SECTION V.
Exploration of Possible Causes of Any Disparities

Two key questions emerge from the disparity analyses presented in Section IV:

1. Why is utilization about the same on FTA-funded SANDAG contracts before and after May 1, 2006 even though SANDAG discontinued the DBE contract goals/good faith efforts program?

2. Why is MBE/WBE utilization less on locally-funded contracts than FTA-funded contracts?

Answers to these questions may be important as SANDAG considers how much of its overall annual aspirational goal for DBE participation can be met through race- and gender-neutral means, and what program elements may be needed.

Results may also help SANDAG identify the specific race/gender/ethnic groups for which any race- or gender-conscious programs might apply.

1. Why is utilization about the same on FTA-funded contracts before and after May 1, 2006?

SANDAG’s utilization of minority- and women-owned firms on FTA-funded contracts was about the same for the period after May 2006 (21%) as for 2003 through April 2006 (22%).

Prior to May 2006, SANDAG set DBE contract goals and required prime contractors to meet the goals or show good faith efforts to do so. Beginning in May 2006, SANDAG set “advisory” DBE goals but no longer required prime contractors to meet the goals or show good faith efforts.

BBC examined several possible questions concerning why MBE/WBE utilization on FTA-funded contracts did not change for the May 2006 through December 2007 time period:

- Could the types and sizes of FTA-funded contracts explain why overall MBE/WBE utilization showed little change?

- Could the continuation of voluntary DBE contract goals explain the relatively high MBE/WBE utilization on contracts?

- Has SANDAG increased its neutral efforts to encourage MBE/WBE bidding as prime contractors?
Could the types and sizes of FTA-funded contracts explain why MBE/WBE utilization stayed about the same after the change in the DBE contract goals program? BBC examined the types, contract roles and sizes of FTA-funded SANDAG contracts for 2003 through April 2006 and May 2006 through December 2007. In terms of contract type and size, there are few differences between SANDAG contracts before and after May 1, 2006 that would lead to different expected levels of MBE/WBE participation.

There is some evidence that actual MBE/WBE utilization relative to what would be expected based on the availability of MBE/WBEs for SANDAG work declined after April 2006.

- The “benchmark” for MBE/WBE utilization BBC identified for 2003-April 2006 FTA-funded contracts was about 24 percent and actual MBE/WBE utilization was 22 percent. The disparity index was 91 (utilization slightly below what would be expected from availability).

- After controlling for factors such as type, contract role and size of contracts and subcontracts, about 25 percent of these contract dollars would be expected to go to MBE/WBEs for May 2006 through December 2007. Actual utilization was about 21 percent. The resulting disparity index was 84, an indication that overall utilization was somewhat less than what would be expected from availability.

Could the continuation of voluntary DBE contract goals explain the relatively high MBE/WBE utilization on contracts after April 2006? Although evidence on the effect of the “voluntary” DBE goals on subcontractor utilization is mixed, the voluntary DBE goals do not explain why MBE/WBE utilization on contracts after May 1, 2006 showed little change.

Contract dollars going to subcontractors. Subcontracting accounted for 20 percent of total FTA-funded contract dollars after May 1, 2006 compared with 30 percent for 2003–April 2006. These data suggest the possibility that SANDAG’s move to a voluntary program caused prime contractors to retain more of the contract dollars and reduce their overall use of subcontractors.
MBE/WBE utilization as subcontractors. The percentage of subcontract dollars going to MBE/WBEs dropped considerably for May 2006 through December 2007, as shown in Figure V-1. About 37 percent of subcontract dollars on FTA-funded contracts went to MBE/WBEs prior to the change in program. After the change, 10 percent of the subcontract dollars went to MBE/WBEs.

### Figure V-1.
**MBE/WBE share of subcontract dollars for FTA-funded transportation contracts, before and after May 1, 2006**

Note:
Certified DBE utilization.
For more detail and results by group, see Figures E-8 and E-9 in Appendix E.

Source:
BBC Research & Consulting from data on SANDAG contracts.

