

CITY OF CHICAGO
DEPARTMENT OF
**PROCUREMENT
SERVICES**

GUIDE TO BID INCENTIVES AND PROGRAMS

121 N. LaSalle Street | City Hall, Room 806
Bid & Bond, Room 103 | 312-744-4900

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OVERVIEW

To support economic growth, workforce development, and increased competition in City contracting, the City of Chicago (the “City”) has established a number of programs, preferences, and incentives available to certain bidders competing to obtain City contracts.

The City’s preferences and incentives (Incentives) generally consist of an artificial price reduction (Bid Incentive), which is applied to an eligible bidder’s (Bidder) bid on an applicable competitively bid contract. The Bid Incentives function by reducing the Bidder’s total base bid in the amount of the applicable Bid Incentive percentage. For contracts that are not procured through competitive bidding, when applicable, a Bid Incentive will be applied by increasing a proposer’s proposal (Proposal) evaluation score by the amount of the applicable Incentive. The Bid Incentive is used only to calculate an amount to be used in evaluating the bid or proposal. These Incentives have no impact on and do not reduce the contract price at the time of contract award.

There are two types of Bid Incentives available: (1) Bid Incentives earned because of performance commitment(s) made by the Bidder for the current specification, and which are applied to the current bid (Current Incentives), and (2) Bid Incentives earned through meeting performance commitments in a past contract, which can be applied to future bids (Future Incentives, or Earned Credit).

Incentives can, in many but not all cases, be used cumulatively when a Bidder is eligible for more than one. Some Incentives are incompatible with one another. When a Bidder is eligible for two incompatible Incentives, the Bidder may choose which one to seek with its Bid.

The City’s programs (Programs) fall into three categories: (1) Programs that identify a specific group of bidders as the exclusive bidders on certain City projects; (2) Programs regarding phased graduation from the MBE/WBE certification program; and (3) Programs designed to provide mentoring opportunities for MBE/WBE firms. A Bidder can, in most cases, participate in a Program and be eligible for Incentives.

These Incentives and Programs require continued compliance during contract performance with the eligibility factors that resulted in awarding the Incentive or participation in the Program. Failure to do so will have adverse consequences to the Bidder that is granted the Incentive or who participated in the Program.

All contractors, Bidders, and Program participants must always be mindful of the following resources, duties and obligations. City contractors have a duty to report corrupt activity to, and cooperate with, the City’s Office of Inspector General. When issues or concerns about lobbying or campaign contributions arise, consult with the City’s Board of Ethics. In addition, note that all of our Incentives and Programs are designed to complement the work of the Chicago Cook Workforce Partnership, which provides career resources to individuals who are looking for work, are underemployed, or need job training services. Please do not hesitate to contact us at the Department of Procurement Services with any questions or concerns regarding the foregoing obligations and resources or about procurement, certification, compliance, and of course, our Incentives and Programs.

These guidelines (Guidelines or Guide) describe the available Incentives and Programs, and their applicability and restrictions. Under the applicable provisions of the Municipal Code of Chicago (MCC), the Chief Procurement Officer (CPO) administers these Incentives and Programs and is authorized to create rules and regulations regarding them with respect to eligible contracts awarded by the CPO.

ELIGIBLE CONTRACTS

Incentives and Programs are not applicable to all agreements entered into by the City and awarded by the CPO. They only apply to Eligible Contracts. Generally, these Guidelines describe the Incentives and Programs that may be applied with respect to contracts awarded by the Department of Procurement Services as the contracting authority. Delegate agency agreements, collective bargaining agreements, and real estate leases are specifically excluded. Incentives and Programs are also unavailable when applying the Incentive or Program would be prohibited by federal, state, or local law, or are otherwise incompatible with laws, rules, regulations or conditions applicable to federal or state agencies providing funding for the contract.

In addition, the CPO has discretion to disallow one or more Incentives from applying to a particular contract which would otherwise be eligible when, among other potential considerations, one or more of the following situations applies:

- An emergency exists;
- The contract is for cooperative purchasing or cooperative construction;
- The CPO concludes allocation of an Incentive is not in the City's best interest.

The bid documents for a particular contract will describe the Incentives that a Bidder or Proposer may seek in its Bid or Proposal with respect to that contract.

Even if not specifically noted, when discussing the application of Incentives or Programs in these Guidelines, a reference to a "contract" always refers to a contract awarded by the CPO that is eligible for the application of the given Incentive or Program.

Finally, this Guide is subject to change or revision without notice. Also, the purpose of this Guide is to provide helpful information to Bidders and Proposers, and it shall not be relied upon as authoritative interpretation of the Municipal Code of Chicago or the Rules promulgated by the CPO.

AVAILABLE INCENTIVES

List of Incentives

The following is the list of potentially available Bid/Proposal Incentives:

<u>INCENTIVE</u>	<u>MCC PROVISIONS</u>
Alternatively Powered Vehicles	2-92-413
Apprentice Utilization	2-92-335
Business Enterprises owned or operated by People with Disabilities (BEPD)	2-92-337 and 2-92-586
Bid Incentive to Encourage MBE/WBE Participation	2-92-525
City-Based Business (2%)	2-92-412
City-Based Business (4%)	2-92-412
City-Based Business (6%)	2-92-412
City-Based Manufacturer Utilization	2-92-410
Equal Employment Opportunity (EEO)	2-92-390
Ex-Offender Apprentice	2-92-336
(MBE/WBE) Mentor-Protégé Program	2-92-535
Project Area Subcontractor Utilization	2-92-405
Veteran-Owned Business Enterprise/Small Business Enterprise JV + Veteran-Owned Small Local Business	2-92-418 ¹
Veteran Subcontractor Utilization	2-92-407 ²

Common Elements to Bid Incentives– How They Work

General

For purposes of this Guide and unless otherwise noted, all Current Incentives are percentages applied to the total base bid (sometimes referred to in the MCC and the Guidelines as the contract base bid) at the time of the Bid. Future Incentives or Earned Credits consist of earned credit certificates achieved through successfully complying with the bidder's commitments made at the time of the Bid during its performance of a prior contract. Future Incentives or Earned Credits are applied to future Bids. In either case the application of the Incentive(s), if any, results in an artificial reduction of a Bid, and the resulting amount (Evaluated Bid Amount) is the one used for comparison of Bids. For Bids to which no Incentive is applied, the Evaluated Bid Amount remains the same as the total base bid.

In this Guide, the various Incentives are grouped by applicability – to construction only, non-construction only, to both, to goods, and those potentially applicable to non-bid procurements where price may be one among several evaluation criteria, such as Requests for Proposals or Requests for Qualifications.

¹ Effective January 22, 2018, see Section 2-92-950.

² Effective January 22, 2018, see Section 2-92-940.

At the time of bidding, prior to contract award, or during the contract term, the CPO may require such documentation as the CPO deems necessary to determine that a Bidder is eligible to receive a Bid Incentive and remains eligible during the Contract Term. In addition to documenting to the reasonable satisfaction of the CPO its eligibility to obtain the Incentives as a Bidder and contractor, the contractor and its subcontractors must maintain accurate and detailed books and records necessary to monitor compliance, submit reports to the CPO as required, and grant full access to their records to the CPO, the Inspector General, the commissioner of the supervising department, or their representatives. The contractor and its subcontractors are required to maintain all relevant records typically for at least three years after final acceptance of the work.

The CPO, or her designee, makes a final determination, based on the information received from a Bidder³ or otherwise available to the CPO, regarding the applicability of these Incentives to the Bidder for any particular procurement. In her sole discretion, the CPO may solicit additional information from the Bidder to assess the eligibility for or applicability of any Incentive(s). Failure to submit accurate information may result in referral of the matter to the City's Corporation Counsel and/or the City's Inspector General for further action, in addition to any remedies available to the CPO.

Example of how a Current Incentive works:

The applicable percentage incentive is applied to the bidder's total base bid and the resulting amount is deducted from the total base bid for Bid evaluation purposes. So, for example, if the total base bid is \$1,000,000 and the applicable incentive is 2%, the Evaluated Bid Amount will be \$980,000 for evaluation purposes and would be deemed lower than any competing bid in the Evaluated Bid Amount of \$980,001 or higher. The application of the Incentive would have no effect on the amount of the contract award, which, in the absence of other circumstances, would remain \$1,000,000.

Example of how an Earned Credit or Future Incentive works:

If a construction contractor makes a commitment at the time of the Bid to use eligible apprentices for a percentage of total labor hours, and it is established during contract close-out procedures that it did so, the CPO will issue an earned credit certificate. The earned credit certificate is issued based on the amount of the Incentive the contractor obtained at the time of the Bid. The contractor may apply this certificate on multiple future construction bids of equal or greater value while the certificate is valid, but may only win one contract award as a result of using it. If, at the time, the application of the Future Bid Incentive would result in the Bidder having the lowest Evaluated Bid Amount in more than one Bid, the Future Bid Incentive will be applied to the project first advertised or, where multiple projects are advertised on a given date, to the project with the greatest dollar value. So for example, if the total base bid is \$1,000,000, the contractor successfully meets the requirements and/or commitments to earn the incentive, and the applicable incentive is 2%, the contractor may apply the 2% incentive to its bid on a subsequent procurement with an estimated value of \$1,000,000 or more.

³ In the case of BEPDs, a BEPD must apply successfully to the Department of Procurement Services in advance of any Bid for certification as a BEPD to be eligible for the BEPD incentive.

Failure to Maintain Eligibility for or Comply with Commitments Made to Obtain the Incentive

A Bidder that has won a contract award using a Bid Incentive must maintain the factors or status that led to a determination of its eligibility for the particular Incentive granted to it throughout the term or duration of the performance of the contract (Contract Term), including any extensions granted pursuant to an amendment or modification to the contract term, and/or comply with the commitments made to obtain the Incentive.

In most but not all cases, where the Incentive status and/or eligibility factors are not maintained at all times during the Contract Term, or where the Bidder fails to comply with the commitments made to obtain the Incentive, the contractor may be fined three times the amount of the Incentive applied to the Bid and may face other adverse consequences, including a finding of non-responsibility.

Cumulative Use of Bid Incentives

Many of the Bid Incentives can be used cumulatively when applicable to a contract specification. Except as noted in the table below, all Incentives applicable to a contract specification for which a Bidder is eligible can be applied together for a single Bid. Applicable Current Incentives can be applied together with other Current Incentives and with applicable Earned Credits with respect to a Bid for an eligible contract.

