SECTION III.
Analysis of MBE/WBE Availability

BBC analyzed the relative availability of minority- and women-owned firms that are ready, willing and able to perform SANDAG contracts and subcontracts. Minority- and women-owned firms comprise 38 percent of the 2,480 businesses BBC examined as available for specific types of Consortium agency transportation prime contracts and subcontracts. Because BBC performed the availability analysis on a dollar-weighted basis given the sizes, types and other characteristics of individual contracts, MBE/WBE availability differs for each set of SANDAG contracts. The availability information is useful for several reasons, including:

- Developing the base figure for SANDAG’s overall annual DBE goal for FTA-funded contracts; and
- Preparing benchmarks to apply in the disparity analysis.

Steps in the Availability Analysis

The availability analysis was developed through interviews with thousands of firm owners and managers in the Southern California transportation contracting industry and BBC’s analysis of more than 300 SANDAG transportation prime contracts and subcontracts. This method of examining availability is sometimes referred to as a “custom census.” BBC’s summary of the availability analysis focuses on:

- The relevant geographic market area and procurement areas for Consortium agency work;
- The database of available firms; and
- Calculating dollar-weighted availability.

Relevant geographic market area and procurement areas for agency work. The availability analysis pertains to SANDAG’s transportation contracting industry. As such, the availability analysis focuses on:

- Firms doing business within the procurement areas selected for the disparity studies for Consortium agencies (as discussed in Section II); and
- Businesses with locations in Southern California.\(^1\)

\(^1\) Availability interviews asked about the geographic area where a firm works. To be included as potentially available for SANDAG prime contracts and subcontracts, a firm must (a) have a location within the San Diego area or (b) have a location in the Greater Los Angeles area and report working in the San Diego area.
The database of available firms. BBC collected information from firm owners and managers to identify firms potentially available for SANDAG work:

- One portion of the SANDAG availability database is Southern California transportation construction and engineering firms that BBC contacted as part of the Caltrans Availability and Disparity Study completed in 2007. BBC included businesses from the Caltrans study that (a) had locations in Southern California, (b) reported working within subindustries relevant to SANDAG contracts, (c) indicated that they were available for local government transportation projects, and (d) worked in the San Diego area. Businesses meeting these criteria were included in the database of companies potentially available for SANDAG work. (As discussed in Appendix D, firms had to also meet other criteria to be available for specific SANDAG prime contracts or subcontracts of certain types and sizes.)

- Firms identified through the Caltrans study do not encompass each of the procurement areas examined for Consortium agencies. For example, firms providing hydraulic equipment, fare collection equipment and security services are types of subindustries not researched in the Caltrans study. Therefore, a second part of the availability database for SANDAG was developed through interviews with Southern California firm owners and managers for procurement areas not examined in the Caltrans study. BBC identified firms doing business in these subindustries in Southern California from Dun & Bradstreet business listings and attempted to contact each of these firms to assess their availability for specific types and sizes of Consortium agency contracts and subcontracts. These telephone interviews were conducted in 2008 and early 2009.

- In addition, BBC attempted to identify and contact each firm in the transportation contracting industry in Southern California that Dun & Bradstreet identified as new since the telephone interviews for the Caltrans study.

Overview of the availability interviews. In both the Caltrans and Consortium telephone interviews, the study team obtained all business establishment listings under the eight-digit industry codes maintained by Dun & Bradstreet (D&B) that were most pertinent to the procurement areas in that study. BBC then worked with Customer Research International (CRI), which performs telephone interviews throughout the country, to conduct interviews with business owners and managers. The availability interviews asked business owners and managers for information including:

- Qualifications and interest in transportation contracting (or related goods and services) for local agencies;
- Qualifications and interest in work as a prime, a subcontractor or a supplier/trucker;
- Firm specialization;
- The largest contract or subcontract bid on or performed in the past five years;
- Geographic scope of service (e.g., Greater Los Angeles area, San Diego area);
- How long the firm has been in business;
- Race/ethnicity/gender of firm ownership;
- Number of employees in California; and
- Gross revenue.
Firms potentially available for SANDAG contracts or subcontracts are those that reported they (a) perform types of work relevant to Consortium agency contracts, (b) are qualified and interested in work as a prime contractor or subcontractor for local agencies, (c) have performed or bid on such contracts or subcontracts in the past, and (d) work in the San Diego area. Appendix D includes one of the survey instruments used for these interviews.

