

EXHIBIT 31

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

* * *

RECEIVED
R JAN 05 2013
D

BY: _____

BFF ENGINEERING SERVICES, P.C.,
a Michigan corporation, and
BELLANDRA FOSTER, an individual,

Plaintiffs,

vs.

Case No. 11-CV-14853
Hon. Nancy G. Edmunds
Mag. Laurie J. Michelson

STATE OF MICHIGAN, a Michigan Public
Corporation, MICHIGAN DEPARTMENT OF
TRANSPORTATION, a Department of the
State of Michigan, VICTOR JUDNIC and
MARK STUECHER,

Defendants.

THE DEPOSITION OF MARK STUECHER

The Deposition of MARK STUECHER, taken
before Judith Halprin, CSMR-3202, Certified Court Reporter and
Notary Public for the County of Oakland, Acting in the County of
Wayne, at 535 Griswold Street, Suite 1000, City of Detroit,
State of Michigan, on Friday, November 9, 2012, commencing at or
about the hour of 1:10 o'clock, p.m.

APPEARANCES:

AVERY K. WILLIAMS, ESQUIRE
Williams Acosta, PLLC
535 Griswold Street, Suite 1000
Detroit, Michigan 48226
Appearing on behalf of the Plaintiffs.

* * * CONTINUED ON FOLLOWING PAGE * * *

APPEARANCES, CONT.: MICHAEL J. DITTENBER, ESQUIRE
Assistant Attorney General
Transportation Division
425 West Ottawa Street, 4th Floor
Lansing, Michigan 48913
Appearing on behalf of the Defendants.

ALSO ATTENDING: BELLANDRA FOSTER
VICTOR JUDNIC

REPORTED BY: JUDITH HALPRIN, CSMR-3202
Judith Halprin Court Reporting & Video
Telephone: 248.851.3332

1	I N D E X	
2	WITNESS	PAGE
3	MARK STUECHER	
4	Cross-Examination by Mr. Williams	5
5	Redirect Examination by Mr. Dittenber	92
6	Recross-Examination by Mr. Williams	93
7		
8		
9	*****	
10	EXHIBITS	PAGE # MARKED
11	Deposition Exhibit Number 1	60
12	(Title VI Complaint Form, w/Attachments)	
13	Deposition Exhibit Number 2	80
14	(October 18, 2011 Letter, Department of Transportation)	
15	Deposition Exhibit Number 3	82
16	(Contract Awards)	
17	Deposition Exhibit Number 4	86
18	(MDOT Responsibilities Under Title VI)	
19		
20		
21		
22		
23		
24		
25		

1 Detroit, Michigan
2 Friday, November 9, 2012
3 At about 1:10 o'clock, p.m.
4 * * *

5 MARK STUECHER,
6 having been first duly sworn by the Notary Public to
7 tell the truth, the whole truth, and nothing but the
8 truth, testified upon his oath as follows:
9 MR. WILLIAMS: The record should
10 reflect that this is the date, time and place set for
11 the Deposition of Mr. Mark Stuecher in BBF Engineering
12 Services, et al., versus Stuecher and Judnic, et al.
13 Mr. Stuecher, as you know, my name
14 is Avery Williams. I'm an attorney representing the
15 plaintiffs in some action that has been filed against
16 you and a number of other parties.
17 I am going to be asking you some
18 questions today regarding that litigation, as well as
19 some of the underlying facts surrounding that
20 litigation. If at anytime you don't understand the
21 question, please indicate you don't understand the
22 question, and I'll attempt to restate it or rephrase it.
23 If you give me an answer to a question, I'm going to
24 assume that you've understood the question, and the
25 answer you've given is the answer you've intended. Is

1 that fair?
2 THE WITNESS: That's fair, yes.
3 MR. WILLIAMS: And I don't know how
4 many occasions you've had your Deposition taken, but the
5 court reporter has to keep a verbal record, so we have
6 to say yes, no, no um-hmm or um-hum's, or nods of the
7 head or non-verbal communication. It generally doesn't
8 work for her, although she frequently will catch me and
9 say I did something non-verbal in the transcript, so I
10 will try and be mindful of that. I ask you to be
11 mindful of that as well.
12 This Deposition is intended to be
13 used for all purposes allowed by the Federal Rules of
14 Civil Procedure, as well as the Federal Rules of
15 Evidence.
16 C R O S S - E X A M I N A T I O N
17 BY MR. WILLIAMS:
18 Q Would you state your name for the record, sir?
19 A Mark Paul Stuecher.
20 Q And your current -- what is your current business
21 address?
22 A 26300 Sherwood Avenue, Warren, Michigan, 48389. I'm
23 sorry, that is not correct. 48091.
24 Q And where do you presently -- what city do you presently
25 reside at?

Page 6

1 A Waterford Township.
 2 Q In the State of Michigan?
 3 A Yes.
 4 Q Are you married, sir?
 5 A Yes.
 6 Q And how long have you been married?
 7 A Just shy of thirty years.
 8 Q Do you have any children?
 9 A Yes.
 10 Q How many?
 11 A Two.
 12 Q Are they adults now?
 13 A Yes.
 14 Q So there are no minor children in your home?
 15 A No.
 16 Q I won't ask if there any adult children in your home.
 17 They frequently don't leave. They like to hang around.
 18 And what's your date of birth?
 19 A February 3rd, 1958.
 20 Q And can you just briefly describe your educational
 21 background?
 22 A Kindergarten through eighth grade I went to St. Peter's
 23 Lutheran School and Church; ninth grade to Lutheran High
 24 East, tenth, eleventh, twelfth to East Detroit High
 25 School, a couple years at Macomb Community College, and

Page 7

1 then I finished up at Michigan Technological University
 2 with a Bachelor of Science degree.
 3 Q And what year did you get your Bachelor of Science?
 4 A 1983.
 5 Q What year?
 6 A 1983.
 7 Q And you said it was from Michigan Tech.?
 8 A Yes.
 9 Q Do you have any other advanced degrees, a Master's?
 10 A No, sir.
 11 Q Any certificates or certification?
 12 A I am a Registered Professional Engineer in the State of
 13 Michigan.
 14 Q And how long have you been a Registered Professional
 15 Engineer?
 16 A I believe I got my registration in 1987. I'm sorry,
 17 that is not correct. 1989.
 18 Q Your Bachelor of Science was in engineering?
 19 A Civil engineering, yes.
 20 Q Did you get an Associate's Degree from Macomb Community?
 21 A No, I did not.
 22 Q You just transferred credits to Michigan Tech.?
 23 A That is correct.
 24 Q Did you work while you were in community college?
 25 A Yes. Actually, I had three jobs.

Page 8

1 Q Okay. Where did you work?
 2 A I worked for a mens clothing company called Leed's,
 3 L-e-e-d apostrophe s, Leed's Clothier. I worked for a
 4 Jason's Furniture store, and I worked for a -- I think
 5 it was a Marathon gas station.
 6 Q Were these all in Macomb County?
 7 A Yes.
 8 Q And while you were going to Michigan Tech., were you
 9 employed?
 10 A I worked for the Michigan Department of Transportation.
 11 I was a cooperative education student.
 12 Q Cooperative education --
 13 A It was a co-op program. Cooperative education program.
 14 Q And so that means you were employed by them, and they
 15 sort of work with the students in a training program?
 16 A I worked a half-a-year as a student technician, for four
 17 years.
 18 Q Did they pay for your education as a result?
 19 A No. I put myself through.
 20 Q Did you get college credit for the work?
 21 A Only a couple of three electives that weren't useful,
 22 but you had to pay a tuition for the credits.
 23 Q How many years did you go to Michigan Tech.?
 24 A I went to Michigan Tech. from 1979 through 1983.
 25 Q 1979 through '83?

Page 9

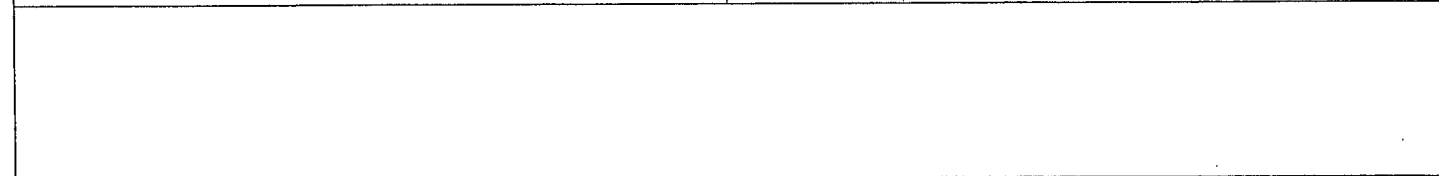
1 A Yes.
 2 Q So you were basically going part-time?
 3 A Half-a-year. At that time that was two terms.
 4 Q Two semesters?
 5 A No. They didn't have semesters. It was called terms.
 6 Q Like Michigan State, it was terms.
 7 A If that's at Michigan State, I don't know.
 8 Q And you were working simultaneously for MDOT while you
 9 were actually going to school, at least a half-a-year?
 10 A Well, I would -- I would work for half-a-year, summer
 11 and fall, to raise enough money to pay for the next two
 12 terms of tuition at Michigan Tech.
 13 Q Were you in an MDOT office that was in close proximity
 14 to Michigan Tech.?
 15 A No. I worked down in the offices in the Macomb County
 16 area, a couple of different offices. I did have some
 17 stints in -- when they loaned me out to other offices.
 18 Q Did you have any other jobs outside of your student
 19 technician job at MDOT during that time frame, from '79
 20 through '83?
 21 A I worked on campus at Michigan Tech. in the Food
 22 Service, and entered in when they do polls, or
 23 receptions or things of that nature.
 24 Q And what type of work were you doing as a student
 25 technician at MDOT?