Disparity indices for subcontracts before and after May 1, 2006. Comparison of MBE/WBE utilization as subcontractors with what would be expected based on availability for this work indicates that overall MBE/WBE participation as subcontractors on FTA-funded contracts prior to May 1, 2006 was in line with MBE/WBE availability for that time period (disparity index of 110).

There were large disparities between MBE/WBE utilization and availability for subcontracts on FTA-funded contracts after the change in the DBE contract goals program. The disparity index for MBE/WBEs, overall, was 28 for subcontracts on May 2006–December 2007 FTA-funded contracts. Figure V-2 compares results for these two time periods.

### Figure V-2.
**Disparity indices for MBE/WBE utilization as subcontractors on FTA-funded contracts, before and after May 1, 2006**

Note:
Number of subcontracts analyzed is 95 for 2003-April 2006 and 47 for May 2006-Dec. 2007.
For more detail and results by group, see Figures E-8 and E-9 in Appendix E.

Source:
BBC Research & Consulting.
Disparity indices by race/ethnicity/gender for May 2006–December 2007. After SANDAG changed how it implemented its DBE contract goals program, there were disparities in subcontractor utilization for each race/ethnic/gender group of MBE/WBEs except for Asian-Pacific American-owned firms. Figure V-3 presents these results.

**Figure V-3.** Disparity indices for MBE/WBE utilization as subcontractors on FTA-funded transportation contracts, May 2006–Dec. 2007

Note: Number of subcontracts analyzed is 47. For more detail, see Figure E-9 in Appendix E.

Source: BBC Research & Consulting.

Is there any explanation for higher MBE/WBE utilization on SANDAG’s FTA-funded prime contracts? Overall MBE/WBE utilization on FTA-funded contracts was relatively unchanged after May 2006 because of an increase in MBE/WBE utilization as prime contractors.

MBE/WBEs accounted for 15 percent of prime contract dollars on FTA-funded contracts from 2003 through April 2006, as shown in Figure V-4. This share of prime contract dollars increased to 24 percent for May 2006–December 2007. BBC explored reasons behind this increase.

**Figure V-4.** MBE/WBE share of prime contract dollars for FTA-funded transportation contracts, before and after May 1, 2006

Note: Certified DBE utilization. Number of prime contracts analyzed is 64 for 2003–April 2006 and 30 for May 2006–Dec. 2007. For more detail and results by group, see Figures E-5 and E-6 in Appendix E.

Source: BBC Research & Consulting from data on SANDAG contracts.
**Mix of contract types and sizes.** After examining specific FTA-funded prime contracts for 2003 through April 2006, and the relative availability of MBE/WBEs for this work, about 20 percent of the contract dollars would be expected to go to minority- and women-owned firms. The types and sizes of FTA-funded contracts for May 2006 through December 2007 were somewhat different but dollars expected to go to MBE/WBEs was approximately 20 percent for these prime contracts as well. From this availability analysis, one would expect overall MBE/WBE utilization to be about the same on FTA-funded contracts for 2003–April 2006 and May 2006–December 2007.

**Disparity indices for MBE/WBEs, overall, before and after May 1, 2006.** There was no disparity between MBE/WBE utilization and availability for FTA-funded prime contracts for May 2006 through December 2007 (disparity index of 116, as shown in Figure V-5). There was a substantial disparity in the utilization of MBE/WBEs for earlier FTA-funded prime contracts.

**Figure V-5. Disparity indices for MBE/WBE utilization as prime contracts on FTA-funded transportation contracts, 2003–2007**

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**Bidders on FTA-funded prime contracts.** BBC was able to examine bidders on 30 FTA-funded contracts from 2003 through April 2006 (112 bids) and 22 FTA-funded contracts for May 2006 through December 2007 (80 bids). Appendix C explains BBC’s approach to these procurement case studies. Analysis of bidders found that about 13 percent of bidders were MBE/WBEs in each time period.