**Calculating dollar-weighted availability.** Only certain potentially available firms are counted as available for a particular SANDAG prime contract or subcontract depending on factors including type of work involved and contract size. This represents a “bottom-up” approach to determining availability, as explained below.

BBC examined more than 300 SANDAG contract elements, and the MBE/WBE availability associated with each element, to calculate overall availability. To be counted as available for an individual SANDAG contract or subcontract, firms must have reported that they perform the type, size and contract role related to the work on that contract element:

1. For each SANDAG contract element (prime contract, subcontract, supply portion, etc.), BBC determined the type of work, contract role and size of the work.

2. BBC then identified firms in the availability database that report they are qualified and interested in performing that role for the specific type of work for local governments, and have bid on or performed work of that size, and are available to work in the San Diego area and were in business in the year of the contract.

3. BBC counted the relative number of minority- and women-owned firms among all firms available for that specific type of work (e.g., three white woman-owned firms and one African American-owned firm, and 16 majority-owned firms out of 20 firms available to perform that contract element).

4. The study team then translated the numeric availability of firms for a contract element into percentage availability for the contract element (in the above example: WBEs are 3/20ths of available firms, or 15 percent relative availability; African American-owned firms represent 1/20ths of available firms, or 5 percent relative availability).

5. BBC weighted the relative availability for each prime contract and subcontract by the dollars of work corresponding to each contract element.

   > BBC multiplied percentage availability by the dollars associated with each SANDAG contract element;

   > Added the results across contract elements; and

   > Divided by total dollars for all SANDAG contract elements to produce a dollar-weighted estimate of overall availability.

The process summarized above was used for both the base figure analysis and to determine relative MBE/WBE availability for a particular set of contracts or subcontracts examined in the disparity analysis. Overall results are presented in the following pages.
Results of the Base Figure Analysis

BBC classified SANDAG FTA-funded contracts into one of six groups. As discussed below, only the first three groups were included in the calculations of the overall annual aspirational goal.

Components included in the base figure analysis. BBC included the following types of FTA-funded procurements in the base figure analysis:

- Construction, engineering, and other goods and services contracts that were examined in the utilization and availability analyses.
- Similar types of procurements that were not included in the utilization and availability analyses, but that should be incorporated into the goal.
- Types procurements made from national markets or are unique, with limited or no DBE availability (and not studied in the utilization and availability analyses).

Procurements examined in the utilization and availability analyses. Section II describes the types of procurements included in the analysis of MBE/WBE utilization and availability in this disparity study. BBC separately portrays the dollars and availability for construction, engineering and related services, and other goods and services in the first three rows of Figure III-1.

Data for each category include the following four columns of Figure III-1:


b. Dollars as a percentage of total contract dollars included in the goal calculation.

c. Percentage availability for potential DBEs, calculated as described previously in Section III.

d. “Component of the goal” calculated by multiplying the value in column (c) by column (b). This weights the availability for a category by the dollars in that category.

The values in column (d) are summed to calculate the base figure for the overall annual aspirational goal.

Types of procurements made locally that were similar to the procurements examined in the utilization and availability analyses. BBC did not specifically study each type of routine local procurement made with FTA funds. Some of these types of procurements were relatively small even after BBC totaled the dollars for 2003 through 2007. Other types of procurements were larger but related to general office expenses or other routine operations.

