

## **I. Authority and Purpose**

The rules and regulations set forth herein are promulgated pursuant to the authority granted to the Chief Procurement Officer (“CPO”) of the City of Chicago (“City”) pursuant to Section 8-10-16(a) of the Municipal Purchasing Act for Cities of 500,000 or More Population, 65 ILCS 5/8-10-1 *et seq.* (“Purchasing Act”), and Section 2-92-010 of the Municipal Code of Chicago (“Code”).

The purpose of these rules and regulations is to set forth the parameters, policies and procedures for the City of Chicago with respect to the participation of Established Businesses in the City’s MBE/WBE Program pursuant to the new Section 2-92-470 of the Code. Unless otherwise explicitly stated herein, mandatory language is directed at employees of the City of Chicago.

## **II. Priorities**

A. Participation. The reason that DPS provides an open, fair and timely public procurement process is to furnish the people of Chicago with the opportunity to participate in the business of City government. DPS’ commitment to its MBE, WBE, BEPD, DBE, ACDBE, small and local businesses remains of paramount importance.

In order to maximize diversity in the City’s contracting, Established Businesses, i.e., firms for which annual average gross receipts have surpassed the limits stated in Section 2-92-470 of the Code, will remain eligible to receive MBE or WBE credit, albeit at reduced levels, for up to three years beyond the point at which the firms have become Established Businesses.

At any time, should the MBE or WBE firm be able to show evidence that it meets the requirements for eligibility for listing in the City’s directory of certification eligible businesses (“C.E.B.s”), the firm may electronically reapply for certification.

B. Creating Opportunities. During their first year as an Established Business, MBE and WBE firms 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.

Prime contractors must still utilize good faith efforts to achieve the goals stated for their contract. Where a prime contractor submits a compliance plan for a City project utilizing an Established Business, the percentage of compliance will be counted at the same level throughout the life of that contract. For example, if an 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. Accordingly, for each new or subsequent contract, the percentage applied throughout the life of the contract would be that allowed by the ordinance as of the date the contract is awarded. Similarly, if a certified MBE or WBE becomes an Established Business subsequent to award of the contract, the firm will be counted as if it were still a certified MBE or WBE for that contract. Further, 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.

Prime contractors are required to accurately indicate the correct percentage reduction per dollar committed to Established Businesses as part of the prime’s compliance plan on the Schedule D forms submitted with any bid or proposal. 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.

The contract compliance officer must, for a period of three years following a firm becoming an Established Business and no less than 30 days prior to the anniversary date of a firm becoming an Established Business, issue a letter informing the



firm of its status as an Established Business and informing it of the percentage of credit it is eligible to receive for the coming year.

C. Communication. DPS, and most particularly its compliance section, will need to communicate consistently and effectively with the operational departments in the City in order to assist them in reviewing the compliance plans for their contracts and assisting them in meeting their contract goals with the participation of Established Businesses.

### **III. The City's Directory of MBE and WBE Firms**

Pursuant to Section 2-92-490(d) of the Code, DPS maintains an electronic directory of certified C.E.B.s describing the firms by name, business address, classification and type of business. As amended by the ordinance implementing the new Section 2-92-470, this directory will now include participating Established Businesses, i.e., those Established Businesses that remain eligible to receive partial credit for participation in the City's MBE/WBE program.

### **IV. Applicability to Firms That Became Established Businesses Prior to Passage of the Ordinance**

The ordinance applies retroactively to businesses that became established in calendar year 2011. All businesses that became Established Businesses in 2011 are eligible to receive credit applied as follows: using the date of becoming an Established Business as a starting point, for the firm's first year as an Established Business, the firm will receive 75% credit for participation in 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 the second year, as determined by the anniversary date of the firm becoming an Established Business, the firm will receive 50% credit, and will receive 25% credit during the third year as determined by the anniversary date of the firm becoming an Established Business .

### **V. Diversity Credit Program**

Established Businesses will remain eligible for participation in the MBE/WBE program through the City's Diversity Credit Program for the same period of time and at the same levels of credit granted for work performed directly on City projects, which credit is further reduced to one dollar for every three spent, as required by City ordinance. For example, for the firm's first year as an Established Business, the Prime contractors are eligible to receive twenty-five cents (\$0.25) of credit for every dollar earned by the Established Business. (This is calculated as follows: For each dollar (\$1.00) paid to such firms, the prime contractor will be credited for thirty-three cents (\$0.33), pursuant to the Diversity Credit ordinance. That amount is then further reduced by twenty-five percent for a total of twenty five cents (\$0.25) of participation.). In the firm's second year as an Established Business, Prime contractors are eligible to receive seventeen cents (\$0.17) of credit for every dollar earned by the Established Business. (This is calculated as follows: For each dollar (\$1.00) paid to such firms, the prime contractor will be credited for thirty-three cents (\$0.33), pursuant to the Diversity Credit ordinance. That amount is then further reduced by fifty percent for a total of eighteen cents (\$0.18) of participation.). In the firm's third year as an Established Business, Prime contractors are eligible to receive eight cents (\$0.08) of credit for every dollar earned by the Established Business. (This is calculated as follows: For each dollar (\$1.00) paid to such firms, the prime contractor will be credited for thirty-three cents (\$0.33), pursuant to the Diversity Credit ordinance. That amount is then further reduced by seventy-five percent for a total of eight cents (\$0.08) of participation.