**Figure V-6. MBE/WBEs as a proportion of all bidders on FTA-funded transportation contracts, before and after April 2006**

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**SANDAG’s neutral efforts to open prime contract opportunities to MBE/WBEs.** There were no significant changes to SANDAG’s efforts to open opportunities to MBE/WBEs identified for 2003 through 2007.

**MBE/WBE success in winning prime contracts.** Analysis of awards of individual FTA-funded contracts found that:

- MBE/WBEs were awarded 12 of the 64 FTA-funded contracts for 2003 through April 2006 (19%); and
- MBE/WBEs received 3 out of 30 contracts examined for May 2006 through December 2007 (10%).

**Large contracts.** The difference in utilization of MBE/WBEs on FTA-funded prime contracts between these two time periods primarily relates to one for $8.6 million going to an Asian-Pacific American-owned firm between May 2006 and December 2007. This contract alone represented 20 percent of the dollars going to prime contractors on FTA-funded contracts after May 2006.

2. **Why is MBE/WBE utilization less on locally-funded contracts than FTA-funded contracts?**

MBE/WBEs obtained 22 percent of the dollars on FTA-funded contracts from 2003 through April 2006, but MBE/WBE utilization for locally-funded contracts was only 13 percent. There were substantial disparities for locally-funded contracts for MBE/WBEs, overall.

BBC examined possible explanations for this lower utilization and substantial disparities for locally-funded contracts, including:

- Could the types and sizes of locally-funded contracts explain the lower MBE/WBE utilization?
- Could DBE contract goals explain the relatively higher MBE/WBE utilization on FTA-funded contracts?
- What is utilization of MBE/WBEs as prime contractors on locally-funded contracts?
- Are there disparities for certain types of locally-funded contracts and not others?
- Is there anything in SANDAG bid processes that would make it more difficult for MBE/WBEs to bid on locally-funded contracts than FTA-funded contracts?
- Are MBE/WBEs less likely to bid on SANDAG’s locally-funded contracts?
- Are MBE/WBEs less likely to be competitive when bidding on SANDAG’s locally-funded contracts?
- How large are locally-funded contracts, and is size of prime contracts or subcontracts a barrier for MBE/WBEs?
Could the types and sizes of locally-funded contracts explain the lower MBE/WBE utilization? The types and sizes of locally-funded contracts would lead one to expect more MBE/WBE utilization on those contracts, not less.

- As noted previously, the “benchmark” for MBE/WBE utilization BBC identified for 2003-April 2006 FTA-funded contracts was about 24 percent. Locally-funded contracts had a somewhat different mix of types of work, contract sizes and subcontracting opportunities. After controlling for these factors, about 26 percent of locally-funded contract dollars would be expected to go to MBE/WBEs.

- The disparity index for 2003 through April 2006 FTA-funded contracts was 91; the index for locally-funded contracts was 49. The disparity indices control for differences in types, sizes and contract roles in SANDAG contracts.

Could DBE contract goals explain the relatively high MBE/WBE utilization on FTA-funded contracts? About the same share of locally-funded contracts was subcontracted (27%) compared with FTA-funded contracts for 2003 through April 2006 (30%). However, overall MBE/WBE utilization for subcontracts was substantially lower without the DBE contract goals/good faith efforts program.

MBE/WBE utilization as subcontractors. Utilization of MBE/WBEs as subcontractors was 21 percent, substantially lower than the 37 percent identified for FTA-funded contracts prior to May 2006 (see Figure V-7).

Figure V-7.
MBE/WBE share of subcontract dollars for FTA-funded transportation contracts, 2003—April 2006 and locally-funded contracts 2003—2007

Note:
Certified DBE utilization.
Number of subcontracts analyzed is 95 for 2003—April 2006 FTA-funded contracts and 37 for 2003—2007 locally-funded contracts.
For more detail and results by group, see Figures E-8 and E-10 in Appendix E.

Source:
BBC Research & Consulting from data on SANDAG contracts.
Disparity indices for subcontracts on FTA-funded contracts and on locally-funded contracts. BBC’s disparity analysis did not find overall disparities between utilization and availability of MBE/WBEs as subcontractors on SANDAG contracts.

