

**Transportation Commission of Colorado**  
**Regular Meeting Minutes**  
**December 19, 2013**

**Chairman Doug Aden convened the meeting at 10:45am in the auditorium of the headquarters building in Denver, Colorado.**

PRESENT WERE: Doug Aden, Chairman, District 7  
Shannon Gifford, District 1  
Ed Peterson, District 2  
Gary Reiff, District 3  
Heather Barry, District 4  
Kathy Gilliland, District 5  
Kathy Connell, District 6  
Sidny Zink, District 8  
Les Gruen, District 9  
Bill Thiebaut, District 10  
Steven Hofmeister, District 11

ALSO PRESENT: Don Hunt, Executive Director  
Scot Cuthbertson, Chief Operating Officer  
Gary Vansuch, Director of Process Improvement  
Debra Perkins-Smith, Director of Division of Transportation  
Tim Harris, Chief Engineer  
Heidi Humphreys, Director of Admin & Human Resources  
Barbara Gold, Audit Director  
Amy Ford, Public Relations Director  
Scott McDaniel, Director of Staff Services  
Soctt Richrath, CFO  
Herman Stockinger, Director of Policy and Government Relations  
Mike Cheroutes, Director of HPTE  
Mark Imhoff, Director of Division of Transit and Rail  
Ryan Rice, Director of Operations Division  
Darrell Lingk, Director of Office of Transportation Safety  
Tony DeVito, Region 1 Transportation Director  
Tom Wrona, Region 2 Transportation Director  
Dave Eller, Region 3 Transportation Director  
Johnny Olson, Region 4 Transportation Director  
Myron Hora, Acting Region 4 Transportation Director  
Kerrie Neet, Region 5 Transportation Director  
Kathy Young, Chief Transportation Counsel  
John Cater, FHWA  
Vince Rogalski, Statewide Transportation Advisory Committee (STAC)

AND: Other staff members, organization representatives,  
the public and the news media

An electronic recording of the meeting was made and filed with supporting documents in the Transportation Commission office.

## **Audience Participation**

Chairman Aden stated that there were no members of the audience wishing to address the Commission. Because the meeting began early, Chairman Aden stated that he would return to this item at the posted time in case someone arrived who wanted to address the Commission.

## **Individual Commissioner Comments**

Commissioner Gifford stated that Denver City and County has a number of major infrastructure projects that are ongoing. Commissioner Gifford joined a bus tour of the projects. She stated that the most difficult part of the bus tour was the discussion around the I-70 viaduct. Executive Director Hunt addressed everyone's questions to explain the process behind the decisions and the plan for the future.

Commissioner Hofmeister thanked everyone involved in the construction of the roads in Region 4. He stated that the crews were able to finish those roads very quickly.

Commissioner Thiebaut stated that he attended the Colorado Counties, Inc., (CCI) winter seminar in Colorado Springs. He stated that he attended a session on funding and planning for transportation infrastructure and that Debra Perkins-Smith gave an excellent panel presentation at the session. Both she and the CDOT staff are able to publicly outline and state the goals and the missions of CDOT clearly. He also stated that many of the county commissioners want more projects in their counties but that on the whole there was an upbeat and positive reflection about the working relationship with CDOT.

Commissioner Gilliland stated that people across the North Front Range were complimenting CDOT on the excellent job after the floods. She thanked Director Hunt and the Region 4 staff, as well as the Governor, for getting all the roads open by December 1. She stated that the Governor set that goal, and CDOT was able to make that happen even before December 1 due to a tremendous effort on everyone's part. She extended Happy Holidays to everyone on the Commission and all of the staff and friends of CDOT.

Commissioner Gruen echoed Commissioner Gilliland's holiday wishes to the Commission and to CDOT staff.

Commissioner Connell attended the opening ceremony of the Twin Tunnel with Director Hunt and Commissioner Peterson. She stated that she was very pleased to see highway patrolmen stopping trucks for illegal passing and other driving infractions. She also described the ease of traffic flow through the new tunnel. Only in the first week since opening, she has heard from multiple constituents who are pleased with the immediate effects of opening the tunnel. She congratulated Tony DeVito and all CDOT staff who were involved in the project.

Commissioner Barry complimented her district, stating that the opening of the Old Wadsworth Bridge in Broomfield has made the drive safer, healthier for the community, more visually appealing and faster. She stated that work is commencing on I-25 and that she is hearing great things about that project. These projects are making a big difference in traffic in the region. She complimented the work on the

Tunnel project and stated that several people have stopped by her office to praise the opening of the tunnel and the difference it has made in travel times. She also wished everyone Happy Holidays.

Commissioner Peterson stated that he also attended the opening ceremony at the Twin Tunnels on December 7, 2013. He now wants to leverage this for a like project in the area. He thanked his fellow Commissioners and CDOT staff for all the excellent work over the past year. He wished everyone a merry Christmas and happy holiday season.

Chairman Aden stated that Executive Director Hunt, RTD Dave Eller and some of the staff from Region 3 attended the Grand Junction MPO meeting. He stated that he attended the annual legislative meetings, including the Joint Budget Committee (JBC) hearing and the joint meeting with the House and Senate Transportation Committees to review CDOT's progress in terms the SMART Act and performance goals. CDOT received very positive feedback. He thanked Kurt Morrison for a great job done at the legislature.

### **Executive Director's Report:**

Executive Director Hunt stated that CDOT employees across the state gave their time and spent weeks in the Incident Command Center in order to meet the December 1 deadline. He stated that when he and the Governor promised that all 225 miles of closed roadways would be open on December 1, he was not convinced it could happen. But they made sure everyone had the resources necessary and found the commitment across the state to make it happen. He thanked Region 4 and all CDOT employees who made the Department look tremendously good in the eyes of all the customers.

He stated that CDOT had a very good year and capped it off with the opening of the Twin Tunnels. He stated that the Tunnel Project opened the imagination to what a little money can do to move CDOT into the future. He stated that he is struck by the difference between the new and the old tunnels. The state built the old tunnels in 1961, and since then, the population of Colorado has grown from 1.5 million to 5.3 million. CDOT is now working with Clear Creek County and Idaho Springs to find a way forward with a Memorandum of Understanding. The memorandum will be topic of discussion at the Commission meeting in January 2014, and the Commission will look at ways to possibly find some money once again to accelerate projects in the I-70 Mountain Corridor.

He stated that between flood recovery, road openings and Twin Tunnel openings, the PR and Communications staff led by Amy Ford has stayed very busy. It is important to celebrate these events so that people do not forget the victories. He thanked that office for their many successful events. There is an upcoming one on January 6, 2014, at the new Colorado History Museum where the Governor will recognize employees from multiple departments that helped with the flood response.

He stated, as Chairman Aden previously did, that they attended the JBC meeting and the Transportation Committee meetings. The meetings went very well. He thanked Chairman Aden for attending all those meetings to demonstrate the strong leadership

at CDOT. Chairman Aden was recognized at the JBC for his lengthy tenure and commitment to public service.

Executive Director Hunt recognized Mindy Crane for her twelve years of dedicated service at CDOT because she is going to work at the Denver International Airport.

Chairman Aden echoed Director Hunt's recognition of Mindy Crane and wished her the very best.

### **Chief Engineer's Report:**

Tim Harris stated that he signed a letter in August congratulating an employee for 20 years of experience. He had planned to present it in the September Commission meeting, but this employee was unable to attend the September Commission meeting. He presented the certificate to Johnny Olson for his dedicated service to CDOT.

### **High Performance Transportation Enterprise (HPTE) Director's Report**

Michael Cheroutes stated that the HPTE Board met December 18, 2013, and elected permanent officers. During the meeting, the Board discussed US 36, and the Board plans to update the Commission on this project in January 2014. They discussed 1-70E, I-25N, C470 and the Beltway and budget actions. They all look forward to a successful 2014. He wished everyone Happy Holidays.

### **FHWA Division Administrator Report**

John Cater stated that the planning video for the Statewide Transportation Plan has garnered the attention in other states like Washington and can serve as a model for them. He congratulated all CDOT staff who contributed to the project.

He stated that CDOT has received \$30 million in emergency funds and should receive another \$110 million before the end of the year. Another allocation should be available in April.

He then recognized Mindy Crane and Tim Harris for their CDOT years of service.

He also recognized Doug Bennett who has been in the Federal Highways office since 1995. Doug Bennett was the Assistant Division Administrator (ADA). He was currently the second-longest serving ADA in the country. He has been a tremendous asset. He has received the Administrator's Award and the Secretary's Award a combination of four times and recently received a Distinguished Service Award from the Executive Director. John Cater wished him the best in retirement and thanked him for his service.

Chairman Aden also thanked Doug Bennett for his service.

## **Audience Participation**

Chairman Aden returned to the request Audience Participation since the listed time had arrived. Chairman Aden stated that there were no members of the audience wishing to address the Commission.

## **STAC Report**

Vince Rogalski stated that STAC met on December 13, 2014. Tim Harris updated the RAMP list of commitment letters. Tim Harris also discussed the Portfolio Management System in relation to the budget, the floods and RAMP.

The Colorado legislative session begins in January 2014, and CDOT is sponsoring two bills dealing with outdoor advertising and flagger training. Herman Stockinger told the STAC that CDOT submitted a \$1.6 million capital request for lighting in the Hanging Lakes Tunnel.

Mark Imhoff gave the STAC the same presentation that the Commission received during an earlier workshop on the Interregional Express Bus. STAC discussed commercial advertising and weekend trips. The STAC recommended to the Commission to move forward with the Interregional Express Bus.

STAC discussed the Statewide Plan, and Sandi Kohrs provided a presentation on PD14. STAC discussed the goals and the aspirational goals. They also discussed Program Distribution, and how it will work to meet the goals of PD14. Scott Richrath provided information regarding RAMP, the funding and when it expires. He explained that when RAMP expires there will be a need for TRANS Bonds to fill in if the CDOT wants to keep the same level of programming.

STAC subcommittee and STAC approved distribution for various programs, but they were stuck on the formula for CMAQ distribution. The formula that the subcommittee originally recommended was 100% population, figuring that pollution is not regulated to state highways but all roads in the area. The old formula was 50% population and 50% Vehicle Miles Traveled (VMT). After lengthy discussion, the STAC recommended 75% population and 25% VMT to move forward with the CMAQ program.

