

**RATIONALE AND METHODOLOGY FOR AN OVERALL
PROJECT-SPECIFIC
GOAL FOR DBE PARTICIPATION IN THE
METROPOLITAN WASHINGTON AIRPORTS AUTHORITY
DULLES CORRIDOR METRORAIL - PROJECT PHASE 2**

AUGUST 2012
(Revised August 20, 2013)

**RATIONALE AND METHODOLOGY FOR AN OVERALL PROJECT-SPECIFIC
DISADVANTAGED BUSINESS ENTERPRISE GOAL (“DBE”) FOR THE
METROPOLITAN WASHINGTON AIRPORTS AUTHORITY (“MWAA”)
DULLES CORRIDOR METRORAIL PROJECT – PHASE 2**

1. MWAA’S PROJECT SPECIFIC GOAL FOR DBE PARTICIPATION

The Metropolitan Washington Airports Authority (“MWAA”), in accordance with regulations promulgated by the United States Department of Transportation (“USDOT”) at 49 CFR Part 26, has established a 25 percent Project-Specific Overall Disadvantaged Business Enterprises (“DBE”) Goal for Phase 2 of the Dulles Corridor Metrorail Project (the “Project” or “DCMP”). The Phase 2 project specific goal will consist of 20 percent race-conscious measures and 5 percent race-neutral measures and shall cover the duration of Phase 2 of the Project.

MWAA proposes to award 25 percent of the value of federally assisted contracts to DBE firms and other small businesses during Phase 2 of the Project, exclusive of Federal Transit Administration (“FTA”) funds to be used for the purchase of transit vehicles and the value of the parking garages to be designed, constructed and accounted for by Fairfax and Loudoun Counties. The total value of Phase 2 of the Project is projected to be \$2.9 billion and the value of federally assisted contracts subject to the Project-Specific DBE Goal is projected to be approximately \$922.67 million. By adopting the Project-Specific DBE Goal of 25%, MWAA expects that DBEs and other small businesses will be awarded contracts and subcontracts valued in excess of \$230.66 million.

The projected value of federally assisted contracts to be let by MWAA for the Dulles Corridor Metrorail Project reflects best efforts to date to identify the level of federal assistance and DBE participation, and may be subject adjustments. MWAA will continue to use best efforts to determine the anticipated value of federal assistance and, if required, may modify the Project-Specific DBE Goal methodology and rationale to reflect any changes to this data.

2. PROJECT OVERVIEW

The Metropolitan Washington Airports Authority (“MWAA”), in cooperation the Virginia Department of Rail and Public Transportation (“VDRPT”), Washington Metropolitan Area Transit Authority (“WMATA”) and the Virginia counties of Fairfax and Loudoun, will construct a 23.1-mile extension of WMATA's 106-mile Metrorail system. The Project will span from Fairfax County, Virginia, to Dulles International Airport, and beyond the airport to Route 772 in eastern Loudoun County, Virginia. It will connect the major activity centers of the Dulles Corridor (including Tysons Corner, Reston and the Dulles International Airport) to the downtown Washington, D.C., core of the Metrorail system.

The Project will provide high-quality, high-capacity transit service in the Dulles Corridor and help address the limitations of the existing roadway network and transportation system in the corridor, and between the corridor and downtown Washington, D.C. The Project transportation and mobility benefits include travel time savings between the corridor and the region's core and suburban activity centers; improved mobility for transit-dependent riders and reverse commuters; support for air quality and energy conservation goals; future transit-oriented development and job growth; and an improved overall quality of life through less stress and pollution.

2.1 Project Funding and Major Components (Phase 2)

The preliminary cost estimate for Phase 2 is \$2.9 billion, with approximately 33% expected to be derived from Federal Transit Administration (“FTA”) and other federal grant funding sources.

TABLE I

Summary of Work	Estimate Federal Value (millions)	Federal Share % of Total Value
Guideway and Track Elements	\$215.25	23.33%
Stations	\$110.99	12.03%
Support Facilities: Yard and Shops	\$90.81	9.84%
Sitework and Utilities	\$93.05	10.08%
Train Systems	\$113.23	12.27%
Right-of-Way and Property Acquisition	\$14.20	1.54%
Design and Engineering Services	\$235.06	25.48%
Contingency	\$50.08	5.43%
Baseline Project Cost Estimate	\$922.67	100%

The Project includes eleven new stations: four in Tysons Corner, four in Fairfax County, and one at Dulles International Airport and two in Loudoun County. It also includes procurement of 128 new railcars; the addition and/or expansion of parking garages along the alignment; expansion of the existing West Falls Church maintenance yard and construction of a new maintenance yard at Dulles International Airport; traction power substations, tie-breaker stations and a communications system; crossovers; Kiss & Ride facilities, entrance pavilions and pedestrian bridges; real estate acquisition, utility relocation and environmental mitigation efforts; and startup and testing for revenue service.

