

CHAPTER 107 - PURCHASING

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107.010 - Title of Chapter.

—This chapter shall be known and may be cited as the "Purchasing Code of St. Louis County, Missouri."

(O. No. 653)

107.020 - Definitions.

—For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory:

- (1) *County* is St. Louis County, Missouri.
- (2) *Purchasing Agent* or *Agent* is the Purchasing Agent of St. Louis County, Missouri.
- (3) *Committee* is the St. Louis County Purchasing Policy Committee.
- (4) *Contractual services* shall mean and include all telephone, gas, water, electric, light and power service; towel and cleaning service; janitorial and cleaning services for county facilities; any and all printing, binding and publication of stationery, forms, laws, journals, and reports; the rental, repair, or maintenance of equipment, machinery, and other county-owned property.
- (5) *Supplies* shall mean and include all materials, supplies and equipment.
- (6) *Using agency* is any department, agency, commission, board, bureau or other unit in the County Government using supplies or procuring contractual services as provided for in this chapter.
- (7) *Public notice* shall mean the distribution or dissemination of information to interested parties using methods that are reasonably available and deemed most likely to obtain the greatest number of responses from qualified providers of the required services. Such methods may include publication in newspapers of general circulation, electronic or paper mailing lists and websites designated by the county or state and maintained for that purpose, including but not limited to Missouri Buys.
- (8) *Professional services* shall mean services requiring specialized knowledge, skill, or technical expertise. Solicitation of architectural, engineering, and surveying services shall conform to the requirements of sections 8.285 to 8.291 RSMo. Missouri law requires the use of the qualifications based selection process for architectural, engineering and land surveying services to ensure that the most competent professional services available, based on demonstrated qualifications for type of service required at fair and reasonable prices.

- (9) *Subject matter expert* shall mean a county employee with specialized skills or knowledge on a particular topic or discipline relevant to the services solicited or requested.
- (10) *Purchase* means buying, purchasing, renting, leasing or otherwise acquiring any supplies, professional, consulting or contractual services or construction. It includes all functions that pertain to the obtaining of any supply, service or construction, including description of the requirements, selection and solicitation of sources, preparation and award of contract and all phases of administration. The provisions of this Code shall not apply to the acquisition of personal or real property by donation or gift.

(O. No. 27208, 10-23-18)

107.030 - Division of Purchasing—Establishment.

—There is hereby established in the Department of Administration a Division of Purchasing, and in said Division the Office of Purchasing Agent, as provided for in Article V, Section 38 of the St. Louis County Charter.

(O. No. 653)

107.040 - Purchasing Agent-Powers and Duties.

—The Agent shall be the head, and have general supervision, of the Division of Purchasing. He shall perform all duties required of a division head by the St. Louis County Charter and by law, and shall have the powers and duties prescribed by this chapter.

(O. No. 653)

107.050 - Purchasing Agent—Qualifications, Bond.

—The Director of Administration shall appoint, under the merit system, a purchasing agent who shall have charge of and be responsible for the purchasing of all supplies for the County and such other personal property and services as may be directed by ordinance. The Agent shall be at least twenty-five (25) years of age, and shall have had at least five (5) years' experience as a commercial or governmental purchasing or buying agent. He shall give an official bond to be approved by the County Counselor in the sum of fifty thousand dollars (\$50,000.00).

(O. No. 27208, 10-23-18)

107.060 - Scope of Purchasing Authority.

—The Agent shall have the power and it shall be his duty, except as may be otherwise provided by law or ordinance: To purchase or contract for all supplies, professional services and contractual services needed by any using agency which derives its support wholly or in part from the County, in accordance with purchasing procedures as prescribed by this chapter, such rules and regulations as the Agent shall adopt for the internal management and operation of the Division of Purchasing, and such other rules and regulations as may be prescribed by the County Executive and County Council. Except as may be otherwise provided by law or ordinance, the

agent shall have exclusive authority to negotiate all purchases for using agencies. Except as herein provided, it shall be unlawful for any County officer to order the purchase of any supplies or make any contract within the purview of this chapter other than through the Division of Purchasing, and any purchases ordered or contract made contrary to the provisions hereof shall not be approved and the County shall not be bound thereby.

(O. No. 27208, 10-23-18)

107.070 - Other Powers and Duties.

1. In addition to the purchasing authority conferred in section 107.060 and in addition to any other powers and duties conferred by this chapter, the agent shall:

- (a) Act to procure for the county a suitable quality in supplies, professional services and contractual services at the least expense to the County. The agent shall determine which method of purchase shall be used for the acquisition of supplies, professional services or contractual services.
- (b) Discourage collusive or restrictive bidding and endeavor to obtain as full and open competition as possible on all purchases.
- (c) Establish, and amend when necessary, all rules and regulations authorized by this chapter and any others necessary to its operation.
- (d) Keep informed of current developments in the field of purchasing, prices, market conditions and new products, and secure for the County the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical associations, trade associations having national recognition and by private businesses and organizations.
- (e) Prescribe and maintain such forms as he shall find reasonably necessary to the operation of this chapter.
- (f) Prepare and adopt a standard purchasing nomenclature for using agencies and suppliers.
- (g) Prepare, adopt and maintain a vendors' catalog file. Said catalog shall be filed according to materials and shall contain descriptions of vendors' commodities, prices and discounts.
- (h) Exploit the possibilities of buying "in bulk" so as to take full advantage of discounts.
- (i) Act so as to procure for the County all federal tax exemptions to which it is entitled.
- (j) Cooperate with the office of the County Accounting Officer and Budget Office so as to secure for the County the maximum efficiency in budgeting and accounting.
- (k) Have the authority to declare as irresponsible bidders those vendors who default on their quotations, and to disqualify them from receiving any business from the County for a stated period of time.
- (l) Have the authority to disqualify contractors and subcontractors from any contracts with the County for a stated period of time in accordance with the provisions of section 107.075.
- (m) Work with the using agency to determine the required need of the department and term of the contract based on that need and the need to procure the supplies or services at the most competitive rate for the County. Unless otherwise provided by law, a contract for supplies, professional services or contractual services may be entered into for any period of time deemed to be in the best interests of the County as reasonably determined by the Agent and the using agency.

