
CITY OF CHICAGO

RULES



MENTOR/PROTÉGÉ PROGRAM

UNDER 2-92-445, 2-92-535 and 2-92-740

LAST UPDATED: August 14, 2017



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 2-92-445, 2-92-535, AND 2-92-740, THE FOLLOWING RULES REGARDING THE MENTOR/PROTÉGÉ PROGRAM ARE ADOPTED HEREIN.

By Order of the Commissioner:

Signed: 
Chief Procurement Officer

Date: 8/15/17

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1. These Rules pertain to the implementation of the City's Mentoring Program for MBEs and WBEs set forth in Section 2-92-535 of the Municipal Code.
2. Section 2-92-535 provides for both participation credit and a bid preference for a prime contractor that meets the requirements below.

2.1 Participation Credit

A prime contractor may earn up to five additional percentage points of participation credit towards the MBE/WBE goals on a contract by meeting the following requirements:

- (a) entering into a mentoring agreement with an MBE or WBE firm on the contract; or
- (b) one or more of the prime contractor's subcontractors entering into a subcontractor-to-subcontractor mentoring agreement with an MBE or WBE firm on that contract; and
- (c) The MBEs or WBEs, or combination thereof, that have entered into a mentoring agreement or subcontractor-to-subcontractor mentoring agreement as described in (a) or (b) above, self-performed at least 1 percent of the value of the contract; and
- (d) The prime contractor has complied with, as determined by the Chief Procurement Officer, the terms of the mentoring agreement.

Purpose and Effect of Participation Credit:

As an incentive for entering into a mentor/protégé agreement, the prime contractor shall be awarded an additional 0.5 percent participation credit for every one (1) percent of the value of the contract performed by MBEs or WBEs, or combination thereof, that have entered into a mentoring agreement or subcontractor-to-subcontractor mentoring agreement. This incentive credit shall be capped at a maximum of five (5) percent additional utilization credit. If the protégé is being utilized on the contract as an MBE, the additional incentive credit shall apply only to the prime contractor's MBE utilization commitment for the contract. If the protégé is being utilized on the contract as a WBE, the additional incentive credit shall apply only to the prime contractor's WBE utilization commitment for the contract.

2.2 Bid Preference

In addition to the credit set forth above, unless otherwise prohibited by any federal, state or local law, for any contract having an estimated contract value of \$100,000 or more, the chief procurement officer shall allocate to a prime contractor that has entered into a mentoring agreement or whose subcontractor has entered into a subcontractor-to-subcontractor mentoring agreement a bid preference of one percent of the contract base bid.

Purpose and Effect of Bid Preference:

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

Example: Assume that the apparent lowest responsive and responsible bidder does not qualify for the bid preference. Assume also that the second lowest responsive and responsible bidder does qualify for the bid preference because it has entered into a mentoring agreement with an MBE or WBE firm or one or more of its subcontractors entered into a subcontractor-to-subcontractor mentoring agreement with an MBE or WBE firm 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.



Applicability: The bid preference does not apply if:

1. prohibited by any federal, state or local law;
2. the estimated value of the contract is less than \$100,000
3. an emergency exists;
4. for cooperative purchasing or cooperative construction contracts; or
5. the chief procurement officer otherwise concludes that the allocation of a bid preference is not in the City's best interest.

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 preference.

The prime contractor and its subcontractors are required to maintain records of compliance with the bid preference for a period of three years after the expiration of the contract. Access to records must be granted in accordance with Section 2-92-535.

Records of compliance that may be required include affidavits and other supporting documents demonstrating that the prime contractor has entered into a mentoring agreement or that the prime contractor's subcontractor has entered into a subcontractor-to-subcontractor mentoring agreement.

The Chief Procurement Officer reserves the right to decline to include or allocate the bid incentive pursuant to the authority granted in Section 2-92-535.

3. When applicable, the prime contractor may benefit from both the participation credit and bid preference. In the event that the bid preference does not apply, the prime contractor may still participate in the mentor/protégé program for participation credit.

4. On competitive bids, a prime contractor/mentor or a prime contractor with a subcontractor that has entered into a subcontractor-to-subcontractor mentoring agreement intending to receive credit and/or a bid preference for mentoring must indicate as much on its Schedule D, and submit such Schedule D with its bid or proposal. The Schedule D must identify the contractor/mentor or, if applicable, the subcontractor/mentor and the intended protégé firm. A copy of the proposed mentoring program executed by authorized representatives of both the prime contractor/mentor or, if applicable, the subcontractor/mentor and the subcontractor/protégé must be included with the bid or proposal as an attachment to the prime contractor's Schedule D. For qualifications based procurements, a prime contractor/mentor or prime contractor with subcontractor that has entered into a subcontractor-to-subcontractor mentoring agreement intending to receive credit and/or a bid preference for mentoring must indicate as much when it is required to submit its compliance plan.