An agency receiving FTA funds would typically still include routine local procurements in its DBE participation reports to FTA. Therefore, BBC included these contract dollars when determining the overall annual aspirational DBE goal. Availability for these contracts was based on the weighted DBE availability for the construction, engineering and other goods and services that BBC researched in the utilization and availability analyses.
The value in column (c) in Figure III-1 for these types of contracts is the weighted average of DBE availability for the types of construction, engineering and other goods and services included in the first three rows of Figure III-1.

**Unique local procurements and types of procurements made from the national market.** The annual goal calculation also incorporates FTA-funded contracts that were specialized procurements made from national markets and unique types of procurements made from Southern California businesses. These procurements were unlike the construction, engineering/professional services and other goods and services procurements discussed above. Sometimes, only a single vendor offered the purchased goods or services. Such procurements were not included in BBC’s utilization and availability analyses. Examples include purchases of trade publications, pre-packaged software, computer equipment directly from manufacturers, travel and entertainment, and financial and insurance products. Payments for utilities and communications services are also included in this category of FTA-funded contracts.

Although availability was not studied for these types of procurements, they would typically have very low DBE availability.

For purposes of establishing an overall annual aspirational goal, contract dollars are counted in columns (a) and (b) in Figure III-1 and DBE availability is assumed to be 0 percent (column c of Figure III-1).

**Figure III-1.**
**Calculations of base figure for overall annual aspirational DBE goal**

<table>
<thead>
<tr>
<th></th>
<th>(a) FTA-funded contract dollars 2003-2007 (millions)</th>
<th>(b) Percent of dollars</th>
<th>(c) Availability (potential DBEs)</th>
<th>(d) Components of goal (b)*(c)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contracts considered in the annual goal</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction</td>
<td>$49.1</td>
<td>28.7 %</td>
<td>15.8 %</td>
<td>4.5 %</td>
</tr>
<tr>
<td>Engineering/professional services</td>
<td>88.2</td>
<td>51.6</td>
<td>17.7</td>
<td>9.1</td>
</tr>
<tr>
<td>Goods and services</td>
<td>1.6</td>
<td>0.9</td>
<td>10.0</td>
<td>0.1</td>
</tr>
<tr>
<td>Other similar to above contracts</td>
<td>24.4</td>
<td>14.3</td>
<td>16.9</td>
<td>2.4</td>
</tr>
<tr>
<td>Other not similar to above contracts*</td>
<td>7.6</td>
<td>4.4</td>
<td>16.9</td>
<td>0.0</td>
</tr>
<tr>
<td><strong>Total examined</strong></td>
<td>$170.9</td>
<td>100.0 %</td>
<td>16.2 %</td>
<td></td>
</tr>
<tr>
<td><strong>Contracts not considered in the annual goal</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Governments, associations and not-for-profit agencies</td>
<td>$0.8</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TVM or TVM-related</td>
<td>2.5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transit operations contracts</td>
<td>5.7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total FTA-funded contracts</strong></td>
<td></td>
<td></td>
<td></td>
<td>$179.9</td>
</tr>
</tbody>
</table>

Note: BBC Research & Consulting.
**Types of FTA-funded contracts not included in the base figure analysis.** Several types of FTA-funded contracts are not counted when calculating the base figure for the overall annual aspirational DBE goal.

**Contracts with governments, associations and not-for-profit agencies.** As government agencies, associations and not-for-profit agencies are neither DBE- nor non-DBE-owned, associated FTA-funded contracts are not included in the calculations concerning the overall annual aspirational goal.

**Contracts with businesses that participate in the USDOT Transit Vehicle Manufacturers Program.** Purchases of transit vehicles and other TVM-related purchases are not to be included in a transit agency’s DBE participation reports to FTA and should not be a part of the overall annual aspirational goal.

**Transit operations contracts.** SANDAG has not included FTA dollars for transit operations contracts in its recent submissions of overall annual aspirational goals. BBC followed this practice as well, although inclusion of operations contracts appears to be permissible and is done by some transit agencies.