Page 10

1 A Basically construction technician work.
 2 Q What does that entail?
 3 A Surveying, anywhere from rodman to chainman to lead
 4 chainman, to instrument man, density testing, concrete
 5 testing, general inspection, and then some electrical
 6 inspections.
 7 Q Did there come a time when you went to work full-time
 8 for anyone after you graduated from Michigan Tech.?
 9 A Yes.
 10 Q Who? For whom did you work?
 11 A I worked for the Morrison Construction Company.
 12 Q Where were they located?
 13 A They were in Trenton, Michigan.
 14 Q And what did you do for Morrison?
 15 A I guess I was an assistant to a project manager.
 16 Q And how long did you work for Morrison?
 17 A Just about I'd say three or four months. Less than a
 18 year.
 19 Q And where did you go after that?
 20 A Then I worked for the Angelo Iafrate Construction
 21 Company.
 22 Q The --
 23 A Angelo Iafrate.
 24 Q How do you spell Iafrate?
 25 A I-a-f-r-a-t-e.

Page 11

1 Q And how long did you work for Iafrate?
 2 A Less than a year.
 3 Q And that would have been approximately '84 through '85?
 4 A It's in '84.
 5 Q And where did you go after you left Angelo Iafrate?
 6 A I went to work for the Michigan Department of
 7 Transportation as a permanent employee.
 8 Q Was that also in 1984?
 9 A Yes.
 10 Q Is there more than one Iafrate Company, construction
 11 company, or just --
 12 A Not to my knowledge. Well, no, if you say is there more
 13 than one Iafrate Company, Angelo Iafrate Construction
 14 Company, but not to my knowledge.
 15 Q And how long were you at MDOT once you started in 1984?
 16 A Up until and through 2010.
 17 Q Did you leave in December 2010?
 18 A Yes.
 19 Q And your current employer is Iafrate?
 20 A It's Angelo Iafrate Construction Company.
 21 Q Have you been working at Angelo Iafrate since you left
 22 MDOT?
 23 A I had a short, five-week gap with no employment.
 24 Q Vacation, or just looking for a job?
 25 A It was anything but a vacation. Rebuilding the kitchen



Page 12

1 and dining room. It took five weeks, roughly.
 2 Q And what were your -- what titles have you held at
 3 Iafrate beginning with when you started in -- I guess it
 4 was February of 2011?
 5 A I'm a project manager.
 6 Q What are your duties as a project manager?
 7 A The oversight of construction projects, from the getting
 8 the bid awarded, to setting up all the contracts and
 9 the subcontractors, a formalization of the contract,
 10 then all the materials ordering, the scheduling, and
 11 then all the paperwork that goes along with getting a
 12 project built, and, you know, closing it out, the
 13 financial, the financial end, receive payments and make
 14 payments, or authorize payments to subcontractors and
 15 suppliers.
 16 Q So basically if Iafrate assigns a particular
 17 construction project to you, it would come in at the bid
 18 phase, and you would be responsible for overseeing the
 19 entire process, basically from soup to nuts, from
 20 bidding to the --
 21 A Yeah.
 22 Q Close-out of the project?
 23 A I don't do estimating or bidding. Once they -- once we
 24 know it's a low bidder, then projects are assigned. If
 25 assigned to me, then I take it from a cradle phase.

Page 13

1 Q So basically the only facet of a potential project that
 2 you wouldn't be involved in was basically setting the
 3 bids to get the project?
 4 A That is correct.
 5 Q So it would be from selection to conclusion?
 6 A I don't know about selection. From award. I think
 7 selection is an awkward word.
 8 Q Now the projects you've managed at Iafrate since you
 9 started there in December, how many projects have you
 10 managed?
 11 A I'm on my third.
 12 Q Who have been the companies, or parties whose projects
 13 you have managed?
 14 A The first project was the Hennessey Engineering. It's
 15 the City of Southgate. Hennessey Engineering was the
 16 engineer for the City of Southgate. The Hennessey part
 17 really isn't material. It would be City of Southgate.
 18 Q And what about the second project?
 19 A The second was an MDOT project on M-150.
 20 Q Out on 150?
 21 A On M --
 22 Q 150?
 23 A 150.
 24 Q Where is M-150?
 25 A In the City of Rochester in Oakland County.

Page 14

1 Q Is that the Rochester Road project in the middle of
 2 downtown Rochester, causing all kind of aggravation this
 3 summer? That one?
 4 A That would --
 5 MR. DITTENBER: Is that a yes, Mark?
 6 THE WITNESS: That would be yes.
 7 That would be the project.
 8 BY MR. WILLIAMS:
 9 Q And what about the third project?
 10 A The third project is at Crooks at Hamlin.
 11 Q Is that also --
 12 A Construction in the City of Rochester Hills.
 13 Q Is that for Rochester Hills, or --
 14 A That is for the Oakland County Road Commission. I
 15 should say the Road Commission for Oakland County.
 16 Q Other than the M-150 project, have you done any other
 17 project management for MDOT projects while you've been
 18 at Iafrate?
 19 A No.
 20 Q Any work on any MDOT projects while you were at
 21 Iafrate?
 22 A I assisted a project manager on -- last year of a
 23 contract at I-696 and I-94, and then I also did
 24 paperwork and leg work for a project on US-24,
 25 Telegraph, downriver.

Page 15

1 Q How far downriver?
 2 A West Road.
 3 Q Okay, so that's the ongoing project at the exit --
 4 A No, not on I-75. On Telegraph.
 5 Q On Telegraph?
 6 A Yes. That one is done now.
 7 Q Who were you assisting on the project at I-696 and 94?
 8 A That was Bruce Young.
 9 Q And the leg work and paperwork on the Telegraph project,
 10 who were you assisting?
 11 A Joe Valencia.
 12 Q Have you been asked to provide any input on any bids
 13 that have been submitted to MDOT for projects, MDOT
 14 projects while at Iafrate?
 15 A Yes.
 16 Q Do you have any other responsibilities at Iafrate
 17 related to MDOT projects at all?
 18 A No.
 19 Q You are not responsible for submitting any claims to
 20 MDOT?
 21 A Not as a general duty, no. Only relative to projects
 22 that I'm working on, or asked to help with.
 23 Q Were any of the projects you worked on for Iafrate
 24 within your jurisdiction when you were an employee of
 25 MDOT?

Page 16

1 A When you say jurisdiction, just --
 2 Q Under your responsibility while you were working for
 3 MDOT?
 4 A No.
 5 Q Have you ever been convicted of any crimes involving
 6 theft or dishonesty?
 7 A No.
 8 Q Have you had any felony convictions in the last ten
 9 years?
 10 A No.
 11 Q Have you been a party to any litigation?
 12 A No.
 13 Q Other than the present litigation. Have you had your
 14 Deposition taken before?
 15 A Yes.
 16 Q On how many occasions?
 17 A It's not going to be an exact answer, but I want to say
 18 maybe four. Four, maybe six, somewhere in there.
 19 Q While you were at MDOT?
 20 A That's correct.
 21 Q Do you recall who deposed you in any of those four to
 22 six times?
 23 A The Depositions, I don't remember -- who deposed me?
 24 Q Yes.
 25 A But the cases involved condemnations for acquisition of

Page 17

1 properties.
 2 Q Do you remember which highways were involved?
 3 A Yes. Those were M-59 over in Macomb County.
 4 Q And you didn't get deposed on the -- what's the --
 5 is it Softball City out there?
 6 A No.
 7 Q Okay.
 8 A No. M-59, M-5 in Oakland County.
 9 Q Haggerty Road?
 10 A The Haggerty Road connection, yes.
 11 Q And you weren't deposed on the big case on Haggerty Road
 12 with Mr. Ackerman, were you?
 13 A You know, I don't know that I was actually deposed.
 14 It's hard -- it might be more accurate to say that I was
 15 involved with the attorney general's office and
 16 Mr. Ackerman.
 17 Q Okay.
 18 A And then also on Beck Road, a single-point interchange
 19 at I-96. There may be others, but --
 20 Q So all of your Depositions would generally have been in
 21 the condemnations case?
 22 A Those that I recollect, yes.
 23 Q Have you testified in any trials?
 24 A Yes.
 25 Q Were those also in the condemnation context?

Page 18

1 A Yes.
 2 Q And did they involve M-5 or M-59?
 3 A Yes.
 4 Q Both?
 5 A M-59 for sure. M-5, yes. On the Beck Road interchange,
 6 I do not believe so.
 7 Q M-59 would have been in the Macomb County Circuit Court?
 8 A I believe so, yes.
 9 Q And then M-5 would have been in Oakland County?
 10 A Yes.
 11 Q Do you recall the judge?
 12 A No, I do not.
 13 Q Was it the same case involving Mr. Ackerman?
 14 A Was what case?
 15 Q The M-5, where you testified at trial?
 16 A Yes.
 17 Q When you started at MDOT in 1984, what position did you
 18 -- in what position did you start?
 19 A It was an engineer in training position.
 20 Q And how long did you hold that position?
 21 A There were two or three levels to it, each level of the
 22 year. I want to say it -- it might have been just one
 23 year, and then I was a -- I think they called it a
 24 Transportation Engineer 11, I believe. I think the
 25 first year was a 10. The second year was an 11, and

Page 19

1 those -- then after that it was promotion.
 2 Q Promotion?
 3 A The first two years in the training, upon successful
 4 service you would be upgraded, and then to get to the 12
 5 level, that was a competitive promotion.
 6 Q So basically the first two years would be just automatic
 7 based upon time of service, and by the time you got to
 8 the third year --
 9 A And successful service rating.
 10 Q But by the third year, someone was writing a Performance
 11 Review, and --
 12 A Every year. The Performance Reviews are written
 13 every year.
 14 Q But what was the distinction that grew with the
 15 promotion then?
 16 A You had to interview for it. It was advertised, and you
 17 would have to interview.
 18 Q And then the third year, what position did you interview
 19 for?
 20 A It would be an assistant resident engineer, resident
 21 engineer.
 22 Q And you successfully interviewed for that position?
 23 A Yes.
 24 Q And how long did you hold the position of assistant
 25 resident engineer?