5. The mentoring program must be approved by the Chief Procurement Officer ("CPO") and must be designed to develop the capacity of the specified MBE and/or WBE protégé firm(s) in becoming self-sufficient, competitive and profitable business enterprises. The plan must stipulate the number of the Mentor's ("prime contractor/mentor, or if applicable, "subcontractor/mentor") employees and protégé's employees involved and their time commitment for the term of the Project in training and consultation in substantive business areas including, without limitation: project controls, contract terms and conditions, invoice preparation, quality plan development, preparing and preserving project documentation, project safety, cash flow management, risk management as well as project specific mentoring. The proposed mentoring program must include a schedule for the mentoring sessions, including the time and location where such sessions will be held. (A guideline is that for large projects, no fewer than two of the Mentor's employees and no fewer than two of the protégé's employees must commit to spend no less than eight (8) hours per week during the term of the Project, however, for smaller projects, the parties should propose a reasonable allotment of time commensurate with the project size). The CPO, or his/her designee, shall be permitted to attend any or all such mentoring sessions. The prime contractor and subcontractor mentor, if applicable, shall be responsible for advising the CPO, or his/her designee, of any changes to the schedule for the mentoring program. The Mentor and protégé should also be required to notify the CPO of any changes to the schedule that arise. The City also encourages participants to include a plan detailing how the Mentor plans to include the Protégé on non-governmental projects as well as governmental projects during the term of the agreement.

6. In order to qualify as a Mentor, a concern must demonstrate that it:

- (i) Understands that equal access for emerging minority and women businesses makes good sense and that partnerships with emerging businesses will enable growth for larger organizations;



- (ii) Possesses favorable financial health, including profitability for at least the last two years;
- (iii) Possesses good character and demonstrate that it is a City or state contractor in good standing;
- (iv) Does not appear on the City, state or federal list of debarred or suspended contractors; and
- (v) Can impart value to a protégé firm due to lessons learned and practical experience gained through its general knowledge of government contracting.

Generally, the City encourages Mentors to have in place an existing MBE Program that provides for meaningful participation by MBE/WBE firms for work performed on projects other than government contracts. The Mentor-Protégé Program will probably work best as a "next step" in an established MBE Program. Exceptions will be granted where a MBE firm can be developed to "fit" a specific corporate need or where corporate expertise can enhance a specific MBE requirement. Inclusion of a Mentor-Protégé Program as part of a corporate MBE plan should be deliberate, have a corporate benefit, and be fully supported by corporate management.

7. In order to initially qualify as a protégé firm, a Participant must:

- (i) Be in the developmental stage of program participation;
- (ii) Have never received a contract with the City as a prime (with the exception of participation in a joint venture). If the protégé firm has received a contract as a prime, the City may consider accepting the firm as a protégé upon receipt of a clear plan showing the benefit of mentoring in a new area of expertise; and
- (iii) Only currently certified firms that are in good standing in the City of Chicago MBE/WBE program (e.g., firms that do not have termination, decertification or suspension proceedings against them, and are up to date with all reporting requirements) may qualify as a protégé.

8. A protégé firm may have only one mentor at a time for any one project.

9. The City may authorize a concern to mentor more than one protégé at a time on a project where the concern can demonstrate that the additional mentor/protégé relationship will not adversely affect the development of either protégé firm.

10. The CPO or his/her designee shall determine, in his/her sole discretion, whether a proposed mentoring program is acceptable and eligible for additional participation credit and/or a bid preference.

11. The prime contractor/mentor and, if applicable, subcontractor/mentor and the protégé shall each submit an affidavit regarding the mentoring program on a quarterly basis, with additional copies sent to the Chief Procurement Officer. The respective affidavits shall be executed by authorized principals of the mentor and protégé, and shall state with specificity (including, without limitation, names, dates, hours and subject matter) the elements of the mentoring program that the mentor and protégé participated in during the applicable quarter.

12. Written agreement. The Mentor and protégé firms must enter a written agreement setting forth an assessment of the protégé's needs and describing the assistance the Mentor commits to provide to address those needs (e.g., management and/or technical assistance, loans and/or equity investments, cooperation on joint venture projects, or subcontracts under prime contracts being performed by the mentor). The agreement must also provide that the Mentor will provide such assistance to the protégé firm for at least one year, or the term of the contract if the project is for less than a year duration, and preferably for the term of the contract. A sample agreement is attached as Exhibit A.