**Base figure for annual aspirational DBE goal.** As shown in Figure III-1, BBC’s availability analysis indicates that minority- and women-owned firms currently or potentially certified as DBEs would receive 16.2 percent of prime contract and subcontract dollars for SANDAG’s FTA-funded transportation contracts if they had the same opportunities as similarly situated majority-owned firms.

**Future use of this information in setting an overall annual aspirational DBE goal.** SANDAG should consider 16.2 percent as the base figure for its overall annual aspirational goal for DBE participation if the distribution of FTA-funded contracts for the time period that the goal covers is expected to be similar to FTA-funded contracts from 2003 through 2007.

If future FTA-funded contracts are not expected to be distributed like FTA-funded contracts from 2003 through 2007, SANDAG could:

- Use the DBE availability information provided in Figure III-1, but apply different dollars weights to calculate the base figure (e.g., different weights in column (b) for construction work compared with engineering or goods and services); or

- Adjust the dollar weights and the availability percentages if the types of construction or any other type of work is expected to be substantially different than the construction contract types (or other types) included in 2003 through 2007. If so, SANDAG would make adjustments to both column (b) and column (c) of Figure III-1.

**Comparison of the 16.2 percent base figure with FFY 2008/2009 DBE goal.** The base figure presented in Figure III-1 is considerably higher than SANDAG’s 6 percent overall annual aspirational DBE goal for FFY 2008/2009, which SANDAG determined using a USDOT-approved methodology that is based on information about certified DBEs. Because BBC also used information about MBE/WBEs that potentially could be certified as DBEs in its base figure calculations, its resulting base figure is higher than SANDAG’s FFY 2008/2009 annual aspirational DBE goal.
When limited to currently-certified DBEs, BBC’s methodology produces a base figure of 9.4 percent, which is closer to SANDAG’s FFY 2008/2009 goal. Although determining the base figure using certified DBEs is an approved methodology, USDOT recommends using information that includes potentially-certified DBEs if such data can be developed (as further discussed later in Section III).

SANDAG can make upward or downward adjustments to the recommended base figure before determining its final overall annual aspirational goal for DBE participation. Section VI of the report presents information SANDAG might consider in choosing to make such an adjustment.

**MBE/WBE Availability as Inputs to the Disparity Analysis**

BBC also developed availability information for minority- and women-owned firms as an input to the disparity analysis. This broader availability analysis counts firms as MBEs (by race/ethnicity) and WBEs whether or not they are or could be certified as DBEs.

Figure III-2 reports dollar-weighted availability by MBE/WBE firms for SANDAG’s FTA-funded contracts for 2003-2007 (including related subcontracts). About 24 percent of combined prime and subcontract dollars on these contracts would be expected to go to MBE/WBEs. White women- and Hispanic American-owned firms account for much of this availability.

![Figure III-2. MBE/WBEs as a percentage of transportation construction and engineering industry firms available for SANDAG FTA-funded contracts 2003-2007, by race, ethnicity and gender](image)

<table>
<thead>
<tr>
<th>Race, ethnicity and gender</th>
<th>Percent of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>African American-owned</td>
<td>1.9%</td>
</tr>
<tr>
<td>Asian-Pacific American-owned</td>
<td>5.4</td>
</tr>
<tr>
<td>Subcontinent Asian American-owned</td>
<td>1.0</td>
</tr>
<tr>
<td>Hispanic American-owned</td>
<td>6.7</td>
</tr>
<tr>
<td>Native American-owned</td>
<td>0.5</td>
</tr>
<tr>
<td><strong>Total MBE</strong></td>
<td><strong>15.5%</strong></td>
</tr>
<tr>
<td>WBE (white women-owned)</td>
<td>8.1</td>
</tr>
<tr>
<td><strong>Total MBE/WBE</strong></td>
<td><strong>23.7%</strong></td>
</tr>
</tbody>
</table>

