

State of Alaska FY2010 Governor's Operating Budget

Department of Transportation/Public Facilities Equal Employment and Civil Rights Component Budget Summary

Component: Equal Employment and Civil Rights

Contribution to Department's Mission

Enhance the operations of the department through the promotion, compliance monitoring and support of Civil Rights Programs such as department compliance with Title VI of the Civil Rights Act of 1964, External Equal Employment Opportunity (ExEEO) Program, the Disadvantaged Business Enterprises (DBE) Program, the On-The-Job Training (OJT) Program, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 in the transportation industry.

Core Services

- Develop, update and implement three affirmative action programs (Disadvantaged Business Enterprises (DBE), External Equal Employment Opportunity (ExEEO), and On-The-Job Training (OJT)) that provide opportunities which otherwise would not normally exist within the construction arena. These programs apply to contractors and subcontractors working on U.S. Department of Transportation (USDOT)-assisted projects.
- Assure on-going compliance with two non-discrimination programs (Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990 [ADA]), which ensure equal treatment by the department with respect to its dealings with the public in all phases of operation.
- Provide two support services programs that give assistance to contractors and the public in understanding and participating in the DBE and OJT Programs.
- Implement a contract compliance program that monitors, enforces contractor compliance, and assists with construction-related affirmative action programs.
- Coordinate with tribal and rural local governments to encourage local employment on the department's highway and airport projects.

FY2010 Resources Allocated to Achieve Results

| | | |
|---|-------------------|-----------|
| FY2010 Component Budget: \$987,700 | Personnel: | |
| | Full time | 10 |
| | Part time | 1 |
| | Total | 11 |

Key Component Challenges

The Civil Rights Office continues to work with the Department of Labor and Workforce Development to encourage local hire when viable and appropriate through Post Award Conferences with rural communities. Administrative Order 226 attempts to ensure that a skilled construction work force will be available to meet future construction project demands within the state. It provides a means to increase the number of people trained to work heavy equipment, which partially meets the goal of encouraging local hire. One of the unique challenges facing rural residents is the lack of a driver's license (because there is no local DMV) which inhibits that person's ability to obtain additional trade certification for at least a year. Another challenge in encouraging local hire is bridging the cultural divide between the construction/contracting culture and the rural subsistence culture. The department continues to work with the Denali Commission staff to ensure that there is no duplication of efforts so we can build on the efforts of each other. At the same time, training and employment opportunities in rural areas are being identified that may provide multiple benefits such as heavy equipment training that can be used for road/airport construction as well as water and sewer, tank farm development and landfill development.

The Disadvantaged Business Enterprises (DBE) program continues to generate increased activity and we expect future legal activity due to the expected implementation of the department's completed disparity study. Due to recent

legal challenges in Washington state against WSDOT's DBE program implementation and the resulting U.S. 9th Circuit Court decision (Western States Paving Decision) the department completed a disparity study to determine the level and extent that discrimination exists in the design and construction of federal assisted highways, airports and transit facilities. The department was given guidance by USDOT to discontinue DBE Project goals and implement a race neutral DBE program until a disparity study is completed. This study is complete and the department is in the process of refining its implementation strategy. A significant revision of the DBE Program will be required based on the results of this study. We will continue to implement changes to our DBE support services program to improve DBE access to DOT&PF contracting opportunities.

New guidance on regulations for airport concessionaires was issued in FFY2008 and additional departmental efforts will be needed to implement these regulations. Implementation is anticipated to be complete at the end of FFY2009.

Continuing revision of the department's Title VI Program is required to comply with Federal Highway Administration and Federal Transit Administration current orders, circulars and guidance.