Debra Perkins-Smith provided an update on RPP and the fact that the Commission moved forward in November to make the program \$50 million. She stated that the 45-40-15 formula is only approved for one year and that the Commission will look at this formula over the next year to see if there is a more appropriate one. One of the comments was that when STAC begins to look at the elements of the formula, they will need to take a statewide perspective.

The final item at the STAC meeting was the FY'2013 reallocations. STAC recommended to continue with staff recommendations, which the Commission discussed in the morning workshops.

## **Act on Consent Agenda**

Chairman Aden stated that Commissioner Reiff requested Item E be removed from the Consent Agenda for further discussion.

Commissioner Connell moved to approve Items A, B, C and D on the Consent Agenda. Commissioner Gruen seconded the motion. On a vote of the Commission, the Consent Agenda Items A, B, C and D were unanimously approved.

**Resolution #TC-3116**

BE IT HEREBY RESOLVED, that the Transportation Commission's Regular Meeting Minutes of November 20, 2013, are hereby approved as published in the official agenda of December 18 & 19, 2013.

**Resolution #TC-3117**

**Resolution # TC-3117**  
**Approved December 19, 2013**

**Repeal of Policy Directive 315.0 "Contract Time and Contract Time Extensions for Construction Contracts"**

**WHEREAS**, under the Colorado Revised Statutes 43-1-106(8), the Transportation Commission of Colorado has the statutory responsibility to set policies and establish rules for the Colorado Department of Transportation (CDOT); and

**WHEREAS**, the Transportation Commission supports the Department's efforts to eliminate when possible directives which are no longer necessary, are out of date or are duplicative of federal and state laws and regulations; and

**WHEREAS**, Policy Directive 315.0 was adopted by the Transportation Commission on December 17, 2009; and

**WHEREAS**, this Policy Directive merely instructs employees to follow the procedures identified in the CDOT Construction Manual when the Construction Manual is already identified as the main source of information for the Department on all construction matters.

**NOW THEREFORE BE IT RESOLVED**, the Commission herein REPEALS Policy Directive 315.0 "Contract Time and Contract Time Extensions for Construction."

*Norman J. Stockigt*  
Transportation Secretary

1-4-14  
Date

**Resolution #TC-3118**

**Resolution # TC-3118**

**Approved December 19, 2013**

**Repeal of Policy Directive 720.0 "Colorado State Infrastructure Bank (SIB) Policy"**

**WHEREAS**, under the Colorado Revised Statutes 43-1-106(8), the Transportation Commission of Colorado has the statutory responsibility to set policies and establish rules for the Colorado Department of Transportation (CDOT); and

**WHEREAS**, the Transportation Commission supports the Department's efforts to eliminate when possible directives which are no longer necessary, are out of date or are duplicative of federal and state laws and regulations; and

**WHEREAS**, Policy Directive 720.0 was adopted by the Transportation Commission on April 21, 2011; and

**WHEREAS**, this policy is no longer necessary as Procedural Directive 720.1, statutory authority 43-1-113.5, C.R.S., and CDOT rules currently in place, 2 CCR 605-1, adequately provide for requirements and processes regarding the Colorado State Infrastructure Bank (SIB).

**NOW THEREFORE BE IT RESOLVED**, the Commission herein REPEALS Policy Directive 720.0 "Colorado State Infrastructure Bank (SIB) Policy."

*Herman J. Stetson III*  
Transportation Secretary

1-4-14  
Date

**Resolution #TC-3119**

**PROJECT #:** F005-3(26)  
**LOCATION:** SH 40 near Golden, CO  
**PARCEL #:** 21XA, 21XB, 21XC  
**COUNTY:** Jefferson

**Resolution #TC-3119**  
**Approved December 19, 2103**

**Disposal of Excess Right of Way Parcels 21XA, 21XB, 21XC**

**WHEREAS**, the Department of Transportation acquired Right of Way in 1968 in unincorporated Jefferson County, near Golden, Colorado as a part of CDOT Project #F005-3(26) for use as SH 40; and

**WHEREAS**, the abutting property owner has requested that portions of the right of way be disposed of to the owner for future development purposes; and

**WHEREAS**, there are a total of three (3) parcels of right of way requested that combined together total 2,463 square feet, more or less; and

**WHEREAS**, the right of way parcels are labeled Parcels 21XA, 21XB, and 21XC; and

**WHEREAS**, the sale of the parcels will not affect the operation, maintenance, use or safety of CDOT's facility; and

**WHEREAS**, the fair market value of parcels 21XA, 21XB, and 21XC will be established by the appraisal process outlined by Colorado revised Statute 43-1-210(5); and

**WHEREAS**, the Department of Transportation, Region 1 has declared through Timothy Harris as Chief Engineer, that the property is not needed for transportation purposes; and

**WHEREAS**, the Chief Engineer and the Department of Transportation are authorized pursuant to C.R.S. 43-1-106(8)(n); 43-1-110; 43-1-114(3) and 43-1-210(5) to make determinations regarding land to be declared excess and not needed for transportation purposes now or in the foreseeable future; and

**WHEREAS**, the Transportation Commission concurs with the Chief Engineer that this property is not needed for transportation purposes now or in the foreseeable future; and

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**NOW THEREFORE BE IT RESOLVED**, pursuant to C.R.S. 43-1-106(8)(n); 43-1-110; 43-1-114(3), 43-1-210 Code of Federal Regulations and Title 23, Part 710, Section 409 (23 CFR 710.409), the Department of Transportation be given authority to declare properties described as 21XA, 21XB, and 21XC of Project # F005-3(26) be excess land.

**FURTHER**, funds from the sale of the property shall be disbursed in accordance with Section 7.2.15 of the CDOT Right-of-Way Manual.

Norman J. Stockinger III  
Transportation Secretary

1-4-14  
Date

## **Discuss and Act on the Use of CMAQ Funds in FY'14-17 for CNG Station and Vehicles and Alternative Fuel Advancements**

Chairman Aden asked Commissioner Reiff to address Item E on the Consent Agenda, and Commissioner Reiff stated that Debra Perkins-Smith prepared an explanation of the resolution.

Debra Perkins-Smith stated that the proposal was discussed in workshop in November 2013. It had also been discussed in STAC previously. She stated that Tom Hunt from the Colorado Energy Office was in attendance to answer any specific questions for the Commission. This proposal by the Colorado Energy Office is to develop a CNG program through the opportunities in MAP-21, which allows the state to use CMAQ funding for this purpose throughout the state. CDOT worked with the Colorado Energy Office to develop a program, which has been approved through STAC. It is \$30 million over four years for the statewide program to be developed.

Commissioner Reiff asked Deb Perkins-Smith if DRCOG had approved the recommendation. She stated that DRCOG agreed with the recommendation but requested two elements in a letter to the Governor. The first was that electric vehicles also be allowed to recharge at the CNG stations, or that the option at least be explored. The second was that older vehicles be taken off the road and replaced for CNG rather than new vehicles. She stated that these are both elements that can be looked at or accommodated in the program that is being developed. There is one request from STAC that was included in the resolution that there is an Advisory Committee. Some communities, such as Weld County, have extensive experience with this, and the STAC thought they could be helpful in the development process.

Commissioner Reiff asked if STAC also supports the resolution, and Deb Perkins-Smith affirmed that they did.

Chairman Aden entertained a motion to approve the resolution. Commissioner Gilliland moved to approve Consent Agenda Item E, and Commissioner Peterson seconded the motion. By vote of the Commission, the resolution was unanimously approved.

## **Resolution #TC-3120**

**Resolution Number #TC-3120**  
**Approved December 19, 2013**

### **Use of CMAQ Funds in FY'14-17 for CNG Station and Vehicles and Alternative Fuel Advancement**

**WHEREAS**, the Congestion Mitigation and Air Quality (CMAQ) improvement program was established under the Intermodal Surface Transportation Efficiency Act (ISTEA), continued under the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and has been further continued under Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21); and

**WHEREAS**, the purpose of the CMAQ program is to provide a flexible funding source for transportation projects and programs that assist non-attainment and attainment/maintenance areas in meeting National Ambient Air Quality Standards (NAAQS); and

**WHEREAS**, MAP-21 included "Special Rules" for the CMAQ program including eligibility for Electric Vehicle (EV) and Natural Gas Vehicle (NGV) infrastructure at any location in the state; and

**WHEREAS**, purchase of alternative fuel vehicles continue to be eligible pursuant to CMAQ program guidelines; and

**WHEREAS**, federal regulations provide guidance on how to administer the CMAQ program, while allowing the state to determine how funds will be allocated; and

**WHEREAS**, TC-1832, approved February 18, 2010, provided for the allocation of CMAQ funds for Federal Fiscal Year (FFY) 2012 through FFY 2017 and established a CMAQ fund reserve; and

**WHEREAS**, the Colorado Energy Office (CEO) has proposed using CMAQ funds for a statewide CNG program to support the development of fueling stations on key corridors and the purchase of vehicles as allowed with CMAQ funds and the inclusion of EV stations and vehicles as appropriate; and

**WHEREAS**, CEO staff and CDOT staff have collaborated with the transportation planning partners that are primary recipients of CMAQ funds, and CEO has presented to STAC concerning this program and STAC has recommended funding with CMAQ in an amount of \$30 million over four years; and

**WHEREAS**, there are sufficient CMAQ funds within the planned CMAQ reserve for years 2014-2017 for this statewide program to be funded in an amount not to exceed \$30 million over those four years, which is approximately 20 percent of projected CMAQ funds for that time period, in the amounts of \$10 million in 2014, \$7 million in 2015, \$7 million in 2016, and \$6 million in 2017;

**NOW THEREFORE BE IT RESOLVED**, that the Transportation Commission approves the use of CMAQ funds in an amount not to exceed \$30 million over the years 2014-2017 for the support of a statewide Compressed Natural Gas (CNG) program in Colorado including development of CNG fueling stations along key corridors and purchase of vehicles pursuant to Federal guidelines for use of CMAQ funds, and also funding of EV stations and vehicles as deemed appropriate by CEO.

**FURTHER, BE IT RESOLVED**, that CMAQ fund recipients will continue to report annually in writing to the CDOT staff on the effectiveness of their projects and CDOT staff will compile results into reports for the Commission and the FHWA. If review of the CMAQ program indicates concern about the effectiveness of the use of CMAQ funds, the Commission reserves the option to review and alter the allocation of funds.

