



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

1200 New Jersey Avenue, SE
Washington, D.C. 20590

FEB 09 2011

In Reply Refer To: HCR-40
DOT #2010-0167

Ms. Olivia Fonseca
Deputy Director
California Department of Transportation
Office of Business and Economic Opportunity
1823 14th Street
Sacramento, California 95811

Dear Ms. Fonseca:

The Federal Highway Administration (FHWA) has completed the investigation of the complaint of discrimination filed by (b) (6)

(b) (6) against the California Department of Transportation (Caltrans). The complaint alleged that Caltrans uses Federal funds to deny small Latino-owned businesses an opportunity to fairly compete for jobs. The complaint was submitted to the FHWA by the U.S. Department of Justice through the U.S. Department of Transportation (DOT), Departmental Office of Civil Rights.

The FHWA provides financial and technical support to the State and local governments for constructing, preserving, and improving the National Highway System. Since many of the State contracts are awarded through the Disadvantaged Business Enterprise (DBE) Program, the complaint was investigated reviewing contract awards to Hispanic owned firms certified in the Caltrans DBE Program.

All FHWA recipients must have an approved DBE Program. The DBE Program was established to ensure nondiscrimination in the award and administration of DOT-assisted contracts; to help remove barriers to the participation of DBEs in DOT-assisted contracts; and to assist the development of firms that can compete successfully in the marketplace outside of the DBE Program.

The evidence reviewed during the investigation shows the following:

- Caltrans has approximately 235 construction firms listed under the category of construction (highway, street, and bridge construction) in its DBE Directory.
- Hispanic firms comprise approximately 97 or 41.2 percent of these firms.



- For the period January 1, 2008 through December 31, 2009, the records provided by Caltrans identified 556 construction firms by ethnicity that were awarded contracts.
- Of the 556 identifiable firms awarded contracts, 95 or 17 percent were awarded to Hispanic firms.
- The DBE Program which is administered under Title 49, Code of Federal Regulations, Part 26, does not require the establishment of a specific number of contract awards to any particular ethnic group.
- The DBE Program does not permit the use of quotas for DBEs on DOT-assisted contracts.

Based on the above information, the FHWA does not find that Caltrans is in violation of Title VI of the Civil Rights Act of 1964 with reference to the award of highway construction contracts to Hispanic-owned firms certified in the Caltrans DBE Program.

While the DBE Program does not require a designated number of contract awards to specific ethnic groups or permit the use of quotas, in an effort to increase the participation of DBEs, the Secretary of the DOT sent letters to the Governors of each State encouraging the use of proven strategies, such as unbundling large projects and establishing and meeting realistic DBE goals to reach a greater number of DBEs.

The Administrator for the FHWA sent letters to the Directors of each State Transportation Agency encouraging the increase of DBE participation and outlining several actions to be taken to achieve this initiative.

This concludes processing of this complaint. However, efforts to increase the participation of DBEs in DOT-assisted contracts will continue.

Sincerely yours,



Brenda F. Armstead
Director, Investigations and Adjudications

cc: Mr. Walter C. (Butch) Waidelich, Jr. Division Administrator, FHWA, HDA-CA
Mr. Will McClure, Civil Rights Specialist, FHWA, HDA-CA
Mr. Lance Yokota, Civil Rights Specialist, FHWA, HDA-CA



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