
CITY OF CHICAGO

RULES



VETERAN-OWNED PLUS SMALL BUSINESS JOINT VENTURE / VETERAN-OWNED SMALL LOCAL BUSINESS BID INCENTIVE

UNDER 2-92-418

LAST UPDATED: August 15, 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 2-92-418, THE FOLLOWING RULES REGARDING THE VETERAN-OWNED PLUS SMALL BUSINESS JOINT VENTURE / VETERAN-OWNED SMALL LOCAL BUSINESS BID INCENTIVE ARE ADOPTED HEREIN.

By Order of the Commissioner:

Signed:  _____
Chief Procurement Officer

Date: 8/15/17

Published: August 15, 2017
Effective: August 15, 2017

1. GENERAL PROVISIONS

1.1. Statement of Authority

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

Section 2-92-418 of the Municipal Code of Chicago establishes a bid incentive for small business enterprise and veteran-owned business enterprise joint ventures and veteran-owned small local businesses. Subsection (f) of the Section 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

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:

"Bid incentive" means an amount deducted, for bid evaluation purposes only, from the contract base bid in order to calculate the bid price to be used to evaluate the bid on a competitively bid contract.

"Broker" has the meaning ascribed to that term in section 2-92-420, i.e., a person or entity that fills orders by purchasing or receiving supplies from a third party supplier rather than out of its own existing inventory and provides no substantial service other than acting as a conduit between his or her supplier and his or her customer. "Substantial service" means a commercially useful function.

"Commercially useful function" has the meaning ascribed to that term in section 2-92-670, and does not include contracting for or insuring the goods, passing on manufacturer warranties to the City, scheduling deliveries, or assuming risks of damage or loss of the goods or for non-payment by 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, construction project, or other agreement (other than a delegate agency contract or lease of real property or collective bargaining agreement) awarded by the city and whose cost is to be paid from funds belonging to or administered by the city.

"Contract base bid" means the total dollar amount a contractor bids on a contract without factoring any bid incentive or percentage reductions to the bid amount.

"Eligible joint venture" means an association of one or more small local business enterprises in combination with one or more veteran-owned business enterprises, proposing to perform as a single for-profit business enterprise, in which each joint venture partner contributes property, capital, efforts, skill and knowledge. Joint ventures must have an agreement in writing specifying the terms and conditions of the relationship between the partners and their respective roles in the contract.

"Prime contractor" means a person who is the primary contractor on a contract.

"Small local business enterprise" ("SBE"), "local business enterprise," and "Owned" have the meaning ascribed to those terms in section 2-92-670.



“Veteran-owned business enterprise” means an enterprise which: (1) is at least 51 percent owned by one or more veterans, or in the case of a publicly held corporation, at least 51 percent of all classes of the stock of which is owned by one or more veterans, whose management, policies, major decisions and daily business operations are independently managed and controlled by one or more veterans; or (2) has been certified by the State of Illinois as a qualified service-disabled veteran-owned small business or a qualified veteran-owned small business pursuant to 30 ILCS 500/45-57.

“Veteran-owned small local business” (“VBE”) means a business that is both a veteran-owned business enterprise and a small local business enterprise as defined in Section 2-92-670.

“Veteran-owned subcontractor” means a subcontractor that: (i) is a veteran-owned small local business, as the term is defined in Section 2-92-418; (ii) holds all appropriate city licenses; and (iii) is subject to applicable city taxes; provided that a veteran-owned subcontractor shall not include the prime contractor.

“Veteran” means a person who has served in the United States armed forces and was discharged or separated under conditions other than dishonorable discharge.

3. PROCEDURES

3.1. SBE/Veterans Joint Venture and Veteran-owned Small Local Business Bid Incentive (“Bid Incentive”)

Unless otherwise prohibited by federal, state, or local law, for any contract advertised, or if not advertised awarded, after the effective date of section 2-92-418 of the Municipal Code of Chicago, the chief procurement officer shall allocate a bid incentive of 5% of the contract base bid to any eligible joint venture or veteran-owned small local business bidding as a prime contractor.