2. Except as otherwise provided in the Purchasing Code, all rights, duties and authority relating to the purchase and procurement of supplies, professional services and contractual services shall be vested in the agent.
3. Using agencies shall submit requests for invitations for bids (IFB) and requests for proposals (RFP) to the agent. Upon receipt of the using agency's request, the agent shall determine the method of purchase that will be used and work with the using agency to prepare the appropriate solicitation. The agent shall monitor the process with the using agency to ensure timely completion and the integrity of the method of purchase. The agent shall certify to the County Council that the method of purchase was properly followed at the time a request to award a contract or for legislation authorizing execution of a contract is submitted to the County Council.

(O. No. 27208, 10-23-18)

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 MWBE 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.

(O. No. 27043, 5-8-18)

#### 107.075 - Disqualification of Vendors.

- 1. No contract or subcontract awarded pursuant to the provisions of this chapter shall be let to any contractor which is disqualified as hereinafter set out or is managed, controlled or more than fifty (50) percent owned by a person or entity so disqualified. A contractor which is disqualified or is managed, controlled or more than fifty (50) percent owned by a person or entity that is disqualified shall not act as a subcontractor on any such County contract.
2. Any person may request that the Agent determine the suitability of a contractor or subcontractor for performance of future contracts with the County. Such request must state information which such person has regarding the contractor's unsuitability to engage in contracts with the County. The Agent may reject any request which fails to raise any specific aspect of the contractor's suitability for being awarded contracts with County.
3. When the Agent, in his discretion, shall determine that a review should be undertaken regarding the suitability of a contractor or subcontractor for performance of future contracts with the County, the Agent shall review the performance of such contractor or subcontractor in performing prior contracts with the County. In determining whether a contractor or subcontractor should be disqualified from receiving any County contracts for a period of time, the Agent may consider any of the following:
- (a) Whether the contractor or subcontractor incorporated materials into the work which were not in accordance with or equal to the materials specified in the contract.

- (b) Whether the contractor or subcontractor performed any work on the contract without the insurance required by the contract.
  - (c) Whether the contractor or subcontractor completed the work in a timely manner.
  - (d) Whether the contractor or subcontractor obtained all permits required by law, and whether the contractor or subcontractor observed all required safety precautions in connection with handling, storage and use of explosives.
  - (e) Whether the contractor or subcontractor concealed substandard work from inspectors.
  - (f) Whether the contractor or subcontractor falsified test results.
  - (g) Whether the contractor or subcontractor repaired all property damaged in the course of doing the work.
  - (h) Whether the contractor or subcontractor paid suppliers.
  - (i) Whether the contractor or subcontractor complied with law relating to equal opportunity in employment.
  - (j) Whether the contractor or subcontractor disposed of hazardous or regulated waste only in those locations and in the manner which have been approved as provided by law and, if applicable, in the contract.
  - (k) Whether the contractor or subcontractor shall pay any applicable tax due to St. Louis County.
  - (l) Whether the contractor or subcontractor pays the wage rates, including appropriate fringe benefits, as prescribed in the contract, and includes provisions in subcontracts that such wage rates, including appropriate fringe benefits, shall be paid.
  - (m) Whether the contractor or subcontractor permits a subcontractor or any employee to violate any of the requirements listed herein.
4. If violations are found, the Agent shall determine whether the bidder should be disqualified and the period of such disqualification. In determining whether a contractor should be disqualified and the period of disqualification imposed by the Agent, if any, following such a review of past performance of a contractor or subcontractor, the Agent shall consider the seriousness of the violation, whether the violation was intentional, and whether the contractor had been previously disqualified from contracts with St. Louis County. The period of disqualification under this section shall not exceed three (3) years.
5. Failure of the Agent to disqualify a contractor under the provisions of this section shall not estop the Agent from determining that a bidder is not the "lowest responsible bidder" under the criteria set forth in Section 107.130(6).

(O. No. 15413, 3-14-91)

107.080 - St. Louis County Purchasing Policy Committee.

—1. There is hereby created in the Department of Administration the St. Louis County Purchasing Policy Committee which is referred to hereinafter as the Policy Committee.

2. The Policy Committee shall consist of the Director of Transportation, the Director of Public Works, the Director of the Public Health Department, the Director of Minority Business Development and Compliance, or their designees, and the Director of Administration who shall serve as chairman. The Purchasing Agent shall serve as an ex-officio member of the Policy Committee. The Chairman of the County Council or his/her designee shall participate as a non-voting, ex-officio member of the Policy Committee.

3. The Policy Committee shall have the authority and responsibility to promulgate regulations consistent with the Purchasing Code governing the procurement, management, control and disposal of any and all supplies, services, and construction to be procured by the County. The Policy Committee shall meet quarterly and shall strive to adopt regulations consistent with best practices in public procurement.
4. Purchasing procedures and administrative practices developed from the Policy Committee shall be uniformly standardized, but sufficiently flexible to account for isolated unique conditions. Items commonly used in the various departments shall be standardized whenever consistent with County goals and in the interest of efficiency and economy.

(O. No. 27208, 10-23-18)

#### 107.090 - Requisition and Estimates.

—All using agencies, either by or with the authorization of the head of the department or office under which the using agency operates, shall file with the Agent detailed requisitions or estimates of their requirements in supplies and contractual services in such manner, at such times, and for such future periods as the Agent shall prescribe. A using agency shall not be prevented from filing, in the same manner, with the Agent at any time a requisition or estimate for any supplies and contractual services, the need for which was not foreseen when the detailed estimates were filed. The Agent shall examine each requisition or estimate and shall have the authority to revise it as to quality, quantity or estimated cost, except where the using agency shall have the specific power and duty as otherwise provided by law or ordinance to determine the quality, quantity, and specifications or cost of any supplies; but revision as to quality shall be in accordance with the standards and specifications established pursuant to this chapter.

(O. No. 653)

#### 107.100 - Encumbrance of Funds.

—The agent shall not issue any order for delivery on a contract or open market purchase until the County Accounting Officer shall have certified that there is to the credit of the using agency or agencies concerned a sufficient unencumbered appropriation balance in excess of all unpaid obligations to defray the amount of such order.

