



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

**FY 2007 Disadvantaged Business Enterprise (DBE) Program
Annual Goal Methodologies**

**COMBINED REPORT OF THE DBE PROGRAM
ANNUAL GOALS FOR:**

- *Division of Aviation*
- *Division of Public Transportation*
- *Division of Highways*



for:

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
Raleigh, North Carolina

**Prepared with Assistance from:
Ken Weeden & Associates, Inc. Planning Consultants**



Wilmington

Raleigh

Charlotte

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FY 2007
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM METHODOLOGY
for



North Carolina Department of Transportation
Division of Aviation
Raleigh, North Carolina

With Assistance From



Ken Weeden & Associates, Inc.

June 2006

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**N.C. Division of Aviation: FY2007
DBE Overall Goal and Methodology Summary Sheet**

Airport	Weighted DBE Base Figure	Presence of Adjustment Factors	Final Overall Goal	RN/RC indicators
A. Brunswick Airport	12.0%	Yes	8.8%	0.0% RN 8.8% RC
B. *Burlington Alamance Regional Airport	N/A	N/A	N/A	N/A
C. Concord Regional Airport	14.4%	Yes	12.0%	0.0% RN 12.0% RC
D. Currituck County Airport	5.2%	No	5.5%	0.0% RN 5.5% RC
E. Dare County Airport	12.8%	No	12.8%	0.0% RN 12.8% RC
F. Lincolnton-Lincoln County Airport	12.2%	No	12.2%	0.0% RN 12.2% RC
G. *Michael J. Smith Field	N/A	N/A	N/A	N/A
H. *Rockingham County-NC Shiloh Airport	N/A	N/A	N/A	N/A
I. *Rocky Mount-Wilson Regional Airport	N/A	N/A	N/A	N/A
J. *Statesville Regional Airport	N/A	N/A	N/A	N/A
FY2007 Median	12.2%		12.0%	
FY2007 Mean	11.3%		10.3%	
STATE OVERALL:	11.8%		<u>11.2%</u>	

RN/RC = Race Neutral, Race Conscious

*Goals were not set for these Airports. They are receiving FAA funds in FY 2007; however they will award less than \$250,000 in prime contracts. The majority of the funds will be used for land acquisition.

METHODOLOGY for Establishing the FY 2007 Overall Disadvantaged Business Enterprise (DBE) Goal for:

**North Carolina Department of Transportation
Division of Aviation
Raleigh, North Carolina**

June 2006

I. Introduction

In fulfillment of the requirements of 49 CFR Part 26, the NC Division of Aviation has proposed an Overall Goal for FY 2007 FAA-AIP projects at all of the general aviation sub-recipient airports in North Carolina. The methodology used in establishing this goal is described herein, first with an overview, followed by a more detailed explanation.

II. Goal Methodology Overview

The methodology used to establish the FY 2007 overall goal, including determining the relative availability of DBEs in the Airport's market area and making any necessary adjustments consists of a multi-step process, consistent with that outlined in the Federal Register (49 CFR Part 26) – Steps 1 and 2.

A. Preliminary Actions: Identify Geographic Market Area and Project Activities with NAICS Codes

1. Determine the Airport's normal market area for procuring goods and services, by county, because of the data format contained in the Census' County Business Patterns.
2. Select the market area based on the geographic area, where, historically, the substantial majority of successful bidders came from, and where the substantial majority of the contracting dollars were spent. This establishes the *geographic* parameters for statistical analysis of the relative availability of DBEs.
3. Review the airport's proposed FY 2007 projects in order to determine the types of projects/ activities involving federal funds (FAA-AIP) proposed for the fiscal year, to be broken out according to major NAICS codes.
4. Allocate the project activities and/or types of firms/services required by the major relevant NAICS codes needed to complete these projects. This triggers the market search for both "all firms" *and* DBE firms within the selected geographic parameters, and for the *same* NAICS codes, in order to help determine the relative availability of DBEs.
5. Collect information, if available, on the engineering cost estimates or other detailed cost estimates for the project activities, in order to allocate these costs according to the identified major NAICS codes. This may permit the availability of DBEs in each

major NAICS code to be “weighted” according to the relative percent-of-project-cost by NAICS code.

B. STEP 1: Determine the Relative Availability of DBEs in the Market Area

1. Examine the census data (County Business Patterns, 2003) for the market area, by county, using the previously-identified NAICS codes to determine the total number of firms that perform the types of work/activities relevant to the proposed FAA-AIP projects for FY 2007.
2. Determine the initial relative availability of DBEs in the market area, *only* within the identified NAICS codes. Some data sources for this determination include the following:
 - *2003 County Business Patterns.*
 - *NC DOT Disadvantaged Enterprise Directory, June 2006.*
3. Count only the DBE firms by relevant NAICS codes that are capable of performing work relevant to the proposed FY 2007 projects. Compare DBE firms to *all* firms in the same codes to determine the initial “relative availability” of DBE firms within the market area.
4. Calculate the Step 1 DBE base figure, or the “weighted” DBE Base figure to determine the relative availability of DBE firms in all the relevant NAICS codes.

C. STEP 2: Adjust the DBE Base Figure

In accordance with 49 CFR Part 26, give consideration to “...*additional evidence in the sponsor’s jurisdiction [which should] be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal*” (26:45(d)).

III. Calculate/Project Race-Neutral/Race-Conscious (contract) DBE goal split

Review the history of DBE participation on FAA-AIP projects in previous years at the Airport to look for factors that indicate race-neutral DBE accomplishment. This could be, for example, the amount by which the Airport exceeded its established DBE goals in the past. The median amount by which the goals were exceeded could be evidence to support a projection of race-neutral participation for FY 2007.

IV. Detailed Methodology: Specific Steps

A. Brunswick County

1. Airport Name and Location:

Brunswick County Airport is located on the coast of North Carolina, in Brunswick County and about 25 miles south of Wilmington, in the City of Southport.

2. Definition of Project Service Area:

The normal market area was determined through consultation with engineers and an assessment of historic bidders for similar projects, i.e., the area from where the substantial majority of bidders came, and the area where the substantial majority of dollars in both construction and professional services were spent. The counties in the airport’s market area are listed in the table below:

Table 1: Brunswick County Airport—Project Service Area Counties

Brunswick	Lenoir	New Hanover
Onslow	Pender	

Source: NC Division of Aviation, Talbert & Bright, Inc.

3. Definition of Project Scope, Activities and NAICS codes:

The FY 2007 projects proposed for the Brunswick County Airport consists of land acquisition and runway extension. The projects, activities, and relevant NAICS codes are summarized in the table below:

Table 2: Brunswick County Airport

PROJECT	ACTIVITY	NAICS CODES
Land Acquisition	Appraisal	531320
	Legal	541110
	Engineering	541330
	Surveying	541370
Runway Extension	Highway and Street Cons.	237310
	Drainage/Embankment	237990
	Electrical	238210
	Site Prep	238910
	Engineering	541330
	Landscaping	561730

Source: NC Division of Aviation, Talbert & Bright, Inc.

4. Determination of Relative Availability of DBE’s in Project Service Area

Table 3: Availability of DBEs for the Brunswick County Airport by Relevant NAICS Codes—FY 2007

NAICS Codes	All Firms	DBE Firms	% of DBE Firms Available	% of estimated total expended	Weighted Total Availability
531320 541110 541370	368	1	0.3%	5.9%	0.0%
237310	24	6	25.0%	26.6%	6.7%
237990	26	3	11.5%	30.7%	3.5%
238210	180	1	0.6%	5.2%	0.0%
238910	76	1	1.3%	7.0%	0.1%
541330	79	1	1.3%	20.6%	0.3%
561730	177	0	0.0%	4.1%	0.0%
Weighted Baseline Goal =					10.6%

Compiled by: KWA, Inc.

SOURCES:

1. 2003 County Business Patterns.
2. NC DOT Disadvantaged Enterprise Directory, June 2006.

5. Determining the Step 1 DBE Base Figure

The Step 1 DBE Base Figure was derived by using a weighting process by which the percentage of dollars spent on various activities (represented by NAICS codes) were multiplied by the percentage of relevant DBE firms to all relevant firms as indicated in Table 3 above.

The Step 1 DBE Base Figure for the Brunswick County Airport is 10.6%.

6. Adjustments to the DBE Base Figure:

After the DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

“...Additional evidence in the sponsor’s jurisdiction be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal” (26:45(d)).

a. Adjustment Factors to Consider

The regulations also state that several types of evidence that must be considered when adjusting the base figure. These include:

“(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years.

The historical overall DBE goals established and/or accomplished at the Airport in recent years was examined relative to the above consideration. (see table below)

Table 4: Brunswick County Airport DBE Accomplishment

Report Period	Established DBE Percentage Goal	Total DBE Percent Achieved	Over-/Under-Achieved
FY 2002	9.6	2.2	-7.4
FY 2004	11.4	11.6	0.2
Median	10.5	6.9	-3.6

Source: Division of Aviation staff; analysis by Ken Weeden & Associates, Inc.

The median annual accomplished DBE goal for the reporting periods as shown above for the Brunswick County Airport is 6.9% compared to the Step 1 DBE base figure of 10.6%. Indicators of “relative availability,” based on previous volumes of work performed by DBEs in the Airport’s market area suggest that the actual overall DBE goal could perhaps be lower than the **10.6%** derived as the Step 1 DBE Base Figure.

b. Consultations

In analyzing the Step 1 DBE Base Figure, the regulations also require consideration of:

Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure...” (26:45(d)(1)(ii).

Statistical disparities in the ability of DBEs to get the financing, bonding, and insurance required to participate in your program;

Data on employment, self-employment, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.” (26.45(d)(2)(i)(ii)

There was no indication that a Disparity Study was ever conducted for the City of Southport. The offices of the Southport Oak Island Chamber of Commerce, and the Brunswick County Airport confirmed this. The airport does not have a disparity study. However, the Airport has a directory of Women and Minority-owned firms.