Page 20

1 A Until 1990.
 2 Q So roughly about three years?
 3 A Yes.
 4 Q What office were you in?
 5 A Jim Hanson's office in Southfield.
 6 Q Where was that located?
 7 A It was at Greenfield and Nine-and-a-Half, and I don't
 8 remember what the Nine-and-a-Half road was.
 9 Q Mt. Vernon?
 10 A I don't remember what the Nine-and-a-Half road is.
 11 Q Okay.
 12 A I think Greenfield and Nine-and-a-Half was the office
 13 building.
 14 Q On the Southfield side, not the Oak Park side?
 15 A That's correct.
 16 Q That's Mt. Vernon.
 17 A Okay.
 18 Q When you said Jim Hanson's office, was that whom you
 19 were working for?
 20 A Jim Hanson was the resident engineer. It was a
 21 construction field office.
 22 Q For what, the 696 project?
 23 A That's correct.
 24 Q And generally what were your duties as an assistant
 25 engineer?

Page 21

1 A The oversight of the construction projects that were
 2 assigned to that office, any problem-solving that needed
 3 to be done; staffing, documentation. I'm sorry?
 4 Q No, go ahead.
 5 A I'm going to say all the duties that a resident would
 6 do, or I would do them if he would ask me.
 7 Q So basically whatever oversight roles Mr. Hanson would
 8 assign to you in his capacity as a resident engineer?
 9 A That's a fair statement, yes.
 10 Q And you started working for Mr. Hanson in '87?
 11 A I believe so.
 12 Q And how long were you assistant resident engineer?
 13 A About three years.
 14 Q And then what title did you -- were you promoted to
 15 another title?
 16 A Then I interviewed successfully, and was promoted to a
 17 resident engineer.
 18 Q Was Mr. Hanson basically your supervisor during that
 19 three-year period of time?
 20 A Yes.
 21 Q Any other supervisors beyond Mr. Hanson?
 22 A Well, we reported to the region office, and there was a
 23 -- there was a structure of oversight that Jim Hanson
 24 reported to, the construction engineer who reported to
 25 the field engineer, and depending on what problems or

Page 22

1 issues were at the time, you could get called from any
 2 or all to handle a problem.
 3 Q And you reported to Hanson, and --
 4 A He was my director.
 5 Q And then he had people over him, a construction engineer
 6 in the field, and then --
 7 A Yes.
 8 Q Would there be a region engineer as well, or is that a
 9 consulting term as opposed to a construction side term?
 10 A Well, at that period of time, there would have been --
 11 it was both an assistant region engineer and then a
 12 region engineer.
 13 Q Did -- were they in the hierarchy as well of reports for
 14 you and Mr. Hanson?
 15 A Anybody could call you at anytime. My direct supervisor
 16 was Jim Hanson.
 17 Q Now when you were promoted to resident engineer, what
 18 year was that?
 19 A That was 1990.
 20 Q When you were promoted to resident engineer, did you
 21 then have your own office --
 22 A Yes.
 23 Q That you assumed responsibility?
 24 A I'm pretty sure it was '90. It was '90, but, yes, then
 25 I had -- I had my own office and staff.

Page 23

1 Q And where was that?
 2 A That was at Groesbeck and Fifteen Mile Road, called the
 3 Mt. Clemens office.
 4 Q And how many staff would you have?
 5 A It varied. I had as many as twenty staff members,
 6 twenty-plus. There was never more than twenty-five that
 7 I can recollect, and then there was a period of time
 8 that I also was assigned a second office based on a
 9 vacancy at Frahzo Road and I-94, and that had a staff.
 10 Q Was that Frasier?
 11 A Frahzo.
 12 Q Frahzo, okay. F-r-a-z-i-o?
 13 A I think it's just F-r-a-h-z-o. I believe that's how you
 14 spell it.
 15 Q And what period of time did you have responsibility for
 16 two offices?
 17 A It was about a year, but I honestly don't know which
 18 year.
 19 Q If you don't know, or you don't remember --
 20 A I just don't remember which year at all.
 21 Q Were you ever promoted beyond the title of resident
 22 engineer?
 23 A No, sir.
 24 Q You were named a resident engineer until you retired
 25 from MDOT in December of 2010?

Page 24

1 A Yes, sir.
 2 Q And is that the proper characterization, that you
 3 retired from MDOT?
 4 A I did retire from MDOT. That is a proper
 5 characterization.
 6 Q So you never became a senior resident engineer, or a
 7 senior delivery engineer?
 8 A They changed the name, but the position was the same,
 9 over different administrations. At one point it was --
 10 I was promoted originally as a resident engineer. Then
 11 they called them -- in the later years, called delivery
 12 engineers. The title in Lansing was an Engineer
 13 Manager 14 -- I'm sorry, Licensed Engineer Manager 14.
 14 Q And when was that fancy title awarded to you?
 15 A Oh, it was sometime in the 2000s.
 16 Q So in the new millennium, you became a Licensed Engineer
 17 Manager 14?
 18 A According to whatever they did up in Civil Service, yes.
 19 I always held the same position, the same
 20 responsibilities.
 21 Q Were you ever called a senior delivery engineer?
 22 A Not to the best of my knowledge.
 23 Q When you say you always -- from basically 1990 forward,
 24 you held the same title with the same responsibilities,
 25 that's basically overseeing an office at MDOT?

Page 25

1 A Yes. The direct oversight of a construction team.
 2 Q And how many construction field offices did you oversee?
 3 A In the -- the early sense that I think the answer would
 4 be three, the Fifteen Mile and Groesbeck office.
 5 Q Okay.
 6 A I had -- then for a period of time, I had the Frahzo
 7 Road office, and then I went to the office that was on
 8 Twelve Mile at M-5, and that was the oversight for the
 9 M-5. Then, in I want to say 2006, but I don't
 10 accurately remember the year they formed the
 11 Transportation Service Centers, and they're all -- there
 12 was three different engineers that were merged as part
 13 of also design groups, and utility groups, and
 14 construction groups in the Transportation Service
 15 Centers, so at that point it's -- I don't know if you
 16 can characterize it as a single office, or --
 17 Q So there was --
 18 A It still carried a construction staff.
 19 Q Okay.
 20 A In each of those capacities.
 21 Q Okay, just so I'm understanding what you're saying,
 22 basically they merged almost three different
 23 engineering functions into a Transportation Service
 24 Center, and so you might not have full responsibility
 25 for the office. You would have responsibility for the

Page 26

1 construction component of one of the Transportation
 2 Service Centers?
 3 A No, I don't think I can characterize it that way. It
 4 was really -- when I was talking about three different
 5 offices merging, those were three different field
 6 offices in the construction group that merged, and then
 7 there was also bringing in the design group. There was
 8 -- from the region office, there was a splitting out of
 9 the utilities and permits group.
 10 Q Okay.
 11 A So it was -- it really was -- the merge might be most
 12 accurate in a merge of location.
 13 Q When you say merge of location, is that --
 14 A Under a common roof.
 15 Q Okay. For those different functions, or for your
 16 construction, your three construction teams?
 17 A For all the functions I need.
 18 Q And where was that common roof?
 19 A That would be -- the first one was on Dixie Highway,
 20 just north of what used to be a T-bone at Telegraph, the
 21 old Johnson Anderson building, and then the second one
 22 was the -- it's just a move in the location, where they
 23 built a TSC, Transportation Service Center, off of
 24 Telegraph Road just north of Elizabeth Lake Road.
 25 Q Was that identified as the Oakland County TSC?

Page 27

1 A Yes.
 2 Q And were you overall responsible for that Oakland County
 3 TSC?
 4 A I was never a TSC manager.
 5 Q Who was your TSC manager at either Telegraph and Dixie
 6 Highway, or Telegraph and Elizabeth Lake Road?
 7 A I have to try to get them all. I think there was five.
 8 There was Mike Eustice.
 9 Q Mike Eustice?
 10 A Eustice. E-u --
 11 Q S-t -- what is it?
 12 MS. FOSTER: S-t-i-c-e.
 13 THE WITNESS: S-t-i-c-e. I believe
 14 that's correct, Eustice.
 15 MR. WILLIAMS: All right.
 16 THE WITNESS: Randy McKinney.
 17 BY MR. WILLIAMS:
 18 Q Randy McKinney?
 19 A Yes.
 20 Q All right.
 21 A Paul Ajegba.
 22 Q All right.
 23 A And Mia Silver. I guess that's four.
 24 Q Mia?
 25 A Mia. M-i-a.