The Project will be constructed in two Phases: Phase 1 diverges from the existing Metrorail Orange line near the current West Falls Church station to Wiehle Avenue in Reston, Virginia, and Phase 2 – which encompasses the subject proposed Project-Specific DBE Goal – continues from Wiehle Avenue to Route 772 in eastern Loudoun County. The Design-Build Package will include the Rail Line, Stations, and Systems elements for all of Phase 2 (approximately 11.4 miles). The work to be performed includes, but is not limited to:

- Rail tracks at-grade and supporting infrastructure in the Dulles International Airport Access Highway (“DIAAH”) and Dulles Toll Road (“DTR”) rights-of-way; roadway improvements and bridge structures; relocation of existing utilities; and installation of new utilities, storm water management facilities, traction power substations, tie breaker stations, communications equipment and train control equipment.
- Rail tracks on elevated (aerial) structures and supporting infrastructure within the boundaries of Dulles International Airport, including tracks for regular revenue service and tracks for access to the service and inspection yard; roadway improvements and bridge structures; relocation of existing utilities; and installation of new utilities, storm

water management facilities, traction power substations, tie breaker stations, communications equipment and train control equipment.

- Five new at-grade stations at Reston Parkway, Herndon-Monroe, Route 28, Route 606 and Route 772 in the median of the DIAAH and the Dulles Greenway. Each station will include pedestrian bridges crossing the DIAAH/DTR and entry pavilions, access roadways, surface parking and bus facilities adjacent to a new right-of-way along to the DTR.
- One new elevated (aerial) station in the vicinity of the North Daily Parking Garage at Dulles International Airport, with direct connection to the existing pedestrian tunnel that provides access to the Main Terminal.

WMATA will be responsible for the operation and maintenance of the Project upon completion of each of the two construction phases and WMATA's acceptance of each phase into the Metrorail System. The Project will function as a new and separate Metrorail line, the Silver Line, operating between the Route 772 station and the Stadium-Armory station in Washington, DC, and will provide additional service for users of the Metrorail Orange and Blue Lines.

3. METHODOLOGY FOR THE PROJECT SPECIFIC OVERALL DBE GOAL

The purpose of the DBE Program is to create a "level-playing field" by encouraging participation in federally-assisted contracts by majority-owned businesses operated on a daily basis by socially and economically disadvantaged individuals. Women and minorities are presumed to be socially and economically disadvantaged individuals, although this presumption may be rebutted. A principal goal of the regulations is to generate increased opportunities for DBEs, and potential DBEs, to participate in federally-assisted projects while using narrowly tailored means that do not unduly burden non-DBEs.

In order to achieve that goal, MWAA was required to establish goals for DBE participation that accurately reflect the level of DBE participation that could be expected assuming a level playing field. Consistent with the requirements of 49 CFR Part 26, recipients of federal assistance may establish a Project-Specific goal for DBE participation that covers the entire length of the project to which it applies. The Project-Specific goal should include a projection of the DBE participation anticipated during each fiscal year covered by the project goal. The regulations require recipients, when establishing a project goal, to segregate from the base amount of the recipients' regular overall goal amount/calculation funds for the specific project to which the DBE project goal pertains. This expected level of DBE participation is to be determined using a two-step process: Step 1 calculates the Base Figure and Step 2 adjust the Base Figure as appropriate.

3.1 MWAA's Local Market Area

MWAA defines its local market as the area where the substantial majority of its contractors and subcontractors are located and MWAA spends the substantial majority of its contracting dollars. Before establishing the overall goal, it was critical that MWAA understands/identifies its dominant marketplace, and the availability and capacity of the DBE and non-DBE firms in the marketplace. MWAA defines its local market area as the Metropolitan and Metropolitan Statistical Areas of the District of Columbia, Virginia, West Virginia and Maryland.

In furtherance of its objectives to include minority, female, small and local businesses in its contracting opportunities, the MWAA Equal Opportunity Program (EOP) Department conducts business outreach, certification and contract compliance activities. In the outreach area, EOP is responsible for coordinating MWAA's promotional activities to create greater awareness of MWAA's disadvantaged and small business programs and associated MWAA opportunities. During 2011, EOP staff hosted three events attended by more than 900 participants and participated in 21 external outreach events attended by over 11,000 participants. 'Additionally, EOP's staff maintains relationships with a variety of business-oriented organizations: the DC Chamber of Commerce, Virginia Minority Supplier Development Council, MD/DC Minority Supplier Development Council, DC Chapter of the National Association of Minority Contractors, DC Department of Small and Local Business Development, the DC Department of Employment Services, the DC Metropolitan Subcontractors Association and the DC Building Industry Association.