There were no statistical disparities in the jurisdiction that referred to the ability of DBEs to secure insurance, bonding, capital, etc. The agencies referred to above had no data.

c. **Adjustment to Step 1 DBE Base Figure**

The median annual accomplished DBE goal for the reporting periods as shown in Table 4 for the Brunswick County Airport is 6.9%. This amount will be averaged with the 10.6% base figure to yield an adjusted goal of **8.8%**.

Proposed Overall Goal for Brunswick County Airport FY 2006: 8.8%.

7. **Race-Conscious/Race-Neutral Projections**

Brunswick County Airport proposes that, of the DBE goal of **8.8%**, the projected race-neutral goal will be **0.0%**, and the race conscious goal will be **8.8%**. The reason for this projected split is that the historical information on DBE participation showed that the annual DBE accomplishment on the FAA-AIP projects was below the established annual goal. The median goal was 10.5% while the median accomplishment was 6.9%. Therefore, the Airport will focus on achieving its entire overall goal (**8.8%**) through race-conscious means during this fiscal year.

8. **Contract Goals**

The Brunswick County Airport will use contract goals to meet any portion of the overall goal that it does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

The Airport will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The airport need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

The Airport will express its contract goals as a percentage of the Federal share of a DOT-assisted contract

Agency/Person Consulted	Discussion/ Information
Southport Oak Island Chamber of Commerce	Discussed the availability of disparity studies or additional DBE listings. No additional documentation was available.
Brunswick County Airport, Howard Franklin	Discussed the availability of disparity studies or additional DBE listing. Disparity information was not available. DBE listing was provided.
Southport City Hall Rob Gandy	Discussed the availability of disparity studies or additional DBE listing. Disparity information was not available.
Brunswick County Airport Commission John Ramsey	Discussed the availability of disparity studies or additional DBE listing. Disparity information was not available.

B. Concord Regional Airport

1. Airport Name and Location:

Concord Regional Airport is located in Cabarrus County, approximately 25 miles from Charlotte.

2. Definition of Project Service Area:

The normal market area was determined through consultation with engineers and an assessment of historic bidders for similar projects, i.e., the area from where the substantial majority of bidders came, and the area where the substantial majority of dollars in both construction and professional services were spent. This area included the municipalities of Concord and Charlotte. The counties where these municipalities are located are listed in the table below:

Table 1: Concord Regional Airport — Project Service Area Counties

Cabarrus
Mecklenburg

Source: NC Division of Aviation, Talbert & Bright

3. Definition of Project Scope, Activities and NAICS codes:

The FY 2007 Projects proposed for the Concord Regional Airport consists of Taxiway widening and construction. The project, activities, and relevant NAICS codes are summarized in the table below:

Table 2: Concord Regional Airport

PROJECT	ACTIVITY	NAICS CODES
Taxiway Widening and Construction	Highway & Street	237310
	Drainage/Embankment	237990
	Electrical	238210
	Site Prep	238910
	Engineering	541330
	Landscaping	561730

Source: NC Division of Aviation, Talbert & Bright

4. Determination of Relative Availability of DBEs in Project Service Area

**Table 3: Availability of DBEs for the Concord Regional Airport
by Relevant NAICS Codes — FY 2007**

NAICS CODES	All Firms	DBE Firms	% of DBE Firms Available	% of estimated total expended	Weighted Total Availability
237310	42	9	21.4%	53.6%	11.5%
237990	17	6	35.3%	2.9%	1.0%
238210	283	6	2.1%	19.4%	0.4%
238910	88	12	13.6%	8.2%	1.1%
541330	276	7	2.5%	14.2%	0.4%
561730	304	8	2.6%	1.7%	0.0%
TOTAL	1010	48		100.0%	14.4%
WEIGHTED GOAL – Step 1					

Compiled by: KWA, Inc.

SOURCES:

1. 2003 County Business Patterns.
2. NC DOT Disadvantaged Enterprise Directory, May 2003.

5. Determining the Step 1 DBE Base Figure

The Step 1 DBE Base Figure was derived by using a weighting process by which the percentage of dollars spent on various activities (represented by NAICS codes) were multiplied by the percentage of relevant DBE firms to all relevant firms as indicated in **Table 3** above.

The Step 1 DBE Base Figure for the Concord Regional Airport is 14.4%.

6. Adjustments to the DBE Base Figure:

After the DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

“...Additional evidence in the sponsor’s jurisdiction be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal” (26:45(d)).

a. Adjustment Factors to Consider

The regulations also state that several types of evidence that must be considered when adjusting the base figure. These include:

“(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years.

The historical overall DBE goals established and/or accomplished at the Airport in recent years was examined relative to the above consideration (see table below):

Table 4: Concord Regional Airport DBE Accomplishment

Report Period	Established DBE Percentage Goal	Total DBE Percent Achieved	Over-/Under-Achieved
FY 2002	10.0	11.6	1.6
FY 2003	12.4	9.6	-2.8
FY 2004	12.2	7.0	-5.2
Median	12.2	9.6	-2.8

Source: Division of Aviation staff; analysis by Ken Weeden & Associates, Inc.

The median annual accomplished DBE goal for the reporting period as shown above for the Concord Regional Airport is 9.6% compared to the Step 1 DBE base figure of 14.4%. Indicators of “relative availability,” based on previous volumes of work performed by DBEs in the Airport’s market area suggest that the actual overall DBE goal could perhaps be lower than the **14.4%** derived as the Step 1 DBE Base Figure.

b. Consultations

In analyzing the Step 1 DBE Base Figure, the regulations also require consideration of:

Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure...” (26:45 (d)(1)(ii).

Statistical disparities in the ability of DBEs to get the financing, bonding, and insurance required to participate in your program;

Data on employment, self-employment, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.” (26.45(d)(2)(i)(ii)

The City of Charlotte, which is approximately 25 miles from Concord, published a disparity study in 2004. The study found an underutilization of minority and women owned businesses in City contracts over a wide range of goods and services. However, the range of both goods and services and contract amounts was too broad to be used to adjust the DBE base figure, and is therefore not included in this analysis.

c. **Adjustment to Step 1 DBE Base Figure**

The median annual accomplished DBE goal for the reporting periods as shown in Table 4 for the Concord Regional Airport is 9.6%. This amount will be averaged with the 14.4% base figure to yield an adjusted goal of **12.0%**.

Proposed Overall Goal for Concord Regional Airport FY 2006: 12.0%

7. **Race-Neutral/Race Conscious Projections:**

Concord Regional Airport proposes that, of the DBE goal of **12.0%**, the projected race-neutral goal will be **0.0%**, and the race conscious goal will be **12.0%**. The reason for this projected split is that the historical information on DBE participation showed that the median DBE accomplishment on the FAA-AIP projects was below the median established annual goal. The median goal was 12.2% while the median accomplishment was 9.6%. Therefore, the Airport will focus on achieving its entire overall goal (**12.0%**) through race-conscious means during this fiscal year.

8. **Contract Goals**

The Concord Regional Airport will use contract goals to meet any portion of the overall goal that it does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

The Airport will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The airport need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

The Airport will express its contract goals as a percentage of the Federal share of a DOT-assisted contract.

Agency/Person Consulted	Discussion/ Information
1. Cabarrus Regional Chamber of Commerce Pam Hayworth	Discussed the availability of disparity studies or additional DBE listings. No additional documentation was available.
2. Concord Regional Airport Dick Lewis	Discussed the availability of disparity studies or additional DBE listing. Disparity information was not available.
3. City of Charlotte	Discussed the availability of disparity studies or additional DBE listing. Disparity information was not available. This agency provided a MWBD Listing.
4. Cabarrus County Government	Discussed the availability of disparity studies or additional DBE listing. Disparity information was not available.

C. Currituck County Airport

1. Airport Name and Location:

Currituck County Airport is located on the Outer Banks of North Carolina about 25 miles east of Elizabeth City.

2. Definition of Project Service Area:

The normal market area was determined through consultation with engineers and an assessment of historic bidders for similar projects, i.e., the area from where the substantial majority of bidders came, and the area where the substantial majority of dollars in both construction and professional services were spent. The counties in the airport’s market area are listed in the table below:

Table 1: Currituck County Airport—Project Service Area Counties

Pasquotank, NC	Chesapeake, VA
Perquimans, NC	Norfolk, VA

Source: NC Division of Aviation, Talbert & Bright, Inc.

3. Definition of Project Scope, Activities and NAICS codes:

The FY 2007 Project proposed for the Currituck County Airport consists of the construction of a partial parallel taxiway. The project, activities, and relevant NAICS codes are summarized in the table below:

Table 2: Currituck County Airport

PROJECT	ACTIVITY	NAICS CODES
Partial parallel taxiway construction	Highway & Street	237310
	Drainage	237990
	Electrical	238210
	Site Prep	238910
	Landscaping	561730

Source: NC Division of Aviation, Talbert & Bright

4. Determination of Relative Availability of DBE’s in Project Service Area

Table 3: Availability of DBEs for the Currituck County Airport by Relevant NAICS Codes—FY 2007

NAICS Codes	All Firms	DBE Firms	% of DBE Firms Available	% of estimated total expended	Weighted Total Availability
237310	18	2	11.1%	40.0%	4.4%
237990	17	1	5.9%	10.0%	0.6%
238210	121	1	0.8%	10.0%	0.1%
238910	46	0	0.0%	35.0%	0.0%
561730	119	2	1.7%	5.0%	0.1%
	321	6		100.00%	5.2%
Weighted Baseline Goal =					

Compiled by: KWA, Inc.

SOURCES:

1. 2003 County Business Patterns.
2. NC DOT Disadvantaged Business Enterprise Directory June 2006.
3. VDOT Disadvantaged Business Enterprise Directory June 2006.