Page 28

1 Q Silver?
 2 A Silver.
 3 Q Silvers or Silver?
 4 A Silver. I believe that's it.
 5 Q When was Mike Eustice your TSC manager?
 6 A I think in -- definitely these are stabs at dates. I'm
 7 thinking 2004.
 8 Q And what about Randy McKinney?
 9 A I think that was 2005-ish. 2005-ish. It might have
 10 been 2003, 2004 with Mike.
 11 Q And what about Paul Ajegba?
 12 A He was -- well, after Randy McKinney, about 2006 --
 13 2006, 2007, somewhere in there.
 14 Q Okay, and Mia Silver?
 15 A I think 2009.
 16 Q Through your retirement?
 17 A Through my retirement, yes. Those dates are --
 18 Q I understand.
 19 A Rough. Rough dates.
 20 Q Now in the work as a -- basically a resident engineer,
 21 or Engineer Manager 14, what were your responsibilities?
 22 You said they was consistent over time. I mean what is
 23 it that you were responsible for over this long period
 24 of time, from roughly 1993 to the end of your --
 25 A Right. We would --

Page 29

1 Q Employment with MDOT?
 2 A Any resident engineer at that period, I had a staff that
 3 I had direct oversight, but my responsibilities relative
 4 to a project would we had to be assigned the project.
 5 Q Like M-5?
 6 A Like M-5. That one I actually transferred into based on
 7 a vacancy.
 8 Q Um-hmm.
 9 A But in general you would pickup with after the contract
 10 was let, or let's say the bids were opened, the monetary
 11 bids were opened, and then you carry on with scheduling
 12 a pre-construction meeting, following through with an
 13 award, and then carrying it through to construction
 14 phase, and then carrying it also through the close-out
 15 of the paperwork.
 16 In addition to that, you would get
 17 involved on projects that were upcoming. Those are
 18 different duties, and that would be in assisting the
 19 design engineer with the constructability features.
 20 We used to be called upon to
 21 coordinate with other types of groups, either for soils,
 22 with Traffic and Safety, in terms of how to set-up the
 23 staging, or what to do with certain sub-surface
 24 conditions, general engineering duties, technical
 25 engineering duties.

Page 30

1 Q What about professional consultants, or engineering
2 consultants?
3 A For the vast majority of my career, I would direct staff
4 at MDOT, permanent employment staff, and other
5 responsibilities, in addition to overseeing contracts,
6 in addition to assisting on upcoming contracts, then I
7 would have the general management responsibilities for
8 that staff as their supervisor.
9 Q When you say you had a staff, the staff was responsible
10 for consulting engineering services?
11 A No. We didn't -- in the vast majority of my career, we
12 didn't have any consulting services. It was all direct
13 oversight by MDOT forces.
14 Q When you say the vast majority, is that --
15 A Yes. That -- late -- in the 2000s, after the
16 department had undergone retirements, and they no longer
17 had the staffing levels to cover some of the very large
18 projects, then they would hire consultants to assist, or
19 in cases to oversee the TSC structure; when you might
20 rate it into that other TSC structures.
21 Some engineers were assigned solely
22 consultant engineering oversight, so they didn't have a
23 direct staff; maybe an assistant or two assistants, but
24 they didn't have a technician group that would do the
25 duties like I described as a co-op, both technical or

Page 31

1 technician duties, a journeyman technician duties,
2 whereas I always had a construction staff.
3 Q Now you say that almost always, or always really lasted
4 until some point in the new millennium. Could you put a
5 time frame on when in the new millennium?
6 A Actually through all of my career, I always had -- or my
7 -- as a resident engineer, I always had a staff that I
8 oversaw. Our first method, or methodology would always
9 be to oversee the construction projects with our staff.
10 We annually supplemented that staff with student co-ops,
11 so every year I would called to hiring -- or bringing on
12 board student co-ops through the MDOT Cooperative
13 Education Program, the same one in which I had
14 participated in.
15 Q And was that generally focused on Michigan Tech., or did
16 it include other --
17 A It was all -- all colleges.
18 Q And then at some point did you -- you became involved
19 with, I'm assuming bids for this technical staffing for
20 consultants, even in your --
21 A At the point in time that arised was when the AARA,
22 the A-A-R-A jobs, American Recovery Act projects.
23 Q Okay, and what year was that?
24 A I think it was 2009.
25 Q The part of your responsibilities as the resident

Page 32

1 engineer included review of contractor claims?
2 A Yes.
3 Q And what about change orders, if that's the
4 correct term for what --
5 A In the MDOT lingo, they called them contract
6 modifications. In the private sector, they're called
7 change orders.
8 Q And you were responsible for reviewing those as well?
9 A Well, one of the primary functions that -- contract
10 modifications were a function of every single contract
11 with the MDOT documentation system. We generated
12 contract modifications through the construction
13 record-keeping system.
14 Q Did those come to you for signature, or was it somebody
15 on your staff that had authority to do that outside of
16 you? If a contract modification --
17 A We generated them, so we would sign them as Prepared By.
18 Q When you say we, that's what I'm trying to --
19 A My office.
20 Q Your office, but what was your role in it?
21 A I signed them as Prepared By.
22 Q Okay.
23 A There certainly were -- depending on the different
24 policies that changed and migrated over time, we did
25 have some recommendation. There's multiple signatures

Page 33

1 on the form, so there would be -- under certain limits,
2 you would sign with a recommendation, or Recommended.
3 Under other limits, you would potentially them as
4 Authorized.
5 Q So the nature of the signature varied, depending on the
6 work and the contract?
7 A It depended on the monetary level of the particular
8 contract modification and the type.
9 Q Did you ever work with Iafrate while you were a resident
10 engineer?
11 A We might have had one project with Iafrate as a resident
12 -- oh, no, that's not -- I've got to go all the way
13 back. There was a project on Groesbeck back in the
14 '90s, say early '90s, and then there was a ramp
15 reconstruction project at Novi Road in -- somewhere in
16 the 2000s. Those are the ones I recollect. Well, you
17 have to remember over the course of my career, my best
18 estimate would be that I handled over five-hundred
19 projects.
20 Q All construction?
21 A All construction, but it could be in the form of a
22 construction project that was demolishing a house. It
23 could be in the form of a construction project that was
24 doing street signals. It could be a road project. It
25 could be a bridge project. I did a building project,

Page 34

1 the rest areas. Pretty much whatever came down the
 2 pike.
 3 Q Whatever they were building or reconstructed --
 4 A Through the Department of Transportation. I did a
 5 project on Oakland University.
 6 Q On behalf of MDOT?
 7 A We had an oversight responsibility because MDOT had
 8 money in it.
 9 Q Were you paid on an hourly basis?
 10 A Yes.
 11 Q Did you get overtime?
 12 A No. This is -- maybe to clarify. Is this in the
 13 capacity as a resident engineer?
 14 Q Yes.
 15 A No. I was not paid overtime.
 16 Q Was it basically a 9:00 to 5:00 job?
 17 A No.
 18 Q What kind of hours did you work?
 19 A Whatever was necessary, but obviously the summer hours
 20 would be sometimes very long. The winter's hours would
 21 generally be more of eight hours, eight working hours,
 22 so your question was was it hourly, and they say it was,
 23 but I don't know. It's a funny mix of the two, whether
 24 it's really hourly or salary.
 25 Q I assume you had a whole host of assistant resident

Page 35

1 engineers that reported to you over the years?
 2 A The general structure of an office is that you would
 3 have an assistant resident engineer, one, and you would
 4 have an assistant to the resident engineer, and then
 5 that would be one. One was an engineer, one was a
 6 technician.
 7 Q So the assistant resident engineer was an engineer?
 8 A That's correct, required to have a Bachelor of Science
 9 degree.
 10 Q Okay. Not necessarily a PE?
 11 A That's correct.
 12 Q And an assistant resident -- assistant to a resident
 13 engineer who didn't have to have a Bachelor of Science?
 14 A That's correct.
 15 Q And there would be one of each?
 16 A Generally, yes. In my career, that was the thing.
 17 Q In 2010, who was your assistant resident engineer?
 18 A Sean Kerley.
 19 Q Sean Curry?
 20 A Kerley, K-e-r-l-e-y.
 21 Q And what about your assistant to?
 22 A That was Neil Naples. I'm not sure if it was in 2009.
 23 Q What about --
 24 A And then we would have training engineers that we would
 25 oversee.



Page 36

1 Q And how many training engineers?
 2 A In the 2000s, I want to say I had three different ones,
 3 the last of which was Mark Koskinen. I believe it's
 4 K-o-s-k-i-n-e-n, but he was shared with the other
 5 resident engineers in the TSC.
 6 Q And in 2009, who were your assistant resident and your
 7 assistant to the resident the same people?
 8 A You asked me that question.
 9 Q No, I asked for 2010.
 10 A Oh, I'm sorry. 2009, it was Sean Kerley.
 11 Q What about -- did I have it right? Were those the
 12 people in 2010 and 2009?
 13 A Yes.
 14 Q Okay. At what point -- in 2008, was it the same as
 15 well?
 16 A I believe so, yes.
 17 Q And Mark Koskinen, how long was he in the office
 18 as a trainee engineer?
 19 A I don't remember when he came on board. I shared him
 20 with Gerard Paloski, and Gerard was another resident
 21 engineer, and he bounced back and forth based on work
 22 load.
 23 Q Who was that? Who was the person, Mark --
 24 A Koskinen.
 25 Q No, but who was the person you shared him with?