A rigorous review of the On-The-Job Training (OJT) goal setting program and an evaluation of project selection for apprentice/trainee opportunities determined that we are not uniformly implementing this program between regions nor consistently with federal regulations 23 CFR 230.111. We proposed modifications for the OJT program goal setting process to Federal Highway Administration which was approved. Beginning in 2008, the department developed a new method for calculating On-the-Job (OJT) training requirements on federal highway projects. This new methodology was developed in cooperation with the Department of Labor and Workforce Development and refined by department staff. The intent is to increase the apprenticeship opportunities on highway projects, thereby increase the number of trained residents available for work on large civil works projects like highways, airports, and the proposed natural gas pipeline. The Civil Rights Office provided resources to support efforts to implement OJT apprenticeship opportunities on airport projects using federal aid funds. The department continues to support the statewide effort to build a trained workforce.

The Federal Transit Administration (FTA) awarded a grant to the department to implement a Limited English Proficiency (LEP) demonstration project. This project will require significant revision of the department's public outreach effort related to populations where at least 5% of the persons living in a project scoping area have limited English language skills. We developed an LEP implementation plan and secured interpreter services and we continue to develop tools for our planning, preconstruction and construction staff to implement this plan.

Significant Changes in Results to be Delivered in FY2010

There will be significant DBE program changes to be made in FFY 2009. DBE certification requests are expected to increase, which will include increased travel. There will likely be increased legal challenges to the implementation of the DBE program.

Major Component Accomplishments in 2008

- Facilitated the implementation of 8 post award conferences where local employment, training and other economic opportunities were discussed.
- Completed the department's DBE disparity study, which reviewed DBE availability, utilization, disparity and recommended annual goals for the department DBE program.
- The Civil Rights Office continues to publish a newsletter and host the Annual Unified Certification Program meeting. This fulfills our Disadvantaged Business Enterprises (DBE) supportive service obligations under our FHWA funding agreement. The annual meeting resulted in a cooperative effort to hold annual DBE goal meetings jointly, collectively reducing costs.
- Completed a study of the best practices used by three State DOTs for Tribal Liaison positions.
- Updated and revised the OJT program to increase opportunities and developed a goal setting methodology that more closely follows the guiding regulations for the OJT program.
- Completed ADA training for the Alaska Marine Highway System to address an ADA complaint on customer service.
- Provided statewide ADA training for DOT&PF staff in Anchorage, Fairbanks and Juneau.
- Completed 12 specialized DBE assessments to help improve DBE competitiveness.

- Developed new policy and procedure on non-discrimination in the provision of transportation programs and projects.
- The department and the construction industry are struggling with finding and retaining qualified workers. In an attempt to deal with this situation, a Construction Career Day event was hosted this year by the department with broad based support from the Department of Labor and Workforce Development, the Anchorage and Matanuska Susitna School Districts, trade unions and the construction industry. The event was a great success and will prompt additional events in Northern Region and possibly Southeast Region for FY 2009.

Statutory and Regulatory Authority

49 CFR, Parts 21, 23 & 26

41 CFR, Part 60

23 CFR, Parts 200 & 230

29 CFR, Part 16.30

28 CFR, Part 35

Section 504 of the Rehabilitation Act of 1973

Title VI of the Civil Rights Act of 1964

Civil Rights Restoration Act of 1987

Americans with Disabilities Act of 1990

Executive Orders

11246 - Equal Employment Opportunity

12898 - Environmental Justice

13166 - Limited English Proficiency

13175 - Tribal Consultation

DOT Order 5301.1 - Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes

FHWA Order 6640.23 - FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

| Contact Information |
|--|
| <p>Contact: Mark O'Brien, Chief Contracts Officer</p> <p>Phone: (907) 465-6990</p> <p>Fax: (907) 586-8365</p> <p>E-mail: Mark.O'Brien@alaska.gov</p> |