(O. No. 27208, 10-23-18)

#### 107.110 - Gifts and Rebates.

—The Agent and every officer and employee of the County are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is, or might be awarded, any rebate, gift, money, or anything of value whatsoever, except where given for the use and benefit of the County.

(O. No. 653)

#### 107.120 - Competitive Bidding Required.



—All purchases of and contracts for supplies and contractual services shall, except as specifically provided herein, be based whenever possible, on competitive bids. All sales of personal property which has become obsolete and unusable shall, except as specifically provided herein, be based whenever possible on competitive bids.

(O. No. 7467, 5-6-75)

107.130 - Formal Contract Procedure—Competitive Bidding.

—All supplies, professional services and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed twenty-five thousand dollars (\$25,000.00), shall be purchased by formal written contract from the lowest responsible bidder, after due notice inviting proposals:

- (1) Public Notice inviting bids shall be published at least once in at least one official newspaper in the County with a circulation of at least five hundred (500) copies per issue, which notice shall be published at least fifteen (15) days preceding the last day set for receipt of proposals and by any other method(s) the agent finds appropriate in light of the supplies, professional services or contractual services being solicited. The newspaper notice required herein shall include a general description of the articles to be purchased or sold, shall state where bid blanks and specifications may be secured and the time and place for opening bids. The agent shall also solicit sealed bids from all responsible prospective suppliers or purchasers who have requested their names to be added to a "bidders' list," which the agent shall maintain, by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale. In addition, the agent may put public notice on the State of Missouri Buys website, if available, or other similar type service provided by the State of Missouri when such notice shall bring a competitive advantage to the County.

In any case, invitations sent to the vendors on the bidders' list shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent. All such purchases or sales shall also be advertised by a notice posted on the County website.

- (2) When deemed necessary by the agent, bid deposits shall be prescribed in the public notice inviting bids. Unsuccessful bidders shall be entitled to return of surety or deposit where the agent has required such. A successful bidder shall forfeit any deposit or surety required by the agent upon failure on his part to enter into a contract within ten (10) days after the award.
- (3) Intentionally blank.
- (4) All bids shall be submitted sealed to the Agent and shall be identified as bids on the envelope. Bids shall be opened by the Agent or a duly authorized representative in the presence of the County Clerk or a duly authorized representative, at the date, time and location specified in the advertisement for bids. The Agent shall tabulate all bids received on a form specially designed for the purpose, and such tabulation shall be posted in the Office of the Agent and available for public inspection for at least five (5) days. The Agent shall forward the Bids to the interested Department Head, who shall return the Bids with his recommendations to the Agent within the shortest practicable time.
- (5) The Agent shall have the authority to reject all bids, parts of all bids, or bids for any one (1) or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.
- (6) The Agent shall have the authority to award contracts within the purview of this chapter. Contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder," in addition to price, the Agent shall consider: The ability, capacity or skill of the bidder to

perform the contract or provide the service required; whether the bidder can perform the contract or provide the service promptly or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the bidder; the quality of performance of previous contracts or services; the previous and existing compliance by the bidder with laws and ordinances relating to the contract or service; the sufficiency of the financial resources and ability of the bidder to perform the contract or provide the services; the quality, availability of the supplies, or contractual services to the particular use required; the ability of the bidder to provide future maintenance and service for the use of the subject to the contract; and the number and scope of conditions attached to the bid. When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the Agent with the concurrence of the County Counselor and filed with the other papers relating to the transaction. If all bids received are for the same total amount or unit price, the Agent shall re-advertise for bids, unless the public interest will not permit this delay. In such case, the Agent shall award the contract to one (1) of the tie bidders by drawing lots in the presence of the County Clerk or his duly authorized representative in public, or by purchasing the supplies or contractual services in the open market, provided the price paid therefor shall not exceed the lowest contract bid price submitted for the same supplies or contractual services. If two (2) or more bidders tie for low bid and elements of time or responsibility of the bidders are not sufficient to justify the award to one (1) of the tie bidders, the Agent shall award the contract to one (1) of the tie bidders by drawing lots in the presence of the County Clerk or his duly authorized representative in public.

- (7) (a) As to construction projects, the term "responsible bidder" shall be further restricted to include, except as to federal or state projects if prohibited as a condition of funding, only those bidders who certify by notarized statement that: they have not been barred from bidding on any federal or State projects within the last year; that they have not had any State or County-issued business, trade or contracting license suspended or revoked within the last year; that they have and enforce a drug-testing policy for all employees in the field; that all employees will be licensed, with the appropriate licensing authority; that prevailing wages will be paid to all employees; that all on- site employees and on-site employee supervisors will be OSHA-certified in compliance with then-current OSHA safety requirements prior to working on the project; that all on- site employees will be ten-hour OSHA-certified; that all on- site employee supervisors will be thirty-hour OSHA-certified; and that they will comply with all applicable laws, ordinances, rules and regulations governing the conduct of business in St. Louis County and the State of Missouri.
- (b) As used in this subsection:
- i. "On-site employee" shall mean any laborer, workers, drivers, equipment operators, and craftspersons employed by contractors and subcontractors to be directly engaged in construction at the site of the construction project.
  - ii. "Directly engaged in construction" shall mean work performed in the actual erection of the structure or completion of the improvement constituting the public work project. Persons engaged solely in the transportation of materials, fuel or equipment to the site, and persons engaged in the business of landscaping, including, contractors who perform landscaping workseeding, sodding and planting of trees and shrubs, and design and construction of common outdoor accessory features such as retaining walls, shall not be deemed to be directly engaged in construction.
  - iii. A "subcontractor" is a person who enters into a subcontract with a contractor for construction of public works and employs on-site employees for completion of the contract.
  - iv. A "supervisor" is a foreman, project manager, safety director or lead tradesman on the project.
- (8) All contracts of St. Louis County shall be executed by the County Executive and attested by the County Clerk, and shall bear thereon the approval of the County Counselor, and the certification of the Accounting Officer. A copy of each contract shall be filed with the Accounting Officer.

- (9) The Agent shall adopt such rules and regulations as appropriate for the requirement of corporate surety bonds for contracts. These rules and regulations are to be approved by the County Counselor and shall become effective when approved by the St. Louis County Council by Council Order.