5. Determining the Step 1 DBE Base Figure

The Step 1 DBE Base Figure was derived by using a weighting process by which the percentage of dollars spent on various activities (represented by NAICS codes) were multiplied by the percentage of relevant DBE firms to all relevant firms as indicated in **Table 3** above.

The Step 1 DBE Base Figure for the Currituck County Airport is 5.2%.

6. Adjustments to the DBE Base Figure:

After the DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

“...additional evidence in the sponsor’s jurisdiction be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal” (26:45(d)).

a. Adjustment Factors to Consider

The regulations also state that several types of evidence that must be considered when adjusting the base figure. These include:

“(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years.

There are no past projects by which to adjust the goal, so this factor will not be used to adjust the base figure.

b. Consultations

In analyzing the Step 1 DBE Base Figure, the regulations also require consideration of:

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure...”(26:45 (d)(1)(ii).

(i) Statistical disparities in the ability of DBEs to get the financing, bonding, and insurance required to participate in your program;

(ii) Data on employment, self-employment, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.” (26.45(d)(2)(i)(ii)

There was no indication that a disparity study was ever conducted for Currituck County. The offices of Currituck County and the Currituck County Chamber of Commerce confirmed this. The airport does not have a disparity study or a listing of DBE firms.

c. Adjustment to Step 1 DBE Base Figure

With no past project history and no disparity studies there are no adjustment factors to consider. The Airport will not adjust the Step 1 DBE Base Figure of 5.2%.

Proposed Overall Goal for Currituck County Airport FY 2007: 5.2%

7. Race-Neutral/Race Conscious Projections:

Currituck County Airport proposes to accomplish its entire overall goal with race-conscious, or contract goals. Due to its lack of project and/or funding history, there are no indicators of potential race-neutral or race conscious participation levels.

8. Contract Goals

The Currituck County Airport will use contract goals to meet any portion of the overall goal that it does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

The Airport will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The airport need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

The Airport will express its contract goals as a percentage of the Federal share of a DOT-assisted contract.

Agency/Person Consulted	Discussion/ Information
Currituck County Purchasing Sandra Hill	Discussed the availability of disparity studies or additional DBE listings. No additional documentation was available.
Currituck County Airport Daniel Scanlon	Discussed the availability of disparity studies or additional DBE listing. Disparity information was not available.
Currituck County Chamber of Commerce Willow Winterling	Discussed the availability of disparity studies or additional DBE listing. Disparity information was not available.

D. Dare County Regional Airport

1. Airport Name and Location:

Dare County Regional Airport is located in northeastern part of the state, one mile northwest of the coastal town of Manteo and near the *Roanoke Sound*.

2. Definition of Project Service Area:

The normal market area was determined through consultation with engineers and an assessment of historic bidders for similar projects, i.e., the area from where the substantial majority of bidders came, and the area where the substantial majority of dollars in both construction and professional services were spent. The counties in the airport’s market area are listed in the table below:

Table 1: Dare County Regional Airport—Project Service Area Counties

Chesapeake, VA	Dare, NC
Pasquotank, NC	

Source: NC Division of Aviation, Talbert & Bright

3. Definition of Project Scope, Activities and NAICS codes:

The FY 2007 project proposed for the Dare County Regional Airport consists of taxiway rehabilitation. The project, activities, and relevant NAICS codes are summarized in the table below:

Table 2: Dare County Regional Airport

PROJECT	ACTIVITY	NAICS CODES
Taxiway Rehabilitation	Highway & Street	237310
	Landscaping	561730

Source: NC Division of Aviation, Talbert & Bright

4. Determination of Relative Availability of DBEs in Project Service Area

Table 3: Availability of DBEs for the Dare County Regional Airport by Relevant NAICS Codes—FY 2007

NAICS Codes	All Firms	DBE Firms	% of DBE Firms Available	% of estimated total expended	Weighted Total Availability
237310	15	2	13.3%	95.0%	12.7%
561730	113	2	1.8%	5.0%	0.1%
	128	4		100.00%	12.8%
Weighted Baseline Goal =					

Compiled by: KWA, Inc.

SOURCES:

1. *2003 County Business Patterns.*
2. *NC DOT Disadvantaged Business Enterprise Directory, June 2006.*
3. *VDOT Disadvantaged Business Enterprise Directory, June 2006.*

5. Determining the Step 1 DBE Base Figure

The Step 1 DBE Base Figure was derived by using a weighting process by which the percentage of dollars spent on various activities (represented by NAICS codes) were multiplied by the percentage of relevant DBE firms to all relevant firms as indicated in **Table 3** above.

The Step 1 DBE Base Figure for the Dare County Regional Airport is 12.8%.

6. Adjustments to the DBE Base Figure:

After the DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

“...additional evidence in the sponsor’s jurisdiction be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal” (26:45(d)).

a. Adjustment Factors to Consider

The regulations also state that several types of evidence that must be considered when adjusting the base figure. These include:

“(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years.

There are no past similar projects by which to adjust the goal, so this factor will not be used to adjust the base figure.

b. Consultations

In analyzing the Step 1 DBE Base Figure, the regulations also require consideration of:

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure...”(26:45 (d)(1)(ii).

(i) Statistical disparities in the ability of DBEs to get the financing, bonding, and insurance required to participate in your program;

(ii) Data on employment, self-employment, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.” (26.45(d)(2)(i)(ii)

There was no indication that a disparity study was ever conducted for Dare County. The Dare County Airport Authority and the Outer Banks Chamber of Commerce confirmed this. The airport does have a listing of DBE firms.

c. Adjustment to Step 1 DBE Base Figure

Having considered the above-mentioned adjustment factors, the Airport will not adjust the Step 1 DBE Base Figure of **12.8%**. There is no past participation history, and there was no statistical or anecdotal evidence available.

Proposed Overall Goal for Dare County Regional Airport FY 2007: 12.8%

7. Race-Neutral/Race Conscious Projections:

Dare County Regional Airport proposes to accomplish its entire overall goal with race-conscious, or contract goals. Due to its lack of project and/or funding history, there are no indicators of potential race-neutral or race conscious participation levels.

8. Contract Goals

The Dare County Regional Airport will use contract goals to meet any portion of the overall goal that it does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

The Airport will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The airport need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

The Airport will express its contract goals as a percentage of the Federal share of a DOT-assisted contract.

Agency/Person Consulted	Discussion/ Information
Talbert & Bright John Massey	Provided project information and cost estimates for FY 2007 projects at the Airport.
Outer Banks Chamber of Commerce	Discussed the availability of disparity studies or additional DBE listings. No additional documentation was available.
Dare County Airport Authority Crystal Sidwell	Discussed the availability of disparity studies or additional DBE listing. No additional documentation was available.

E. Lincolnton-Lincoln County Regional Airport

1. Airport Name and Location:

Lincolnton-Lincoln County Regional Airport is located near Lincolnton, North Carolina 28 miles North West of Charlotte, North Carolina.

2. Definition of Project Service Area:

The normal market area was determined through consultation with engineers and an assessment of historic bidders for similar projects, i.e., the area from where the substantial majority of bidders came, and the area where the substantial majority of dollars in both construction and professional services were spent. This area included the municipalities of Lincolnton and Charlotte. The counties where these municipalities are located are listed in the table below:

Table 1: Lincolnton-Lincoln County Regional Airport - Project Service Area Counties

Lincoln
Mecklenburg

Source: NC Division of Aviation, Talbert & Bright

3. Definition of Project Scope, Activities and NAICS codes:

The FY 2007 Project proposed for the Lincolnton-Lincoln County Regional Airport consists of a Runway Extension. The project, activities, and relevant NAICS codes are summarized in the table below:

Table 2: Lincolnton-Lincoln County Regional Airport

PROJECT	ACTIVITY	NAICS CODES
Runway Extension	Highway & Street	237310
	Site Prep	238910
	Landscaping	561730

Source: NC Division of Aviation, Talbert & Bright

4. Determination of Relative Availability of DBE's in Project Service Area

Table 3: DBEs: Lincolnton-Lincoln County Regional Airport by Relevant NAICS Codes—FY 2007

NAICS CODES	All Firms	DBE Firms	% of DBE Firms Available	% of estimated total expended	Weighted Total Availability
237990	14	6	42.9%	15.0%	6.4%
238910	81	6	7.4%	75.0%	5.6%
561730	279	7	2.5%	10.0%	0.3%
TOTAL	374	19		100.0%	12.2%
WEIGHTED GOAL – Step 1					

Compiled by: KWA, Inc.

SOURCES:

1. 2003 County Business Patterns.
2. NC DOT Disadvantaged Business Enterprise Directory June 2006.

5. Determining the Step 1 DBE Base Figure

The Step 1 DBE Base Figure was derived by using a weighting process by which the percentage of dollars spent on various activities (represented by NAICS codes) were multiplied by the percentage of relevant DBE firms to all relevant firms as indicated in **Table 3** above.

The Step 1 DBE Base Figure for the Lincolnton- Lincoln County Regional Airport is 12.2%.

6. Adjustments to the DBE Base Figure:

After the DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

“...additional evidence in the sponsor’s jurisdiction be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal” (26:45(d)).

a. Adjustment Factors to Consider

The regulations also state that several types of evidence that must be considered when adjusting the base figure. These include:

“(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years.

The historical overall DBE goals established and/or accomplished at the Airport in recent years was examined relative to the above consideration. There are no past projects to adjust the goal.

b. Consultations

In analyzing the Step 1 DBE Base Figure, the regulations also require consideration of:

Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure...” (26:45 (d)(1)(ii).

