



City of St. Louis  
St. Louis Development Corporation

COMPLIANCE

M/WBE Program Office  
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# Compliance Unit Duties & Responsibilities

- ▶ Set goals
- ▶ Review bid solicitations/invitations to bid, proposals, etc.
- ▶ Attend Pre-bid meetings
- ▶ Review and analyze participation
- ▶ Monitor all aspects of projects
- ▶ Attend foreman/project manager meetings
- ▶ Make office visits to M/WBE firms to review various projects in depth
- ▶ Makes sure that certified M/WBE firms are performing in the field-site visits
- ▶ Determine if “Good Faith Efforts” were actually performed by the general contractors

# Goal Setting

When setting a *M/WBE goal* we have to examine the number of available, ready and willing M/WBE firms ready, willing and able to participate on the federally funded contract.

The Mayor's Executive Order #28, as amended, set the 25% MBE and 5% WBE goal on projects on city funded contracts.

# How is Participation Counted?

- ▶ When a D/M/WBE participates on a contract, *you count only the value of the work actually performed by the M/WBE within its approved NAICS/Specialty Code assigned toward M/WBE goals.*
- ▶ Count the entire amount of that portion of a contract that is performed by the M/WBE's own workforce. Include the costs of supplies and materials obtained by the M/WBE for the work of the contract, including supplies purchased or equipment leased by the M/WBE (except supplies and equipment the M/WBE subcontractor purchases or leases from the prime contractor or its affiliate).
- ▶ Count the entire amount of fees or commissions charged by a M/WBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services toward M/WBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

# How is Participation Counted?

- ▶ Firm's not currently certified as a M/WBE at the time of execution of the contract will not count toward M/WBE goals.
- ▶ Work performed under a contract with a firm after it has ceased to be certified will not count toward your overall goal. Work performed up to the time their certification became effective will only count.
- ▶ Actual amounts paid to M/WBE participants will count toward goal attainment.
- ▶ When a M/WBE subcontracts out part of its contract to another firm, the value of the subcontracted work may be counted only if the M/WBE's subcontractor is itself a M/WBE. Work subcontracted to a non-M/WBE firm does not count toward M/WBE goals.
- ▶ When a M/WBE performs as a participant in a *joint venture*, a portion of the dollar value of the contract equal to the distinct, clearly defined portion of work of the contract that the M/WBE performs with its own forces counts toward goal attainment.
- ▶ Expenditures to a M/WBE subcontractor count only when the M/WBE subcontractor is performing a Commercially Useful Function (CUF).

## Commercially Useful Function

M/WBE firms must be responsible for the execution of a contract or a distinct element of the work by performing, managing, and supervising the work involved.

# Commercially Useful Function

With respect to materials used on the contract, the M/WBE firm must be responsible for:

- ▶ *Negotiating price*
- ▶ *Determining quality and quantity*
- ▶ *Ordering*
- ▶ *Installing*
- ▶ *Payment*

# Commercially Useful Function

- ▶ The M/WBE does not perform a CUF if its *role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of M/WBE participation.*
- ▶ If a M/WBE does not perform or exercise responsibility for *at least 30%* of the total cost of its contract with its own work force, or the M/WBE subcontracts a greater portion of the work that would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.

# Management

- ▶ The M/WBE Must Manage the Work
- ▶ Management Includes, but is not limited to:
  - ✓ Scheduling work operations
  - ✓ Receive quotes & order equipment and materials
  - ✓ Prepare and submit certified payrolls (if applicable)
  - ✓ Hiring & firing employees
  - ✓ Make all operational & managerial decisions
  - ✓ Supervise daily operations, either personally or with a full-time skilled and knowledgeable Superintendent who is under the M/WBE owner's direct supervision

# Equipment

- ▶ M/WBE firm may lease equipment (if consistent with industry practices and competitive rates)
- ▶ Lease agreement is required and should be on a long term basis
- ▶ M/WBE firms may lease on an ad hoc basis from another contractor, excluding the prime contractor or subsidiary, with approval of the DBE Program Office
- ▶ Equipment leased and used by the M/WBE firm with payment deducted from the prime contractor's payment(s) to the M/WBE is not allowed
- ▶ Operation of the equipment must be subject to the full control of the M/WBE