The consultative process is on-going and provides key information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and MWAA's efforts to establish a level playing field for the participation of DBEs. Additionally, MWAA obtained market knowledge from actual DBE participation obtained, to date, during Phase 1, its pre-bid conferences for various projects, special outreach events for major construction and design projects, actual DBE and non-DBE participation in MWAA procurements and MWAA's Annual Business Opportunity Seminar.

3.2 Establishing the Base Figure (Step 1)

MWAA had to determine the current percentage of businesses in its local market that are DBEs, including firms owned by minority group members and women, and ready, willing and able to bid on federally-assisted contracts involving work in the applicable NAICS codes. To ascertain the numbers, MWAA gathered data from a variety of sources suggested by the regulations. They included the Commonwealth of Virginia UCP DBE Certification Directory (which includes firms certified by MWAA, and the Virginia Department of Minority Business Enterprise), the District of Columbia UCP Directory and the State of Maryland UCP DBE Certification Directory. This analysis identified a total of 3,907 DBEs ready, willing, and able to perform work in the applicable NAICS codes. See the results in the Table II.¹

In order to ascertain the total number of firms ready, willing, and able to perform work in each NAICS code in which MWAA expects to let/solicit third-party contracting during the Project, MWAA reviewed data from a number of additional sources. They included MWAA's current procurement database; firms registered with MWAA, firms identified through various outreach initiatives; and firms that have expressed an interest in doing business with the MWAA as well as firms that have done or currently doing business with MWAA directly and at lower tiers. These data may understate the number of firms truly available to perform work within MWAA's local marketplace and may overstate the capacity of firms identified therein. However, MWAA believes it's more appropriate to use census data to determine the overall number of firms ready, willing and able to perform work in the applicable NAICS codes that MWAA proposes to let work in

¹ Note that Airport concessionaires and DBEs that perform solely airport-related functions were excluded from the Base Figure calculation because those firms are not likely to be ready, willing or able to perform work within disciplines needed for Phase 2 of the Project. Some firms have multiple six digit NAICS codes.

during the Project. This analysis identified a total of 45,465 firms ready, willing, and able to perform work in the applicable NAICS codes. That number is broken out further by NAICS codes listed below.

TABLE II

NAICS Codes*	Project Tasks	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability	
237	GUIDEWAY AND TRACK ELEMENTS	383	1122	0.3414	
237	STATIONS	383	1122	0.3414	
237	SUPPORT FACILITIES	383	1122	0.3414	
238	SPECIALITY TRADE CONTRACTORS	900	9563	0.0941	
221	TRAIN SYSTEMS	12	123	0.0976	
237	R-O-W AND PROPERTY ACQUISITION	383	1122	0.3414	
541	DESIGN AND ENGINEERING SERVICES	1080	30169	0.0358	
237	CONTINGENCY	383	1122	0.3414	
Combined Totals		3907	45465	0.0859	<i>Overall availability of DBEs</i>

*See Appendix 4 for six digit breakdown of NAICS Codes

To determine the percentage of DBEs available to perform work in each NAICS code, MWAA divided the number of DBEs available to perform work within each NAICS code by the total number of firms available to perform work within a particular NAICS code. However, because the overall goal for utilization of DBEs must reflect a composite of all DBEs performing work in the NAICS codes in which MWAA expects to let contracts and because the amount of work let varies by NAICS code, MWAA calculated the percentage of DBEs available to perform work in each NAICS code by the proportion of work to be let in each NAICS code.

The Base Figure or total percentage of DBEs ready, willing, and able to perform work on the Dulles Corridor Metrorail Project – 20.9% – was calculated by adding together these weighted percentages of DBE availability by NAICS code. The formula used to arrive at the 20.9 % Base Figure for DBEs is set forth in Table III.

TABLE III

Weighted Base Figure

(Weight) x (Availability) = Weighted Base Figure

	NAICS Code	Project Tasks	Weight	x	Availability	Weighted Base Figure
	237	GUIDEWAY AND TRACK ELEMENTS	0.2333	x	0.3414	0.0796
	237	STATIONS AND PARKING	0.1203	x	0.3414	0.0411
	237	SUPPORT FACILITIES	0.0984	x	0.3414	0.0336
	238	SPECIALITY TRADE CONTRACTORS	0.1009	x	0.0941	0.0095
	221	TRAIN SYSTEMS	0.1227	x	0.0976	0.0120
	237	R-O-W AND PROPERTY ACQUISITION	0.0154	x	0.3414	0.0053
	541	DESIGN AND ENGINEERING SERVICES	0.2548	x	0.0358	0.0091
	237	CONTINGENCY	0.0543	x	0.3414	0.0185
Total						0.2087
Expressed as a % (*100)						20.87%
Rounded, Weighted Base Figure:						20.9%

