

107.071 - Minority and Women-Owned Business Enterprise Program.

—1. (a) *Minority and Women-Owned Business Enterprise Program Established.* A St. Louis County Minority and Women-Owned Business Enterprise (M/WBE) Program is established by adoption of this section.

- (b) *Management, Monitoring and Annual Report.* St. Louis County Department of Administration Division of Purchasing (DOP) shall manage and monitor the utilization of M/WBEs by St. Louis County and its prime contractors. Specifically, DOP shall: (1) adopt rules and procedures to implement the M/WBE Program; (2) create, maintain, and distribute the directory of certified M/WBEs Doing business with St. Louis County; (3) provide information and assistance to M/WBEs to increase their ability to effectively compete for St. Louis County contracts; County should maintain a centralized website that lists all procurement opportunities (4) semi-annually review the progress of each agency, department, and the corporation's achievement of the M/WBE goals; each agency shall have a procurement officer or designee who shall be the point of contact for monitoring and reporting MWBE compliance for the agency (5) ensure that solicitations issued by the St. Louis County adhere to the M/WBE procurement procedures contained herein; (6) monitor M/WBE goals throughout the duration of the contract; (7) the MBE contract goals should be based upon the combined availability of all ethnic groups and those contract goals shall be adjusted at the end of the first quarter of each year if the relative balance of the utilization of minority groups is out of line with the individual race/ethnicity group availability; and (8) present an annual report by January 31 of each year to the County Executive and the St. Louis County Council and hold a public forum no later than February 28 of each year detailing the participation of M/WBEs on the St. Louis County contracts and all economic development partnerships.
- (c) *Delegation of Duties.* DOP may delegate all or a part of the duties of certification and compliance of the M/WBE Program, with the approval of the County Council.

2. *Definitions.* When used in subsections 2 through 8 of this section:

M/WBE shall mean minority and women-owned business enterprise that is certified under a business certification program by the State of Missouri, and/or St. Louis Airport Authority. A minority-owned business enterprise (MBE) is a for-profit enterprise that is at least fifty-one (51) percent owned, operated and controlled on a daily basis by a minority group member who is either Asian, Black, Hispanic or Native American. A woman-owned business enterprise (WBE) is a for-profit enterprise that is at least fifty-one (51) percent owned, operated and controlled on a daily basis by a female.

Award shall mean the selection of a vendor for a contract or subcontract for a specific dollar amount. Contract awards are made by the St. Louis County, acting through its Division of Purchasing (DOP), to a prime contractor and by a prime contractor to a subcontractor or all projects where the County provides economic development tools or incentives.

Bid shall mean a bidder's response to a solicitation for bids, proposals, or statements of qualifications for a project that is at least partially funded by the County, but does not include federally-funded projects which have requirements that preempt the local M/WBE program.

Bidder shall mean any individual, company, or association responding to the St. Louis County and its associated entities solicitation.

Commercially-useful function shall mean a subcontract fulfilled by a bidder responsible for the materials, supplies, and services used in the performance of the contract. To determine whether a subcontractor is performing a commercially-useful function, the amount of work subcontracted shall be evaluated with respect to normal industry practices, including whether the amount the subcontractor is to be paid under the contract is commensurate with the work it is to perform. The subcontractor does not perform a commercially-useful function if its role is limited to an extra participant in a contract through which funds are passed in order to convey only the appearance of meaningful and useful subcontractor participation.

Contract shall mean a mutually-binding legal relationship or any modification thereof obligating the vendor to furnish construction, professional services, and/or supplies and contractual services and the County to pay for them.

Formal procurement shall mean a competitive solicitation method by which bidders are invited by the County to bid through a published advertisement stating the scope, specifications, and terms of the proposed contract.

Good faith effort shall mean all actions taken by a bidder or prime contractor consistent with the requirements, rules and procedures established by DOP to engage M/WBEs toward meeting the goals for minority and women business enterprise utilization.

Labor hours shall mean labor productivity, that is, units of work placed or produced per man-hour.

Informal procurement shall mean a solicitation method by which competition is not required or an emergency work award is required, and the County is permitted to solicit bids directly from bidders. The County shall make all efforts to include MWBEs in such informal procurements and ensure that MWBEs are given fair and ample opportunity to participate.

