
CITY OF CHICAGO

RULES



CITY-BASED MANUFACTURERS, BUSINESSES, OR PROJECT-AREA SUBCONTRACTORS BID INCENTIVE

UNDER 2-92-405, 2-92-410 AND 2-92-412

LAST UPDATED: APRIL 13, 2015



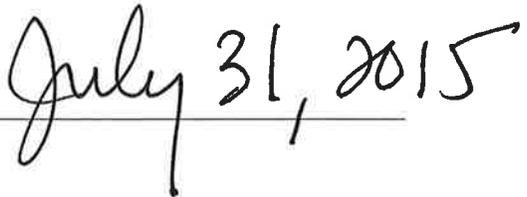
Mayor Rahm Emanuel

Chief Procurement Officer Jamie L. Rhee

BY AUTHORITY VESTED IN THE CHIEF PROCUREMENT OFFICER FOR THE DEPARTMENT OF PROCUREMENT SERVICES PURSUANT TO **2-92-405, 2-92-410 and 2-92-412**, THE FOLLOWING RULES REGARDING **CITY-BASED MANUFACTURERS, BUSINESSES, OR PROJECT-AREA SUBCONTRACTORS BID INCENTIVE** ARE ADOPTED HEREIN.

By Order of the Chief Procurement Officer:

Signed: 
Chief Procurement Officer Jamie L. Rhee

Date: 

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1. GENERAL PROVISIONS

1.1. Statement of Authority

These regulations are issued pursuant to the following Sections of the Municipal Code of Chicago:

Section 2-92-410 of the Municipal Code of Chicago establishes a bid incentive for utilization of city-based manufacturers (“manufacturers bid incentive”). Subsection (c) of the Section requires the chief procurement officer to “establish, in rules, and regulations, the amount of value that must be derived from manufacturing activities located in the city in order for [a specific type of] good to qualify as a locally manufactured good.” Subsection (g) authorizes the chief procurement officer to “adopt, promulgate and enforce reasonable rules and regulations pertaining to the administration and enforcement” of the Section.

Section 2-92-412 of the Municipal Code of Chicago establishes a bid preference for city-based businesses (“business bid incentive”). Subsection (f) authorizes the chief procurement officer to “adopt, promulgate and enforce reasonable rules and regulations pertaining to the administration and enforcement” of the Section.

Section 2-92-405 of the Municipal Code of Chicago establishes a bid preference for utilization of project-area subcontractors (“subcontractor bid incentive”). Subsection (f) authorizes the chief procurement officer to “adopt, promulgate and enforce reasonable rules and regulations pertaining to the administration and enforcement” of the Section.

1.2. Application and Statement of Purpose

Unless otherwise indicated, the following regulations shall apply to the manufacturers bid incentive, the business bid incentive, and the subcontractor bid incentive (collectively, “bid incentive”).

These regulations describe how and when the bid incentive would apply, including the right of the chief procurement officer to decline to apply the bid incentive.

2. DEFINITIONS

Unless otherwise specified, whenever used in these regulations, the following terms have the following meanings:

“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 that person’s regular, full-time workforce; (ii) holds all appropriate city licenses; and (iii) is subject to applicable city taxes.

“City-based manufacturer” means a person who: (i) holds any appropriate city license; (ii) is subject to applicable city taxes; and (iii) owns, operates, or leases a manufacturing facility within the city.

“Construction project” means any project to be paid for by the city, but which is not funded in whole or part by any federal or state funds, to construct, remodel or reconstruct any public works, public buildings, public structures, roadways, parkways, bridges, parking facilities or parks, or any portion of any of the same, belonging to the city within its geographical boundaries as they exist or shall exist in the future.

“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 does not include: (i) a delegate agency contract; (ii) a lease of real property; or (iii) a collective bargaining agreement.



“Contract for goods” means any contract, purchase order or agreement for the purchase of goods awarded by the city and whose cost is to be paid from funds belonging to or administered by the city; provided that a “contract” does not include: (i) a delegate agency contract; (ii) a lease of real property; (iii) a collective bargaining agreement; or (iv) a construction contract as defined in Section 2-92-670.

“Locally manufactured goods” means goods whose value, either in whole or in part, is derived from growing, producing, processing, assembling, or manufacturing activities that occur within a city-based manufacturer's facility located within the city.

“Manufacture” means to produce tangible goods for use from raw or prepared materials by giving the materials new forms, qualities, properties or combinations, whether by hand-labor or machines.

“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.

“Project-area subcontractor” means a person who: (i) conducts meaningful day-to-day business operations at a facility located within that part of the city designated as the project area in the information for bidders issued by the department and that facility is the place of employment for the majority of that person's regular, full-time workforce; (ii) holds all appropriate city licenses; (iii) is a small business enterprise; and (iv) is subject to applicable city taxes; provided that a project-area subcontractor shall not include the prime contractor.