13. Termination.

- i. Voluntary Termination by the Mentor. The Mentor may voluntarily terminate this agreement if the Mentor no longer wishes to participate in the Program as a Mentor to a Protégé. The Mentor shall notify the Protégé and the City in writing at least 30 days prior to the termination date. If the prime contractor/mentor or, if applicable, subcontractor/mentor voluntarily terminates the agreement, the prime contractor will not receive credit for participating in the Mentoring Program and must make good faith efforts to contract with MBE/WBE firms to make up the credit lost. If the prime contractor/mentor or, if applicable, subcontractor/mentor voluntarily terminates the agreement, for which a bid preference was taken into consideration in awarding of a contract, the prime contractor shall be fined in an amount equal to three times the bid preference allocated, unless the prime contractor/mentor or,



if applicable, subcontractor/mentor can demonstrate that due to circumstances beyond its control, it for good cause was not able to maintain a mentoring agreement.

- ii. Voluntary Termination by the Protégé. Subject to approval by the City, the Protégé may voluntarily terminate this Agreement if the Protégé no longer wishes to participate in the Program as a Protégé to a Mentor. The Protégé shall notify the Mentor and the City in writing at least 30 days prior to the termination date. If the Protégé voluntarily terminates, the Mentor may continue to count the credit that it would have received had the Mentoring Plan been completed as well as retain the bid preference.

14. In the event that the CPO determines that a prime contractor has failed to make good faith efforts to meet its mentoring commitments, in its own mentoring capacity or through the use of a subcontractor-to-subcontractor mentoring agreement, in its performance of its contract, pursuant to 2-92-445 and 2-92-740, the CPO may, in addition to denying the prime contractor participation credit and/or fining the prime contractor, when a bid preference was taken into consideration in awarding the contract for the mentoring program, assess a sanction in the amount of the discrepancy between the amount of the commitment, as such amount may be amended through change orders or otherwise over the term of the contract, and the achieved amount may be imposed upon the prime contractor. The City may collect the sanctions by withholding the amount from the final payment to the prime contractor. The prime contractor shall be solely responsible for such liquidated damages, i.e., the prime contractor shall not withhold the sanction amount from any payment due to the subcontractor mentor or the protégé firm. The CPO may elect not to impose sanctions if, in the CPO's sole discretion, the prime contractor/mentor's or, if applicable, subcontractor/mentor's failure to comply with its commitments to the mentoring program were due to circumstances beyond the reasonable control of the prime contractor/mentor or, if applicable, subcontractor/mentor. The City shall provide appropriate notice to the prime contractor of its intent to withhold the amounts described above, and provide the prime contractor/mentor and, if applicable, subcontractor/mentor with a reasonable opportunity to furnish evidence of its compliance with its commitment, or the circumstances beyond its reasonable control which resulted in the prime contractor/mentor's or, if applicable, subcontractor mentor's failure to comply with its commitment.

15. Pursuant to 2-92-445 and 2-92-740, any liquidated damages collected pursuant to the foregoing paragraph shall be utilized by the City solely for improving its MBE/WBE program.

16. A City-certified MBE or WBE subcontractor shall be presumptively eligible to participate in a total of three (3) mentor/protégé agreements over a 3 year period, but not more than one agreement per year. This limit may be increased where appropriate in the discretion of the Chief Procurement Officer.

17. Any subcontractor that is being utilized by the prime contractor or subcontractor/mentor for over \$5,000,000.00 on a City contract is presumptively ineligible to participate in the mentor/protégé program on that contract. This limit may be increased where appropriate in the discretion of the Chief Procurement Officer.

18. It is the responsibility of the mentors and protégés to determine if entering into a Mentor Protégé agreement pursuant to 2-92-535 will affect its status with any other program including, but not limited to DBE certification.

19. The City will conduct an Annual Evaluation of the Mentor-Protégé Relationship

- (i) Both the mentor and the protégé must provide a narrative describing Mentor's success in assisting Protégé
- (ii) All technical and/or management assistance provided by Mentor
- (iii) All loans received from, or equity investments made by the Mentor
- (iv) All subcontracts awarded by the Mentor, and the value of each subcontract
- (v) If continuation of the agreement is recommended, then the Chief Procurement Officer his/her approval to continue the agreement to the Mentor and Protégé.