Statistical disparities in the ability of DBEs to get the financing, bonding, and insurance required to participate in your program;

Data on employment, self-employment, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.” (26.45(d)(2)(i)(ii)

The City of Charlotte, which is 28 miles from Lincolnton, published a disparity study in 2004. The study found an underutilization of minority and women owned businesses in City contracts over a wide range of goods and services. However, the range of both goods and services and contract amounts were too broad to be used to adjust the DBE base figure, and is therefore not included in the analysis.

c. Adjustment to the DBE Base Figure

Having considered the above-mentioned adjustment factors, the Airport will not adjust the Step 1 DBE Base Figure of **12.2%**. There is no past participation history, and there was no statistical or anecdotal evidence available.

Proposed Overall Goal for Lincolnton-Lincoln County Regional Airport FY 2007: 12.2%.

7. Race-Neutral/Race Conscious Projections:

Lincolnton-Lincoln County Regional Airport proposes to accomplish its entire overall goal with race-conscious, or contract goals. Due to its lack of project and/or funding history, there are no indicators of potential race-neutral or race conscious participation levels.

8. Contract Goals

The Lincolnton-Lincoln County Regional Airport will use contract goals to meet any portion of the overall goal that it does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means. The Airport will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The airport need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

The Airport will express its contract goals as a percentage of the Federal share of a DOT-assisted contract.

Agency/Person Consulted	Discussion/ Information
Talbert & Bright Pat Turney	Provided project information and cost estimates for FY 2007 projects at the Airport.
City of Charlotte	Discussed the availability of disparity studies or additional DBE listing. The city provided information from their disparity study and MWBD Listing.
Lincolnton-Lincoln County Chamber of Commerce	Discussed the availability of disparity studies or additional DBE listing. No additional information was available.

V. Process

The NC Division of Aviation will normally submit its overall goal to the FAA on August 1 of each year.

Before establishing the overall goal this year, the NC Division of Aviation consulted with a number of agencies, including community colleges, chambers of commerce, and community and economic development departments, without limiting consultation to these groups, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Division of Aviation's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the NC Division of Aviation published a notice of the proposed overall goal, informing the public that the proposed goal and its rationale were available for inspection during normal business hours at the Division of Aviation's administrative office for 30 days following the date of the notice, and informing the public that the Division of Aviation would accept comments on the goals for 45 days from the date of the notice. The notice was published in statewide newspapers. The notice included an address (including an office) to which comments could be sent and an address where the proposal could be reviewed. This process was used to establish the goals for FY 2007.

The Division of Aviation's overall goal submission to the FAA will include a summary of information and comments received during this public participation process and our responses. *(Note: No comments have been received as of this submittal. Should any comments be received, those comments and our responses to the comments will be submitted at the end of the review and comment period.)*

The NC Division of Aviation will begin using the overall goal on October 1 of each year, unless it has received other instructions from DOT/FAA (or, if the goal is established on a project basis) by the time of the first solicitation for a DOT/FAA-assisted contract for the projects.

FY 2007
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
METHODOLOGY

For

North Carolina Department of Transportation
Division of Public Transportation

Raleigh, North Carolina

With Assistance From



Ken Weeden & Associates, Inc.

June 2006

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I. Introduction

In fulfillment of the requirements of 49 CFR Part 26, the North Carolina Department of Transportation (NCDOT), through the Division of Public Transportation, has developed the proposed Overall Goal for qualifying FY 2007 Federal Transit Administration (FTA) funded projects administered by the Division. The overall proposed goals for FY 2007 FTA-funded projects are: **39.1%** for the centrally let projects and **1.0%** for one small urban system – AppalCART of Boone, North Carolina.

The Division of Public Transportation, under the auspice of the NCDOT, administers the State’s Community Transportation Program (CTP), which is a program designed to enhance the provision of human service and rural general transportation in North Carolina. The Division, on behalf of the NCDOT, receives and administers FTA Section 5311 Non Urbanized Area Formula Program funds, which are matched with State funds and used for CTP administrative, capital, operating and employee development costs of many rural or small urban community transportation systems that meet the requirements of CTP. The State expects to receive approximately **\$1,200,000** in FY 2007 funds, with the majority being distributed to rural and small urban sub-grantees.

II. Goal Setting Process

A. General

The goal setting process presented in this document is consistent with the requirements and recommended format of USDOT regulations 49 CFR Part 26. Annual goal setting, according to USDOT regulations 49 CFR Part 26, is a two-step process. The first step is to obtain or develop a baseline goal for the “relative availability” of ready, willing and able DBE firms in the market area – in the case of any “State eligible” project expenditure, statewide, compared to all firms. Eligible expenditure refers to projects with contracting opportunities of at least \$250,000 that year, excluding the acquisition of transit vehicles.

The second step involves “adjusting” the baseline goal to reflect specific additional factors that should be considered in refining the goal. This refinement could include assessing current capacity, as indicated by examining historic DBE participation rates for similar activities; information on statistical disparities between availability and utilization of DBE firms; and statistical or other quantifiable factors which reflect the impact of discrimination, such as difficulties in obtaining bonding, capitalization, etc. All of the steps must be consistent with elements outlined in the federal regulations (49 CFR Part 26). A summary of this process includes the following:

- An examination of the estimated FTA projects for FY 2007;
- Determination of those projects that meet the \$250,000 “contracting threshold”;
- Identification of the relevant market areas for the DBE-qualifying projects;
- Estimates of relative availability of DBE firms in those market areas;
- An analysis of historic DBE utilization rates; and DBE goals versus actual achievement rates;
- Deriving the final adjusted goal(s).

Although a substantial amount of funds are to be received under the FTA Section 5311 program, it is important to note that ONLY projects where contracts are let for at least \$250,000 during the coming Fiscal Year require an annual DBE goal. Therefore, the goals analysis is based first, on the Division’s central contracting activities that exceed \$250,000, and secondly sub-grant recipients who have federally-funded activities large enough to include contracting opportunities of at least \$250,000, excluding the acquisition of transit vehicles. These opportunities are discussed below.

III. Goals: Division of Public Transportation

The substantial majority of FTA grant funds are used for administration and operating expenses, including the purchase of vehicles (usually covered by the Transit Vehicle Manufacturers (TVM) clause of 49 CFR Part 26), which require no goal-setting on the part of the grant recipient (26.49). Since the manufacturers have their own agreements with the FTA, the amounts for such vehicles are excluded from the DBE “base”. For the Division, as

the administering unit and central state-planning agency, a significant amount of funds are expended for Transit and/or Transportation planning consulting services.

The Transportation Development Plan (TDP) community transportation section maintains a Consulting List of firms with interest in and capacity to provide needed consulting services. This list contains both “majority” and DBE companies. For purposes of the annual goal development, this list serves as a “bidders list” of all firms, including DBEs, considered “ready, willing, and able”. Additionally, the TDP maintains a list of pre-qualified bidders, that is, firms that have been investigated to determine their suitability to bid on planning projects. Both lists will be utilized in determining the “relative availability” of DBEs for initial goal calculation.

A. Step 1: Baseline Goal

1. Determination of the Market Area of the study

The market area is nationwide. The Division’s pre-qualified bidders list is the “directory source” for purposes of this goals analysis, i.e., in terms of identifying “all firms”, and the “relative availability of DBEs”. This list indicated that bidders for these projects come from various states throughout the country.

2. Determination of relevant NAICS codes

There is only one relevant North American Industrial Classification (NAICS) code for the planning services that will be undertaken: NAICS code 541320.

3. Determination of Relative Availability of DBEs Compared to all Firm

As stated above, the Division maintains its own “pre-qualified bidders list” of Transportation Planning Consultants from which it will draw upon. Additionally, the Division maintains a list of interested bidders, who have not been pre-qualified, but could be called upon to bid on planning projects in 2007. The lists indicate a total of 76 bidders, 20 of whom are DBE firms for a relative availability of 26.3% as indicated in the table below.

Table 1: All Firms and DBEs for FY 2006 Central Planning Consulting Projects

NAICS Codes	DBE Firms	ALL Firms	% Availability of DBEs	% of Estimated Total Expended	Weighted Total Availability
541320	20	76	26.32%	100%	26.3%
Weighted Step 1 DBE Base Figure					26.3%

Source: NCDOT Division of Public Transportation

4. Determination of the “Weighted” DBE Base Figure

The information in Table 1 above was used to derive the initial “weighted”, or “base” goal for the anticipated FY 2007 planning consulting projects. The “weighted” DBE base goal is 26.3%.

B. Step 2: Adjustment to the Overall DBE Base Figure

1. Adjustment factors to consider

After the Step 1 DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

“...Additional evidence in the sponsor’s jurisdiction be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal” (26:45(d)).

The regulations further state that there are many types of evidence that must be considered when adjusting the base figure. These include:

(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years.

The historical overall DBE goals accomplished for the Division of Public Transportation in recent years were examined relative to the above consideration. Specifically, the annual reports of DBE Goal accomplishments for the periods listed below were considered. (Please note that for fiscal years 2003 and 2004 the Division did not let any professional consultant contracts).