**FURTHER, BE IT RESOLVED**, that this resolution supersedes the portion of TC Resolution 1832 that pertains to the allocation of the CMAQ reserve funds by allocating planned reserve funds first to this CEO statewide program as outlined above and then distributing remaining reserve funds to eligible recipients.

Norman J. Steinkinger III  
Transportation Secretary

1-4-14  
Date

**Discuss and Act on the 7<sup>th</sup> Supplement to the FY2014 Budget**

Scott Richrath stated that as he mentioned during an earlier workshop on PD703, the staff would err on the side of caution, bringing items before the entire Commission that have already been presented in Asset Management Committee meetings. The documents differentiate between those items that have been presented previously and newly presented items. He requested confirmation of approval for previously presented ones.

He highlighted that as the Department transitions into cash management; they will begin to present this information to the Commission in a different format. Presentations have formerly been in "Year of Budget" format, and they will now be in "Year of Cash Expenditure" format. The department is no longer identifying the year of the source of the budget dollars, but the year that the resident engineer, the program engineer or the RTD projected spending those dollars. That has driven the need for this presentation to include \$40 million of surface treatment projects as FY'15 projected expenditures. These funds may be split over multiple years.

He then discussed the FY'13 Reconciliation. He stated that this requests the Commission to formally adopt the movement of Contingency into local agency programs in order to keep those programs whole. This has been built into the supplement action.

He described the projects being presented to the Commission for the first time, detailed in the supplement request. Some of these funds are FY'15 funds advanced into FY'15. He stated that in March he will present a policy directive addressing whether the Commission wants see surface treatment projects presented on a monthly basis. He then highlighted several projects from the supplement.

He described \$30 million in rehabilitation and preventative maintenance projects on bridges across the state. This was an innovative approach of looking at the state bridge system and asking contractors to address them collectively, rather than one at a time. He thanked Joshua Laipply and the engineers in the region for taking this collective approach.

Chairman Aden entertained a motion to approve the 7<sup>th</sup> Supplement to the FY'14 Budget. Commissioner Connell moved to approve the resolution, and Commissioner Gilliland seconded the motion.

Commissioner Gruen stated that he was pleased to see these RAMP funds budgeted.

Upon vote of the Commission, the resolution passed unanimously.

### **Resolution #TC-3121**

BE IT SO RESOLVED THAT the 7<sup>th</sup> Supplement to the Fiscal Year 2014 Budget be approved.

### **Discuss and Act on the Emergency Relief Supplement**

Scott Richrath stated that \$1.6 million of reimbursements came in, and that CDOT had \$1.6 million set aside. With the exception of the \$6.7 million move of contingency into funding local agencies programs for FY'13, there was very little activity.

Chairman Aden entertained a motion to approve the Third Supplement to the Emergency Relief Funding. Commissioner Peterson moved to approve the resolution, and Commissioner Gilliland seconded that motion. Upon vote of the Commission, the resolution passed unanimously.

### **Resolution #TC-3122**

BE IT SO RESOLVED that the Third Supplement to the Emergency Relief Funding be approved.

### **Discuss and Act on a Resolution for the CO SIB Interest Rate**

Scott Richrath stated that every six months the Commission sets an interest rate for the State Infrastructure Bank (SIB). He explained that the SIB is in-state legislation that provides funding for two programs significantly: aeronautics and a highway

program. He explained that the SIB offers favorable rates as a way to spur on capital development for projects that might not otherwise be able to move forward at the local level.

He stated that staff recommends an interest rate of 2.5%. Over the last year, this rate has remained fairly consistent with the municipal market rate and the market rate on treasuries in terms of the movement of the rate.

Commissioner Aden entertained a motion to approve the CO SIB interest rate at 2.5%.

Commissioner Gifford stated that the Commission had indicative interest rates in terms of what the yield is expected to be. She asked how relationship was set between these and the interest rate recommended, and she asked what the average term of the loans is. Scott Richrath stated that the average term is around ten years, but that is aligned with the size of the project. He stated that these are not typically larger projects. He stated that they work with financial advisors to align rates to a ten year projection.

Commissioner Hofmeister moved to approve the resolution, and Commissioner Connell seconded that motion. On vote of the Commission, the resolution passed unanimously.

**Resolution #TC-3123**

**Resolution #TC-3123**

**Approved on December 19, 2013**

**Assess the CO SIB Interest Rate of 2.5%**

**WHEREAS**, the Colorado State Infrastructure Bank (bank) is a transportation investment bank with the ability to make loans to public and private entities for the formation of public transportation projects within the state; and **WHEREAS**, the General Assembly has passed Legislation (43-1-113.5 CRS) that made certain provisions for the bank and established within the bank, a highway account, a transit account, an aviation account and a rail account; and

**WHEREAS**, the Transportation Commission has adopted rules, pursuant to 43-1-113.5 CRS, regarding the eligibility requirements, disbursement of funds, interest rates, and repayments of loans from the bank; and **WHEREAS**, pursuant to 2CCR 605-1 (rule 5) the Transportation Commission is required to set the bank's interest rate and the origination fee on loans no later than December 31, of each year for loans originating during the ensuing months of January; February; March; April; May; June of the remaining fiscal year; and

**WHEREAS**, based on current market conditions, the Office of Financial Management and Budget (OFMB) has recommended an interest rate of 2.5 percent on loans and that no origination fee shall be assessed on bank assistance for the second half of the State fiscal year 2014.

**NOW THEREFORE BE IT RESOLVED**, the Transportation Commission authorizes the Chief Financial Officer (CFO), under the terms and provisions set forth in the adopted rules, to assess an interest rate of 2.5 percent and no origination fee on bank loans for the second half of the State fiscal year 2014.

Herman F. Stockinger III  
Transportation Secretary

1-4-14  
Date

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**Discuss and Act on a Resolution to Open the Transportation Commission Rules**

Herman Stockinger explained that Rules are allowed for in statute, that CDOT may or shall promulgate rules. CDOT has 25 sets of rules. Approximately half of these are owned and controlled by the Executive Director, and the other half are owned and controlled by the Transportation Commission. He explained that one set that the Commission controls is the SIB rules that there have been multiple resolutions on during the December meeting.

He stated that rules carry the force of law and must follow the Administrative Procedures Act. A resolution to open the rules addresses to issues: 1) Does the Commission want to open the rules to make necessary changes? 2) Does the Commission want to serve as the hearing officers or want to appoint an administrative rules employee to conduct the hearings?

He explained that the rules addressed today are the rules that govern how the Transportation Commission operates. There are two substantive changes. Under 2.06, the Commission officers will be elected and begin serving in July rather than August or September, as is currently. This will coincide with gubernatorial appointments. Under 7.05 all resolutions currently go to Attorney General's office for approval. This language has been revised so that some standard language resolutions do not have to go the Attorney General every month.

Commissioner Aden entertained a motion to approve the Resolution to Open the Transportation Commission Rules. Commissioner Gilliland moved to approve the resolution, and Commissioner Connell seconded the motion. Upon vote of the Commission, the resolution passed unanimously.

**Resolution #TC-3124**

**Resolution # TC -3124**

**Approved December 19, 2013**

**Open Rule-Making Regarding Revisions to the General Rules of Practice and Procedure before the Transportation Commission of Colorado, 2 CCR 601-11 and Delegate Authority to an Administrative Hearing Officer to Hold a Public Rule-Making Hearing.**

**WHEREAS**, § 43-1-106(6) and § 43-1-106(8)(k) C.R.S. authorize the Transportation Commission of Colorado (the "Commission") to promulgate rules in relation to its meetings and the transaction of business; and

**WHEREAS**, the current Commission rules were last updated on November 14, 2011; and

**WHEREAS**, the Commission has determined that it will elect officers annually in July rather than August, requiring a change to Rule 3.6; and

**WHEREAS**, other minor modifications will be made to the Rules, including revising numbering and statutory citation; and

**WHEREAS**, following the measures taken by the Department to comply with the Administrative Procedure Act, the proposed Rules will be submitted to the Commission for approval and adoption.

**NOW THEREFORE BE IT RESOLVED**, the Transportation Commission herein opens the rule-making process and delegated authority to an administrative hearing officer to preside over a public rule-making hearing on the modifications to the Rules.

  
\_\_\_\_\_  
Transportation Commission Secretary

1-4-14  
Date

**Other Matters**

Chairman Aden stated that there were no other matters to come before the Commission.

**Acknowledgements**

Tony DeVito explained that on November 21, 2013, there was an incident in which Dave Haley stumbled on his way back to a desk after a meeting. Dave's right arm was rigid and his face was withdrawn on the right side because he had had a stroke. However, due to the quick response of Christine Tretter, Trinidad Urrutia and Stuart Tashiro, he was rushed to hospital, received the necessary treatment and is back at work today with no restrictions.

He explained that there was a lesson for all of us. The Region is going to push forth a FAST campaign: Face, Arms, Say Something Simple, Time is of the Essence. This

campaign will help employees recognize stroke. Our employees' quick responses were a result of the excellent first aid training that the CDOT maintenance teams provide. There have now been three maintenance teams that have come before the Commission because they have saved lives.

Tony DeVito presented Stuart Tashiro, Christine Tretter and Trinidad Urrutia with a certificate for their quick response.

Chairman Aden thanked these employees for their great example of the CDOT family taking care of one another.

Executive Director Hunt stated that this was a very difficult challenge in 2013 to single out one Region to recognize. The Director's Cup must be assessed for the entire year, beginning to end, even though there was an extraordinary event in Region 4. But many employees throughout CDOT also rose to the occasion to help Region 4 through the floods. Each region submits the writing portion to describe the successes of their own region. The other half of the competition is based on data compiled by the Chief Engineer. Therefore, it is both qualitative and quantitative.