The percentage of each Bid Incentive applicable to the Bidder's Bid is applied separately to the total base bid. That will result in an amount by which the Bid will be reduced as a result of each applicable Bid Incentive (Bid Incentive Amount). All resulting Bid Incentive Amounts would then be added and the total result of that sum (Total Bid Incentive Amount) would be deducted from the total base bid. The amount resulting from deducting the Total Bid Incentive Amount from the total base bid would be the Evaluated Bid Amount.

Here is an illustration of how a cumulative Bid Incentive (whether Current and/or Future) works:

- The first applicable Bid Incentive percentage is applied to the total base bid of an eligible Bidder and the resulting amount is deducted from the total base bid for Bid evaluation purposes. So, for example, if the total base bid is \$1,000,000 and the first applicable incentive is 2%, the Bid Incentive Amount for this Bid Incentive will be \$20,000.
- The second applicable Bid Incentive percentage is applied to the Bidder's total base bid and the resulting amount is deducted from the total base bid for Bid evaluation purposes. So, again, if the total base bid is \$1,000,000 and the second applicable Bid incentive is 1%, the Bid Incentive Amount will be \$10,000.
- The Total Bid Incentive Amount would consist of adding the two Bid Incentive Amounts of \$20,000 and \$10,000 for a total of \$30,000. The Evaluated Bid Amount will be \$970,000 for evaluation purposes and would be deemed lower than any competing bid with an Evaluated Bid Amount of \$970,001 or higher.

Again, the application of the Incentives would have no effect on the amount of the contract award, which, in the absence of other circumstances, would remain \$1,000,000.

Incompatible Incentives

Bid Incentive	MCC Section	Incompatible Incentives
1. City-Based Business Bid Incentive (2%)	2-92-412	Cannot be used with the 4% or 6% City-Based Business Incentives or the City-Based Manufacturer Utilization Incentive (##2, 3 and 4)
2. City-Based Business Bid Incentive (4%)	2-92-412	Cannot be used with the 2% or 6% City-Based Business Incentive or the City-Based Manufacture Utilization Incentive (##1, 3 and 4)
3. City-Based Business Bid Incentive (6%)	2-92-412	Cannot be used with the 2% of 4% City-Based Business Incentives or the City-Based Manufacture Utilization Incentive (##1, 2 and 4)
4. City-Based Manufacturer Utilization Bid Incentive (1%, 1.5% or 2%, depending upon level of commitment)	2-92-410	Cannot be used with the 2%, 4%, or 6% City-Based Business Incentives or the Project Area Subcontractor Utilization Incentive (##1, 2, 3, and 5)
5. Project Area Subcontractor Utilization (.5%, 1%, 1.5% or 2%, depending upon level of commitment)	2-92-405	Cannot be used with the City-Based Manufacturer Utilization Incentive (#4)
6. SBE/Veteran JV / Veteran-Owned Small Local Business Bid Incentive (5%)	2-92-418 ⁴	Cannot be used with the City-Based Manufacturer Utilization Incentive or the Veteran-Owned Subcontractor Utilization Bid Incentive (##4 and 7)
7. Veteran-Owned Subcontractor Utilization Bid Incentive (.5%, 1%, 1.5% or 2%, depending upon level of commitment)	2-92-407 ⁵	Cannot be used with the City-Based Manufacturer Utilization Incentive or the SBE/Veteran JV / Veteran-Owned Small Local Business Bid Incentive (##4 and 6)

⁴ Effective January 22, 2018, see Section 2-92-950.

⁵ Effective January 22, 2018, see Section 2-92-940.

I. CONSTRUCTION-ONLY RELATED INCENTIVES⁶

Apprentice Utilization Bid Preference⁷

WHAT IS IT? This Bid Incentive is available on contracts for construction projects valued at \$100,000 or more and is designed as an incentive for City prime contractors to sponsor and utilize certain *apprentices* for construction projects.

WHO IS ELIGIBLE FOR THIS INCENTIVE? A union must have authorized your construction business to sponsor apprentices, the apprentices must be Chicago Public Schools high school graduates, or either enrolled at or graduates of a construction training program administered by the City Colleges of Chicago, and the apprenticeship training program must be registered with the U.S. Department of Labor or approved or recognized by the State of Illinois.

HOW DOES IT WORK? To benefit from the Bid Incentive, the Bidder must commit to a specific percentage of total *labor hours* to be performed by eligible apprentices on the construction project contract.

- A commitment to 5-10% of total *labor hours* earns an incentive worth ½% of the *contract base bid*;
- a commitment of 11-15% earns an incentive worth 1% of the *contract base bid*.

Note that “*labor hours*” specifically exclude hours worked by non-working foremen, superintendents, owners and workers who are not subject to prevailing wage requirements.

At contract close-out, the contractor must have met its apprentice utilization goals. If it has, the CPO will issue the contractor an *earned credit certificate* evidencing the *earned credit* allocated to the contractor. Thus, for example, if the Bidder had committed to 7% of total *labor hours* by *Apprentices*, and the contractor has met its 7% commitment, it will have an *earned credit* in the amount of ½%, which may be applied to the total base bid on a future contract.

An earned credit certificate is valid for three years after the date of issuance, during which period the contractor may propose to apply this *earned credit* to any future construction contract bids of equal or greater dollar value than the original total base bid for the contract under which the earned credit was awarded, but may only win one contract award as the result of using it.

A Bidder may apply a credit earned on a prior contract to its Bid and may also propose to use apprentices on that contract to earn a subsequent earned credit. Individuals that are counted for this Bid Incentive cannot be counted for purposes of the Ex-Offender Apprentice Bid Incentive, and vice versa.

HOW DOES A BIDDER APPLY FOR THE INCENTIVE? The Bidder must provide with its Bid the affidavit supplied in the bid package, specifying the percentage of eligible apprentices the Bidder intends to use on the construction project, and such other documents as will demonstrate the Bidder’s eligibility for the Incentive.

WHAT HAPPENS IF THE SUCCESSFUL BIDDER FAILS TO UTILIZE THE COMMITTED PERCENTAGE OF APPRENTICES? A contractor will not be issued an earned credit certificate and may be deemed non-responsible if it does not utilize the committed percentage of apprentices.

⁶ Words or phrases that are defined in the relevant MCC provisions or regulations are set in italics.

⁷ MCC-2-92-335 and Regulations:

www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/Apprentice%20Utilization%20Bid%20Preference.pdf

Equal Employment Opportunity (EEO) Bid Incentive⁸

WHAT IS IT? This Bid Incentive is available on contracts for *construction projects* valued at \$100,000 or more and is designed to increase the utilization of minority and women *journeyworkers, apprentices* and laborers.

WHO IS ELIGIBLE FOR THIS INCENTIVE? Any Bidder proposing to utilize minority and/or women journeyworkers, apprentices, and laborers on a contract for a *construction project* may apply for this Incentive.

HOW DOES IT WORK? Using the following canvassing formula, Bidders are invited to propose minority and woman utilization levels, as a percentage of *journeyworker, apprentice* and laborer work hours on the project. The Bidder should take into account every limiting condition or circumstance that may affect referral, hiring or deployment of construction trades employees, including any limits imposed by the policies or circumstances of labor organizations or other referral sources.

Canvassing Formula

Line 1.	Base bid, in figures	_____
Line 2.	Percentage of the total journeyworker hours that the contractor proposes to be worked by minority journeyworkers during construction of the project. Maximum figure .70.	_____
Line 3.	Multiply line 2 by line 1 by 0.04	_____
Line 4.	Percentage of the total apprentice hours that the contractor proposes to be worked by minority apprentices during construction of the project. Maximum figure .70.	_____
Line 5.	Multiply line 4 by line 1 by 0.03	_____
Line 6.	Percentage of the total laborer hours that the contractor proposes to be worked by minority laborers during construction of the project. Maximum figure .70.	_____
Line 7.	Multiply line 6 by line 1 by .01.	_____
Line 8.	Percentage of the total journeyworker hours that the contractor proposes to be worked by female journeyworkers during construction of the project. Maximum figure .15.	_____
Line 9.	Multiply line 8 by line 1 by 0.04.	_____
Line 10.	Percentage of the total apprentice hours that the contractor proposes to be worked by female apprentices during construction of the project. Maximum figure .15.	_____
Line 11.	Multiply line 10 by line 1 by 0.03.	_____
Line 12.	Percentage of the total laborer hours that the contractor proposes to be worked by female laborers during construction of the project. Maximum figure .15.	_____
Line 13.	Multiply line 12 by line 1 by 0.01	_____
Line 14.	Summation of lines 3, 5, 7, 9, 11, and 13.	_____
Line 15.	Subtract line 14 from line 1 = award criteria figure.	_____

With respect to minority construction workers in each category, a Bidder will be capped at committing to 70%.

⁸ MCC 2-92-390 and Regulations:

www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/DPSPolicy_EEObidincentive_rev102016.pdf

For female construction workers in each category, the analogous commitment cap is 15%.

The caps set forth above are not intended to deter or restrict the fuller utilization of minority or female employees for the project, but shall only serve as a limiting figure for use in the formula.

In addition, minority and female percentages committed to in the apprentice category will only be counted as fulfilled beginning at 40 hours. For this reason, when a Bidder foresees that this 40-hour minimum amount of apprenticeship is not available, then "0" should be put in lines 4 and 10 as the percentage commitment for apprentices.

The Bidder will be given a 150% credit for every work hour performed by a minority or female worker residing in a socio-economically disadvantaged area (SEDA), as designated by rule from time to time by the Commissioner of Planning and Development (as of the date of these Guidelines shown as Appendix B).

HOW IS THIS INCENTIVE APPLIED? After completing the numerical calculations set forth in the canvassing formula, the final calculation represents the *award criteria figure* (Line 15) by which Bids will be compared and award made in the absence of other applicable Incentives. When other Incentives apply, this Incentive will be applied first, and any other applicable Bid Incentive Amounts will be calculated based on the total base bid and deducted from the *award criteria figure* in order to arrive to the Evaluated Bid Amount.