BBC separately determined dollar-weighted availability for each race/ethnic/gender group for each set of SANDAG contracts/subcontracts examined in the disparity analysis. A number of tables report MBE/WBE availability and disparity analysis results for SANDAG contracts and subcontracts in Appendix E. Overall MBE/WBE availability varied from less than 20 percent to more than 35 percent depending upon the types and sizes of work examined. In general:

- Dollar-weighted MBE/WBE availability is greater for small SANDAG prime contracts and subcontracts compared with large contract elements.
- MBE/WBE availability is greater for subcontracts than for SANDAG prime contracts.
The 24 percent availability for all MBE/WBEs for SANDAG’s FTA-funded contracts is higher than the 16.2 percent DBE availability BBC suggests as the base figure for SANDAG’s overall annual aspirational goal. BBC’s calculation of MBE/WBE availability counts as MBE/WBEs two groups of minority- and women-owned firms not included in the base figure: (a) businesses that have graduated from the Federal DBE Program, and (b) firms that are currently not DBE certified and are likely to be too large to meet certification requirements.

Further Discussion of Issues in an Availability Analysis

The balance of Section III further discusses:

1. BBC’s definitions of MBE/WBEs, DBEs and potential DBEs, where and why each definition was used, and BBC’s coding of minority women-owned firms;
2. Other approaches to availability analysis considered by the study team;
3. Relative strengths of the enhanced “custom census” availability approach; and

1. Definitions. BBC’s discussion of terms and definitions used in the availability analysis pertains to the difference between minority- and women-owned firms and certified DBEs, and how BBC coded firms owned by minority women.

MBE/WBEs, DBEs and potential DBEs. BBC’s availability analysis includes the following definitions:

- “Minority- and women-owned firms” (MBE/WBEs) are firms that are owned and controlled by minorities or women, whether or not they are certified as disadvantaged business enterprises or as MBE/WBEs. BBC follows the definitions of specific minority groups contained in 49 CRF Part 26. Most minority- and women-owned firms doing business in Southern California are not currently certified. The disparity analysis examines MBEs (by race/ethnicity) and WBEs, as explained further below.

- Businesses that are certified as disadvantaged business enterprises (“DBEs”) are referred to as such (which means that they are certified as being below revenue and personal net worth limits included in 49 CFR Part 26). Because implementation of the Federal DBE Program requires tracking of DBE utilization, BBC reports certain utilization data based on DBE status of the firm.

- Minority- and women-owned firms that are certified or appear that they potentially could be certified as DBEs are referred to as potential DBEs for purposes of establishing a base figure for the overall annual aspirational DBE goal. Figure III-3 provides additional information on the firms included as potential DBEs.

2 Of the 934 MBE/WBE firms included in the availability database, 237, or about 25 percent, were certified as DBEs as of spring 2009.
Analysis of MBE/WBEs, and not just currently-certified DBEs, when examining the base figure for the overall annual aspirational DBE goal. SANDAG must set an overall annual aspirational goal for DBE utilization, but many firms that could be certified as DBEs are not currently certified. Consistent with court-reviewed availability analysis in states such as Illinois and Minnesota, BBC analyzes the base figure for the overall DBE goal based primarily on relative availability of minority- and women-owned firms that are potential DBEs, not just those that are currently certified.

Although USDOT allows local agencies to develop overall annual aspirational goals for DBE participation by counting the number of available firms in DBE directories and dividing by total firms available in the local marketplace, its “Tips for Goal-Setting in the Disadvantaged Business Enterprise Program” identifies the concern that a DBE directory may undercount potential DBEs in a local market area. USDOT recommends that local agencies consider going beyond the directory of certified DBEs to include minority- and women-owned firms that may be available for agency contracting. Tips for Goal-Setting states that firms potentially certified as DBEs be included in the base figure analysis (see Section II of Tips for Goal-Setting). BBC’s approach to setting the base figure is also consistent with methods approved in Sherbrooke Turf and in Northern Contracting, which favorably refers to and cites Tips for Goal-Setting. (See Appendix A of this report for a discussion of these and other cases.)