EXHIBIT A



Updated Template

Mentor/Protégé Agreement

between

ABC (Proposed Mentor)

and

XYZ (Proposed Protege)

This Mentor/Protégé Agreement (“Agreement”) is between [_____] (proposed Mentor– “prime contractor/mentor, or if applicable, subcontractor/mentor”), a [description of vendor- including state of incorporation if applicable] with its principal place of business at [address], and [] (Proposed Protégé), a [description of vendor- including address and state of incorporation if applicable] (collectively referred to as the “Parties”).

WHEREAS, ___ (proposed Mentor) is a corporation with a history of providing diversified services in (*Provide a brief description of the Mentor’s technical capabilities and contracting history, especially with the City of Chicago*).

WHEREAS, XYZ (proposed Protégé) is a City of Chicago MBE/WBE Program participant performing under North American Industry Classification System (NAICS) codes (*include NAICS number and title*) _____ specializing in providing _____. (*Provide a brief description of the proposed Protégé’s technical capabilities in performing in its primary NAICS code.*)

WHEREAS, the Parties wish to formalize the proposed mentor/protégé relationship between ABC (proposed Mentor) and XYZ (proposed Protégé) under the City of Chicago’s Mentor/Protégé Program established pursuant to Section 2-92-535 of the Municipal Code of Chicago; and

WHEREAS, the Parties agree that establishing a mentor/protégé relationship will enhance the capabilities of the Protégé and improve its ability to successfully compete for contracts consistent with the goals of the City of Chicago’s Mentor/Protégé Program; and that this relationship will result in “material benefits” and “developmental gains” to foster the proposed protégé’s growth and development.

WHEREAS, the Protégé certifies that it does or does not have another Mentor as stated in Paragraph 11(a) of this Agreement;

WHEREAS, the proposed Protégé can significantly benefit from the business development assistance that the proposed Mentor proposes to offer, and the proposed Mentor is qualified to provide the “material benefits,” “developmental gains,” and assistance within the context of the City of Chicago’s Mentor/Protégé Program; and

WHEREAS, the Parties wish to carry out the goals of this Agreement and the proposed Mentor proposes to provide such assistance as detailed below for at least one year.



THEREFORE, consistent with the Parties goals and the requirement of the City of Chicago's Mentor/Protégé Program, the Parties agree to the following:

1. **Assessment of the Protégé's Needs.** As a MBE/WBE company seeking to develop a business base and infrastructure to successfully participate and graduate from the MBE/WBE Program as a viable company, the proposed Protégé requires assistance in the following areas (*The Protégé should identify each area of assistance needed and show how it will assist in meeting the business plan targets, goals and objectives*):
 - a. Management and technical assistance
(incorporate the objective into the Agreement)
 - b. Financial assistance
(incorporate the objective into the Agreement)
 - c. Business development assistance
(incorporate the objective into the Agreement)
 - d. Contracting assistance.
(incorporate the objective into the Agreement)
 - e. General and administrative assistance
(incorporate the objective into the Agreement)

2. **MENTOR** agrees to assist the Protégé to fully develop the assessed needs as described in Paragraph 1. (*Mentor must describe in detail (see below: a through e) - **HOW** it will provide the assessed needs of the Protégé, **WHO** (identify title) in the Mentor organization will assist the Protégé in meeting its goals and objectives, and **WHEN***).
 - a. Management and technical assistance.
 - i. *Assistance the Mentor will provide*
 - ii. *TIMELINE (i.e. weekly, bi-weekly, monthly, quarterly, etc.)*
 - b. Financial assistance.
 - i. *Assistance the Mentor will provide*
 - ii. *TIMELINE (i.e. weekly, bi-weekly, monthly, quarterly, etc.)*
 - c. Business development assistance.
 - i. *Assistance the Mentor will provide*
 - ii. *TIMELINE (i.e. weekly, bi-weekly, monthly, quarterly, etc.)*
 - d. Contracting assistance.
 - i. *Assistance the Mentor will provide*
 - ii. *TIMELINE (i.e. weekly, bi-weekly, monthly, quarterly, etc.)*
 - e. General and administrative assistance.
 - i. *Assistance the Mentor will provide*
 - ii. *TIMELINE (i.e. weekly, bi-weekly, monthly, quarterly, etc.)*



