



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

August 20, 2012

Mr. Matthew L. Garrett  
Director, Oregon Department of Transportation  
1158 Chemeketa Street NE  
Salem, OR 97301

Dear Mr. Garrett:

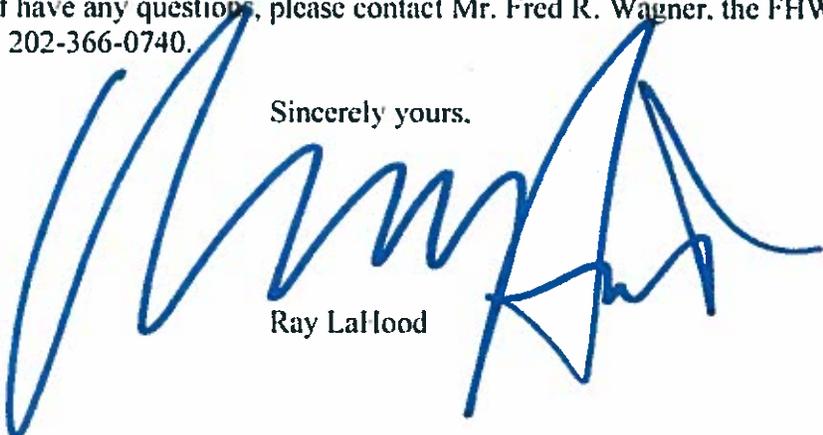
I am writing in response to the Oregon Department of Transportation's (ODOT) request to modify the disadvantaged business enterprise (DBE) program waiver that was granted on September 9, 2008, to reflect the results of a 2011 disparity study conducted by MGT of America, Inc. The existing waiver enables ODOT to narrowly tailor the implementation of its DBE program through the use of contract goals that address significant contracting disparities found for some, but not all, groups within the DBE community. The modified waiver will permit DBEs owned by African Americans and Subcontinent Asian Americans to be counted toward contract goals on federally assisted construction contracts. Contract goals on federally assisted Architectural and Engineering and other service-related contracts would include all DBEs except DBEs owned by Asian Pacific Americans, for whom significant disparities were not found.

The waiver modification request was submitted under the waiver procedures of 49 CFR § 26.15(b), and it complies with the procedural requirements of this section, including the requirement for public participation. Consequently, the waiver modification request is granted for a period of 3 Federal fiscal years (FY 2013-2015). If at any time during this period ODOT obtains any data, from a disparity study or other sources, that would lead to a modification of the terms of the waiver (e.g., information suggesting that Asian-Pacific American owned DBEs not now subject to the use of race-conscious contract goals are underutilized), ODOT must provide this information to the Federal Highway Administration (FHWA). In any case, 6 months (March 31, 2015) before the waiver expires on September 30, 2015, ODOT must submit a report to the U.S. Department of Transportation, through FHWA, that details the impact of the waiver on utilization of all disadvantaged groups. Granting this modification does not affect my authority to end or further modify the waiver at any time if necessary to ensure compliance with DBE program objectives.

The ODOT's overall goal-setting methodology and its projections of how much of the overall goal will need to be met through the use of contract goals covered by this waiver remain subject to review and approval by FHWA.

If you or members of your staff have any questions, please contact Mr. Fred R. Wagner, the FHWA Chief Counsel, by telephone at 202-366-0740.

Sincerely yours,

  
Ray LaHood



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

**Oregon Division**

August 30, 2012

530 Center Street NE, Suite 420  
Salem, Oregon 97301  
503-399-5749  
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[www.fhwa.dot.gov/ordiv](http://www.fhwa.dot.gov/ordiv)

In Reply Refer To:  
HDA-OR

Mr. Matthew Garrett  
Director  
Oregon Department of Transportation  
355 Capitol Street NE  
Salem, OR 97301

Dear Mr. Garrett:

This letter acknowledges approval (copy enclosed) by the U.S. Department of Transportation (DOT), of the Oregon Department of Transportation's (ODOT) request to modify the existing disadvantaged business enterprise (DBE) program waiver. Based on the results of the 2011 disparity study conducted by MGT of America, Inc., this modified waiver applies to those groups for whom statistically significant disparities between availability and utilization exist. The modified waiver permits African American and Subcontinent Asian firms to be counted toward contract goals on federally assisted construction contracts. The modified waiver also permits all DBEs, except DBEs owned by Asian Pacific Americans, for whom significant disparities were not found, to be counted toward goals for federally assisted Architectural and Engineering contracts. The waiver modification request is granted for a period of three Federal fiscal years (2013-2015). Six months before this waiver expires, ODOT must submit a report to the U.S. Department of Transportation, through the Federal Highway Administration (FHWA), outlining whether a need for the waiver continues.

It is important to remember that this waiver does not approve the level of projection or methodology ODOT uses to establish the goals set for FY 2013. That remains subject to FHWA approval as part of ODOT's DBE goal submission, which is consistent with the requirements of 49 CFR § 26.45(f) and 26.51(c). ODOT's FY 2013 goal submission is currently under review by FHWA.

Your agency's efforts to inform the public about the waiver process and overall commitment to providing businesses greater opportunities to succeed is recognized and appreciated. If you have questions regarding this matter, please feel free to contact me, or Jazmin Casas of my staff at (503) 316-2561.

Sincerely,

Phillip A. Ditzler  
Division Administrator

Enclosure –DOT Approval Letter

cc, w/encl.:

ODOT (Dale Hormann, Chief of Staff)  
(Michael Cobb, Office of Civil Rights Manager)  
(Tiffany Hamilton, DBE Program Manager)  
FHWA (JoAnne Robinson, Office of the General Counsel)  
(Martha Kenley, Office of Civil Rights)

JC/rm