Table 2: Division of Public Transportation Historic DBE Participation on Federally Funded Contracts Fiscal Years 1998-2005

Fiscal Year (Time Period)	Consulting Contracts Federal \$ Spent	DBE % Achieved	DBE % Goal	DBE over (under) Achievement
1999	\$ 266,222	72.0%	13.0%	59.0%
2000	\$ 29,378	15.0%	17.0%	-2.0%
2001	\$ 80,877	20.0%	14.6%	5.4%
2002	\$ 46,146	51.8%	16.9%	34.9%
2005	\$ 19,287	100.0%	24.8%	75.2%
MEDIAN	\$ 46,146	51.8%	16.9%	34.9%

Source: Division of Public Transportation

The median DBE accomplishment for the federal project reporting periods, as shown in the table above, is **51.8%**, compared to the Step 1 DBE base figure of **26.3%**, derived using the methodology detailed in Section 2.A of this report. It should be noted that the historic data is based on historical participation that is substantially similar to the proposed FY 2007 activities. The “relative availability” factor, as indicated by recent historic performance, is significantly less than the calculated “base figure”. The first, or initially proposed, adjustment of the baseline goal is an average of these two figures, i.e., $26.3\% + 51.8\% = 78.1\% / 2 = 39.1\%$. This then is the initial “adjusted” goal, i.e., **39.1%**, subject to possible additional adjustments as indicated in the next section:

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure;

The State of North Carolina through the Department of Transportation does have a disparity study. In 2003, the North Carolina Department of Transportation commissioned a “Second Generation Disparity Study” in order to examine the procurement of highway pre-construction, construction, prime contracting, and sub contracting services for the period of July 1, 1998 through June 30, 2003. The objective of the study was to review the utilization of minority and non-minority women businesses in the procurement of services compared to their availability as supportive evidence for non-federal affirmative action programs. The disparity study concluded that M/WBE utilization by NCDOT was generally low during the study

period and proposed specific recommendations, including goal percentages for both construction and pre-construction projects.

The requirements and reporting methods of non-federal programs are significantly different from those of the Federal DBE program. Additionally, the construction trades (and businesses) utilized by the Division of Highways are not necessarily similar to those utilized by the Division of Public Transportation. Therefore, we will not utilize its results for adjustment of the overall DBE goal for the Division of Public Transportation.

C. Final Adjustment of Goal

As mentioned above, the 2003 disparity study focuses on the NCDOT *non-federal* minority and women-owned business program. Also, most of the activities covered are not similar to FTA-transit funded projects. Additionally, there is a discrepancy in the surveyed DBE data base relative to the types of firms that might perform on public transportation planning projects. For these reasons, the Disparity Study will not be used to further adjust the previously adjusted overall goal. Therefore, the proposed overall goal for FY 2007 is **39.1%**.

D. Breakout of Race-Conscious and Race-Neutral Goals for FY 2007

Federal DBE regulations require that grant recipients like the Division of Public Transportation meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation (hereafter referred to as race-neutral).

The NC Division of Public Transportation estimates that, in meeting its overall goal of **39.1%**, it will obtain **34.9%** from race-neutral participation and **4.2%** through race-conscious (contract) measures. The following is a summary of the basis of the estimated breakout of race-neutral and race-conscious DBE participation: As Table 2 indicated, projects from recent previous years show the median amount by which the past DBE

goals were exceeded is 34.9%. Therefore, it is projected that this amount, 34.9% of the adjusted goal, will be achieved using race-neutral means. The rest of the goal (4.2%) is projected to be achieved using race-conscious (contract) measures.

E. Contract Goal

The NC Division of Public Transportation will use contract goals to meet any portion of the overall goal that it does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means.

The Division of Public Transportation will establish contract goals only on those FTA-assisted contracts that have subcontracting possibilities. A contract goal need not be established on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

The NC Division of Public Transportation will express its contract goals as a percentage of the Federal share of an FTA-assisted contract.

F. Process

1. Consultations

The NC Division of Public Transportation will normally submit its overall goal to the FTA on August 1 of each year. Before establishing the overall goal this year, the NC Division of Public Transportation annual goal development team consulted with a number of sections and divisions within NCDOT, including the Division of Civil Rights, Division of Contractual Services, Division of Aviation, and Division of Highways, as well as outside agencies in the state, such as the NC Institute of Minority Economic Development, the NC M/WBE Coordinators Network, and

AppalCART, a sub-recipient of FTA funding through NCDOT Public Transit Division, in order to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Division's efforts to establish a level playing field for the participation of DBEs. None of the agencies contacted provided quantifiable or anecdotal evidence that could be used to adjust the goal. However, the following comments were recorded:

NC Institute of Minority Economic Development

Linda Gunn, Vice President of Administration and Policy

- 1) Do you have any knowledge of disparity studies or discrimination?
NCDOT/ MGT America Study

- 2) Are you aware of any cases of discrimination in your region due to race or gender with regards to public contracting?
No

- 3) What barriers, if any, do you think exist that hinder minorities' and women's efforts to fully participate in public contracting?
Several variables may come into play. I would think the level of capacity, inability to get financing for the equipment; knowing about opportunities that are currently available; and overall understanding of the process, especially bid opportunities.

- 4) Are you aware of any cases of discrimination in your region due to race or gender with regards to access capital, bonding, and insurance?
No

- 5) If there were no ethnic or gender discrimination, and based on your knowledge the market area in your region, for public contract, what you estimate the amount of minority and women business participation to be?
Very low I know that for a fact.

- 6) What efforts in your region are you aware that are aimed increasing minority and women business participation to be?
Our institution focuses on many different avenues to help identify opportunities that may be available for minorities:
 - 1) **We are attentive with minority-owned businesses.**
 - 2) **We are working with DOT and would hold workshops, as well as financial literacy training.**
 - 3) **We are instrumental with 3 different minority resource centers.**
 - 4) **We work closely with issues concerning minority contracting opportunities**

AppalCART

Chris Turner, Director

- 1) Do you have any knowledge of disparity studies or discrimination?
No

- 2) Are you aware of any cases of discrimination in your region due to race or gender with regards to public contracting?
No

- 3) What barriers, if any, do you think exist that hinder minorities' and women's efforts to fully participate in public contracting?
I think that the DBE Program is a barrier in [and] of itself. I find that some women-owned businesses in the surrounding area do not want to take advantage of the program due to the long application that they have to fill out with DOT. I guess some of them also feel that there really is no incentive being in the DBE Program.
- 4) Are you aware of any cases of discrimination in your region due to race or gender with regards to access capital, bonding, and insurance?
No
- 5) If there were no ethnic or gender discrimination, and based on your knowledge the market area in your region, for public contract, what you estimate the amount of minority and women business participation to be?
Low. I feel that there are two attributing reasons for that: 1) There is a small minority population in the Western region. 2) Men-owned businesses still outnumber women-owned businesses and this is the reason why most contracts are still awarded to men-owned firms
- 6) What efforts in your region are you aware that are aimed increasing minority and women business participation to be?
Appalachian State University has Small Business Development Center to assist minorities and women-owned firms.

2. **Public Notice**

Following this consultation, the NC Division of Public Transportation published a notice of the proposed overall goal, informing the public that the proposed goal and its rationale were available for inspection during normal business hours at the Division of Public Transportation's administrative office for 30 days following the date of the notice, and informing the public that the Division would accept comments on the goals for 45 days from the date of the notice. The notice was published in statewide newspapers. The notice included an address (including an office) to which comments could be sent and an address where the proposal could be reviewed. This process was used to establish the goals for FY 2007.

The Division of Public Transportation's overall goal submission to the FTA will include a summary of information and comments received during this public participation process and our responses. *(Note: No comments have been received as of this submittal. Should any comments be received, those comments and our responses to the comments will be submitted at the end of the review and comment period.)*

The NC Division of Public Transportation will begin using the overall goal on October 1 of each year, unless it has received other instructions from USDOT/FTA by the time of the first solicitation for an USDOT/FTA-assisted contract for projects.

IV. Sub-recipients Annual DBE Goal: AppalCART

In FY 2007, one (1) sub-recipient of Section 5311 funds through the Division of Public Transportation expects to receive grants of at least \$250,000. AppalCART, of Boone, North Carolina will be contracting out funds of at least \$250,000 and therefore will require that an annual DBE goal be established for FY 2007. The goal development for AppalCART followed the same two-step process as outlined in the DBE program regulations and which was applied for the Division of Public Transportation. The specific application of the two-step methodology in the projected expenditures for AppalCART is explained in detail below.

A. Step 1 DBE Base Figure: AppalCART

AppalCART is a small urban public transit system located in western North Carolina, in the City of Boone, Watauga County, serving the city of Boone and the surrounding community, including Appalachian State University. The FY 2007 project for AppalCART is construction of a transit facility.

1. Definition of Project Market Area

The normal market area is usually derived by assessing where the substantial majority of contracting dollars for FTA-funded projects were spent previously, and from where the substantial majority of bidders over a given period of time have come. However, this is the first construction project undertaken by AppalCART in recent history; therefore there is no history on which to base the market area. Therefore the market area will be based upon information from the North Carolina Department of Transportation Division of Highways, which has collected preliminary data on bidding patterns within their Division. Preliminary data indicates that many of the interested and successful bidders, specifically non-DBE contractors, come from throughout the state. The data also indicates that DBE contractors on projects in this location primarily come from the western portion of the state. Therefore, based on this information, the market area for this project will be the state of North Carolina.

2. **Definition of Project Scope, Activities and NAICS codes**

The FY 2007 project proposed for AppalCART, as noted above, consists of the development and construction of a transit facility. The table below describes the relevant NAICS codes.

Table 3: AppalCART NAICS Codes for FY 2007 Project

NAICS Codes	Description
236220	Commercial Building Construction
238210	Electrical Contractors
238220	Plumbing, Heating, and Air Conditioning Contractors
238910	Site Preparation Contractors
238320	Painting and Wall Covering Contractors
238310	Drywall and Insulation Contractors

Source: NCDOT Division of Public Transportation

3. **Determination of Relative Availability of DBEs in Project Market Area**

In order to determine the initial relative availability of DBEs in the project area, DBE firms in the counties cited above were compared by NAICS codes to “all firms” in the same codes. This is summarized in Table 4, which also shows the initial baseline goal, or “base figure”.