HOW DOES A BIDDER APPLY FOR THIS INCENTIVE? The Bidder must show its commitment to utilize minority and female workers in any of the three categories by completing the canvassing formula in its Bid.

WHAT HAPPENS IF A SUCCESSFUL BIDDER FALLS SHORT OF THE COMMITMENTS? Upon completion of the work on a *contract*, any *prime contractor* that failed to meet the total commitment made in each category is subject to liquidated damages, which will be withheld from the final payment. The *prime contractor* is prohibited from passing through the liquidated damages to any of its subcontractors absent an explicit, written agreement between the *prime contractor* and the subcontractor with provisions covering responsibility for such EEO damages. These liquidated damages fall into two categories:

- 1) The minimum damages if the CPO determines the Bidder has demonstrated good faith efforts are:
- 2) The increased damages that may apply if the Bidder *substantially fails* to meet its minority percentage

Shortfall category (minorities and females)	Damages for each one percent deficiency
<i>Journeyworkers</i>	Four cents for each hundred dollars of the total base bid
<i>Apprentices</i>	Three cents for each hundred dollars of the total base bid
<i>Laborers</i>	One cent for each hundred dollars of the total base bid

commitments by a deficiency of 20 percentage points or more, and its female percentage commitments by a deficiency of 5 percentage points or more:

Shortfall percentage points	Damages multiplier applied to amount of minimum damages
1-19 (minority); 1-4 (female)	1
20-29 (minority); 5-7 (female)	1.5
30-39 (minority); 8-10 (female)	2
40-49 (minority); 11-12 (female)	2.5

For each instance of *substantial failure*, the contractor may apply for a reduction in the damages multiplier by providing information and documentation that demonstrate its good faith efforts to achieve its EEO commitments. A reduction will be deemed appropriate where a contractor or subcontractor has unsuccessfully solicited a sufficient number of eligible *apprentices, journeyworkers* and/or laborers to perform the work and has documented its efforts to the satisfaction of the CPO. Good faith efforts may also be demonstrated by requesting assistance from and meeting with The Chicago Cook Workforce Partnership, the relevant assist agencies, and the relevant trade unions. Other factors may also be considered.

Bidders having a pattern of *substantial failure* to meet their EEO commitments may also be deemed non-responsible Bidders and thus ineligible to Bid on future contracts. *Substantial failure* to meet EEO Bid Incentives on three or more *contracts* constitutes a pattern. If the CPO makes a determination of non-responsibility and thus ineligibility to Bid on *contracts*, she will notify the contractor of its ineligibility.

Ex-Offender Apprentice Utilization⁹

WHAT IS IT? This Incentive is available on contracts for construction projects valued at \$100,000 or more and is designed to increase the sponsorship and utilization of, and create opportunities for, eligible *ex-offender apprentices*.

WHO IS ELIGIBLE FOR THIS INCENTIVE? The contractor's apprenticeship training program must be authorized by a union to sponsor *apprentices*, and the union's apprenticeship training program must be registered with the US Department of Labor or approved or recognized by the State of Illinois. The *ex-offenders* must be City of Chicago residents who have been convicted of an imprisonable offense under the Illinois Criminal Code or another state's penal statute. The CPO may deem any particular *ex-offenders* inappropriate for a given project based upon the nature of their original offense.

HOW DOES IT WORK? The Bidder must commit to a specific percentage of total *labor hours* to be performed by the eligible apprentices on the construction project.

HOW ARE THE INCENTIVES APPLIED? To benefit from the Bid Incentive, the Bidder makes a commitment that a percentage of total *labor hours* under the contract will be performed by *ex-offenders*:

- If the commitment is 5-10% of total *labor hours*, the Incentive is ½% of the *contract base bid*;
- If the commitment is 11-15% of total *labor hours*, the Incentive is 1% of the *contract base bid*.

Note that "*labor hours*" specifically exclude hours worked by non-working foremen, superintendents, owners and workers who are not subject to prevailing wage requirements.

To benefit from the Bid Incentive, at contract close-out, the contractor must have met its apprentice utilization goals. If it has, the CPO will issue the contractor an *earned credit certificate* evidencing the amount of *earned credit* allocated to the contractor. Thus, for example, if the Bidder has committed to 7% of total *labor hours* by *Ex-Offenders*, and 7% of the labor hours were performed by eligible *ex-offender apprentices*, the Bidder will be granted an *earned credit* in the amount of ½%, which may be applied to the total base bid for a future contract. For a period of three years from the date of the *earned credit certificate*, the contractor may propose to apply this *earned credit* to any future construction contract bids of equal or greater dollar value than the original total base bid for the contract under which the earned credit was awarded, but may only win a contract award using the earned credit once.

A Bidder may propose to apply a credit earned on a prior contract to its Bid and may also propose to use eligible *ex-offender apprentices* on that contract to earn a subsequent earned credit. Individuals that are counted for this Bid Incentive cannot be counted for purposes of the Apprentice Bid Incentive, and vice versa.

HOW DOES A BIDDER APPLY FOR THE INCENTIVE? The Bidder must provide with its Bid the affidavit supplied in the specification, specifying the percentage of eligible *ex-offender apprentices*, and such other documents as will demonstrate Bidder's eligibility for the Incentive.

WHAT HAPPENS IF A SUCCESSFUL BIDDER FAILS TO UTILIZE THE COMMITTED PERCENTAGE OF EX-OFFENDER APPRENTICES? A contractor will not be issued an earned credit certificate, and may be deemed non-responsible, if it fails to utilize the committed percentage of *ex-offender apprentices*.

⁹ MCC 2-92-366

Project-Area Subcontractor Utilization Bid Incentive¹⁰

WHAT IS IT? This Incentive applies to construction contracts and is designed as an incentive for City prime contractors to utilize project-area subcontractors for construction projects.

WHO IS ELIGIBLE FOR THIS INCENTIVE? Any Bidder may seek to obtain this Incentive.

HOW DOES IT WORK? To benefit from the Incentive, the Bidder must commit to a specific percentage of total contract value¹¹ to be performed by *project area subcontractors*. A *project area subcontractor* cannot be the Bidder and is a subcontractor that:

- (i) conducts meaningful day-to-day business operations at a facility located within that part of the City designated as the project area in the information for bidders issued by the City and that facility is the place of employment for the majority of the subcontractor regular, full-time workforce;
- (ii) holds all appropriate city licenses;
- (iii) is a *small business enterprise* as defined by the U.S. Small Business Administration, pursuant to the business size standards found in 13 C.F.R. Part 121, relevant to the scope of work the business seeks to perform on City contracts and in any City fiscal year its gross receipts, averaged over the firm's previous five fiscal years, have not exceeded the size standards of 13 C.F.R. Part 121; and
- (iv) is subject to applicable City taxes.

HOW IS THE INCENTIVE APPLIED? The Bid Incentive depends on the total value of work the Bidder commits will be performed by project-area subcontractors, as a percentage of the total contract value:

- If the commitment is 1 to 16%, the Incentive is 0.5% of the contract base bid;
- If the commitment is 17 to 32%, the Incentive is 1% of the contract base bid;
- If the commitment is 33 to 49%, the Incentive is 1.5% of the contract base bid; and
- If the commitment is 50% or greater, the Incentive is 2% of the contract base bid.

HOW DOES A BIDDER APPLY FOR IT? The Bidder must provide with its Bid the affidavit supplied in the bid documents and such other documents as will demonstrate Bidder's eligibility for the Incentive.

WHAT HAPPENS IF THE ACTUAL PERCENTAGE AT CLOSE-OUT IS LESS THAN THE COMMITTED PERCENTAGE THAT PROPOSED WITH THE BID? A contractor granted this Incentive may be fined by the CPO in the amount of three times the Bid Incentive Amount allocated, and may be deemed non-responsible, if the actual percentage at close-out is less than the percentage committed in its bid.

¹⁰ MCC 2-92-405 and Regulations

https://www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/060117_CityBasedSubRules.pdf

¹¹ The terms "total contract value" or "total dollar contract amount" mean the total dollar amount due from the City to a contractor under a contract without taking into account any deductions or set offs to which the City may be entitled.

Veteran Subcontractor Utilization¹²

WHAT IS IT? This Bid Incentive applies to contracts for construction projects and is designed to encourage the utilization of *veteran-owned subcontractors* in the performance of the contract.

WHO IS ELIGIBLE FOR THIS INCENTIVE? Bidders may receive this Incentive if one or more of its subcontractors is a *veteran-owned subcontractor*, holds all appropriate City licenses, and is subject to applicable City taxes. If a *veteran-owned subcontractor* subcontracts part of its work to another contractor, only the value of the work performed by the *veteran-owned subcontractor* counts towards the Bid Incentive unless the sub-subcontractor is also a *veteran-owned subcontractor*.

The Bidder itself, as the prime contractor, is not eligible for this Incentive even if it is a *veteran-owned small local business* (it may qualify for the Veteran Owned Small Local Business and Small Business Enterprise (SBE)/Veteran Owned Business Enterprise Joint Venture Incentive, instead). If the Bidder receives the Veteran Subcontractor Utilization Incentive, it cannot receive City-Based Manufacturer Utilization Bid Incentive in the same contract bid. In addition, if the Bidder receives the Veteran Subcontractor Utilization Incentive, it cannot also receive the Veteran Owned Small Local Business and Small Business Enterprise (SBE)/Veteran Owned Business Enterprise Joint Venture Incentive and vice versa.

HOW DOES IT WORK? The CPO will allocate to any qualified Bidder a Bid Incentive of up to two percent (2%) of the total base bid for committing to the utilization of *veteran-owned subcontractors* in the performance of the contract, based on the total dollar value of work performed by *veteran-owned subcontractors* as a percentage of the total contract value.

HOW IS THE INCENTIVE APPLIED? The Bidder may earn one of the following Bid Incentives depending upon the Bidder's commitment to the use of *veteran-owned subcontractors* in the performance of the contract:

- If the commitment is 1 to 16%, the Incentive is 0.5% of the of the contract base bid;
- If the commitment is 17 to 32%, the Incentive is 1 % of the contract base bid;
- If the commitment is 33 to 49%, the Incentive is 1.5% of the contract base bid
- If the commitment is 50% or greater, the Incentive is 2 % of the contract base bid.