Equal Employment and Civil Rights Component Financial Summary

All dollars shown in thousands

| | FY2008 Actuals | FY2009 Management Plan | FY2010 Governor |
|---|----------------|---------------------------|-----------------|
| Non-Formula Program: | | | |
| Component Expenditures: | | | |
| 71000 Personal Services | 805.9 | 887.5 | 912.0 |
| 72000 Travel | 18.1 | 29.1 | 37.8 |
| 73000 Services | 45.6 | 21.4 | 21.4 |
| 74000 Commodities | 12.2 | 16.5 | 16.5 |
| 75000 Capital Outlay | 0.0 | 0.0 | 0.0 |
| 77000 Grants, Benefits | 0.0 | 0.0 | 0.0 |
| 78000 Miscellaneous | 0.0 | 0.0 | 0.0 |
| Expenditure Totals | 881.8 | 954.5 | 987.7 |
| Funding Sources: | | | |
| 1004 General Fund Receipts | 256.0 | 298.2 | 317.6 |
| 1007 Inter-Agency Receipts | 18.0 | 22.0 | 22.5 |
| 1061 Capital Improvement Project Receipts | 607.8 | 634.3 | 647.6 |
| Funding Totals | 881.8 | 954.5 | 987.7 |

Estimated Revenue Collections

| Description | Master Revenue Account | FY2008 Actuals | FY2009 Management Plan | FY2010 Governor |
|--------------------------------------|------------------------------|----------------|---------------------------|-----------------|
| Unrestricted Revenues | | | | |
| None. | | 0.0 | 0.0 | 0.0 |
| Unrestricted Total | | 0.0 | 0.0 | 0.0 |
| Restricted Revenues | | | | |
| Interagency Receipts | 51015 | 18.0 | 22.0 | 22.5 |
| Capital Improvement Project Receipts | 51200 | 607.8 | 634.3 | 647.6 |
| Restricted Total | | 625.8 | 656.3 | 670.1 |
| Total Estimated Revenues | | 625.8 | 656.3 | 670.1 |

**Summary of Component Budget Changes
From FY2009 Management Plan to FY2010 Governor**

All dollars shown in thousands

| | <u>General Funds</u> | <u>Federal Funds</u> | <u>Other Funds</u> | <u>Total Funds</u> |
|---|----------------------|----------------------|--------------------|--------------------|
| FY2009 Management Plan | 298.2 | 0.0 | 656.3 | 954.5 |
| Adjustments which will continue current level of service: | | | | |
| -FY2010 Wage and Health Insurance Increases for Bargaining Units with Existing Agreements | 8.0 | 0.0 | 16.5 | 24.5 |
| -Correct Unrealizable Fund Sources in the Salary Adjustment for the Existing Bargaining Unit Agreements | 11.4 | 0.0 | -11.4 | 0.0 |
| Proposed budget increases: | | | | |
| -Disadvantaged Business Enterprise Certification and On-Site Title VI Reviews | 0.0 | 0.0 | 8.7 | 8.7 |
| FY2010 Governor | 317.6 | 0.0 | 670.1 | 987.7 |

**Equal Employment and Civil Rights
Personal Services Information**

| Authorized Positions | | | Personal Services Costs | |
|----------------------|---|----------------------------------|----------------------------------|----------------|
| | <u>FY2009</u> <u>Management</u> <u>Plan</u> | <u>FY2010</u> <u>Governor</u> | | |
| Full-time | 10 | 10 | Annual Salaries | 580,229 |
| Part-time | 1 | 1 | COLA | 21,563 |
| Nonpermanent | 0 | 0 | Premium Pay | 0 |
| | | | Annual Benefits | 328,200 |
| | | | <i>Less 1.93% Vacancy Factor</i> | (17,970) |
| | | | Lump Sum Premium Pay | 0 |
| Totals | 11 | 11 | Total Personal Services | 912,022 |

Position Classification Summary

| Job Class Title | Anchorage | Fairbanks | Juneau | Others | Total |
|--------------------------|-----------|-----------|----------|----------|-----------|
| Administrative Clerk II | 1 | 0 | 0 | 0 | 1 |
| Administrative Officer I | 1 | 0 | 0 | 0 | 1 |
| Equal Employ Officer II | 4 | 0 | 0 | 0 | 4 |
| Equal Employ Officer III | 3 | 0 | 0 | 0 | 3 |
| Research Analyst II | 1 | 0 | 0 | 0 | 1 |
| Trans Planner II | 1 | 0 | 0 | 0 | 1 |
| Totals | 11 | 0 | 0 | 0 | 11 |