4. **Determining the Step 1 DBE Base Figure**

The Step 1 DBE Base Figure was derived by using a weighting process by which the percentage of dollars spent on various activities (represented by NAICS codes) were multiplied by the percentage of relevant DBE firms to all relevant firms as indicated in Table 4. **The Step 1 DBE Base Figure for the AppalCART is 1.0%.**

Table 4: All Firms and DBEs for FY 2007 Central Planning Consulting Projects

NAICS Codes	Description	DBE Firms	All Firms	Relative Availability of DBEs	% of Total Amount Expended	Weighted Relative Availability
236220	Commercial Building Construction	12	1,199	1.0%	80.0%	0.8%
238110	Poured Concrete Foundation and Structure Contractors	11	761	1.4%	2.0%	0.0%
238210	Electrical Contractors	6	2,596	0.2%	2.0%	0.0%
238220	Plumbing, Heating and Air Conditioning Contractors	1	3,321	0.0%	2.0%	0.0%
238310	Drywall and Insulation Contractors	0	513	0.0%	2.0%	0.0%
238320	Painting and Wall Covering Contractors	1	1,178	0.1%	2.0%	0.0%
238910	Site Preparation Contractors	28	1,281	2.2%	7.0%	0.2%
561730	Landscaping	24	2,638	0.9%	3.0%	0.0%
Weighted Step 1 DBE Base Figure						1.0%

Source: NCDOT Division of Public Transportation

B. Step 2: Adjustment to the Overall DBE Base Figure

1. Adjustments to the DBE Base Figure

After the DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

“...Additional evidence in the sponsor’s jurisdiction be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal” (26:45(d)).

The regulations also state that several types of evidence that must be considered when adjusting the base figure. These include:

“(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years.”

The historical overall DBE goals established and/or accomplished for AppalCART in recent years was examined relative to the above consideration. Table 6 below describes the historic DBE participation at AppalCART:

Table 5: AppalCART Historic DBE Participation on Federally Funded Contracts Fiscal Years 2004-2005

Fiscal Year	Quarter/ Period	Approved DBE Goal	Total DBE Percent Achieved	Over/Under Achieved
2004	2nd	6.34%	0.05%	-6.29%
2004	4th	6.34%	5.21%	-1.13%
2005	1-4	6.34%	100.0%	93.66%
Median		6.34%	5.21%	-1.13%

Source: NCDOT Division of Public Transportation

The median DBE accomplishment for the federal project reporting periods, as shown in the table above is 5.2% compared to the Step 1 DBE base figure of 1.0% derived using the methodology detailed in Step 1 of this process. However, the historic data is based on planning and professional services, while the FY 2007 project is a construction project. Therefore, the historic capacity as represented by prior participation is not similar to the upcoming project and cannot be used to adjust the base goal.

2. Consultations

In regards to possible adjustments to the baseline goal, the regulations also require consideration of:

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure... ” (26:45 (d)(1)(ii).

(i) Statistical disparities in the ability of DBEs to get the financing, bonding, and insurance required to participate in your program;

(ii) Data on employment, self-employment, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.” (26.45(d)(2)(i)(ii)

The State of North Carolina through the Department of Transportation does have a disparity study. In 2003, the North Carolina Department of Transportation commissioned a “Second Generation Disparity Study” in order to examine the procurement of highway pre-construction, construction, prime contracting, and sub contracting services for the period of July 1, 1998 through June 30, 2003. The

objective of the study was to review the utilization of minority and non-minority women businesses in the procurement of services compared to their availability as supportive evidence for non-federal affirmative action programs. The disparity study concluded that M/WBE utilization by NCDOT was generally low during the study period and proposed specific recommendations, including goal percentages for both construction and pre-construction projects.

The requirements and reporting methods of non-federal programs are significantly different from those of the Federal DBE program. Additionally, the construction trades (and businesses) utilized by the Division of Highways are not necessarily similar to those utilized by AppalCART. Therefore, the results of the disparity study will not be considered for adjustment of the FY 2007 baseline goal for AppalCART.

C. Adjustment to Step 1 DBE Base Figure

Since there is no other additional evidence with which to adjust the base goal, the base goal will not be adjusted and the final proposed goal is **1.0%**.

Proposed Overall Goal for AppalCART FY 2007 Projects: 1.0%.

D. Race-Neutral/Race Conscious Projections

AppalCART proposes to accomplish its entire overall goal (**1.0%**) with race-conscious, or contract goals.

E. Contract Goals

AppalCART will use contract goals to meet any portion of the overall goal that it does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

The AppalCART will establish contract goals only on those FTA-assisted contracts that have subcontracting possibilities. A contract goal need not be established on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

AppalCART will express its contract goals as a percentage of the Federal share of a FTA-assisted contract.

Resources:

1. Charles Glover, NC Division of Public Transportation
2. Christ Turner, AppalCART
3. FY 2006 Disadvantaged Business Enterprise Program Methodology
4. Michael McKoy, NC DOT, Contractual Services
5. Miriam Perry, NC Division of Public Transportation
6. NC Department of Transportation Second Generation Disparity Study, Final Report
7. NC DOT Disadvantaged Enterprise Directory, May 2006
8. Odessa McGlown, NC DOT, Contractual Services
9. Queen Crittendon, NCDOT, Office of Civil Rights
10. Roberto Canales, NC DOT, Contractual Services
11. Shelton Russell, NCDOT, Office of Civil Rights
12. U.S. Census 2003 County Business Patterns.

FY 2007
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
METHODOLOGY

For

North Carolina Department of Transportation

Division of highways

Raleigh, North Carolina

With Assistance From



Ken Weeden & Associates, Inc.

September 2006

I. Introduction

The purpose of annual goal setting for the North Carolina Department of Transportation's Division of Highways Disadvantaged Business Enterprise (DBE) Program is to help achieve a "level playing field" for DBE firms seeking to participate in USDOT federally-funded transportation contracts. The goal setting process presented in this document is consistent with the requirements and recommended format of USDOT regulations 49 CFR Part 26. The final proposal of an overall annual goal for FY 2007 included the following: an examination of the estimated projects; identification of the relevant market areas; estimates of relative availability of DBE firms; an analysis of historic DBE utilization rates; and an assessment of historic DBE goals versus actual achievement rates. The overall DBE goal for FY 2007 is 9.9%, with a contract, or race-conscious, goal of 7.4% and a race-neutral goal of 2.5%.

II. Methodology – General Overview

Annual goal setting, according to USDOT regulations 49 CFR Part 26, should be a two-step process. The first step is to obtain or develop a baseline goal for the "relative availability" of ready, willing and able DBE firms in the market area, compared to all firms. The second step involves "adjusting" the baseline goal to reflect specific additional factors, which must be considered in refining the goal. This could include assessing current capacity, as indicated by looking at historic DBE participation rates for similar activities; examining information on statistical disparities between availability and utilization of DBE firms; and looking at statistical or otherwise quantifiable factors that reflect the impact of difficulties in obtaining bonding, capitalization, etc., consistent with elements outlined in the federal regulations (49 CFR Part 26). These steps are presented and explained in more detail below.

III. Methodology – Detailed Explanation

A. Step 1 – Baseline Goal

The first activity in establishing an annual goal is to examine the list of projected projects and/or activities proposed for federal funding in fiscal year 2007. The next action is to develop a list of categories, or codes, such as the NAICS (North American

Industrial Classification System) codes that correspond to the various types of federally funded projects proposed for FY 2007. The NAICS codes are established and defined by the US Department of Commerce. Other similar work classification codes might also be used. NCDOT has an established listing by category of “Highway Work Codes”, which are similar to the NAICS codes. For purposes of the FY 2007 Division of Highways goal-setting methodology, the NCDOT Highway Work Codes will be primarily utilized. After the work category codes are determined, they are assigned a “value”, based on the actual percent dollar value to be spent in those codes relative to the total project cost. Then, an examination of the NCDOT vendor files takes place in order to determine “all firms” which are available to work in those designated codes. Next, in developing the “baseline” goal, a determination of the “relative availability” of ready, willing and able DBE firms in each of the same work codes is made. Finally, a “weighted DBE value” for each of the work codes is determined based on the relative availability percent of DBEs times the relative percent of cost for each work code. The total of all of the “weighted” values is the initial, or “baseline” DBE goal, which is then subject to further adjustment, if necessary. Additional details regarding this process can be found below:

1. *Normal Market Area.* The normal market area, or the area from which a substantial majority of the bidders come, is based on an analysis of past projects and discussions with NCDOT engineers. The normal market area for highway projects is determined to be nationwide. The NCDOT vendor directory contains a substantial number of firms and a review of successful and unsuccessful bidders indicates that bidders are located in various states across the country.
2. *Relevant NAICS or similar Work Code Analysis.* The list of proposed FY 2007 federally funded projects all across the state was examined in order to determine the types of projects/ activities involved which could be grouped by relevant NAICS codes or similar work codes. NCDOT has a detailed set of “highway work codes” that are very similar to, if not more specific than, corresponding

NAICS codes. These NCDOT highway work codes were selected for goals analysis purposes. The NCDOT vendor data base (for “all firms” and for DBE firms) can also be sorted and queried by these highway work codes, as well as by NAICS codes. The highway work codes were deemed to be more project-specific. *(There is no relevant Highway Code which reflects engineering and professional services; therefore, the NAICS Code was used to represent this work type.)*

3. *Project Type Grouping.* Project activities with similar highway work codes were then grouped together, in order to get a picture of the relative percent or “weight” of those activities and costs relative to the total cost. The broad variety of FY 2007 proposed highway projects, although proposed for various locations across the State, encompasses virtually ALL of the NCDOT highway work codes. *(The complete estimated project list is shown in Attachment 1).* For purposes of analyses, it was determined to find one or more major “large” recently bid projects, which also contained all of the relevant NCDOT highway work codes. This is explained below:

4. *Weighting by Highway Work Codes.* In order to allocate project costs according to relevant major highway work codes, two (2) projects that were *actually bid and* which contained a “comprehensive” listing of activities, or “work codes”, were used as project “models.” These projects are representative of the projects that will be bid in 2007 in size, type and scope. These projects contained several hundred bid items and were examined in detail in order to group together all of the work items and their estimated costs within the same highway codes. This led to the *overall* derivation of the “percent” of total cost of these work items by the state highway work codes (Table 1). The percents of total cost by work codes were then allocated across the FY 2007 budget, in order to derive the estimated “weights.” This, as noted earlier, helps with the analysis of the availability of DBEs by the same highway work codes and allows the activity, by code, to be “weighted.”

