



Minnesota Department of Transportation

Transportation Building

395 John Ireland Boulevard
Saint Paul, Minnesota 55155-1899

February 2, 2009

09 - 0325

Senator Steve Murphy, Chair
Senate Transportation Committee
75 Rev. Martin Luther King Jr. Blvd., Rm 325
St. Paul, MN 55155-1606

Representative Bernard Lieder, Chair
House Transportation Finance and Policy Division
423 State Office Building
100 Rev. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Representative Frank Horstein, Chair
House Transportation Finance and Policy Division
437 State Office Building
100 Rev. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

SUBJECT: Minnesota Department of Transportation's 2009 Biannual Report to the Legislature in Compliance with Minnesota Statutes, §174.03, Subd. 10 and 11

Dear Senator Murphy, Representative Lieder and Representative Hornstein:

Enclosed please find the Minnesota Department of Transportation's 2009 Biannual Report to the Legislature in compliance with Minnesota Statutes, Section 74.03, Subdivisions 10 and 11. This Report details the department's employment and contracting activities in accordance with the Federal regulations regarding construction training, the Disadvantaged Business Enterprise (DBE) Program and the On-the-Job (OJT) Program.

Please share this information with your colleagues and constituents. If you have any questions concerning this report, you may contact me directly at (651) 366-3043.

Sincerely,

A handwritten signature in black ink that reads 'Hope Jensen'.

Hope Jensen, Director
Office of Civil Rights

cc: Tom Sorrel, Mn/DOT Commissioner of Transportation
Khani Sahebjam, Mn/DOT Deputy Commissioner of Transportation
Bernard Arseneau, Mn/DOT Division Director
Cheryl Martin, FHWA EEO Liaison
File

Enclosures: 2009 Biannual Report
2007 FHWA Goal Methodology Report
2008 FHWA Goal Methodology Report
2007 FTA Goal Methodology Report
2008 FTA Goal Methodology Report



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Representative Frank Hornstein, Chair
House Transportation and Transit Policy and Oversight Division
437 Senate Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

**Re: Minnesota Department of Transportation Report to the Legislature in
Compliance with Minnesota Statutes, section 174.03, subdivisions 10 and 11.**

As a leader in the transportation industry the Minnesota Department of Transportation (Mn/DOT) looks for innovative ways to recruit employees and contractors from all of Minnesota's diverse populations. The following recruitment, training and skill improvement programs are designed to build a strong pipeline of talent to assist Mn/DOT in finding and developing well qualified and diverse candidates to join Minnesota's highway heavy workforce through employment with Mn/DOT or with contractors that work on Mn/DOT projects; and to recruit women and minority owned businesses to join the Disadvantage Business Enterprise (DBE) program to work as prime or sub-contractors on Mn/DOT projects.

Minnesota Statutes, section 174.03, subdivision 10 requires the Commissioner of Transportation to:

- Utilize the maximum feasible amount of all federal funds available to this state under United States Code, title 23, section 140, paragraph (b), to develop, conduct, and administer highway construction training, including skill improvement programs.

- Include in each contract that is funded at least in part by federal funds, a sanction for each contractor who does not meet the established project disadvantaged business enterprise goal or demonstrate good faith effort to meet the goal.
- Submit to the House and Senate Transportation Finance and Policy Committees a biannual report on compliance with Federal Disadvantaged Business Enterprise (DBE) and On-the-Job-Training (OJT) Programs.

Minnesota Statutes, section 174.03, subdivision 10 report requirements are quoted below in *italics* followed by the information requested:

- 1) *A description of the highway construction training and skill improvement programs the commissioner has conducted and administered;*
- 2) *An analysis of the results of the commissioner's training programs;*
- 3) *The amount of federal funds available to the state under United States Code, title 23, section 140, paragraph (b);*
- 4) *The amount spent by the commissioner in conducting and administering the programs.*

Response to item 3 applies to all Mn/DOT programs: Section 5204(e) of SAFETEA-LU permits a state to obligate Surface Transportation Program, National Highway System, Congestion Mitigation and Air Quality, Interstate Maintenance and Highway Bridge Rehabilitation & Replacement funds for surface transportation workforce development, training, and education at 100% federal share with no limitation on amount. These federal formula funds to the state are also used for all Title 23 eligible projects. These include state and local highway and bridge construction projects, safety, enhancements, transit capital and many other activities. These categories make up a majority of the federal funds that come to Minnesota and are targeted to our Area Transportation Partners for developing their annual transportation improvement programs. These categories totaled \$455 million in Federal Fiscal Year (FFY) 2007 and \$462 million in FFY 2008.

Responses to items 1, 2 and 4 for each Mn/DOT program are as follows:

OJT Program:

Item 1- Description of the Program: The OJT program is a federally mandated program governed by 23 Code Federal Regulations (CFR) Part 230. The Federal Highway Administration (FHWA) requires Mn/DOT to establish training programs designed to move women, minorities and disadvantaged persons towards journey level status in highway heavy construction. The OJT program purpose is to ensure that a competent workforce is available to meet highway construction employment needs and to address the historically under representation of members of these groups in highway construction skilled trades.

Mn/DOT's Office of Civil Rights sets project specific goals, in the form of a specific number of bodies and hours, on all federally funded Mn/DOT projects over \$1 million and over 100 working days. Mn/DOT provides prime contractors with reimbursement of up to three dollars an hour for OJT trainees hired to work on Mn/DOT projects. This reimbursement is provided as an incentive to prime contractors to employ OJT trainees.

Contractors are reimbursed on contracts that contain an OJT trainee line item, at the rate included in their bid.

Item 2 - Analysis of Results: Mn/DOT placed a total of 93 trainees (64 minorities and 29 non-minority women) in 2007, and a total of 77 trainees (68 minorities and 9 non-minority women) in 2008.

Item 4 - Cost of the Program: Approximately \$10,000.00 was paid to prime contractors in reimbursement for OJT trainees during 2007 and 2008.

Roads Opportunities and Diversity Success (ROADS) Program:

Item 1- Description of the Program: The ROADS program was developed to provide a method of recruiting and training candidates for placement in OJT trainee positions. Each year, the Civil Rights Office requests proposals from community based organizations to recruit and train candidates for the OJT program. During 2007 and 2008 the Office contracted with Merrick Community Services to recruit and train women and minorities for employment, in highway heavy construction trades.

The ROADS program assists contractors in meeting Federal OJT employment goals by providing a steady pool of qualified minority and women candidates for employment. The ROADS program also assists contractors in meeting State employment goals (set by the MN Department of Human Rights (MDHR)) for women and minorities. The Merrick program is a ten week, full time course in basic construction skills and safety. Contractors who are in need of OJT candidates are connected with Merrick which provides qualified candidates ready for employment.

Item 2 - Analysis of Results: In 2007 and 2008, 42 women and minority trainees completed ROADS training.

Item 4 - Cost of Program: The cost of the program for both years was \$53,750.00.

Transportation Opportunities Training Program:

Item 1- Description of the Program: The Transportation Opportunities Training program was developed in 2008, as a method of providing fully qualified diverse candidates for employment with highway heavy construction contractors or with Mn/DOT maintenance. The Civil Rights Office provided 2 truck driving training programs, which included 2 weeks of training in basic math and soft skills followed by 4 weeks of behind the wheel truck driving training.

The first program was done in partnership with White Earth Tribal and Community College, White Earth Tribal Employment Rights Ordinance (TERO) Office, Mn State Colleges and Universities Detroit Lakes Campus (MNSCU), and the Mn Department of Public Safety. The second program was held in the metro area, in partnership with Century College, Merrick Community Services and the Minneapolis Urban league.

Item 2 - Analysis of the Results: Twenty three students began the Detroit Lakes training course and twelve were able to earn their Commercial Drivers License (CDL.) Students were eliminated for a number of reasons such as failure to pass the drug, criminal background or driving record tests, failure to pass the math test, failure to pass the CDL permit test, or personal reasons. Of the 13 graduates 10 were Native American, including 3 women; 2 Somali, and 1 Liberian. Graduation included a mini job fair where local contractors, city and county maintenance staff and local trucking companies presented employment opportunities to the students.

The metro program began with 19 students and graduated 11 students with CDLs. Of the 11 graduates 1 was a Hispanic female, and the remaining were male including 5 African Americans, 3 Caucasians, 1 Asian, and 1 Ethiopian. This program is intended to prepare graduates for either employment with private contractors on Mn/DOT projects to meet Federal and State employment goals or for employment with Mn/DOT in snow plowing or maintenance work.

Item 4 - Cost of Program: The cost of the Detroit Lakes program was \$73,195 and the cost of the Metro program was \$92,623, which was obtained through FHWA grants to the Office of Civil Rights. In-Kind Contributions from Mn/DOT were two tandem axle trucks and two trailers (value \$79,000) and two staff (value \$24,000) to provide training.

Tribal Summer Transportation Institutes:

Item 1- Description of the Program: FHWA provides grants to historically minority institutes of higher learning to develop and host Summer Transportation Institute (STI) programs. The STI program was designed to contribute to the development of a diverse, well-qualified workforce for the transportation industry by encouraging secondary school students to pursue transportation careers. Minnesota has 4 institutes of higher learning that qualify for this program.

During 2007 and 2008 only 2 of the 4 qualified institutes applied for grants. The Civil Rights Office has been managing the STI program since 2007. STI introduces Native American youth, from Jr. and Sr. high schools to inter-modal careers (land, water, air and rail) in the transportation industry.

Item 2 - Analysis of Results: White Earth Tribal and Community College offered a 3 week day camp in June of 2007 and 2008 and served 13 students in 2007 and 13 in 2008. Fond du Lac Tribal and Community College offered a 2 week residential camp each year and served 36 students in 2007 and 32 in 2008. For a total of 94 students served in 2007 and 2008. These camps have proven to be very effective in reaching minority populations that historically have not had the opportunity to participate in transportation careers.

Item 4 - Cost of Program: In both 2007 and 2008 each participating Tribal College received a grant from FHWA of \$40,000 for a total cost of \$80,000 each year.

Equal Employment Opportunity (EEO) Compliance Reviews:

Item 1- Description of the Program: The Office of Civil Rights conducted 14 in-depth EEO compliance reviews, on contractors working on Mn/DOT projects, each year in 2007 and 2008. Contractor's recruitment and hiring policies and practices are reviewed along with their workforce. Contractors that do not have an acceptable EEO plan or who are not in compliance with EEO laws are required to enter into a corrective action plan and are monitored over the next construction season to bring them into compliance.

Item 2 – Analysis of Results: During 2007 and 2008 a total of 7 contractors were under corrective action plans with the Office of Civil rights. Contractors that do not comply with corrective action plans to correct deficiencies are referred to MDHR, which can withdraw the contractor's Human Rights Certificate. Contractors without a current Human Rights Certificate can not bid on Mn/DOT projects. No contractors were referred to MDHR during 2007 and 2008.

Item 4 – Cost of the Program: There is no cost to this program other than staff salaries and time.

Seeds Program (feeder program for full-time Mn/DOT positions):

Item 1 - Description of the Program: The Seeds program is an innovative student internship program pioneered by Mn/DOT in 1993. It focuses on diversifying the workforce at Mn/DOT by offering internship opportunities to highly motivated minority and/or economically disadvantaged college students with a focus on permanent placement upon graduation. Seeds is not an acronym, it is a concept - The concept of growing our own talent at Mn/DOT.

Item 2 – Analysis of Results: Currently 26% of all minority employees at Mn/DOT are either Seeds students or Seeds graduates. The Seeds program has a 71% placement rate of students into full time positions upon graduation. Seeds had 30-35 participants in 2007 and 35-40 participants in 2008.

Item 4 – Cost of the Program: The annual budget for Seeds in 2007 and 2008 was \$251,000 and this will go up to \$400,000 in 2009. The Seeds program pays 50% of a Seeds students' salary and the hiring Mn/DOT office/district pays the other 50%. It costs an office/district approximately \$9000 (at 50% cost sharing) annually to hire one Seeds student worker.

Phoenix Program (feeder program for Seeds):

Item 1- Description of the Program: In January 2005 Mn/DOT pioneered the Phoenix program that focuses on high school juniors and seniors currently pursuing a pre-engineering curriculum. Phoenix is a partnership initiative with six Minnesota Project-Lead-The-Way (PLTW) schools which are listed as follows:

Johnson High School – St. Paul
North High School – Minneapolis
South High School – Minneapolis

Washburn High School – Minneapolis
Patrick Henry High School – Minneapolis
Bemidji High School – Bemidji

PLTW (Website www.pltw.org) is a national program designed to increase the number of young people pursuing engineering and technology degrees. PLTW students take pre-engineering coursework in Principles of Engineering, Civil Engineering and Architecture, Digital Electronics, and Engineering Design and Development while still in high school. Mn/DOT hires Phoenix students as interns and upon graduating high school they are then eligible to move on into the Seeds program. So Phoenix serves as an effective feeder program for Seeds. Since 2005, 15 Phoenix interns have graduated into the Mn/DOT Seeds program.

Item 2 – Analysis of Results: Phoenix had 6 students in 2007 and 7 students in 2008.

Item 4 – Cost of the Program: The annual budget for Phoenix is \$54,000 (this came out of the Mn/DOT Seeds budget)

Seeds-Pathways Program:

Item 1- Description of the Program: Seeds Pathways is a pilot program that was initiated at Mn/DOT in January 2008. It is a collaborative effort between two state programs, Seeds and Pathways to Employment (www.deed.state.mn.us/pte), providing jobs for students with disabilities.

The Mn/DOT Seeds program staff work with the Department of Employment and Economic Development (DEED) – Rehabilitation Services staff to recruit students with disabilities pursuing majors that are needed at Mn/DOT. These students are then hired into student worker internships at Mn/DOT with the intention to help them gain on-the-job work experience that will make them very competitive for full time positions upon graduation.

Item 2 - Analysis of Results: The program began in January 2008 with 10 students with a range of physical and learning disabilities. Two of these students were hired into full time positions at Mn/DOT in January 2009.

Item 4 – Cost of the Program: The budget for this program in 2008 was \$108,000 which was provided by DEED.

Summer Seeds Program:

Item 1- Description of the Program: Summer Seeds is a pilot program that was initiated at Mn/DOT in summer 2008. It is a collaborative youth education and employment effort between Mn/DOT Seeds, City of Minneapolis, MN Internship Center and Emerge StreetWerks program.

