

December 14, 2004

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Reference No.: 05-0020

Ms. Cammie Davenport-Woodle
Executive Director, Civil Rights Office
Tennessee Department of Transportation
505 Deaderick Street, Suite 1800
James K. Polk Building
Nashville, TN 37243

Dear Ms. Davenport-Woodle:

This is in reference to an appeal of Disadvantaged Business Enterprise (DBE) certification denial concerning Quick's Trucking. We have carefully reviewed the material from the Tennessee Department of Transportation (TDOT) and Quick's Trucking and have concluded that the record should be developed further before the Department can make a final decision on the appeal. Accordingly, we are remanding the case to TDOT for further consideration.

It appears that the record is unclear with respect to matters likely to have a significant impact on the outcome of the case. Specifically §26.73(c) of the Department's Regulation 49 CFR Part 26, provides that "DBE firms and firms seeking DBE certification shall cooperate fully with your requests (and DOT requests) for information relevant to the certification process. Failure or refusal to provide such information is a ground for a denial or removal of certification."

According to the record, TDOT informed the firm on October 13, 2004, that it did not respond to TDOT's request for information and was denied certification. TDOT first sent a letter to the firm on June 14, 2004, requesting that Quick Trucking resubmit its DBE application, personal financial statement, affidavit of certification, in addition to other items. On June 28, 2004, TDOT received a completed personal financial statement from Debra Quick, the firm's owner. TDOT sent a letter on August 24, 2004, indicating that the personal financial statement submitted lacked supporting documents. In this letter, TDOT requested that the firm provide its 2001 tax returns, proof of financial contribution to acquire ownership in the firm, copies of loan agreements, a list of equipment, schedule of salaries paid to officers, managers, and owners, licensees, year-end balance sheets, income statements, and W-2s. TDOT did not specify which supporting documents the

firm needed to submit along with a personal financial statement. Nevertheless, on September 27, 2004, the firm submitted a new personal financial statement and listed documents it had previously submitted to TDOT. It appears that the firm could not provide some of the items, such as salaries, W-2 statements, and licenses. The firm noted this in its September 27, 2004, response, and described when it forwarded the other requested information to TDOT. Some of the items listed by the firm are not contained in the record and the Department requests TDOT to re-examine its file.

We are concerned that the denial does not appear to be reasonable, but arbitrary given the facts in the record. The record does not appear to substantiate TDOT's assertion that Quick's Trucking did not cooperate fully with its requests. It is the intent of the Department that recipients afford DBE applicants an opportunity to adequately respond to all requests for information. In this case, it appears that TDOT repeatedly asked for documents which it already had in its possession and failed to sufficiently describe which of the firm's submissions were deficient. We request that TDOT specify which documents it currently needs in order for the DBE process to proceed and TDOT should afford Quick's Trucking the opportunity to provide the requested information.

We are also bringing additional areas of concern to the attention of TDOT. The application package contains a loan document with ----- as the borrower for the loan for the 1987 International dump truck. ----- is the borrower for the loan for the 1989 Mack dump truck. On the bank signature card, Debbie Quick, -----, and ----- have signature authority on the Debbie Quick d/b/a Quick Trucking account.

We also request that TDOT conduct an onsite review of the firm and submit a decision to Quick's Trucking within 60 days from the date of this remand letter. However, if you still conclude that the firm does not meet the eligibility requirements of the regulation, Quick's Trucking will, of course, have the opportunity to renew its appeal to this office. This appeal is being closed in our files pending the outcome of this remand.

Thank you for your continued cooperation.

Sincerely,

Joseph E. Austin, Chief
External Policy and Program Development Division
Departmental Office of Civil Rights

cc: Quick's Trucking