Director Hunt described the successes of each region. Region 5 focused on strategic focus areas, highlighting innovations in mapping to avoid conflicts among engineering and maintenance projects. This is an ongoing study to better identify locations of passing lanes and slow vehicle turnouts. Region 4 discussed "No Boundaries" to highlight their accomplishments in organization and integration for their new, much larger region. They described their success through better financial management within the region and their extremely hard work to get people talking about converting a general purpose lane to a managed lane on I-25. They also performed excellently in response to the floods. Region 3 focused on change in 2013 and expanded their boundaries. They created strong partnerships for RAMP projects and provided support to Region 4 on the flood. Region 2 highlighted teamwork as a key to their success. Their employees saved a life. They brought to large environmental studies to completion and brought forward creative RAMP partnerships. They also provided support during the flood. Region 1 described their reorganization during the creation of the "New Region 1." The US 36 project made significant progress, and a TIGER Grant was received for the Eisenhower-Johnson Fire Suppression System. They moved the bridge on the I-70/Pecos Interchange, as well as addressing their own flood damage. There was also the December opening of the I-70 Twin Tunnels Project.

After careful consideration of both the qualitative and quantitative support, the Region that exceeded all the others was Region 2.

Ton Wrona accepted the Director's Cup for Region 2. He thanked his staff and selection committee. He stated that his staff was wonderful and the region had a super year, dealing with a lot of adversity.

Executive Director acknowledged Tim Harris, the Chief Engineer, who retired at the end of 2013. He described Tim's excellent career at HQ, the regions and staff branches. He stated that Tim was a natural leader, committed, dedicated and kind. He stated that Tim would be sorely missed at CDOT and wished him the best in the coming years.

Chairman Aden presented Tim Harris with a plaque to recognize his 33 year career at CDOT.

The Commissioners individually thanked Tim Harris for his service, leadership and dedication at CDOT.

Tim Harris stated that he has enjoyed his career at CDOT due to the high quality of employees at CDOT. He traveled many places with many people, building relationships and serving the public. He thanked everyone for their service as well.

### **Adjournment**

Chairman Aden announced that the meeting was adjourned at 11:45am.

# STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION



**DATE:** January 3, 2014

**TO:** Transportation Commission

**FROM:** Herman Stockinger / Heidi Humphreys

**SUBJECT:** Approval of Updated Policy Directive 600.0 “Equal Employment Opportunity and Affirmative Action”

## Purpose

To confirm CDOT’s commitment to equal employment opportunity and affirmative action as part of its ongoing effort to update policies so that they comply with federal and state requirements.

## Action Requested

Approval of updated Policy Directive 600.0 “Equal Employment Opportunity and Affirmative Action.”

## Executive Summary

This Policy Directive is intended to address the FHWA's requirement to have a policy in place with regard to employment practices, as well as incorporating reference to the Department’s Affirmative Action Plan. The Commission is authorized by Section 43-1-106 (8)(a), C.R.S. to formulate policy for CDOT. The Department continues to focus efforts on updating its policies in compliance with state and federal regulations. As a recipient of federal funding, CDOT must ensure that its employment practices offer equal opportunities to employees and applicants including those within currently protected classes as required by Title VII of the Civil Rights Act of 1964 and Colorado Anti-Discrimination laws.

## Background

Policy Directive 600.0 “Equal Employment Opportunity and Affirmative Action” updates current Policy Directive 600.0, “Equal Employment Opportunity and Non-Discrimination Policy” adopted June 18, 2008.

## Details

The Division of Administrative Services, Employee Relations / Legal Office oversees CDOT’s compliance with federal regulations and state law pertaining to equal employment opportunities and affirmative action. This Policy Directive outlines CDOT’s general policy for all CDOT employees and applicants with regard to compliance with Title VII of the Civil Rights Act of 1964 and Colorado Anti-Discrimination laws. It does not include CDOT’s obligations under Title VI, which are set forth in Policy Directive 604.0, “Non-Discrimination Policy,” overseen by the Civil Rights and Business Resource Center.

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Policy Directive 600.0 has been due for review since May 2012. This updated version identifies and describes the currently protected classes under federal regulations and state law. This includes compliance with the Genetic Information Nondiscrimination Act of 2008 (“GINA”), 43 U.S.C. § 2000ff, which prohibits the use of the improperly disclosed genetic information in hiring and promotion. It also adheres to the Department of Regulatory Agencies (“DORA”) guideline pertaining to Colorado Anti-Discrimination Laws under § 24-34-401, *et seq.*, C.R.S.

Key Benefits

Compliance with federal and state requirements and clarity of direction to the Department in all hiring and employment practices.

Next Steps

This Policy Directive will be implemented by the Division of Administrative Services, Employee Relations / Legal Office and applies to all offices, divisions, regions, and branches of CDOT. Affirmative Action compliance will be overseen by the Affirmative Action Officer.

Attachments

Updated Policy Directive 600.0

Policy Directive 600.0 currently in effect

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>		<input checked="" type="checkbox"/> <b>POLICY DIRECTIVE</b> <input type="checkbox"/> <b>PROCEDURAL DIRECTIVE</b>	
Subject			Number
EQUAL OPPORTUNITY AND NON-DISCRIMINATION POLICY			<b>600.0</b>
Effective	Supersedes	Originating office	
06/18/08	09-01-07	Center for Equal Opportunity	

**POLICY DIRECTIVE CURRENTLY IN EFFECT**

**PURPOSE**

1. To ensure that no person shall, on the grounds of race, color, religion, gender (including sexual harassment), sexual orientation, national origin, age, political affiliation, organizational membership, veteran’s status, disability or other non-job related factor, be excluded from participation in, be denied the benefit of, or be subjected to discrimination or harassment under any program or activity receiving state or federal financial assistance directly or indirectly by CDOT.
  
2. To provide a policy that will standardize requirements by assuring uniform application and effective implementation of the provisions of the applicable state and federal Civil Rights Statutes.

**SPECIFIC AUTHORITY**

Primary impetus for equal opportunity and non-discrimination in accordance with:

1. Title VI of the Civil Rights Act of 1964
2. Federal-Aid Highway Act of 1968, Section 22(a)
3. Title VII of the Civil Rights Act of 1964, as amended
4. Presidential Executive Order 11246, as amended
5. Section 136(b) of the Federal-Aid Highway Act of 1970
6. Governor's Executive Order, April 1975
7. Rehabilitation Act of 1973, Section 503 and 504
8. Age Discrimination Act of 1975, as amended
9. Article XII, Section 13, State Constitution
10. Chapter 9: Rules and Regulations of the State Personnel System
11. CRS 24-34-402. Discriminatory or unfair employment practices
12. Colorado Civil Rights Commission standards and guidelines
13. American’s with Disabilities Act of 1990

**APPLICABILITY**

This directive applies to employees of the Colorado Department of Transportation and all divisions thereof and external employees of CDOT such as consultants and

<b>Subject</b> EQUAL OPPORTUNITY AND NON-DISCRIMINATION POLICY	<b>Number</b> <b>600.0</b>
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contractors.

**POLICY**

The Colorado Department of Transportation is committed to equal opportunity and non-discrimination under the law instituted by this state and the U.S. Congress. It is the responsibility of every person within the Department of Transportation to incorporate and implement actions of equal opportunity. The Colorado Department of Transportation’s commitment to non-discrimination is essential in performing our duties to the State of Colorado and to serve the people. It is the policy of this Department to take an active role in instituting equal rights and non-discrimination of all people in accordance with the state and federal laws, and the policies of Congress. In addition, the State of Colorado and federal law prohibit retaliation against any employee because he or she has made a report of alleged discrimination or harassment; has testified, assisted or participated in any manner in an investigation of such report; or has opposed discrimination or harassment.

Harassment is a form of employment discrimination that is prohibited by law and this policy. Harassment is unwelcome conduct that is based on race, color, sex, religion, national origin, disability, and/or age.

Harassment becomes unlawful where:

- 1) enduring the offensive conduct becomes a condition of continued employment, or
- 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people. Offensive conduct may include, but is not limited to:

- offensive jokes, slurs, epithets or name calling
- physical assaults or threats
- intimidation
- ridicule or mockery
- insults or put-downs
- offensive objects or pictures
- interference with work performance.

<b>Subject</b> EQUAL OPPORTUNITY AND NON-DISCRIMINATION POLICY	<b>Number</b> <b>600.0</b>
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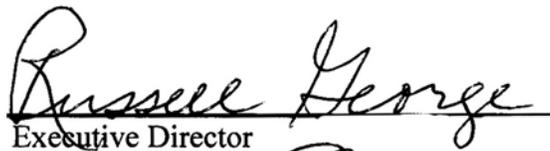
The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or a non-employee. The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.

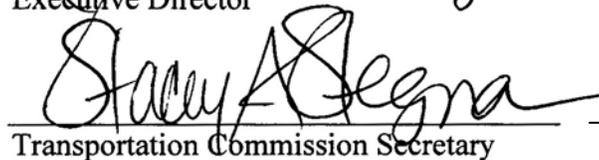
Regional Transportation Directors and Division Program Directors and subordinates will be responsible and accountable to the Executive Director for performing all official actions in a manner consistent with federal and state non-discrimination laws and policies within the spirit and letter of the Colorado Constitution.

**IMPLEMENTATION**

The policy stated herein shall be effective immediately and shall be implemented by all divisions of the Colorado Department of Transportation.

**REVIEW DATE:** May 2012


6/18/08  
 \_\_\_\_\_  
 Executive Director


6/18/08  
 \_\_\_\_\_  
 Transportation Commission Secretary

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>		<b>X POLICY DIRECTIVE</b> <b><input type="checkbox"/> PROCEDURAL DIRECTIVE</b>
<b>Subject</b>		
<b>EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION</b>		<b>600.0</b>
<b>Effective</b>	<b>Supersedes</b> 06/18/08	<b>Originating Office</b> Division of Administrative Services

## **I. PURPOSE**

To ensure that no person, such as a member of the public, applicant, or employee, shall, on the grounds of race, color, religion, gender (including sexual harassment), sexual orientation as defined in § 24-34-401 (7.5), C.R.S., national origin, age, genetic information, political affiliation, organizational membership, veteran's status, disability, marriage to a co-worker, pregnancy, or because such person has opposed any unlawful discriminatory practice or other non-job related factor, be excluded from participation in, be denied the benefit of, or be subjected to discrimination or harassment in hiring or employment practices.

## **II. AUTHORITY**

Executive Director, § 43-1-105, C.R.S.