The focus of this program is to partner with the City of Minneapolis and provide productive work opportunities for inner city youth during the summer. Mentoring, coaching and a high expectation of individual success are the core values of this program. Students are placed in

internship positions across the department and receive weekly coaching as well as program end evaluation with a focus on helping them consider a variety of career choices and pursue a potential career in transportation. These students will return next summer.

Item 2 – Analysis of Results: In summer 2008, there were 6 participants in the program.

Item 4 – Cost of the Program: These interns were paid by the City of Minneapolis

Graduate Engineer and Land Surveyor Programs:

Item 1- Description of the Program: The Graduate Engineer Trainee Program is designed to provide the Graduate Engineer Trainee with practical work experience through formal job rotations within various engineering sections of Mn/DOT. The Graduate Engineer Trainee Program is a unique training process that provides new Mn/DOT engineers with the opportunity to really "know" the department before beginning a permanent position. These rotational experiences help the trainees expand their technical, managerial, and human relations skills through on-the-job training. The program also develops the trainee's familiarity with Mn/DOT's organization, goals, policies, and personnel.

New Graduate Engineer Trainees participate in the Trainee Program for up to 2 years, depending on their prior experience and the permanent needs of the home-base office. Each rotation period lasts from 3 to 6 months. Design, Construction and an out state district are mandatory in each rotation. Each trainee will rotate through a variety of areas to ensure they benefit from exposure to a broad background. Mn/DOT will make every effort to provide the trainees with at least 1 rotation assignment in the area of their greatest interest. Examples of rotational assignments include Construction, Bridges & Structures, Design, Maintenance, Environmental, Hydraulics, Materials & Road Research, Traffic Engineering, Right of Way and Aeronautics. This program is our primary way to hiring and training our full-time entry-level engineers at Mn/DOT.

Item 2 – Analysis of Results: In 2007 there were 22-25 participants and 31 participants in 2008. During this 2 year period 5 of the participants were minorities (2 African American males and 3 Asian/ Pacific Islanders -2 males and 1 female); and 6 of the participants were Caucasian woman.

Item 4 – Cost of the Program: The annual budget for these two programs together is \$1,663,000

Mn/DOT's Community Advisors on Recruitment and Retention Solutions (MnCARRS)

Item 1- Description of the Program: In October 2008, Mn/DOT developed a community partnership with a cross section of community partners representing the various minority communities as well as veterans and people with disabilities. The long term objective of this outreach group is to build recruitment partnerships with Minnesota's diverse communities with the intent to grow the diversity of the applicant and employment pools for Mn/DOT jobs. The short term objective is to partner with communities to recruit and hire a qualified diverse group of candidates for the current 50+ open technician positions at Mn/DOT. MnCARRS has been

meeting monthly and will be providing Mn/DOT with various recommendations for implementation in the areas of recruitment & retention.

Item 2 – Analysis of Results: Program is too new for an analysis of results.

Item 4 – Cost of the Program: There is no cost to this program outside of staff salaries and time.

Workforce / DBE Development Working Group:

Item 1 – Description of the Program: This group was formed in December 2008 to work on finding ways to improve Mn/DOT's initiatives aimed at increasing the numbers of minorities and women in highway heavy construction careers, and DBE program. The group is made up of multiple stakeholder groups including representatives of FHWA, Mn/DOT, Association of General Contractors, Unions, NAMC, OIC, AWC, and several community based organizations.

Item 2 - Analysis of Results: Program is too new for an analysis of results.

Item 4 – Cost of the Program: There is no cost to this program outside of staff salaries and time.

Minnesota Statutes, section 174.03, subdivision 11 report requirements are quoted below in *italics* followed by the information requested:

- 1) *The department's annual overall DBE goal, compared with the percentage attained;*
- 2) *An explanation of the methodology, applicable facts, and public participation used to establish the overall goal;*
- 3) *A description of good faith efforts to meet the goal, if the goal was not attained;*
- 4) *A description of actions to address overconcentration of disadvantaged business enterprises in certain types of work;*
- 5) *The number of contracts that included disadvantaged business enterprise goals, the number of contractors that met established disadvantaged business enterprise goals, and sanctions imposed for lack of good faith effort; and*
- 6) *A description of contracts with no disadvantaged business enterprise goals, and, of those, state number of contracts and amount of each contract with targeted groups under section 16C.16.*

Item 1 – Overall Annual Goal and Attainment: In 2007, the Overall Annual DBE Goal for FHWA contracts was 6.27% and DBE participation achieved was 8.2%. The 2007 Federal Transit Administration (FTA) Overall Annual DBE Goal was 8.3% and DBE participation achieved was 7.04%. In 2008, the Overall Annual DBE Goal for FHWA contracts was 12.8% and the DBE participation achieved was 3.7%. The 2008 FTA Overall Annual DBE Goal was 6.4% and the DBE participation achieved was 3.75%.

Note: Because 49 CFR Part 26, Appendix B requires DOTs to report DBE participation achieved based only on contracts that have been closed out each year, the DBE participation achieved often includes contracts that are as much as 10 years old. A number of things keep contracts from being closed immediately after a project is completed, such as contractor claims or prevailing wage investigations. Therefore, the 2008 DBE participation achieved does not include the over 14% DBE participation achieved on the I-35W Bridge project.

Item 2 – Explanation of methodology, applicable facts, and public participation used to establish the overall goals: Attached are the FHWA and FTA goal methodologies for both 2007 and 2008, along with a summary of comments received in 2008 and Office of Civil Rights responses. A public stakeholder meeting is held prior to submission of the proposed DBE goals to FHWA and FTA. These meetings are advertised in the MN State Register and in various minority newspapers such as the Spokesman Recorder, Insight News and Asian Press. These public meetings allow the Office of Civil Rights to obtain comments from interested and affected parties and to adjust the proposed goals when warranted.

Item 3 – Description of good faith efforts to meet the goal, if the goal was not attained: Mn/DOT did not meet FHWA or FTA Overall Annual DBE goals in either 2007 or 2008. However, under the Federal DBE regulations, a state DOT that does not meet its annual overall DBE goal, cannot be penalized or deemed to be in non-compliance, as long as the DOT administers its DBE Program in good faith and implements its program in accordance with the Federal regulations (See 49 C.F.R §26.47).

The Federal regulations require Mn/DOT to meet the maximum feasible portion of its DBE goal through race gender neutral means in order to facilitate DBE participation. Mn/DOT uses the following good faith efforts to meet its annual overall goal.

- Providing capacity building training to DBEs so they can bid as Prime contractors;
- Encouraging Prime contractors to utilize DBE firms on contracts where no DBE goal was set;
- Working with Mn/DOT's Construction Office and the Cities and Counties to unbundle large contracts into smaller feasible packages to make them more accessible to smaller DBE firms;
- Encourage prime contractors to subcontract work out to DBE firms rather than self-performing it;
- Encourage prime contractors to assist DBE firms with insurance or bonding;
- Providing informational and networking opportunities for DBE firms and Prime contractors;
- Providing annual training to Mn/DOT engineers and City and County engineers and staff on the DBE Program requirements;
- Administer a Mentor-Protégé Program, which encourages large contractors to mentor small DBE firms to increase their capacity and capabilities;
- Publishes a quarterly Civil Rights Newsletter to keep DBEs informed;
- Gives an annual DBE award to the Prime contractor and DBE business who best exemplify the purpose and spirit of the DBE program.

In addition the Office of Civil Rights administers a number of DBE Support Services programs. These programs provide the DBE firms with skills development, capacity building and business enhancement training. Mn/DOT provides the following forms of support services for DBEs:

Jumpstart DBE Training: The Office of Civil Rights has partnered with MnSCU to administer the Jumpstart Program, which provides DBEs with training classes in accounting, sales and marketing, business plan development, risk management in construction, legal aspects of bidding, pre-qualification for consultant firms, Quickbooks, marketing, sales and presentation skills, financial planning and spreadsheet preparation and analysis, bidding and proposal development. These full-day Saturday classes are held during the construction off-season. Classes are taught by accredited instructors who have over 20 years of business experience, who have owned businesses and who have advanced business degrees. Classes and workshops are participation oriented and designed for adults in business. Expert guest speakers are employed in functional areas. Additionally onsite visits are available for businesses that need help or wish consultation.

A total of 90 DBEs attended Jumpstart classes - 45 each year in 2007 and 2008 with a total cost of \$71,446 in 2007 and \$116,081 in 2008.

Bidding and Estimating Training: Mn/DOT Office of Civil Rights has partnered with the Selby Area Community Development Corporation to provide DBE firms with in-depth training in bidding and estimating. These classes teach DBEs how to prepare competitive bids and proposals, total quality management, developing cost of living budget, project cash flow and determining mark up. The sessions are four, three-hour length classes and include a personal assessment and counseling by the instructors for each participant.

A total of 47 DBE firms have attended this course during 2007 and 2008. The cost of this program was \$43,200 in 2007 and \$75,868 in 2008.

Electronic Bidding and Estimating: Mn/DOT is now doing electronic bidding and the Office of Civil Rights has partnered with the Construction Office to provide training to small and DBE-certified firms on the electronic bidding system at Mn/DOT. The Office of Civil Rights is providing a free 1-year license on the electronic bidding system to each DBE that completes the Bidding/Estimating and Electronic Bidding training courses. These licenses are worth \$720.

Item 4 - Description of actions to address over-concentration of DBEs in certain types of work: In addition to the support services listed above in item 3, the Office of Civil Rights attends many business forums to recruit new businesses into the DBE program. (see list below of additional outreach.)

Item 5 - Number of contracts that included DBE goals, the number of contractors that met established DBE goals, and sanctions imposed for lack of good faith effort: In 2007, 163 contracts (with FHWA funds) had numeric DBE goals and 60 met or exceeded the goals. In 2008, 128 contracts (with FHWA funds) had numeric DBE goals and 51 met or exceeded the goals. Mn/DOT imposed one sanction in 2008 for \$200,000.

Item 6 - Description of contracts with no DBE goals, and, of those, number of contracts and amount of each contract subcontracted with targeted groups under section 16C.16: The Targeted Group Business (TGB) program is not currently in operation and will not be in place until completion of a disparity study being done by the MN Department of Administration. When the program is in operation, Mn/DOT will begin setting TGB goals and tracking TGB participation on state funded contracts.

Outreach: In addition to the programs listed above, the Office of Civil Rights has initiated a number of outreach efforts to inform communities about Mn/DOT programs. During 2007 and 2008 the Office of Civil Rights provided DBE training or hosted an informational booth at multiple events around the State. The following is a list of some of these events:

- **Informational/Recruitment Event** on employment opportunities with Mn/DOT, at the Minneapolis Urban League - February 13, 2007;
- **Native American Employment** - February 15, 2007: Civil Rights staff met with District Engineers and White Earth TERO Officer to discuss ways to improve Mn/DOT performance in employment of Native Americans, St Cloud;
- **Crosstown Pre-Letting Meeting** - March 14, 2007: DBEs were invited to the podium to give a brief description of their company, the work they perform and contact information to primes who were interested in bidding on the Crosstown project;
- **Construction Success-Getting in the Game** – the Office of Civil Rights co-sponsored a DBE training and networking event at the Minneapolis Metrodome on March 16, 2007. Other co-sponsors were Association of Women Contractors (AWC), Association of General Contractors (AGC), National Association of Minority Contractors (NAMC), City of St. Paul, Hennepin County, Metropolitan Airports Commission (MAC), Small and Disadvantaged Business Opportunity Council (SADBOC), Metropolitan Economic Development Association (MEDA), Metropolitan Council, Minnesota Ballpark Authority, Ramsey Regional Rail Authority, Rani Engineering (DBE firm) and University of Minnesota;
- **Government Procurement Fair** - April 10, 2007: Civil Rights Director gave a presentation on the DBE program and how to get certified. Event was sponsored by the Mille Lacs Band of Ojibwe;
- **I-35W Bridge Informational Meeting** - August 16, 2007: A public meeting for DBEs and prime contractors interested in working on the I-35W bridge project and included a chance for all the DBE to introduce themselves and their company to the prime contractors;
- **I35W Bridge Networking Event** - August 28, 2007: Allowed DBEs to give a short presentation about their businesses to prime contractors bidding on the project;
- **DBE Presentation to American Indian Chamber of Commerce** - October 10, 2007;
- **DBE Training** - October 17, 2007: For electrical and mechanical contractors interested in bidding on the Northstar Commuter Rail project;
- **Native American Employment Outreach** – October 26, 2007: Staff gave presentation on the OJT and ROADS programs to the American Indian Occupational

Industry Center, the Minneapolis American Indian Center, and the Mille Lacs Band of Ojibwe Urban Workforce Center;

- **MN Open for Business** - February 11, 2008: Conference on accessing state and local government contracts. Civil Rights DBE Specialist gave a presentation on how to do business with Mn/DOT;
- **SADBOC Procurement Fair** - April 29, 2008: Offices of Civil Rights and Construction staff gave a presentation on how to do business with Mn/DOT and hosted an informational booth to provide businesses with information on the DBE program, and hand out DBE applications and materials;
- **Trade Unions Build Employment Bridges with Tribal Governments** – June 11, 2008; Office of Civil Rights staff provided educational session on laborers trades. The Laborers Union Statewide Educational Director and Business Agent addressed requirements, expectations salary, employee protections, work benefits, training and career opportunities;
- **Advocacy Council for Tribal Transportation** – July 11, 2008: Director gave presentation on Mn/DOT OJT and DBE programs;
- **Resource and Government Procurement Fair** -August 21, 2008: Civil Rights DBE Specialist gave a presentation on the DBE program and how to become certified. Event was sponsored by Bois Forte Band of Chippewa;
- **22nd Annual Executive Leadership Institute** at the Humphrey Institute of Public Affairs on October 3, 2008. Civil Rights Director and 2 DBE Specialists gave Presentation on DBE success on the I-35W Bridge Project which achieved over 14% DBE participation;
- **Mn Public Transit Conference** - September 29, 2008: Mn/DOT Civil Rights Office hosted an informational booth, spoke with transit oriented businesses and passed out DBE applications;
- **Economic Development and Poverty Issues** – October 14, 2008: Civil rights Director spoke on a panel. Event was sponsored by the Council on Black Minnesotans;
- **Highway Heavy Laborers and Carpenters Union Career Opportunities Event** – October 21 2008 at Red Lake Reservation: Unions explained the process and job/career opportunities and presented a National Labor Union and Tribes Partnership Model;
- **Summit Academy OIC Partnership Breakfast** – Meeting of contractors and community partners to receive an update on the 100 Hard Hats Partnership and discuss employment programs, goals and achievements.
- The Office regularly attends the National Association of Minority Contractors and Association of Women Contractors monthly meetings and networking events.