The Bid Incentive is limited in scope and therefore will not apply to every contract between the City of Chicago and an eligible joint venture or veteran-owned small local business.

The Bid Incentive does not apply if:

- prohibited by federal, state, or local law;
- an emergency exists;
- the contract is for cooperative purchasing or cooperative construction;
- an eligible joint venture or veteran-owned small local business is determined to be unqualified, unable, or ineligible to perform the contract; or
- the chief procurement officer concludes allocation of a bid incentive is not in the city’s best interest.

3.2. 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.

The Bid Incentive shall be applied by deducting 5% from the bid price of the bidder meeting the eligibility criteria. 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 Bid 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 Bid Incentive, 5% of the respondent’s score shall be added, for a final score of 4.2.

3.3. Eligibility

3.3.1. To be an eligible joint venture, (1) all joint venture partners must be an SBE, veteran-owned business enterprise, or both; (2) at least one member of the joint venture must be a veteran-owned business enterprise; (3) all SBE partners must collectively have a 30% or more interest in the joint venture; and (4) all veteran-owned business enterprise partners must collectively have a 30% or more interest in the joint venture.

3.3.2. For Small Business Initiative (SBI) projects, for which all joint venture partners must be SBEs, at least one of the SBE partners must also be a veteran-owned business enterprise, and the veteran-owned business enterprise partners must collectively have a 30% or more interest in the joint venture to be an eligible joint venture.

3.3.3. A joint venture or VBE, as the case may be, must self-perform at least 20% of the work on the contract in order to be eligible for the bid incentive.

3.3.4. A joint venture with one or more partners that acts as a broker is not an eligible joint venture.

3.3.5. A VBE that acts as a broker is not eligible for the bid incentive.



3.4. MBE/WBE Participation Goals

If an SBE partner of an eligible joint venture is also an MBE/WBE:

- All subcontracting work actually performed by such SBE partner as a subcontractor to the joint venture may be counted towards the MBE/WBE participation goals on the contract, but such subcontracting work shall not count towards the self-performance requirement of section 3.3 of these regulations; and
- The percentage of work performed by such SBE partner for the joint venture as a joint venture partner, and not as a subcontractor, shall be counted towards the self-performance requirement of section 3.3 of these regulations, and also may be counted towards the MBE/WBE participation goals on the contract.

If a VBE is also an MBE/WBE, it cannot count its participation on the contract toward MBE/WBE goals.

Example 1:

Joint Venture Partners: 1 veteran-owned business enterprise (performing 60% of the work of the joint venture), 1 WBE (performing 10% of the work of the joint venture), and 1 SBE (performing 30% of the work of the joint venture)

Contract Value: \$2,000,000

Self-Performance of Joint Venture: 20%, or \$400,000

WBE Participation Goal: 5%, or \$100,000

Joint Venture Work of WBE Joint Venture Partner: 10% of \$400,000, or \$40,000

Subcontracting Work of WBE Joint Venture Partner: 3% of \$2,000,000, or \$60,000

Self-Performance Requirement Met? Yes, the joint venture self-performed 20% of the work, which is the minimum required by these regulations.

WBE Participation Goal Met? Yes, the WBE joint venture partner performed \$40,000 worth of work as a joint venture partner and \$60,000 worth of work as a WBE subcontractor, for a total of \$100,000 worth of work on the contract, which meets the 5% WBE participation goal on the contract.

Example 2:

Joint Venture Partners: 1 veteran-owned business enterprise (performing 50% of the work of the joint venture) and 1 MBE (performing 50% of the work of the joint venture)

Contract Value: \$1,000,000

Self-Performance of Joint Venture: 30%, or \$300,000

MBE Participation Goal: 25%, or \$250,000

Joint Venture Work of MBE Joint Venture Partner: 50% of \$300,000, or \$150,000

Subcontracting Work of MBE Joint Venture Partner: 5% of \$1,000,000, or \$50,000

Subcontracting Work of MBE Non-Joint Venture Partner: 5% of \$1,000,000, or \$50,000

Self-Performance Requirement Met? Yes, the joint venture self-performed 30% of the work, which is more than the minimum of 20% required by these regulations.