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e  
(<http://www.eeoc.gov/laws/statutes/titlevii.cfm>)

Rehabilitation Act, 29 U.S.C. § 791  
(<http://www.eeoc.gov/laws/statutes/rehab.cfm>)

Age Discrimination Act of 1975, 29 U.S.C. § 621  
(<http://www.eeoc.gov/laws/statutes/adea.cfm>)

The Equal Pay Act, 29 U.S.C. § 206(d)  
(<http://www.eeoc.gov/laws/statutes/epa.cfm>)

The Genetic Information Nondiscrimination Act, 42 U.S.C. § 2000ff  
(<http://www.eeoc.gov/laws/statutes/gina.cfm>)

The Civil Rights Act of 1991, 29 CFR 1614  
(<http://www.eeoc.gov/laws/statutes/cra-1991.cfm>)

§ 24-34-401, *et seq.*, C.R.S.

## **III. APPLICABILITY**

Subject <b>EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION</b>	Number 600.0
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This directive applies to all divisions, branches, regions and offices of the Colorado Department of Transportation (“CDOT” or “Department”) with regard to applicants and employees. For purposes of this Policy, “employees” includes all employees, including management level, as well as temporary employees, volunteers and applicants.

**IV. POLICY**

It is the policy of CDOT to provide equal opportunity in employment and to prohibit discrimination in employment based on the above mentioned factors. CDOT supports the rights of employees to exercise all available rights under applicable civil rights laws and does not tolerate retaliation against employees who engage in a protected activity. Any employee or program issue related this EEO policy should be addressed to the Regional Civil Rights Office, Employee Relations Legal (ER/L), or the Affirmative Action Officer.

**V. IMPLEMENTATION PLAN**

- A. This Policy Directive shall be effective upon approval by the Transportation Commission.
- B. It shall be implemented by the Affirmative Action Officer in the Office of Employee Relations / Legal at CDOT Headquarters.

**VI. REVIEW DATE**

This Policy Directive shall be reviewed on or before January 2019.

\_\_\_\_\_  
Secretary, Transportation Commission

\_\_\_\_\_  
Date of Approval

**Resolution # TC-**

**Adoption of Policy Directive 600.0 “Equal Employment Opportunity and Affirmative Action”**

**WHEREAS**, pursuant to § 43-1-106(8)(a), C.R.S., the Colorado Transportation Commission is charged with formulating general policy for the Colorado Department of Transportation (“CDOT); and

**WHEREAS**, CDOT is required to comply with Title VII of the Civil Rights Act, 42 U.S.C. § 2000e, and related statutes as a recipient of federal funds from the U.S. Department of Transportation; and

**WHEREAS**, CDOT is required to comply with the Colorado Anti-Discrimination Laws under § 24-34-401, *et seq.*, C.R.S.; and,

**WHEREAS**, Policy Directive 600.0 seeks to fulfill the Federal Highway Administration’s requirement to have a policy in place with regard to equal opportunity employment practices and prohibition of discrimination, which practices will be implemented through all phases of CDOT’s Affirmative Action Plan; and,

**WHEREAS**, Policy Directive 600.0 updates and replaces Policy Directive 600.0, “Equal Opportunity and Non-Discrimination Policy” adopted on June 18, 2008; and

**WHEREAS**, updated Policy Directive 600.0 confirms CDOT’s commitment to equal opportunity in employment and the prohibition of discrimination in employment.

**NOW THEREFORE BE IT RESOLVED**, the Commission herein adopts Policy Directive 600.00 “Equal Employment Opportunity and Affirmative Action.”

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Transportation Secretary

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Date

# STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION



**DATE:** January 3, 2014

**TO:** Transportation Commission

**FROM:** Herman Stockinger / Heidi Humphreys

**SUBJECT:** Approval of Updated Policy Directive 603.0 “Policy Prohibiting Sexual Harassment”

## Purpose

To confirm CDOT’s commitment to prohibiting sexual harassment in the workplace and comply with federal and state requirements.

## Action Requested

Approval of updated Policy Directive 603.0 “Policy Prohibiting Sexual Harassment”

## Executive Summary

The Commission is authorized by Section 43-1-106 (8)(a), C.R.S. to formulate policy for CDOT. The Department continues to focus efforts on updating its policies in compliance with state and federal regulations. As a recipient of federal funding, CDOT must ensure that it has a policy in place prohibiting sexual harassment in the workplace as required by Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e. This policy is also required by state statute, § 24-34-402, C.R.S. and 4 CCR 801-1, Personnel Board Rules and Personnel Director’s Administrative Procedures.

## Background

Policy Directive 603.0 “Policy Prohibiting Sexual Harassment” current Policy Directive 603.0, “Sexual Harassment” adopted August 16, 2007.

## Details

The Division of Administrative Services, Employee Relations / Legal Office oversees CDOT’s compliance with federal regulations and state law pertaining to the prohibition of sexual harassment in the workplace. This Policy Directive outlines CDOT’s general policy for all CDOT employees with regard to compliance with Title VII of the Civil Rights Act of 1964 and state law and regulations set forth above.

Policy Directive 603.0 has been due for review since August 2012. This updated version identifies and describes the current federal and state law and regulations. It sets forth a clear prohibition that sexual harassment in the workplace will not be tolerated.

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Key Benefits

Compliance with federal and state requirements and clarity of direction to the Department regarding the prohibition of sexual harassment in the workplace.

Next Steps

This Policy Directive will be implemented by the Division of Administrative Services, Employee Relations / Legal Office and applies to all offices, divisions, regions, and branches of CDOT. The Employee Relations / Legal Office will work with the Office of Organization Learning and Development to develop and provide educational training on this Policy.

Attachments

Policy Directive 603.0 currently in effect

Updated Policy Directive 603.0

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>		<input checked="" type="checkbox"/> <b>POLICY DIRECTIVE</b> <input type="checkbox"/> <b>PROCEDURAL DIRECTIVE</b>	
Subject <b>SEXUAL HARASSMENT</b>			Number <b>603.0</b>
Effective <b>08-16-07</b>	Supersedes <b>09-15-99</b>	Originating Office <b>Center for Equal Opportunity</b>	

PURPOSE

To prevent all forms of sexual harassment at CDOT.

AUTHORITY

Title VII of the Civil Rights Act of 1964  
 Executive Director, Colorado Department of Transportation  
 Colorado Revised Statute 24-34-402 Discriminatory or Unfair Employment Practices

APPLICABILITY

This directive applies to all Divisions of the Colorado Department of Transportation (CDOT).

POLICY

It is the policy of the CDOT to provide and maintain for all employees a work environment free from all forms of sexual harassment. Sexual harassment is against the law. All CDOT employees and customers are expected to abide by the policy against sexual harassment. In addition, the State of Colorado and federal law prohibit retaliation against any employee because he or she has made a report of alleged sexual harassment; has testified, assisted or participated in any manner in an investigation of such report; or has opposed sexual harassment.

DEFINITIONS

Sexual harassment is a form of gender discrimination. It is defined as unwelcome sexual advances, requests for favors, and other unwelcome verbal and physical conduct based on an employee’s sex when:

- submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment; or
- submission to or rejection of such conduct is used as a basis for making employment decisions about a person; or
- such conduct has the purpose or effect of substantially and unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive work environment.

Sexual harassment may be perpetrated by men or women of the same or opposite sex. Any employee (male or female) may be a victim of sexual harassment. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

**Quid Pro Quo** – when a supervisor demands sexual favors and, if the employee does not comply, takes a tangible employment action against the employee such as:

- making a significant change in employment status, as in hiring firing, failing to promote,
- reassignment of significantly different responsibilities, or
- a decision causing a significant change in benefits.

**Hostile work environment** - involves workplace conditions that are sufficiently severe and pervasive to alter the conditions of the victim's employment and create an abusive work environment. A hostile work environment may include actions and or behavior such as:

- sexual advances or requests for social dates that are unwanted (this may include situations that began as reciprocal attractions, but later ceased to be reciprocal);
- sex -oriented physical contact or gestures such as touching, patting, or repeated brushing against the body;
- the (actual or electronic) display of sexually suggestive objects, pictures, cartoons or posters; viewing or transmitting sexually oriented subject matter is a violation of CDOT policy that may result in disciplinary action including termination.
- sexually oriented verbal comments, jokes, innuendoes or obscenities;
- sexually suggestive letters, notes, invitations, emails, electronic messages, displays or other written material;
- reprisals or threats after a negative response to sexual advances;
- sex-oriented entertainment appearing at the office or any other work-related site or function; and
- physical conduct such as impeding or blocking movement, touching or sexual assault.

Sexual harassment is conduct that meets the above criteria and interferes with an employee's:

- ability to do his or her work; or
- enjoyment of all work-related opportunities and benefits; or
- comfort level in his or her work environment.

## RESPONSIBILITIES

All CDOT employees should read and understand the sexual harassment policy.

### **EEO**

The Headquarters Center for Equal Opportunity staff and the Regional Civil Rights Managers are responsible for receiving, investigating and acting on reports of sexual harassment. All claims of sexual harassment will be investigated.

### **Employee**

An employee who is being sexually harassed should attempt to resolve the issue as soon as possible. If possible, and if safe, inform the person whose behavior or action is unwelcome or offensive to stop the offending behavior, and thereby informally resolve the issue. If the employee does not feel comfortable with approaching that person, or if the offending behavior continues, the employee should seek assistance from his/her supervisor (or any supervisor in the chain of command) **and/or** the Regional Civil Rights Manager or the Headquarters Center for Equal Opportunity (303-757-9303 or 1-800-925-3427). Employees may notify supervisors and civil rights professionals verbally, in writing, via personal e-mail, or EO@dot.state.co.us.

### **Managers/Supervisors**

When a supervisor/manager receives a report or has knowledge of alleged harassment, the supervisor/manager will take action to correct the situation to the extent possible in a timely manner. The supervisor/manager will promptly notify the respective Civil Rights Office in writing when an employee has alleged discrimination, and describe any mitigating action taken. A manager/supervisor is responsible for reporting all allegations of sexual harassment to the appropriate Headquarters Center for Equal Opportunity (303-757-9303, 1-800-925-3427, EO@dot.state.co.us) or the Regional Civil Rights Manager. Managers/supervisors are also responsible for documenting the allegations and for respecting the privacy of all parties.

Managers and supervisors must also take prompt action to stop inappropriate and impermissible behavior, and must take effective action to prevent incidents of alleged harassment. Some actions to prevent sexual harassment include:

- Ensure that your staff completes required training.
- Consult with the Headquarters Center for Equal Opportunity (303-757-9303 or 1-800-925-3427) or your Regional Civil Rights Manager for assistance or specialized training.
- Establish a workplace atmosphere of respectful communication that supports CDOT Values.
- Be alert and sensitive to possible sexual harassment situations or offensive behavior.
- Be accessible and listen to employee concerns.