**The Minnesota Department of Transportation
Overall DBE Goal for FFY 2007**

The Minnesota Department of Transportation (Mn/DOT) Office of Civil Rights Goal for Disadvantaged Business Enterprise (DBE) participation on Mn/DOT federally funded projects in Federal Fiscal year 2007 is 6.27%.

Goal Methodology used by Mn/DOT Office of Civil Rights (OCR) to calculate 2007 overall DBE goal:

Mn/DOT OCR employed the two step process outlined in 49 CFR, Section 26.45 to calculate the 2007 overall DBE goal. First OCR calculated the base figure which reflects the relative availability of "ready, willing and able DBEs" in Mn/DOT's marketplace. Second, all relevant evidence was examined to determine what adjustments, if any, were needed to arrive at an overall goal.

Step 1: Base Figure - Relative Availability of DBEs

OCR used bidders lists to calculate the base figure for FFY 2007. This method measures availability by the number of firms that have either directly participated in or attempted to participate in Mn/DOT federally funded projects within the past year. The bidders lists covered all Federally funded contracts awarded by Mn/DOT and those awarded by local jurisdictions on Mn/DOT's behalf through the Delegated Contracting Process during the 12 month period from March 2004 to March 2005. Table A below lists both the successful and unsuccessful DBE and non-DBE firms bidding and quoting on Mn/DOT contracts.

TABLE A – 2007			
Availability of DBE and Non-DBE Firms			
	# of Primes	# of Subcontractors	Total
DBE Firms	5	60	65
Non-DBE Firms	113	403	516
Total	118	463	581
% DBE Bidders	4.24	12.96	

To determine weighting factors OCR used current NAICS codes to classify Mn/DOT contractors. The majority (or 99.67%) of prime contractors and subcontractors working on Mn/DOT projects fell into 12 NAICS codes. The remaining 0.33% of primes and subs were distributed over all other NAICS codes. Therefore, only the top 12 NAICS codes were used for weighting purposes. Based on the distribution of Mn/DOT contracts within these work areas, OCR identified the weighting factors to be used to calculate Mn/DOT's FFY 2007 overall DBE goal. The distribution of Mn/DOT contracts within these 12 NAICS codes and the resulting weighting factors are listed below in Table B.

**TABLE B – 2007
Contractors by Work Code and Weighting Factors**

NAICS Code	Title	% of Mn/DOT Contracts	Weighting Factors
237310	Highway, Street & Bridge Construction	72.53	0.7253
238910	Site Preparation Contractors	2.20	0.0220
238120	Structural Steel & Pre-Cast Concrete Contractors	2.39	0.0239
238210	Electrical Contractors	2.63	0.0263
484220	Specialized Freight (except Used Goods) Trucking, Local	0.62	0.0062
561730	Landscaping Services	1.92	0.0192
237990	Other Civil Engineering Construction	5.32	0.0532
541330	Engineering Services	4.19	0.0419
238110	Poured Concrete Foundation & Structure	3.84	0.0384
327390	Other Concrete Product Manufacturing	1.70	0.017
331513	Steel Foundries	1.30	0.013
238320	Bridge Painting	1.03	0.0103

The 2007 goal was calculated by dividing the number of ready, willing and able DBEs by the total number of all firms who bid on Mn/DOT contracts, either as prime or sub contractors, within each of the 12 NAICS codes and then applying the weighting factors identified in Table B. The calculations are shown in table C below.

**Table C - 2007
Annual Goal Calculation**

NAICS Code	Divide DBEs by Total Contractors	Result	Multiply by Weighting Factor	Decimal Percentile
237310	8/172	0.04651	0.7253	0.03
238910	4/64	0.0625	0.0220	0.0014
238120	4/11	0.363	0.0239	0.0087
238210	5/34	0.147	0.0263	0.0039
484220	12/29	0.413	0.0062	0.0026
561730	4/81	0.975	0.0192	0.0019
237990	1/12	0.0833	0.0532	0.0044
541330	3/20	0.15	0.0419	0.0063
238110	3/36	0.083	0.0384	0.0001
327390	0/23	0	0.017	0
331513	0/6	0	0.013	0
238320	1/3	0.333	0.0103	0.0034
Total = 0.0627				
Annual Goal = 6.27%				

Note: Column 2 shows the total number of DBE bidders divided by the total number of bidders which includes both successful and unsuccessful bidders.

Step 2: Adjustment to Base Figure

In deciding whether to make an adjustment to the base figure in order to arrive at the overall goal, Federal regulations allow recipients to consider several factors including:

- Current capacity of DBEs to perform, measured by the volume of work DBEs have performed in recent years
- Evidence from disparity studies conducted in the jurisdiction
- Evidence from related fields that affect opportunities for DBEs to form, grow and compete
- Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in the DBE program
- Data on employment, self-employment, education, training and union apprenticeship programs to the extent it relates to opportunities for DBEs to perform in the DBE program
- Continuing effects of past discrimination based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought

OCR considered these factors and determined that no adjustment is necessary.

In 2005, just one design-build project made up approximately 34% of the total Federal dollars awarded for Mn/DOT construction projects. In order to improve DBE participation on large projects, Mn/DOT OCR established project kickoff meetings to bring short listed contractors who planned to bid on the project together with interested DBEs for a networking event. Mn/DOT will continue these and other DBE support services programs and will monitor achievements.

Race and Gender Neutral and Race Conscious Measures:

Mn/DOT's DBE goal of 6.27% for FFY 07 will be achieved through 2% race and gender neutral measures and 4.27% race and gender conscious measures. This was determined by taking the median of the past 5 years (note 2006 was not included because Mn/DOT's 2006 overall goal has not been approved by the US DOT).

Public Participation:

OCR will provide public notice of the 2007 overall DBE goal through publication in the Minnesota State Register the State's publication of record for legal advertisements. In addition, the notice will be published in the and in Minority newspapers, as well as providing copies to Mn/DOT's Tribal Liaison Affairs for distribution to Minnesota Indian Tribes. The notice will be posted on the OCR website. Finally, several interested stakeholders will be notified directly by mail including the National Association of Minority Contractors, the Association of Women Contractors, the Hispanic Chamber, the American Indian Chamber, and the Association of General Contractors.

**MINNESOTA DEPARTMENT OF TRANSPORTATION'S DBE PROGRAM
GOAL SETTING METHODOLOGY FOR FEDERAL FISCAL YEAR 2008**

The Minnesota Department of Transportation's (Mn/DOT) Office of Civil Rights (OCR) submits this methodology to the U.S.DOT's Federal Highway Administration (FHWA) for review and approval pursuant to 49 C.F.R §26.45 – "*Participation by Disadvantaged Business Enterprises In Department of Transportation Financial Assistance Programs – How Do Recipients Set Overall Goals.*" For Federal Fiscal Year (FFY) 2008, Mn/DOT has established a proposed overall DBE goal of 15.3%, which includes no adjustments.

I. Goal Setting Methodology (49 C.F.R. §26.45)

In developing its overall DBE goal for FY 2008, Mn/DOT used the factors described in 49 C.F.R. §26.45. A detailed discussion of the methodology is presented below.

A. Step One – Base Figure

Mn/DOT commissioned NERA Economic Consulting to conduct an availability study on the relevant businesses owned by minorities and women in Mn/DOT's marketplace. This study, entitled, "Race, Sex and Business Enterprise: Evidence from the State of Minnesota," was used by Mn/DOT to establish the DBE Goal:

NERA examined data on federally funded contracts awarded by Mn/DOT through bid lettings between Federal Fiscal Years (FFY) 2000 through 2004. The data was obtained from Mn/DOT staff and databases. Mn/DOT has collected and retained key information on the first tier subcontractors and suppliers for all construction projects. These records include each firm's unique business identification number, business name, business address, contract award amount and DBE status. This data was cross referenced with Mn/DOT vendor records, Dun & Bradstreet, and ABI-Inform in order to obtain a primary Standard Industrial Classification (SIC) code for each firm. This process was followed for both construction and consultant related contracts.

Distribution of Mn/DOT Contracting Dollars - Weighting Factors

Based on the SIC codes assigned to each firm in the Master Contract/Subcontract database, NERA estimated product market weights according to the proportion of total dollars attributable to each SIC code. These weights show the relative importance, in dollars, of the activity represented in each SIC code. In construction, NERA identified 102 distinct SIC codes within the 780 contracts they studied. Of these 102 SIC codes, however, 35 account for more than 95% of the total dollars spent. NERA took these 35 SIC codes to represent Mn/DOT's Construction product market. In consulting, NERA identified 30 distinct codes within the 3,740 codes studied. Of these 30 SIC codes, only 9 account for more than 95% of the total dollars spent. NERA took these 9 SIC codes to represent Mn/DOT's consulting product market.

The top 35 construction SIC codes and their corresponding distribution percentages of construction contracting dollars are listed below in Table A. The top 9 consultant SIC codes and their corresponding distribution of contracting dollars are listed below in Table B.

TABLE A – CONSTRUCTION CONTRACTING DOLLARS		
SIC Codes	Title	Distribution of Mn/DOT Contracting
1611	Highway, Street & Bridge Construction	70.1%
1731	Electrical Work	5.6%
1771	Concrete Work	5.0%
1542	Nonresidential Construction	2.7%
1791	Structural Steel Erection	1.6%
1629	Heavy Construction	1.6%
1794	Excavation Work	1.6%
0782	Lawn and Garden Services	1.3%
0783	Ornamental Shrub and Tree Services	1.3%
3272	Concrete Products	0.9%
5032	Brick, Stone, and Related Construction Materials	0.8%
3993	Signs and Advertising Displays	0.7%
4212	Local Trucking Without Storage	0.7%
4213	Trucking, Except Local	0.7
1721	Painting	0.6
8711	Engineering Services	0.5
3441	Fabricated Structural Metal	0.5
3444	Sheet Metal Work	0.5
3446	Architectural Metal Work	0.5
5051	Metals, Service Centers and Offices	0.5
1623	Water, Sewer, and Utility Lines	0.4
1711	Plumbing, Heating, and Air Conditioning	0.3
5063	Electrical Apparatus and Equipment, Wiring Supplies & Construction Materials	0.2
1799	Special Trade Contractors	0.2
7359	Equipment Rental and Leasing	0.2
1442	Construction Sand and Gravel	0.2
1622	Bridge, Tunnel, and Elevated Stonework	0.1
1741	Masonry and Other Stonework	0.1
7353	Heavy Construction Equipment Rental and Leasing	0.1
3669	Communication Equipment	0.1
5193	Flowers, Nursery Stock, and Florist's Supplies	0.1
1796	Installing Building Equipment	0.1
3271	Concrete Brick and Block	0.1
5084	Industrial Machinery and Equipment	0.1
5031	Lumber, Plywood, Millwork, and Wood Panels	0.1
	Total of Top 35 DBE Mn/DOT Construction SIC Codes	100%

The top SIC codes for consultants are listed below.

TABLE B – CONSULTANT CONTRACTING DOLLARS		
SIC Codes	Title	Distribution of Mn/DOT Contracting
8711	Engineering Services	55.1
0783	Ornamental Shrub and Tree Services	11.8
8712	Architectural Services	10.9
1611	Highway and Street Construction	7.0
8713	Surveying Services	5.0
6531	Real Estate Agents and Managers	4.0
3669	Communications Equipment	3.0
8734	Testing Laboratories	2.0
8731	Commercial Physical and Biological Research	1.4
	Total of Top 9 DBE Mn/DOT Consultant SIC Codes	100%

Geographic Market Definition

NERA made a determination of the geographic dimensions of Mn/DOT’s contracting markets. NERA used the master contract/subcontract database, as described earlier, to obtain the zip codes for each contractor and subcontractor in the database. NERA then disaggregated the database by state, highway district and county and calculated the percentage of Mn/DOT contract dollars awarded to businesses in different geographical areas. Table C presents the results of these calculations. Businesses located in Minnesota account for the vast majority of Mn/DOT’s contracting expenditures, regardless of category. Mn/DOT awarded 89.4% of its construction dollars during the study period to contractors with businesses location Minnesota. For consultant contracts, the figure was 90.7% and the combined figure is 89.5%. Based on these results, NERA defined Mn/DOT’s geographic market to be the State of Minnesota for purposes of estimated availability.

TABLE C – MN/DOT’S MARKETPLACE			
Location	Construction (%)	Consultant (%)	Combined (%)
Inside Minnesota	89.4	90.7	89.5
Outside Minnesota	10.6	9.3	10.5
Metropolitan	71.1	93.1	72.6
Non-Metropolitan	28.9	6.9	27.4

Identifying Businesses in the Relevant Markets

The DBE availability percentage (unweighted) is defined as the number of DBEs divided by the total number of businesses in the counties and industries relevant to Mn/DOT’s contracting activities. NERA used Dun & Bradstreet’s MarketPlace database to determine the total number of businesses operating in the relevant geographic and product markets. NERA used the MarketPlace database to identify the total number of businesses in each SIC code to which NERA had assigned a product market weight. Table D listed below shows the number of businesses identified in each SIC code, along with associated industry weight, all contracts combined.

