

REGULATIONS OF THE DEPARTMENT OF PROCUREMENT SERVICES
FOR
PERCENTAGES OF CITY AND PROJECT AREA RESIDENTS WORKER HOURS

GENERAL PROVISIONS

Statement of Authority

These regulations are issued pursuant to the following Section of the Municipal Code of Chicago:

Section 2-92-330 of Municipal Code of Chicago establishes a minimum number of hours to be performed by City Residents as well as a minimum number of hours to be performed by Project Area residents. Subsection (a) requires the chief procurement officer to “develop standards and procedures for reducing or waiving these minimum percentages level of Chicagoans work hours for eligible residents when a bidder or contractor can demonstrate the impracticality or excessive cost of complying with these percentage levels for particular contracts or classes of employees.” Subsection (f) authorizes the chief procurement officer to “adopt, promulgate and enforce reasonable rules and regulations pertaining to the administration and enforcement” of the Section.

Subsection (a) provides that for any construction project advertised, or if not advertised, awarded, by the city that has an estimated contract value of \$100,000 or more, and where not otherwise prohibited by federal, state or local law, the total hours worked by persons on the site of the construction project by employees of the contractor and subcontractors shall be performed (i) at least 50 percent by City Residents; and (ii) at least 7.5 percent by Project Area residents. Work hours performed by Project Area residents shall be considered to be work hours performed by City Residents for purposes of calculating the minimum work hour percentage required to be performed by City Residents.

Application and Statement of Purpose

These regulations describe how the ordinance will be administered and enforced, including the right of the chief procurement officer to waive or reduce the residency requirement.

DEFINITIONS

Unless otherwise specified, whenever used in these regulations, the following terms have the following meanings:

“City residents” means persons domiciled within the City of Chicago.

“Contract” means a City funded construction project as defined by Section 2-92-670(e) of the Municipal Code of Chicago.

“Domicile” means an individual's one and only true, fixed and permanent home and principal establishment.

“Eligible residents” means city residents including Project Area residents.

"Project Area residents" means persons domiciled within that part of the city designated as the Project Area in the information for bidders issued by the Department of Procurement Services ("DPS").

“Supervising departments” means those infrastructure departments procuring construction contracts through the Department of Procurement Services under the Municipal Code of Chicago Title 2-92 and the Municipal Purchasing Act 65 ILCS 5/.8-10-1 et. seq.

“Other departments” means those departments procuring construction contracts under their own authority or pursuant to an ordinance passed by City Council.

PROCEDURES

Percentages of City and Project Area residents worker hours

Unless otherwise prohibited by federal, state, or local law, for any construction project advertised, or if not advertised, awarded, by the city that has an estimated contract value of \$100,000 or more, the total hours worked by persons on the site of the construction project by employees of the contractor and subcontractors shall be performed (i) at least 50 percent by City Residents; including (ii) at least 7.5 percent by Project Area residents. Work hours performed by Project Area residents shall be considered to be work hours performed by City Residents for purposes of calculating the minimum work hour percentage required to be performed by city residents.

Purpose and Effect of the requirement

The purpose of the requirement is to provide increased employment opportunities for city residents and residents in the localities surrounding City construction projects and, as a result, will be beneficial to the City's economy by creating jobs and generating revenue that will help stimulate the community that work is being performed in as well as the economy of the City as a whole.

Project Area definition

Project Areas will be defined using the 77 City of Chicago “Community Areas”, as such areas are designated in section 1-14-010 of Municipal Code of Chicago. Prior to requesting that DPS place an advertisement for the project, a department must first make a request to the chief procurement officer for approval of the project area.

For fixed construction projects, the department must plot the project site on to a map of the Community Areas to determine what Community Area the project is in. When the project is close to the border of an area, the department should also identify the adjacent Community Area as part of the Project Area. The department must also include the size, duration, scope of the project and trades involved into its calculations. Project Area hiring for short, small projects would likely be limited to those initial 1 or 2

Project Areas. For larger, longer term projects (i.e. with potentially more job opportunities to fill) departments may look at the appropriateness of expanding the Project Area by adding adjacent Community Areas. A calculation of available resident labor in the community areas must be made to see if the Project Area should be expanded. This calculation may include: zoning information (is the area industrial or are there sufficient residents in the area to support the hiring requirement), local chamber of commerce data, and information on the availability of skilled trades or union members in the area.