HOW DOES A BIDDER APPLY FOR IT? The Bidder must submit the *veteran-owned subcontractor's* affidavit with its Bid, along with other supporting documents showing that a subcontractor is a *veteran-owned subcontractor*.

WHAT HAPPENS IF A SUCCESSFUL BIDDER FAILS TO MEET THE COMMITTED UTILIZATION PERCENTAGES BY THE END OF THE CONTRACT TERM? A contractor granted this Incentive may be fined by the CPO in the amount of three times the Bid Incentive Amount allocated and may be deemed non-responsible if it fails to meet the committed utilization percentages.

¹² MCC 2-92-407 (or MCC 2-92-940 as of January 22, 2018) and Regulations
www.cityofchicago.org/content/dam/city/depts/dps/Outreach/8.15.17.DPSRules.VeteranSubcontractor.Incentive.pdf

II. NON-CONSTRUCTION ONLY INCENTIVES

City-Based Manufacturer Utilization (Applicable to Goods)¹³

WHAT IS IT? The *City-Based Manufacturer Utilization* Incentive is available on contracts for goods valued at \$100,000 or more and are designed to increase opportunities for and participation by city-based manufacturers.

WHO IS ELIGIBLE FOR THIS INCENTIVE? Any Bidder committing to use the required percentage of *Locally Manufactured Goods* to earn the Bid Incentive is eligible to receive the Incentive for its Bid for that contract. A Bidder is not eligible for this incentive if it has been allocated a city-based business bid preference or a project-area subcontractor bid preference on the contract.

HOW DOES IT WORK? This Incentive, when applicable, applies only to eligible contracts for the purchase of certain products. *Locally Manufactured Goods* means goods whose value, in the required amount as shown in Appendix A, is derived from growing, producing, processing, assembling, combining or customizing or manufacturing activities that occur within a *City-based manufacturer's* facility located within the City. A person is a *City-based manufacturer* when it holds an applicable City license, is subject to applicable City taxes and owns, operates or leases a manufacturing facility within the City.

HOW IS THE INCENTIVE APPLIED? The amount of the Bid Incentive depends on the percentage of the total value of goods to be supplied under the contract that the Bidder commits will be *Locally Manufactured Goods*:

- If the committed percentage of *Locally Manufactured Goods* represents 25 to 49% of the total value of goods supplied under the contract, the Incentive is 1% of the total base bid;
- If the committed percentage *Locally Manufactured Goods* represents 50 to 74%, the Incentive is 1.5% of the total base bid; and
- If the committed percentage *Locally Manufactured Goods* represents 75% or greater, the Incentive is 2% of the total base bid.

HOW DOES A BIDDER APPLY FOR IT? The Bidder must provide with its Bid the affidavit supplied in the bid documents and such other documents as will demonstrate Bidder's eligibility for the Incentive.

WHAT HAPPENS IF A CONTRACTOR DOES NOT SUPPLY THE PERCENTAGE OF LOCALLY MANUFACTURED GOODS THAT RESULTED IN OBTAINING THE INCENTIVE? A contractor granted this Incentive may be fined by the CPO in the amount of three times the amount of the difference between the Bid Incentive Amount allocated and the Bid Incentive amount, if any, that would have been allocated for the amount of *Locally Manufactured Goods* actually supplied under the contract.

¹³ MCC 2-92-410 and Regulations

www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/060117_CityBasedSubRules.pdf

III. INCENTIVES APPLICABLE BOTH TO CONSTRUCTION AND NON-CONSTRUCTION CONTRACTS

Mentor/Protégé Program Incentive¹⁴

WHAT IS IT? This Incentive is designed to increase participation and capacity of minority-owned business enterprises (MBE) and women-owned business enterprises (WBE) in City contracting by making MBE/WBE utilization and mentoring eligible for credit toward MBE/WBE goals on a City contract and offering a Bid Incentive to prime contractors for such utilization and mentoring.

HOW DOES IT WORK? A Bid Incentive of 1% is available on contracts valued at \$100,000 or more, and will apply to the contract base bid if (1) the Bidder or its subcontractor(s) have entered into a mentoring agreement with MBEs and/or WBEs, (2) at least 1% of the total contract value is committed to be self-performed by the MBE/WBE protégé(s), whether as subcontractor of the Bidder or as sub-subcontractor, and (3) complies with the terms of the mentoring agreement(s).

In addition, and subject to the above conditions, the prime contractor may earn an additional 0.5 percent participation (0.5%) credit towards its MBE/WBE goals on a contract for every one (1) percent of the value of the contract self-performed by MBEs or WBEs, or combination thereof, that have entered into a mentoring agreement or subcontractor-to-subcontractor mentoring agreement. The maximum additional participation credit a contractor can earn is 5%.

The mentoring agreement is subject to approval by the CPO and must be designed to develop the capacity of the MBE/WBE protégé firms and allow them to become self-sufficient, competitive, and profitable business enterprises. The regulations specify other requirements for such plans.

HOW DOES A BIDDER APPLY FOR THIS INCENTIVE? The Bidder must submit its Schedule D with its Bid and indicate in its Schedule D that is seeking to receive the credit and the Incentive. The Schedule D must identify the contractor/mentor or, if applicable, the subcontractor/mentor and the protégé firm. A copy of the proposed mentoring program agreement duly executed by the parties must also be included with the Bid and attached to the Schedule D. Other additional documentation as the CPO deems necessary to verify that a bidder qualifies, or continues to qualify, for the bid preference may be required.

HOW IS THE INCENTIVE APPLIED? The Bid Incentive is 1% of the total base bid. The Bidder may also be granted an additional 0.5% participation credit for every 1% of the total contract value self-performed by MBEs or WBEs, or combination thereof, that have entered into a mentoring agreement or subcontractor-to-subcontractor mentoring agreement. This credit is capped at 5% additional utilization credit.

If the protégé being utilized on the contract is an MBE, the additional credit applies only to the prime contractor's MBE utilization commitment; likewise, if the protégé is a WBE, the additional credit applies only to the prime contractor's WBE utilization commitment for the contract.

WHAT HAPPENS IF THE PROTÉGÉ FAILS TO COMPLETE THE PROGRAM OR THE MENTORING OR PERFORMANCE COMMITMENTS ARE NOT MET? If the mentor terminates the mentor/protégé

¹⁴ MCC 2-92-535 and Regulations

www.cityofchicago.org/content/dam/city/depts/dps/Outreach/8.14.17.DPSRules.MentorProtege.pdf

agreement, the prime contractor will receive no credit towards its MBE/WBE goals and must make good faith efforts to make up the credit lost. If the protégé voluntarily terminates its participation in the program, the prime contractor may continue to count the credit it would have received had the mentoring plan been completed as well as retain the Bid Incentive. If the mentor voluntarily terminates the protégé agreement for which a Bid Incentive was given or there is a failure to comply with the requirements for the Bid Incentive, the CPO may impose a fine in an amount equal to three times the amount of the bid preference allocated, and may be deemed non-responsible, if she determines lack of good faith efforts by the prime contractor to meet its commitments occurred.

If the CPO determines that the prime contractor/mentor has failed to make good faith efforts to meet its mentoring commitments in its own mentoring capacity or through the use of a subcontractor-to-subcontractor mentoring agreement in the performance of the contract, the CPO may also assess liquidated damages against the prime contractor/mentor in the amount of the discrepancy between the amount of the commitment and the achieved amount. The City may collect the liquidated damages by withholding the amount from the final payment due under the contract. The prime contractor/mentor cannot withhold the liquidated damages from any payment(s) due to the subcontractor mentor or the protégé firm. The CPO may elect not to impose sanctions if, in the CPO's sole discretion, the prime contractor/mentor or, if applicable, its subcontractor/mentor's failure to comply with its commitments to the mentoring program were due to circumstances beyond its reasonable control or, if applicable, subcontractor/mentor's reasonable control.

Alternatively Powered Vehicles¹⁵

WHAT IS IT? This Incentive is available on contracts valued at \$100,000 or more and is designed as an incentive for City vendors to use alternatively powered vehicles in their business fleet.

WHO IS ELIGIBLE FOR THIS INCENTIVE? Your business is eligible if it is located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in Illinois (the “Six County Region”), and as to your business, 1) the majority of the business’ *fleet* (a *fleet* consists of at least 10 vehicles) is located and used within the Six County Region, and 2) a majority of those *vehicles* located and used within the Six County Region are *alternatively powered vehicles*. Alternatively powered vehicles are fueled by alternative fuel including, but not limited to, natural gas, liquefied petroleum gas, hydrogen, ethanol E85, and electricity.

HOW DOES IT WORK? To benefit from this Bid Incentive, your business must meet the eligibility standards as described above.

HOW IS THE INCENTIVE APPLIED? An eligible Bidder will receive an Incentive of ½% of the contract base bid.

WHAT DOES A BIDDER NEED TO DO TO APPLY FOR IT? A Bidder must include with its Bid or Proposal an affidavit and other supporting documents demonstrating that the Bidder/Proposer satisfies all pertinent requirements as an eligible business. You must maintain adequate records necessary to monitor compliance and submit such reports as the CPO requires. In addition, you must grant full access to your records and those of your subcontractors to the CPO, the inspector general, or any of their duly authorized representatives. You must maintain such records for a period of 7 years after final acceptance of the work.

WHAT HAPPENS IF A CONTRACTOR’S STATUS AS AN ELIGIBLE BUSINESS CHANGES BEFORE THE END OF THE CONTRACT TERM? Any eligible business that received a Bid Incentive but lost eligibility at any time during the Contract Term may be fined by the CPO in the amount of three times the Bid Incentive Amount allocated, and may be deemed non-responsible.

¹⁵ MCC 2-92-413 and Regulations

www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/AlternativelyPoweredVehicles100314.pdf

Business Enterprises Owned or Operated by Persons with Disabilities (BEPD) Bid Incentive¹⁶

WHAT IS IT? This Incentive is based upon the commitment to utilize a BEPD as the prime contractor or as a subcontractor in the performance of the contract and is designed to increase contracting opportunities and participation by business enterprises owned or operated by people with disabilities.