Page 37

1 A Oh, Gerard Paloski.
 2 Q And where was he located?
 3 A In the Oakland TSC.
 4 Q Did you know Victor Judnic?
 5 A Knew of him.
 6 Q Did you ever work with him on any project?
 7 A No.
 8 Q Did you ever socialize with him?
 9 A No.
 10 Q Ever seen him at any holiday parties?
 11 A I believe that would be a yes.
 12 Q But he was not a friend, or --
 13 A I'd say an acquaintance.
 14 Q Did you talk to him at all on any kind of regular basis?
 15 A No.
 16 Q Were you ever in the same office --
 17 A No.
 18 Q At the TSC -- no, okay. Did you know Jason Voigt?
 19 A I did know Jason.
 20 Q How did you know Jason Voigt?
 21 A Jason Voigt worked for me on -- the years on the M-5
 22 project as a co-op student.
 23 Q And what years were those?
 24 A I'd say the early 2000s. I believe it was 2001-ish,
 25 2-ish, 3-ish, somewhere in there.

Page 38

1 Q Was it more than one year?
 2 A I believe it was two, maybe three years.
 3 Q And what type of work was that?
 4 A Pretty much the same duties that I described as a co-op
 5 student that I had, and that's from surveys to density
 6 testing, to concrete testing to general grade
 7 inspection. He would be assigned into the technician
 8 group, and would generally report to the assistant to.
 9 Q How are the co-op students selected? Do they bring them
 10 in for an interview, or do they just assign you a co-op
 11 student?
 12 A As I understood the program, they brought them on a
 13 couple of different ways. I believe there was some form
 14 of an interview always, whether it was an interview by
 15 phone or an in-person interview. They would post on
 16 either the web site, or they would make it known with
 17 recruiters at the different universities throughout the
 18 State that they had a student co-op program, and so then
 19 it was the student's responsibility to apply to the
 20 program, and then we would get stacks of potential
 21 applicants, and then we'd --
 22 Q But when you say we, were the students pre-screened by
 23 somebody else in MDOT, or did they come directly to you
 24 at whatever office you --
 25 A My understanding is they were always pre-screened in

Page 39

1 Lansing.
 2 Q Did you do any work with Parsons, Brinckerhoff?
 3 A During when?
 4 Q At any point in time while you were at MDOT.
 5 A No. None that I remember.
 6 Q What about HNTB while you were at MDOT?
 7 A Yes.
 8 Q What work did you do with HNTB?
 9 A Or would it be more accurate what work did HNTB do for
 10 the department?
 11 Q Yes. What work did they -- well, how did you work with
 12 HNTB while at MDOT?
 13 A If HNTB was hired for some -- oh, I think as-needed
 14 contracts, and they would provide some staffing, and
 15 then they -- on the Square Lake Road project, they were
 16 the consultant responsible for the construction
 17 oversight.
 18 Q And what year was that?
 19 A 2009, I believe. Yeah, in 2009.
 20 Q And how many occasions did you have to work with HNTB
 21 while you were at MDOT?
 22 A Say that -- I couldn't hear you.
 23 Q How many occasions did you have to work for HNTB while
 24 you were at MDOT?
 25 A For HNTB to work with us?

Page 40

1 Q Yes.
 2 A While I was at MDOT, I believe three.
 3 Q Was that all in the 2009, 2000 --
 4 A No. That -- the first one was a little project on M-15,
 5 and that -- sometime in the mid-2000s.
 6 Q Do you recall the size of that contract?
 7 A Oh, it was very small. The construction contract was in
 8 the couple-hundred-thousand dollar range.
 9 Q What was the second?
 10 A I had them provide inspection help for the M-53 project
 11 from Eighteen Mile up to Twenty-Seven Mile.
 12 Q And what year was that?
 13 A Oh, boy, I'm trying to think, remember. 2009.
 14 Q And then you hired them for the Square Lake Road?
 15 A For the Square Lake Road, yeah.
 16 Q And that's the third project?
 17 A Because the one on -- the one on M-53 ran concurrent
 18 with the -- concurring in the same year with the AARA
 19 job on Square Lake Road.
 20 Q Do you recall the value on the Square Lake Road project?
 21 A I think it was around five-million dollars. I'm sure
 22 there's documents that show that.
 23 Q What about the inspection job on M-53?
 24 A The inspection contract, I do not remember, but the
 25 construction contract was fifty-five million.

Page 41

1 Q And you just don't remember HNTB's portion of it?
 2 A No.
 3 Q And how about Fishbeck, Thompson, did they work with
 4 you?
 5 A At anytime at MDOT?
 6 Q Yes, yes.
 7 A I don't believe so. I -- I don't think so, no. None
 8 that I can remember.
 9 Q Have you done any work with HNTB while you're at
 10 Iafrate since December of 2010?
 11 A No, no. None that I know of. None that I remember.
 12 Q What about URS, have you done any work with them while
 13 you were at MDOT?
 14 A URS, I worked with them in a -- in a construction -- I'm
 15 sorry, not a construction, in a design, and some of the
 16 duties you had asked me earlier, I indicated that one of
 17 the duties was to work with designers, and so I did work
 18 with URS on portions of the Beck Road design.
 19 Q Do you recall the size of that job?
 20 A The Beck Road construction contract I remember as being
 21 -- let's see, there was two contracts. I think it was a
 22 total seventeen-million, but the design part I had, I
 23 would have had no way of knowing, and didn't, other than
 24 I was a -- say an advisor, technical advisor working
 25 with them on fine tuning plans, so --

Page 42

1 Q Do you recall a time frame?
 2 A For URS, that would have been -- I want to say 2000.
 3 Q What about -- I'm sorry, go ahead.
 4 A I was going to say that was in the preparation for the
 5 -- it might have been a 2002. It was in advance of
 6 building the Beck Road contract, or the Beck Road
 7 interchange.
 8 Q How about Tetra Tech?
 9 A Yes. Tetra Tech was a consultant for the northerly
 10 Telegraph job in 2010, so they provided -- they didn't
 11 provide engineering services on that contract. They
 12 only provided technician and office technician services.
 13 Q What were office technician services?
 14 A The office tech., documentation duties. Documentation
 15 duties.
 16 Q And the technician services?
 17 A That would be full ranging, and that would be concrete,
 18 asphalt oversight, grade building, drainage, and that
 19 sort of thing.
 20 Q Did you have --
 21 A Survey verification.
 22 Q Inspection services as well?
 23 A Yes. All those, concrete densities, all those services
 24 are inspection services.
 25 Q Was that a job that was bid by the Oakland TSC?

Page 43

1 A Bidded, not -- none of those jobs are bid.
 2 Q Okay. Request for Proposals were issued for that job?
 3 A There were Request for Proposals and selection.
 4 Q Earlier you had stated you had open bids and that sort
 5 of thing.
 6 A No, I -- I never said I had open bids. I said I picked
 7 up with construction oversight duties after the bids
 8 were opened. All bid openings for construction
 9 contracts are done in Lansing.
 10 Q But these consultant services aren't done by bid,
 11 they're done by RFPs?
 12 A They're done by a qualification-based selection.
 13 Q Were you responsible for developing the
 14 qualification-based selection criteria for those
 15 consultant jobs?
 16 A Only in part. We had to put the details to the already
 17 existing from Lansing packets. We would add in the
 18 value of the contracts, and the particulars for a
 19 particular project, but the boiler plate language and
 20 frame works are all developed in Lansing.
 21 Q Did you have responsibility to put in the details on the
 22 RFPs for contracts that were coming out of your TSC for
 23 which you had responsibility?
 24 A For the projects that I was assigned, we filled in the
 25 details for -- to get to the Request for Proposal stage,

Page 44

1 and those are viewed in Lansing and approved, and then
 2 the RFPs would come out from Lansing.
 3 Q And were you also responsible for reviewing those
 4 responses to the RFPs for projects to which you were
 5 assigned?
 6 A You mean the proposals?
 7 Q Yes.
 8 A Yes. In part. It was always part of a panel.
 9 Q Did you know Steve Griffith?
 10 A No. Well, I knew of him.
 11 Q Did you ever work with him at all?
 12 A No.
 13 Q What about Rita Screws, did you know of her?
 14 A I knew Rita.
 15 Q Did you ever work with her?
 16 A Not directly. We went through many training sections
 17 together. I think we hired in pretty close to the same
 18 time.
 19 Q What about Cedric Dargin, do you know --
 20 A Cedric and I had a similar capacity at MDOT. He was a
 21 resident engineer before he was promoted.
 22 Q Do you recall what he was promoted to?
 23 A He was promoted to a construction engineer in the
 24 region office. You know, it makes me think back. When
 25 we were talking in the '90s, really the terminology,

Page 45

1 there would have been the district office. At some
 2 point it changed from the district office, and the
 3 district engineer, and then another one of those name
 4 change things, then they changed it to the region
 5 engineer. I just caught it as you were talking there.
 6 Q What about Love Charles, did you know Love Charles at
 7 all?
 8 A I knew Love.
 9 Q How long did you know Love Charles?
 10 A I guess I would have first met him sometime in the '90s.
 11 Q Did you ever work with Love?
 12 A No.
 13 Q Did you know a gentleman named Ray Stewart?
 14 A I did.
 15 Q And did you ever have an opportunity to work with
 16 Mr. Stewart?
 17 A Ray Stewart and I worked in the Jim Hanson building
 18 together.
 19 Q Back when you first started?
 20 A Early in -- yes, back in the '80s. I don't want to say
 21 when I first started, but when I was --
 22 Q Early on in your career?
 23 A I worked with Ray when I went to Jim Hanson's office.
 24 Q Anytime after that?
 25 A I don't believe so, no.