For construction projects that cover specific areas of the City (for example North, Central, South), the Project Area shall be the boundaries of the area for the entire contract.

For projects funded by menu money, the project area will be the ward associated with the funding.

For City wide construction projects, the departments should look at the practicality of breaking the project into zones. Where that is not practical, or the work to be performed is of such short duration that the local hire provision may result in the hiring and firing of workers over a very short period of time, the department may request a waiver or reduction of Project Area participation. However, any reduction of Project Area participation shall not have any effect on the overall requirement that the contractor employ City Residents for 50% of the labor hours on the project. The Chief Procurement Officer will then approve the Project Area for inclusion in the bid.

Waiver

Contractors that can demonstrate the impracticality or excessive cost of complying with these percentage levels for particular contracts or classes of employees may apply for a waiver or reduction. A waiver or reduction shall be deemed appropriate if a contractor or subcontractor has unsuccessfully solicited a sufficient number of eligible city residents to perform the work identified in the bid solicitation and has documented such effort to the satisfaction of the chief procurement officer. The Chief Procurement Officer will also consider evidence from a contractor related to retention of long time employees and impracticality of hiring new employees for short term work. The Chief Procurement Officer will consider good faith efforts to meet the residency requirements as appropriate for reducing or waiving the minimum percentages of work hours for City Resident and Project Area resident requirements at the close out of the contract. The contractor must submit sufficient documentation to support any request for a reduction or waiver of the goals.

Waiver or reduction requests for the 7.5% Project Area resident requirements must be submitted separately from any waiver or reduction request for the 50% overall Chicago residency requirement. A waiver or reduction of the project area requirements does not constitute any reduction of the requirement that 50% of the total project hours be performed by city residents unless the Chief Procurement Officer has granted an express waiver of that requirement as well.

Supervising Departments must monitor the work performed by the contractors and subcontractors in order to assure that eligible residents are being utilized on their projects. Supervising Departments must work with DPS to insure that payment information is entered into C2 and certified payroll information is entered into LCPTTracker by their contractors. If C2 and LCPTTracker is superseded, then the

relevant information must be entered into whatever replacement database is current. Once the Supervising Department has made a determination on final quantities and received all documents necessary to close out the contract, that information must be forwarded to DPS for a determination concerning Local Hire (as well as MBE/WBE and EEO compliance).

Other Departments must notify the CPO when a Non-DPS contract has been awarded. It is the responsibility of the Other Departments to monitor the work performed by the contractors and subcontractors in order to assure that eligible residents are being utilized on their projects. It is also the responsibility of Other Departments to close out their contracts and make determinations regarding compliance with 2-92-330 (as well as MBE/WBE participation). Payment information must be entered into C2 and certified payroll information must be entered into LCPTTracker. Once the Other Department has closed out their contract and made a determination regarding compliance, it must notify the chief procurement officer so that the information may be reported to City Council as required.

Penalties

When work is completed, in the event that the city has determined that the contractor failed to ensure the fulfillment of the requirements of this section concerning the worker hours performed by eligible residents or has failed to report in the manner as indicated above, the city will be damaged in the failure to provide the benefit of demonstrable employment to eligible residents to the degree stipulated in this section. Therefore, in such a case of non-compliance, 1/20 of 1 percent (.05%), 0.0005, of the approved contract value for this contract shall be surrendered by the contractor to the city in payment for each percentage of shortfall toward the stipulated residency requirement.

Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no eligible residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the contractor or subcontractors or employee to prosecution.

Any retainage to cover contract performance that may become due to the contractor pursuant to Section 2-92-250 of the municipal code of Chicago may be withheld by the city pending the Chief Procurement Officer's determination whether the contractor must surrender damages.

Final Decision

The Chief Procurement Officer or her designee shall make the final determination regarding the establishment of a project area or waiver or reduction of any of the goals set forth in this ordinance.