M/WBE utilization plan shall mean the form detailing the supplies and contractual services to be provided to the prime contractor by each M/WBE listed to meet the M/WBE goals. The M/WBE utilization plan, which includes the name(s) of all M/WBE subcontractors to be utilized in the contract, certification information, the dollar value and scope of work to be performed, tier level of participation and their percentage of participation based on the bid amount, must be provided by 5:00 pm on next business day after bid opening by the three (3) lowest responsive bidders. This time period for submission of the M/WBE utilization plan shall be reviewed and analyzed by June 30 annually by the Director of Minority Business Development and Compliance and submitted to the County Council whom shall vote on retention, modification or dissolution.

Minority and women-owned business enterprise availability shall mean the number of businesses located in the St. Louis Metropolitan Area that are ready, willing and able to provide the supplies and contractual services being procured by the St. Louis County.

Notice of intent to perform a subcontract shall mean the forms the three (3) lowest responsive bidders is required to submit to St. Louis County by 5:00 pm on next business day after bid opening, signed by each subcontractor listed in the M/WBE utilization plan. Failure to include a completed notice of intent form signed by each subcontractor will be sufficient cause to reject a bid as non-responsive. This time period for submission of the M/WBE utilization plan shall be reviewed and analyzed by June 30 annually by the Director of Minority Business Development and Compliance and submitted to the County Council which shall vote on retention, modification or dissolution.

Prime contractor shall mean the individual or business that has entered into an agreement with St. Louis County and that has the full responsibility for completing the terms of the agreement.

Public works shall mean a broad category of infrastructure projects, financed and constructed by the government, for recreational, employment, and health and safety uses in the greater community. Including public buildings (municipal buildings, schools, hospitals), transport infrastructure (roads, railroads, bridges, pipelines, canals, ports, airports), public spaces (public squares, parks, beaches), public services (water supply, sewage, electrical grid, dams), and other, usually long-term, physical assets and facilities.

Subcontractor shall mean an individual or business that has a contract with the prime contractor to perform a service or provide materials, equipment, or supplies as a part of the scope of work set forth in a prime contract with the County.

User Department shall mean the department that develops the requisitions for the County.

3. *M/WBE program funding.*

- (a) *Commitment.* St. Louis County is committed to promoting fair and open competition for M/WBEs seeking to do business with the County. The County shall ensure that vendors at all tier levels do not discriminate in their solicitation, selection, or treatment of sub vendors. Therefore, the M/WBE

program shall have the resources necessary for the effective implementation of the M/WBE policy and the components contained within the M/WBE program. The M/WBE program funding shall maintain an annual appropriation that is approved by the County Council. The M/WBE program and related responsibilities shall be communicated to the County's internal and external stakeholders.

- (b) *Policy implementation.* The St. Louis County Disparity Study dated December 2017 prepared by Griffin & Strong P.C., its findings and recommendations shall be adopted to develop and implement a County M/WBE policy. The County shall take all necessary, reasonable, and legal action to alleviate documented disparity and ensure that all businesses are afforded the maximum opportunity for participation in the County's contracting. The M/WBE program shall ensure that the County contracts are awarded in a manner that promotes economic inclusion of all segments of the business population, regardless of race, sex, or gender, to maximize the economic vitality and development of the County.
- (c) *Goals.* The St. Louis County Disparity Study dated December 2017 prepared by Griffin & Strong P.C., has established goals to ensure that M/WBE utilization on its construction, professional services, and supplies and contractual services contracts reflects the level of M/WBE availability. New goals will become effective based on the findings of statistically significant disparity from the December 2017 Disparity Study, and the following goals shall be in effect as listed in item c of this section. The December 2017 Disparity Study documented a statistically significant disparity in the award of County construction prime contracts to minority, disabled veteran and women-owned businesses. In addition, minority, disabled veteran, and women-owned businesses were found to have a statistical disparity in the award of professional services prime contracts. The study also documented a statistical disparity in the award of supplies and contractual services prime contracts to minority, disabled veteran, and women-owned businesses.