TABLE D – BUSINESS DISTRIBUTION				
SIC Codes	SIC Descriptions	Number of Establishments	Industrial Weight	Industry Weight (Cumulative)
1611	Highway, Street & Bridge Construction	501	65.8	65.8
1731	Electrical Work	2009	5.2	71.0
1771	Concrete Work	930	4.7	75.7
8711	Engineering Services	1193	4.2	79.9
1542	Nonresidential Construction	1243	2.5	82.4
0783	Ornamental Shrub and Tree Services	441	2.1	84.4
1791	Structural Steel Erection	55	1.5	85.9
1629	Heavy Construction	304	1.5	87.4
1794	Excavation Work	1134	1.5	89.0
0782	Lawn and Garden Services	1818	1.2	90.2
3272	Concrete Products	102	0.8	91.0
5032	Brick, Stone & Related Construction Materials	226	0.7	91.8
8712	Architectural Services	558	0.7	92.5
3993	Signs and Advertising Displays	582	0.6	93.2
4212	Local Trucking Without Storage	2182	0.6	93.8
4213	Trucking, Except Local	1322	0.6	94.4
1721	Painting	1620	0.6	95
3441	Fabricated Structural Metal	164	0.6	95.4
3444	Sheet Metal Work	238	0.5	95.9
3446	Architectural Metal Work	67	0.5	96.3
5051	Metals, Service Centers and Offices	198	0.4	96.8
1623	Water, Sewer, and Utility Lines	307	0.4	97.1
8713	Surveying Services	139	0.3	97.5
1711	Plumbing, Heating & Air Conditioning	2692	0.3	97.8
3669	Communications Equipment	32	0.3	98.1
6531	Real Estate Agents and Managers	537	0.3	98.4
5063	Electrical Apparatus & Equipment, Wiring Supplies & Construction Materials	443	0.2	98.6
1799	Special Trade Contractors	1978	0.2	98.7
7359	Equipment Rental and Leasing	823	0.2	98.9
1442	Construction Sand and Gravel	84	0.2	99.1
8734	Testing Laboratories	179	0.1	99.2
1622	Bridge, Tunnel, and Elevated Stonework	28	0.1	99.3
1741	Masonry and Other Stonework	753	0.1	99.4
7353	Heavy Construction Equipment Rental & Leasing	66	0.1	99.6
8731	Commercial Physical and Biological Research	245	0.1	99.7
5193	Flowers, Nursery Stock & Florist's Supplies	134	0.1	99.7

1796	Installing Building Equipment	56	0.1	99.8
3271	Concrete Brick and Block	29	0.1	99.9
5084	Industrial Machinery & Equipment	1129	0.1	99.9
5031	Lumber, Plywood, Millwork & Wood Panels	438	0.1	100.0
	Total	26,979		

MarketPlace was not the only source for identifying potential DBE contractors. In addition to the above, NERA conducted intensive regional search for minority owned and women owned businesses in Minnesota. A large number of public and private entities were contacted to extract information concerning additional potential DBE contractors. These entities included state, county, and various other directory sources. After all potential sources were exhausted, NERA listed DBEs according to SIC codes. This list is provided in Table E below.

TABLE E – POTENTIAL DBES BY SIC CODE				
SIC Codes	SIC Descriptions	Number of Establishments	Industrial Weight	Industry Weight (Cumulative)
1611	Highway, Street & Bridge Construction	30	65.8	65.8
1731	Electrical Work	140	5.2	71.0
1771	Concrete Work	48	4.7	75.7
8711	Engineering Services	99	4.2	79.9
1542	Nonresidential Construction	70	2.5	82.4
0783	Ornamental Shrub and Tree Services	16	2.1	84.4
1791	Structural Steel Erection	9	1.5	85.9
1629	Heavy Construction	15	1.5	87.4
1794	Excavation Work	57	1.5	89.0
0782	Lawn and Garden Services	131	1.2	90.2
3272	Concrete Products	4	0.8	91.0
5032	Brick, Stone & Related Construction Materials	17	0.8	91.8
8712	Architectural Services	61	0.7	92.5
3993	Signs and Advertising Displays	85	0.6	93.2
4212	Local Trucking Without Storage	125	0.6	93.8
4213	Trucking, Except Local	78	0.6	94.4
1721	Painting	117	0.6	95.0
3441	Fabricated Structural Metal	13	0.5	95.4
3444	Sheet Metal Work	19	0.5	95.9
3446	Architectural Metal Work	8	0.5	96.3
5051	Metals, Service Centers & Offices	15	0.4	96.8
1623	Water, Sewer & Utility Lines	27	0.4	97.1
8713	Surveying Services	14	0.3	97.5
1711	Plumbing, Heating & Air Conditioning	114	0.3	97.8

3669	Communications Equipment	10	0.3	98.1
6531	Real Estate Agents & Managers	59	0.3	98.4
5063	Electrical Apparatus & Equipment, Wiring Supplies & Construction Materials	37	0.2	98.6
1799	Special Trade Contractors	127	0.2	98.7
7359	Equipment Rental and Leasing	79	0.2	98.9
1442	Construction Sand and Gravel	1	0.2	99.1
8734	Testing Laboratories	26	0.1	99.2
1622	Bridge, Tunnel, and Elevated Stonework	4	0.1	99.3
1741	Masonry and Other Stonework	36	0.1	99.4
7353	Heavy Construction Equipment Rental & Leasing	7	0.1	99.6
8731	Commercial Physical & Biological Research	27	0.1	99.6
5193	Flowers, Nursery Stock & Florist's Supplies	21	0.1	99.7
1796	Installing Building Equipment	2	0.1	99.8
3271	Concrete Brick & Block	0	0.1	99.9
5084	Industrial Machinery and Equipment	73	0.1	99.9
5031	Lumber, Plywood, Millwork & Wood Panels	27	0.1	100.0
	Total	1,848		

If the firms listed in the previous table as potential DBEs are all DBEs, and are all the only DBEs among all the businesses identified in Table D, then an estimate of listed DBE availability would be calculated by simply the number of listed DBEs divided by the total number of businesses in the relevant market. However, for two reasons this is not an accurate representation. The first reason for not calculating the DBE availability in this fashion are that the potential DBEs listed are not necessarily minority or woman owned. The second reason is it is likely that there are additional unlisted DBEs among all the businesses included in Table D. Such businesses do not appear in any of the directories gathered by NERA. Therefore additional steps are required to arrive at a narrowly tailored representation of DBE availability in the State of Minnesota.

Verify Listed DBEs and Estimate Unlisted DBEs

To determine how often DBE and non-DBE business ownership was misclassified or unclassified by race and/or sex, NERA conducted 6,000 phone interviews of listed DBEs and unclassified businesses. During telephone surveys, up to ten attempts were made to reach each business in a given random sample and speak with an appropriate respondent. Attempts were scheduled for a mix of day and evening, weekdays and weekends, and appointments were scheduled for callbacks when necessary. Approximately two thirds of the sample was comprised of firms that were unclassified by race or sex (putative white males) and the remaining one third was made up of firms that were classified putatively as minorities or white females. The first part of the survey tested whether our samples of listed DBEs were correctly classified by race and/or sex. The second part tested whether the unclassified firms could all be properly classified as non-DBEs. Table F & G summarize the putative DBE survey and putative non-DBE survey, respectively.

TABLE F – PUTATIVE DBE SURVEY				
Putative Race/Sex	Percentage White Male	Percentage of Other DBE Type	Percentage Correctly Classified	Number of Businesses Interviewed
White Female	23.8	4.0	72.2	1,147
Black (either sex)	17.0	7.5	75.5	200
Hispanic (either sex)	38.0	8.2	53.8	292
Asian (either sex)	18.7	7.8	73.5	219
Native Americans (either sex)	27.5	7.7	64.8	91
Unspecified Minority (either sex)	20.0	80.0	0.0	20
All DBE Types	24.8	6.3	68.9	1,969

TABLE G – PUTATIVE NON-DBE SURVEY				
Putative Race/Sex	Percentage White Female	Percentage Minority	Percentage Correctly Classified	Number of Businesses Interviewed
White Male	8.3	2.8	88.9	4,399

As NERA did with the surveys of listed DBEs, NERA assigned probability values (probability actually white male owned, probability actually white female owned, probability actually black owned, etc.) based on the interview process. Putative white male firms were assigned a probability of 88.9% that they were actually white male owned, 8.3% that they were actually white female owned, and 2.8% that they were actually minority owned. Taking these percentages into consideration, over 11% of firms are owned by white females or minority owned.

Estimating Baseline DBE Availability

Table H summarizes the results from each step previous taken to calculate DBE availability. These results are from Mn/DOT federally assisted contracting activity.

TABLE H – BASELINE DBE AVAILABILITY		
Step/Calculation	Number of Businesses	Percentage of Total
All Businesses	26,979	
Listed DBEs	1,848	6.85
Listed DBEs (with industry weights)	1,714	6.35
Listed DBEs (corrected for misclassification)	1,410	5.23
Listed DBEs (corrected for misclassification with Industry weights)	1,415	5.24
Unlisted DBEs (corrected for misclassification)	2,799	10.37
Unlisted DBEs (corrected for misclassification with industry Weights)	2,712	10.05
All DBEs (final, unweighted)	4,209	15.60
All DBEs (final, with industry weights)	4,127	15.30

Table H Table 17 shows a total of 26,979 businesses operating in the 40 SIC codes within Mn/DOT's geographic market. Of these, 6.85 percent were listed DBEs. With industry weights, the percentage shrinks to 6.35 percent. This decrease occurs primarily because the proportion of listed DBEs in certain industries is less than the overall average. Our misclassification survey found that approximately 25 percent of listed DBEs were not actually DBEs. Our survey also found that approximately 11% of unclassified firms were DBEs. When NERA combines these two groups of DBEs, the sum yields availability of 15.60%, which then falls slightly to the final overall baseline availability figure of 15.30% once industry weights are applied.

The final results of NERA's baseline DBE availability analysis for Mn/DOT is shown in Table I. Availability for construction contracts is estimated to be 15.18%. Availability for consulting contracts is estimated to be 16.58%. Overall, DBE availability for Mn/DOT contracts is estimated to be 15.3%.

TABLE I – ESTIMATED DBE AVAILABILITY FOR MN/DOT			
Mn/DOT Districts	Overall Percentage	Construction Percentage	Consulting Percentage
Metro	16.57	16.36	17.79
District 3	13.61	13.54	15.18
District 1	16.94	17.16	13.22
District 4	15.69	15.78	13.20
District 8	12.14	12.03	15.05
District 7	14.38	14.41	13.63
District 6	12.67	12.63	13.34
District 2	16.83	16.82	17.06
Total for Entire Geographic Market Area	15.30	15.18	16.58

B. Step 2 Consideration of Adjustment to the Base Figure

Step 2 requires that Mn/DOT examine all evidence of discrimination in its jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at the overall goal and whether such discrimination renders Mn/DOT likely to meet its goal without the use of race-conscious subcontracting goals on appropriate projects. Included among the types of evidence that must be considered pursuant to 49 C.F.R. §26.45 are the current capacity of DBEs to perform work on Mn/DOT's federally assisted contracts, as measured by the volume of work DBEs have performed in recent years, and evidence from disparity studies conducted anywhere within Mn/DOT's jurisdiction, to the extent not already accounted for in the base figure. Mn/DOT must also consider any available evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to, statistical disparities in the ability of DBEs to get the financing, bonding, and insurance required to participate in the program, and data on employment, self employment, education, training, and union apprenticeship programs, to the extent relevant to the opportunities for DBEs to perform in the program. The federal regulations caution that any adjustment to the base figure to account for the continuing effects of past discrimination or the effects of an ongoing DBE program must be based on "demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought." 49 C.F.R. §26.45(d)(3). Each of these categories is discussed separately below.

1. Past DBE Utilization - Mn/DOT considered the current capacity of DBEs to perform on its federally assisted contracts, measured by the volume of work DBEs have received in recent years. For FFYs 2000-2007, DBEs received 5.5% of the contract commitments (\$179,259,011.26 of \$3,283,179,190.60 of total awards).
2. Evidence from Local Disparity Studies - Some Twin Cities area governments conducted studies since *City of Richmond v. J. A. Croson* to examine the extent, if any, that construction industry discrimination has affected DBEs. These studies suggest anecdotally that the availability of DBEs continues to be affected by the persistent effects of discrimination. However, Mn/DOT is not relying upon these studies because of their age and statistical methodology.
3. Study's Statistical Evidence of Disparities - To provide a quantitative analysis of the effects of discrimination in Mn/DOT's marketplace, the NERA study examined disparities in Minnesota in earnings and business formation rates between DBEs and non-DBEs based upon the 2000 PUMS and Census Bureau's Current Population Survey (CPS).
 - a. Disparities in Earnings - The NERA study analyzed whether minority and female entrepreneurs earn less from their businesses than do their white male counterparts. Other things being equal, if minority business owners as a group have lower earnings from their businesses than comparable non-minorities, economic theory suggests that minority business failure rates will be higher and minority business formation rates will be lower than those that would be observed in a race neutral marketplace. Applying linear regression to assess whether minorities earn less than whites with similar characteristics, the NERA study concluded that similarly situated minorities and women, especially blacks, earn less than their comparable white male counterparts.
 - b. Disparities in Business Formation - Likewise, the NERA study examined whether more minority businesses would have been formed if minorities were as likely to own their own businesses as were similarly situated white males, and if so, how many more such businesses would have been expected to be formed but for discrimination. Using Probit regression to control for age, industry, and education, the Study found large and statistically significant disparities in the business formation rates for DBEs.

- c. DBE Availability "But For" Discrimination - Using the statistical data on disparities, the study estimated that DBE availability in Minnesota in a race neutral market would be approximately 54.6% higher than the Step 1 estimate for an estimated availability of DBEs "but for" discrimination of 23.4% in a fully race neutral, remediated, and non-discriminatory market. The base figure is depressed because discrimination has impacted the likelihood that minorities and women will become entrepreneurs and that when they do those firms are likely to be less profitable and to fail more frequently.
4. DBE Utilization on Contracts with Race/Gender Neutral Goals - One indicator of the need to continue to apply race conscious measures is the participation of DBEs in the absence of those measures. The results of unremediated markets were an important component of Illinois' successful defense of the DBE Program in the Northern Contracting case.

The precipitous decline in DBE participation after Mn/DOT's DBE Program was enjoined was noted by the courts in the Sherbrooke, Western States and Northern Contracting cases in holding the revised Part 26 to be facially constitutional because race neutral measures have proven to be inadequate to ameliorate discrimination. The Eighth Circuit in the Sherbrooke case further relied upon this evidence in holding Mn/DOT's implementation of the new regulations to be constitutional as applied.

Likewise, expert testimony in the *BAGC v. Chicago* trial documented the experiences of other state and local governments whose race conscious programs have either been enjoined or that do not set goals on locally funded transportation contracts, in the absence of DBE programs, utilization of non minority and women owned construction firms dropped dramatically below availability in all jurisdictions.

The Study compared DBE participation during the period when Mn/DOT's DBE Program was enjoined post Sherbrooke I (October 1998 through December 1999) to participation after the revised DBE program was adopted (January 2000 – September 2004). During this period, Mn/DOT awarded 7 federally assisted prime contracts and 22 associated subcontracts. DBE participation on those contracts was less than 0.008% or \$13,000 out of \$16M. Mn/DOT also awarded 5 non-federally assisted contracts and 10 associated subcontracts during this period, DBE participation on those contracts was \$0 out of \$7.8M. In contrast, DBE participation on federally assisted contracts awarded after Mn/DOT adopted a new DBE Program in conformance with 49 C.F.R. Part 26 and based upon the 2000 NERA study, was 5.2% on contracts with goals and 2.5% on contracts without goals.