When considering minority- and women-owned firms that are not currently DBE certified in the base figure for the overall annual aspirational goal, BBC excludes firms that have graduated from the DBE Program or otherwise been denied DBE certification. BBC also excludes MBEs and WBEs with revenue that would place them near the revenue ceiling for DBE certification. These steps are consistent with USDOT’s instructions in Part G of Tips for Goals Setting.

Disparity analysis for MBE/WBEs, not DBEs. Analysis of utilization and availability of minority- and women-owned firms (by race/ethnicity/gender) allows one to analyze whether or not there are disparities affecting minority- and women-owned firms. In other words, the possibility that race or gender discrimination affects utilization of firms is analyzed by comparing outcomes for firms based on the race/ethnicity/gender of their ownership, not certification status. Firms may be discriminated against because of the race or gender of the business owner regardless of whether that owner has applied for DBE certification.

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4 Sherbrooke Turf, Inc. v. Minnesota DOT, and Gros Seed Company v. Nebraska Department of Road, 345 F.3d 964 (8th Cir. 2003), cert. denied, 541 U.S. 1041 (2004)

5 Northern Contracting, Inc. v. Illinois, 473 F.3d 715 (7th Cir. 2007) at 723.
Furthermore, analysis of whether or not firms face disadvantages based on the race/ethnicity/gender of the firm owner counts the most successful, highest-revenue minority- and women-owned firms in the statistics for all minority- and women-owned firms. A disparity analysis focusing on DBEs would improperly compare outcomes for certified DBEs (by definition, “economically disadvantaged” minority- and women-owned firms) with all other firms (combining majority-owned firms with very successful firms owned by minorities and women). One might find disparities for any group of firms for which membership is limited to low-revenue firms.\(^6\)

Finally, 49 CFR Part 26 allows certification of white male-owned firms as DBEs. Disparity analysis based on DBEs is not purely an analysis of disparities by race/ethnicity and gender.

**Coding of minority women-owned firms.** In the Consortium disparity studies, BBC combines firms owned by minority women and firms owned by minority men into “minority-owned firms.” “WBEs” are firms owned by white women. BBC’s rationale is discussed in Figure III-4.

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**Figure III-4. Coding of firms owned by minority women**

Firms owned by minority women present a challenge in coding for purposes of both the availability analysis and the utilization analysis. BBC considered four options for coding and analysis of firms owned by minority women:

a. coding these firms as both minority- and women-owned;

b. creating a unique group of minority female-owned firms;

c. grouping minority female-owned firms with all women-owned firms; and

d. grouping minority female-owned firms with the relevant race/ethnic group.

BBC chose not to code the firms as both women-owned and minority-owned to avoid potential double-counting when reporting total MBE/WBE utilization and availability. Dividing each race/ethnic group into firms owned by men versus women (e.g., African American male-owned firms, African American female-owned firms, etc.) was also unworkable for purposes of the disparity analysis because some minority groups had utilization and availability so low even when combining men and women that further disaggregation made it more difficult to interpret results.

After rejecting the first two options, BBC then considered whether to group minority female-owned firms with the relevant minority group or with all women-owned firms. BBC chose the former — to group African American women-owned firms with all African American-owned firms, etc. “WBE” in this report refers to white women-owned firms. Evidence of discrimination against white women-owned firms should be considered evidence of discrimination against women of any race or gender. This definition of WBEs also gives Consortium agencies information to answer questions that often arise pertaining to utilization of white women-owned firms such as whether a disproportionate share of work goes to firms owned by white women.

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\(^6\) An analogous situation concerns analysis of possible wage discrimination. A disparity analysis that would compare wages of minority employees to wages of all employees should include both low- and high-wage minorities in the statistics for minority employees. If the analysis removed high-wage minorities from the statistics for minorities, any comparison of wages between minorities and non-minorities would likely show disparities in wage levels.
2. Other approaches to availability that the study team considered. BBC explored other approaches to developing a database of firms available for SANDAG contracts before deciding to use information collected through interviews of local businesses. For example, SANDAG collects information on potential bidders, but these data do not provide all of the information BBC uses to analyze firm characteristics in the availability analysis.