3.3 Considerations for Adjustments to the Base Figure (Step2)

The Base Figure itself is merely an approximation of the availability of DBEs and potential DBEs based on sources of relatively general statistical information. In Step Two, MWAA must consider “all the evidence available” to determine what additional adjustments, if any are needed to narrowly tailor the base figure calculated in Step One. Federal regulations require that MWAA adjust the Base Figure to reflect the actual availability of DBEs ready, willing, and able to perform work in a particular geographic location on the types of contracts which are actually expected to be let. Although the regulations do not prescribe a particular method for adjusting the base figure, guidance allows for the consideration to include historical data. To determine if an adjustment was appropriate, MWAA considered information from the following sources:

- Historical data on past participation on Phase 1 of the Dulles Metrorail Project;
- DBE goals and achievements of similarly-situated agencies in the local area (i.e. WMATA);
- The accuracy of the statistical information about the availability of DBEs;
- MWAA's Master Bidders List;
- Competing projects that could negatively affect DBE participation; and,
- Public Agency and Local Area SWAM resource lists.

MWAA reviewed DBE participation on the DCMP Phase 1 Project. To date Phase 1 cumulative DBE participation has been \$238,708,487 or 28.77 percent, compared to the 13.24 percent established DBE goal. The DCMP Phase 1 DBE participation includes all tiers of DBE subcontractor participation in construction, program management, engineering, inspections and material supply. MWAA's review of DBE goals set by similarly-situated transportation agencies in the local area found that, during CY 2011, the District of Columbia DOT's goal was 22%, Maryland DOT's was 25%, WMATA's was 25%, and Virginia DOT's was 9.51%.

MWAA reviewed various internal databases and publicly available local area Small, Women-owned and Minority ("SWAM") databases to ascertain additional potential DBE availability. Specifically, MWAA considered data from the following sources:

- The Virginia Department of Transportation Pre-Qualification List;
- The Virginia Small, Women-owned and Minority ("SWAM") directory;
- The MWAA Equal Opportunity Program Vendor Outreach list;
- The MWAA Owner Controlled Insurance Program ("OCIP") list of approved vendors; and
- The list of Dulles Transit Partners approved construction, supplier and service vendors.

Data from the aforementioned resources were reviewed to compare and contrast data gathered during the Step 1 process. We learned that the Virginia Department of Transportation's Pre-Qualification List contains 848 pre-qualified vendors in a variety of construction and construction-related industries. The pre-qualification list references firms as a DBE, non-DBE or small businesses. The Virginia Small, Women-owned and Minority ("SWAM") Directory contains approximately 8,800 firms, of which more than 4,400 are listed as small businesses or not being owned and controlled by minority group members. This information provided additional insight and was considered in developing the Project's race and gender neutral Business Development Program ("BDP").

MWAA's Equal Opportunity Program Vendor Outreach list reflects efforts undertaken during calendar year 2011 by EOP staff. Specifically, EOP hosted three events attended by more than 900 participants, and participated in 21 external outreach events attended by over 11,000 participants. MWAA's Owner Controlled Insurance Program ("OCIP") list of approved or registered vendors reflects firms that have performed work on various MWAA projects, and the list of Dulles Transit Partners approved construction and service vendors, provided additional insight into the number of DBEs currently participating in the Project as well as the services and/or types of work they are performing. Each of the resources cited were extremely helpful in determining if the adjusted base figure was reasonable and in keeping with the local marketplace.

MWAA also considered the following factors that may support adjustment of the Step 1 goal:

- The Project size and prevailing capacity of DBE firms;
- The extant level of demand for design and construction services, relative to other projects in the Metropolitan Washington area which might compete for DBE participation; and
- Findings from relevant disparity studies.

A. The Project size and prevailing capacity of DBE firms

Measuring the capacity of DBE firms requires information about annual gross receipts and work in progress; bonding capacity, financial status and net assets; and the number/quality of employees, etc. These details were not available for the firms in the various UCP Directories reviewed by MWAA. Instead, MWAA has chosen to generate an estimated value for the capacity of DMWBE firms from U.S. Census data for the states of Virginia, Maryland and DC. Table IV highlights the total sales and receipts of all firms with paid employees in the aforementioned states, whose owners are reported to be minorities or females, and who operate businesses in the NAICS Code of 237. NAICS Code 237 represents all Heavy Civil Engineering and Construction firms. This data is taken from the 2007 Survey of Business Owners, prepared by the U.S. Census Bureau.