5. Step 2 Adjustment Evaluation - Mn/DOT determined that the past participation of DBEs should not be used to adjust the Step 1 base figure. First, there is no evidence that DBEs are being over utilized relative to their availability and capacity. To the contrary, Mn/DOT's utilization of DBEs is below the baseline estimate of DBE availability. Therefore, relying upon past participation to define current capacity in determining the goal for a non-discriminatory market is inapposite for Mn/DOT.

All of the evidence described above supports the qualitative judgment that, but for the continuing effects of discrimination, the availability of minorities and women to participate on Mn/DOT's contracts would be considerably higher than 15.3% in a race/gender-neutral, non-discriminatory market. The Study provides a quantitative estimate of the degree to which discriminatory factors artificially depress DBE participation

Mn/DOT's marketplace. While the statistical disparities established by the Study could serve as the basis for an upward adjustment of the base figure, for an overall goal of 24.3%, Mn/DOT believes that an upward adjustment of the base figure is not warranted for the current Federal Fiscal Year, in view of the low utilization of DBEs in FFY 2007, and the low number of DBEs (65) bidding on federally assisted contracts.

II. Projection of Race/Gender-Neutral vs. Race-Conscious Goal Attainment

Mn/DOT will meet the maximum feasible portion of its overall goal through race/gender-neutral means. Ongoing initiatives seek to reduce discriminatory barriers, increase capacity and level the playing field for the participation of DBEs and other small contractors. They are also designed to assist Mn/DOT in meeting the increased goal for DBE participation as prime contractors and subcontractors and to increase race-neutral participation on its contracts.

A. Race/Gender-Neutral initiatives

1. **DBE Support Services** – During 2007, Mn/DOT's Office of Civil Rights entered its fifth year of partnership with the Minnesota State Colleges and Universities (MnSCU) to provide business development services to Mn/DOT's certified DBE and other small businesses in highway heavy construction industries. The Jumpstart Program was implemented as an outgrowth of Mn/DOT's Business Development Program. It includes a series of skills building courses that are designed to teach business owners the tools to enhance their business capabilities and capacity. The Jumpstart Program includes a business assessment for each participant, classroom learning and individual business site visits and consultations conducted by the MnSCU instructors assigned to work with each participant. The first day long session for FFY 2008 was held on October 20, 2007 and included beginning and advance courses in Quickbooks. Other courses scheduled for FFY 2008 include financial planning and spreadsheet preparation and analysis; sales, presentation and marketing skills development; accounting training; business planning; risk management; and estimating, bidding and proposal development.
2. **Emerging Contractors Support Initiatives** - To increase competition for Mn/DOT's prime contracts and opportunities for DBEs and newer, smaller firms, Mn/DOT is taking action to reduce barriers to participation as prime contractors. These include DBE/Prime Contractor networking events for large contracts.
2. **Electronic Bidding** - Mn/DOT has also adopted an electronic bidding program, Bid Express, which allows prime contractors to submit their bids to Mn/DOT electronically. The Mn/DOT Office Of Civil Rights and the Construction Office are partnering together and seeking to expand this program to add a Small Business Network (SBN) tab, which will allow DBEs and other small businesses to submit their bids electronically to prime contractors. This will allow Mn/DOT to track which prime contractors are not considering reasonable DBE bids for subcontract work.
3. **Mentor-Protégé Program** - To increase DBE and small business capacities, Mn/DOT accepts Mentor-Protégé arrangements between DBEs and prime contractors. This Program provides DBEs the opportunity to work with established firms to enhance their capabilities to perform prime contracts.

4. Complaint Procedures - Mn/DOT has implemented a procedure to process complaints of discrimination in the operation of the Program and against contractors receiving Mn/DOT contracts. This will ensure prompt, uniform and fair responses to allegations of unlawful conduct so that DBEs, non-DBEs and interested persons can have confidence in the integrity of Mn/DOT's operations.
5. Non-Discrimination Assurances - To ensure that its prime contractors are providing full and fair opportunities for DBEs to compete and succeed, Mn/DOT will continue to mandate that bidders regularly maintain and make available, at Mn/DOT's request, evidence that they are soliciting and evaluating subcontractors on a non-discriminatory basis in their daily business activities in the public and private sectors. On all federally-assisted projects, Mn/DOT requires bidders to submit a Bidders List indicating all firms that bid on the project and a Certificate of Good Faith Efforts indicating all firms the bidder solicited for work.
6. Prompt Payment - Mn/DOT continues to enforce its prompt payment provisions and processes. It impresses upon its personnel and prime contractors the necessity and importance of meeting these requirements. Under Minnesota's prompt payment law, contractors are required to pay their subcontractors within ten days of receiving payment from Mn/DOT. The Office of Civil Rights monitors these payments by requiring contractors to submit Contractor Payment Reports on all federally assisted contracts.

Based on the above analysis, Mn/DOT has established an overall goal for FFY 2008 of 15.3%. Mn/DOT anticipates meeting 13.6% of this goal through race conscious measures and 1.7% through race/gender neutral measures, as indicated below in Table J. The race/gender neutral initiatives are discussed in the next section.

TABLE J - ANNUAL GOAL CALCULATION	
2008 OVERALL DBE GOAL	15.3%
RACE CONSCIOUS GOAL	13.6%
RACE/GENDER NEUTRAL GOAL	1.7%

B. Estimate of Race/Gender-Neutral Participation

Mn/DOT will meet the maximum feasible portion of its overall annual goal through these race/gender-neutral measures. While Mn/DOT's current vigorous race/gender-neutral efforts will continue and new initiatives are being implemented, contract goals are needed to ensure non-discrimination and to level the playing field for DBEs. Therefore, Mn/DOT intends to meet the proposed annual goal through 1.7% race/gender neutral means.

To estimate the portions of the goal to be met through race-neutral and race-conscious measures, Mn/DOT evaluated past race/gender-neutral DBE participation as defined in 48 C.F.R §26.51(a). In prior year submissions, Mn/DOT estimated that the annual DBE goal would be met by using race/gender neutral means in the following percentages: FFYs 1999-2002 (2.6%); FFY 2003 (1.7%); FFY 2004 (1.04%); FFYs 2005 and 2006 (0.82%); FFY 2007 (2%).

Mn/DOT's Office of Civil Rights analyzed the relevant contract data and found that only 1.7% DBE participation was achieved through race/gender neutral means. The majority of this participation was achieved on contracts that had race conscious DBE goals where prime contractors exceeded the established goals (1.47% race/gender neutral DBE participation). This figure was calculated by adding the total amounts achieved in excess of the established DBE goal on Mn/DOT's federally assisted contracts and then calculating the percentage that this figure comprised of the total contracting dollars. There was little DBE participation on contracts with race/gender neutral DBE goals (0.24%). In reviewing the contracting patterns on the race/gender neutral achievements, Mn/DOT found that there were few DBEs bidding on Mn/DOT contracts with race/gender neutral goals and that prime contractors generally did not solicit DBEs on these contracts.

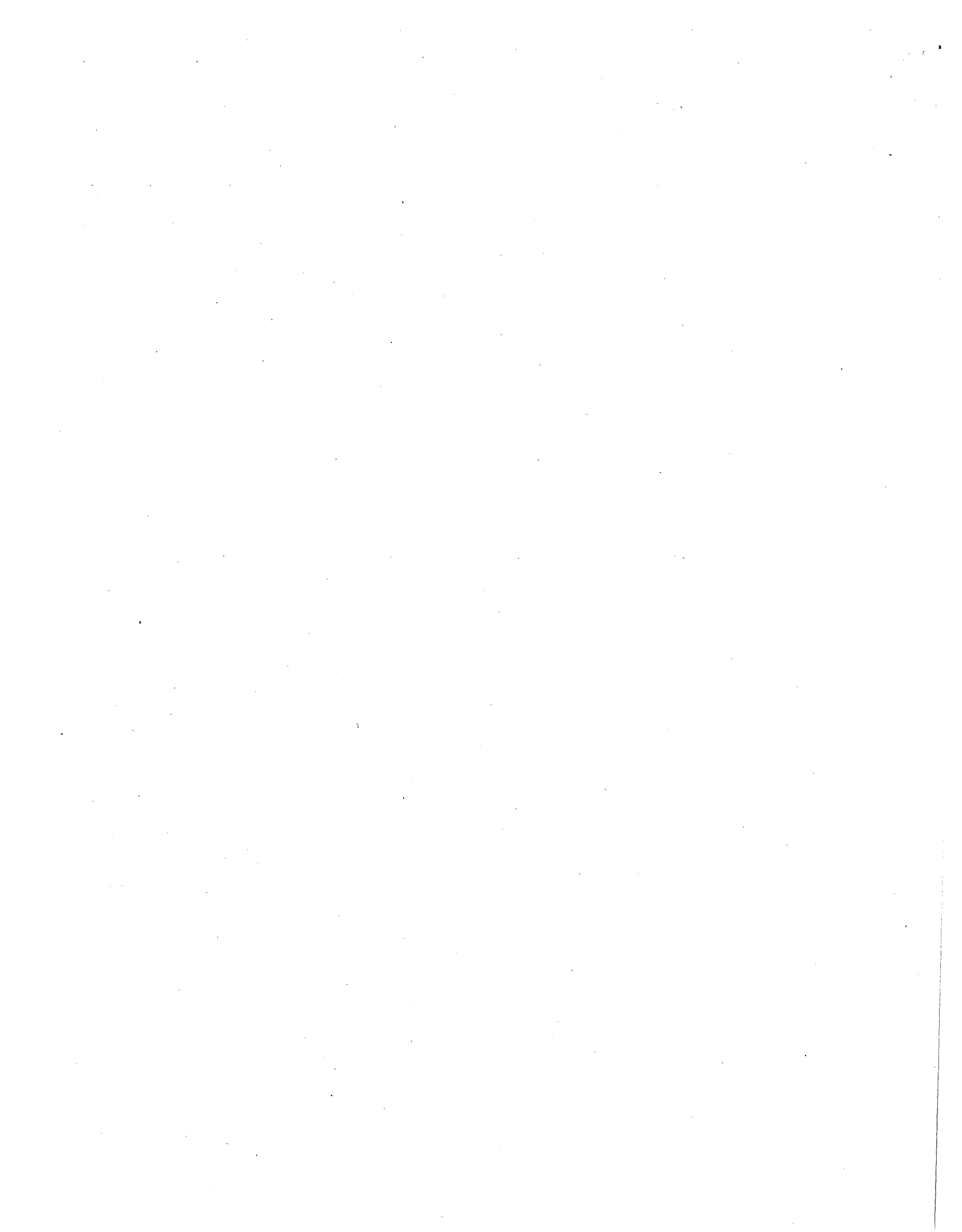
Despite the low DBE participation levels achieved through race/gender neutral means, Mn/DOT believes it can achieve its 2008 FFY annual goal through 1.7% race/gender neutral measures, as it was only 0.3% short of meeting the 2% race/gender neutral goal for FFY 2007. Mn/DOT arrived at this figure by first calculating the median of the past years' race/gender neutral DBE participation. Mn/DOT's race/gender neutral achievements over the past several years are as follows: FFYs 2000 (2.25%); FFY 2001 (1.25%); FFY 2002 (0.82%); FFY 2003 (0.33%); FFY 2004 (0.74%); FFY 2005 (0.82%); FFY 2007 (2%).¹ The median of these figures is 1.066% or 1.1% rounded up. However, since Mn/DOT did achieve 1.7% race/gender neutral DBE participation in FFY 2007, Mn/DOT believes it can meet this threshold and therefore, has selected 1.7% for its FFY 2008 race/gender neutral goal.

In summary, Mn/DOT projects that it will meet 1.7% of its 15.3% overall goal through race/gender neutral measures and 13.6% through race conscious goals. Mn/DOT will monitor the DBE participation throughout the year and will adjust its use of race conscious goals to ensure that their use does not exceed the overall goal.

III. Public Participation

To satisfy the public consultation requirements of the regulations, Mn/DOT's Office of Civil Rights is publishing the proposed annual goal of 15.3% for FFY 2008 in the Minnesota State Register and is inviting public comments and inspection of the goal methodology for a 45-day period. The Office of Civil Rights will hold a Stakeholders' meeting on **Friday, November 16, 2007**, to explain the methodology used to establish the goal and take public comments. The Office of Civil Rights has invited all of the certified DBEs listed in the Mn/UCP Directory; the Minnesota Chapters of the Associated General Contractors (AGC), Association of Women Contractors (AWC), and the National Association of Minority Contractors (NAMC) and other interested stakeholders. The 45 day review period will end on **January 2, 2008**, and Mn/DOT will take public comments until that time. Based on comments received, the Office of Civil Rights may revise the goal, and will advise the FHWA if any adjustments are made to the proposed FFY 2008 overall 15.3% goal.

¹ Mn/DOT did not determine the race/gender neutral participation for FFY 2006 because the overall goal had not been approved at the time of submission. However, Mn/DOT was able to determine the 2007 race/gender neutral DBE participation and has included it in the calculations.





Minnesota Department of Transportation

Transportation Building

395 John Ireland Boulevard

Saint Paul, Minnesota 55155-1899

March 7, 2008

Tom Sorel, Division Administrator
Minnesota Division
Federal Highway Administration
Galtier Plaza Box 75
175 E. 5th Street, Suite 500
St. Paul, Minnesota 55101-2904

Re: Overall DBE Goal for Federal Fiscal Year 2008

Dear Mr Sorel:

The Minnesota Department of Transportation (Mn/DOT) would like to thank you for allowing an extension to the public comment period until January 31, 2008. This additional time allowed Mn/DOT to receive comments from a greater number of interested stakeholders. A total of 31 written comments were received, 16 in support of the proposed 2008 annual overall goal of 15.3% and 15 against. Attached is a summary of the comments received and Mn/DOT's response to these comments.

After careful consideration of all comments received, and in accordance with 49 C.F.R. §26.45(d), Mn/DOT is proposing an adjusted goal of 12.8%; (11.1% race/gender conscious and 1.7% race/gender neutral). In arriving at this adjusted overall goal, Mn/DOT gave careful consideration to relevant evidence, as outlined in 49 C.F.R. §26.45(d) including: Mn/DOT's historical DBE Program data regarding annual DBE goals and participation achieved, Minnesota's current economic climate, the number of large projects in the metro area, as well as the 31 comments received regarding the proposed 15.3% annual overall goal. This proposed adjusted overall goal of 12.8% represents the highest overall annual goal set by Mn/DOT under the new DBE program, and while it poses a stretch for Mn/DOT to achieve, we believe that it is attainable.

