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# CITY OF CHICAGO

## RULES

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**BUSINESS ENTERPRISES OWNED OR OPERATED BY  
PEOPLE WITH DISABILITIES UTILIZATION  
BID INCENTIVE**

**UNDER 2-92-337**

**LAST UPDATED: AUGUST 21, 2018**



**DEPARTMENT OF  
PROCUREMENT  
SERVICES**

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**Mayor Rahm Emanuel**

**Chief Procurement Officer Shannon E. Andrews**

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BY AUTHORITY VESTED IN THE CHIEF PROCUREMENT OFFICER FOR THE DEPARTMENT OF PROCUREMENT SERVICES PURSUANT TO **2-92-337(e) OF THE MUNICIPAL CODE OF CHICAGO**, THE FOLLOWING RULES REGARDING THE **BUSINESS ENTERPRISES OWNED OR OPERATED BY PEOPLE WITH DISABILITIES UTILIZATION INCENTIVE** ARE ADOPTED HEREIN.

By Order of the Commissioner:

Signed: John E. K.  
Chief Procurement Officer *JK*

Date: 21 August 2018

Effective: **August 21, 2018**

The business enterprise owned or operated by people with disabilities ("BEPD") incentive (the "Incentive") is designed to increase the opportunities for BEPDs to do business with the City of Chicago. The Incentive is based upon a bidder's commitment to utilize a BEPD as the prime contractor or as a subcontractor in the performance of the contract. Section 2-92-337(e) of the Municipal Code of Chicago ("MCC") grants the Chief Procurement Officer ("CPO") the authority to adopt, promulgate and enforce reasonable rules pertaining to the administration and enforcement for the BEPD bid incentive program.

## **I. Definitions.**

- A. "Business enterprise owned or operated by people with disabilities" or "BEPD" means: (A) a business certified by the State of Illinois as a qualified service-disabled veteran-owned small business pursuant to 30 ILCS 500/45-57; or (B) an entity, except for those entities that constitute an established business based on the size standards set forth in Section 2-92-420 of the Municipal Code, or individual that is certified by the CPO as meeting one of the following:
- (i) A for-profit corporation, partnership, association, business trust, estate, or other legal entity that is either owned (directly, indirectly or beneficially) 51 percent or more by one or more individuals with disabilities and whose management and daily business operations are controlled by one or more individuals with disabilities; or
  - (ii) A nonprofit corporation that employs individuals with disabilities, pays them an hourly wage that is not less than the federal minimum wage and not on a piece work basis, and a) whose management and daily business operations are controlled by one or more individuals with disabilities, and b) whose corporate purpose includes providing, directly or indirectly, services to individuals with disabilities; or
  - (iii) An individual with a disability who is contracting with the city as a sole proprietorship or individually.
- B. "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.
- C. "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.
- D. "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.
- E. "Disability" means: (i) With respect to any individual: (A) a physical or mental impairment that substantially limits one or more of the major life activities of that individual, such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance or work skills in terms of employability; (B) a record of such an impairment; or (C) being regarded as having such an impairment; or (ii) with respect to a veteran, a disability incurred in the line of duty in the active military, naval, or air service as described in 38 USC 101(16) and determined to be a 10 percent or more disability by the United States Department of Veterans Affairs or the United States Department of Defense.

## **II. Eligibility.**

To be eligible for the Incentive, the bidder must be a BEPD and commit to self-perform a percentage of the work or must commit to utilize BEPDs as subcontractors, or both.

## **III. Procedure.**

- A. Unless otherwise prohibited by federal, state or local law, for any contract advertised for competitive bid awarded after the effective date of Section 2-92-337 of the MCC, the CPO shall allocate to any qualified bidder the following bid incentive for the utilization of a BEPD as a prime contractor or subcontractor in the performance of the contract:



<i>Percentage of total dollar contract amount performed by BEPD</i>	<i>Bid incentive</i>
2 to 5%	1% of the contract base bid
6 to 9%	2% of the contract base bid
10 to 13%	3% of the contract base bid
14% or more	4% of the contract base bid

The bid incentive is used only to calculate an amount to be used in evaluating the bid. The bid incentive does not affect the contract price.

B. The CPO may determine not to allocate a bid incentive if:

- an emergency exists;
- the contract is for cooperative purchasing or cooperative construction; or
- the CPO otherwise concludes that the allocation of a bid incentive is not in the City's best interest.

C. The bidder must submit with its bid BEPD certification letter(s) for itself or its subcontractor(s) and an affidavit affirming the status of itself and/or its subcontractors as BEPDs and committing to a proposed percentage of work to be performed by BEPDs.

#### **IV. Records and Reporting**

Contractors granted the Incentive must maintain accurate and detailed books and records necessary to monitor compliance with these rules and Section 2-92-337 of the MCC and shall submit such reports as required by the CPO, or the commissioner of the user department.

Full access to the contractor's and subcontractors' records shall be granted to the CPO, the commissioner of the user department, or any duly authorized representative thereof. The contractor and subcontractors shall maintain all relevant records for a period of at least three years after final acceptance of the work.

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

Upon completion of the work, if a contractor granted the Incentive has failed to achieve the BEPD utilization commitments made in its bid, either through a BEPD prime contractor's own performance or through participation by BEPD subcontractors, the contractor shall be fined an amount equal to three times the amount of the bid incentive allocated, unless the prime contractor can demonstrate that due to circumstances beyond the prime contractor's control, the prime contractor for good cause was unable to meet the BEPD commitments made in its bid.