TABLE IV

² MWBE-owned Firms in DC, MD & VA in NAICS Code 237	Firms w/ Employees	Sales & receipts (firms w/ employees)	Annual Payroll (firms w/ employees)	Avg. Sales & Receipts Per Firm (\$1,000's)
	(number)	(\$1,000's)	(\$1,000's)	
Minority Owned				
District of Columbia	2	D	D	n/a per D
Maryland	53	\$ 80,169	\$ 22,587	\$ 426.17
Virginia	106	\$ 179,097	\$ 42,178	\$ 397.91
TOTALS	161	\$ 259,266	\$ 64,765	\$ 412.04
Women-Owned				
District of Columbia ³	S	S	S	
Maryland	135	\$ 328,267	\$ 71,017	\$ 526.05
Virginia	187	\$ 489,441	\$ 99,750	\$ 533.42
TOTALS	322	\$ 817,708	\$ 170,767	\$ 529.74

² 2007 Survey of Business Owners (SBO) - firms operating during 2007 with receipts of \$1,000 or more which are classified in the North American Industry Classification System (NAICS) sectors 237 Heavy Civil, Engineering and Construction firms

³

S Withheld because estimate did not meet publication standards

D Withheld to avoid disclosing data for individual companies; data are included in higher level totals

The use of “Average” sales and receipts produces a very generic reflection of the capacity of M/WBEs in the DC-MD-VA region as a representative sample of DBEs certified through MWAA. Nevertheless, this data does provide a cursory picture of the capacity of those firms. This analysis suggests that the average annual capacity of individual DBE firms in Heavy Civil Engineering and Construction ranges from \$397K to \$533K.

B. The extant level of demand for design and construction services, relative to other projects in the Metropolitan Washington area that might compete for DBE participation

In determining whether the recommended Step 1 goal will be a reasonable, practical and obtainable for DCMP Phase 2, MWAA also considered the dynamics of the local construction market that will be competing for many of the same DBE firms. Table V lists eight (8) large potentially competing projects, which may affect the availability and capacity of the needed DBE trades that may participate in WMAA’s DCMP Phase 2.

TABLE V
Washington Metropolitan Area Competing Projects

Project	Status
MWAA CCP (Aviation Projects)	Substantially Complete
MWAA DCMP Phase 1	On-going
National Harbor Project	Completed
Inter-County Connector Project	Close-out Phase
DC Public Schools CIP	On-going
Washington Suburban Sanitary Commission CIP	On-going
WMATA	On-going
VDOT (NOVA Mega Projects & BRAC)	Active

The estimated value of these projects is more than \$11 billion. At first blush, it appears that there will be substantial competition for DBE participation from these other projects, and that this may create obstacles to achieving the Step 1 goal. However, MWAA recognizes that these projects are in various stages/phases of completion and likely will result in increased availability of DBEs for this Project. Furthermore, the existence of numerous large projects has spurred an increase in the creation of new/emerging certified DBEs. In fact, the number of certified DBE firms has more than doubled in each of the three UCP DBE Directories since 2007, while the relative availability of all firms has remained consistent or not experienced the same level of growth since 2007.

C. Findings from Relevant Disparity Studies

FTA regulations recommend that agencies make reference to relevant findings from disparity studies when possible. Pursuant to this recommendation, MWAA reviewed the data presented in a regionally-based study entitled, *The State of MBE and WBE Evidence from Maryland DOT Disparity Study* (Final Report), by NERA Economic Consulting, *February 17, 2011*.

The State of Maryland conducted a study of M/WBE availability and utilization in state procurement and the private business sector for a five year period, 2005 to 2009. The state's relevant geographic market was determined to consist of the State of Maryland, the State of Delaware, and the Washington, D.C. Metropolitan Statistical Areas (including the District of Columbia, the State of Maryland, and parts of northern Virginia and West Virginia).

The Study found both statistical and anecdotal evidence of business discrimination against MBEs in the private sector of Maryland marketplace. A random sample of firms in Maryland's geographic market area demonstrated that prime contractors who used MBEs on public sector contracts with goals rarely hired, or even solicited, such firms on projects without goals, either public or private.

The study concluded that Maryland had a firm basis to implement both a race- and gender-based program. This record establishes that minorities and women in the Maryland marketplace continue to experience statistically significant disparities in their access to private sector contracts and to those factors necessary for business success, leading to the inference that discrimination may be the cause of those disparities. The study provides the statistical and anecdotal evidence to answer affirmatively the question whether there is strong qualitative evidence that establishes Maryland's compelling interest in remedying race and gender discrimination.

D. Adjustments to the Base Figure

To determine the reasonableness of its projected DBE participation goal, MWAA reviewed the type of projected federally-assisted contracts expected to be let during the Project term and the Base Figure of 20.9% established during the Step 1 process.

Although the regulations do not prescribe a particular method for adjusting the base figure, the regulation's guidance allows MWAA to utilize past (historical) participation as a basis for adjusting the Step 1 goal. In making apples-to-apples comparison MWAA is able to utilize the average of the Phase 2 Step 1 goal (20.9%), and the Phase 1 past DBE participation (28.77%), to adjust the Step 1 goal, as both numbers represent overall DBE project specific numbers.