(O. No. 27208, 10-23-18)

107.131 - Two-Step Sealed Bidding.

—1. When, in the opinion of the Purchasing Agent, adequate specifications for a particular acquisition of supplies or contractual services, including those related to information technology, are not available to conduct competitive bidding in accordance with Section 107.130, and it is desirable to permit the development of a sufficiently descriptive and not unduly restrictive statement of the County's requirements, including an adequate technical data package, so that subsequent acquisitions may be made in accordance with Section 107.130, a two-step sealed bidding process as described herein may be utilized. As used in this context, the word "technical" may be construed broadly, and includes, among other things, the engineering approach, special manufacturing processes and special testing techniques.

2. The two-step bidding process may be utilized when, in the Agent's opinion, all of the following conditions are present:
  - (a) available specifications or purchase descriptions are not definite or complete or may be too restrictive without technical evaluation and any necessary discussion, of the technical aspects of the requirement to ensure mutual understanding between each source and the County;
  - (b) definite criteria exist for evaluating technical proposals;
  - (c) more than one technically qualified source is expected to be available;
  - (d) sufficient time will be available for use of the two-step method;
  - (e) a firm-fixed-price contract with economic price adjustment will be used.
3. Upon the Agent's determination to utilize two-step bidding, the selection of a contractor shall proceed as follows:
  - (a) In the case of acquisitions where the estimated value of the supplies or services exceeds twenty-five thousand dollars (\$25,000.00), notice shall be provided in accordance with Section 107.130. In the case of acquisitions where the estimated value of the supplies or services does not exceed twenty-five thousand dollars (\$25,000.00), bids shall be solicited in accordance with Section 107.140.
  - (b) Requests for proposals shall include the following at a minimum:
    - 1) a description of the supplies or services required;
    - 2) a statement of intent to use the two-step method;
    - 3) the requirements of the technical proposal;
    - 4) the evaluation criteria, to include all factors and any significant subfactors;
    - 5) a statement that the technical proposals shall not include prices or pricing information;
    - 6) the date and hour by which the proposal must be received;
    - 7) a statement that, in the second step, only bids based on technical proposals determined to be acceptable, either initially or as the result of discussion, will be considered for awards,

and that each bid in the second step must be based on the bidder's own technical proposals;

- 8) a statement that the offerors should submit proposals that are acceptable without additional explanation or information; and that the County may make a final determination regarding a proposal's acceptability solely on the basis of the proposal as submitted; and that the County may proceed with the second step without requesting further information from any offeror; however, the County may request additional information from offerors of proposals that it considers reasonably susceptible of being made acceptable, and may discuss proposals with their offerors;
  - 9) a statement that a notice of unacceptability will be forwarded to the offeror upon completion of the proposal evaluation and final determination of unacceptability;
  - 10) a statement that either only one technical proposal may be submitted by each offeror or that multiple technical proposals may be submitted.
- (c) Upon receipt of proposals, the Agent shall safeguard the proposals against disclosure to unauthorized persons and shall remove any reference to price or cost. The Agent shall categorize each proposal as either acceptable, reasonably susceptible of being made acceptable, or unacceptable. Any proposal which modifies or fails to conform to the essential requirements or specifications of the request for technical proposal shall be considered nonresponsive and categorized as unacceptable.
- (d) The Agent may proceed directly with solicitation of bids if there are sufficient acceptable proposals to ensure adequate price competition and if further time, effort and delay to make additional proposals acceptable and thereby increase competition would not be in the County's best interest. If this is not the case, the Agent shall request bidders whose proposals may be made acceptable to submit additional clarifying or supplemental information. The Agent shall identify the nature of the deficiencies in the proposal or the nature of the additional information required. The Agent may also arrange discussions for this purpose. No proposal shall be discussed with any offeror other than its submitter.

In initiating requests for additional information, the Purchasing Agent shall fix an appropriate time for bidders to conclude discussions, if any; submit all additional information; and incorporate such additional information as part of the proposals submitted. Such time may be extended in the discretion of the Agent. If the additional information incorporated as part of a proposal within the final time fixed by the Agent establishes that the proposal is acceptable, it shall so be categorized. Otherwise it shall be categorized as unacceptable.

- (e) When a technical proposal is found unacceptable (either initially or after clarification), the Agent shall promptly notify the offeror of the basis of the determination and that a revision of the proposal will not be considered. If no acceptable proposal or only one proposal is received, all offerors shall be so notified and the acquisition may be made under the Sole Source Purchase Procedure set out in Section 107.133 if appropriate.
- (f) Invitations for bid shall be issued only to those offerors whose previously submitted proposals have been deemed acceptable by the Agent. The bid invitations shall state the time and place for opening of the bids and that the bidder shall comply with the specifications and the bidder's own proposal. When deemed necessary by the Agent, bid deposits shall be prescribed in the public notice inviting bids. Unsuccessful bidders shall be entitled to return of surety or deposit where the Agent has required such. A successful bidder shall forfeit any deposit or surety required by the Agent upon failure on his part to enter into a contract within ten (10) days after the award.
- (g) The bids shall be opened and contracts awarded pursuant to the requirements of Section 107.130

(O. No. 23006, 11-21-06)

107.132 - Requests for Proposals Required.

—1. Unless otherwise required by federal or state law, the following competitive request for proposals (RFP) procedure shall be utilized for the acquisition of professional services in excess of twenty-five thousand dollars (\$25,000.00) (excluding architectural, engineering and land surveying services as defined in section 107.020) when, in the written opinion of the purchasing agent: the scope of work cannot be completely defined by the County; the exercise of discretion and independent judgment in the performance or design and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience in the field is necessary; the qualifications, experience or quality of the supplies and services to be delivered are significant factors for consideration; or the responses may contain varying levels of service or alternatives which lend themselves to negotiation. In the event the estimated cost of the services to be solicited via RFP exceeds the sum of one hundred thousand dollars (\$100,000.00), prior to publishing such RFP, the director of the using agency shall obtain approval of the County Council by order.

