



City of Chicago



O2015-6437

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 9/24/2015

Sponsor(s): Villegas (36)
Mitts (37)
Brookins (21)
Sawyer (6)
Santiago (31)
Moreno (1)
Sposato (38)
Cardenas (12)
Curtis (18)

Type: Ordinance

Title: Amendment of Municipal Code Chapter 2-92 concerning participation of minority- and women-owned businesses in city procurements

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

ORDINANCE

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

SECTION 1. Sections 2-92-430 and 2-92-440 of the Municipal Code are hereby amended by added the underscored text and deleting the struck-through text as follows:

2-92-430 Award goal – Established.

To offset the effects of negative disparate impacts on city-based businesses owned and managed by minorities and women in the realm of government and commercial transactions; reduced earnings among city-based businesses owned by minorities and women; reduced business formation among city-based minorities and women; a chronic lack of wealth and financial liquidity among the city's minority communities; the obstacles and hindrances faced by city-based minority business owners in obtaining business loans; and the underutilization of city-based minority and women-owned businesses in public and private-sector procurement, ~~The~~ the chief procurement officer shall establish a goal of awarding not less than ~~25~~ 30 percent of the annual dollar value of all contracts to qualified M.B.E.'s and ~~five-ten~~ percent of the annual dollar value of all contracts to qualified W.B.E.'s.

2-92-440 Award goal, prompt payment – Implementation.

~~In order to~~ To achieve the goal stated in Section 2-92-430 of this chapter, the chief procurement officer shall ~~undertake~~, in addition to the other measures provided herein, ~~the following measures:~~

(a) To the greatest degree permitted by law and in accord with the availability of one or more M.B.E.'s and W.B.E.'s relevant to a particular procurement, insert—insert within specifications for each bid notice or request for proposals with an estimated value in excess of \$10,000 a requirement that the subject bid or proposal entail a demonstrably feasible commitment on the part of the bidder or proposer that the bid or proposal shall in fact result in the participation of one or more M.B.E.'s and one or more W.B.E.'s at the a specified percentage of the dollar value of the subject contract; and insert within specifications for each contract let through competitive bidding or request for proposal with an estimated value in excess of \$10,000.00 a requirement, enforceable by the city and individually by subject M.B.E.'s or W.B.E.'s, that the contractor commit to the expenditure of at least the M.B.E. percentage of the dollar value of the contract with one or more M.B.E.'s and at least the W.B.E. percentage of the dollar value with one or more W.B.E.'s. ~~This~~ These commitments may be met by the contractor's status as M.B.E. or W.B.E., or by joint venture with one or more M.B.E.'s or W.B.E.'s as prime contractor (to the extent of the M.B.E. or W.B.E. participation in such joint venture), or by subcontracting a portion of the work to one or more M.B.E.'s or W.B.E.'s, or by purchase of materials or services for the work from one or more M.B.E.'s or W.B.E.'s, or by the indirect participation of M.B.E.'s or W.B.E.'s in other aspects of the contractor's business (but no dollar of such indirect M.B.E. or W.B.E. participation shall be credited more than once against a contractor's M.B.E. or W.B.E. commitment with respect to all contracts of such contractor), or by any combination of the foregoing;

(b) Review each proposed contract modification request that, by itself or aggregated with previous modification requests, increases the contract value by ten percent of the initial contract

value or \$50,000.00, whichever is greater, for opportunities to increase participation of M.B.E.'s or W.B.E.'s already involved in the contract;

(c) Consider the extent of each bidder's commitment to M.B.E./W.B.E. participation as further evidence of the responsibility of the bidder;

(d) Negotiate with any contractor whose contract is in excess of \$10,000.00 in value and is not awarded by competitive bidding a commitment, where practicable, to M.B.E. participation of at least the M.B.E. percentage and W.B.E. participation of at least the W.B.E. percentage of the dollar value of the contract;

(e) Insert in each contract containing a commitment to M.B.E. and/or W.B.E. participation:

(i) A requirement of periodic reporting by the contractor to the chief procurement officer on all expenditures made to achieve compliance with the foregoing provisions. Such reports shall include the name and business address of each M.B.E. and W.B.E. solicited by the contractor to work as a subcontractor on the contract and the responses received by the contractor to such solicitation, the name and business address of each M.B.E. and W.B.E. actually involved in the contract, a description of the work performed and/or product or service supplied by each such M.B.E. or W.B.E., the date and amount of each expenditure, and such other information as may assist the chief procurement officer in determining the contractor's compliance with the foregoing provisions, and the status of any M.B.E. or W.B.E. performing any portion of the contract;