Page 46

1 Q Did you know a gentleman named Pat Lawton?
 2 A I did know Pat.
 3 Q And did you have an occasion to work with Mr. Lawton?
 4 A Yes. Pat was -- I'm trying to remember. I think Pat
 5 was at -- at one point, in the late '80s, I think Pat
 6 was in Jim Hanson's office, also.
 7 Q Is that the only time you worked with Mr. Lawton was
 8 when he was in Jim Hanson's office?
 9 A I believe so, yeah.
 10 Q Did you know Greg Johnson?
 11 A Yes.
 12 Q And how did you know Mr. Johnson?
 13 A Greg was a resident engineer at some point, and so we
 14 would have met, and did meet at different -- I want to
 15 say meetings that all the residents were attending.
 16 Q Did you ever work with him on any project?
 17 A In his capacity as the region engineer, I don't say I
 18 worked with him on a particular project, but he was like
 19 the district engineer.
 20 Q You may have gotten a call from him?
 21 A If you got a call, then you reacted.
 22 Q And I think you mentioned Mr. Adegba was your Oakland
 23 TSC manager at one point in time.
 24 A Yes.
 25 Q And when did you -- did you ever have occasion to meet

Page 47

1 Miss Foster?
 2 A Yes.
 3 Q When did you first meet Miss Foster?
 4 A I first met Miss Foster, I believe it was in 1990.
 5 Q And how did you meet her in 1990?
 6 A I was the resident engineer for a project on M-53, from
 7 Fifteen to Eighteen Mile. It was a road reconstruction
 8 project, and at the same time she was -- my recollection
 9 was she was the district utility and permits engineer.
 10 Q For MDOT?
 11 A For MDOT.
 12 Q So she was actually employed by MDOT at that time?
 13 A Correct.
 14 Q Did you work with her directly on that project?
 15 A Yeah. We had some issues with Detroit Edison. I had
 16 picked up that project in the second year, and there
 17 was -- Edison had to perform work, for which the permits
 18 weren't issued yet, and so I believe it was no less than
 19 two meetings. We were in meetings with Edison to -- I
 20 was pushing to get the permit issued so that we could
 21 get their work done, so the contractor on that contract
 22 could finish their work. The contractor was John Carlo,
 23 Incorporated.
 24 Q Was that the only occasion you had to work with
 25 Miss Foster?

Page 48

1 A That's the one I -- I remember. During the design
 2 development phase, some other projects, she may have
 3 been -- her duties would have been in the design process
 4 to clear the utilities, and/or permits for projects that
 5 are built, but the M-53 job we had direct contact to try
 6 to resolve the Edison issues.
 7 Q All right. Were you aware of any of Miss Foster's other
 8 engineering and construction experience when you worked
 9 with her on the Edison project?
 10 A It wasn't the Edison project. It was the M-53 MDOT
 11 project.
 12 Q Okay. Well, in your the utility clearance project with
 13 Edison on the M-53?
 14 A Would you -- I'm not clear what you're actually asking.
 15 Q All right. Well, did you have any, or obtain any
 16 knowledge of Miss Foster's engineering or construction
 17 experience at the time you worked with her on trying to
 18 clear the Edison easement?
 19 A There were no Edison easements, so --
 20 Q Okay.
 21 A It was an MDOT -- within the MDOT right-of-way that
 22 Detroit Edison had to perform work, and we needed the
 23 permits issued for them for them to perform the work so
 24 Carlo could finish that work, could finish it, their
 25 contract.

Page 49

1 Q So Edison was performing work without easements?
 2 A No. We're not on the right track here. Edison had work
 3 that had to be performed within the MDOT right-of-way,
 4 for which they needed the district utilities and the
 5 permits engineer to issue the permit so they could do
 6 their work, so we could complete our work.
 7 Q And during the course of that project, in getting these
 8 permits issued, did you obtain any information about
 9 Miss Foster's experience as an engineer or in
 10 construction projects?
 11 A Any information being -- she had a rank, or a position
 12 that was responsible for a duty, and I did no additional
 13 investigation to find out how she got there.
 14 Q Was the job completed, getting the permits issued so
 15 Edison could do their utility work?
 16 A Not when we needed it, no.
 17 Q Was it ultimately completed?
 18 A We had to -- we went through and did our turf and
 19 restoration that had to be done per the contract. Later
 20 in the summer, Edison did their work, and then we had to
 21 come back and re-do our work, at cost to the State, a
 22 second time.
 23 Q Any other occasions you had to work with Miss Foster,
 24 beyond that one project?
 25 A Other than indirect work while she was in her capacity

Page 50

1 for projects that I was going to be responsible for, the
 2 construction oversight. The district utilities
 3 engineer, utility and permits engineer had the
 4 responsibility to clear the projects prior to the
 5 construction.
 6 Q When you say clear the projects, what do you mean?
 7 A Clear the projects would be to make sure that all the
 8 utilities, the conflicts that had been identified by the
 9 designer were addressed in one form or another, whether
 10 their relocations would be done in advance of the
 11 contract, or during the contract, or possibly not
 12 necessary.
 13 Q And that is relocation of utility lines?
 14 A Yes. If there were utility lines that were within the
 15 MDOT right-of-way, that required relocation because of
 16 the new facility that MDOT was building, then those
 17 coordination duties fell on the district --
 18 Q Utilities --
 19 A Utilities and permits engineer.
 20 Q And were you responsible for providing any input on any
 21 of Miss Foster's evaluations while she was a district
 22 utilities engineer?
 23 A No.
 24 Q Did you provide any evaluations regarding Miss Foster's
 25 work on the M-53 project, and your dealings in trying to

Page 51

1 get Edison's utility terms --
 2 A What do you -- what kind of evaluation?
 3 Q Did you submit a memo? Did you contact her supervisor?
 4 Did you do --
 5 A I was never asked for any information from the regional
 6 office, or the district office. It wasn't -- they were
 7 different divisions. They were different groups. I had
 8 no oversight responsibilities in that arena.
 9 Q Well, I just asked the question because you indicated
 10 that at cost to the State you had to come back and re-do
 11 the work. Did you issue any documentation, or express
 12 any concerns about that extra cost to the State?
 13 A To whom?
 14 Q Anybody. Miss Foster's supervisor? Miss Foster,
 15 anyone?
 16 A No. It wasn't my place.
 17 Q What?
 18 A It wasn't my place. It wasn't my duties. She was in a
 19 -- she was a higher rank engineer.
 20 Q Did you do any work with Miss Foster while she was at
 21 BBB Engineering Services?
 22 A Not to my knowledge, or not to my recollection.
 23 Q Do you recall if you ever received responses to any
 24 Requests for Proposals from BBF while you were at MDOT?
 25 A I'm sorry. I was taking a drink. Would you say that

Page 52

1 one more time?
 2 Q Do you recall if you received any responses to any
 3 Requests for Proposals from your TSC while you were at
 4 MDOT?
 5 A If I'm interpreting your question, you're asking me did
 6 I get any proposals from --
 7 Q From BBF.
 8 A From BBF?
 9 Q Yes.
 10 A I believe, yes.
 11 Q How many?
 12 A Two, I believe.
 13 Q Do you recall the projects?
 14 A One I know was the Square Lake Road project. The other
 15 one I'm unclear. I don't -- I believe she might have
 16 issued, or submitted a proposal for a Cass Avenue
 17 project.
 18 Q And that was also in Oakland County?
 19 A Yes.
 20 Q Were those for BBF as a prime consultant?
 21 A I do not remember. Well, the -- I'm sorry, let's
 22 qualify that. If I'm correct that she submitted for the
 23 Cass Avenue one, that would have been as a prime. The
 24 Square Lake Road one was as a prime.
 25 Q Do you recall any Responses to Proposals where BBF was

Page 53

1 included as the sub-consultant on someone else's team?
 2 A I do not remember.
 3 Q Were you aware that BBF was a DBE?
 4 A Yes.
 5 Q Were you aware that it was a woman-owned enterprise?
 6 A Be it that her name was -- I had no proof, but being her
 7 name was on it, I believed it was her.
 8 Q All right. What about were you aware that it was a
 9 Minority Business Enterprise?
 10 A I didn't know there was a distinction. I thought DBE
 11 and minority were the same.
 12 Q You understood them to be the same?
 13 A Yeah. I -- I knew she was -- or I knew that that firm
 14 was a DBE firm.
 15 Q How long had you known that?
 16 A Oh, I don't know. I don't know.
 17 Q Have you ever developed any of the details of any
 18 Requests for Proposals where you included language that
 19 would require a bidding consultant to include a fleet of
 20 lease vehicles?
 21 A Any language like that, we would not -- I would never
 22 have introduced language like that. Any language like
 23 that would be in the boiler plate language that came out
 24 of Lansing. We wouldn't have a -- an option on that.
 25 Q And why would you never introduce language like that?