WHO IS ELIGIBLE FOR THIS INCENTIVE? To be eligible for the Incentive as a prime contractor, the Bidder must be a BEPD, or if not, commit to utilize BEPDs as subcontractors. To obtain credit as a prime contractor, a Bidder must be: (1) A business certified by the State of Illinois as a service-disabled veteran-owned small business under 30 ILCS 500/45-57; or (2) have received certification as a BEPD by the Department of Procurement Services in advance of the Bid/Proposal. To be certified as a BEPD, it must be an entity or individual that is certified by the CPO or a certifying agency in accordance with Section 2-92-495 of the MCC as meeting one of the following criteria:

- (i) a for-profit legal entity that is owned (directly, indirectly or beneficially) 51% 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 equal to or greater than the federal minimum wage and not on a piecework basis, and a) whose management of daily business operations is controlled by one or more individuals with *disabilities*, and 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.

In addition, to be certified as a BEPD, an entity must not be an established business based on the size standards set forth in Section 2-92-420 of the Municipal Code. Likewise, if eligibility of the Bidder is based on the status of its subcontractor(s) as BEPD(s), the subcontractor(s) must be so certified.

For purposes of this Incentive, a “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 U.S.C. 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.

HOW DOES IT WORK? To benefit from the Bid Incentive, the Bidder must make a commitment to utilize BEPDs in the performance of the contract representing a percentage of the total contract value either as the prime contractor or through BEPD subcontractors.

¹⁶ MCC 2-92-337

HOW IS THE INCENTIVE APPLIED? Based upon the level of commitment, the available incentives are as follows:

- If the commitment is 2-5%, the Incentive is 1% of the *contract base bid*;
- If the commitment is 6-9%, the Incentive is 2% of the *contract base bid*;
- If the commitment is 10-13%, the Incentive is 3% of the *contract base bid*;
- If the commitment is 14% or more, the Incentive is 4% of the *contract base bid*.

HOW DOES A BIDDER APPLY FOR IT? The Bidder must submit BEPD certification letters and an affidavit affirming the status of itself and/or its subcontractors as BEPDs and committing to the proposed percentages of work to be performed by BEPDs.

WHAT HAPPENS IF A SUCCESSFUL BIDDER FAILS TO ACHIEVE ITS COMMITMENT BY THE END OF THE CONTRACT TERM? A contractor granted this Incentive may be fined by the CPO in the amount of three times the Bid Incentive Amount allocated, and may be deemed non-responsible, if it fails to achieve the commitments made in its bid.

City-Based Businesses Bid Incentive (3 categories)¹⁷

WHAT IS IT? The Incentives for *City-based businesses* are available on contracts with a value of \$100,000 or more and are designed to increase contracting opportunities for city-based businesses.

WHAT IS A CITY-BASED BUSINESS? A business is a *city-based business* if (1) it conducts meaningful day to day business operations in a facility located within the City, (2) that facility employs the majority of its regular, full time workforce, (3) it holds all required City licenses, and (4) it is subject to applicable City taxes.

HOW DOES IT WORK? There are three different Incentives for city-based businesses, none of which can be applied concurrently with the City-Based Manufacturer Incentive, and which are not cumulative. Only one of the City-Based Business Incentives can be applied on any given contract.

HOW ARE THE INCENTIVES APPLIED?

- A **2%** Incentive is granted if the prime contractor is a city-based business.
- A **4%** Incentive is granted if the majority of the city-based business's employees are also *City resident employees*.

Except for construction contracts, your employee is a *City resident employee* when he or she resides in the City and is employed by your company in a permanent full time position.

In construction contracts, an employee that would otherwise be considered a *City resident employee* will not be counted towards achieving such majority if any of his or her work is counted toward the satisfaction of the City and project area resident requirements found in Section 2-92-330 of the MCC.

- A **6%** Incentive is granted if the city-based business would qualify for the 4% Incentive described above, and the majority of the *City resident employees*, as described above, reside within socio-economically disadvantaged areas (SEDAs).

HOW DOES A BIDDER APPLY FOR IT? To apply for the application of any of the Incentives for city-based businesses, the Bidder must submit at the time of the Bid the City-Based Business Affidavit included in the bid package, as well as the following documentation:

- All City licenses;
- Proof of good standing with the Secretary of State; and
- Proof of payment of all applicable City Taxes; plus

If applying for the 4% Incentive, the Bidder must also submit:

- Certified payroll reports (or payroll records if certified reports are unavailable) including employee name, title, and address for the city-based business's regular full time work force ; plus

If applying for the 6% Incentive, the Bidder must also submit:

- Documentation evidencing which employees reside in SEDAs¹⁸ of the City.

WHAT HAPPENS IF A CONTRACTOR'S STATUS AS A CITY-BASED BUSINESS OR THAT OF ITS

¹⁷ MCC 2-92-412 and Regulations

www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/060117_CityBasedSubRules.pdf

¹⁸ See Appendix B.

EMPLOYEES CHANGES BEFORE THE END OF THE CONTRACT TERM? The contractor granted this Incentive may be fined by the CPO in the amount of three times the Bid Incentive Amount allocated, and may be deemed non-responsible, if its or its employees' status changes before the end of the contract term.

Veteran-Owned/Small Business Enterprise (SBE)/ Joint Venture (JV) + Veteran-Owned Small Local Business Bid Incentive¹⁹

WHAT IS IT? This Incentive applies to contracts with a value of \$100,000 or more and is designed to increase contracting opportunities for Veteran-owned Business Enterprises and Small Businesses. It is available to *small-local veteran-owned business enterprises (VBEs) and eligible joint ventures*, consisting of one or more *small local business enterprises (SBEs)*, as defined in 2-92-670 of the MCC, in combination with one or more *veteran-owned business enterprises*.

WHO IS ELIGIBLE FOR THIS INCENTIVE? It is if the Bidder is:

- a for-profit joint venture consisting of one or more *SBEs* in combination with one or more *veteran-owned business enterprises* under a written agreement in which each joint venturer contributes property, capital, efforts, skill and knowledge; or
- a *veteran-owned small local business enterprise*, meaning a veteran-owned business enterprise which is also a small local business enterprise. Effective January 22, 2018, veteran-owned small local businesses must be certified by the City.

A *veteran-owned business enterprise* is an enterprise which is : 1) at least 51% owned and controlled by one or more honorably discharged or separated veterans of the U. S. armed forces or, in the case of a publicly held corporation, at least 51% of all classes of the stock of which is owned by one or more such veterans, whose management, policies, major decisions and daily business operations are independently managed and controlled by one or more such 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* under 30 ILCS 500/45-57.

To be eligible for the Incentive as a 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; (4) all veteran-owned business enterprise partners must collectively have a 30% or more interest in the joint venture; (5) the joint venture must self-perform at least 20% of the work on the contract; and (6) none of the joint venture's partners may act as a broker.

To be eligible for the Incentive as a VBE, the VBE must not act as a broker and must self-perform at least 20% of the work on the contract.

HOW DOES IT WORK? The CPO will allocate a Bid Incentive of 5% of the *contract base bid* to eligible Bidders.

WHAT IF AN SBE JOINT VENTURE PARTNER OR VBE IS ALSO AN MBE/WBE? If an SBE partner of an eligible joint venture is also an MBE/WBE, all work actually performed by such SBE partner as a subcontractor may be counted towards the MBE/WBE participation goals on the contract, but will not count

¹⁹ MCC 2-92-418 (as of January 22, 2018, MCC 2-92-950) and Regulations
www.cityofchicago.org/content/dam/city/depts/dps/Outreach/8.15.17.DPSRules.VeteranSmallBusiness.Incentive.pdf

towards the self-performance requirement referenced above. The percentage of work performed by such SBE partner for the joint venture as a joint venture partner, and not as a subcontractor, will count towards the self-performance requirement and also may be counted towards the MBE/WBE participation goals on the contract. If a veteran-owned small local business is also an MBE/WBE, it cannot count its participation on the contract toward MBE/WBE goals.

HOW DOES A BIDDER APPLY FOR IT? A Bidder must include with its Bid submission relevant affidavit(s) included in the bid package and such other documents as will demonstrate Bidder's eligibility for the Incentives. The CPO may require additional documentation, information, and/or site visit interviews to verify that a Bidder qualifies, or continues to qualify, for the Bid Incentive.

WHAT HAPPENS IF THE CONTRACTOR'S STATUS AS AN ELIGIBLE BIDDER CHANGES BEFORE THE END OF THE CONTRACT TERM? A Bidder that received this Bid Incentive must maintain its status as an *eligible joint venture* or *VBE* throughout the Contract Term. However, if an SBE partner of an eligible joint venture or a VBE exceeds the applicable size standard during the term of a contract, such eligible joint venture or VBE shall continue to be eligible for the duration of the contract and no fine will be imposed.

If an SBE partner or a veteran-owned business enterprise partner of an eligible joint venture or a VBE undergoes a change in ownership such that it is no longer eligible as an SBE, veteran-owned business enterprise, or VBE during the term of a contract, such joint venture ceases to be an eligible joint venture, or such veteran-owned small local business ceases to be a VBE, and it may be fined in an amount equal to three times the amount of the bid incentive awarded.

Bid Incentive to Encourage MBE/WBE Participation²⁰

WHAT IS IT? This Incentive is designed to encourage participation of MBEs and WBEs on contracts when it is not feasible to assign participation goals.

HOW DOES A FIRM BECOME ELIGIBLE FOR THIS INCENTIVE? A Bidder on a contract which has no assigned contract goals must commit to utilize (i) MBE or WBE subcontractors in the performance of the contract, or (ii) MBE or WBE firms other than as a subcontractor during the performance of the contract.

For a Bidder to qualify for this Incentive through the use of MBE or WBE subcontractors (direct participation), the MBE or WBE subcontractors do not need to be certified in the area of specialty in which they are performing on the contract if: (i) the MBE or WBE subcontractors are certified in at least one area of specialty; and (ii) the Bidder has entered into a written mentor-protégé agreement approved by the chief procurement officer with such MBE or WBE subcontractors to develop their capacity in becoming self-sufficient, competitive and profitable business enterprises.

For a Bidder to qualify for this Incentive through the use of MBE or WBE firms other than as a subcontractor (indirect participation), the MBE or WBE firms must be certified by the City of Chicago or Cook County in the area of specialty in which they are used during the performance of the contract.

HOW DOES IT WORK? To benefit from the Incentive, the Bidder must commit to a specific percentage of total contract value to be performed by MBEs or WBEs.