- (1) The RFP shall identify the services sought, including the scope of the project; the specific factors that will be used in evaluating proposals; and the date and time by which proposals must be received;
- (2) The RFP shall be given public notice published by posting on the county website for a minimum of fifteen (15) business days and by any other method(s) the purchasing agent finds appropriate in light of the services being requested so as to obtain the greatest number of responses from qualified providers of the required services;
- (3) The director of the using agency shall convene an evaluation committee composed of County employees to review the proposals and shall provide notice to the purchasing agent of the names of the evaluation committee members and a timeline for review of the proposals. The evaluation committee shall:
  - (a) Consist of three (3) or more subject matter expert members including the using agency director or his subject matter expert designee and a merit system employee of the Division of Purchasing, who shall be a non-voting member of the evaluation committee and shall participate for the purpose of certifying that the method of purchase is properly followed;
  - (b) Develop a uniform scoring system to evaluate each proposal;
  - (c) Make a written recommendation to the using agency director and purchasing agent as to which proposal represents the best value to the county, taking into account the price; ability, capacity or skill of the proposer to provide the required services; whether the proposer can provide the service promptly or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the proposer; the quality of performance of previous contracts or services; the previous and existing compliance by the proposer with laws and ordinances relating to the service; the sufficiency of the financial resources and ability of the proposer to provide the services; the quality and availability of the contractual services required; the ability of the proposer to provide any necessary future service; and the number and scope of conditions attached to the proposal;
  - (d) Prepare minutes of its meeting(s) to reflect deliberations, including details of why a particular entity was selected, the scoring process, and a summary of votes taken. The evaluation committee shall provide a copy of all said documentation to the purchasing agent for certification to the County Council that the RFP process was followed.
- (4) Upon receipt of the evaluation committee's recommendation, using agency director shall decide whether to proceed with a written recommendation to the county executive, to abandon

efforts to secure the subject services if the proposal does not meet the RFP requirements or the using agency director determines the service is no longer necessary, or to solicit new proposals. If the using agency director decides to proceed with the recommendation to the county executive, the using agency director shall notify the purchasing agent. The purchasing agent shall review the evaluation committee's recommendation to determine if the RFP process was followed. If the purchasing agent determines that the RFP process was followed, he shall complete a written certification. The using agency director may then submit a written recommendation including the purchasing agent's certification to the county, executive. The purchasing agent's certification shall be submitted to the County Council with any request for legislation to authorize execution of a contract resulting from the RFP. No contract shall be executed without authorization from the county council. If the using agency director elects to reject all proposals, he shall provide written notification to the purchasing agent of such decision to reject.

- (5) The using agency director shall include the following information in the recommendation to the county executive and such information shall be provided to the county council:
  - (a) The total amount requested and budgeted for the contract;
  - (b) The source of funds to be used for the contract and any renewals, including any grant funding;
  - (c) The services to be provided and whether the services are an expansion of a current program, project or service;
  - (d) Any contingency funds requested; and
  - (e) The written certification completed by the purchasing agent.
2. At the discretion of the using agency director, RFP contracts for which compensation is twenty-five thousand dollars (\$25,000.00) or less may be recommended to the county executive by the using agency without the convening of an evaluation committee, so long as the RFP is published pursuant to the above section. The using agency shall notify the purchasing agent of all such RFPs prior to issuance. All such contracts shall be approved by the county council unless county ordinances otherwise provide.
3. The provisions of this section shall not apply to the services of attorneys and expert witnesses engaged by the county counselor under chapter 110 SLCRO 1974 as amended.
4. The provisions of this section shall not apply to architectural, engineering or land surveying services as identified in RSMo § 8.285 et seq. Those shall be awarded as provided under Missouri law.
5. Any contract resulting from the RFP process pursuant to this section shall be a firm fixed price contract. If the using agency director requests authorization for execution of change orders with the contract, the using agency director shall request a specific percentage and provide a written description of the need for such authority within the request for legislation.
6. The purchasing agent shall provide a quarterly report to the County Council containing a list of RFPs where County elected to reject all submitted proposals.

(O. No. 27208, 10-23-18)

#### 107.133 - Sole-Source Purchase Procedure.

—1. A contract may be awarded for supplies or service without competitive bidding under Section 107.130 when the Purchasing Agent determines in writing that there is only one (1) source for the required supplies or service.

2. Sole-source purchase is not permissible unless a requirement is available from only a single supplier. A requirement for a particular proprietary item does not justify a sole-source purchase if there is more than one (1) potential bidder or offeror for that item. The following are circumstances which could necessitate sole-source purchase:
  - (a) Where the compatibility of equipment, accessories, or replacement parts is the paramount consideration.
  - (b) Where a sole supplier's item is needed for trial use or testing.
  - (c) Where a sole supplier's item is to be purchased for resale.
  - (d) Where public utility services are to be purchased.
  - (e) Where service must be obtained from original equipment contractor in order to maintain equipment operation.

The determination as to whether a purchase shall be made as a sole-source shall be made by the Purchasing Agent. Such determination and the basis therefor shall be in writing. The Purchasing Agent will specify the application of such determination and the duration of its effectiveness. In cases of reasonable doubt, competition should be solicited. Any request by a using agency that a purchase be restricted to one (1) potential contractor shall be accompanied by a written explanation and signed by the head of the using agency as to why no other will be suitable or acceptable to meet the need.

3. The Purchasing Agent shall conduct negotiations, as appropriate, as to price, delivery, and terms. The County Counselor will approve the final contract terms.
4. A record of sole-source purchases which exceed the amount requiring formal contract procedure under Section 107.130 shall be maintained that lists:
  - (a) Each contractor's name.
  - (b) The amount and type of each contract.
  - (c) A listing of the supplies or services, purchased under each contract.
  - (d) The identification number of each contract file.
  - (e) Using agency requesting the sole-source purchase.

(O. No. 12008, 4-5-85)

107.134 - Reserved.

**Editor's note**— O. No. 27043, § 2, adopted May 8, 2018, amended the Code by repealing former § 107.134, which pertained to minority and women participation in construction contracts, and derived from O. No. 25816, adopted July 1, 2014.

107.135 - Tax Certification.

