilled and unskilled labor positions.

The chief procurement officer shall develop standards and procedures for reducing or waiving this these minimum percentages level of Chicagoans work hours for eligible residents when a bidder or contractor can demonstrate the impracticality or excessive cost of complying with this these percentage levels for particular contracts or classes of employees. Except as otherwise provided in the chief procurement officer's standards and procedures, a waiver or reduction shall be deemed appropriate if a contractor or subcontractor has unsuccessfully solicited a sufficient number of eligible residents of the City of Chicago to perform the work identified in the bid solicitation and has documented such effort to the satisfaction of the chief procurement officer. In addition, such standards and procedures shall require that a contractor seeking a waiver or reduction shall have provided timely notice of the need for qualified eligible residents of the City of Chicago to an appropriate source of referrals, which source shall be

entitled to comment on any waiver or reduction application. If the chief procurement officer determines that ~~a~~ lesser percentage standards ~~is~~ are appropriate with respect to a particular contract subject to competitive bidding prior to the bid solicitations for such contract, such bid solicitations shall include a statement of such revised standards. The chief procurement officer shall file quarterly reports of his determinations on all reduction or waiver requests made pursuant to this paragraph with the city council committee on the budget and government operations.

(b) Implementation of the requirements established in subsection (a) of this section will be achieved by including in contracts and subcontracts described therein the following language:

The contractor and all subcontractors that perform work on the site on the construction project undertaken pursuant to this contract shall comply with the minimum percentages of total work~~er~~ hours performed by ~~actual~~ eligible residents ~~of the City of Chicago~~ as specified in Section 2-92-330 of the ~~municipal code~~ Municipal Code of Chicago.

~~"Actual residents of the City of Chicago" shall mean persons domiciled within the City of Chicago. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.~~

The contractor shall provide for the maintenance of adequate employee residency records to ensure that ~~actual Chicago~~ eligible residents are employed on the project. The contractor and subcontractors shall maintain copies of personal documents supportive of every ~~Chicago~~ eligible resident employee's actual record of residence.

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) submitted to the commissioner of the supervising department in triplicate, shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the company hired the employee should be written in after the employee's name.

Full access to the contractor's and subcontractors' employment record shall be granted to the chief procurement officer, the commissioner of the supervising department, the Superintendent of the Chicago Police Department, the inspector general, or any duly authorized representative thereof. The contractor and subcontractors shall maintain all relevant personnel data in records for a period of at least three years after final acceptance of the work.

At the direction of the supervising department, affidavits and other supporting documentation will be required of the contractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Good faith efforts on the part of the contractor to provide utilization of ~~actual Chicago~~ eligible residents shall not suffice to replace the actual, verified achievement of the requirements of this section concerning the work~~er~~ hours performed by ~~actual Chicago~~ eligible residents. Nothing provided in this paragraph shall be construed to prevent the chief procurement officer from considering such good faith efforts as appropriate for reducing or waiving the minimum percentages of work hours for eligible residents requirement, pursuant to Section 2-92-330(a) of the Municipal Code of Chicago.

When work is completed, in the event that the city has determined that the contractor failed to ensure the fulfillment of the requirements of this section concerning the work~~er~~ hours performed by ~~actual Chicago~~ eligible residents or has failed to report in the manner as indicated above, the city will thereby be damaged in the failure to provide the benefit of demonstrable employment to ~~Chicagoans~~ eligible residents to the degree stipulated in this section. Therefore, in such a case of non-compliance it is agreed that 1/20 of 1 percent (.05%), 0.0005, of the approved contract value for this contract shall be surrendered by the contractor to the city in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire

liquidated damages as if no ~~Chicago~~ eligible residents were employed in either of the categories. The willful falsification of statements and the certification of payroll date may subject the contractor or subcontractors or employee to prosecution. Any retainage to cover contract performance that may become due to the contractor pursuant to Section 2-92-250 of the municipal code of Chicago may be withheld by the city pending the chief procurement officer's determination whether the contractor must surrender damages as provided in this paragraph.

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246", or other affirmative action required for equal opportunity under the provisions of this contract.

(Omitted text is not affected by this ordinance)

(e) The monetary damages stipulated in subsection (b) hereof shall be used for establishing worker training programs.

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

SECTION 2. This ordinance shall take effect upon passage and approval.

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CHICAGO, April 10, 2013

To the President and Members of the City Council:

Your Committee on the Budget and Government Operations, having had under consideration an Ordinance introduced by Mayor Rahm Emanuel and Co-sponsored by Alderman Carrie M. Austin (34) and Alderman Mary O'Connor (41) amending Chapter 2-92 of the Municipal Code of Chicago necessary to provide enhanced employment opportunities for eligible project residents on city contracted construction projects, and having been presented with a proposed Substitute Ordinance by the Department of Procurement Services; and having had the same under advisement, begs leave to report and recommend that Your Honorable Body pass the Substitute Ordinance transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the Committee.

~~___ members of the Committee with ___ dissenting vote(s).~~

(Signed) Carrie M. Austin

Carrie M. Austin
Chairman