An examination of historical data shows that under the old DBE program, prior to the 1998 Sherbrook decision, which estopped the Program, and resulting adjustments to the Program, Mn/DOT was achieving approximately 11.4% participation. Following the adoption of the current DBE program Mn/DOT has struggled to rebuild the program and has hovered around 6.2% DBE participation over the past 5 years. (See attached DBE Goals (Historical Data)). Given this data, Mn/DOT has determined that an increase of more than a 100% over the past 5 year average DBE participation is not reasonably attainable. Therefore, Mn/DOT believes a downward adjustment is appropriate.

An examination of Minnesota's current economic climate shows:

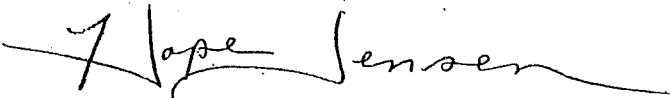
- MN has a \$935 million dollar budget shortfall
- MN lost 2,300 non farm jobs in 2007 and is in a recession
- MN unemployment rate rose to 4.9% from November 2007, compared to the nations' 5% unemployment rate
- Job losses in 2007 were the greatest in the following industries: construction trade, transportation, utilities, and information, professional and business services
- Although the construction industry added the most jobs during December 2007, this did not reverse the overall trend during 2007 of significant job loses

Source: MN Department of Employment & Economic Development, Report issued by Tom Stinson, MN's Chief Economist, January 15, 2008 and February 28, 2008). This information would support a downward adjustment.

An examination of DBE capacity shows that there are a number of very large projects currently in progress in the metro area where the majority of Mn/DOT's DBE participation is typically achieved. These projects include the Twins Stadium, the Gophers Stadium, the Crosstown, Northstar and I-35W projects. While it is true there are many DBEs still looking for work, there is some evidence that a small number of DBEs are approaching capacity for taking on additional work.

In order to provide the possible environment for achieving this 12.8% goal, Mn/DOT's Office of Civil Rights will work to address the issues of increasing the numbers, capacity and diversity of DBEs throughout Minnesota. Mn/DOT will also work hard to identify and certify the potential DBEs identified by the NERA study. Mentor protégé relationships and partnerships will be utilized, as appropriate, under 49 CFR 26, to increase DBE participation on Mn/DOT projects, and to build constructive working relationships between primes and DBEs. In addition, Mn/DOT will continue to work to improve DBE program processes to ensure a level playing field for DBEs to compete fairly with non-DBEs, while imposing the least possible burden on prime contractors.

Sincerely,



Hope J. Jensen, Director
Office of Civil Rights

encl: Mn/DOT's 2008 Overall DBE Goal Response to Comments

cc: Robert McFarlin, Acting Commisster
Lisa Freese, Deputy Commissioner

Mn/DOT's 2008 Overall DBE Goal

The extended public comment period for the 2008 proposed 15.3% overall DBE goal ended on January 31, 2008. A total of 31 comments were received: 16 in support of the proposed 2008 15.3% overall DBE goal and 15 against.

Mn/DOT would like thank all those that took the time to comment. After careful consideration of all comments Mn/DOT has determined that a downward adjustment to the proposed goal is warranted and reasonable. Mn/DOT is proposing to adjust the goal to 12.8%; with 11.1% to be achieved by race/gender conscious means and 1.7% by race/gender neutral means.

Mn/DOT would like to provide feedback to address some of the comments received:

Comments Against the 15.3% Goal	Mn/DOT Response
Some comments stated that the proposed 15.3% goal was unsubstantiated.	Mn/DOT wants to make clear that this goal was substantiated by the NERA Availability Study. While everyone may not agree with the methodology used in the NERA study, this methodology has been accepted by the U.S. courts, including the U.S. Supreme Court. Furthermore, the study was accepted by Mn/DOT and therefore is the basis for the proposed 15.3% goal.
Some comments stated the NERA study is flawed resulting in overstated numbers, and that listing 1,848 potential DBE firms does not mean that they do highway work or they are qualified to do Mn/DOT work, and that NERA does not accurately reflect ready willing and able DBEs. For example, one company questioned the validity of the NERA Study because they stated the Study found 26,979 contractors available to perform Mn/DOT work and 1,848 DBE firms. This company stated that Mn/DOT's database does not have this many companies bidding on Mn/DOT contracts and therefore, the Study was invalid and the 15.3% 2008 overall goal was unrealistic.	The statistics utilized by the NERA Study are valid. NERA obtained the information on the number of contractors in Minnesota's construction related SIC codes from Dun & Bradstreet's <i>MarketPlace</i> database. <i>MarketPlace</i> is a comprehensive database containing over 13 million U.S. businesses. The database is updated continuously. Likewise, NERA elicited the DBE firms identified from several reputable sources, including Dun & Bradstreet, Mn/DOT and the various certification agencies in Minnesota.
Another frequent comment was that a high goal will mean prime contractors will be saddled with more good faith efforts activity.	These comments are very troubling because good faith efforts activity should be a part of every prime's subcontracting activity, whether a project has a DBE numeric goal a race neutral goal or no

<ul style="list-style-type: none"> • Metro DBE firms choose not to quote in rural MN so a high goal will exacerbate the amount of good faith efforts primes in greater MN will have to undertake. • It takes time to do good faith efforts on each project and costs contractors extensive staff time and money. The goal should reflect the economic environment in which recession is eminent. • Some companies stated that most of the DBEs were located in the Metro area and it was hard for them to get quotes from them currently, and that a higher goal would make it impossible to meet goals. 	<p>goal at all. The belief that good faith efforts to subcontract with disadvantaged firms need only be done if there is a numeric DBE goal on a project is the very reason that disparities exist and the DBE program is needed. When contractors learn to solicit all available subcontractors on an equal basis and as part of their normal business practices, disparities will no longer be a problem and the program will no longer be needed.</p> <p>While it is true that the majority of the certified DBEs are located in the Metro area, a review of the project goals set Statewide reveals that Mn/DOT'S project goals take this into account. When setting project goals, the Office of Civil Rights (OCR) takes into consideration the location of the project and the availability of DBEs in those areas. Generally, goals are set lower for the out-state area where there are fewer DBEs available.</p>
<p>Several comments indicated that DBE firms are unsophisticated.</p>	<p>Mn/DOT acknowledges that some of the DBEs are new small businesses. However many of the certified DBEs have been in business for many years, are sophisticated, and able to handle multi-million dollar contracts.</p>
<p>Some comments focused on the state of the Minnesota economy and reduced funding for transportation.</p> <ul style="list-style-type: none"> • The decrease in transportation funding in 2008 means Mn/DOT's construction program is diminishing. A large goal spread across a small construction program will complicate prime and DBE relationships. • Contractors are fighting tooth and nail to survive in this economic environment. The pass through of work to DBE firms at this rate would make it more difficult to be the low bidder. This would cause undue harm for the primes. 	<p>Economic downturns affect DBEs as well as primes. In fact, new small businesses have a more difficult time surviving economic downturns than larger well established businesses.</p> <p>In addition, the comment stating that subcontracting with DBEs would make it harder to be a low bidder is unfounded. The DBE regulations make clear that the DBE Program is a goals program, not one with quotas or set-asides and DBEs, like all contractors, must be competitive to secure contracts.</p>
<p>Several comments stated that a high goal will cause heightened yet unfulfilled expectations among DBEs and further erode DBE</p>	<p>DBE expectations are for nothing more than what is stated in the objectives of the federal DBE regulations:</p>

<p>confidence..</p> <ul style="list-style-type: none"> • An abnormally high goal will do nothing to develop Minnesota pool of qualified and competent DBE firms. • Going from the 2007 goal of 6.27% to 15.3% would create an atmosphere of frustration for DBEs due to non utilization and resentment for the primes as they feel more burdened by good faith effort requirements. This is counter productive to the effort to build good relationships between primes and DBEs. A more realistic goal will create a more conducive atmosphere for the DBEs, primes, and Mn/DOT to work together to achieve greater inclusion. 	<ul style="list-style-type: none"> • create a level playing field on which DBEs can compete fairly for DOT assisted contracts • remove barriers to the participation of DBEs in DOT assisted contracts <p>These objectives/expectations do not change with a higher or lower goal.</p>
<p>Several comments indicated that there were insufficient numbers of DBEs to meet the higher goal.</p> <ul style="list-style-type: none"> • It is nearly impossible to meet current the DBE goals, raising the goal by even 1% will increase burden on primes when there are not enough DBEs to meet goals. • Numbers and capacity of DBEs must be increased. • Needs to be greater diversity in type of work DBEs perform – 40% quote the same kind of work. • Too few DBEs who perform the kind of work called for in typical Mn/DOT project. • There are few DBEs in rural Minnesota and it is too costly for them to travel from metro area. • DBEs do not have a workforce of the size or equipment that allows them flexibility to meet schedule requirements. 	<p>Again, Mn/DOT would like to make it very clear that a goal on a project should not change prime contractor behavior. Good Faith Efforts to solicit disadvantaged businesses for subcontracting opportunities should not happen only on projects that have DBE goals. Fair and open solicitation practices should be a part of every subcontracting process.</p> <p>Primes need to give DBEs the <u>same amount of time</u> and the same information that they give other subcontractors to prepare their quotes. The current practice in Minnesota, in which many primes commit 0% participation at the time of letting and than seek DBE participation only after they are selected as apparent low bidder, does not create a level playing field for DBEs to compete with non DBEs. This practice needs to be changed.</p>
<p>One comment indicated that Mn/DOT transfers substantial risk to primes, which causes an aversion to hiring less qualified subcontractors who may not be able to meet contract performance specs or qualify for performance bonds.</p>	<p>First, this comment assumes that DBE firms are unqualified, which is not true. As stated above, some of the DBEs are new, small businesses. However, many DBEs are established firms with the capacity to handle very large projects. Second, we must point</p>

	<p>out that all government contracting, whether at the federal, state or local level, contains additional programmatic, performance, documentary and legal requirements that are not found in private sector contracting. Compliance with the DBE program is only one of these requirements. It is a Federal requirement for Mn/DOT's receipt of federal highway funds. If contractors feel it is too risky for them to comply with the program they need not bid on Federally funded highway projects.</p> <p>Contractors should keep in mind that many state and local government projects also contain requirements for contracting with women and minority owned businesses</p>
<p>Some comments focused on the four Metro-area projects that are large scale –high dollar construction projects happening during 2008 (Twins Stadium, Gopher Stadium, Crosstown and I-35W). The comments stated these projects will consume a large share of the market availability and capacity of DBEs in metro area.</p>	<p>Many DBEs report being under-utilized on Mn/DOT projects. In addition, contractors should note that when individual project goals throughout the state are set, the geographic area, DBE availability, dollar amount and scope of work are taken into consideration.</p>
<p>Some comments focused on the 15.3% proposed goal as being unattainable.</p> <ul style="list-style-type: none"> • Previous smaller goals have not been met. Overall DBE participation over the 5 year period from 2003-2007 is 7.19%. • A goal more than double this 5 year average DBE participation is unachievable. Another comment stated the goal must be realistic and attainable to be effective. • High goals will increase the potential for sham business which will harm the program. 	<p>Contractors must keep in mind that DBE Program is a goals-oriented program, not a quota program. When contractors make legitimate and sincere good faith efforts to meet DBE goals on projects, concerns over whether goals are met and the potential for sham businesses should be minimized. In addition, Mn/DOT reviews contracts for clearance prior to award and monitors DBE participation during the life of a project. This monitoring will also minimizing the potential for DBE fraud on contracts.</p>
<p>Many comments listed the numbers of DBE firms contacted during good faith efforts and stated that responses received were only 25%.</p> <ul style="list-style-type: none"> • Not enough DBEs quote work to primes even when they are solicited. 	<p>These statements point to a larger problem with Mn/DOT's current DBE program implementation. Because primes are only required to solicit DBEs after the letting, if they are the apparent low bidder, most turn in DBE commitments of 0%. Then they rush to hire</p>

<p>Only 8-10 quote per project and than 4 may be for the same item of work.</p> <ul style="list-style-type: none"> Typically solicit 20-30 DBEs per project with a maximum response of 4 and only 2 quotes. DBEs are not competitive 	<p>DBEs during the 3 to 5 days allotted for DBE contract clearance. As such, DBEs are given less time to prepare quotes than other subcontractors, and bid shopping becomes an issue. Mn/DOT will soon be making a change to its program to require DBE information be submitted with bid documents.</p>
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Comments in Support of 15.3% Goal	Mn/DOT Response
<p>Several comments responded to comments made by contractors opposed to the goal, asserting that DBEs were overwhelmed with work because of the three or four major Metro area projects. These comments dispute that they are over utilized. The comments stated that DBEs were not working at capacity and were open to having more contracting opportunities, which give them the opportunity to grow their businesses.</p> <ul style="list-style-type: none"> This is an important increase in the goal because it represents business development opportunities for qualified and certified DBEs This new goal should expand business opportunities for ready willing and able DBE firms There are several DBEs that are under capacity and need an opportunity to participate without the primes using "the good ole boys". There are DBEs that are hurting for work. We should stand behind the study and keep the goal at 15.3%. The goal is reasonable and a good place to start for moving DBEs into new opportunities. 	<p>Mn/DOT has received similar comments from other DBEs throughout the past year that they do not have enough work and are looking for contracting opportunities. DBEs contact Mn/DOT on a regular basis expressing concerns that they contact primes after submitting bids and received no responses. Furthermore, a number of DBEs have reported that they have received no responses from primes when they tried to set up meetings to discuss their unsuccessful bids so that they can improve on their quotes, establish partnerships and bid successfully to those primes in the future. DBEs have indicated they are discouraged to bid.</p>
<p>Several comments in support of the goal stated that 15.3% was a reasonable goal and noted that the NERA Study had found a potential DBE availability in Minnesota of 21-23%.</p> <ul style="list-style-type: none"> NERA determined there is DBE availability of ~21% to 23%. The State's 15.3% is achievable. 	<p>At the time it proposed the DBE goal determined by the NERA Availability Study, Mn/DOT agreed that this was a reasonable goal. Mn/DOT is working on several initiatives to increase the numbers of certified DBEs and enhance the skills and capacity of the DBEs currently certified. These initiatives will focus on (a) enhancing skill levels of DBEs and (b) reaching out to the potential DBE firms</p>