Table 1: NCDOT Highway Work Codes Type for FY 2007 Project Types

NCDOT Highway Title	Highway Code	Estimated Percent of Project Cost	Estimated FY 2007 Budget
Engineering and Professional Services	541330	13.04%	*
Other Construction	99	0.27%	\$1,428,015
Clearing and Grubbing	200	4.80%	\$24,932,770
Excavation-Grading	225	16.64%	\$86,429,876
Hauling	50, 55	2.94%	\$15,252,331
Concrete Structures-bridges, box culverts	420	20.59%	\$106,964,636
Reinforcing Steel	425	1.44%	\$7,501,981
Stone	540	1.19%	\$6,203,757
Asphalt Concrete Plant mix pavements	610	6.61%	\$34,354,903
Paving	660	10.10%	\$52,458,675
Construction Surveying	801	0.57%	\$2,978,451
Drainage	815	12.46%	\$64,753,518
Incidental Concrete	825	2.60%	\$13,502,256
Brick Masonry Construction	830	2.02%	\$10,490,769
Concrete Curb & Gutter	846	1.85%	\$9,632,016
Guardrail	862	0.37%	\$1,897,975
Fencing	866	0.02%	\$89,142
Permanent Signing	900	0.04%	\$200,933
Work Zone Signs	1110	1.39%	\$7,209,827
Pavement Markings	1205	1.19%	\$6,189,489
Signals & Traffic Management - Electrical	1300	4.07%	\$21,129,185
Erosion Control	1605	0.60%	\$3,134,059
Utility Construction	1510, 1520	7.61%	\$39,537,877
Landscape seeding and mulching	1670, 1660	0.62%	\$3,217,556
Total		100.00%	\$519,490,000

* The cost of Engineering and Professional Services is not included in the Federal budget dollar amount, but is considered for the purposes of weighting.

Source: NCDOT Bid Tabulations, Compiled by Ken Weeden & Associates, Inc.

5. *Relative Availability of DBEs.* The relative availability of DBE firms was determined by comparing the number of DBE firms by relevant state highway work code categories, to the number of “all” firms in the same highway work code categories. First, the NCDOT listing of “all firms” was obtained from the agency’s vendor data base of all firms who have been pre-qualified as primes, and/or approved as subcontractors. This database is essentially the agency’s bidders list and contains a substantial amount of information about each vendor, including work interest by highway work codes, DBE status, etc. A query of all DBE contractors was made from the same source and by the same highway work codes. Both the “numerator” and “denominator” were derived from the same

source. These listings are available on line at <http://apps.dot.state.nc.us/vendor/directory/>. Table 2 below describes a summary of the Highway Work Codes that are relevant in the FY 2007 projects (i.e., projected types of construction, engineering and professional services).

Table 2: Weighted Availability of All Firms and DBEs by Highway Code

NCDOT Highway Title	Highway Code	DBE Firms	ALL Firms	Relative Availability of DBE Firms	Estimated Percent of Project Cost	Weighted Relative Availability
Engineering and Professional Services	541330	5	178	2.81%	13.04%	0.37%
Other Construction	99	101	663	15.23%	0.27%	0.04%
Clearing and Grubbing	200	73	742	9.84%	4.80%	0.47%
Excavation-Grading	225	87	831	10.47%	16.64%	1.74%
Hauling	50, 55	227	974	23.31%	2.94%	0.68%
Concrete Structures-bridges, box culverts	420	36	446	8.07%	20.59%	1.66%
Reinforcing Steel	425	28	226	12.39%	1.44%	0.18%
Stone	540	3	98	3.06%	1.19%	0.04%
Asphalt Concrete Plant mix pavements	610	23	264	8.71%	6.61%	0.58%
Paving	660	12	126	9.52%	10.10%	0.96%
Construction Surveying	801	11	179	6.15%	0.57%	0.04%
Drainage	815	38	409	9.29%	12.46%	1.16%
Incidental Concrete	825	77	809	9.52%	2.60%	0.25%
Brick Masonry Construction	830	60	504	11.90%	2.02%	0.24%
Concrete Curb & Gutter	846	67	548	12.23%	1.85%	0.23%
Guardrail	862	24	129	18.60%	0.37%	0.07%
Fencing	866	37	201	18.41%	0.02%	0.00%
Permanent Signing	900	14	132	10.61%	0.04%	0.00%
Work Zone Signs	1110	21	207	10.14%	1.39%	0.14%
Pavement Markings	1205	16	98	16.33%	1.19%	0.19%
Signals & Traffic Management – Electrical	1300	13	138	9.42%	4.07%	0.38%
Erosion Control	1605	71	597	11.89%	0.60%	0.07%
Utility Construction	1510, 1520	42	563	7.46%	7.61%	0.57%
Landscape seeding and mulching	1670, 1660	89	678	13.13%	0.62%	0.08%
Totals		1,175	9,740		100.00%	10.14%

Note: These numbers may reflect some double-counting, because firms are counted for each of the highway codes in which they list capacity.

The Step 1 “base figure” DBE goal is 10.1% based on “weighted availability”.

B. Step 2 – Adjustment to the Baseline Goal.

After the Step 1 DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

“...Additional evidence in the sponsor’s jurisdiction be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal” (26:45(d)).

The regulations further state that there are many types of evidence that must be considered when adjusting the base figure. These include:

(i) *The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years.*

The DBE regulations (49 CFR Part 26) detail several methods of adjusting the Step 1 goal. The first adjustment factor mentioned in the regulations is “past participation”. The most realistic indication of current DBE capacity within the NCDOT Division of Highways is historic participation of DBEs. Therefore, this is the first adjustment factor utilized in this methodology.

The next adjustment factor mentioned in the DBE regulations is evidence from disparity studies conducted in the local jurisdiction. Therefore, evidence from a recent disparity study is the final adjustment factor utilized.

The historical overall DBE goals accomplished by the Division of Highways for federal projects in recent years were examined relative to the above consideration. Information obtained from the Division of Civil Rights and prior annual goal documents for the reporting periods listed below was assessed. The table below describes the historic DBE participation for the NC Division of Highways highway projects from 2001 through 2005.

Table 3: DBE Accomplishment as indicated from DBE Data Reports (2001-2005)

Fiscal Year	DBE \$ Spent (millions)	Federal \$ Spent (millions)	DBE % Goal	DBE % Achieved	DBE over (under) Achievement
FY 2001	\$ 76,380,000	\$ 668,010,000	14.09%	11.43%	-2.66%
FY 2002	\$ 92,380,000	\$ 725,760,000	12.00%	12.73%	0.73%
FY 2003	\$ 52,975,302	\$ 548,045,209	12.40%	9.67%	-2.73%
FY 2004	\$ 73,490,635	\$ 676,382,473	12.85%	10.87%	-1.98%
FY 2005	\$ 47,528,643	\$ 457,687,838	10.81%	10.38%	-0.43%
MEDIAN			12.40%	10.87%	-1.98%

Source: NCDOT and Previous Annual DBE Goal Reports; Compiled by Ken Weeden & Associates, Inc.

The median historic DBE accomplishment for the federal project reporting periods, as shown in the table above, is 10.87% compared to the median DBE goal for the period of 12.4%. (The median under-achievement for this period is -1.98%). The median historic attainment, which is an indication of “capacity” based on relatively recent performance, however, is higher than the Step 1 DBE base figure of 10.1%, which was derived using the methodology detailed in Section 2.A of this report. It should be noted that the historical participation is substantially similar to the proposed FY 2007 activities. The first, or initially proposed, adjustment of the baseline goal is an average of these two figures $(10.1\%+10.87\%/2)$ for a result of 10.5%. This then is the initial “adjusted” goal, i.e., 10.5%, subject to possible additional adjustments as indicated in the next section:

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure;

In the early 1990’s, the State of North Carolina commissioned a disparity study as a result of several important US Supreme Court cases and the need to improve the state’s legal footing for operating affirmative action programs. Generally, the purpose of a disparity study is to provide a necessary legal foundation for determining a “compelling interest” for the implementation of non-federal affirmative action programs, usually run by state and/or local governments. The US Congress, in adopting the regulations for the USDOT Disadvantaged Business Enterprise (DBE) program (49 CFR Part 26), already has declared that there is indeed a “compelling interest” for the federal affirmative action program. Therefore, for the development and implementation of federal USDOT DBE programs, a disparity study might be useful for programmatic recommendations, but is not a prerequisite.

Although not required for federal US DOT affirmative action programs, in 2003, the North Carolina Department of Transportation commissioned a “Second Generation Disparity Study” in order to examine the procurement of highway pre-construction, construction, prime contracting, and sub contracting services for the period of July 1,

1998 through June 30, 2003. The primary objective of the study was to review the utilization of minority and non-minority women businesses in the procurement of those services compared to their availability and to provide or reinforce supportive evidence under the applicable legal standards for non-federal affirmative action programs. A further objective was to recommend programmatic remedies to address factors of identified underutilization. Since the results of a disparity study could be significant to the annual goal-setting process, the document was reviewed thoroughly, with the intent of looking for quantifiable “adjustment factors.” Below is a summary discussion of the Second Generation Disparity Study relative to this FY 2007 annual DBE goal for the Division of Highways:

1. Second Generation Disparity Study – Impact on 2007 Annual Goal.

For preparation of the “Second Generation Disparity Study”, the Department of Transportation entered into an agreement with the North Carolina Institute of Minority Economic Development (NCIMED) to be the contract administrator, and to provide oversight for the study. NCIMED then contracted with MGT of America, Inc., which conducted the nuts and bolts of the disparity study.