MBE Participation Goal Met? Yes, the MBE joint venture partner performed \$150,000 worth of work as a joint venture partner and \$50,000 worth of work as an MBE subcontractor, for a total of \$200,000 worth of work on the contract. In addition, the MBE firm that is not a joint venture partner performed \$50,000 worth of work on the contract. Together, the two MBE firms performed \$250,000 worth of work on the contract, which meets the 25% participation goal on the contract.



3.5. Application Procedures

Affidavit

At the time of bid, bidders seeking to take advantage of the Bid Incentive must submit the relevant affidavit (SBE and/or Veterans) included in bid packages for the procurement of applicable contracts.

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, information, and/or site visit interviews as the chief procurement officer deems necessary to verify that a bidder qualifies, or continues to qualify, for the Bid Incentive.

Contractors and their subcontractors are required to maintain records of compliance with the Bid Incentive for a period of seven years after the expiration of the contract.

Records of compliance to be maintained must include, at a minimum, documentation of the applicable veteran's service in the United States armed forces, documentation of the applicable veteran's honorable discharge or separation therefrom, business records demonstrating ownership and control of the small business enterprise and the veteran-owned business enterprise, and the joint venture agreement. However, the chief procurement officer reserves the right to request additional documentation.

The Chief Procurement Officer reserves the right to decline to include or allocate the Bid Incentive pursuant to the authority granted in Section 2-92-418.

3.6. Certification Recognition

The chief procurement officer may accept the certification by other entities of a veteran-owned business enterprise, including that of Cook County, if the certification standards of such other entity do not conflict with these regulations or the Municipal Code of Chicago.

Because minority-owned businesses (MBEs) and woman-owned businesses (WBEs), as those terms are defined in Section 2-92-420 of the Municipal Code of Chicago, must be small local business enterprises in order to be certified by the City of Chicago as such, MBEs and WBEs that hold current MBE or WBE certifications are eligible to be SBEs under these regulations. The chief procurement officer may also accept Cook County certification of MBEs and WBEs under the reciprocal certification program of the City of Chicago and Cook County. Certified MBEs and WBEs are not required to submit the SBE affidavit, but are required to provide proof of current MBE or WBE certification by submitting a valid certification letter issued by the City of Chicago Department of Procurement Services or Cook County.

3.7. Graduation, Changes in Ownership

As a condition of being awarded the Bid Incentive, the eligible joint venture or veteran-owned small local business shall continue to meet the definition of an eligible joint venture or veteran-owned small local business during the term of the contract for which the Bid Incentive was awarded.

However, in the event that an SBE partner of an eligible joint venture or a veteran-owned small local business exceeds the applicable size standard during the pendency of a contract, such eligible joint venture or veteran-owned small local business shall continue to be eligible for the duration of the contract.

If an SBE partner or a veteran-owned business enterprise partner of an eligible joint venture or VBE undergoes a change in ownership such that it is no longer eligible as an SBE, veteran-owned business enterprise, or VBE during the pendency of a contract, such joint venture ceases to be an eligible joint venture, or such veteran-owned small local business ceases to be a veteran-owned small local business, and shall be subject to all applicable penalties and fines, including those described in section 2-92-418(e).

3.8. Penalties

Upon completion of the work on a contract, any eligible joint venture or veteran-owned small local business that received a bid preference but that fails to meet the definition as an eligible joint venture or veteran-owned small local business during the term of the contract for which the bid incentive was awarded shall be fined in an amount equal to three times the amount of the bid incentive awarded.



4. FINAL DECISION

The Chief Procurement Officer or designee shall make the final determination regarding the applicability of the bid incentive to any procurement.

This document may be updated periodically and is subject to change without notice.

