
CITY OF CHICAGO

RULES



DIVERSE MANAGEMENT & WORKFORCE BID INCENTIVES

UNDER 2-92-407

LAST UPDATED: February 23, 2022



Mayor Lori E. Lightfoot

Chief Procurement Officer Aileen Velazquez

BY AUTHORITY VESTED IN THE CHIEF PROCUREMENT OFFICER FOR THE DEPARTMENT OF PROCUREMENT SERVICES PURSUANT TO 2-92-407, THE FOLLOWING RULES REGARDING THE **DIVERSE MANAGEMENT & WORKFORCE BID INCENTIVES** ARE ADOPTED HEREIN.

By Order of the Commissioner:

Signed: 
Chief Procurement Officer *SMK*

Date: 2/23/2022

Effective: February 23, 2022

1. GENERAL PROVISIONS

The Diverse Management and Workforce Incentives are designed to strengthen and enhance employment opportunities for diverse individuals and to promote employment equality by offering bid incentives for businesses with diverse management and workforce. These regulations are issued pursuant to Section 2-92-407 of the Municipal Code of Chicago. Section 2-92-407(g) authorizes the Chief Procurement Officer to adopt rules for the proper administration and enforcement of the incentives. These regulations describe how and when the bid incentives 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.

"Business Owner" means an individual having all of the customary incidents of ownership, including the right of disposition, and sharing in all of the risks, responsibilities and profits commensurate with the degree of ownership.

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

"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.

"Diverse" means any of the following racial or ethnic groups:

- A. African-Americans or Blacks (persons having origins in any of the Black Racial groups of Africa):
- B. Hispanics (persons of Spanish culture with origins in Mexico, South or Central America or the Caribbean Islands, regardless of race):
- C. Asian-Americans (persons having origins in any of the original peoples of East Asia, Southeast Asia, the Indian subcontinent, or the Pacific Islands); and
- D. Other groups, or other individuals, found by the Affirmative Action Advisory Board ("AAAB") (see MCC 2-92-510 and 2-92-520) to be socially and economically disadvantaged and to have suffered actual racial, ethnic or gender discrimination and decreased opportunities to compete in Chicago area markets or to do business with the city. (Note: As of February

2022, no other groups have been found by the AAAB to be socially and economically disadvantaged.)

"Management" means (A) business owners, including all shareholders and partners; (B) directors and officers or managers as contemplated under 805 ILCS 5/Art. 8, 805 ILCS 180 or 805 ILCS 185, or similar business organization statute applicable to the business, or (C) key employees performing executive level functions including making significant discretionary, policy or operational decisions affecting the company. To determine whether an employee is in a Management role, an analysis of the employee's actual job duties (rather than merely stated job duties) will be conducted. "Management" does not mean registered agents who are not also employees. It does not mean independent contractors who would have a fiduciary duty to the business such as accountants and tax advisors, attorneys, or any other non-employees except those set out in (B) or (C) above.

"Prime Contractor" means the primary contractor on a contract. A "Prime Contractor" does not include any subcontractors, except that for the purposes of determining a joint venture Prime Contractor's Workforce, the Workforce of joint venture members may be considered under certain circumstances, as described below in Section 3.2, "Calculation of Diversity Percentage."

"Workforce" means all who are employed by a prime contractor in a permanent, full-time employment capacity. It does not include independent contractors.

3. PROCEDURES

3.1. Bid Incentive for Businesses with Diverse Management and Workforce ("Bid Incentives")

Unless otherwise prohibited by federal, state, or local law, for any contract advertised, or if not advertised awarded, after the effective date of Section 2-92-407 of the Municipal Code of Chicago, the Chief Procurement Officer shall allocate a bid incentive for diverse management ("Management Incentive"), and a bid incentive for diverse workforce ("Workforce Incentive") as follows:

Total % of Contractor Management That Is Diverse	Management Bid Incentive
10% to 20%	0.5% of the contract base bid
Greater than 20% up to 40%	2% of the contract base bid
Greater than 40%	4% of the contract base bid
Total % of Contractor Workforce That Is Diverse	Workforce Bid Incentive
10% to 20%	2% of the contract base bid
Greater than 20% up to 40%	4% of the contract base bid
Greater than 40%	6% of the contract base bid

A Prime Contractor may qualify for and apply both the Management Incentive and Workforce Incentive on the same bid.

The Bid Incentives are limited in scope and therefore will not apply to every contract between the City of Chicago and an eligible business. The Bid Incentive does not apply if:



- the contract by its nature is not adapted to award by competitive bidding as set forth in 65 ILCS 5/8-10-4;
- the estimated value of the contract is less than \$100,000;
- prohibited by federal, state, or local law;
- an emergency exists;
- the contract is for cooperative purchasing or cooperative construction;
- the Chief Procurement Officer determines that application of the incentive is not in the best interest of the City.

3.2. Calculation of Diversity Percentage

For both Bid Incentives, the calculation of the percentage of diverse individuals is based on the number of diverse individuals who are considered Management or Workforce vs the number of individuals who comprise Management or Workforce as a whole, as applicable.

However, if the legal entity that executes the bid package is a joint venture, the calculation of workforce diversity will be based on a weighted average of the percentage of diverse individuals for each venture partner weighted by the percent participation of each venture partner in the joint venture.

Example calculation of workforce diversity for joint venture:

Company A, 50% diverse workforce, 75% interest in the joint venture.

Company B, 20% diverse workforce, 25% interest in the joint venture.

*Percent diverse workforce for bid incentive: 42.5% $((50*0.75) + (20*0.25))$*

3.3. Purpose and Effect of Bid Incentives

The purpose of the Bid Incentive is to identify the low bidder; it does not apply to or otherwise pertain to the contract price. In procurements where price is the only factor, the Bid Incentive(s) shall be applied by deducting the appropriate percentage or percentages from the bid price of the bidder meeting the eligibility criteria.

3.4. Application Procedures

- A. Affidavit. At the time of bid, bidders seeking to take advantage of the Bid Incentive(s) must submit the relevant affidavit(s), including any supplemental information required by such affidavit(s), included in bid packages for the procurement of applicable contracts. Failure to submit the affidavit(s), including all supplemental information required by such affidavit(s), with the bid will render the bidder ineligible for the Bid Incentive(s).
- B. 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(s). Failure to provide information or comply with requests for additional information in a timely manner may result in a determination of ineligibility for the relevant incentive(s) or imposition of penalties as set forth in 3.6, below.

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3.5. Records, Monitoring, and Compliance

The prime contractor shall maintain records adequate to monitor compliance with this section and shall submit such reports as required by the Chief Procurement Officer. Full access to the prime contractor's records shall be granted to the Chief Procurement Officer, the commissioner of the supervising department, the Inspector General, or any duly authorized representative thereof.

The prime contractor shall maintain all relevant records for a period of no less than three years after the expiration of the contract.

3.6. Penalties

Upon completion of the work on a contract, any business that received a bid incentive but that fails to maintain the level of diversity on which the incentive was based during the term of the contract for which the Bid Incentive(s) was/were awarded shall be fined in an amount equal to three times the amount of the bid incentive awarded, unless the prime contractor is able to show good cause for the failure.

4. FINAL DECISION

A bidder's eligibility for the Bid Incentives shall be determined by the Chief Procurement in her sole discretion; such determination will be final.

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

