Legislation Details

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On agenda:	4/13/2016			**Final action:**	11/21/2018
Title:	PROPOSED ORDINANCE AMENDMENT				

RESPONSIBLE BIDDER PROCESS FOR PUBLIC WORKS CONSTRUCTION, MAINTENANCE AND REPAIR CONTRACTS. PROVISION OF PAID SICK LEAVE.

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 34 - Finance, Article IV - Procurement Code, Division 2 - Procurement Procedures, Section 34-145 Responsible bidder process for public works construction, maintenance and repair contracts, of the Cook County Code is hereby amended as follows:

Sec. 34-145. - Responsible bidder process for public works construction, maintenance and repair contracts. Provision of paid sick leave.

For purposes of evaluating whether a Bidder for a Public Works Contract is Responsible, the CPO shall determine that the Bidder:

(a) Is authorized to do business in Illinois and the County;

(b) Has, as applicable, a Federal Employer Identification Number or Social Security Number;

(c) Meets any applicable insurance requirements in the Bid Document;

(d) Has certified that it is in compliance with all provisions of the Illinois Prevailing Wage Act, and State and Federal equal employment opportunity laws;

(e) Has certified that it participates in active apprenticeship and training programs approved and registered with the United States Department of Labor Bureau of Apprenticeship and Training for each of the trades of work contemplated under the awarded Contract;

(f) Contractually requires any subcontractor to participate in active apprenticeship and training programs approved and registered with the United States Department of Labor Bureau of Apprenticeship and Training for each of the trades of work contemplated under the awarded Contract; and

(g) Has agreed to provide Certified payrolls as specified in the Illinois Prevailing Wage Act.

(h) Provision of paid sick leave not less than what follows:

(1) For every 30 hours worked, employees shall earn one hour of paid sick leave, up to 7 days per year

(2) This requirement shall be limited to persons employed by the prime contractor; paid sick leave need not be enforced for subcontractors.
(3) Executive departments and agencies (agencies) shall, to the extent permitted by law, ensure that new contracts, contract-like instruments, and solicitations (collectively referred to as "contracts"),

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include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, specifying, as a condition of payment, that all employees, in the performance of the contract or any subcontract thereunder, shall earn not less than 1 hour of paid sick leave for every 30 hours worked.
a. A contractor may not set a limit on the total accrual of paid sick leave per year, or at any point in time, at less than 56 hours.
b. Paid sick leave earned under this order may be used by an employee for an absence resulting from:
(i) physical or mental illness, injury, or medical condition;

(ii) obtaining diagnosis, care, or preventive care from a health care provider;

(iii) caring for a child, a parent, a spouse, a domestic partner, or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship who has any of the conditions or needs for diagnosis, care, or preventive care described in paragraphs (i) or (ii) of this subsection or is otherwise in need of care; or

(iv) domestic violence, sexual assault, or stalking, if the time absent from work is for the purposes otherwise described in paragraphs (i) and (ii) of this subsection, to obtain additional counseling, to seek relocation, to seek assistance from a victim services organization, to take related legal action, including preparation for or participation in any related civil or criminal legal proceeding, or to assist an individual related to the employee as described in paragraph (iii) of this subsection in engaging in any of these activities.

c. Paid sick leave accrued under this order shall carry over from 1 year to the next and shall be reinstated for employees rehired by a covered contractor within 12 months after a job separation.

d. The use of paid sick leave cannot be made contingent on the requesting employee finding a replacement to cover any work time to be missed.

e. The paid sick leave required by this order is in addition to a contractor's obligations under 41 U.S.C. chapter 67 (Service Contract Act) and 40 U.S.C. chapter 31, subchapter IV (Davis-Bacon Act), and contractors may not receive credit toward their prevailing wage or fringe benefit obligations under those Acts for any paid sick leave provided in satisfaction of the requirements of this order.

f. A contractor's existing paid leave policy provided in addition to the fulfillment of Service Contract Act or Davis-Bacon Act obligations, if applicable, and made available to all covered employees will satisfy the requirements of this order if the amount of paid leave is sufficient to meet the requirements of this section and if it may be used for the same purposes and under the same conditions described herein.

g. Paid sick leave shall be provided upon the oral or written request of an employee that includes the expected duration of the leave, and is made at least 7 calendar days in advance where the need for the leave is foreseeable, and in other cases as soon as is practicable.

h. Certification.

(i) A contractor may only require certification issued by a health care provider for paid sick leave used for the purposes listed in subsections b(i), b(ii), or b(iii) of this section for employee absences of 3 or more consecutive workdays, to be provided no later than 30 days from the first day of the leave.