- 1. The Purchasing Agent shall not award a contract for contractual services or supplies to be procured under the provisions of the Purchasing Code without first having obtained a certification from the Department of Revenue certifying that the low bidder for said contractual services or supplies who is subject to county taxation does not owe to St. Louis County any current or past real estate, personal property or merchants or manufacturer taxes.
2. In the event the Department of Revenue certifies to the Purchasing Agent that a low bidder is subject to taxation by St. Louis County and that said low bidder is not on the tax rolls or owes to St. Louis

County current or past real estate personal property or merchant or manufacturer taxes, the Purchasing Agent shall not make an award to the low bidder until the Department of Revenue issues a certification acknowledging the payment of any and all taxes due St. Louis County, Missouri.

(O. No. 6563, 12-7-72)

107.140 - Open Market Procedure.

—1. All purchases of supplies and contractual services of less than the estimated value of twenty-five thousand dollars (\$25,000.00) shall be made in the open market without newspaper advertisement and without observing the procedure prescribed in Section 107.130 hereof for award of formal contracts.

2. All open market purchases shall, whenever possible, be based on at least three (3) competitive bids and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in subsection (6) of section 107.130 hereof. The Agent, or designated representative, shall solicit bids or quotes by using an online bidding system, by facsimile request or by telephone to prospective vendors and by public notice. Notice may be posted on the County's Internet site or on a third-party provider website with links from the County Internet site. The Agent shall maintain a file of all open market orders and the bids submitted in competition hereon and such record shall be open to public inspection.
3. Notwithstanding the requirements of subsections 1 and 2 hereinabove, upon the request of any using agency, the Agent may procure or sell through state or public auction, whether conducted online or in person, any item which the Agent determines should be so purchased or sold in the best interest of the County. The auction shall be operated in accordance with procedures approved by the Agent.

(O. No. 27208, 10-23-18)

107.145 - Disposal of Personal Property.

—1. The Purchasing Agent is authorized to dispose of personal property which has become obsolete and unusable upon terms advantageous to St. Louis County; provided that the Purchasing Agent shall prior to such disposal submit a list of items to be disposed of to the County Council for its approval by order, together with factual information in clear and specific terms to support the finding by the Purchasing Agent that the items to be disposed of are obsolete and unusable.

2. The Purchasing Agent is authorized to conduct or have conducted a public auction at which those items found by the Purchasing Agent to be obsolete and unusable and approved by order of the County Council will be sold in a manner consistent with commonly accepted procedures for public auctions. Not less than ten (10) days prior to said auction, the Purchasing Agent shall publish a notice of said auction in at least one (1) official newspaper in the County with a circulation of at least five hundred (500) copies per issue, which notice shall contain a general description of the items to be sold and the date and location of the proposed auction.
3. With the exception of those items sold at public auction, personal property having an estimated value in excess of twenty-five thousand dollars (\$25,000.00) shall be disposed of in accordance with the formal contract procedure, Section 107.130; and disposal of personal property having a value of less than twenty-five thousand dollars (\$25,000.00) shall be made in accordance with the open market procedure, Section 107.140.



4. Notwithstanding subsections 1, 2, and 3 of this section, the Purchasing Agent is authorized to dispose of unusable or surplus computers, computer accessories and related equipment by donation to a non-profit organization which will use such equipment for educational purposes. Prior to donation, the Purchasing Agent shall obtain the certification of the Chief Information Officer that the intended donee will permanently erase from any donated equipment all data stored therein, and that all data will be protected from retrieval prior to erasure. The Purchasing Agent shall advise the County Council semi-annually of all donations made pursuant to this subsection.

(O. No. 25886, 9-30-14)

107.146 - Discrimination by Contractors—Prohibited.

—All contracts for professional services, supplies and construction wherein St. Louis County as a party, whether negotiated or formally advertised, shall contain a nondiscrimination in employment clause which shall provide that the contractor in the performance of the contract will not discriminate against any employee or applicant for employment because of race, creed, color, sexual orientation, gender identity or national origin. Actions of the contractor shall include but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The County Counselor shall draft an appropriate clause for inclusion in all County contracts.

(O. No. 25279, 11-27-12)

107.150 - Central Warehousing.

—The Agent shall control and supervise all County storerooms and warehouses. The County Council shall provide a stores revolving fund of sufficient amount to finance the purchase and storage of supplies which are used in large quantities and which may be purchased and stored advantageously. Such fund shall be under the control of the Agent, subject to financial control of the County Auditor, and he shall be accountable for all supplies in his custody. Requisitions from supplies in a storeroom or warehouse shall be credited to the stores revolving fund by a charge against the appropriation of the using agency. The Agent shall cooperate with the County Auditor in the maintenance of a perpetual inventory record of all such supplies.

(O. No. 653)

107.160 - Price Agreement Contract Procedure.

—The Agent shall have authority to execute long-term price agreement contracts, subject to the provisions of this chapter, whereby the using agencies requisition and accept delivery of supplies and equipment in small lots, to meet requirements as needed. The Agent shall have authority to charge the cost of such contract against the appropriations of such using agencies. The Agent shall prescribe by rules and regulations the procedure under which such requisition may be made by the heads of using agencies.

(O. No. 714, § 1)

107.170 - Unforeseen Requirements.

—1. In case of an immediate need which requires immediate purchase of supplies or contractual services, the County Executive shall be empowered to authorize the Agent to secure by open market procedure, as herein set forth, at the lowest possible price, any supplies or contractual services regardless of the amount of the expenditure; provided, however, that the County Auditor shall certify that the account to be charged for said services or purchase has a sufficient unencumbered balance to pay the same in the appropriation account against which such obligation is to be charged.

2. A full report of the circumstances of such immediate purchase shall be filed by the Agent with the County Supervisor and the County Council, and shall be entered in the minutes of the Council and shall be open to public inspection.
3. In cases of emergency, where the immediate procurement of any supplies or contractual services is essential to prevent delays in the work of any using agency, which may vitally affect the life, health, welfare or convenience of citizens, and there is not sufficient time or the procedure set forth above to be followed, the Agent may authorize the head of any such using agency to purchase directly such supplies or contractual services. The head of such using agency shall send to the Agent a requisition and a copy of the delivery record, together with a full written report of the circumstances of the emergency. The report shall be filed by the Agent with the Council and County Supervisor as set forth above.
4. The Agent shall prescribe by rules and regulations the procedure under which emergency purchases by heads of using agencies may be made.