Furthermore, the Disparity Study documented a statistical disparity in the award of construction subcontracts to minority, disabled veteran, and women-owned businesses by prime contractors. The 2017 Disparity Study documented a statistical disparity in the award of professional services subcontracts. Based upon the December 2017 Disparity Study the following goals shall be implemented:

- (1) Complete subcontract records will be collected for a 12-month period and a disparity study update for construction and professional services subcontracts will be performed by January 31, 2019 and each year thereafter.
- (2) The subcontract goal shall be applied to solicitations for construction bids. The construction subcontract goal is the goal that shall be met by utilization of minority and women-owned construction subcontractors.
- (3) Based on the St. Louis County Disparity Study dated December 2017 prepared by Griffin & Strong P.C., the construction subcontract goal shall be twenty-four (24) percent for minority-owned business enterprises and nine and one-half (9.5) percent for women-owned business enterprises available for construction, and sixteen (16) percent for minority owned business enterprises and fifteen (15) percent for women owned business enterprises for architecture and engineering projects or as determined by the most recent St. Louis County Disparity Study.
- (4) Proof of subcontract goal attainment shall be provided by 5:00 p.m. on next business day after bid opening by the three (3) lowest responsive bidders and documented on the M/WBE utilization plan. If a bidder fails to meet the solicitation's construction subcontract goals, the bidder shall provide evidence of a good faith effort to meet the goal. A bid that does not meet the subcontract goals or evidence of a good faith effort shall be deemed non-responsive and therefore ineligible for contract award. The M/WBE utilization plan shall be for subcontractor goal compliance, verification of subcontractor certification, and evidence that the subcontractor shall perform a commercially useful function.
- (5) Good faith effort elements are evaluated to determine whether a bidder has provided evidence of good faith efforts to meet the M/WBE subcontract goals. In order to be

considered a responsive bid, the bidder must demonstrate a sufficient good faith effort. The County shall provide a verification of all good faith efforts for projects awarded over two hundred fifty thousand dollars (\$250,000.00).

- (6) M/WBE prime contract bid discount shall be applied to construction and supplies and contractual services prime contracts on contracts of three hundred thousand dollars (\$300,000.00) or less. A five (5) percent bid discount on construction prime contracts shall be applied to minority and women-owned business enterprise bidders. A five (5) percent bid discount on supplies and contractual services prime contracts shall be applied to minority and women-owned business enterprise bidders. The bid discount shall be applied during the evaluation process. It shall lower the eligible M/WBE's bid but shall not reduce the contract award amount. The solicitation shall describe the bid discount as applied to eligible M/WBE prime contractors in the two (2) industries. In order to qualify for the bid discount, the eligible M/WBE bidder shall include in its bid a copy of the current M/WBE certification approval letter issued by the M/WBE program.
- (7) M/WBE incentive credits shall be applied to the evaluation of professional service prime contracts. A fifteen (15) percent incentive credit as part of the total points evaluated on professional service prime contracts shall be applied to minority and women-owned business enterprises. The incentive credit shall be applied during the evaluation process. In order to qualify for the incentive credit, the M/WBE prime contractor must include a copy of the current M/WBE certification approval letter issued by the M/WBE program. The solicitation shall describe the incentive credit as applied to eligible M/WBE prime contractors. In order to qualify for the incentive credit, the M/WBE prime contractor must include in its proposal or statement of qualifications a copy of the M/WBE certification approval letter issued by the M/WBE program.

4. *Rules and regulations.*

- (a) *Management.* The Division of Purchasing (DOP) shall be the office that manages the M/WBE program and its contract rotation program described below. The DOP shall be responsible for annually identifying small contracts for the program.
- (b) *Contract rotation program.* St. Louis County shall establish a contract rotation program for procuring supplies and contractual services contracts under twenty-five thousand (\$25,000.00) using an informal solicitation. Eligible businesses shall be placed on the rotation list according to their initial certification date. Businesses with the same certification date are placed on the list alphabetically according to their name. Once awarded a contract, the M/WBE shall be subsequently placed at the bottom of the rotation list.
- (c) *Advertisements.* The County shall advertise solicitations within a sufficient period of time to allow bidders to solicit bids from M/WBE subcontractors. The County shall publish notices of contract opportunities in The County Journal and on the County's website at least thirty (30) days before the bid opening date. Bid notices shall additionally be disseminated through the certified M/WBE electronic mailing list at least thirty (30) days before the responses are due.

All user departments shall adopt a standard template for advertisements with input from the Division of Purchasing (DOP). The DOP will review all advertisement templates and provide the user departments with comments.

If advertisements do not meet the M/WBE requirements, the DOP shall reject the advertisement and send it back to the user department and recommend the next available publication date that complies with the thirty-day publication requirement.

The notice shall include the name of the contract and bid opening date; project manager's name and contact information; pre-bid conference date, time, and location; deadline for submission of written questions; summary of the scope of work; contact information to secure the complete solicitation; and M/WBE subcontracting goals and bid discounts.