Step 2 Adjustment

Phase 2 - Step 1 Calculation (Base Figure)	=	20.90%
Phase 1 - Historical DBE Participation	=	<u>28.77%</u>
Total		49.67% /2 = 24.84%

MWAA's review of DBE goals set by similarly-situated transportation agencies in the local area found that, the DBE goals established by the District of Columbia DOT (22%), Maryland DOT (25%), WMATA (25%), and Virginia DOT (9.51%), reflect similar findings as MWAA.

Additionally, MWAA considered the prevailing capacity of DBE firms; the extant level of demand for design and construction services relative to other projects in the Metropolitan Washington area which might compete for DBE participation; and the increased capacity of heavy highway construction-related DBE firms from their involvement in projects listed in Table V.

Based on all the above mentioned considerations MWAA concluded that the Step One goal should be adjusted to 25 percent to reflect a more tailored goal for the Project.

3.4 Estimated Race-Neutral and Race-Conscious Participation

MWAA recognizes that it must meet the maximum feasible portion of its overall Project goal by using race-neutral means of facilitating DBE participation. Therefore, MWAA believes that the most relevant determination of potential race-neutral participation for Phase 2 would be derived from examining current DBE participation on Phase 1 of the Project.

MWAA has reviewed DBE participation on Phase 1 of the Project and found that to date Phase 1 cumulative DBE participation has been \$238,708,487 or 28.77 percent, compared to the 13.24 percent established DBE goal. The DCMP Phase 1 DBE participation includes all tiers of DBE subcontractor participation in construction, program management, engineering, inspections and material supply.

While the Phase 1, 28.77 percent DBE participation looks impressive and suggest that MWAA significantly exceeded the established 13.24 percent overall project goal, the following must be considered when examining this level of achievement:

1. MWAA's 13.24 percent overall project goal was considered low (as compared to comparable agencies WMATA, MDOT, DDOT) because of the unusual circumstances under which MWAA entered into the management and control of the DCMP in 2008. Before MWAA took control of the Project, contracts had been negotiated that required some downward adjustment to the overall goal in recognition that the Project contracts would not be renegotiated.
2. In May 2011 when FTA expressed concern and advised MWAA to discontinue the use of race conscious measures because MWAA had met/exceeded the goal DBE commitments were approaching \$200 million or about 24 percent DBE participation (based on race conscious measures). Therefore, the difference between 13.24 percent and 24 percent cannot be viewed as race neutral participation.
3. To date DBE participation has reached more than \$238 million or approximately 28.8 percent participation.

Based on the above points MWAA believes that the best estimate of race neutral participation is the difference between the 24 percent participation achieved during the use of race conscious measures and the current 28.8 percent participation achieved to date (or about 5 percent race neutral participation).

Due to the nature, size and complexity of anticipated contracts and subcontracts, MWAA projects that 5 percent DBE participation can be achieved through race-neutral means. While the 5 percent figure may appear low, we believe it reflects a more accurate calculation of projected race-neutral DBE participation.

MWAA will continue to exert best efforts to achieve meaningful race-neutral participation by expanding outreach efforts to identify, certify and assist DBE firms and other small businesses and encourage them to participate more fully in the MWAA procurement processes. MWAA will continue to track and report separately race-neutral and race-conscious participation data. The use of race-conscious means will be reduced whenever DBE participation obtained through race-neutral means exceeds expectations over the term of the Project.

3.5 Fostering Small Business Participation

A component of the MWAA race-neutral program will include the establishment of a race-neutral, small business set-aside program/initiative for prime contracts valued under \$1 million. MWAA will require primes establish alternative acquisition strategies and structure procurements to facilitate the ability of consortia or joint ventures of small businesses, including DBEs, to compete for and perform lower-tier prime contracts.

The Small Business Program will be structured to facilitate competition by small business concerns, with elements to eliminate obstacles to their participation, including unbundling of contracts that may preclude small business participation in procurements as lower tier prime contractors or subcontractors. MWAA will require bidders on prime contracts to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform. For those prime contracts not having established DBE contract goals, lower-tier prime contractors will be prohibited from self-performing all the work involved. MWAA will require prime contractors to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, regardless of the tier. To further foster small business participation, MWAA will develop and implement revised specifications to require acceptable/creative inclusion strategies for non-DBE prime contractors to ensure the participation of small businesses that also results in the utilization of DBEs at all tiers.

Race-neutral components of the MWAA DBE Program reflect its best efforts to reach out and assist all businesses, including minority and women-owned businesses, in the local market place. Other race-neutral measures may include but are not limited to:

- Participation any time a DBE wins a prime contract through customary competitive procurement procedures, awarded a subcontract on a prime contract that does not carry a DBE goal or, even if there is a DBE goal, wins a subcontract from a prime contractor that didn't consider its DBE status in making the award (e.g., a prime contractor that uses a strict low bid system to award subcontracts);
- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses;
- Providing assistance in overcoming limitations, such as inability to obtain bonding or financing (e.g., simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
- Providing technical assistance and other services;
- Conducting information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; providing information in languages other than English, where appropriate);

- Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
- Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
- Ensuring distribution of the MWAA DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;
- Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media; and
- Increase oversight compliance monitoring, reporting and DBE Program initiatives.