(O. No. 653)

107.180 - Inspection and Testing.

—1. The Agent shall inspect or supervise the inspection of all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract. The Agent shall have the authority to authorize using agencies having the staff and facilities for adequate inspection to inspect all deliveries made to such using agencies under rules and regulations which the Agent shall prescribe.

2. The Agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the Agent shall have the authority to make use of laboratory facilities of any agency of the County Government or of any outside laboratory.

(O. No. 653)

107.190 - Surplus Stock.

—1. All using agencies shall submit to the Purchasing Agent, at such times and in such form as he shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped. The Purchasing Agent shall have the authority to transfer surplus stock to other agencies, to sell all supplies which have become unsuitable for public use, including authority to sell said stock at public auction, or to exchange the same for, or

trade in the same on new supplies. With the exception of those sales made at public auction, all sales under this section shall be made to the highest responsible bidder in compliance with Sections 107.130, 107.140 and 107.145, whichever is applicable.

2. The Purchasing Agent shall make necessary arrangements to keep the Accounting Officer informed of all transfers, sales, exchanges, and trade-ins so that the Accounting Officer's inventory record may be kept current.

(O. No. 7467, 5-6-75)

#### 107.200 - Cooperative Purchasing Programs.

- A. The County may purchase goods and services pursuant to a cooperative procurement agreement provided that the procuring entity's procurement process is consistent with County's competitive purchasing requirements in this chapter. All State of Missouri cooperative procurement agreements qualify for this competitive purchasing documentation exemption; any other cooperative procurement agreement must be approved in writing by the Purchasing Agent prior to any purchase being made through the agreement.
- B. The Purchasing Agent shall periodically check goods and services available through approved cooperative procurement agreements against the market and other cooperative agreements and direct departments to utilize another competitive purchasing mechanism when a lower price or better good or service appears to be available.
- C. The Purchasing Agent is authorized to join with any public body or agency or educational institution as in the procurement of contractual services, supplies and construction.

(O. No. 27208, 10-23-18)

#### 107.210 - Procurement of Materials and Equipment Under Competitively Bid Construction Projects.

—The Agent shall have the authority, with respect to County construction projects which have been competitively bid, to procure materials and equipment solely upon recommendation of the construction manager or of the contractor or subcontractor by whom the materials or equipment are to be used.

(O. No. 16701, 10-15-93)

#### 107.215 - False Representation Prohibited.

—Whoever, in any matter within the jurisdiction of any office, department, division, board, commission, or the County Council of St. Louis County, knowingly and wilfully falsifies, conceals or covers up by any trick, scheme or device, a material fact, or makes any false, fictitious or fraudulent statement or representation, or makes or uses any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or representation, or makes or uses any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than one thousand dollars (\$1,000.00), or imprisoned in the County Jail not more than one (1) year or both.

(O. No. 2910)

107.220 - Definitions.

—The following terms, as used in Sections 107.221 through 107.223, shall have the meanings ascribed to them, thus:

*Apparel* means clothes, shoes and garments and accessories thereto;

*Production facility* means the facility that manufactures the finished apparel or textiles provided by a vendor with which the County has or intends to contract for the provision of apparel or textiles. When the context so requires, "production facility" shall also mean the owners and managers thereof;

*Sweatshop practices* means:

- a) the failure to comply with domestic labor laws in the country where the apparel or textiles provided by a vendor to the County were manufactured all federal state or local laws and workplace regulations, including those pertaining to wages and benefits, workplace health and environmental safety, freedom of association and the fundamental conventions of the International Labor Organization, including those pertaining to forced and child labor and freedom of association;
- b) engaging in behavior or committing acts that harass or abuses a worker in a sexual, psychological or verbal manner; or subjects a worker to corporal punishment;
- c) engaging in discriminatory employment practices on the basis of race, creed, color, gender, sexual orientation, gender identity or national origin; or requiring a pregnancy test as a condition of employment;
- d) exposing a worker to toxic chemicals that endanger health; failing to take appropriate measures to safeguard workers when any aspect of work requires exposure to toxic chemicals;
- e) failing to pay wages in compliance with federal or state regulations; and failure to maintain verifiable wage and hour records for each production worker, employee or independent contractor;
- f) requiring hourly and quota-based workers to work more than either of 48 hours per week or the limits on regular hours allowed by the country of manufacture, whichever is lower; failing to provide workers with days off as provided by applicable labor law;
- g) requiring workers to work overtime hours unless the workers are paid at the rate of at least one and a half their regular hourly compensation rate as provided by the Fair Labor Standards Act;
- h) failing to provide for mediation or a grievance process to resolve workplace disputes if required by federal law;
- i) closing or reducing orders for a production facility as a punitive measure against workers for exercising their right to freedom of association or to avoid responsibility to take corrective action after there has been a determination that a violation of applicable workplace condition laws have occurred.

*Textiles* means all items of cloth that are produced by weaving, knitting, felting, sewing or similar production processes, including but not limited to cloth items such as sheets, pillows, pillowcases, towels, blankets and upholstery;

*Vendor* means a person or business entity with whom the County has a current procurement relationship, or who bids or proposes to provide apparel or textiles to the County in a total amount greater than \$5,000.00 per fiscal year.

(O. No. 25389, 3-12-13)

107.221 - Apparel and textiles not to be provided from "sweatshop" production facilities.

—1. No vendor shall fulfill a contract with the County for the supplying of apparel or textiles where the manufacture of the apparel or textiles originates from a production facility that engages in sweatshop practices. However, a vendor awarded a contract after having submitted a plan pursuant to Section 107.222.2 shall be considered to have complied with the provisions of this section, during the term of such contract.

2. Prior to executing a contract with the County for supplying apparel or textiles, the vendor shall certify by affidavit of its authorized official that the apparel or textiles to be supplied were not, to the best of its knowledge, obtained from or manufactured at a facility engaging in sweatshop practices. Sufficient certification shall include identifying the original manufacturer of the apparel or textiles and specifying its location. In lieu of providing such an affidavit, the vendor may submit to the Purchasing Agent a report of a nonprofit independent agency with expertise in monitoring sweatshop practices in production facilities, as approved by the Purchasing Agent. No contract may be executed by a County official without the vendor having complied with the requirements of this section.