- As previously noted, the disparity index for MBE/WBE utilization as subcontractors on FTA-funded contracts was 110 prior to when SANDAG changed its implementation of the DBE contract goals program.

- The disparity index was 66 for MBE/WBEs as subcontractors on locally-funded contracts. There were disparities for WBEs, African American-owned firms, Subcontinent Asian American-owned firms and Native American-owned firms. Figure V-8 shows these results.

**Figure V-8.**
Disparity indices for MBE/WBE utilization as subcontractors on locally-funded transportation contracts, 2003–2007

Note:
Number of subcontracts examined was 37.
For more detail, see Figure E-10 in Appendix E.

Source:
BBC Research & Consulting.
**What is utilization of MBE/WBEs on locally-funded prime contracts?** MBE/WBEs obtained 10 percent of SANDAG’s locally-funded prime contract dollars examined for 2003 through 2007. This was below prime contractor utilization for FTA-funded contracts.

**Figure V-9.**
**MBE/WBE share of prime contract dollars for FTA-funded contracts for 2003–April 2006 and locally-funded contracts, 2003–2007**

Note:
Certified DBE utilization.
Number of prime contracts analyzed is 64 for 2003–April 2006 FTA-funded and 57 for 2003–2007 locally-funded.
For more detail and results by group, see Figures E-5 and E-7 in Appendix E.

Source:
BBC Research & Consulting from data on SANDAG contracts.

There were large disparities between MBE/WBE utilization and availability for locally-funded SANDAG contracts for 2003 through 2007, as shown in Figure V-10. Disparities were evident for WBEs and each MBE group except for Asian-Pacific American-owned firms. Figure E-7 in Appendix E provides results by group.

**Figure V-10.**
**Disparity indices for MBE/WBE utilization as prime contracts on FTA-funded transportation contracts for 2003–April 2006 and locally-funded contracts, 2003–2007**

Note:
Number of prime contracts analyzed is 64 for 2003 through April 2006 FTA-funded contracts and 57 2003–2007 locally-funded contracts.
For more detail and results by group, see Figures E-5 and E-7 in Appendix E.

Source:
BBC Research & Consulting.
Are there disparities for certain types of locally-funded contracts and not others? BBC conducted disparity analyses for locally-funded construction, engineering and other goods and services contracts. Disparities in MBE/WBE utilization span each of these fields. Figure V-11 compares results.

Construction contracts. About $11 million of the $37 million in locally-funded contracts was for construction. MBE/WBE utilization was 0.4 percent compared to an expected level of 23 percent based on the availability analysis. The disparity index was 2.0 — in other words, MBE/WBEs received approximately 2 cents out of each dollar of what would be expected based on the availability analysis. This analysis includes prime contracts and subcontracts. (Note that there were only 14 locally-funded construction contracts and subcontracts examined.)

Engineering-related contracts. Figure V-11 also shows results of a disparity analysis for locally-funded engineering prime contracts and subcontracts. About $26 million in locally-funded contracts for engineering and related services was examined. MBE/WBEs received 18 percent of these dollars, lower than the benchmark for MBE/WBE utilization (28%). The disparity index was 66 — MBE/WBEs received about two-thirds of the locally-funded engineering contract dollars that would be expected based on availability.

Other goods and services. Locally-funded goods and other services contracts examined in the disparity study totaled only seven procurements for $0.3 million. Minority- and women-owned firms received one of the contracts for $90,000. MBE/WBE utilization was 28 percent of contract dollars and the disparity index was 84. (Because of the small number of contracts, one should be cautious in drawing any conclusions from the results for goods and services contracts.)

Figure V-11. Disparity indices for locally-funded construction, engineering and other goods and services prime contracts and subcontracts, 2003–2007

Note:
Number of prime/subcontracts analyzed is 14 for construction, 73 for engineering and 7 for other goods and services.
For more detail and results, see Figures E-13, E-22 and E-31 in Appendix E.