4. OVER-CONCENTRATION

MWAA has reviewed current, past and projected DBE participation levels for similarity situated federally-assisted contracts, and determined that over-concentration does not pose an issue in awards of contracts at this time. MWAA will continue to periodically evaluate project data to ensure that this situation does not change, thereby necessitating the development of programs to address over-concentration.

5. PUBLIC PARTICIPATION

MWAA consulted with minority, women's and general contractor groups, community organizations, and other organizations on the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and MWAA efforts to establish a level playing field for the participation of DBEs. EOP staff maintains ongoing working relationships with the DC Chamber of Commerce, Virginia Minority Supplier Development Council, MD/DC Minority Supplier Development Council, DC Chapter of the National Association of Minority Contractors, DC Department of Small and Local Business Development, the DC Metropolitan Subcontractors Association, the DC Building Industry Association and the DC Department of Employment Services. The consultative process was on-going and provided key information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and MWAA's efforts to establish a level playing field for the participation of DBEs. MWAA convened a meeting with DBEs, non-DBEs, community based organizations and DBE advocacy groups to discuss the proposed Project Specific Overall DBE goal and its rationale.

A legal notice announcing the proposed Dulles Corridor Metrorail Project Specific DBE Goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at MWAA's principal office for 30 days following the date of the notice, and informing the public that MWAA and USDOT will accept comments on the goal for 45 days from the date the notice was as placed in several general circulation and minority-oriented newspapers beginning on July 22, 2012.

The public comment period conducted by the Airports Authority took place from July 22, 2012 through September 5, 2012. During the public comment period, notification of the public

participation period was placed in major newspapers as well as with minority media. Staff completed the following specific actions:

- Multiple ads were placed in five local newspapers (*The Washington Post*, *The Richmond Times Dispatch*, *The Washington Afro-American*, *The Washington Informer*, and *The Baltimore Sun*), notifying the public that the proposed overall goal for Phase 2 of the Project was at least 25 percent and inviting comments.
- The public notice was placed on the Airports Authority's website notifying the public that the proposed overall goal for Phase 2 of the Project was at least 25 percent and inviting comments.
- The goal was announced at the Phase 2 Package A RFQI Pre-submittal Conference and Contractors Exhibit Hall held on July 25, 2012.
- Throughout the development of the DBE goal and during the public comment period, staff consulted with agencies focused on developing opportunities for minority and disadvantaged businesses, contractor organizations and other organizations knowledgeable about the availability of DBEs in the Airports Authority's marketplace to receive feedback on DBE availability and the Airports Authority's overall goal. Organizations that staff consulted with include: 1) The Washington DC Metropolitan Area Chapter of the National Association of Minority Contractors; 2) Virginia Minority Supplier Development Council; 3) Maryland/Washington Minority Contractors Association; 4) MD/DC Minority Supplier Development Council; 5) Virginia Department of Minority Business Enterprise; 6) Maryland Department of Transportation; 7) Virginia Department of Transportation; and 8) District Department of Transportation.

The Airports Authority received no written comments from contractors, individuals, or organizations during the comment period. Comments received from consultations with business organizations and agencies were favorable and concurred with the 25 percent DBE goal.

6. APPENDICES

1. Legal Notice of the Proposed Dulles Corridor Metrorail Project Specific DBE Goal,
2. List of Directories/Resources used in developing Overall DBE Goal
3. Identified DBE Firms
4. Availability Tables

APPENDIX 1

(NEWSPAPER ADVERTISEMENT)

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY DULLES CORRIDOR METRORAIL PROJECT PHASE 2

FEDERAL DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL

The Metropolitan Washington Airports Authority is seeking public comment on its proposed overall DBE participation goal of 25 percent of the dollar value of contracts on Phase 2 of the Dulles Corridor Metrorail Project that are funded in whole or in part by U.S. Department of Transportation financial assistance. This proposed goal applies to firms meeting the DBE certification criteria defined in 49 CFR Part 26. The proposed goal and its methodology may be reviewed during normal business hours at the Metropolitan Washington Airports Authority's Equal Opportunity Programs Department through August 31, 2012. For an appointment to inspect this information, contact Cynthia Lipscomb or Shanelle Franklin at (703) 417-8625. Written comments concerning the proposed goal will be accepted through Wednesday, September 5, 2012, and may be sent to: Richard Gordon, Manager, Equal Opportunity Programs, MA-410, Metropolitan Washington Airports Authority, 1 Aviation Circle, Washington, DC 20001-6000.