“Small business enterprise” means a small business as defined by the U.S. Small Business Administration, pursuant to the business size standards found in 13 C.F.R. Part 121, relevant to the scope of work the business seeks to perform on city contracts. A business is not an eligible small business enterprise in any city fiscal year in which its gross receipts, averaged over the firm's previous five fiscal years, exceed the size standards of 13 C.F.R. Part 121.

3. PROCEDURES

3.1. Manufacturers Bid Incentive

Unless otherwise prohibited by federal, state, or local law, the chief procurement officer shall allocate the bid incentive described in Section 2-92-410 of the Municipal Code of Chicago, as may be amended from time to time, to any qualified bidder on a contract for goods having an estimated contract value of \$100,000 or more when advertised or, if not advertised, awarded.

As of March 20, 2013, the manufacturers bid incentive, if applicable, will apply as follows:

<i>Total Dollar Value of Locally Manufactured Goods Provided in the Contract</i>	<i>Bid Incentive</i>
25% to 49%	1% of the contract base bid
50% to 74%	1.5% of the contract base bid
75% or greater	2% of the contract base bid

The manufacturers bid incentive is limited in scope and therefore will not apply to every contract between the City of Chicago and a contractor providing locally manufactured goods.

The manufacturers bid incentive does not apply if:

- prohibited by federal, state, or local law;
- the estimated value of the goods is less than \$100,000;
- the bidder has been allocated a local business bid preference on the contract pursuant to Section 2-92-412 of the Municipal Code of Chicago;
- the bidder has been allocated a project-area subcontractor bid preference on the contract pursuant to Section 2-92-405 of the Municipal Code of Chicago; or
- the chief procurement officer declines to allocate a bid incentive for any of the six reasons set forth in



subsection (b)(2) of Section 2-92-410 of the Municipal Code of Chicago.

3.2. Business Bid Incentive

Unless otherwise prohibited by federal, state, or local law, for a contract having an estimated contract value of \$100,000 or more when advertised or, if not advertised, awarded, the chief procurement officer shall allocate a bid preference of 2% of the contract base bid to any qualified bidder that is a prime contractor.

The business bid incentive is limited in scope and therefore will not apply to every contract between the City of Chicago and a city-based business.

The business bid incentive does not apply if:

- prohibited by federal, state, or local law;
- the estimated value of the contract is less than \$100,000;
- the bidder has been allocated a local manufacturers bid preference on the contract pursuant to Section 2-92-410 of the Municipal Code of Chicago;
- an emergency exists;
- the contract is for cooperative purchasing or cooperative construction; or
- the chief procurement officer concludes allocation of a bid preference is not in the city's best interest.

3.3. Subcontractor Bid Incentive

For any construction project advertised after the effective date of the ordinance and where not otherwise prohibited by federal, state or local law, the chief procurement officer shall allocate to any qualified bidder the following bid preference for utilization of project-area subcontractors in the performance of the contract.

Total dollar value of work performed by project-area subcontractors as a percentage of the total contract value	Bid Preference
1 to 16%	0.5% of the contract base bid
17 to 32%	1% of the contract base bid
33 to 49%	1.5% of the contract base bid
50% or greater	2% of the contract base bid

The subcontractor bid incentive is limited in scope and therefore will not apply to every contract between the City of Chicago and a contractor utilizing project area subcontractors.

The subcontractor bid incentive may not apply if:

- prohibited by federal, state, or local law;
- the bidder has been allocated a local manufacturers bid preference on the contract pursuant to Section 2-92-410 of the Municipal Code of Chicago;
- an emergency exists;
- the contract is for cooperative purchasing or cooperative construction contracts; or
- the chief procurement officer otherwise concludes that the allocation of a bid preference is not in the city's best interest.

3.4. Prohibition

The bid incentives provided in Sections 2-92-410 and -412 are not cumulative. A bidder may only benefit from one of the two preferences (manufacturers or business) for any single procurement.

The bid incentives provided in Sections 2-92-410 and -405 are not cumulative. A bidder may only benefit from one of the two preferences (manufacturers or subcontractor) for any single procurement.

3.5. Purpose and Effect of Bid Incentive

The purpose of the bid incentive is to identify the low bidder; it does not apply to or otherwise pertain to the contract price.



Example #1 (manufacturers bid incentive):

Assume that the apparent lowest responsive and responsible bidder does not qualify for the bid incentive. Assume also that the second lowest responsive and responsible bidder does qualify for the bid incentive because 30% of the goods provided by the second bidder are locally manufactured goods and the second bidder meets all other eligibility criteria. If the second lowest bidder's bid is within 1% of the lowest bid, determined by deducting 1% from the bid price of the bidder meeting the eligibility criteria, the second lowest bidder will be awarded the contract.

Example #2 (business bid incentive):

Assume that the apparent lowest responsive and responsible bidder does not qualify for the bid incentive and the second lowest responsive and responsible bidder meets eligibility criteria and otherwise qualifies for the bid incentive. If the second lowest bidder's bid is within 2% of the lowest bid, determined by deducting 2% from the bid price of the bidder meeting the eligibility criteria, the second lowest bidder will be awarded the contract.