An electronic directory listing certified M/WBEs shall be maintained by the DOP. The directory shall be updated monthly to reflect any new certifications or changes to existing certifications. The directory shall be published on the County's webpage and be downloadable in Microsoft Office Excel and Word formats.

- (d) *Mobilization payments.* When mobilization payments are approved for the prime contractor, the subcontractor shall be paid a reasonable amount not to exceed five percent (5%) of the amount of their contract no later than five (5) business days before they are required to mobilize to start their contracted work. If a subcontractor makes a request to the prime contractor for mobilization payments, the prime contractor shall submit a request to DOP for mobilization payments.
 - (e) *Payment verification program.* The County shall establish a payment verification program. Payments made to M/WBE subcontractors shall be verified in order to monitor compliance with the Prompt Payment Act, Section 34.057.1 RSMo. The payment verification system shall allow subcontractors to electronically notify the County of late payments or non-payments in real time. Each subcontractor listed as paid for the previous billing cycle shall be electronically contacted to verify that payment was received. The Division of Purchasing (DOP) shall manage the program.
 - (f) *Resolving disputes.* Dispute resolution standards shall be established to allow businesses to resolve issues relating to contract work performance. Invoice disputes between the prime contractor and the subcontractor shall be presented to the Division of Purchasing (DOP) project manager. The Division of Purchasing (DOP) shall ensure that the dispute resolution process is handled in a timely manner and in accordance with dispute resolution standards. The decision can be appealed to a mediator, and the County, through its Division of Purchasing (DOP), shall participate in mediation. The mediation process shall exhaust the administrative remedy available to the contractor and/or subcontractor.
5. *Minority and women-owned business enterprise program staff and staff training.* There shall be adequate staff to support the responsibilities of the Division of Purchasing (DOP). The DOP shall minimally have the following positions, as their budget allows:
- (a) *Executive staff.*
 - (1) *Director.* The Director of Minority Business Development and Compliance shall develop programs and services that advance opportunities for growth of M/WBEs, act as M/WBE Program Manager with authority to direct office staff and ensure compliance with M/WBE program objectives and responsibilities.
 - (2) *Executive Assistant.* The Executive Assistant to the Director shall provide confidential assistance to the Director with responsibility for performing secretarial and administrative support duties. The Executive Assistant to the Director shall demonstrate the capabilities to handle sensitive information with discretion and the ability to work with businesses with diverse interests and backgrounds.
 - (b) *Technical staff.*
 - (1) *Contract Compliance Manager.* The Contract Compliance Manager shall assist the Director in managing the Minority Business Development and Compliance Office, oversee pre-award compliance with the M/WBE program requirements, and monitor post-contract compliance to ensure that the M/WBE contract provisions are adhered to during the term of the contract. The Contract Compliance Manager shall demonstrate audit skills, knowledge of the procurement processes, and the ability to work with businesses with diverse interests and backgrounds.
 - (2) *Contract & Workforce Compliance Specialists (3).* The Contract & Workforce Compliance Specialists shall monitor M/WBE contract & workforce compliance and M/WBE contractor and subcontractor on site participation, investigate complaints and good faith efforts, ensure contracts are properly and legally executed, and create a profile of each contractor by preparing site visit reports, and track & report participation. The Contract Compliance Specialists shall demonstrate knowledge of procurement processes, the ability to work with

public officials and the general public, and the ability to work with businesses with diverse interests and backgrounds.

- (c) *Training and training manual.* Routine user department training shall be conducted to ensure all personnel are made aware of the M/WBE program requirements and are capable of supporting the M/WBE program and its policies and objectives. The training program shall be conducted by the Office of Administration Division of Purchasing (DOP). Three (3) training programs shall be implemented:
 - (1) *Annual training seminar.* Annual training seminars shall be held to inform staff of any changes to the M/WBE program policy and procedures, and to promote the program enhancements. An interactive portal shall be set up for County staff to give and receive virtual assistance, information, and responses to questions.
 - (2) *New employee training.* New employee orientation shall be held monthly by the Office of Administration Division of Purchasing (DOP) to ensure that new employees understand the established policies and procedures. A printed copy of the M/WBE program training manual shall be provided to each new that handles such matters St. Louis County employee prior to monthly training.
 - (3) *M/WBE program training manual.* An M/WBE program training manual describing the M/WBE program mission, policy, and procedures shall be available to all staff electronically and shall be downloadable from the Office of Administration Division of Purchasing (DOP) webpage.