Source:
BBC Research & Consulting.
Is there anything in SANDAG’s bid process that would make it more difficult for MBE/WBEs to bid on locally-funded contracts compared to FTA-funded contracts?

SANDAG generally uses the same bid and proposal processes for federally- and locally-funded contracts, as described below.

**SANDAG procurement procedures.** SANDAG can use different types of procurement procedures depending on the type and size of the procurement. Funding source usually does not affect the type of procurement chosen.

- Invitations to bid (IFBs) are used for procurements above $50,000 and are advertised. Procurements using IFBs are awarded to the lowest responsive, responsible bidder.

- Requests for quotes (RFQs) are similar to IFBs, but are used for procurements between $2,500 and $50,000. They are not advertised. Like IFBs, procurements using RFQs are awarded to the lowest responsive, responsible bidder. SANDAG solicits at least three quotes for these procurements.

- Requests for proposals (RFPs) are used for procurements above $50,000, and RFPs of $100,000 or greater must be publicly advertised. Informal RFPs can be used for procurements of $50,000 or less. Procurements using RFPs are awarded based on a number of factors, including price and interview evaluations.

- Requests for qualifications (RFQs) are similar to RFPs, except that price is not considered in the evaluation. RFQs can use a two-step process, in which firm qualifications are considered first and then proposals are solicited from a short list of firms. RFQs are used for contracts above $50,000 that are related to one of the following procurement areas:
  - Architecture;
  - Engineering;
  - Construction management;
  - Program management;
  - Feasibility studies;
  - Surveying and mapping; and
  - Other services related to design and engineering.

- Non-competitive procurements are allowed in the following circumstances:
  - Micro purchases (less than $2,500);
  - Emergencies;
  - When sole source purchases are necessary; and
  - When there is an opportunity to “piggy-back” on other government agencies’ contracts.
Methods to learn of SANDAG procurements. SANDAG advertises procurement opportunities in local newspapers (including at least one DBE newspaper for FTA-funded projects) and also mails notices to firms on informal bidders lists. In addition, SANDAG posts procurement opportunities and bid documents on its website.

SANDAG currently advertises IFBs in the San Diego Daily Transcript, El Latino and Voice & Viewpoint. Professional services contracts are advertised in the Tribune, Times, La Princa and the Asian Business Journal.

Methods for disseminating information on bid opportunities are similar for FTA- and locally-funded contracts.

Prequalification. Although SANDAG does not typically prequalify bidders, SANDAG requires the lowest three bidders on construction contracts to submit financials. SANDAG uses this information in the assessment of financial responsibility.

Bonding. SANDAG requires bonding for construction projects. Bid bonds are required for certain goods and services bids. Bonding requirements typically do not vary between locally- and FTA-funded contracts.

Typical insurance requirements. Insurance requirements do not differ between FTA-funded and locally-funded contracts. Typical insurance requirements before June 2007 were:

- Commercial general liability of $1 million per occurrence and $2 million aggregate, which includes bodily injury, personal injury and property damage (increased to $5 million after July 1, 2007);

- Automobile of $1 million per occurrence (increased to $5 million after July 1, 2007);

- Employer’s liability of $1 million and professional liability (if needed) of $1 million.

Prompt payment. Prime contractors are required to pay subcontractors within 30 days of receipt of payment from SANDAG.
Are MBE/WBEs less likely to bid on SANDAG’s locally-funded contracts? BBC was able to examine bidders on 52 FTA-funded contracts and 22 locally-funded contracts from 2003 through 2007. Analysis of bidders from BBC’s case studies of SANDAG FTA-funded contracts found that MBE/WBEs were 13 percent of bidders. On locally-funded contracts, MBE/WBEs were 7 percent of bidders (four out of the 57 bids submitted). Locally-funded contracts included in the bid analysis were of similar size and had similar project descriptions as FTA-funded contracts.