Example #3 (subcontractor bid incentive):

Assume that the apparent lowest responsive and responsible bidder does not qualify for the bid incentive. Assume also that the second lowest responsive and responsible bidder does qualify for the bid incentive because 35% of the total contract value is performed by project-area subcontractors and the second bidder meets all other eligibility criteria. If the second lowest bidder's bid is within 1.5% of the lowest bid, determined by deducting 1.5% from the bid price of the bidder meeting the eligibility criteria, the second lowest bidder will be awarded the contract.

Example #4 (bid incentive applied to RFP and RFQ procurements)

In procurements where price is a factor, but not the only consideration for determining the qualifications of a vendor submitting a proposal to the City, or where price is not a factor in determining the qualifications of a vendor submitting a proposal, the evaluation committee shall apply the relevant incentive (as calculated above) to the total evaluated score of the respondents. Thus, if a respondent's score is 4.0, and the respondent qualifies for the business bid incentive, 2% of the respondent's score shall be added, for a final score of 4.08.

3.6. Application Procedures

Affidavit

At the time of bid, bidders seeking to take advantage of the bid incentive must submit either the manufacturers or business bid incentive affidavit included in bid packages for the procurement of contracts in amounts of \$100,000 or more, and/or the subcontractor bid incentive affidavit included in bid packages for construction projects.

Additional Documentation

The chief procurement officer may require, at the time of bidding, prior to contract award, or during the term of the contract, such additional documentation as the chief procurement officer deems necessary to verify that a bidder qualifies, or continues to qualify, for the bid incentive sought.

Contractors and their subcontractors are required to maintain records of compliance with the bid incentive for a period of three years after the expiration of the contract. Access to records must be granted in accordance with Section 2-92-410, 2-92-412, or 2-92-405, as applicable.

For the manufacturers bid incentive, records of compliance to be maintained must include, at a minimum, a manufacturer's certification that the good was manufactured at a facility located in the city and an opinion from a licensed certified public accountant that evidences the amount of value being added from the manufacturing activity located in the city. However, the chief procurement officer reserves the right to request additional documentation.

For the subcontractor bid incentive, records of compliance that may be required include affidavits and other supporting documents demonstrating that a subcontractor is a project-area subcontractor.

The Chief Procurement Officer reserves the right to decline to include or allocate the bid incentive pursuant to the authority granted in Section 2-92-410, 2-92-412, and 2-92-405.



3.7. Amount of Value

For a good to qualify as a locally manufactured good, the following value must be derived from manufacturing activities located in the city:

Agricultural and Construction Equipment: Regardless of origin of parts, greater than 50% of the item as it is offered for retail sale must be assembled in the city.

Cleaning/janitorial products, paint, and other chemical products: 75% of ingredients, by weight or volume, exclusive of packaging, must be combined in the city.

Clothing, Consumer Equipment, Furnishings, Housewares: greater than 50% of the item as it is offered for retail sale, exclusive of packaging, must be assembled in the city.

Communications and Safety Equipment: Regardless of origin of parts, greater than 50% of the item as it is offered for retail sale must be assembled in the city.

Food or Beverage: 75% of ingredients, by weight or volume, exclusive of packaging, must be combined in the city.

Hardware, Machinery Components, Tools: Greater than 50% of the item as it is offered for retail sale, exclusive of packaging, must be assembled in the city or greater than 75% of the raw material used to make the item must be combined in the city.

Health Care Products: Greater than 50% of the item as it is offered for retail sale, exclusive of packaging, must be assembled in the city or greater than 75% of the raw material used to make the item must be combined in the city.

Motor Vehicles: Regardless of origin of parts, greater than 50% of the vehicle must be assembled in the city.

Motor Vehicles Customized After Manufacturer: Regardless of origin of parts, customization must take place in the city and the vehicle's final dollar value must exceed its pre-customized dollar value by 20% or more.

Office Equipment/Products: Greater than 50% of the item as it is offered for retail sale, exclusive of packaging, must be assembled in the city.

3.8. Penalties

For the manufacturers bid incentive, any contractor that fails to supply the promised percentage of locally manufactured goods will be fined three times the amount of the difference between the bid incentive allocated and the bid incentive that would have been allocated for the amount of locally manufactured goods actually supplied under the contract, unless the contractor can demonstrate that due to circumstances beyond the contractor's control, the contractor for good cause was unable to provide the promised percentage of locally manufactured goods.

For the business bid incentive, any prime contractor awarded a contract due to the application of a city-based business preference and who fails to remain a city-based business during the contract will be fined three times the amount of the bid incentive 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 throughout the duration of the contract period.

For the subcontractor bid incentive, any prime contractor that has failed to retain the percentage of project-area subcontracts for which a bid preference was taken into consideration in awarding of a contract shall be fined 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 retain the percentage of project-area subcontractors throughout the duration of the contract period.

4. FINAL DECISION

The Chief Procurement Officer or designee shall make the final determination regarding the applicability of the bid



incentive to any procurement.