6. *Compliance tracking, monitoring and reporting.*

- (a) *Centralized tracking and monitoring system.* The Office of Administration Division of Purchasing (DOP) shall maintain a centralized tracking and monitoring system such as "global project tracking system" (GPTS) and or designated system to ensure compliance with the M/WBE commitments listed in bid documents. The GPTS shall track subcontractor goals, commitments, and payments. The GPTS shall also monitor unauthorized subcontract substitutions, and late payments. A record of any discrepancies or proof of failure to comply with the contract goals and regulations shall be filed by the DOP, and appropriate ramifications shall be determined by the DOP. Compliance reports shall be submitted annually to the County Executive and the County Council.
- (b) *Tracking compliance.* The GPTS shall track a prime contractor's compliance with the contract goal to ensure that the M/WBEs listed as subcontractors are utilized. In the absence of a finding of a good faith effort, a prime contractor's failure to meet an M/WBE subcontract goal during the contract term shall constitute a material breach of contract. The prime contractor shall be subject to liquidated damages for such a breach. Damages shall be assessed based upon the M/WBE goal shortfall and may not exceed the difference between the monetary amount of the participation goals set by the contract and the amount actually paid to M/WBEs damages shall be assessed during the project close-out by the Division of Purchasing (DOP), and withheld from a retention amount established to cover liquidated damages in addition to any other retention held under the contract. Liquidated damages assessed shall be transferred to the Division of Purchasing (DOP). The DOP shall set aside funds from assessed damages. These funds shall be used solely to provide business development and enhancement services for MWBEs. All contracts that contain participation goals for African American, Asian American, and women-owned businesses shall contain a provision that provides for the imposition of liquidated damages in the absence of a finding of good faith efforts in the event the prime contractor fails to achieve the participation goals specified by subsections 2 through 8 of this section.

7. *Business Advisory Council (BAC) and the small business program.*

- (a) *Business Advisory Council.* A Business Advisory Council (BAC) shall be established and appointed by the County Executive and approved by the St. Louis County Council to serve as an advocate for M/WBEs to increase access to the procurement process. The BAC shall have ten (10) members, each appointed by the County Executive and approved by the County Council. A member may serve more than one term. The BAC members shall be approved by resolution of

the St. Louis County Council. The BAC shall advise and make M/WBE program recommendations in the following areas:

- (1) Effectiveness of the MWBE program;
- (2) Increasing access to contracting opportunities for MWBEs;
- (3) Reviewing and advancing initiatives that impact M/WBE participation, and;
- (4) Enhancing the notification process regarding prospective contract opportunities.
- (5) Reviewing staff program recommendations for effectiveness and impact on MWBEs.
- (6) And any other issues deemed necessary by the BAC.

The Division of Purchasing (DOP) shall be responsible for developing rules and guidelines for the BAC consistent with applicable laws for the conduct of its business. The BAC membership and guidelines shall be published on the County's webpage. The committee shall consist of the following nine (9) members appointed by the County Executive, with the consent of the County Council:

- a. One (1) member of the St. Louis County Human Relations Commission;
 - b. One (1) member of the MOKAN St. Louis Minority Contractors Association;
 - c. One (1) member of the National Association of Women in Construction;
 - d. One (1) member of the Associated General Contractors of Missouri;
 - e. One (1) member of the Hispanic Chamber of Commerce;
 - f. One (1) member of the St. Louis Council of Construction Consumers;
 - g. One (1) member of the Coalition of Black Trades Unionist; and
 - h. One (1) member of the (NAACP) National Association for the Advancement of Colored People;
 - i. One (1) member of the Asian American Chamber of Commerce;
 - j. One (1) member of the St. Louis Building and Construction Trade Council.
- (b) Members shall serve for staggered terms of three (3) years. Initially four (4) members shall be appointed for a term of three (3) years, three (3) members shall be appointed for a term of two (2) years and two (2) members shall be appointed for a term of one (1) year. Vacancies shall be filled in the same manner as the original appointments for the remainder of the vacant term. Each member shall serve without compensation.
- (c) The committee shall elect a Chairman and a Secretary who shall each serve for three (3) years. One (1) month prior to the end of the Chairman's and the Secretary's term, successors shall be elected. The committee shall adopt rules consistent with applicable laws for the conduct of its business.
- (d) The committee shall meet quarterly to review compliance with this order. In addition, the committee shall at a minimum meet twice annually in open public session to receive general testimony from the public. All minutes and records of the committee shall be open to the public.
- (e) The committee shall monitor the effectiveness of the County's program described in this order and make such recommendations to SLDC as it sees fit. The actions, decisions and recommendations of the Committee are to further the policies and goals of this Order and shall not be final or binding on the County but shall be advisory only.
- (f) Annual funding for M/WBE program. Funding from the County's general fund will be appropriated annually to support the M/WBE program.
- (g) Sunset provision. The County will require a periodic update of the disparity study to evaluate the effectiveness of the M/WBE program. The M/WBE program will sunset in eight years from