The Study examined several of the Department’s M/WBE (not just the federally defined “DBE” community) participation and support services programs, focusing on the participation of these firms in NCDOT’s construction and pre-construction procurements, in order to determine the levels of either underutilization or over utilization. M/WBE participation was examined under several business procurement categories.

After detailed analyses of M/WBE participation rates, compared to availability, in the above categories for work procured by the outlying, State Division offices, and those procured by the Central Headquarters office for 1998-2003, the disparity study concluded that:

“...M/WBE utilization by NCDOT was low during the study period...depending on the contract category...” (MGT of America, Inc., p. 8-5).

The study further concluded that substantial disparity exists for most of the specified underutilized groups, i.e., African-Americans, Native Americans, and Hispanic Americans, in all divisionally let prime contracting, including and non minority women, for all divisionally let subcontracting (p. 8-7).

In addition to making several programmatic recommendations aimed at closing the identified disparity, i.e. the underutilization, the Study, in Exhibit 9-2, contained a summary table with recommended race and gender specific percentage participation goals for each of the above business categories, based on the study’s assessment of availability. For example, under “Construction/Prime/Division Let”, there are specific and separate recommended goals for African Americans, Hispanic Americans, Asian Americans, Native Americans, and non-minority Women. Under the federal DBE program guidelines, all of these groups could potentially come under one heading, i.e., “DBE”.

A summary table showing a composite of the study’s recommended goals was developed to obtain the “median” composite recommended goal. Note that the median composite goal shows goals for both Prime Contractors and Sub Contractors, even though the Division of Highways deals directly only with Primes, and indirectly with subcontractors. (Subcontractors receive work from primes.) This composite goal, which considers all DBE’s, is shown below:

Table 4: Composite Utilization Goals by Prime Contractor Procurement Category, from Second Generation Disparity Study

Type of Procurement/ Business Category for all M/WBEs combined	Composite Recommended Participation Goal
1. Construction-Prime - <i>Division Let</i>	11.7
2. Construction-Subcontractor - <i>Division Let</i>	10.1
3. Construction-Prime - <i>Centrally Let</i>	8.3
4. Construction-Subcontractor - <i>Centrally Let</i>	24.0
5. Pre-Construction – Primes	15.9
6. Pre-Construction – Subcontractor	15.4
Median Composite Disparity Goal:	13.55

Source: NC Department of Transportation Second Generation Disparity Study Final Report, p. 9-2; Composite analysis by Ken Weeden & Associates, Inc.

The median composite disparity goal is 13.55% (13.6%). However, this goal also requires some adjustment, as explained in the accompanying Note.

Note: The information for the DBE data base had a total of 1,006 DBE firms which were used for the availability and utilization analysis. After the study, however, the NCDOT “purged” the system of “bad files” so that in reality, there were only 682 DBE firms in the database. NCDOT believes that it is appropriate to use the differential factor between 1,006 and 682 ($682/1,006 = .678$) to adjust the Disparity Study composite goal downward accordingly. Therefore, the adjusted composite goal should actually be; $13.6 \times .678 = 9.22\%$

2. Final Goal Adjustment

Since there is no other available evidence from related fields, as noted in part 26:45 (d)(3), and because of the presence of the “composite” Disparity Study Goal, which includes consideration of both DBE primes and subs (9.22%) that differs from the initial calculated goal, it will be considered in the final adjustment of the FY 2007 DBE annual goal. The initial adjusted goal will be further adjusted by deriving the average of that goal (10.5%), and the composite Disparity Study goal ($10.5 + 9.22 = 19.7/2 = 9.9\%$). **The final proposed DBE goal for FY 2007 for the NC Division of Highways is 9.9%.**

IV. Breakout of Estimated Race-Conscious/Race-Neutral Participation

Federal DBE regulations require that grant recipients like the NC Division of Highways meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation (hereafter referred to as race-neutral).

The NC Division of Highways estimates that, in meeting its overall goal of **9.9%**, it will obtain **2.5%** from race-neutral participation and **7.4%** through race-conscious (contract) measures.

The following is a summary of the basis of the estimated breakout of race-neutral and race-conscious DBE participation: Table 3 showed that, for federal projects from recent

previous years, overall the median DBE goals, compared to actual participation, were under-achieved by a median value of 1.98%. The Federal/ FHWA Uniform Reporting form, which attempts to capture race-neutral participation as a portion of DBE participation over a six-month period, has been prepared for the NCDOT for FY 2003-2005. As shown in Table 5 below, the percent of DBE participation that was race-neutral in this period was 2.72%.

Table 5: Race Neutral DBE Participation (2003 – 2005)

Fiscal Year	DBE % Goal	Federal \$ Spent	DBE \$ Spent	DBE % Achieved	Race Neutral Participation	Race Neutral Participation (%)
FY 2003	12.40%	\$548,045,209	\$52,975,302	9.67%	\$10,249,922	1.87%
FY 2004	12.85%	\$676,382,473	\$73,490,635	10.87%	\$23,820,059	3.52%
FY 2005	10.81%	\$457,687,838	\$47,528,643	10.38%	\$11,613,320	2.54%
	Totals	\$1,682,115,520	\$173,994,580	10.34%	\$45,683,301	2.72%

Source: NCDOT and Previous Annual DBE Goal Reports; Compiled by Ken Weeden & Associates, Inc.

These reports showed that of \$1,682,115,520 federal funds expended, a total of \$45,683,301 was “race-neutral”, which equaled 2.72% of the total. In addition, the NCDOT, in recognition of its overall policy to improve the amount of race-neutral participation for both its federal and non-federal programs, operates non-federal programs which are significantly effective in achieving race-neutral participation. This non-federal attainment will also be considered in the projections of race-neutral/race-conscious attainment for FY 2007. The NCDOT has major programs, e.g., the Small Business Enterprise Program (SBE) and Professional Services Contracts, which are not “goal-based” programs, but which have DBE participation (MBE and WBE). This participation is, therefore, truly race-neutral. During FY 2005, of a total of \$1.739 billion dollars contracted in non-federal programs, \$37.7 million dollars (race-neutral) was contracted to DBE (MBE and WBE) firms. This participation accounted for 2.17% of the total. This amount, 2.17%, will also be considered in the FY 2007 projection for race-neutral attainment, by averaging it with the federal reporting form’s race-neutral participation, i.e. $2.72 + 2.17 = 4.88/2 = 2.45\%$. The FY 2007 race-neutral projection is 2.45% (2.5%).

V. Process

The NC Division of Highways will normally submit its overall goal to the FHWA on August 1 of each year. Before establishing the overall goal this year, the NC Division of Highways annual goal development team consulted with a number of sections and divisions within NCDOT, including the Division of Civil Rights, Division of Contractual Services, Division of Aviation, and Division of Public Transportation. This consultation began with a “Goals Methodology Scoping Session”, which was attended by representatives from each of the Divisions noted above. During the scoping session questions and discussions center on whether there has been any changes in the data base or other information on DBE/HUB availability or capacity since the previous year’s submission. Each agency has the opportunity to comment on their upcoming or anticipated projects as well as provide comments on the goals of the other agencies represented. Also in consultation with outside agencies in the state, such as the NC Institute of Minority Economic Development, the NC M/WBE Coordinators Network, questions and discussions also seek to obtain updated information or awareness on the availability and/or capacity of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and other efforts they may be aware of to help establish a level playing field for the participation of DBEs. For this year, no additional statistical studies which could be used as adjustment factors were discovered. The Second Generation Disparity Study, used in the two previous annual goal submissions, was still viewed as being a valuable review document.

Following this consultation and additional reviews, a “Final Goal” is presented to the NC Board of Transportation. After Board review, comment and approval, the NC Division of Highways publishes a notice of the proposed overall goal, informing the public that the proposed goal and its rationale will be available for inspection during normal business hours at the Division of Highway’s administrative office for 30 days following the date of the notice, and informing the public that the Division of Highways will accept comments on the goals for 45 days from the date of the notice. The notice is published in statewide newspaper, including several with distinctive minority focuses. The notice includes an address (including an office) to which comments could be sent and an address where the

proposal could be reviewed. For FY 2007, the notice is anticipated to be published on November 5, 2006. This process was used to establish the goals for FY 2007.

The Division of Highway's overall goal submission to the FHWA will include a summary of information and comments received during this public participation process and our responses. *(Note: No comments have been received as of this submittal. Should any comments be received, those comments and our responses to the comments will be submitted at the end of the review and comment period.)*

The NC Division of Highways will begin using the overall goal on October 1 of each year, unless it has received other instructions from USDOT/FHWA by the time of the first solicitation for an USDOT/FHWA-assisted contract for projects.

VI. Contract Goals

The NC Division of Highways will use contract goals to meet any portion of the overall goal that it does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

The Division of Highways will establish contract goals only on those FHWA-assisted contracts that have subcontracting possibilities. A contract goal need not be established on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

The NC Division of Highways will express its contract goals as a percentage of the Federal share of an FHWA-assisted contract.

Resources:

1. North Carolina Department of Transportation, Division of Highways
2. FY 2006 Disadvantaged Business Enterprise Program Methodology
3. 2004 U.S. Census County Business Patterns, July 2006
4. NC DOT Disadvantaged Enterprise Directory, July 2006
5. NC Department of Transportation Second Generation Disparity Study, Final Report
6. Roberto Canales, North Carolina Dept. of Transportation Division of Highways
7. Michael McKoy, North Carolina Dept. of Transportation Division of Highways
8. Jan Bryant, North Carolina Department of Transportation
9. Queen Crittendon, North Carolina Dept. of Transportation Office of Civil Rights
10. Shelton Russell, North Carolina Dept. of Transportation Office of Civil Rights
11. Larry Dickens, North Carolina Department of Transportation