HOW IS THE INCENTIVE APPLIED? The Bid Incentive depends on the total value of work the Bidder commits will be performed by MBEs or WBEs, as a percentage of the total contract value:

- If the commitment is 5%, the Incentive is 0.75% of the contract base bid;
- If the commitment is 10%, the Incentive is 1% of the contract base bid;
- If the commitment is 15%, the Incentive is 1.25% of the contract base bid;
- If the commitment is 20%, the Incentive is 1.5% of the contract base bid;
- If the commitment is 25%, the Incentive is 1.75% of the contract base bid; and
- If the commitment is 30%, the Incentive is 2% of the contract base bid.

HOW DOES A BIDDER APPLY FOR IT? The Bidder must submit its Schedule D with its Bid and indicate in its Schedule D that is seeking to receive the Incentive. The Schedule D must identify the MBE and/or WBE firms the Bidder intends to utilize. The Bidder must additionally submit Schedule Cs completed by each MBE and/or WBE firm it intends to utilize with its Bid.

WHAT HAPPENS IF A SUCCESSFUL BIDDER FAILS TO MEET THE COMMITTED UTILIZATION PERCENTAGES BY THE END OF THE CONTRACT TERM? A contractor who is granted this Incentive will be fined an amount equal to three times the amount of the Incentive allocated, unless the contractor can demonstrate that due to circumstances beyond its control, the contractor for good cause was unable to retain the percentage of MBE or WBE firms throughout the duration of the contract period.

²⁰ MCC 2-92-525

IV. INCENTIVES APPLICABLE TO NON-BID PROCUREMENTS

Competitively Solicited Non-Bid Procurements

The Incentives available to Bidders in competitively bid solicitations may also be available to Proposers in eligible competitive solicitations where price is just one among a number of evaluation factors (Request For Proposals or RFPs). The applicability and effect of any particular Incentive to Proposals to be submitted in response to an RFP will be determined by the CPO on a case-by-case basis depending on the nature of the contract contemplated by the RFP, the services, work and commodities to be provided, the difficulty of applying the Incentive, and other factors that the CPO deems relevant. Any Incentives that the CPO determines are appropriate for the solicitation will be included in the RFP. Generally speaking, some Incentives only applicable to Bids for construction contracts or contracts for goods may be difficult or impossible to implement in other type of procurements.

The process, factors, and incompatibilities affecting the applicability of a particular Incentive deemed appropriate by the CPO for an RFP to a Proposal submitted by a Proposer in response to the RFP would generally be the same as those applying to Bid procurements as described in these Guidelines except for how the percentage of the Incentive is factored into the evaluation of the Proposal. As is the case for Bid procurements, the Incentives can be applied cumulatively on Proposals except where the Incentives are incompatible as described above under the caption "Cumulative Use of Bid Incentives".

Generally, with respect to a Proposal for an eligible contract, the Incentive, if applicable, or Incentives if more than one are applicable, would each be applied to the total initial numerical evaluated score of the Proposal and the resulting amount or amounts added to the total score. So, for instance, if the Proposal has an initial total evaluated score of 400 points, and the Proposal is eligible for a 1% Incentive and a 2% Incentive, the total score of the Proposal after application of each Incentive will be: $400 + 4$ (1% Incentive) $+8$ (2% Incentive), for a total score of 408, which will be utilized for comparison purposes with other Proposals. As with Bids, the Incentive, by itself, does not affect the proposed price contained in the Proposal.

AVAILABLE PROGRAMS

List of Programs

Following is the list of available Programs:

- Small Business Initiative
- Mid-Sized Business Initiative
- Target Market Program
- Diversity Credit Program
- Phased Graduation Program
- Mentor-Protégé Program

Common Elements to Programs

General

In this Guide, the various Programs are grouped by applicability – to construction only, non-construction only, and to both construction and non-construction.

When applicable, at the time of bidding, prior to contract award, or during the contract term, the CPO may require such documentation as the CPO deems necessary to determine that a Bidder or contractor is eligible to participate in the Program. The CPO, or his or her designee, makes a final determination, based on the information received from a Bidder/contractor or otherwise available to the CPO, regarding the applicability of these Programs to the Bidder or contractor. The contractor and its subcontractors must also maintain accurate and detailed books and records necessary to monitor compliance, submit reports to the CPO as required, and grant full access to their records to the CPO, the commissioner of the supervising department, or their representatives. Failure to submit accurate information may result in referral of the matter to the City's Corporation Counsel and/or the City's Inspector General for further action, in addition to any remedies available to the CPO.

Failure to Maintain Eligibility for the Program

A Bidder that has won a contract award which is either identified as part of a Program, or due to the Bidder's participation in a Program, must maintain the factors or status that led to a determination of its eligibility for the particular Program throughout the term or duration of performance of the contract and/or comply with the commitments made pursuant to the Program.

In most but not all cases, where the eligibility factors are not maintained at all times during the Contract Term, or where the Bidder fails to comply with the commitments made pursuant to the Program, the contractor may be subject adverse consequences, including, but not limited to, a finding of non-responsibility or being declared ineligible for further participation in the Program.

IV. CONSTRUCTION ONLY PROGRAMS

Small Business Initiative (SBI) Construction Program²¹

WHAT IS IT? The SBI Program is designed to provide opportunities for small businesses to participate on City-funded construction projects under \$3 million in total cost. *Small local business enterprises* are the exclusive bidders for Construction projects identified as SBI projects. The SBI Program has two tiers:

- SBI I projects are limited to estimated project construction costs between \$2,000,000 and \$3,000,000 and are available to small local firms that do not exceed the SBA size standards set forth in 13 C.F.R. Part 121; and
- SBI II projects are limited to estimated project construction costs of \$2,000,000 or less and are available to firms that do not exceed ½ the SBA size standards set forth in 13 C.F.R. Part 121.

WHO IS ELIGIBLE TO BID ON AN SBI PROJECT? A business must be a *small local business enterprise* (SBE) to participate. In determining whether a firm is eligible, the CPO will consider, among other factors, if the business:

- Has been in business for at least one (1) year;
- Will perform the majority of the work on the construction project with its own forces and/or subcontractors who are also small local business enterprises;
- Is independent, and not an affiliate or subsidiary of any other business;
- Has its principal place of business and the majority of its full-time, regular work force located in the Six-County region identified in Section 2-92-670, as evidenced by location of their employment as reported to federal and state taxing authorities;
- For the SBI I program, 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 the size standards set forth in 13 C.F.R. Part 121;
- For the SBI II program, 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 50% the size standards set forth in 13 C.F.R. Part 121.

Independence of a business is determined solely by the CPO or her designee. The CPO will consider the ability of the SBE 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 as evidence of independence. Recognition of the applicant as a separate and distinct entity by governmental taxing authorities is not dispositive of the applicant's assertion of independence. Independence will be evaluated as of the date the applicant was established through and including the date of application to the SBI.

²¹ MCC 2-92-710 www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/DPSPolicy_SmallBusinessInitiative_011014.pdf

For the SBI I program, because a City-Certified MBE or WBE must also be a small local business enterprise in order to be certified as an MBE or WBE, they will be presumed to meet the definition of a *small local business enterprise* and are eligible to participate.

For the SBI II program, all bidders will be required to submit an affidavit attesting to its eligibility, regardless of certification status. The CPO reserves the right to conduct investigations to determine the accuracy of the information provided in such affidavits.

Businesses which have been determined to be *small local business enterprises* will be required to submit annual affidavits confirming their continued compliance with the eligibility requirements of the SBI Program. These firms will also be subject to an on-going responsibility to inform DPS of any changes in their status in the interim that might affect their compliance with the SBI Program's requirements.

HOW DOES IT WORK? DPS will identify construction projects in the City's Buying Plan, updated each quarter, which will be offered exclusively to *small local business enterprises* through this SBI construction program. The SBI Program is race and gender neutral. Any small business that meets the definition of a small local business enterprise may bid on an SBI project.

WHAT DOES A BIDDER NEED TO DO TO BID ON AN SBI PROJECT? For the SBI I Program, bidders which are certified as an MBE or WBE by the City or Cook County may submit evidence of its certification with its bid. Bidders which are not already determined to be a *small local business enterprise* must submit an affidavit attesting that they meet the definition of *small local business enterprise*.

For the SBI II Program, all bidders must submit an affidavit attesting to their eligibility, regardless of certification status.

The CPO reserves the right to conduct investigations and to request additional documentation, information, and/or site visits to verify that a Bidder is eligible.

WHAT ARE THE REPORTING REQUIREMENTS FOR A SUCCESSFUL BIDDER? A successful Bidder must also complete reports which must be completed at the conclusion of the contract regarding job creation related to the performance of the contract as well as other work force, bottom line and anecdotal evidence of the impact of the SBI construction program on the Bidder. Failure to complete and submit reports as required may result in a bidder being declared ineligible for further participation in the SBI construction program.

WHAT IF THE STATUS OF AN ELIGIBLE FIRM CHANGES DURING THE CONTRACT TERM? If a firm no longer meets the definition of a *small local business enterprise* during the term of a contract, it will be deemed ineligible to participate in future SBI projects.

Mid-Sized Business Initiative (MBI) Construction Program²²

WHAT IS IT? The MBI Program is designed to provide opportunities for mid-sized businesses to exclusively participate on City-funded construction projects with an estimated contract value between \$3 and \$10 million.

WHO IS ELIGIBLE TO BID ON AN MBI PROJECT? A Bidder is eligible if it:

- Is a *mid-sized local business* (MSB);
- Has been in business for at least two (2) years;
- Will perform more than 50% of the work on the construction project with its own forces and/or subcontractors who are mid-sized local business enterprises; and
- Is independent, and not an affiliate or subsidiary of any other business.

A firm is a *mid-sized local business* enterprise if it is a *local business enterprise* that has gross receipts, averaged over its previous five fiscal years, or number of employees, per pay period, averaged over the past 12 months, that do not exceed one and a half times the size standards set forth in 13 C.F.R. Part 121.

A firm is a *local business enterprise* if it has its principal place of business and the majority of its full-time, regular work force located within the Six County Region, as evidenced by location of their employment as reported to federal and state taxing authorities.

Independence of a business is determined solely by the CPO or her designee. The CPO will consider the ability of the MSB 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 as evidence of independence. Recognition of the applicant as a separate and distinct entity by governmental taxing authorities is not dispositive of the applicant's assertion of independence. Independence will be evaluated as of the date the applicant was established through and including the date of application to the MBI.

