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# CITY OF CHICAGO

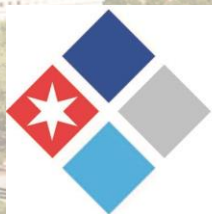
## RULES

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### **NON-CONSTRUCTION MID-SIZED BUSINESS INITIATIVE (NMBI) PROGRAM**

**UNDER 2-92-1000, et seq.  
LAST UPDATED: January 24, 2022**



**DEPARTMENT OF  
PROCUREMENT  
SERVICES**

BY AUTHORITY VESTED IN THE CHIEF PROCUREMENT OFFICER FOR THE DEPARTMENT OF PROCUREMENT SERVICES PURSUANT TO **2-92-1000 et seq.**, THE FOLLOWING RULES REGARDING THE **NON-CONSTRUCTION MID-SIZED BUSINESS INITIATIVE (NMBI) PROGRAM** ARE ADOPTED HEREIN.

By Order of the Commissioner:

Signed:   
Chief Procurement Officer

Date: 1/24/2022

Effective: January 1, 2022

The Non-Construction Mid-Sized Business Initiative Program (the “NMBI Program”) is designed to increase the opportunities that mid-sized businesses have to do business with the City of Chicago. These rules are adopted pursuant to Section 2-92-1000 *et seq.* and set forth the requirements for the NMBI Program, which calls for small to mid-sized local businesses to be the exclusive bidders on certain non-construction projects with an estimated contract value of not less than \$3,000,000 and not more than \$10,000,000.

## **I. Definitions.**

A “mid-sized local business enterprise” is a local business enterprise that has gross receipts, averaged over the firm’s previous five fiscal years, or number of employees, per pay period averaged over the past twelve months, that do not exceed one and a half times the size standards of minority-owned or women-owned businesses as set forth in Section 2-92-420(o) of the Municipal Code of Chicago.

A “local business enterprise” is an entity located within the counties of Cook, DuPage, Kane, Lake, McHenry, or Will in the State of Illinois (the “Six County Region”).

## **II. Procedure.**

- A. The Department of Procurement Services (DPS) will identify non-construction projects that will be offered exclusively to mid-sized local business enterprises through this NMBI Program in the City’s Buying Plan, updated each quarter. NMBI Program projects will be sized appropriately for mid-sized businesses and will be limited to projects with estimated costs between \$3,000,000 and \$10,000,000.
- B. For those bidders who are not presumed to be mid-sized local business enterprises, the bid package for each procurement identified as part of the NMBI Program will contain the affidavit referred to in Section IV below to be completed by the bidder. Bidders may be required to submit documentation to verify the accuracy of the information provided in such affidavits including, but not limited to, corporate tax returns (for the bidder and its affiliates), personal tax returns for each owner, and personnel records. Failure to timely provide all requested documentation will result in the rejection of the bid and may result in a finding of non-responsibility.

## **III. Eligibility.**

- A. To qualify for the NMBI program, a business must:
  - Be a mid-sized local business enterprise;
  - Perform more than fifty percent of the work on the non-construction project with its own forces and/or subcontractors who are also mid-sized local business enterprises; and
  - Be independent, and not an affiliate or subsidiary of any other business.
    - Independence of a business is determined solely by the Chief Procurement Officer (“CPO”) or his or her designee. Indicia of independence include the ability of the applicant to perform satisfactorily in its area(s) of specialty without substantial reliance upon finances, resources, bonding, expertise, staff, facilities, or equipment of another individual business. Recognition of the applicant as a separate and distinct entity by governmental taxing authorities is not dispositive of the applicant’s assertion of independence.
    - DPS will consider all affiliates of the bidder as well as any parent-subsidary relationships when determining whether a firm is independent. Affiliation is determined in accordance with 13 CFR Part 121. Except as otherwise provided in Section 13 CFR Part 121, firms are “affiliates” of each other when,



either directly or indirectly: (1) one firm controls or has the power to control the other; or (2) a third party or parties controls or has the power to control both; or (3) an identity of interests between or among parties exists such that affiliation may be found. In determining whether persons or entities are affiliates, the city will consider all appropriate factors, including common ownership, common management, and contractual or familial relationships.

- Independence will be evaluated as of the date the applicant was established through and including the date of application to the NMBI.

- B. Only firms that meet the definition of mid-sized local business enterprise are eligible to bid on an NMBI contract.
- C. Minority owned business enterprises (MBEs) and women owned business enterprises (WBEs) certified by Cook County, and MBEs, WBEs, and veteran-owned business enterprises (VBEs) that are certified by the City pursuant to the City's Regulations Governing Certification of Minority- and Women-Owned Business Enterprises, Veteran-Owned Business Enterprises, and Business Enterprises Owned or Operated by People with Disabilities for Non-Construction Contracts (the "Certification Regulations") must also be small local businesses in order to be certified, and therefore, are presumed to be mid-sized local business enterprises.
- D. Firms certified as Disadvantaged Business Enterprise (DBEs) are presumed to meet the size standard for mid-sized business enterprises, but must prove they are a local business enterprise in order to participate in the NMBI Program; therefore, DBEs will be required to submit an affidavit in the form provided in the bid package regarding their status as a local business enterprise.

#### **IV. Affidavits, Reporting, and Investigations.**

- A. A firm seeking to bid on a contract that has been designated as part of the NMBI Program, who is not presumed to be a mid-sized local business enterprise, must complete and submit an affidavit with its bid attesting that it meets the eligibility requirements of the NMBI program.
- B. Businesses that have been determined to be mid-sized local business enterprises will be required to submit annual affidavits confirming their continued compliance with the eligibility requirements of NMBI Program.
- C. If a mid-sized business enterprise undergoes any change to its business, that affects its status as a mid-sized business enterprise, it must notify DPS within 5 business days of the change.
- D. Mid-sized business enterprises must provide any reports and documents required by the CPO in order to evaluate the effectiveness of the NMBI Program, including, but not limited to the reports referred to in Subsection II (C) above.
- E. The CPO reserves the right to request additional reports or documents and/or site visits to determine the accuracy of the information provided in such affidavits and reports.

#### **V. Enforcement and Penalties.**

- A. If the CPO determines, after notice and an opportunity for a hearing before the CPO, that a firm has made any fraudulent misrepresentations regarding its status as a mid-sized business enterprise, or has colluded with another making fraudulent misrepresentations regarding its status as a mid-sized business enterprise, the CPO will declare the firm to be ineligible to contract or subcontract on City contracts. The period of ineligibility may include permanent or indefinite ineligibility or ineligibility for a lesser duration. The City will regard as nonresponsive any bid submitted during such period of ineligibility which includes a disqualified entity as a contractor, subcontractor or member of a joint venture.
- B. In addition to a finding of ineligibility, if an individual knowingly obtains or assists in obtaining a contract with the City through false representations regarding it or another firm's status as a mid-sized business entity, the individual making or assisting in making such false representations may be subject to criminal consequences, including incarceration for a period of not to exceed six months or a fine of not less than between \$5,000 and not more than \$10,000.



- C. If the CPO determines that a contractor submitting a bid was not involved in any misrepresentation of the status of an ineligible subcontractor included in its bid, the CPO may allow the contractor to discharge the ineligible subcontractor and engage an eligible subcontractor as a replacement, if possible.
- D. In addition to the penalties set forth above, any person who violates these rules will be subject to a fine of not less than \$1,000 and not more than \$5,000.