(ii) If 3 or more consecutive days of paid sick leave is used for the purposes listed in subsection b(iv) of this section, documentation may be required to be provided from an appropriate individual or organization with the minimum necessary information establishing a need for the employee to be absent from work. The contractor shall not disclose any verification information and shall maintain confidentiality about the domestic violence, sexual assault, or stalking, unless the employee consents or when disclosure is required by law.

i. Nothing in this order shall require a covered contractor to make a financial payment to an employee upon a separation from employment for accrued sick leave that has not been used, but unused leave

is subject to reinstatement as prescribed in subsection c. of this section.

j. A covered contractor may not interfere with or in any other manner discriminate against an employee for taking, or attempting to take, paid sick leave as provided for under this order or in any manner asserting, or assisting any other employee in asserting, any right or claim related to this order.

k. Nothing in this order shall excuse noncompliance with or supersede any applicable Federal or State law, any applicable law or municipal ordinance, or a collective bargaining agreement requiring greater paid sick leave or leave rights than those established under this order.

l. The Office of the Cook County Procurement shall issue such regulations by May 30, 2016, as are deemed necessary and appropriate to carry out this order; defining terms used in this order; and requiring contractors to make, keep, and preserve such employee records as the Procurement Office deems necessary and appropriate for the enforcement of the provisions of this order or the regulations thereunder.

(4) Enforcement.

a. The Office of the Chief Procurement Officer shall have the authority for investigating potential violations of and obtaining compliance with this order, including the prohibitions on interference and discrimination in this section of this ordinance.
b. This order creates no rights under the Contract Disputes Act, and disputes regarding whether a contractor has provided employees with paid sick leave prescribed by this order, to the extent permitted by law, shall be disposed of only as provided by the Secretary in regulations issued pursuant to this order.

c. Severability. If any provision of this order, or applying such provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of the provisions of such to any person or circumstance shall not be affected thereby.

(5) General Provisions.

a. Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

b. This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

c. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

d. This order shall apply only to a new contract or contract-like instrument, as defined by the Office of the Chief Procurement Officer in the regulations issued pursuant to section (3)a. of this ordinance, if:

(i)
(A) it is a procurement contract for services or construction;

(B) it is a contract or contract-like instrument for services covered by the Service Contract Act;

(C) it is a contract or contract-like instrument for concessions, including any concessions contract excluded by Department of Labor regulations; or

(D) it is a contract or contract-like instrument entered into with the Cook County in connection with Cook County property or lands and related to offering services for Cook County employees, their

dependents, or the general public; and

(ii) the wages of employees under such contract or contract-like instrument are governed by the Davis -Bacon Act, the Service Contract Act, or the Fair Labor Standards Act, including employees who qualify for an exemption from its minimum wage and overtime provisions.

e. For contracts or contract-like instruments covered by the Service Contract Act or the Davis-Bacon Act, this order shall apply only to contracts or contract-like instruments at the thresholds specified in those statutes. For procurement contracts in which employees' wages are governed by the Fair Labor Standards Act, this order shall apply only to contracts or contract-like instruments that exceed the micro-purchase threshold, as defined in 41 U.S.C. 1902(a), unless expressly made subject to this order pursuant to regulations or actions taken under section 3 of this order.

f. This order shall not apply to grants; contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93-638), as amended; or any contracts or contract-like instruments expressly excluded by the regulations issued pursuant to section 3(a) of this order.
g. Independent agencies are strongly encouraged to comply with the requirements of this order.

(6) Effective Date.

a. This order is effective immediately and shall apply to covered contracts where the solicitation for such contract has been issued, or the contract has been awarded outside the solicitation process, on or after:

(i) June 1, 2016, consistent with the effective date for the action taken by Cook County Board pursuant to this section of this ordinance; or

(ii) June 1, 2016, for contracts where an agency action is taken pursuant to this section of this ordinance, consistent with the effective date for such action.

b. This order shall not apply to contracts or contract-like instruments that are awarded, or entered into pursuant to solicitations issued, on or before the effective date for the relevant action taken pursuant to this section of this ordinance.

Effective date: This ordinance shall be in effect immediately upon passage.

Sponsors: LUIS ARROYO JR, JESÚS G. GARCÍA, RICHARD R. BOYKIN, LARRY SUFFREDIN

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
11/21/2018	1	Board of Commissioners	receive and file	
4/13/2016	1	Board of Commissioners	refer	Pass

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