



GENTNER DRUMMOND
ATTORNEY GENERAL

September 23, 2025

Via E-mail

The Honorable J. Kevin Stitt
Governor of the State of Oklahoma
Kevin.Stitt@gov.ok.gov

Tim Gatz
Executive Director
Oklahoma Department of Transportation
tgatz@odot.org

Re: Waiver of U.S. Department of Transportation Race- and Gender-Based Presumptions

Dear Governor Stitt and Executive Director Gatz:

I am writing to urge you to seek a waiver on Oklahoma's behalf from the U.S. Department of Transportation's ("DOT") requirement that the State apply race- and gender-based presumptions in awarding contracts under DOT's highway, transit, and airport financial assistance programs.

It is indefensible that you have so far refused to seek a waiver to these discriminatory requirements a full nine months into the Trump Administration. President Trump has made clear through multiple executive orders and other official statements that his Administration will not tolerate "diversity, equity and inclusion" (DEI) preferences. "Illegal DEI and DEIA policies not only violate the text and spirit of our longstanding Federal civil-rights laws, they also undermine our national unity, as they deny, discredit, and undermine the traditional American values of hard work, excellence, and individual achievement in favor of an unlawful, corrosive, and pernicious identity-based spoils system." (Ending Illegal Discrimination and Restoring Merit-Based Opportunity, January 21, 2025)

Under the Disadvantaged Business Enterprise ("DBE") Program, codified at 49 C.F.R. Part 26, Oklahoma must set aside a portion of federal transportation funds for small businesses owned and controlled by socially and economically disadvantaged individuals. The regulations automatically presume that businesses owned by women and members of certain minority groups qualify as disadvantaged. By contrast, businesses owned by white men are denied any such presumption and are forced to compete for DBE funds at a clear and deliberate disadvantage.

Not only are these preferences discriminatory, they also are extremely costly to Oklahoma taxpayers. Because the DBE regulations shut out the vast majority of Oklahoma's small businesses from fair access to federal transportation dollars, fewer can compete. By narrowing the pool of eligible competitors, the bidding process becomes by definition less competitive, driving up the cost of public projects. Qualified local businesses that should be fueling the State's economy are effectively sidelined or forced to partner under less than ideal financial terms.

In addition to these practical harms, the DBE regulations violate the Equal Protection Clause of the Fourteenth Amendment. I have proudly supported the ongoing legal challenge to these unconstitutional regulations. *See Mid-Am. Milling Co., LLC v. United States Dep't of Transportation*, 3:23-cv-00072, Dkt. 108, States' Amicus Brief (May 28, 2025). While the litigation proceeds, prudent states—such as Indiana¹—have formally requested waivers from these discriminatory DBE regulations, a step I have also supported.²

Now is the time for Oklahoma to act. There is no reason for Oklahoma taxpayers and businesses to continue being punished by government-imposed discrimination. I strongly urge you to seek an immediate waiver of the race and gender presumptions under the DBE Program.

As the State's chief law officer, I stand ready and willing to assist in this effort.

Respectfully,



GENTNER DRUMMOND
Attorney General

¹ <https://events.in.gov/event/gov-mike-braun-leads-the-nation-in-removing-discriminatory-business-practices>

² <https://image.subscription.in.gov/lib/fe2e11747364047b721071/m/1/8b88964b-ecaa-4d6f-9235-d791da9eb5da.pdf>