# Workforce

- ▶ M/WBE firms must keep a regular workforce
- ▶ M/WBE firms cannot “Share” employees with non-M/WBE contractors, particularly the prime contractor or subsidiary
- ▶ M/WBE firm is responsible for all payroll and labor compliance requirements for all employees within the control of the company
- ▶ Direct or indirect payments by any other contractor is not allowed

# Materials

The M/WBE must:

- ▶ *Negotiate the Cost*
- ▶ *Arrange Delivery*
- ▶ *Take Ownership*
- ▶ *Pay for the Materials and Supplies*
- ▶ *Prepare the estimate, quantity of material, and be responsible for the quality of materials*



# Performance

The M/WBE must be responsible for the performance, management and supervision of a distinct element of the work, in accordance with normal industry practice.

*At least 30% of the work must be performed by the M/WBE with its own workforce*



# Manufacturer, Supplier, or Broker

A *manufacturer* is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

*Materials or supplies obtained from a M/WBE manufacturer, count 100% of the cost of the materials or supplies toward M/WBE goals.*

A *regular dealer* is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

*Materials or supplies purchased from a M/WBE regular dealer, count 60% of the cost of materials or supplies toward M/WBE goals.*

# Manufacturer, Supplier, or Broker

Materials or supplies purchased from a M/WBE which is neither a manufacturer nor a regular dealer, count at the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies toward M/WBE goals, provided it has been determined that the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

*The Cost of the Materials and Supplies Themselves Do Not Count Toward M/WBE Goals*

# MWBE INDEX & SUBMISSION REDEVELOPMENT

City of St. Louis DBE Program Office  
 Minority/Women Owned Business Enterprise Participation

CITY OF ST. LOUIS  
 MWBE INDEX AND SUBMISSION INSTRUCTIONS

## REDEVELOPMENT

PLEASE FORWARD ALL REPORTS TO THE DESIGNATED COMPLIANCE OFFICER

FORM	WHEN TO SUBMIT
Utilization Statement & Subcontractor List <small>(page 1 of 1)</small>	With application given to CDA, LCRA, LRA and SLDC requesting city incentive  Once general contractor and subcontractors have been selected
Utilization Plan <small>(page 1 of 2)</small>	Once general contractor and subcontractors have been finalized
Notice of intent to perform as a subcontractor and/or material supplier <small>(page 1 of 1)</small>	ALL subcontractors and material suppliers should complete and fully execute this form and submit with utilization plan
Contractors good faith effort report and statement <small>(page 1 of 1)</small>	Required if MWBE goals are <u>not</u> met
Copies of MWBE subcontracts	Upon execution of a contract the contractor shall provide fully executed copies of all MWBE subcontracts
Record of payments to subcontractors, material suppliers and other vendors report <small>(page 1 of 1)</small>	<b>Monthly</b> to the DBE Program Office
Subcontractor or supplier substitution form <small>(page 1 of 1)</small>	Prior to substituting a subcontractor or supplier. <b>Approval from the City is required prior to substitution</b>
Affidavit of actual utilization <small>(page 1 of 1)</small>	When all monies have been paid by contractor to MWBE subcontractor
Final Record of payment <small>(page 1 of 1)</small>	Within 15-days after the completion of all work items performed under the contract, and all retention paid

\* This packet is to be utilized by the following agencies: Affordable Housing Commission, Land Clearance for Redevelopment Authority (LCRA), Land Reutilization Authority (LRA), Port Authority, Missouri Downtown Economic Stimulus Authority (MODESA)

A photograph of a city street at dusk. The sky is a clear, deep blue. In the foreground, a sidewalk leads to a street with a few cars. A street lamp with a glowing lantern-style light fixture stands on the sidewalk. In the background, a large arch structure is visible against the sky. The text "QUESTION & ANSWER SESSION" is overlaid in white, serif font in the upper center of the image.

# QUESTION & ANSWER SESSION