



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Text

File #: 19-5731, **Version:** 1

PROPOSED ORDINANCE AMENDMENT

AN ORDINANCE CREATING THE GOOD FAITH EFFORT TRANSPARENCY REPORTING

BE IT ORDAINED, by the Cook County Board of Commissioners, Chapter 34 - Finance, Article IV - Procurement, Division 8 - Minority and Woman-Owned Business Enterprises, Section 34-297 - Contract Pre-Award Compliance Procedures is hereby amended as follows:

Sec. 34-297. - Contract Pre-Award Compliance Procedures.

(a) For all solicitations, the Contractor, Person, or Business shall submit a Utilization Plan detailing all subcontractors from which the Contractor, Person, or Business solicited bids or quotations, and if Project Specific Goals have been established, its achievement of the Goals or its Good Faith Efforts to do so. The Utilization Plan shall be due at the time the bid/proposal is due. Any Contractor, Person, or Business requesting a partial or full waiver shall submit a Good Faith Effort Transparency Report with its Utilization Plan when the Utilization Plan is due. In the event a bid or proposal leads to a Contract with the County, the Utilization Plan as approved, and any Good Faith Effort Transparency Report as approved and applicable, by the CCD shall be incorporated as a material commitment on the part of the Contractor, Person, or Business to each relevant PCE, and the Contractor, Person, or Business, and the County. Failure to include a Utilization Plan, and Good Faith Effort Transparency Report, where applicable, shall render the bid or proposal not Responsive.

(b) Any agreement between a Contractor, Person, or Business and a PCE in which the Contractor requires that the PCE not provide subcontracting quotations to other Contractors is prohibited.

(c) Where the Contractor, Person, or Business cannot achieve the Project Specific Goal(s), the CCD will determine whether the Contractor, Person, or Business has made Good Faith Efforts to meet the Goal(s), based upon the submission of a Good Faith Effort Transparency Report by the bidding Contractor, Person, or Business and consideration of additional factors by the CCD, pursuant to Sections 34-281 and 34-282. A Contractor, Person, or Business submitting bids or proposals for Procurements may in all instances request a partial or full waiver of one or more established Project Specific Goal for PCE participation. In making this determination, the Director will consider, at a minimum, the Good Faith Effort Transparency Report, pursuant to Section 34-281 and additional factors, pursuant to Section 34-282.

(d) In determining whether a Contractor, Person, or Business has made Good Faith Efforts, the performance of other Contractors, Persons, or Businesses in meeting the Project Specific Goals may be considered. For example, when the apparent successful Contractor, Person, or Business fails to meet the Project Specific Goals but others meet it, it may be reasonably questioned whether, with additional reasonable efforts, the apparent successful Contractor, Person, or Business could have met the Project Specific Goals. Similarly, if the apparent successful Contractor, Person, or Business fails to meet the Project Specific Goals, but meets or exceeds the average PCE participation obtained by other Contractors, Persons, or Businesses, this may be evidence that the apparent successful Contractor, Person, or Business made Good Faith Efforts.

(e) A signed letter of intent from each listed PCE, describing the work, materials, equipment or services to be performed or provided by the PCE and the agreed upon dollar value shall be due at the time of bid proposal or within three days after such submission.

(f) The CCD shall timely review the Utilization Plan before award, including the scope of work and the letters of intent from PCEs. The CCD may request clarification in writing of items listed in the Utilization Plan and/or the Good Faith Effort Transparency Report. ~~provided such clarification shall not include the opportunity to augment listed participation or augment or modify any Good Faith Effort Transparency Report.~~

(g) If the CCD determines that the Utilization Plan demonstrates that the Project Specific Goals have been achieved or accepts the Good Faith Efforts Transparency Report submitted, with the concurrence of the User Agency, the CCD and User Agency shall recommend award to Purchasing Agent. The CCD must issue a report to the Board pursuant to Section 34-283 upon acceptance of the Contractor's Good Faith Effort Transparency Report no later than ~~one week~~ three (3) days prior to the Board meeting where the Contract seeks approval by the Board.

(h) If the CCD rejects the Contractor, Person, or Business' Good Faith Effort Transparency Report, the CCD shall communicate this finding to the Purchasing Department and recommend that the bid/proposal be rejected. A Contractor may protest this determination pursuant to the County's bid protest procedures.

Effective date: This Ordinance Amendment shall be in effect ~~September~~ November 1, 2019.