3. Strengths of BBC’s enhanced “custom census” approach. Some of the relative strengths of a custom census approach as used in the Consortium disparity studies are summarized in Figure III-5. How BBC examined specific factors in determining whether or not a firm was available for a specific contract element is further discussed below.

Specialization of work. The USDOT suggests considering the availability of firms based on their ability to perform specific types of work. The example USDOT gives in Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program is as follows: If 90 percent of an agency’s contracting dollars is spent on heavy construction and 10 percent on trucking, the agency would calculate the percentage of heavy construction firms that are MBEs or WBEs and the percentage of trucking firms that are MBEs or WBEs, and weight the first figure by 90 percent and the second figure by 10 percent when calculating overall MBE/WBE availability.\(^7\) BBC examines more than 30 different areas of specialization (“procurement areas” or “subindustries”) in the Consortium disparity studies.

Qualifications and interest in prime contractor and subcontractor work. Although not a requirement in the Federal DBE Program (and not done by the Illinois Department of Transportation in the information reviewed by the Seventh Circuit in Northern Contracting), BBC collected information on whether firms reported qualifications and interest in working as a prime contractor and as a subcontractor. In BBC’s availability analysis, only firms qualified and interested in prime contracts are counted as available for prime contracts. Firms reporting qualifications and interest in subcontracts are counted as available for these contract components. Some firms reported qualifications and interest in both contract roles, and are counted as available for either role.

Size of contract or subcontract element. In counting available firms, BBC also considered whether a firm had previously worked or bid on a project of equivalent size (in dollars) to the specified contract or subcontract element. BBC’s approach is consistent with guidance from the U.S. Court of Appeals for the Federal Circuit regarding capacity of firms to perform different sizes of contracts (see Rothe Development Corp. v. Department of Defense).\(^8\)

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\(^8\) Rothe Development Corp. v. U.S. Department of Defense, 545 F.3d 1023 (Fed. Cir. 2008).
**Contract date.** To be counted as available for a contract element, a firm must have been in business during or prior to the year in which the contract began. When interviewees could not recall or did not report an establishment date, and other data on firm establishment date were not available, the firm was counted as having been established prior to the 2003-2007 study period.

**4. Integration of Caltrans and Consortium telephone interviews.** In both the Caltrans and Consortium availability analyses, BBC obtained all D&B listings for business establishments identified under the eight-digit industry codes maintained by D&B that the study team determined to be most pertinent to the procurement areas included in the disparity analysis.

In the Caltrans study, subindustries pertained to the types of FHWA- and state-funded transportation construction and engineering contracts awarded by Caltrans or local agencies using FHWA or state funds.

- Some of the procurement areas selected for Consortium agencies are the same procurement areas included in the Caltrans study. Therefore, BBC included a subset of firms interviewed in the Caltrans study as available for certain types of SANDAG work. Only firms with locations in Southern California that performed work in the San Diego area, reported that they had performed or bid on work for local governments (and were interested in future local government work), and met other detailed criteria were included in the pool of firms considered potentially available for SANDAG and other Consortium agency contracts.

- For the subindustries included in the Caltrans analysis, BBC identified newly-established businesses in Southern California since the time of the Caltrans study. These new establishments include firms located outside Southern California that opened offices in Southern California since the time of BBC’s availability analysis for Caltrans.

A number of procurement areas examined in the Consortium disparity studies were not included in the Caltrans study. For these procurement areas:

- BBC identified the eight-digit subindustry codes most pertinent to Consortium agency FTA-funded contracts and subcontracts.

- BBC obtained a list of firms from D&B that had locations in Southern California.

The study team conducted these telephone interviews in late 2008 and early 2009.\(^9\)

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\(^9\) BBC also sent interview forms via fax and e-mail to firms that had requested either type of communication.