adoption of the program. The County will perform a disparity study update within three (3) years prior to the sunset date.

8. *Approval of rules and regulations.* All rules and procedures not expressly stated in subsections 2 through 8 of this section for the implementation of the M/WBE program must be approved at least once annually by resolution by the County Council.
9. *Workforce.*
 - (a) *Interim workforce goals.* To develop and maintain a highly skilled, employment ready workforce that supports and enhances the economic health of St. Louis County and local business communities, interim workforce participation goals (equal opportunity goals) are established and expressed in percentages of total hours of employment and training of women and minorities used on County contracts and projects. The County shall complete a formal workforce disparity study by December 31, 2019.
 - (b) *Participation goals for minorities and women.* On each public works contract, and County incentivize projects for which the design team's estimated base value of the contract is one million dollars or more, the contract goals shall be twenty-five (25) percent of all labor hours are to be performed by minorities and seven (7) percent of all contract labor hours are to be performed by women.
 - (c) *County resident participation.* On each public works contract, tax increment financed (TIF) project and St. Louis County bonded project for which the design team's estimated base value of the contract is one million dollars or more, the contract goals shall be twenty-three (23) percent of all labor hours are to be performed by persons who reside in the County ("County residents"). Such County residents, if they are minorities and/or women, may also be counted towards the goals set forth in minority and women-owned business enterprise program, in Office of Administration Division of Purchasing (DOP).
10. *Non-compliance.*
 - (a) *Material breach.* The failure to meet the requirements of the minority and women-owned business enterprise program in Office of Administration Division of Purchasing (DOP), including but not limited to failure to submit required documentation and reporting, failure to meet to resolve issues and failure to use good faith efforts to comply, deliberate submission of false and/or fraudulent documentation/information, constitutes a violation and shall be a material breach of the contract.
 - (1) If there is a violation of the minority and women-owned business enterprise program in the Office of Administration Division of Purchasing (DOP), the DOP will first cite the violator in writing giving the violator notice of the violation and a thirty-day notice to cure;
 - (2) If after the thirty (30) days there is no cure, the Agency may exercise the remedies for breach provided herein and any other remedies available by law.
 - (b) *Remedies for breach.* In the event of a violation of the minority and women-owned business enterprise program in the Office of Administration Division of Purchasing (DOP), the DOP may place the project owner, developer, and the general contractor on a list maintained by the DOP and be barred from participating in public works contracts or tax increment financed (TIF) projects for a period of one (1) year following the notice of violation, in addition to any other sanctions available to the Department of Public Works for public works contracts. The DOP shall make quarterly reports to the TIF Commission, the Department of Public Works, the St. Louis County Council, and the County regarding the project owners, developers and general contractors cited and listed for violations of this Section.
 - (c) *Liquidated damages.* All contracts that contain participation goals for minorities, women, or County residents shall contain a provision that provides for liquidated damages in the event the project owner, developer, general contractor, or both fails or fail to achieve the participation goals specified by the Minority and Women-Owned Business Enterprise Program in Office of Administration Division of Purchasing (DOP).

The liquidated damages may not exceed the difference between the monetary amount of the participation goals set by the Agency and the amount actually paid to minorities, women, and County residents. An agency or organizations identified by the St. Louis County Council shall set aside funds from assessed damages. These funds shall be used solely to provide workforce training and development services for minorities and females. In determining the amount actually paid to minorities, women, and County residents, no credit shall be given for that portion of the minority, women, and County resident participation not approved by the minority and women-owned business enterprise program in Office of Administration Division of Purchasing (DOP), provided however that the DOP may allow credit if it determines, in its sole discretion, that the project owners, developers and general contractors acted in good faith.

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