City-certified MBEs and WBEs, by definition in Section 2-92-670, must also be *small local business enterprises* in order to be certified as an MBE or WBE; therefore, they will be presumed to be eligible for this Program. Firms certified as Disadvantaged Business Enterprises (DBEs) are presumed to meet the definition of a *mid-sized business enterprise*, but must prove they are a *local business enterprise* in order to participate in the MBI Program. Firms that are not certified must submit an affidavit attesting that they are eligible for the MBI Program.

Businesses which 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 the MBI Program. These firms will also be subject to an on-going responsibility to inform DPS of any changes in their status in the interim that might affect their compliance with MBI Program's requirements.

²² MCC 2-92-800 *et seq.*

www.cityofchicago.org/content/dam/city/depts/dps/Outreach/DPSPolicy_MidSizedBusinessInitiative_02212017.pdf

HOW DOES IT WORK? DPS will identify construction projects in the City's Buying Plan, updated each quarter, which will be offered exclusively to *mid-sized local business enterprises* through this MBI construction program. The MBI Program is race and gender neutral. Any mid-sized business that meets the definition of a *mid-sized local business enterprise* may bid on a MBI project.

Bidders that are certified as an MBE or WBE by the City or Cook County must submit evidence of its certification with its bid. Bidders that are certified as a DBE must submit evidence of its certification and evidence that it is a *local business enterprise*. Bidders which are not certified must submit an affidavit attesting that they are eligible for the Program.

The CPO reserves the right to conduct investigations and to request additional documentation, information, and/or site visits to verify that a Bidder is eligible.

WHAT ARE THE REPORTING REQUIREMENTS FOR A SUCCESSFUL BIDDER?

A successful Bidder must complete and submit reports at the conclusion of the contract regarding job creation related to the performance of the contract as well as other work force, bottom line and anecdotal evidence of the impact of the MBI construction program on the Bidder. Failure to complete and submit the required reports may result in a bidder being declared ineligible for further participation in the MBI construction program.

WHAT IF THE STATUS OF AN ELIGIBLE FIRM CHANGES DURING THE CONTRACT TERM? If a firm no longer meets the definition of a *mid-sized local business enterprise* during the term of a contract, it will be deemed ineligible to participate in future MBI projects. If a firm makes fraudulent misrepresentations to the city regarding its MSB status, in addition to other applicable penalties, it shall be declared ineligible to contract or subcontract on additional contracts.

IV. NON-CONSTRUCTION ONLY PROGRAMS

Target Market Program²³

WHAT IS IT? The Target Market Program is designed to provide opportunities for MBEs and WBEs to be the exclusive bidders on City contracts.

WHO IS ELIGIBLE TO BID ON A TARGET MARKET PROJECT? Participation in the Target Market Program is limited to MBEs, WBEs and joint ventures consisting exclusively of MBEs, WBEs or both. The prime contractor on a Target Market contract may subcontract up to 50 percent of the dollar value of the contract to subcontractors who are not MBEs or WBEs.

HOW DOES IT WORK? On an annual basis, the CPO will designate appropriate contracts as Target Market contracts for which MBEs and WBEs will be the exclusive bidders. In making her annual designation of Target Market contracts, the CPO attempts to vary the included procurements so that a variety of goods and services are provided by different MBEs and WBEs. Construction projects may not be bid as Target Market procurements. In order for the City to bid a project as a Target Market procurement, there must be at least three MBE or WBE vendors certified in the area of specialty of the project. MBEs and WBEs remain eligible to bid on contracts which have not been designated as Target Market contracts.

WHAT DOES A BIDDER NEED TO DO TO BID ON A TARGET MARKET PROJECT? Bidders must be certified as an MBE or WBE prior to bidding on a Target Market contract.

WHAT IF THE STATUS OF AN ELIGIBLE FIRM CHANGES DURING THE CONTRACT TERM? If a firm becomes ineligible due to exceeding the size limits for eligible firms during the term of the contract, the firm will be counted as if it were still certified during the term of the contract, and its participation will be credited towards the contract MBE/WBE goals and the City's overall goals; however, the firm will become ineligible to bid on future Target Market projects. If the firm becomes ineligible for any other reason or is decertified during the term of the contract, the firm's work will be credited toward the contract goals, but not the City's overall goals, and the firm will be deemed ineligible to participate on future Target Market contracts.

If the CPO has reason to believe that the firm has made false statements to the City or has knowingly or willingly provided false information regarding the firm's certification status or eligibility for certification, the CPO may refer the matter to the Corporation Counsel and the Inspector General, and may take other such action as the CPO deems appropriate.

²³ MCC 2-92-460

IV. PROGRAMS APPLICABLE TO BOTH CONSTRUCTION AND NON-CONSTRUCTION CONTRACTS

Diversity Credit Program²⁴

WHAT IS IT? The Diversity Credit Program is designed to increase the participation of MBEs and WBEs on private sector contracts (i.e., contracts that are not funded by a governmental entity) by making such participation eligible for credit toward MBE/WBE participation goals on City contracts.

HOW DOES IT WORK? A vendor that utilizes City- or Cook County-certified MBE or WBE firms on private sector contracts may receive credit for that utilization toward MBE/WBE participation goals on a contract awarded by the City. Credits will be awarded by the City's Affirmative Action Advisory Board (the "Board") in accordance with the following criteria:

- Credits will be awarded only for utilization of MBEs and WBEs on private sector contracts which: (i) do not have affirmative action goals mandated by law or contract; or (ii) in the case of non-construction contracts only, do have such goals, and the goals have been exceeded by the firm, but only to the extent that the goals have been exceeded.
- Credit shall be awarded only where the vendor can demonstrate that MBEs and WBEs performed a direct, commercially useful function on the private sector contract, working within the area of specialty of the MBE or WBE as certified by the City or the County. Indirect participation, or participation by the MBE or WBE as a second-tier or lower tier subcontractor, is not eligible for credit.
- One dollar of credit will be issued for every three dollars earned by the MBEs and WBEs on the private sector contract. Credits will be awarded only to the vendor or vendors responsible for directly utilizing the MBE or WBE. If there is more than one such vendor (e.g., the private sector contract was undertaken by a joint venture of two or more vendors), credits will be awarded ratably to avoid duplication.
- In order to qualify for the credit, the MBEs or WBEs for which the credit is being sought must be certified as such by the City or County at the time they are utilized on the private sector contract.
- Credits will expire one year after award by the Board.

HOW DOES A FIRM USE THE CREDITS? A firm which has been awarded credits may indicate with its bid that it intends to use those credits toward MBE/WBE participation goals on the contract, subject to the following:

- The MBEs or WBEs on which the credit is based must still be certified as such at the time of the bid opening for the City contract.
- The maximum amount of credit available on any given City contract is five percent (5%) of the dollar value of that City contract.
- Credits may only be used once.

²⁴ MCC 2-92-440(l), 2-92-530, 2-92-680, 2-92-720(e)

<https://www.cityofchicago.org/content/dam/city/depts/dps/Outreach/8.02.17.DPSRules.DiversityCreditProgram.pdf>

MBE/WBE Phased Graduation Program²⁵

WHAT IS IT? The Phased Graduation Program is designed to maximize diversity in the City's contracting by making *established businesses* eligible for continued participation in the City's MBE/WBE Program for at least three additional years. The Program applies to the MBE/WBE Certification Programs for both construction and non-construction contracts.

HOW DOES IT WORK? The CPO will notify a firm if it has exceeded the gross receipts or employee count size limits for certification and is no longer eligible for certification as an MBE or WBE. Upon the date specified in this notification, the firm will be considered a *participating established business* for a period of three years. During a firm's first year as an *established business*, the firm will receive 75% credit for participation in new City contracts, i.e., for each dollar (\$1.00) paid to such firms, the prime contractor will be credited for seventy-five cents (\$0.75) of participation. For new contracts in the second year the firms will receive 50% credit, and will receive 25% credit during the third year if starting a new contract.

An *established business* is considered to be a *non-participating established business* starting on the three-year anniversary of the effective date specified in the notification letter from the CPO, and shall not be eligible to participate on new contracts as part of the City's MBE and WBE Programs starting on that three-year anniversary date.

A *participating established business* will remain in the City's directory of Certified Firms until it becomes a *non-participating established business*. A *participating established business* must notify the City of any change in its ownership, control, management, officers or financial relationships which may impact on the firm's eligibility for certification in writing within ten (10) business days of such change(s). Failure to communicate such change will constitute grounds for the denial of continued participation in the City's MBE/WBE procurement program, and may result a determination that the firm is ineligible to apply for re-certification for at least three years from the three-year anniversary of the date the firm becomes an *established business*.

An *established business* may apply for re-certification at such time as it has information to show a significant change in its ownership, management, contractual relations, size, or in other functions bearing on its status as an *established business*.

HOW DOES A FIRM EARN CREDIT FOR USING A PARTICIPATING ESTABLISHED BUSINESS? A *participating established business* has an affirmative duty to inform any prime contractors who solicit the *participating established business* as a subcontractor that only a percentage of its business's participation in a City contract may count for the MBE or WBE participation requirement.

If a prime contractor intends to utilize an *established business* on a contract, the percentage of compliance for that *established business* will be counted at the same level throughout the life of that contract. The

²⁵ MCC 2-92-470 and 2-92-725

www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/DPSPolicy_GraduationPhaseOutProgram_071513.pdf,
www.cityofchicago.org/content/dam/city/depts/dps/Outreach/8.14.2017.CertificationRules.Construction.pdf,
www.cityofchicago.org/content/dam/city/depts/dps/Outreach/8.14.2017.Certification.Rules.Non.Construction.pdf

percentage that will be applied throughout the life of the contract is the percentage allowed by Section 2-92-470 of the MCC as of the date the contract is awarded.

For example, if a *participating established business* is entitled to have its participation counted at the 75% level at the start of a contract, then, for the duration of that particular contract, that vendor's participation would be counted at 75% for purposes of applying MBW/WBE credit for that contract, even if the firm becomes eligible to receive 50% credit mid-way through the contract.