(ii) Remedies for a contractor's noncompliance with the commitment to M.B.E./W.B.E. participation, including an agreement to pay damages to the M.B.E.s and W.B.E.s which were underutilized. The unexcused reduction of M.B.E. or W.B.E. contract participation in connection with a contract (including any modification thereof) shall entitle the affected M.B.E.s and W.B.E.s to damages pursuant to such agreement. Such provisions shall include an undertaking by the contractor to submit any dispute concerning such damages to binding arbitration by an independent arbitrator, other than any department or agency of the city, with reasonable expenses, including attorney's fees, being recoverable by a prevailing M.B.E. or W.B.E. D.P.S. shall adopt rules and procedures governing such arbitrations. Nothing herein shall be construed to limit the rights of and remedies available to the city;

(iii) Uniform provisions permitting the termination of the contract by the city upon the disqualification of the contractor as M.B.E. or W.B.E., if (a) the contractor's status as M.B.E. or W.B.E. was a factor in the award of the contract and (b) such status was misrepresented by the contractor;

(iv) Uniform provisions permitting termination of the contract by the city upon the disqualification of any M.B.E. or W.B.E. subcontractor or supplier of goods or services if (a) the subcontractor's or supplier's status as M.B.E. or W.B.E. was a factor in the award of the contract and (b) the status of the subcontractor or supplier was misrepresented by the contractor. In the event that the contractor is determined not to have been involved in any misrepresentation of the status of the disqualified subcontractor or supplier, the contractor shall discharge the disqualified subcontractor or supplier and, if possible, identify and engage a qualified M.B.E. or W.B.E. as its replacement;

(v) Uniform provisions allowing the chief procurement officer access to the contractor's books and records, including without limitation payroll records, tax returns and records, and books of account, on five business days' notice, to allow the officer to determine the contractor's compliance with its commitment to M.B.E./W.B.E. participation and the status of any M.B.E. or W.B.E. performing any portion of the contract. This provision shall be in addition to, and not a substitute for, any other provision allowing inspection of the contractor's records by any officer or official of the city for any purpose;

(vi) Uniform provisions requiring that M.B.E.'s and W.B.E.'s receive prompt payment for goods tendered or services rendered under such rules and regulations as are, following consultation with organizations who represent M.B.E.s and W.B.E.s, promulgated by the chief procurement officer no more than thirty days from the effective date of this amendatory ordinance, provided that, in the event such rules and regulations are not so promulgated within thirty days of the effective date of this amendatory ordinance, such provisions will require and result in payment being made to M.B.E.s and W.B.E.s no less than seven days from the date upon which goods are tendered or services are rendered.

(f) Send notices to M.B.E.'s and W.B.E.'s who have been identified as subcontractors in accordance with Section 2-92-440 (e)(i) of this chapter, including therein notification of this right of arbitration provided in Section 2-92-440(e)(ii) of this chapter;

(g) To the extent practicable, award contracts requiring the expenditure of funds not exceeding \$10,000.00 to qualified M.B.E.'s and W.B.E.'s. Contracts so awarded to M.B.E.'s and W.B.E.'s shall be considered target market contracts for purposes of satisfying the requirements of Section 2-92-460(a) of this chapter;

(h) Include M.B.E.'s and W.B.E.'s on solicitation mailing lists, and encourage that they be solicited for suitable contracts;

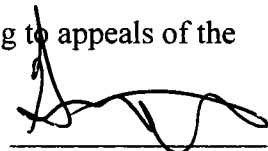
(i) Include with the bid specifications for each competitively bid contract a list of certified M.B.E.'s and W.B.E.'s that are available to perform the work required by the specifications or otherwise make such a list available to potential bidders;

(j) Working with the department of planning and development, review the bonding and insurance requirements applicable to M.B.E.s and W.B.E.s.

(k) To the extent practicable, ensure that M.B.E./W.B.E. invoices for payment are processed expeditiously by the relevant city user departments;

(l) Working with the board, issue rules and regulations relating to the credit program;

(m) Working with the law department, issue rules and regulations relating to appeals of the decisions of the chief procurement officer under the program;



Gilbert Villegas
Alderman, 36th Ward

Jenna Mitts

Harold [unclear]

Robt [unclear] (6)

LS

Will [unclear] (31st)

Joe [unclear]

Phil [unclear] 31st

John [unclear] (2nd) [unclear]