Figure V-12.
MBE/WBEs as a proportion of all bidders on FTA-funded and locally-funded transportation contracts, 2003–2007

Note:
Certified DBEs.
Number of prime contracts analyzed in the procurement case studies is 52 for FTA-funded contracts and 22 for locally-funded contracts. A total of 192 bids were examined for FTA-funded contracts and a total of 57 bids were analyzed for locally-funded contracts.

Source:
BBC Research & Consulting from data on SANDAG contracts.

Are MBE/WBE bidders less likely to receive contract awards? MBE/WBEs received five of the 58 locally-funded prime contracts examined in the disparity study, or about 9 percent of the locally-funded prime contract awards. This percentage was less than that found for FTA-funded contracts (16%).

For locally-funded contracts, the prime contract amounts awarded to MBE/WBEs were about the same size, on average, as prime contracts for majority-owned firms.

Are MBE/WBE bidders less likely to receive sole-sourced contracts? A substantial portion of the SANDAG contracts examined in the bid case studies appear to have been sole-sourced:

- Eight out of the 22 locally-funded contracts were sole-sourced, with one going to an Asian-Pacific American-owned firm; and

- Nine out of the 52 FTA-funded contracts were sole-sourced, with one awarded to a WBE.

Based on this limited data, no bids included in the bid analysis were noted in the bid documents as being deemed non-responsive or not responsible during the procurement process.
**Is size of prime contract a barrier to bidding for MBE/WBEs?** Mean prime contract size of locally-funded contracts was compared to FTA-funded contracts. BBC also conducted a disparity analysis for only small contracts (procurements of less than $100,000).

**Mean contract size.** Mean prime contract size was smaller for locally-funded contracts compared to FTA-funded contracts, so size of prime contract cannot explain the differences in MBE/WBE utilization:

- FTA-funded prime contracts averaged $1.5 million in size; and
- Locally-funded prime contracts were $0.6 million, on average.

**Disparity analysis for small contracts.** BBC identified 88 prime contracts in the disparity analysis that were less than $100,000, regardless of whether they were FTA- or locally funded. MBE/WBEs obtained about 18 percent of the dollars of small prime contracts. The availability analysis suggested that MBE/WBEs would receive 32 percent of this work. The resulting disparity index was 57. As shown in Figure V-13, prime contract size does not explain the disparities found in this analysis.

**Figure V-13.**
Disparity indices for MBE/WBE utilization as prime contractors on locally-funded transportation contracts, and small prime contracts (FTA- and locally-funded), 2003–2007

Note:
Number of prime contracts analyzed is 57 for locally-funded contracts and 88 for prime contracts and subcontracts less than $100,000.
For more information, see Figures E-7 and E-39 in Appendix E.

Source:
BBC Research & Consulting.
Summary

Two key questions are addressed in Section V.

Why is utilization about the same on FTA-funded contracts before and after May 1, 2006 even though SANDAG discontinued the DBE contract goals/good faith efforts program? Key results include:

- Data suggest the possibility that SANDAG’s move to a voluntary program caused prime contractors to retain more of the contract dollars and reduce their overall use of subcontractors.

- The percentage of subcontract dollars going to MBE/WBEs dropped considerably for May 2006 through December 2007. About 37 percent of subcontract dollars on FTA-funded contracts went to MBE/WBEs prior to the change in program. After the change, 10 percent of the subcontract dollars went to MBE/WBEs.

- One large contract to an MBE firm offset the reduced utilization of MBE/WBE subcontractors on FTA-funded contracts for May 2006 through December 2007.

Why is MBE/WBE utilization less on locally-funded contracts than FTA-funded contracts? Reasons identified for lower MBE/WBE utilization on locally-funded contracts include the following:

- Utilization of MBE/WBEs as subcontractors was 21 percent, substantially lower than the 37 percent identified for FTA-funded contracts prior to May 2006. There were large disparities between the utilization and availability of MBE/WBEs as subcontractors on locally-funded contracts.

- There are large disparities in the utilization of MBE/WBEs as prime contractors on locally-funded contracts.

- Large disparities in MBE/WBE utilization are evident for locally-funded construction and engineering contracts (including prime contract and subcontract dollars).