If a certified MBE or WBE becomes a *participating established business* after the award of a contract, the firm will be counted as if it were still a certified MBE or WBE for that contract. However, if the *established business* is added to an existing contract after award, its participation would be counted based on the amount allowed as of the date the business is added to that contract, not the date the contract was originally awarded.

Bidders are required to accurately indicate the correct percentage reduction per dollar committed to *participating established businesses* as part of the compliance plan on the Schedule D forms submitted with any bid or proposal. *Participating established businesses* are required to accurately indicate the correct percentage reduction per dollar committed to on any Schedule C submitted to a prime contractor for submittal with a bid or proposal.

Mentor/Protégé Program²⁶

WHAT IS IT? This Program is designed to increase the participation and capacity of minority-owned business enterprises (MBE) and women-owned business enterprises (WBE) in City contracting by making MBE/WBE utilization and mentoring eligible for credit toward MBE/WBE goals on a City contract, and as described in the Mentor/Protégé Program Incentive Section above, offering a Bid Incentive to prime contractors for such utilization and mentoring.

HOW DOES IT WORK? A prime contractor who has entered into a mentor/protégé agreement, or whose subcontractor has entered into a subcontractor to subcontractor mentor/protégé agreement, may earn an additional 0.5 percent participation (0.5%) credit towards its MBE/WBE goals on a contract for every one (1) percent of the value of the contract performed by MBEs or WBEs, or combination thereof, that have entered into such mentoring agreement or subcontractor-to-subcontractor mentoring agreement. The maximum additional participation credit a contractor can earn is 5%.

The mentoring agreement must be approved by the CPO and must be designed to develop the capacity of the MBE/WBE protégé firms and allow them to become self-sufficient, competitive, and profitable business enterprises. The regulations specify other requirements for such plans.

HOW IS THE ADDITIONAL CREDIT EARNED THROUGH THE PROGRAM APPLIED? The Bidder may be granted an additional 0.5% participation credit for every 1% of the total contract value self-performed by MBEs or WBEs, or combination thereof, that have entered into a mentoring agreement or subcontractor-to-subcontractor mentoring agreement. This credit is capped at 5% additional utilization credit.

If the protégé being utilized on the contract is an MBE, the additional credit applies only to the prime contractor's MBE utilization commitment; likewise, if the protégé is a WBE, the additional credit applies only to the prime contractor's WBE utilization commitment for the contract.

The Bidder must submit its Schedule D with its Bid and indicate therein that it is seeking to receive the credit and the Incentive, if applicable. The Schedule D must identify the contractor/mentor or, if applicable, the subcontractor/mentor and the protégé firm. A copy of the proposed mentoring program agreement duly executed by the parties must also be included with the Bid and attached to the Schedule D. Other additional documentation as the CPO deems necessary to verify that a bidder qualifies, or continues to qualify, for the bid preference and additional utilization credit may be required.

WHAT HAPPENS IF THE PROTÉGÉ FAILS TO COMPLETE THE PROGRAM OR THE MENTORING OR PERFORMANCE COMMITMENTS ARE NOT MET? If the mentor terminates the mentor/protégé agreement, the prime contractor will receive no additional credit towards its MBE/WBE goals and must make good faith efforts to make up the credit lost. If the protégé voluntarily terminates its participation in the program, the prime contractor may continue to count the credit it would have received had the mentoring which was to be provided under the mentor/protégé agreement had been completed, as well as retain the Bid Incentive, if applicable. If the mentor voluntarily terminates the protégé agreement for which a Bid Incentive was given or there is a failure to comply with the requirements for the Bid Incentive, the CPO may impose a fine in an amount equal to three times the amount of the bid preference allocated, and may be deemed non-responsible, if she determines lack of good faith efforts by the prime contractor to meet its commitments occurred.

²⁶ MCC 2-92-535 and Regulations

www.cityofchicago.org/content/dam/city/depts/dps/Outreach/8.14.17.DPSRules.MentorProtege.pdf

If the CPO determines that a prime contractor/mentor has failed to make good faith efforts to meet its mentoring commitments in its own mentoring capacity or through the use of a subcontractor-to-subcontractor mentoring agreement in the performance of the contract, the CPO may also assess liquidated damages against the prime contractor/mentor in the amount of the discrepancy between the amount of the commitment and the achieved amount. The City may collect the liquidated damages by withholding the amount from the final payment due under the contract. The prime contractor/mentor cannot withhold the liquidated damages from any payment(s) due to the subcontractor mentor or the protégé firm. The CPO may elect not to impose sanctions if, in the CPO's sole discretion, the prime contractor/mentor's or, if applicable, its subcontractor/mentor's failure to comply with its commitments to the mentoring program were due to circumstances beyond its reasonable control or, if applicable, subcontractor/mentor's reasonable control.

APPENDIX A

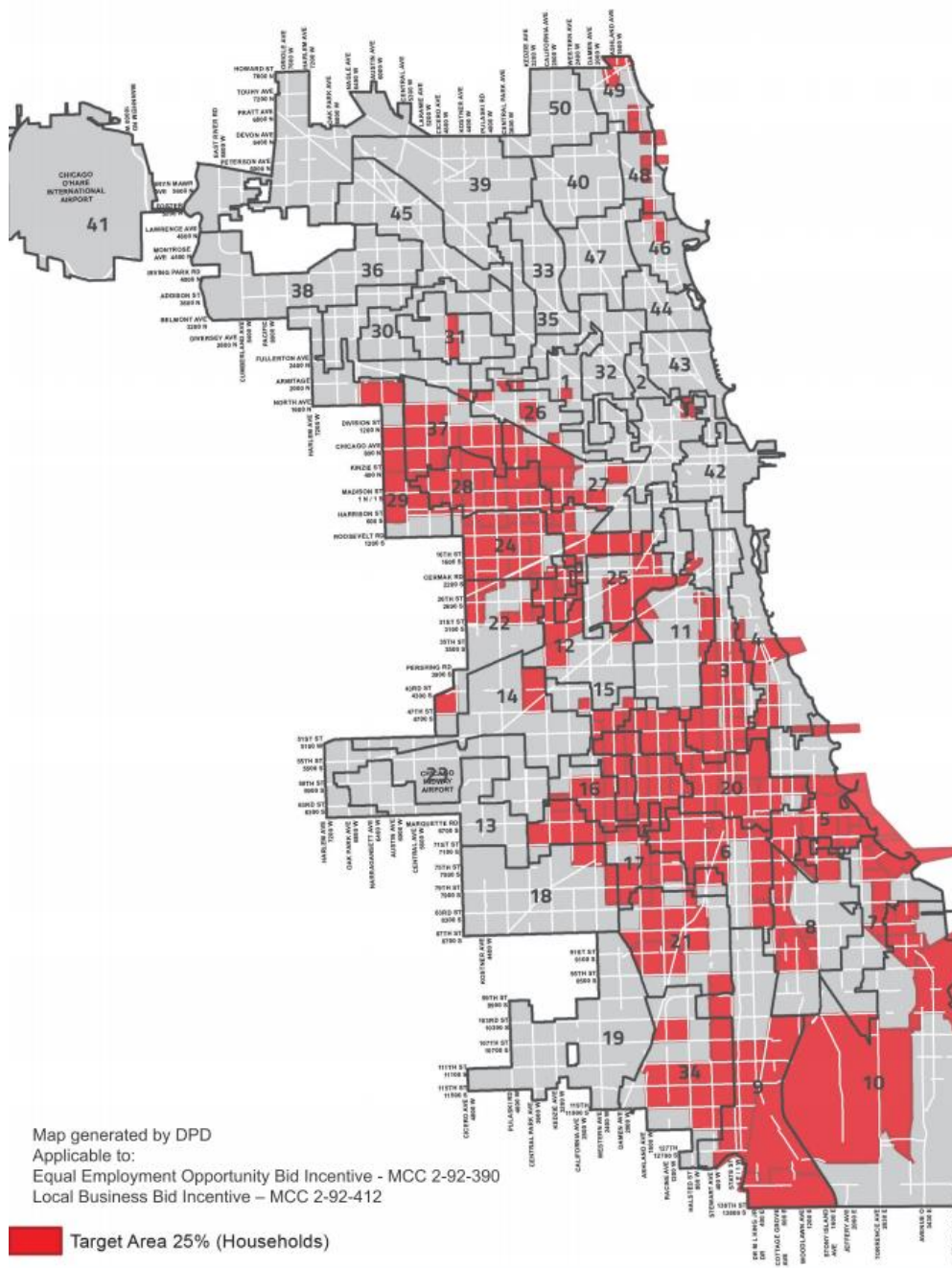
Amount of Value – Locally Manufactured Goods

For a good to qualify as a locally manufactured good, the following value must be derived from manufacturing activities located in the City:

Nature of the Good	Percentage of Unit	Operative Function Performed in City
Agricultural and Construction Equipment	>50% of item as offered for retail sale, regardless of origin of parts	Assembled
Cleaning/janitorial products, paint, and other chemical products	75% of ingredients, by weight or volume, exclusive of packaging	Combined
Clothing, Consumer Equipment, Furnishings, Housewares	>50% of the item as it is offered for retail sale, exclusive of packaging	Assembled
Communications and Safety Equipment	>50% of the item as it is offered for retail sale, regardless of origin of parts	Assembled
Food or Beverage	75% of ingredients, by weight or volume, exclusive of packaging	Combined
Hardware, Machinery Components, Tools	>50% of the item as it is offered for retail sale, exclusive of packaging, OR >75% of the raw material used to make the item	Assembled Combined
Health Care Products	>50% of the item as it is offered for retail sale, exclusive of packaging, OR >75% of the raw material used to make the item	Assembled Combined
Motor Vehicles	>50% of the vehicle, regardless of origin of parts	Assembled
Motor Vehicles Customized After Manufacturer	Regardless of origin of parts, and the vehicle's final dollar value must exceed its pre-customized dollar value by 20% or more	All customization
Office Equipment/Products	>50% of the item as it is offered for retail sale, exclusive of packaging	Assembled

APPENDIX B

Map of Socio-Economically Disadvantaged Areas²⁷



²⁷ www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/ChicagoSocioEconDisadvantagedAreas_map.pdf



Last revised October 2017. Subject to change without notice. Refer to the Municipal Code of Chicago and the City of Chicago website for the most up-to-date ordinances and rules, which take precedence over this Guide.



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