



**Washington State
Department of Transportation**

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September 13, 2017

Ms. Irene Rico
Associate Administrator for Civil Rights
Federal Highway Administration
United States Department of Transportation
Office of Civil Rights
1200 New Jersey Avenue Southeast
Washington, DC 20590

Regarding: Washington State Department of Transportation's Disadvantaged
Business Enterprise Program Waiver

Dear Ms. Rico:

On March 28, 2014, the Washington State Department of Transportation (WSDOT) submitted a Disadvantaged Business Enterprise (DBE) Program waiver request based upon results of a 2012 DBE Program Disparity Study, conducted by BBC Research & Consulting. This DBE Program Disparity Study analyzed contracting data from Federal Fiscal Years 2009 through 2011 and demonstrated that non-minority woman-owned DBEs did not face substantial disparity. Based on the results of this study, and in order to maintain a legally defensible and narrowly tailored DBE Program, WSDOT requested a waiver to remove non-minority woman owned DBEs from the race and gender-conscious component of the DBE Program. After careful review and consideration, on December 8, 2016, the United States Department of Transportation approved WSDOT's DBE Program waiver. WSDOT implemented the DBE Program waiver on construction contracts advertised after June 1, 2017.

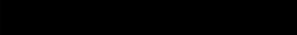
On April 1, 2016, WSDOT executed a contract with Colette Holt & Associates to conduct an updated DBE Program Disparity Study. This new DBE Program Disparity Study analyzed contracts from Federal Fiscal Years 2012 through 2015 and demonstrated that all presumptively disadvantaged groups, including women, are underrepresented to a statistically significant degree in state-funded highway contracting. Stated differently, in the absence of race and gender-conscious DBE participation goals, minorities and women continue to experience disparate outcomes in the Washington highway contracting market. The waiver approval dated December 8, 2016 from Secretary Anthony Foxx stated, "If WSDOT obtains data from a Disparity Study or other source that would lead to termination or modification the terms of the waiver... WSDOT must provide this information to the Department through FHWA."

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The current DBE Program Disparity Study, which was finalized September 11, 2017 and is available at www.wsdot.wa.gov/EqualOpportunity, demonstrates that non-minority women owned businesses do not face a level playing field for FHWA-assisted WSDOT contracts. The most recent market data show that the continued implementation of the December 8, 2016 DBE Program Waiver is no longer reflective of current marketplace conditions in Washington State. Therefore, WSDOT formally requests its rescission.

In the interest of narrow tailoring, WSDOT wishes to make its DBE program as responsive as possible to new information. As such, WSDOT and the non-minority women owned businesses community would greatly appreciate your expeditious handling of this matter.

If you have any questions or concerns regarding this request, please contact Earl Key, Director of the Office of Equal Opportunity at 360.705.7095 or KeyE@wsdot.wa.gov.

Best Regards, 


Roger Millar, PE, AICP
Secretary of Transportation

RM: jd

cc: Dan Mathis, FHWA
Jodi Petersen, FHWA
Keith Metcalf, WSDOT
Earl Key, WSDOT