
CITY OF CHICAGO

RULES



RULES REGARDING REPORTING OF BUSINESS DIVERSITY PROGRAMS AND UTILIZATION OF CERTIFIED FIRMS PURSUANT TO MAYORAL EXECUTIVE ORDER 2021-2

UNDER MAYORAL EXECUTIVE ORDER 2021-2

LAST UPDATED: June 22, 2021



BY AUTHORITY VESTED IN THE CHIEF PROCUREMENT OFFICER OF THE DEPARTMENT OF PROCUREMENT SERVICES PURSUANT TO SECTION 5 OF MAYORAL EXECUTIVE ORDER 2021-2, THE FOLLOWING RULES REGARDING **REPORTING OF BUSINESS DIVERSITY PROGRAMS AND UTILIZATION OF CERTIFIED FIRMS PURSUANT TO MAYORAL EXECUTIVE ORDER 2021-2** ARE HEREBY ADOPTED.

By Order of the Acting Chief Procurement Officer:

Signed:  Date: JUN 22 2021
Acting Chief Procurement Officer

Effective:

JUN 22 2021

Rules Regarding Reporting of Business Diversity Programs and Utilization of Certified Firms Pursuant to Mayoral Executive Order 2021-2

Pursuant to Mayoral Executive Order 2021-2 (the “Order”), the Chief Procurement Officer is empowered to issue rules regarding the implementation of the Order.

I. Definitions

“Assist Agency” means a non-profit organization, chamber of commerce, or similar organization that seeks to advance the interests of small, minority-owned, women-owned, and other historically underutilized businesses.

“Business Diversity Program” means a program or initiative of a business enterprise which encourages or facilitates the use of minority-owned, women-owned, and other historically underutilized businesses as contractors, consultants, suppliers, or service providers for that business.

“Certified Firm” means a firm possessing certification(s) recognized by the City of Chicago pursuant to MCC Chapter 2-92 or 49 CFR Parts 23 or 26. (MBEs, WBEs, BEPDs, VBEs, DBEs, and ACDBEs.)

“Compliance Official” means the City official charged with monitoring contract compliance with respect to participation in particular contract by M/WBE or DBE firms. In the case of the contracts awarded under the authority of the CPO, the CPO or designee is the Compliance Official for that contract.

“Contract” means: (1) a contract for the City to purchase goods or services regardless of the contracting City department or agency, or (2) a Redevelopment Agreement. A Delegate Agency Contract is not a Contract for purposes of the Order.

“Contractor” means the counterparty to the City on any Contract.

“Contracting Executive” or “CE” means the head of any executive department or agency of City government, or other City officer, or their designee, who exercises any contracting authority. In the context of a contract awarded under the authority of the CPO, the CPO or designee is the Contracting Executive for that contract.

“Compliance Plan” means the plan submitted by a Contractor, which becomes part of the Contract, showing how the Contractor plans to meet the Contract Specific Goals for M/WBE or DBE participation. The Plan may include Schedules C and D.

“CPO” means the Chief Procurement Officer of the City.

“Delegate Agency Contract” means a contract with a not-for-profit or for-profit organization which provides social services (including but not limited to job training and placement, education, child day care, emergency shelter, home-delivery meals, and health care) to targeted communities under agreements with the city which are funded by federal or state grants and paid on a pass-through basis.

“Projected Utilization Schedule” means a time schedule of performance for a contract (or in the case of a redevelopment agreement, for the City-supported construction work under the agreement) projecting a schedule for performance by Certified Firms against the general schedule of performance. The Schedule must indicate the amount of work to be performed by each Certified firm expressed in both estimated cost and percentage of the work overall, and must be in a form acceptable to the CE.

“Quarterly Utilization Report” means a quarterly report on the actual usage (based on percentage of contract value) of Certified Firms throughout the duration of a Contract, comparing actual usage with projected usage as shown in the Proposed Utilization Schedule, and including an explanation and recovery plan if participation by Certified Firms is 5% or more below projected usage based on contract value.

“Redevelopment Agreement” means any redevelopment or similar agreement involving the construction or rehabilitation of real estate with an expected grant or forgivable loan by the City of funds of \$1,000,000 or more (or such other amount as determined by the CPO from time to time), and which does not involve a grant under Chapter 16-14 of the MCC, “Neighborhood Opportunity Fund.”