### **Appointing Authorities**

All appointing authorities and civil rights professionals shall be responsible for the enforcement of this policy. This includes ensuring that the supervisor in question has taken proper steps to stop alleged sexual harassment and that all complaints are investigated according to the CDOT Civil Rights Complaint Investigation Procedural Directive 600.6.

Any employee who violates this policy may be subject to corrective and/or disciplinary action, up to and including termination.

CDOT expects all employees to treat each other with courtesy and respect.

### **IMPLEMENTATION**

This policy shall be effective immediately and shall be implemented by all Divisions of the Colorado Department of Transportation.

**REVIEW DATE:** August 2012.

 08/16/07  
Executive Director Date

 08/16/07  
Secretary, Transportation Commission Date

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>		<input checked="" type="checkbox"/> <b>POLICY DIRECTIVE</b> <input type="checkbox"/> <b>PROCEDURAL DIRECTIVE</b>	
Subject <b>POLICY PROHIBITING SEXUAL HARASSMENT</b>			Number <b>603.0</b>
Effective	Supersedes <b>08.16.2007</b>	Originating Office <b>Division of Administrative Services / Employee Relations / Legal</b>	

**I. PURPOSE**

The Colorado Department of Transportation will not tolerate acts of sexual harassment or related retaliation against or by any employee.

**II. AUTHORITY**

Transportation Commission pursuant to § 43-1-106, C.R.S.

42 U.S.C. 2000e, “Title VII of the Civil Rights Act of 1964” as amended.

§ 24-34-402, C.R.S.

4 CCR 801-1, Personnel Board Rules and Personnel Director’s Administrative Procedures

**III. APPLICABILITY**

This Policy Directive applies to all offices, divisions, regions and branches of the Colorado Department of Transportation.

**IV. POLICY**

No employee shall commit an act of sexual harassment or related retaliation. It is a violation of this Policy Directive for anyone acting knowingly, recklessly, or negligently either to make a false complaint of sexual harassment or to provide false information regarding a complaint. It is intended that individuals who violate this Policy Directive may be disciplined or subjected to corrective action, up to and including termination.

**V. IMPLEMENTATION PLAN**

1. Employee Relations / Legal shall provide an electronic notification of this Policy Directive within one week of adoption to all Employee Relations/Legal staff members, Appointing Authorities, Regional Civil Rights Managers, and the Office of Organizational Learning & Development.
2. Employee Relations / Legal will work with the Office of Policy and Government Relations to post this Policy Directive on the Department intranet within one week of adoption.
3. Employee Relations / Legal shall work with the Office of Organizational Learning and Development to develop and provide educational training on this Policy Directive.

**VI. REVIEW DATE**

This Policy Directive will be reviewed on or before January, 2019.

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Secretary, Transportation Commission

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Date of Approval

**Resolution # TC-**

**Adoption of Policy Directive 603.0 “Policy Prohibiting Sexual Harassment”**

**WHEREAS**, pursuant to § 43-1-106(8)(a), C.R.S., the Colorado Transportation Commission is charged with formulating general policy for the Colorado Department of Transportation (“CDOT); and

**WHEREAS**, CDOT is required to comply with Title VII of the Civil Rights Act, 42 U.S.C. § 2000e, and related statutes as a recipient of federal funds from the U.S. Department of Transportation; and

**WHEREAS**, CDOT is required to comply with the Colorado Anti-Discrimination Laws under § 24-34-402, C.R.S., and 4 CCR 801-1, Personnel Board Rules and Personnel Director’s Administrative Procedures; and,

**WHEREAS**, CDOT is required to comply with the Equal Employment Opportunity Commission (“EEOC”) requirement to have a Policy in place with regard to the prohibition of sexual harassment in the workplace; and,

**WHEREAS**, this Policy Directive updates and replaces Policy Directive 603.0, “Sexual Harassment” adopted on August 16, 2007; and

**WHEREAS**, this updated Policy Directive 603.0 confirms CDOT’s commitment to the prohibition of sexual harassment in the workplace.

**NOW THEREFORE BE IT RESOLVED**, the Commission herein adopts Policy Directive 603.00 “Policy Prohibiting Sexual Harassment.”

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Transportation Secretary

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Date

# STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION



**DATE:** January 3, 2014

**TO:** Transportation Commission

**FROM:** Herman Stockinger / Heidi Humphreys

**SUBJECT:** Approval of Updated Policy Directive 604.0 “Policy on Non-Discrimination” and Repeal of Policy Directive 611.0 “Disadvantaged Business Enterprise Program”

## Purpose

This action item is part of the Department’s ongoing effort to update policies so that they comply with federal and state requirements, and repeal any policies which can be consolidated or are no longer necessary.

## Action Requested

Approval of updated Policy Directive 604.0 “Policy on Non-Discrimination” and repeal of Policy Directive 611.0 “Disadvantaged Business Enterprise Program.”

## Executive Summary

As a recipient of federal funding, CDOT must ensure that its programs and activities do not discriminate on the basis of race, color, national origin, sex, disability, or age under Title VI of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act of 1990 (ADA), the Civil Rights Restoration Act of 1987, and related statutes. The Federal Highway Administration requires that state transportation agencies have policy statements that prohibit discrimination and outline the agency’s commitment to the objectives of the Disadvantaged Business Enterprise program. Policy Directive 604.0 lists various forms of discrimination prohibited by federal law and describes federal objectives aimed at promoting non-discrimination. It has included relevant language from Policy Directive 611.0 so that this directive can be repealed.

## Background

Policy Directive 604.0 “Policy on Non-Discrimination” updates Policy Directive 604.0, “Non-Discrimination in Federally Funded Programs Policy,” adopted July 7, 2004. This Policy Directive also replaces Policy Directive 611.0, “Disadvantaged Business Enterprise Program,” adopted April 15, 2010 which has been consolidated into Policy Directive 604.0.

## Details

The Civil Rights and Business Resource Center works with regional civil rights staff to ensure compliance with federal civil rights laws and guidance. Policy Directive 604.0 outlines CDOT’s general non-discrimination policy for all CDOT programs and activities,

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but does not include CDOT's Equal Employment Opportunity policy, which is set forth in Policy Directive 600.0 and now implemented by the Division of Administrative Services, Employee Relations / Legal Office. While some prohibited actions listed in Policy Directive 604.0 may not be applicable CDOT, they may be applicable to CDOT's contractors or sub-recipients and therefore have been included in this Policy Directive.

Policy Directive 604.0 has been due for review since July 2011. This updated version identifies and describes the forms of discrimination that are prohibited by federal law and highlights objectives implicit within the general policy related to access for persons with disabilities, access for persons with limited English proficiency, principles of environmental justice, and fair competition for federally-funded contracts.

#### Key Benefits

Compliance with federal and state requirements and clarity of direction to the Department and all entities and individuals to whom this policy applies.

#### Next Steps

This Policy Directive will be implemented by the Civil Rights & Business Resource Center, Division of Administration Services and applies to all offices, divisions, regions, and branches of CDOT, contractors and anyone who acts on behalf of CDOT. This policy also applies to any program or activity of any department or agency to which CDOT extends federal financial assistance. The term "program or activity" includes all the operations of a department, agency, special purpose district, or other instrumentality of a local government that receives federal financial assistance. *See* 42 U.S.C. § 2000d-4a(1). Federal financial assistance includes grants, training, and use of equipment, donations of surplus property, and other assistance.

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>		<input checked="" type="checkbox"/> <b>POLICY DIRECTIVE</b> <input type="checkbox"/> <b>PROCEDURAL DIRECTIVE</b>
Subject <b>POLICY ON NON-DISCRIMINATION</b>		Number <b>604.0</b>
Supersedes <b>604 (7/1/04)</b> <b>611 (4/15/10)</b>	Effective <b>TBD</b>	Originating Office <b>Civil Rights &amp; Business Resource Center, Division of Administrative Services</b>

## **I. Purpose**

To ensure that no person shall, on the ground of race, color, national origin, sex, disability, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in the operations of the Colorado Department of Transportation (“CDOT”) or of any department or agency to which CDOT extends federal financial assistance.

## **II. Authority**

See Appendix A. This Policy Directive is intended to meet Federal Highway Administration and Federal Transit Authority requirements.

## **III. Applicability**

This Policy Directive applies to all operations of CDOT, including all offices, divisions, regions, and branches of CDOT, its contractors and anyone who acts on CDOT’s behalf. This Policy Directive also applies to the operations of any department or agency to which CDOT extends federal financial assistance. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance.

## **IV. Policy**

1. It is CDOT’s policy that no person shall on the ground of race, color, national origin, sex, disability, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any operation of CDOT or of any department or agency to which CDOT extends federal financial assistance.

A. Examples of prohibited types of discrimination based on race, color, national origin, sex, disability, or age include:

- (1) Denial to an individual any service, financial aid, or other benefit;
- (2) Distinctions in the quality, quantity, or manner in which a benefit is provided;
- (3) Segregation or separate treatment;
- (4) Restriction in the enjoyment of any advantages, privileges, or other benefits provided;

(5) Discrimination in any activities related to highway and infrastructure or facility built or repaired; and

(6) Discrimination in employment.

B. Prohibited discrimination may be intentional or unintentional. Seemingly neutral acts that have disparate impacts on individuals of a protected group and lack a substantial legitimate justification are a form of prohibited discrimination. Instances where seemingly neutral acts may result in discrimination include:

(1) Utilizing criteria or methods of administration that have the effect of subjecting persons to discrimination or have the purpose or effect of substantially reducing the likelihood that persons can benefit from the objectives of a program or activity with respect to persons;

(2) Using different standards or requirements for determining whether a person satisfies any admissions, enrollment, quota, eligibility, membership, or other requirement for any service, financial aid, or other benefit; and

(3) Determining the site or location of a facility that has the effect of excluding persons, denying them the benefits of, or otherwise subject to them discrimination.

C. Harassment and retaliation are also forms of discrimination. Harassment includes a wide range of abusive and humiliating verbal or physical behaviors that are directed against a particular person because of race, color, national origin, sex, disability, or age. This Policy Directive prohibits retaliation against any person because he or she has reported alleged discrimination under this Policy Directive or has testified, assisted or participated in any manner in an investigation of such report, or has opposed such discrimination. No one shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with their rights against discrimination.

