



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Transportation
and Public Facilities

CIVIL RIGHTS OFFICE

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Anchorage, Alaska 99519-6900
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February 13, 2013

Elizabeth Hoffman
Civil Rights/Realty Specialist
Federal Highway Administration
P.O. Box 21648
Juneau, AK 99802

RE: Central Region Waiver

Dear Ms. Hoffman,

The Civil Rights Office has reviewed Mr. Warren Whitlock response dated February 5, 2013 to our rescission request for the Central Region Waiver. Though we had anticipated a different outcome, at this juncture we would like to receive guidance on strategies to presenting "special circumstance" set forth in 49 CFR 26.15(a).

The success of a limited number of Caucasian females in certain work categories has had an impact on the other individuals within this presumed group. The creation of the Alaska DBE Stakeholder Committee, in addition to the requested guidance, is one of many steps we intend to take to present our case as outlined in 49 CFR 26.15 (b) (1).

Not rescinding this waiver will have a detrimental effect on our ability to meet our annual goal. Based on 2012 and 2013 data, we estimate that our DBE participation will decrease by 1.46% (13% of our overall goal) if this waiver is not removed. This is a priority matter for the ADOT & PF and we would appreciate an expeditious response.

If you need any further assistance please contact me at (907) 269-0848.

Sincerely,

A handwritten signature in blue ink that reads "Dennis Good".

Dennis Good
Civil Rights Manager

Electronically with cc enclosures:

Mark O'Brien, Chief of Contracts Officer & DBELO



U.S. Department
of Transportation
**Federal Highway
Administration**

Alaska Division

February 7, 2013

P.O. Box 21648
Juneau, AK 99802-1648
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In Reply Refer To:
CIVL 10

Mr. Pat Kemp
Commissioner
Department of Transportation and Public Facilities
P.O. Box 112500
Anchorage, AK 99811

Dear Mr. Kemp:

The Federal Highway Administration (FHWA) Office of Civil Rights has completed its review of the Department of Transportation and Public Facilities' (DOT&PF) December 6, 2012, request to rescind the Central Region Disadvantaged Business Enterprise (DBE) contract goal waiver. For the reasons outlined in the attached memorandum, FHWA is unable to recommend that United States Department of Transportation approve DOT&PF's request.

Should you have any questions regarding the rescission of the waiver, please contact Elizabeth Hoffman, Civil Rights/Realty Programs Specialist at (907) 586-7188 or Elizabeth.hoffman@dot.gov.

Sincerely,

David C. Miller
Division Administrator

Electronically cc:

Dennis Good, DOT&PF, Civil Rights Program Manager
Mark O'Brien, DOT&PF, DBE Liaison Officer
Martha Kenley, FHWA National DBE Program Manager



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: **INFORMATION:** Alaska DBE Waiver
Rescission Request

Date:

From: Warren S. Whitlock *Warren S. Whitlock*
Associate Administrator for Civil Rights

In Reply Refer To:
HCR-30

To: David Miller
Division Administrator, HDA-AK
Juneau, Alaska

This memorandum is in response to your December 14, 2012 letter notifying our office of the Alaska Department of Transportation and Public Facilities (DOT&PF) request for rescission of its Disadvantaged Business Enterprise (DBE) program waiver approved by the Secretary of the United States Department of Transportation (USDOT) on March 30, 2011. The waiver was based upon the results of a disparity study that showed non-minority, women-owned construction-related firms in Alaska's Central Region were not underutilized during the study period (FY2002 – FY2006). Therefore, USDOT issued a waiver permitting DOT&PF to exclude DBEs of this type from contract goals.

In order for our office to now recommend that USDOT approve DOT&PF's request to rescind the waiver, the state must provide post disparity study data to support a finding that the waiver is no longer needed, i.e., that non-minority, women-owned construction firms in Alaska's Central Region are now underutilized.

Data provided to our office by DOT&PF did not show underutilization of firms of this type; rather, it continued to show overutilization. The waiver approved by USDOT in 2011, will expire on September 30, 2013. At that time, we request that DOT&PF re-examine its post-waiver data to determine if a need for the waiver continues. If the post-waiver data shows underutilization of non-minority, women-owned construction firms in the state's Central Region, DOT&PF should follow the procedures set forth in 49 CFR §26.15(b), and request that the waiver be terminated.

If you need further assistance please feel free to contact Martha Kenley of FHWA at martha.kenley@dot.gov.

cc: Jim Esselman, FHWA HCC
Martha Kenley, FHWA HCR

Federal Highway
Administration

FEB 05 2013

Juneau, Alaska