Page 54

1 MR. DITTENBER: Objection, calls for
 2 speculation.
 3 MR. WILLIAMS: If you know.
 4 THE WITNESS: I didn't -- it wasn't
 5 -- it wasn't one of our job duties.
 6 Tell me -- ask the question again
 7 about the equipment, just so I'm clear. I'm not sure I
 8 understand the question.
 9 MR. WILLIAMS: As I understand it,
 10 there's boiler plate language that goes into the
 11 Requestd for Proposals as developed in Lansing. They
 12 come down to you when you have a job, if you're looking
 13 to develop and flesh out that Request for Proposals, you
 14 put in details related to your job that you think are
 15 important or required.
 16 THE WITNESS: I guess --
 17 BY MR. WILLIAMS:
 18 Q My question is, in the course of doing that, had you
 19 ever said, well, it might save us costs to have leased
 20 vehicles rather than paying mileage? That's my
 21 question.
 22 A Oh, I never would have made that distinction. That
 23 wasn't our --
 24 Q That wasn't --
 25 A That's not part of our duties on that, that I understood

Page 55

1 it would be.
 2 Q Were you aware of any policies of MDOT that said that a
 3 principal of a firm could not bill for work performed on
 4 a project?
 5 MR. DITTENBER: Objection,
 6 foundation.
 7 MR. WILLIAMS: I'm just asking if
 8 you know. That's all I can do.
 9 MR. DITTENBER: And lack of --
 10 assumes facts that aren't in evidence that there was
 11 such a policy.
 12 MR. WILLIAMS: Yes, I agree.
 13 BY MR. WILLIAMS:
 14 Q I'm asking are you aware of any such MDOT policy?
 15 A I am not. I became aware in 2010 of a consultant that
 16 could not bill because he was a principal to a project.
 17 Q And what consultant was that?
 18 A Tyme Engineering.
 19 Q How did you become aware of a principal at Tyme
 20 Engineering being unable to bill because he was a
 21 principal?
 22 A Because he told me.
 23 Q Who was that?
 24 A That was Oge Udegabunon.
 25 Q Uh-oh. You're going to have to tell her.

Page 56

1 A O-g-e, Oge Udegabunon -- I got to write it out to get
 2 it. My best go at it would be U-d-e-g-a-b-u-n-o-n.
 3 Q Okay, and Tyme is also a DBE as well?
 4 A Yes.
 5 Q And it's T-y-m-e?
 6 A I believe that's correct. I don't think there's an H in
 7 there.
 8 Q And do you know if he was billing at the time, billing
 9 for his services at the time he was told that he could
 10 not?
 11 A I don't know. I know he just told me that he couldn't
 12 bill for himself.
 13 Q And was it on one of your projects, or he was just
 14 having a general conversation with you?
 15 A It was on the Telegraph project.
 16 Q Which Telegraph project?
 17 A All the ones that happened in 2010. He was on the
 18 southerly project -- actually the two southerly
 19 projects. Say the project from Long Lake down to
 20 696, and 696 down to Eight Mile.
 21 Q Was he a prime or a sub-consultant on those projects?
 22 A He was the prime consultant.
 23 Q And do you recall what was his role? Was it as-needed
 24 services?
 25 A Yes.

Page 57

1 Q Was he complaining about being told he could not bill as
 2 a principal?
 3 MR. DITTENBER: Objection, calls for
 4 speculation.
 5 THE WITNESS: Yeah, I -- I couldn't
 6 tell you. I don't know. He made a statement that it
 7 was a matter of fact.
 8 BY MR. WILLIAMS:
 9 Q Did you do any investigation of the claim, or did you
 10 just take it as fact and moved on?
 11 A I had no responsibilities to do anything with it. I was
 12 trying to build fifty-million dollars worth of work on
 13 Telegraph. That issue would have been between him and
 14 Lansing, for which I had no say.
 15 Q Have you ever become aware of any requirements for
 16 re-certification of office technicians?
 17 A My understanding is that they had to take a class every
 18 couple of years to be eligible to provide that service
 19 to MDOT.
 20 Q And is that a written policy or a guideline?
 21 A Are those two different questions?
 22 Q That's one question.
 23 A Is there a difference?
 24 Q Yes. Was it a policy or a guideline?
 25 A I believe -- I guess the best way I could phrase it

Page 58

1 was an instruction from Lansing.
 2 Q And was that instruction --
 3 A From central office.
 4 Q Was that instruction in writing?
 5 A I believe so.
 6 Q Have you ever seen it?
 7 A Maybe.
 8 Q Do you know who was responsible for actually giving the
 9 certification classes?
 10 A I thought that handled out of a construction group in
 11 the secondary complex.
 12 Q When you say the construction group in the secondary
 13 benefits --
 14 A Secondary complex.
 15 Q Secondary complex?
 16 A In Lansing, there's the central office in downtown, and
 17 out by the State Police post there's a secondary
 18 complex, and the Construction and Materials group is out
 19 in the secondary complex, and I think that was one of
 20 their duties.
 21 Q Is that the one off of 96?
 22 A Yeah. Around Exit 99 or 101, or something like that.
 23 It's west of downtown.
 24 Q Yeah. Out toward like Lansing Road?
 25 A I think so, yes.

Page 59

1 Q Were you aware at any point in time of Fishbeck,
 2 Thompson actually providing these certification classes
 3 to anyone?
 4 A That I was not aware until I saw it somewhere in these
 5 documents.
 6 Q Do you know Chris Schafer?
 7 A No, I do not.
 8 Q What about Linda Shepard?
 9 A No, I do not.
 10 Q Karen Liang?
 11 A No, I do not.
 12 Q Have you ever had occasion to work with the Office of
 13 Commission Audits?
 14 A I don't know if that's a work with, or respond to. Over
 15 twenty years with MDOT as a resident engineer, I
 16 certainly had to respond with, interact with the
 17 Commission.
 18 Q And when was the last occasion you responded to,
 19 or interacted with the Commission Audit office?
 20 A With the exception of 2010, it would seem that there was
 21 probably something every year before that. I mean it --
 22 it -- there was always some responsibility with
 23 Commission Audit. If they get an audit and you were
 24 selected to be audited, then you would respond to them.
 25 There was certainly on -- I guess how do I say this --

Page 60

1 Commission Audit always had some review responsibilities
 2 in different facets of the resident engineer work.
 3 Q Did you know Dean Harr?
 4 A No, sir.
 5 (Whereupon Deposition Exhibit Number
 6 1 was marked for identification.)
 7 MR. WILLIAMS: Mr. Stuecher, I've
 8 handed you what's been marked as Stuecher Exhibit 1, I
 9 believe, and ask you to take a look at that document and
 10 tell me if you've seen it, or a series of documents and
 11 tell me if you've seen them before.
 12 THE WITNESS: I don't recollect
 13 seeing anything of the last five pages.
 14 BY MR. WILLIAMS:
 15 Q And that's the letter --
 16 A October 20 on that letter.
 17 Q From Miss Foster to a Daedra Von Mike McGhee.
 18 A I don't recall at seeing it.
 19 Q Okay.
 20 A The pages before, I do recollect as having seen.
 21 Q Do you also recall seeing the score sheet that's
 22 identified about six pages back?
 23 A Yes. I saw that in Bellandra's Deposition.
 24 Q And what was this Project CS 63052-JN72404? Do you
 25 recall that project?

Page 61

1 A I believe this is the Square Lake Road project.
 2 Q And this is also an ARRA project?
 3 A I believe that's correct.
 4 Q And was this for as-needed services?
 5 A No. This was for services starting at -- this was
 6 actually -- this was for total oversight services, if
 7 I'm correct that it is the Square Lake Road project.
 8 Q Do you recall the value of that contract?
 9 A I think the construction contract was around, I believe
 10 it was -- and this is just recollection about
 11 five-million dollars.
 12 Q Do you recall this particular component, for which BBF
 13 submitted a bid, was the award -- what the value was for
 14 that component of services?
 15 A I don't remember a dollar amount. My recollection would
 16 be it's probably about six or eight percent of the
 17 value.
 18 Q Of the five-million?
 19 A Of the construction contract. Those percentages were
 20 set through -- by Lansing, or by the region office.
 21 Q When you say oversight, was this oversight of the
 22 construction process?
 23 A Yes.
 24 Q Now as I understand it, there are review teams that
 25 actually look at the proposals and evaluate those

Page 62

1 proposals, and basically prepare these score sheets; is
2 that right?
3 A That is correct.
4 Q And this review team was comprised of four people?
5 A Yes.
6 Q Yourself, Mr. Dargin. Is that correct?
7 A Yes.
8 Q And then Sean Kerley?
9 A Yes.
10 Q And Mr. Kerley worked for you?
11 A Yes.
12 Q And then Mr. Koskiken?
13 A Koskinen.
14 Q Koskinen, he also worked for you?
15 A I don't know if I was his direct supervisor. He was --
16 what I don't remember is whether he was at that point
17 assigned to Gerard or myself, but he helped. He kind of
18 worked wherever work was needed, so --
19 Q But I thought he --
20 A In the TSC.
21 Q Was the one that went back and forth between you and
22 Gerard.
23 A That's what I was trying to explain, yes.
24 Q So three out of the four people on the team were sort of
25 working in your TSC?

Page 63

1 A Yes, and indirectly I worked for Cedric.
2 Q You say indirectly you worked for him because he was the
3 -- had been --
4 A Region --
5 Q A region --
6 A A region construction engineer, similar to the
7 discussions we had earlier, really to say I would report
8 to the TSC manager, but the construction engineer,
9 follow-up with a field engineer, follow-up with an
10 assistant region engineer, follow-up with a region
11 engineer, so --
12 Q You're aware of Miss Foster's complaints about
13 this evaluation score sheet.
14 A Yes.
15 Q And you are aware that one of those complaints is that,
16 at some point during the evaluation process, you were
17 called out to another meeting, and weren't there for the
18 entire sort of discussion. Is that true?
19 A I wasn't -- I was called out at the very beginning, so I
20 wasn't present until after that first meeting was over.
21 I had stopped in and said, hey, there's a meeting I have
22 to attend, I'll be back as soon as I can.
23 Q So you stopped in, and then you left. How long were you
24 gone?
25 A I'd say an hour or so.