D. As part of this Policy Directive, CDOT adheres to the following objectives, which shall not be interpreted in any way to limit the general policy stated above:

(1) Access for Persons with Disabilities – No qualified disabled person shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination. Aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for disabled and non-disabled persons, but must afford persons with disabilities equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting that is reasonably achievable. Even if separate or different aid, benefits, or services are available to handicapped persons, a qualified disabled person shall

not be denied the opportunity to participate in the programs or activities that are not separate or different.

(2) Access for Persons with Limited English Proficiency – Individuals who have a limited ability to read, write, speak, or understand English are considered limited English proficient (“LEP”). Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by CDOT. Ignoring LEP populations may constitute discrimination on the basis of national origin. CDOT shall seek to communicate with LEP populations and provide LEP individuals meaningful access to CDOT programs and activities.

(3) Principles of Environmental Justice – CDOT will meaningfully engage all sectors of the public, including low-income and minority populations, potentially affected by CDOT projects. To help ensure the fair distribution of the benefits and burdens associated with CDOT programs and activities, CDOT will be guided by the following environmental justice principles:

(a) To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low-income populations;

(b) To ensure the full and fair participation by all potentially affected communities in CDOT’s decision-making process; and

(c) To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

(4) Fair Competition for Federally-Funded Contracts – A Disadvantaged Business Enterprise (“DBE”) is a business that is owned and controlled by a socially and economically disadvantaged individual or individuals. The objectives of CDOT’s DBE program are to:

(a) To ensure nondiscrimination in the award and administration of federally-assisted contracts in CDOT’s highway, transit, and airport programs;

(b) To create a level playing field on which DBEs can compete fairly for federally-assisted contracts;

(c) To ensure that CDOT’s DBE program is narrowly tailored in accordance with applicable law;

(d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;

Subject <b>Policy on Non-Discrimination</b>	Number <b>604.0</b>
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(e) To help remove barriers to the participation of DBEs in federally-assisted contracts; and

(f) To assist the development of firms that can compete successfully in the marketplace outside the DBE program.

**V. Implementation Plan**

1. This Policy Directive shall be effective immediately upon approval by the Transportation Committee.
2. The Civil Rights & Business Resource Center (“CRBRC”) shall implement this Policy Directive and will coordinate education and training to ensure compliance with this Policy Directive. All CDOT employees, its contractors, and anyone who acts on behalf of CDOT, including any department or agency to which CDOT extends federal financial assistance, shall be responsible for assuring that the proscribed discrimination does not occur. Should the potential for discrimination be discovered, action to eliminate the potential shall be taken.
3. Notices informing individuals of their rights under this Policy Directive will be posted on CDOT’s internal and external webpages, and be displayed in public office areas. These notices will also be consistent with CDOT’s policy for communicating with LEP populations.
4. As required by federal law, the CRBRC and regional civil rights staff shall be responsible for acquiring non-discrimination assurances, investigating discrimination complaints, conducting reviews of program areas, and preparing required reports.

**VI. Review Date**

This Policy Directive shall be reviewed on or before five years after the effective date.

\_\_\_\_\_  
Secretary, Transportation Commission

\_\_\_\_\_  
Effective Date

Subject <b>Policy on Non-Discrimination</b>	Number <b>604.0</b>
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## **APPENDIX A: Authority for Policy Directive 604.0**

### Federal Statutes

Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 2000d

Age Discrimination Act of 1975, 42 U.S.C. § 6101

Federal Aid Highway Act of 1970, 49 U.S.C. § 306

Federal Aid Highway Act of 1973, 23 U.S.C. § 324

Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, 102 Stat. 28

Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 – 12213

Rehabilitation Act of 1973 § 504, 29 U.S.C. § 794

Federal Transit Laws, 49 U.S.C. § 5332

### Federal Regulations

23 CFR §1.36 – Compliance with Federal laws and regulations

23 CFR pt. 200 – Title VI Program and Related Statutes – Implementation and Review Procedures

23 CFR pt. 771 – Environmental Impact and Related Procedures

28 CFR pt. 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services

28 CFR pt. 36 – Nondiscrimination on the Basis of Disability in Public Accommodations and in Commercial Facilities

28 CFR pt. 42, subpart C – Nondiscrimination in Federally Assisted Programs – Implementation of Title VI of the Civil Rights Act of 1964

49 CFR pt. 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964

49 CFR pt. 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs

49 CFR pt. 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance

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49 CFR § 37.5 – Nondiscrimination – Transportation Services for Individuals with Disabilities (ADA)

Executive Orders

Exec. Order No. 12898, 59 Fed. Reg. 7629 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Exec. Order No. 13166, 65 Fed. Reg. 50121 – Improving Access to Services for Persons with Limited English Proficiency

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>		<input checked="" type="checkbox"/> <b>POLICY DIRECTIVE</b> <input type="checkbox"/> <b>PROCEDURAL DIRECTIVE</b>
Subject <b>NON-DISCRIMINATION IN FEDERALLY FUNDED PROGRAMS POLICY</b>		Number <b>604.0</b>
Supersedes <b>07/01/04</b>	Effective <b>03/17/92</b>	Originating Office <b>CENTER FOR EQUAL OPPORTUNITY</b>

## **Policy Currently in Place**

**Purpose:**

1. To ensure that no person shall, on the ground of race, color, national origin, sex, handicap or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any Colorado Department of Transportation program or activity; and
2. To provide a policy that will standardize non-discrimination requirements in federally funded programs by assuring uniform application and effective implementation of the provision of the applicable federal Civil Rights legislation.

**Authority:**

Title VI of the 1964 Civil Rights Act, the Federal Aid in Highway Act, sec. 162(a), the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, sec. 504, and Executive Order 12898.

**Applicability:**

This directive shall apply to all employees of the Colorado Department of Transportation and all divisions thereof and all external employees or agents including consultants and contractors.

**Policy:**

It is the policy of the Colorado Department of Transportation (CDOT) to ensure that the most fundamental principles of equality of opportunity and human dignity are upheld and that all decisions involving our employees, contractors and consultants and the traveling public are based on individual merit. It is the policy of CDOT to ensure that all its programs, policies and activities do not have the effect of excluding persons from participation in, denying the benefits of, or subjecting person to discrimination due to race, color, national origin, sex, handicap or age. It is the responsibility of every person within CDOT and all CDOT external agents to incorporate and implement actions consistent with non-discrimination in programs.

**Background:**

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color and national origin in federally assisted programs. Parallel statutes likewise forbid sex, age and handicap discrimination by recipients of federal funds. CDOT is a recipient of federal

Subject <b>NON-DISCRIMINATION IN FEDERALLY FUNDED PROGRAMS POLICY</b>	Number <b>604.0</b>
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funds and as such it, as well as all of its responsible agents, contractors and consultants, is required to assure such non-discrimination.<sup>1</sup>

This prohibition against discrimination applies to all phases, activities and programs of CDOT when any part of CDOT receives federal assistance regardless of whether that particular program or activity is directly federally funded or assisted.<sup>2</sup> This prohibition against discrimination applies not only to activities and programs provided directly by CDOT through its staff and resources, but also to activities and programs funded totally or in part by CDOT through contracts or other funding relationships or assistance. Due to its broad scope and applicability both civil rights and program personnel are involved in assuring that the proscribed discrimination does not occur.

Discrimination in federally funded programs and activities need not be intentional. Seemingly neutral acts that have the effect of foreclosing\* CDOT services, benefits or programs on the basis of prohibited discrimination are likewise illegal. In addition, CDOT prohibits retaliation against any employee, contractor or consultant because he or she has made a report of alleged discrimination under this policy or has testified, assisted or participated in any manner in an investigation of such report, or has opposed such discrimination.

Federal legislation and implementing regulations require establishment of a Civil Rights Unit and designation of a Coordinator to coordinate its non-discrimination assurances, investigate and promptly dispose of discrimination complaints received directly by the State and conduct non-discrimination reviews of program areas for continuing compliance and prepare other required reports. The Executive Director has fulfilled this statutory requirement by establishing the Center for Equal Opportunity and has delegated coordination of non-discrimination in federally funded programs to the Center for Equal Opportunity Manager.<sup>3</sup>

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<sup>1</sup> 23 C.F.R. 200.5(n) defines a recipient as “any state, territory... political subdivision or instrumentality thereof, or any public or private agency, institution or organization or other entity or any individual in any State...to whom federal financial assistance is extended, either directly or through another recipient, for any program.”

<sup>2</sup> The Civil Right Restoration Act of 1987 restored the broad institution-wide scope and coverage of Title VI and parallel non-discrimination statutes by extending coverage to all programs and activities of Federal - Aid recipients, sub-recipients and contractors, whether such activities are federally assisted or not. It provides in pertinent part: “For the purpose of this subchapter, the term “programs or activity” and the term “program” means all the operations of a department, agency, special purpose district or other instrumentality of a State or of a local government... any part of which is extended Federal financial assistance.”

<sup>3</sup> 23 C.F.R. 200.9 specifies State highway agency responsibilities.

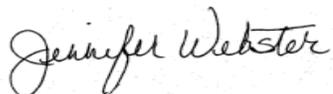
Subject <b>NON-DISCRIMINATION IN FEDERALLY FUNDED PROGRAMS POLICY</b>	Number <b>604.0</b>
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**Implementation:**

This policy shall be effective immediately and implemented by all divisions of the Colorado Department of Transportation within the program under his or her authority. Each affected manager will also ensure that those working with CDOT will also comply with requirements of non-discrimination as outlined in 23 C.F.R. 200. The Colorado Department of Transportation Title VI Coordinator shall be responsible for interpreting the requirements of Title VI of the Civil Rights Act of 1964 and all applicable enforcements regulations.

**Review Date:**

This policy will be reviewed in July of 2011.

	07/01/04
_____ Executive Director, CDOT	_____ Date
	07/01/04
_____ Secretary, Transportation Commission	_____ Date

\*[Neutral practices that hinder protected person from benefiting from or participating in CDOT programs or services or which substantially reduce the ability of protected persons to benefit from or participate in programs or activities.]