APPENDIX 2

List of Directories/Resources used in developing Overall DBE Project Goal

Virginia Unified Certification Program – DBE Directory

Metropolitan Washington Unified Certification Program – DBE Directory

Maryland DOT Unified Certification Program – DBE Directory

Metropolitan Washington Airports Authority Vendor Database

Metropolitan Washington Airports Authority Outreach Database

Washington Metropolitan Area Transit Authority Vendor Database

Dulles Corridor Metrorail Project

Virginia Department of Transportation List of Prequalified Contractors

Maryland Department of Transportation – Disparity Study (February 2011)

APPENDIX 3

Identified List of DBE Firms

(See Separate List)

APPENDIX 4

Availability Tables

**NAICS Codes Used in
Project Work Categories**

NAICS Code	Description
236	Construction of Buildings
236220	Commercial and Institutional Building Construction
237	Heavy and Civil Engineering Construction
237110	Water and Sewer Line and Related Structures Construction
237130	Power and Communication Line and Related Structures Construction
237310	Highway, Street, and Bridge Construction
237990	Other Heavy and Civil Engineering Construction
238	Specialty Trade Contractors
238110	Poured Concrete Foundation and Structure Contractors
238120	Structural Steel and Precast Concrete Contractors
238130	Framing Contractors
238140	Masonry Contractors
238150	Glass and Glazing Contractors
238160	Roofing Contractors
238190	Other Foundation, Structure, and Building Exterior Contractors
238210	Electrical Contractors and Other Wiring Installation Contractors
238290	Other Building Equipment Contractors
238910	Site Preparation Contractors
238990	All Other Specialty Trade Contractors
541	Professional, Scientific and Technical Services
541310	Architectural Services
541320	Landscape Architectural Services
541330	Engineering Services
541360	Geophysical Surveying and Mapping Services
541370	Surveying and Mapping (except Geophysical) Services
541380	Testing Laboratories
541490	Other Specialized Design Services
541611	Administrative Management and General Management Consulting Services
541620	Environmental Consulting Services

Determine the weight of each type of work by NAICS Code:

* Enter all the FTA-assisted projects below. Project amounts should be assigned relevant NAICS Code(s).

	NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
1)	237	GUIDEWAY AND TRACK ELEMENTS	\$215.25	0.2333
2)	237	STATIONS AND PARKING	\$110.99	0.1203
3)	237	SUPPORT FACILITIES	\$90.81	0.0984
4)	238	SPECIALITY TRADE CONTRACTORS	\$93.05	0.1008
5)	221	TRAIN SYSTEMS	\$113.23	0.1227
6)	237	R-O-W AND PROPERTY ACQUISTION	\$14.20	0.0154
7)	541	DESIGN AND ENGINEERING SERVICES	\$235.06	0.2548
8)	237	CONTINGENCY	\$50.08	0.0543
9)				0.0000
10)				0.0000
	Total FTA-Assisted - TIFIA Contract Funds Phase 2 only		\$922.67	1

Determine the relative availability of DBE's by NAICS Code:

* Use DBE Directory, census data and/or a bidders list to enter the number of available DBE firms and the number of available firms.

	NAICS Code	Project	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability
1)	237	GUIDEWAY AND TRACK ELEMENTS	383	1122	0.3414
2)	237	STATIONS AND PARKING	383	1122	0.3414
3)	237	SUPPORT FACILITIES	383	1122	0.3414
4)	238	SPECIALITY TRADE CONTRACTORS	900	9563	0.0941
5)	221	TRAIN SYSTEMS	12	123	0.0976
6)	237	R-O-W AND PROPERTY ACQUISTION	383	1122	0.3414
7)	541	DESIGN AND ENGINEERING SERVICES	1080	30169	0.0358
8)	237	CONTINGENCY	383	1122	0.3414
	Combined Totals		3907	45465	0.0859
					<i>Overall availability of DBEs</i>

(Weight) x (Availability) = Weighted Base Figure

	NAICS Code	Project	Weight	x	Availability	Weighted Base Figure
1)	237	GUIDEWAY AND TRACK ELEMENTS	0.23329	x	0.34135	0.0796
2)	237	STATIONS AND PARKING	0.12029	x	0.34135	0.0411
3)	237	SUPPORT FACILITIES	0.09842	x	0.34135	0.0336
4)	238	SPECIALITY TRADE CONTRACTORS	0.10085	x	0.09411	0.0095
5)	221	TRAIN SYSTEMS	0.12272	x	0.09756	0.0120
6)	237	R-O-W AND PROPERTY ACQUISTION	0.01539	x	0.34135	0.0053
7)	541	DESIGN AND ENGINEERING SERVICES	0.25476	x	0.03580	0.0091
8)	237	CONTINGENCY	0.05428	x	0.34135	0.0185
9)	0	0	0.00000	x	0.00000	
10)	0	0	0.00000	x	0.00000	
					Total	0.2087
					Expressed as a % (*100)	20.87%
					Rounded, Weighted Base Figure:	20.9%