<ul style="list-style-type: none"> • Even though NERA showed a much higher DBE capacity, I feel it necessary to support the lower 15.3% in order to avoid frustration from the primes while giving other DBEs that are under capacity to opportunity to participate. <p>Mn/DOT and FHWA have taken a reasoned approach by incrementally increasing the 2008 goal.</p>	<p>identified by the Study in an effort to increase the pool of certified DBEs.</p>
<p>Several comments focused on the need to offer contracting opportunities on an equal basis to all taxpayers.</p> <ul style="list-style-type: none"> • As a payer of gasoline taxes, I welcome the opportunity that this new goal presents to expand the qualified firms working of Mn/DOT projects. • Taxpayers want to see “the wealth” spread amongst all taxpayers. 	<p>This perspective is consistent with the objectives of the DBE Program regulations, which include (a) ensuring non-discrimination in the award and administration of federally-funded (USDOT) highway, transit and airport contracts; and (b) leveling the playing field on which DBEs can compete fairly for federally-funded contracts.</p>
<p>Several comments focused on the problems with good faith efforts and their belief that contractors in Minnesota do not make sincere efforts to contract with DBEs.</p> <ul style="list-style-type: none"> • The concern about DBE ability to support the goals can be measured if you allow them to apply. • This percentage goal is being met in other states, so why not here • The problem concerns the lack of faith (from both sides) in a system and process that ALWAYS leaves everyone dissatisfied. It’s time to rethink the entire process . . . and its time for change. <p>The reason Mn/DOT is only at a 6% goal now is that the good faith efforts of primes have been less than good faith. After working in Wisconsin and N. Dakota I see what it is like to have the support of the DOT behind you.</p>	<p>Mn/DOT is aware that contractors in neighboring states have been better able and more consistent in meeting DBE goals on projects. In an effort to address this issue, Mn/DOT has been meeting with our DOT counterparts in these states, and throughout the country, to discuss and review their processes and adopt best practices from other states.</p>

<p>One DBE stated that during DBE certification process they experienced an extensive application process, a very in-depth interview and all necessary Background checks. With over 11 years in the industry our company has surpassed the “nurturing opportunities,” continues to meet demands of high-profile jobs, and encompasses the quality and qualifications that the construction trades require.</p>	<p>This comment is reflective of Mn/DOT’s position that many of the certified DBEs are established firms with the capacity to handle large scale, multi-million dollar projects, contrary to what some primes purport.</p>
<p>Some comments in support of the proposed 15.3% goal focused on the need for improving the DBE program, collaboration between the AGC, Mn/DOT and DBEs and training.</p> <ul style="list-style-type: none"> • We have attended stakeholder meetings year after year voicing our opinion when goals have just kept dropping year after year. Why now support the lowering of the goal? I do believe that there are things we can collaborate with Mn/DOT and AGC to improve programs, but do not support lowering the goal. • When primes reach their DBE goals right away with some of the larger DBEs they tend to stop looking further down for DBEs. I have bid to a prime who said the type of work was the responsibility of a sub but would not give me the name of the sub so I could contact them. Primes who bid to Mn/DOT should be required to attend training on how to establish relationships with DBEs, and given tolls and expectations. 	<p>Mn/DOT agrees that program improvements, collaboration between and with Mn/DOT stakeholders and more training on bidding and establishing partnerships is needed. To this end, Mn/DOT is implementing changes in its business support services program with an emphasis in networking, training and development and creating partnerships between primes and DBEs. The Office of Civil Rights is spearheading Mn/DOT’s effort to implement the Small Business Network (Bid Express), which will allow DBEs to submit their bids primes electronically and will make it easier for primes to seek DBE participation for projects,</p>
<p>One commenter who supported the goal thought the concept of good faith efforts should be eliminated and stated that it should be mandatory for contractors to meet goals.</p>	<p>Mn/DOT does not agree with this comment. The U.S. Supreme Court has ruled that mandatory quotas are impermissible. The DBE Federal regulations have incorporated this decision by making “good faith efforts” the standard for review and compliance with DBE goal attainment and making it clear in the regulations that quotas are not allowed in the DBE Program. Mn/DOT supports this standard for review.</p>

Several comments stated that prime contractors use the good faith efforts language and bidding process simply to get contracts awarded, and that these contractors never intended to give up work to DBE firms. They solicit DBEs and award the contracts to non-DBEs who often end up costing more money than what the DBE proposed.

This is a common complaint by DBE firms who over the years have responded to multiple solicitations by contractors only to realize no subcontract awards and no responses to inquiries on how they could bid more effectively to those contractors.

Minnesota Department of Transportation (Mn/DOT)
FFY 2007 Overall Disadvantaged Business Enterprise Goal for Transit
Overall Goal for Transit

Mn/DOT's proposed overall DBE goal for transit for FFY 2007 is **7.8%**.

Methodology

The overall DBE goal was established through the following process:

Step 1 Determining the Base Figure:

According to Section 25.45, paragraph (b), the overall goal must be based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on DOT-assisted contracts. To determine the relative availability of DBEs to perform work on federal transit projects in Minnesota in 2007, Mn/DOT applied the methodology described in Section 26.45, paragraph (c) *Step 1*, clause (1) *Use DBE Directories and Census Bureau Data*. This methodology uses the latest Mn/DOT DBE directory and latest available U.S. Census Bureau County Business Pattern (CBP) Data (2002).

"Transit Estimated DBE Participation – 2007" (attached spreadsheet) displays information used to calculate the base figure in Step 1.

The market area was determined to be the entire state of Minnesota since Mn/DOT passes through FTA funds throughout the state to metropolitan recipients (Section 5303 and 5309) and to rural recipients (Section 5311).

Columns A, B, C, and G, lines 5 through 61 list the types of goods and services for operations which are projected to be purchased in FFY 2007 by on-going Section 5311 rural transit programs; lines 63 through 140 indicate projections for goods and services primarily for capital transit projects in both Greater Minnesota and in the metropolitan area, with a smaller amount of funding projected for planning.

Column I provides projected amounts to be spent by NAICS code.

Columns J and K indicate the federal portion of the projected amounts allocated to each NAICS code.

Column L indicates the total number of vendors in Minnesota by NAICS code.

Column M indicates only the number of certified Mn/DOT certified DBEs by NAICS code.

Column N expresses the relative availability of DBEs in each NAICS code. It is the result of dividing the number of DBEs in each code (Column M) by the total number of vendors in Minnesota in each code (Column L).

Column O projects the 2007 DBE participation in dollars in each code. It is the result of multiplying the relative availability of DBEs in each NAICS code (Column N) by the total projected federal spending in each NAICS code (Column K).

The base figure is calculated by dividing the total projected DBE participation for all codes for 2007 (total Column O) by the total projected dollars in 2007 (total Column K).

The result of our calculations for Step 1 is a 2.3% DBE goal.

Minnesota Department of Transportation (Mn/DOT)
FFY 2007 Overall Disadvantaged Business Enterprise Goal for Transit
Overall Goal for Transit

Step 2 Adjusting the Base Figure

We propose adjusting the Step 1 calculation for the following reasons.

In late 2005 and early 2006 Mn/DOT underwent a DBE Compliance Review of federal transit funds during which two semi-annual reports were reviewed and revised under the close supervision of the DBE reviewer. Mn/DOT is confident in the accuracy of the historical data in the reports submitted for the periods April 2004 through September 2004 and October 2004 through March 2005. These reports show an average DBE participation achievement rate for the Office of Transit for this 12-month period of 15.7%.

The majority of this participation occurred on the Northstar Project, the large metropolitan area commuter rail project, for activities related to consulting and engineering. The relative availability of DBEs for engineering and consulting is currently at 4.1%. However, projected Northstar Project activities in 2007 will shift almost entirely from consulting and engineering to construction and construction-related activities. The estimated relative availability of DBEs for transit-related construction work is currently at 2.5%, or a 39% $([4.1-2.5]/4.1)$ decrease in the relative availability of DBEs for Northstar Project activities for 2007.

Based on the 39% decrease in the availability of DBEs to perform projected work on the Northstar Project in 2007 compared with work projected in 2006, we estimate a 39% decrease in the DBE achievement rate for 2007. This decrease would bring the historical DBE achievement rate of 15.7% down to an estimated achievement rate of 9.5%.

For 2007, the Northstar Project represents 86% of total projected federal spending. Therefore, we expect to achieve 86% of our 2007 DBE goal on the metropolitan Northstar Project. The remaining 14% of the projected Federal funds will be spent in Greater Minnesota where, historically, DBE participation has been difficult because of the small number of certified DBEs, and therefore, race neutral goals will apply.

We expect to achieve a 9.5% DBE participation rate for the Northstar Project which represents 86% of the total project funds available to DBEs in 2007. We expect to achieve an 0.8 % DBE participation rate for transit projects in Greater Minnesota which represents the remaining 14% of the total project funds available to DBEs in 2007. Therefore, we have used a weighted average of these expected achievements to arrive at the 2007 transit goal.

The proposed overall DBE goal for transit for 2007 is 8.3% (weighted average).

Mn/DOT proposes achieving .8% of the proposed overall goal through race/gender neutral means and 7.5% of the proposed goal through race conscious means.

Summary of Comments 2007 Transit DBE Goal

The following is a summary of the comments, received during the public comment period and at the stakeholder meeting, along with the responses from Mn/DOT.

Comment Received: One comment was received during the public comment period asking why engineering services was not included, in addition to architectural services, on the spreadsheet entitled Transit Estimated DBE Participation – 2007. This spreadsheet was used to calculate the base figure in Step 1.

Response: In response to this comment it was verified that the figures in question were in fact architectural services. The spreadsheet was amended to add engineering services in the amount of \$500,000 as line 109. The Step 1 base figure was then recalculated. This changed the Step 1 figure from 1.07% to 1.09%. This base figure changed again as a result of other comments received.

Comment Received: The stakeholder meeting was held on July 26, 2006. Several DBEs commented on the above mentioned spreadsheet. They asked why the projects listed on the chart only included the NAICS code for Commercial and Institutional Building Construction and did not break out the sub sector 238 Specialty Trade NAICS codes that would fall under this general description.

Response: In response to this comment the spreadsheet was amended to use 2 general descriptions, rural commercial improvement remodel projects and new rural commercial improvement projects, rather than listing each individual project separately. Data on new and remodel projects was used to determine the percentage of each specialty trade NAICS code that would be involved in each of these categories of projects. The spreadsheet was revised by adding the total number of firms in each category and the number of DBEs in each category. Step 1 was then recalculated and changed from 1.09% to 2.3%.

Minnesota Department of Transportation

FFY 2008 Overall Disadvantaged Business Enterprise Goal for Transit

Overall Goal for Transit

Mn/DOT's proposed overall DBE goal for transit for FFY 2008 is 6.4%.

Methodology

The overall DBE goal was established through the following process:

Step 1 Determining the Base Figure:

According to Section 25.45, paragraph (b), the overall goal must be based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on DOT-assisted contracts. To determine the relative availability of DBEs to perform work on federal transit projects in Minnesota in 2008, Mn/DOT applied the methodology described in Section 26.45, paragraph (c) *Step 1*, clause (1) *Use DBE Directories and Census Bureau Data*. This methodology uses the latest Mn/DOT DBE directory and latest available U.S. Census Bureau County Business Pattern (CBP) Data (2002).

Appendix A displays information used to calculate the base figure in Step 1.

The market area was determined to be the entire state of Minnesota since Mn/DOT passes through FTA funds throughout the state to metropolitan recipients (Section 5309) and to rural recipients (Sections 5311, 5316 and 5317).

Column A identifies transit projects for 2008, including rural transit operations, rural capital projects, and several metropolitan area construction projects, the major one being the Northstar Commuter Rail newstart project.

All entries in Column A correspond to NAICS codes and descriptions provided in Columns C and G.

Columns J indicates the projected federal amounts for 2008 associated with each entry in Columns C and G.

Column K reflects the total amount of projected federal spending for type of work by NAICS code for each entry in Columns C and G.

Column O indicates the total number of vendors in Minnesota in each NAICS code.

Column P indicates the number of certified DBEs in each NAICS code.

Column Q expresses the relative availability of DBEs in each NAICS code. It is the result of dividing the number of DBEs in each code (Column O) by the total number of vendors in Minnesota in each code (Column P).