(O. No. 25389, 3-12-13)

107.222 - Bid specifications to include prohibition of sweatshop-originated apparel or textiles.

—1. The Purchasing Agent shall include as part of the bid specifications for all purchases of apparel or textiles within the scope of Chapter 107 SLCRO the specification that vendors shall not fulfill a contract for the purchase of apparel or textiles that originate from a manufacturer engaging in sweatshop practices.

2. If a bidder believes itself unable to comply with Section 107.221, it may propose a plan to achieve compliance which shall include: ensuring communication of applicable labor standards to employees by the source manufacturer; ensuring the source manufacturer will maintain records regarding inspections, violations and corrective action pertaining to labor laws applicable to the source manufacturer; monitoring compliance of the source manufacturer with applicable labor laws; ensuring the source manufacturer will keep confidential communication of worker complaints; and providing apparel and textiles sourced from factories, subcontractors and commodity suppliers that have been certified by an independent third party to be in compliance with some or all applicable labor standards. A bidder submitting such a plan shall be considered to have met the specification described in subsection 1 of this section.

(O. No. 25389, 3-12-13)

107.223 - Enforcement.

—From time to time, the Purchasing Agent shall take such steps as are deemed necessary by the Purchasing Agent to audit compliance of vendors with Section 107.221. A vendor determined by the Purchasing Agent to have violated Section 107.221 shall be debarred from future contracts with the County for a period of one year from the determination of the Purchasing Agent. The Purchasing Agent is authorized to and shall terminate any contract for the procurement of apparel or textiles with a vendor determined to have violated this section, unless the Purchasing Agent determines that termination would be economically impractical. The Purchasing Agent shall report to the County Council the facts underlying each such determination.

(O. No. 25389, 3-12-13)

107.224 - Emergency procurement.

—Where the Purchasing Agent determines that the failure to procure apparel or textiles required by a department will result in an imminent threat to health or safety, the Purchasing Agent is authorized to waive the requirements of Sections 107.221. The Purchasing Agent shall thereafter report to the County Council the fact of the waiver, and the circumstances justifying the waiver.

(O. No. 25389, 3-12-13)

107.300 - Annual consolidated purchasing; annual assessment of requirements.

—1. Commonly purchased data, communications, and technology infrastructure requirements. The Department of Administration shall perform an annual assessment of the annual or consolidated requirements of data transmission, communications and technology infrastructure needs for all County offices and departments and, in conjunction with the Department of Information Technology, shall procure such data, communications and technology infrastructure by lease or purchase on the most advantageous terms available to the County. The cost of such infrastructure shall be billed to, and paid by, the end user office or department of the County.

2. *All other requirements.* The Department of Administration and department directors shall perform an annual assessment of all other annual or consolidated requirements of all County offices and departments. This consolidated procurement of goods and services shall conform to the competitive purchasing requirements, as outlined in the Code; shall be done annually based on anticipated requirements for the ensuing fiscal year; and shall be accomplished, if practical, on a timetable to facilitate firm cost figures to be incorporated into the budget for the ensuing calendar year, or, in the case of consolidations, shall be done one (1) time based on the consolidated requirements in a timetable to satisfy the requirements of the consolidation. Unless specifically exempt, from annual consolidated purchasing by the County Council on the recommendation of the Director of Administration, the following shall be procured pursuant, to this Section and shall include the consumption requirements of all County offices and departments:

- a. Office supplies, equipment, and data processing and printing supplies, such as continuous forms, paper, printer ribbons, media, etc.
- b. Motor fuels and lubricants.
- c. Food and staples.
- d. Janitorial supplies and/or services.
- e. Vehicles, machinery, and road repair equipment.
- f. Highway, road, and bridge repair and maintenance materials.
- g. Vehicle and equipment repair services.
- h. Clothing and other merchandise carrying the County logo.
- i. Other goods and services that may be from time to time added or removed from the list as recommended by the Director of Administration.

(O. No. 27208, 10-23-18)

107.305 - Grants.

—1. The County encourages department directors to seek out grants to accomplish the work of the County that would otherwise have to be funded entirely by the County. Acceptance of the actual grant funds shall be approved by the County Council. Appropriation and spending of said grant funds shall require approval by the County Council upon submission of detailed explanation of how and where grant funds are to be spent.

2. The using agency director shall include the following information in the request for legislation to authorize any appropriation, spending, and execution of necessary agreements:
  - (a) A detailed explanation of how the grant funds will be spent;
  - (b) Any specific requirements imposed by the funding source;
  - (c) Any required partners or other participants specified in the grant application submitted to the funding source;
  - (d) A description of the services to be provided and whether the services are an expansion of a current program, project, or service;
  - (e) Identification of what entity will provide the services under the grant; and
  - (f) Whether processes under this chapter will be applied to select service providers.

(O. No. 27208, 10-23-18)

107.310 - Local vendor preference.

—1. It is the policy of St. Louis County to consider the residual benefits to the St. Louis County economy where the purchase or a component of the purchase has a local source or business. The County may give preference to all commodities manufactured, mined, produced, or grown within St. Louis County, and to products and services provided by, firms, corporations, or individuals doing business in St. Louis County. "Preference" shall be permitted where products and/or services are of equal or better quality and the difference in the price is negligible. For the purpose of this section, "local source or business" means a source or business that, has a physical business address located within the St. Louis Metropolitan Area from which the vendor is operating and has operated for the last six (6) months. Post office boxes shall not be used for the purpose of establishing the required physical business address. A vendor which submits a bid or proposal containing misrepresentations of any fact intended to demonstrate that it is a local source or business shall be disqualified from consideration as being a local source or business for a period of two (2) years.

2. Notwithstanding the provisions of Subsection 1 above, the County solicits and will consider quotations, bids, and/or proposals from all interested and qualified vendors. Preference for a local source must be provided to and approved by the Purchasing Agent.
3. Products manufactured in the United States may be given preference if price difference is negligible and, the quality and other considerations are equal.

The term "negligible" as referenced herein means a bid that is less than one (1) percent different than the lowest responsible bid.

(O. No. 27208, 10-23-18)