II. Certified Firm Utilization Transparency

- A. Applicability: All Contracts containing goals for the utilization of Certified Firms (MBE, WBE, or DBE goals), unless not permitted due to the requirements of the funding source.
- B. Projected Utilization Schedule:
1. Before the award of all Contracts, the applicable Contracting Executive will require that the anticipated contract awardee submit a “Projected Utilization Schedule” as part of the Compliance Plan submittals, showing when and to what extent in the schedule for performance of the Contract the MBEs and WBEs or DBEs listed in the Compliance Plan for the Contract are expected to be used toward the contract-specific goals.
 - a. For contracts awarded pursuant to low bid requiring a Performance and Payment Bond as a condition of award, the Projected Utilization Schedule must be submitted no later than the due date for submission of the bond unless otherwise directed by the CE.
 - b. For contracts awarded pursuant to a Request for Proposals or Request for Qualifications, the CE shall designate a due date for the Projected Utilization Schedule to be submitted by selected proposer(s) during the negotiation process.
 - c. For master agreements for task order professional services awarded pursuant to a request for qualifications where the Compliance Plan is submitted on a task-by-task basis, Projected Utilization Schedules specific to each task will be submitted with the task order proposals.
 - d. For all other contracts, the CE shall designate the due date prior to award.
 2. The Contracting Executive or Compliance Official may require explanations or submittal of a revised or more detailed Schedule at any time, as that officer deems appropriate, in order to facilitate compliance with, and monitoring of, the M/WBE or DBE commitments of the contract. Contractor-initiated changes to the Schedule will be handled like any other requested change to a Compliance Plan submittal.
 3. Like any other Compliance Plan submittal, a Projected Utilization Schedule, once accepted and approved by the Compliance Official, becomes part of the Contractor’s Compliance Plan.
 4. The Contracting Executive may award a contract after submittal of a Projected Utilization Schedule but before approval of that Schedule as part of the Compliance Plan when (a) provision of a detailed project schedule is part of the contract scope of work, or (b) the CE otherwise determines that it is the best interest of the City. In the case of (a), the CE shall require submission of a revised Projected Utilization Schedule for approval as part of the Compliance Plan no later than submission of the detailed project schedule.

- C. Quarterly Utilization Reports: Contractors are required to submit “Quarterly Utilization Reports” in a form acceptable to the Contracting Executive until all contract obligations involving goals for participation by Certified Firms have been completed. Contractors on Redevelopment Agreements are required to submit reports only during the pendency of any City-supported construction or rehabilitation. Due dates will be consistent with other required quarterly M/WBE or DBE reporting on the contract or as directed by the Compliance Official.
- D. Other Updates and Revisions to Projected Utilization: Whenever there is a request for a change to the Compliance Plan, or unless otherwise directed by the Compliance Official, whenever recovery plans are submitted with Quarterly Utilization Reports, Contractors must include a proposed revised Projected Utilization Schedule which will be subject to approval by the Compliance Official.

III. Business Diversity Program Transparency

- A. Applicability: All Contractors on Contracts, except:
1. Certified firms.
 2. When the contract is for professional consulting services of an individual who is either the majority owner of the Contractor or is him- or herself the contracting party as a sole proprietor.
 3. When the award value of any active City contract held by Contractor is under \$100,000 and the aggregate award value of all City Contracts awarded to contractor between May 31 of the prior year and May 31 of the current year is less than \$100,000.
 4. The Contractor has been notified by the CPO in writing that the requirement does not apply or that an exception will be made as outlined in Mayoral Executive Order 2021-2.
 5. When the contract is a Delegate Agency Contract.
- B. Reports Required.
1. Contractor must submit an annual report providing information regarding its Business Diversity Program.
 2. Information must be submitted via web form.
 3. Information to be provided shall include, if available:
 - a. Whether Contractor has a Business Diversity Program.
 - b. Description of the Contractor’s Business Diversity Program, if any.
 - c. Information on expenditure on goods and services from minority-owned firms and women-owned firms during the prior calendar year, expressed in dollars and percentages, to the extent information is available.
 - d. If available, the information should be broken down into City contracts, other contracts subject to M/WBE participation goals, and all other contracts, but any format is acceptable.
 - e. For reports due in 2021, information on expenditures in both 2019 and 2020 should be provided if available.
 - f. For each year after the first year, information on progress or changes in the program in the prior year, if such information exists.
- C. Due Dates. Reports generally are due on July 1 of each year. However, for Contracts awarded June 1 through July 1, the due date for the first annual report will be August 1, all subsequent reports will be due July 1. Any extension requests must be submitted to the CPO as soon as practicable after the need for extension is known and should include an explanation as to why an extension is needed.