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# CITY OF CHICAGO

## RULES

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### **SMALL BUSINESS INITIATIVE (SBI) CONSTRUCTION PROGRAM**

UNDER 2-92-680 AND 2-92-710

LAST UPDATED: January 6, 2022



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Mayor Lori E. Lightfoot

Chief Procurement Officer Aileen Velazquez

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BY AUTHORITY VESTED IN THE CHIEF PROCUREMENT OFFICER FOR THE DEPARTMENT OF PROCUREMENT SERVICES PURSUANT TO 2-92-680 and 2-92-710, THE FOLLOWING RULES REGARDING THE **SMALL BUSINESS INITIATIVE (SBI) CONSTRUCTION PROGRAM** ARE ADOPTED HEREIN.

By Order of the Commissioner:

Signed:  \_\_\_\_\_  
Chief Procurement Officer

Date: 1/6/2022

Effective: January 1, 2022

The Small Business Initiative (SBI) is designed to increase the opportunities that small businesses have to do business with the City of Chicago. This policy statement for construction projects, which is a part of the SBI, institutes a program for small business enterprises to be exclusive bidders on certain construction projects pursuant to Section 2-92-680 and Section 2-92-710 of the Municipal Code of Chicago.

In response to feedback from the vendor community, the program has been divided into two tiers, SBI I and SBI II. This tiered system establishes standards that allow greater opportunities for smaller businesses.

## **I. Eligibility.**

A. To qualify for this construction program, a business must be a small local business enterprise. In making a determination whether a business meets that definition, the Chief Procurement Officer will consider, among other factors, whether the business:

- Will perform at least 51% of the work on the construction project with its own forces or in conjunction with subcontractors who are also small local business enterprises;
- Is independent
- Has its principal place of business 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; and
- 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 1.5 times the size standards set forth in 13 C.F.R. Part 121; and
  - is at least 51% owned by one or more persons whose individual personal net worth does not exceed 1.5 times the personal net worth limits set forth in MCC § 2-92-670(j), adjusted annually as provided therein.
- 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; and
  - is at least 51% owned by one or more persons whose individual personal net worth is not more than 50% or 1/2 the personal net worth limits set forth in MCC § 2-92-670(j), adjusted annually as provided therein.

B. Independence of a business is determined solely by the Chief Procurement Officer or his or her designee. Indicia of independence include the ability of the applicant 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. Recognition of the applicant as a separate and distinct entity by governmental taxing authorities is not dispositive of the applicant's assertion of independence. DPS will consider all affiliates of the bidder as well as any parent-subsidary relationships when determining whether a firm is independent. Affiliation is determined in accordance with 13 CFR Part 121. Except as otherwise provided in Section 13 CFR Part 121, firms are "affiliates" of each other when, either directly or indirectly: (1) one firm controls or has the power to control the other; or (2) a third party or parties controls or has the power to control both; or (3) an identity of interests between or among parties exists such that affiliation may be found. In determining whether persons or entities are affiliates, the city will consider all appropriate factors, including common ownership, common management, and contractual or familial relationships. Independence will be evaluated as of the date the applicant was established through and including the date of application to the SBI.



- C. SBI is race and gender neutral. Any small business that meets the eligibility requirements for the SBI I or SBI II Programs is eligible to bid on a SBI construction contract.
- D. For the SBI I program:
- (i) City-certified minority-owned business enterprises (MBEs) and women-owned business enterprises (WBEs), by definition in Section 2-92-670, must also be small local business enterprise in order to be certified as an MBE or WBE, and therefore, they will be presumed to be eligible for the SBI I Program. Cook County certified MBEs and WBEs must also be small local businesses in order to be certified and are therefore presumed to be eligible.
  - (ii) Veteran-owned business enterprises (VBEs) that are certified by the City pursuant to the City's Regulations Governing Certification of Minority- and Women-Owned Business Enterprises, Veteran-Owned Business Enterprise, and Business Enterprises Owned or Operated by People with Disabilities for Construction Contracts (the "Certification Regulations") must also be small local business enterprises in order to be certified as a VBE, and therefore are presumed to be eligible for the SBI I Program.
  - (iii) Firms certified as Disadvantaged Business Enterprises (DBE) are presumed to meet the size standard for small- business enterprises, but must prove they are a local business enterprise; therefore, DBEs will be required to submit an affidavit in the form provided in the bid package regarding their status as a local business enterprise.
  - (iv) All non-certified firms will be required to submit an affidavit using the form provided in the bid package to attest that they are eligible.
- E. For the SBI II program, all bidders will be required to submit an affidavit, regardless of certification status.
- F. The Chief Procurement Officer reserves the right to request additional reports and/or site visits to determine the accuracy of any information provided in the affidavits referred to above and/or to verify that a bidder is eligible.

Program Tier	Project Cost	Small Business Size Standards	Personal Net Worth Limits
SBI I	\$2,000,000-\$10,000,000	1.5 times the SBA size standards per NAICS code	1.5 times the PNW limits set forth in MCC § 2-92-670(j), adjusted annually
SBI II	<\$2,000,000	½ times the SBA size standards per NAICS code	50% or 1/2 the PNW limits set forth in MCC § 2-92-670(j), adjusted annually

## II. Procedure.

- A. The Department of Procurement Services (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 projects will be sized appropriately for small businesses and typically will be limited to estimated project construction costs of between \$2,000,000 and \$10,000,000 for SBI I projects; and less than \$2,000,000 for SBI II projects.
- B. For those bidders who are not presumed to be small local business enterprises, the bid package for each SBI Program procurement will contain the affidavit referred to in Section I above to be completed by the bidder. Bidders may be required to submit documentation to verify the accuracy of the information provided in such affidavits, including, but not limited to, corporate tax returns (for the bidder and its affiliates), personal tax returns for each owner whose ownership is being relied on for eligibility for the SBI Program, and personnel records. Failure to timely provide all requested documentation will result in the rejection of the bid and may result in a finding of non-responsibility.
- C. Businesses which have been determined to be small local business enterprises for the purposes of the SBI I or SBI II Programs 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.



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

- A. If the CPO determines, after notice and an opportunity for a hearing before the CPO, that a firm has made any fraudulent misrepresentations regarding its status as a small local business enterprise, or has colluded with another making fraudulent misrepresentations regarding its status as a small local business enterprise, the CPO will declare the firm to be ineligible to contract or subcontract on City contracts. The period of ineligibility may include permanent or indefinite ineligibility or ineligibility for a lesser duration. The City will regard as nonresponsive any bid submitted during such period of ineligibility which includes a disqualified entity as a contractor, subcontractor or member of a joint venture.
- B. In addition to a finding of ineligibility, if an individual knowingly obtains or assists in obtaining a contract with the City through false representations regarding it or another firm's status as a small local business enterprise, the individual making or assisting in making such false representations may be subject to criminal consequences, including incarceration for a period of not to exceed six months or a fine of not less than between \$5,000 and not more than \$10,000.
- C. If the CPO determines that a contractor submitting a bid was not involved in any misrepresentation of the status of an ineligible subcontractor included in its bid, the CPO may allow the contractor to discharge the ineligible subcontractor and engage an eligible subcontractor as a replacement, if possible.
- D. In addition to the penalties set forth above, any person who violates these rules will be subject to a fine of not less than \$1,000 and not more than \$5,000 for each violation.