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>		<input checked="" type="checkbox"/> <b>POLICY DIRECTIVE</b> <input type="checkbox"/> <b>PROCEDURAL DIRECTIVE</b>	
Subject <b>DISADVANTAGED BUSINESS ENTERPRISE PROGRAM</b>			Number <b>611.0</b>
Effective <b>4/15/2010</b>	Supersedes <b>All Previous</b>	Originating office <b>Center for Equal Opportunity</b>	

**PURPOSE**

The purpose of this directive is to set forth the objectives for implementation of a Disadvantaged Business Enterprise (DBE) Program by the Colorado Department of Transportation (CDOT). The intent of this program is to ensure nondiscrimination in DOT-assisted contracts and create a level playing field where DBEs can compete fairly in CDOT’s federal-aid contracting and procurement activities.

**AUTHORITY**

- Transportation Commission
- 49 CFR Part 26
- C.R.S.43-1-106(8)(a) and (k)
- Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat. 107
- 49 U.S.C. 47101, et seq.

**APPLICABILITY**

All U.S. DOT Federal aid contracts for construction, consulting, and procurement.

**DEFINITION**

The Disadvantaged Business Enterprise Program is a program required by the US DOT and its modal agencies as a condition to receive Federal aid and ensures that contracting opportunities are made available to businesses owned by women, minorities and individuals that are socially and economically disadvantaged as defined in 49 CFR, Part 26.

**POLICY**

In accordance with 49 CFR Part 26, the Colorado Department of Transportation and the contractors, subcontractors, cities, counties and other local entities with whom it does business will take all necessary and reasonable steps to ensure that disadvantaged business enterprises have the opportunity to compete for and participate in contracts financed with federal funds.

Subject <b>DISADVANTAGED BUSINESS ENTERPRISE PROGRAM</b>	Number <b>611.0</b>

Neither the Colorado Department of Transportation nor its contractors shall discriminate on the basis of race, creed, color, national origin, or sex in the award and performance of state or federally funded contracts.

**RESPONSIBILITY**

Responsibility for the administration of this program is assigned to the Director of the Center for Equal Opportunity who is designated as the DBE Liaison Officer. In partnership with the staff of the Center for Equal Opportunity and the Regional Civil Rights Offices, the DBE Liaison Officer has responsibility for developing, managing and implementing the DBE program on a day-to-day basis; for ensuring that technical assistance activities for DBEs are carried out; and for ensuring that information on available business opportunities is disseminated so that DBEs are provided an opportunity to bid on all state and federally funded contracts.

Each Regional Transportation Director (RTD), Division Director, Office and Branch Manager, and Region Civil Rights Manager is responsible for ensuring, in cooperation with the DBE Liaison Officer, the effective implementation of the DBE program within their respective areas. They will cooperate fully with the DBE Liaison Officer to assure that the objectives of the DBE program are met.

**OBJECTIVES**

The objectives of this program are as follows:

1. To ensure nondiscrimination in the award and administration of contracts in the Department's highway, transit, and airport financial assistance programs;
2. To create a level playing field on which DBEs can compete fairly for contracts;
3. To ensure that CDOT's DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet the DBE Program eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in contracts;
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
7. To provide appropriate flexibility in establishing and providing opportunities for DBEs.

Subject DISADVANTAGED BUSINESS ENTERPRISE PROGRAM	Number 611.0
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**IMPLEMENTATION**

This policy shall be effective upon approval by the Transportation Commission.

**FISCAL NOTE**

The fiscal impact of this Policy will depend on the cost of technical support activities implemented for DBEs and any training programs to educate CDOT employees about the Disadvantaged Business Enterprise Program.

**REVIEW DATE**

This directive shall be reviewed on or by April 2015.

  
\_\_\_\_\_  
Transportation Commission Secretary

04/15/2010  
\_\_\_\_\_  
Date

INTEGRAL

**Resolution # TC-**

**Adoption of Policy Directive 604.0 “Policy on Non-Discrimination” and Repeal of Policy Directive 611.0 “Disadvantaged Business Enterprise Program”**

**WHEREAS**, pursuant to § 43-1-106(8)(a), C.R.S., the Colorado Transportation Commission is charged with formulating general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the state; and

**WHEREAS**, The Colorado Department of Transportation (“CDOT”) is required to comply with Title VI of the Civil Rights Act, 42 U.S.C. § 2000d, and related statutes as a recipient of federal funds from the U.S. Department of Transportation; and

**WHEREAS**, CDOT is required to comply with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §12101-12213, and related statutes as a recipient of federal funds from the U.S. Department of Transportation; and

**WHEREAS**, CDOT is required to comply with the Civil Rights Restoration Act of 1987, Pub L. No. 100-259, 102 Stat. 28, as a recipient of federal funds from the U.S. Department of Transportation; and

**WHEREAS**, CDOT created the Civil Rights and Business Resource Center to coordinate with regional civil rights staff to ensure compliance with civil rights laws; and

**WHEREAS**, revised Policy Directive 604.0 updates and replaces Policy Directive 604.0, “Non-Discrimination in Federally Funded Programs Policy” adopted on July 1, 2004; and

**WHEREAS**, Policy Directive 604.0 includes the policy specifications regarding the Disadvantaged Business Enterprise Program and thus, replaces the need for Policy Directive 611.0, “Disadvantaged Business Enterprise Program” adopted on April 15, 2010.

**NOW THEREFORE BE IT RESOLVED**, the Commission herein approves updated Policy Directive 604.00 “Policy on Non-Discrimination.”

**BE IT FURTHER RESOLVED**, the Commission repeals Policy Directive

611.0 “Disadvantaged Business Enterprise Program” as its terms have been consolidated into updated Policy Directive 604.0.

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Transportation Commission Secretary

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Date

# STATE OF COLORADO

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**DEPARTMENT OF TRANSPORTATION**

**Chief Engineer**  
4201 East Arkansas Avenue  
Denver, CO 80222-3400  
(303) 757-9206  
(303) 757-9656 Fax



**TO:** Transportation Commissioners

**PROJECT #:** F006-1(2)

**FROM:** Timothy J. Harris, P.E.  
Chief Engineer

**LOCATION:** Greeley, CO

**PARCEL #:** 33-EX

**COUNTY:** Weld

**DATE:** December 23, 2013

**SUBJECT: Transportation Commission Agenda for January 16, 2014**

**Requested Action:**

Declaration of Excess Property, Parcel 33-EX, created under Project F006-1(2)

**Background:**

Parcel 33-EX was acquired as part of CDOT Project F006-1(2) in 1949, and is located in the southeast quadrant of the SH 85 Bypass and SH85 Business interchange on the north side of Greeley. Parcel 33-EX contains a total area of 2.136 acres.

CDOT Region 4 has made the determination that the Parcel 33-EX is no longer needed for transportation purposes, and they intend to sell the parcel for fair market value in accordance with the procedures for disposal as described in Colorado Revised Statute 43-1-210(5).

Revenue generated by the sale of the parcel will be reinvested into future CDOT projects.



**PROJECT #:** F006-1(2)  
**PARCEL:** 33-EX  
**LOCATION:** SH 85 Greeley  
**COUNTY:** Weld

### **PROPOSED RESOLUTION**

WHEREAS, the Colorado Department of Transportation acquired 33-EX in 1949 for SH 85 right of way; and

WHEREAS, Parcel 33-EX contains 2.136 acres and is located in the southeast quadrant of the SH 85 Bypass and SH 85 Business interchange in northern Greeley, Weld County, Colorado; and

WHEREAS, CDOT Region 4 has made the determination that Parcel 33-EX is no longer needed for transportation purposes; and

WHEREAS, CDOT Region 4 desires to sell Parcel 33-EX for fair market value in accordance with Colorado Revised Statute 43-1-210 (5) ; and

WHEREAS, the sale of Parcel 33-EX will not affect the design, construction or utility of SH 85; and

WHEREAS, the Department of Transportation, Region 4, recommends that the property described as 33-EX of Project F006-1(2) be declared excess property; and

WHEREAS, the Chief Engineer and the Department of Transportation are authorized pursuant to C.R.S. 43-1-106(8)(n), 43-1-110, 43-1-114(3), and 43-1-210(5) to make determinations regarding property to be declared excess and not needed for transportation purposes; and

WHEREAS, the Department of Transportation, has declared through its Chief Engineer, that Parcel 33-EX is no longer needed for transportation; and

WHEREAS, the Transportation Commission concurs with the Chief Engineer that Parcel 33-EX is no longer needed for transportation purposes.

NOW THEREFORE BE IT RESOLVED, that the Department of Transportation be given authority to dispose of Parcel 33-EX of Project F006-1(2) containing 2.136 acres more or less as shown in Exhibit A and contained in the official agenda.

FURTHER, funds from the sale of the property shall be disbursed in accordance with Section 7.2.15 of the CDOT Right-of-Way Manual.



**DATE:** January 3, 2014  
**TO:** Transportation Commission of Colorado  
**FROM:** Michael Cheroutes, Director, High Performance Transportation Enterprise  
**SUBJECT:** Compliance Agreement for U.S. 36 Concession Project

In connection with the U.S. 36 Concession Project, the High Performance Transportation Enterprise (HPTE) is in financial close negotiations with the Concessionaire, Plenary Roads Denver, LLC (Concessionaire), and the Concessionaire's lenders. In order to reach financial close, the Concessionaire anticipates receiving a TIFIA loan from the U.S. Department of Transportation (TIFIA Lender). The TIFIA Lender has requested that the Colorado Department of Transportation (CDOT) and HPTE enter into a compliance agreement (Compliance Agreement) at financial close, pursuant to which CDOT and HPTE will provide certain assurances to, and make certain agreements with, the TIFIA Lender regarding the U.S. 36 Concession Project. In general, the proposed umbrella document simply repeats (in favor of the TIFIA Lender) what CDOT/HPTE have already authorized in other agreements. As such, our counsel have aggressively commented on the initial draft, questioning the need for the document in the first place. The TIFIA Lender has been slow to respond.

Accordingly, as of the date hereof, the current draft of the Compliance Agreement is not in a form that can be submitted to the Transportation Commission for consideration. We hope to make progress in the negotiations of the Compliance Agreement with the TIFIA Lender within the next week but if the issue goes away, or failing that an acceptable pared-down draft is not received in time for you to review, we will request that the Compliance Agreement be removed from the Transportation Commission Agenda.