Transit Estimated DBE Participation - 2008

Transit Systems Line Item Number and NAICS Code Comparison													
Line Item Number	Federal Program	NAICS Code	NAICS Code Description	Total 2008 Projection - 5311	Federal Portion	JARC and New Freedom Sections 5316 & 5317	Total 2008 Projected for 5311, 5316 & 5317	Total Spending by NAICS & Split NAICS	Total Vendors by NAICS (Minnesota)	Total DBE Vendors (MnDOT)	Percent NAICS to Total	Projected DBE Participation 2008	
				Col F * 34%		Col G + Col I				Col M / Col L		Col K * Col N	
3	1110	5311, 5316 & 5317	541611 Administrative Management and General Management Consulting Services	\$ 283,265.39	\$ 96,310.23	\$ 10,870.95	\$ 107,181.19	\$ 107,181.19	1,099	15	1.365%	\$ 1,462.89	
4	1120	5311, 5316 & 5317	541611 Administrative Management and General Management Consulting Services	54,126.84	18,403.13	2,077.24	20,480.37	10,240.18	1,099	15	1.365%	139.77	
5		5311, 5316 & 5317	621112 Offices of Physicians, Mental Health Specialists	-	-	-	-	10,240.18	129	0	0.000%	-	
6	1130	5311, 5316 & 5317	541430 Graphic Design Services	372,542.81	126,664.56	14,297.18	140,961.73	70,480.87	499	8	1.603%	1,129.95	
7		5311, 5316 & 5317	541850 Display Advertising	-	-	-	-	70,480.87	67	1	1.493%	1,051.95	
8	1140	5311, 5316 & 5317	541110 Offices of Lawyers	455,171.35	154,758.26	17,468.23	172,226.49	86,113.25	2,393	2	0.084%	71.97	
9		5311, 5316 & 5317	541211 Offices of Certified Public Accountants	-	-	-	-	86,113.25	933	1	0.107%	92.30	
10	1150	5311, 5316 & 5317	611519 Other Technical and Trade Schools	90,182.57	30,662.07	3,460.96	34,123.03	34,123.03	37	1	2.703%	922.24	
11	1160	5311, 5316 & 5317	453210 Office Supplies and Stationery Stores	237,475.38	80,741.63	9,113.66	89,855.29	89,855.29	130	0	0.000%	-	
12	1170	5311, 5316 & 5317	531312 Nonresidential Property Managers	202,432.29	68,826.98	7,768.80	76,595.78	38,297.89	216	0	0.000%	-	
13		5311, 5316 & 5317	532299 All Other Consumer Goods Rental	-	-	-	-	38,297.89	32	0	0.000%	-	
14	1180	5311, 5316 & 5317	22 Utilities	769,762.41	261,719.22	29,541.38	291,260.60	97,086.87	299	0	0.000%	-	
15		5311, 5316 & 5317	517212 Cellular and Other Wireless Telecommunications	-	-	-	-	97,086.87	164	1	0.610%	591.99	
16		5311, 5316 & 5317	562111 Solid Waste Collection	-	-	-	-	97,086.87	242	0	0.000%	-	
17	1190	5311, 5316 & 5317	926120 Regulation and Administration of Transportation Programs	290,566.17	98,792.50	11,151.14	109,943.64	109,943.64	549	1	0.182%	200.26	
18	1210	5311, 5316 & 5317	424710 Petroleum Bulk Stations and Terminals	4,014,384.66	1,364,890.78	154,061.13	1,518,951.91	506,317.30	77	0	0.000%	-	
19		5311, 5316 & 5317	424720 Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)	-	-	-	-	506,317.30	57	1	1.754%	8,882.76	
20		5311, 5316 & 5317	447110 Gasoline Stations with Convenience	-	-	-	-	506,317.30	2,016	0	0.000%	-	
21	1220	5311, 5316 & 5317	441310 Automotive Parts and Accessories Stores	1,123,638.99	382,037.26	43,122.20	425,159.45	425,159.45	779	0	0.000%	-	
22	1222	5311, 5316 & 5317	441310 Automotive Parts and Accessories Stores	329,140.57	111,907.79	12,631.52	124,539.31	124,539.31	779	0	0.000%	-	

Transit Estimated DBE Participation - 2008

1	A	B	C	D	F	G	I	J	K	L	M	N	O
1	Transit Systems Line Item Number and NAICS Code Comparison												
3	Line Item Number	Federal Program	NAICS Code	NAICS Code Description	Total 2008 Projection - 5311	Federal Portion	JARC and New Freedom Sections 5316 & 5317	Total 2008 Projected for 5311, 5316 & 5317	Total Spending by NAICS & Split NAICS	Total Vendors by NAICS (Minnesota)	Total DBE Vendors (MnDOT)	Percent NAICS to Total	Projected DBE Participation 2008
4						Col F * 34%		Col G + Col I				Col M / Col L	Col K * Col N
37	1230	5311, 5316 & 5317	811111	General Automotive Repair	178,212.86	60,592.37	6,839.32	67,431.70	67,431.70	1,533	0	0.000%	-
38													
39	1232	5311, 5316 & 5317	441310	Automotive Parts and Accessories Stores	174,198.01	59,227.32	6,685.24	65,912.57	65,912.57	779	0	0.000%	-
40													
41	1234	5311, 5316 & 5317	811111	General Automotive Repair	260,500.86	88,570.29	9,997.31	98,567.61	98,567.61	1,533	0	0.000%	-
42													
43	1236	5311, 5316 & 5317	441310	Automotive Parts and Accessories Stores	238,551.51	81,107.51	9,154.96	90,262.47	90,262.47	779	0	0.000%	-
44													
45	1240	5311, 5316 & 5317	423130	Tire and Tube Merchant Wholesalers	279,533.05	95,041.24	10,727.72	105,768.95	105,768.95	36	0	0.000%	-
46													
47	1250	5311, 5316 & 5317	488410	Motor Vehicle Towing	40,909.10	13,909.09	1,569.98	15,479.07	15,479.07	101	0	0.000%	-
48													
49	1310	5311, 5316 & 5317	485113	Bus and Other Motor Vehicle Transit Systems	8,786,231.24	2,987,318.62	337,191.59	3,324,510.21	3,324,510.21	23	0	0.000%	-
50													
51	1340	5311, 5316 & 5317	444130	Hardware Stores	258,265.16	87,810.15	9,911.51	97,721.67	48,860.83	497	1	0.201%	98.31
52		5311, 5316 & 5317	561720	Janitorial Services	-	-	-	-	48,860.83	939	8	0.852%	416.28
53													
54	1350	5311, 5316 & 5317	531312	Nonresidential Property Managers	164,454.52	55,914.54	6,311.32	62,225.85	31,112.93	216	0	0.000%	-
55		5311, 5316 & 5317	532299	All Other Consumer Goods Rental	-	-	-	-	31,112.93	32	0	0.000%	-
56													
57	1360	5311, 5316 & 5317	444130	Hardware Stores	143,369.89	48,745.76	5,502.15	54,247.91	27,123.95	497	1	0.201%	54.58
58		5311, 5316 & 5317	812320	Drycleaning and Laundry Services (except Coin-Operated)	-	-	-	-	27,123.95	265	0	0.000%	-
59													
60	1410	5311, 5316 & 5317	524126	Direct Property and Casualty Insurance	1,138,677.35	387,150.30	43,699.33	430,849.63	215,424.81	285	0	0.000%	-
61		5311, 5316 & 5317	524210	Insurance Agencies and Brokerages	-	-	-	-	215,424.81	3,358	2	0.060%	128.31
62													
63	1420	5311, 5316 & 5317	524126	Direct Property and Casualty Insurance Carriers	191,894.30	65,244.06	7,364.38	72,608.44	36,304.22	285	0	0.000%	-
64		5311, 5316 & 5317	524210	Insurance Agencies and Brokerages	-	-	-	-	36,304.22	3,358	2	0.060%	21.62
65													
66	1750	5311, 5316 & 5317	443120	Computer and Software Stores	325,213.62	110,572.63	12,480.81	123,053.44	123,053.44	198	2	1.010%	1,242.96
67													
68	New Construction	5309			500,000.00	500,000.00							
69				Prime Contractor	400,000.00	400,000.00			400,000.00				
70		10.5%	238110	Poured Concrete Foundation and Structure Contractors	-	-	-	-	52,533.50	778	7	0.900%	472.67
71		7.5%	238120	Structural Steel and Precast Concrete Contractors	-	-	-	-	37,701.29	47	9	19.149%	7,219.40
72		4.1%	238130	Framing Contractors	-	-	-	-	20,659.59	642	2	0.312%	64.36
73		2.6%	238140	Masonry Contractors	-	-	-	-	13,008.64	708	5	0.706%	91.87
74		4.8%	238150	Glass and Glazing Contractors	-	-	-	-	24,181.18	80	1	1.250%	302.26

Transit Estimated DBE Participation - 2008

1	A	B	C	D	F	G	I	J	K	L	M	N	O
3	Line Item Number	Federal Program	NAICS Code	NAICS Code Description	Total 2008 Projection - 5311	Federal Portion	JARC and New Freedom Sections 5316 & 5317	Total 2008 Projected for 5311, 5316 & 5317	Total Spending by NAICS & Split NAICS	Total Vendors by NAICS (Minnesota)	Total DBE Vendors (MnDOT)	Percent NAICS to Total	Projected DBE Participation 2008
4						Col F * 34%		Col G + Col I				Col M / Col L	Col K * Col N
75		7.7%	238160	Roofing Contractors					38,740.71	394	3	0.761%	294.98
76		7.7%	238170	Siding Contractors					38,740.71	438	1	0.228%	88.45
77		8.4%	238190	Other Foundation, Structure, and Building Exterior Contractors					41,989.62	41	1	2.439%	1,024.14
78		5.2%	238210	Electrical Contractors					26,165.80	1,629	17	1.044%	273.06
79		12.2%	238220	Plumbing, Heating, and Air-Conditioning Contractors					61,053.54	1,759	2	0.114%	69.42
80		0.0%	238290	Other Building Equipment Contractors					-	126	2	1.587%	-
81		1.6%	238310	Drywall and Insulation Contractors					8,135.74	494	2	0.405%	32.94
82		1.6%	238320	Painting and Wall Covering Contractors					8,135.74	838	5	0.597%	48.54
83		4.8%	238350	Finish Carpentry Contractors					24,181.18	684	2	0.292%	70.71
84		0.5%	238390	Other Building Finishing Contractors					2,636.26	140	0	0.000%	-
85		9.1%	238910	Site Preparation Contractors					45,659.27	960	22	2.292%	1,046.36
86		0.5%	442110	Furniture Stores					2,636.26	458	0	0.000%	-
87		10.8%	541380	Testing Laboratories					53,840.96	104	3	2.885%	1,553.10
88													
89	Remodel	5309			1,000,000.00	1,000,000.00							
90				Prime Contractor	800,000.00	800,000.00			800,000.00				
91		5.7%	238110	Poured Concrete Foundation and Structure Contractors					57,012.57	778	7	0.900%	512.97
92		1.5%	238120	Structural Steel and Precast Concrete Contractors					15,258.32	47	9	19.149%	2,921.81
93		1.4%	238130	Framing Contractors					14,419.89	642	2	0.312%	44.92
94		23.5%	238140	Masonry Contractors					234,654.52	708	5	0.706%	1,657.16
95		2.4%	238150	Glass and Glazing Contractors					24,274.61	80	1	1.250%	303.43
96		6.5%	238160	Roofing Contractors					65,267.48	394	3	0.761%	496.96
97		6.5%	238170	Siding Contractors					65,267.48	438	1	0.228%	149.01
98		7.4%	238190	Other Foundation, Structure, and Building Exterior Contractors					74,360.82	41	1	2.439%	1,813.68
99		9.5%	238210	Electrical Contractors					95,110.22	1,629	17	1.044%	992.56
100		21.2%	238220	Plumbing, Heating, and Air-Conditioning Contractors					211,874.92	1,759	2	0.114%	240.90
101		0.0%	238290	Other Building Equipment Contractors					-	126	2	1.587%	-
102		1.8%	238310	Drywall and Insulation Contractors					18,260.67	494	2	0.405%	73.93
103		1.8%	238320	Painting and Wall Covering Contractors					18,260.67	838	5	0.597%	108.95
104		2.4%	238350	Finish Carpentry Contractors					24,274.61	684	2	0.292%	70.98
105		0.0%	238390	Other Building Finishing Contractors					-	140	0	0.000%	-
106		0.8%	238910	Site Preparation Contractors					7,629.16	960	22	2.292%	174.83
107		0.0%	442110	Furniture Stores					-	458	0	0.000%	-
108		7.4%	541380	Testing Laboratories					74,074.07	104	3	2.885%	2,136.75
109													
110	Minnesota Planning	5304	541611	Administrative Management and General Management Consulting	243,171.00	243,171.00			243,171.00	1,099	15	1.365%	3,318.99
111													
112	Northstar	5309			16,185,400.00	16,185,400.00							

Transit Estimated DBE Participation - 2008

1 Transit Systems Line Item Number and NAICS Code Comparison													
3	Line Item Number	Federal Program	NAICS Code	NAICS Code Description	Total 2008 Projection - 5311	Federal Portion	JARC and New Freedom Sections 5316 & 5317	Total 2008 Projected for 5311, 5316 & 5317	Total Spending by NAICS & Split NAICS	Total Vendors by NAICS (Minnesota)	Total DBE Vendors (MnDOT)	Percent NAICS to Total	Projected DBE Participation 2008
4						Col F * 34%		Col G + Col I				Col M / Col L	Col K * Col N
113			541330	Engineering Services						906	37	4.084%	-
114		7.2%	236220	Commercial and Institutional Building					1,172,500.00	729	7	0.960%	11,258.57
115		12.2%	238110	Poured Concrete Foundation and					1,971,400.00	778	7	0.900%	17,737.53
116		10.5%	238120	Structural Steel and Precast Concrete					1,707,000.00	47	9	19.149%	326,872.34
117		0.0%	238130	Framing Contractors						642	2	0.312%	-
118		1.8%	238140	Masonry Contractors					297,600.00	708	5	0.706%	2,101.69
119		1.3%	238150	Glass and Glazing Contractors					204,000.00	80	1	1.250%	2,550.00
120		2.0%	238160	Roofing Contractors					327,800.00	394	3	0.761%	2,495.94
121		0.1%	238170	Siding Contractors					23,880.00	438	1	0.228%	54.52
122		1.6%	238190	Other Foundation, Structure, and					266,690.00	41	1	2.439%	6,504.63
123		26.2%	238210	Electrical Contractors					4,236,396.00	1,629	17	1.044%	44,210.39
124		2.3%	238220	Plumbing, Heating, and Air-					380,080.00	1,759	2	0.114%	432.15
125		0.0%	238290	Other Building Equipment Contractors					-	126	2	1.587%	-
126		0.0%	238310	Drywall and Insulation Contractors					-	494	2	0.405%	-
127		0.0%	238320	Painting and Wall Covering Contractors					-	838	5	0.597%	-
128		6.6%	238350	Finish Carpentry Contractors					1,064,700.00	684	2	0.292%	3,113.16
129		24.1%	238910	Site Preparation Contractors					3,897,222.00	960	22	2.292%	89,311.34
130		0.0%	442110	Furniture Stores					-	458	0	0.000%	-
131		0.0%	541310	Architectural Services					-	431	9	2.088%	-
132		0.0%	541320	Landscape Architectural Services					-	98	7	7.143%	-
133		0.2%	541380	Testing Laboratories					30,000.00	104	3	2.885%	865.38
134		1.3%	541850	Display Advertising					215,800.00	67	1	1.493%	3,220.90
135		2.4%	561730	Landscaping Services					390,332.00	1,581	9	0.569%	2,222.00
136	Rush Line	5339	541611	Administrative Management and General Management Consulting Services	300,000.00	300,000.00			300,000.00	1,099	15	1.365%	4,094.63
137													
138													
139					\$ 39,831,271.90	\$ 26,365,489.31	\$ 783,000.00		\$ 27,148,489.31				\$ 561,223.43
140													
141	http://censtats.census.gov/cbpnaic/cbpnaic.shtml										O88/K88	2.0672%	
142													
143													
144													
145													
146													
147													
148													
149													
150													
151													
152													
153													
154													

10.4% Percent of historical participation (Last 12 months)

Weighted Average Calculation			
	Percent	Participation	Weighted Average
Northstar Percent of Total	59.6%	10.4%	6.2%
	40.4%	0.4%	0.2%
			6.4%