3. Preparation of Mentor/Protégé Reports. The Mentor shall use its reasonable and best efforts to assist the Protégé in preparation of all Mentor/Protégé reports required by the City and shall provide all necessary documentation the City requires.
4. Terms of the Agreement. Proposed Mentor agrees to provide such assistance to the Protégé for at least one year. Continuation of the Agreement is contingent upon the City's review of the proposed Protégé's report on the Mentor/Protégé relationship as part of its annual review of the firm's business plan. The protégé must request continuance of the Agreement to the City of Chicago, in writing, within 60 days prior to the expiration date of the Agreement.
5. Mentor's Failure to Provide Mutually Agreed upon Assistance. Should the mentor breach its agreement to provide mutually agreed-upon assistance to the proposed Protégé as outlined in this Agreement, the mentor understands that the City reserves the right to act on behalf of the Proposed Protégé and the integrity of the City of Chicago's Mentor Protégé Program in one of the following ways:
 - (1) The Mentor will be provided an opportunity to respond to non-compliance within 30 days of notice by the City;
 - (2) The City assumes the right to terminate the Mentor/Protégé Agreement;
 - (3) The Mentor could be ineligible to participate in the City's Mentor/Protégé Program for two (2) years;
 - (4) The City may not grant MBE/WBE credit allotted to the Mentor from participation in the Mentor Protégé Program; and
 - (5) A finding that fraudulent misrepresentations were made regarding the agreement may constitute grounds for City-wide suspension or debarment.
6. Termination Clause. This Agreement may be terminated as follows:
 - i. Voluntary Termination by the Mentor. The Mentor may voluntarily terminate this agreement if the Mentor no longer wishes to participate in the Program as a Mentor to a Protégé. The Mentor shall notify the Protégé and the City in writing at least 30 days prior to the termination date.
 - ii. Voluntary Termination by the Protégé. The Protégé may voluntarily terminate this Agreement if the Protégé no longer wishes to participate in the Program as a Protégé to a Mentor. The Protégé shall notify the Mentor and the City in writing at least 30 days prior to the termination date.
 - iii. Termination by the City. The City of Chicago may decide not to approve continuation of the Agreement if it finds that the Mentor has not provided the assistance set forth in the Agreement or that the assistance has not resulted in any "material benefit" or "developmental gains" to the Protégé.
 - iv. Other Termination Conditions. This Agreement will automatically terminate if the Protégé graduates, voluntarily withdraws, is terminated or completes its program term from the City of Chicago's MBE/WBE Program. However, termination of the Agreement does not impact contractual Agreements undertaken during the active stages of the Mentor/Protégé relationship. Therefore, contractual obligations must be satisfied in accordance with terms and conditions set forth in the contract.
7. Effect of Termination. Termination of this Agreement shall not impair the obligations of the Mentor to perform its contractual obligations pursuant to government prime contracts being performed with the Protégé. Likewise, termination of this Agreement shall not impair the obligations of the Protégé to



perform its contractual obligations under any current contract or subcontracts between the Mentor and Protégé.

8. Modifications. The City must approve all changes to this Agreement in advance.
9. Notices and Points of Contact for the City of Chicago's Mentor Protégé Program Administration. The following individuals shall serve as the points of contact for administration of the Agreement and as such are authorized to receive all notices under this Agreement.

<u>ABC (Mentor)</u>	<u>XYZ (Protégé)</u>	
Name/Title	Name/Title	
1234 Main Street,	1234 Main Street	
Suite XXX	Suite XXX	
Chicago, Illinois Zip	Chicago, Illinois Zip	
Telephone	Telephone	Fax
	Fax	
Email	Email	

10. Status of the Parties. This Agreement, in and of itself, does not constitute, create or give effect to or otherwise establish a joint venture agreement, partnership, or any other business or organization. Unless provided by the terms of another agreement consistent with the governing regulations, the Parties are and shall remain independent contractors.

Integrated Document. This Agreement supersedes any and all previous understandings, commitments, or agreements, oral or written, pertaining to the subject matter of this Agreement.

11. Other Provisions not Previously Discussed in the Agreement (if applicable):
- (a) Protégé does () does not () have another City approved Mentor/Protégé Agreement.
 - (b) Mentor is () is not () participating in any other formal Mentor-Protégé Programs governed by other agencies.
 - (c) Mentor does () does not () have another City approved Mentor-Protégé Agreement.
 - (d) Mentor shall annually certify that it continues to possess good character and a favorable financial position, if the Agreement is extended.

Subject to the approval of the City of Chicago's Administrator for Mentor Protégé Development, this Agreement is entered into and effective as of the date of such approval. The Agreement is officially signed and executed by officials duly authorized to bind the named corporations this ____ day of _____, 20XX.

Signatory, ABC (Mentor)
Signatory Information

Signatory, XYZ (Protégé)
Signatory Information

Date _____

Date _____