Page 64

1 Q Was this meeting among the team members called
2 specifically to go over proposals?
3 A Yes.
4 Q And when -- after you left, did you tell the team to
5 continue their review?
6 A I said they -- obviously to look at the proposals, you
7 know, I'll be back as quickly as I can.
8 Q And do you know how many proposals they had before them
9 for this particular segment of services?
10 A I believe this one had seven or eight.
11 Q Do you know who ultimately received the award?
12 A Yes.
13 Q Who?
14 A HNTB.
15 Q Do you know who was responsible for overseeing the
16 contract at HNTB?
17 A Curtis Chapman.
18 Q After you came back, had the team completed its review
19 of the proposals?
20 A No.
21 Q They were still reviewing proposals when you came back?
22 A I wasn't there to review anything with them, so there's
23 no way it could have been completed.
24 Q But had they --
25 A We hadn't formed -- we haven't formed a panel yet.

Page 65

1 Q At the point you left, they hadn't formed a panel?
2 A There's four members, the panel.
3 Q Always?
4 A In this case, there were four members to the panel.
5 Q So they couldn't do any work without you?
6 A I wouldn't stop them from reviewing whatever they're
7 doing, but the panel would be formed at the point that
8 we formed -- that I arrived. I wasn't there, so we
9 didn't have the panel yet.
10 Q So you're saying that they could not officially convene
11 as a panel without you being present?
12 A I'm saying as a panel member, it would only be logical
13 that all members of the panel would have to be there to
14 convene.
15 Q And so there wasn't -- everybody had to be present on
16 the panel for that panel to discuss proposals?
17 MR. DITTENBER: Objection. He's
18 answered the question.
19 MR. WILLIAMS: No, he hasn't.
20 BY MR. WILLIAMS:
21 Q Everybody had to be present for the panel to discuss the
22 proposals?
23 A That's not what I had indicated. I indicated that it
24 would only make sense for the panel to fully convene in
25 order to evaluate the proposals. I certainly wasn't

Page 66

1 going to stop them from doing something while I was
 2 gone. I couldn't change the fact that I had to not be
 3 there.
 4 Q Did they do anything while you were gone?
 5 MR. DITTENBER: Objection,
 6 foundation.
 7 BY MR. WILLIAMS:
 8 Q Did they do anything while you were gone?
 9 MR. DITTENBER: If you know.
 10 THE WITNESS: I assume they looked
 11 at and reviewed proposals.
 12 BY MR. WILLIAMS:
 13 Q Did they prepare preliminary scores on the proposals
 14 while you were gone?
 15 MR. DITTENBER: The same objection.
 16 THE WITNESS: They may have
 17 scratched out some numbers, and done some work on it.
 18 It would only be industrious and productive for them to
 19 have done something. I doubt they --
 20 BY MR. WILLIAMS:
 21 Q Did you see any roughed out numbers when you came back?
 22 A There were some partial work done on scratch pads
 23 and whatnot.
 24 Q What happened to those partial, roughed out numbers on
 25 scratch pads?

Page 67

1 MR. DITTENBER: Objection,
 2 foundation.
 3 MR. WILLIAMS: If you know.
 4 THE WITNESS: I didn't process the
 5 rest of the paperwork, and I do not know what all
 6 happened to those scratch pads.
 7 BY MR. WILLIAMS:
 8 Q Who had possession of the roughed out numbers?
 9 A Sean.
 10 Q Were there roughed out numbers for every RFP response?
 11 A I don't know. I don't believe so.
 12 Q Were there roughed out numbers for BBF?
 13 A I think so. I don't clearly recollect what all numbers
 14 were done, what all numbers weren't. In any case, I had
 15 yet to have any opportunity to work with the panel.
 16 Q Did the panel have any preliminary recommendations about
 17 who should receive the award before you got there?
 18 A In accordance with the guidelines, the work was
 19 incomplete. We work together as a panel for -- to come
 20 up with one consensus scoring, which is what you have
 21 given me in front of me.
 22 Q When you say consistent with, what guidelines?
 23 A The selection team will complete one consensus score
 24 sheet, which is the guideline at the top.
 25 Q But at the time you came back, had they completed rough

Page 68

1 numbers for these score sheets?
 2 MR. DITTENBER: Objection, asked and
 3 answered.
 4 THE WITNESS: I believe I've already
 5 answered that question.
 6 BY MR. WILLIAMS:
 7 Q You believe you have, or you have?
 8 A I have already answered that question.
 9 Q Was there a grid of recommended consultants that the
 10 three members of the panel had roughed out for
 11 themselves before you got there to discuss with you when
 12 you came back?
 13 A I do not know.
 14 Q You didn't see that?
 15 A I saw no grid.
 16 Q So what did you see when you got back?
 17 A That they had some scratch sheets of what they had
 18 started to do on scoring.
 19 Q And what did you do with the scratch sheets? Did you
 20 review them?
 21 A We started in on evaluating what the proposals were.
 22 Q And how long --
 23 A Talking about strengths and weaknesses.
 24 Q And how long did you evaluate strengths and weaknesses?
 25 A I think we met for an hour, another hour.

Page 69

1 Q And do you recall the rankings of the seven firms that
 2 you evaluated for the hour that you were there with the
 3 entire panel?
 4 A No, sir, I do not.
 5 Q Do you recall where BBF was ranked during that process
 6 by the selection team fully comprised?
 7 A As a function of documents provided through this
 8 process, I'm aware that they are fourth or fifth. I'm
 9 not sure which.
 10 Q Was there any disagreement with the ranking among any
 11 members of the selection team?
 12 A The consensus was formed, and we filled out the sheets
 13 appropriate with the instructions, so if it was a
 14 consensus form, then there would be no disagreement.
 15 Q So you would disagree with the conclusion that -- of
 16 Mr. Dargin that you came back into the room and altered
 17 the preliminary score sheets?
 18 MR. DITTENBER: Objection,
 19 foundation.
 20 MR. WILLIAMS: He doesn't know if he
 21 disagrees?
 22 MR. DITTENBER: There's no
 23 foundation that Mr. Dargin made that statement.
 24 MR. WILLIAMS: I don't even
 25 understand that.

Page 70

1 BY MR. WILLIAMS:
 2 Q Do you disagree with Mr. Dargin's statement that you
 3 came back and altered some form of preliminary score
 4 sheets?
 5 A I'm not aware of any statement Mr. Dargin made --
 6 Mr. Dargin made.
 7 Q You're not aware of the -- you're not aware of any
 8 statements by Mr. Dargin that you came back into the
 9 room and altered the score sheets? You never heard
 10 that?
 11 A Well, I saw it on this. Are we talking --
 12 MR. DITTENBER: Objection.
 13 THE WITNESS: Are we talking about
 14 the time and the day of?
 15 MR. WILLIAMS: Yes.
 16 THE WITNESS: I am not aware of any
 17 disagreement he had.
 18 BY MR. WILLIAMS:
 19 Q You are aware that Mr. Dargin has asserted that you came
 20 back into the room and altered preliminary score sheets?
 21 A As a function of what I've read in here, yes.
 22 Q And you disagree with that statement?
 23 A I believe it's a mischaracterization, because I had
 24 never had an opportunity to be involved for any
 25 scoring. The panel was yet to form.

Page 71

1 Q Well, you say it's a mischaracterization. That's
 2 different than it didn't happen. A mischaracterization
 3 says that you think something different happened. Am I
 4 misunderstanding you?
 5 MR. DITTENBER: Are you asking him
 6 whether his statement was correct?
 7 MR. WILLIAMS: I'm asking him what
 8 he said. He said it was mischaracterized.
 9 BY MR. WILLIAMS:
 10 Q What was mischaracterized? I'll make it easy for you.
 11 A Restate your question.
 12 Q What was mischaracterized?
 13 A Regarding?
 14 Q Mr. Dargin's statement. What was mischaracterized?
 15 A The panel --
 16 Q What did he --
 17 A The panel had yet to be formed.
 18 Q Okay. You told me that, but what did Mr. Dargin --
 19 A So --
 20 Q Mischaracterize?
 21 A All I read is what Mr. Dargin says here. Now I guess I
 22 really don't understand what you're asking.
 23 Q You said --
 24 A What I'm --
 25 MR. DITTENBER: Let him finish his

Page 72

1 answer, please.
 2 THE WITNESS: What I'm trying --
 3 MR. WILLIAMS: What I'm -- you
 4 said --
 5 THE WITNESS: I said --
 6 MR. WILLIAMS: You said --
 7 MR. DITTENBER: Let him finish his
 8 answer, please.
 9 MR. WILLIAMS: Look, you be quiet.
 10 BY MR. WILLIAMS:
 11 Q Mr. Dargin said -- you said Mr. Dargin mischaracterized
 12 something. I just want to know what it is you think
 13 Mr. Dargin mischaracterized. That's all.
 14 MR. DITTENBER: Asked and answered.
 15 MR. WILLIAMS: No, it isn't.
 16 MR. DITTENBER: Yes, it is.
 17 MR. WILLIAMS: No.
 18 MR. DITTENBER: He's answered that
 19 question.
 20 MR. WILLIAMS: No, he hasn't. No,
 21 he hasn't.
 22 BY MR. WILLIAMS:
 23 Q I just want to know what he mischaracterized.
 24 A My comment was that your question mischaracterized the
 25 events. What I had indicated is that the panel got

Page 73

1 formed when I came into the room, and that the panel
 2 reached a consensus on scoring after evaluating the
 3 proposals, and we did it according to what we were
 4 supposed to do.
 5 Q Okay. Mr. Dargin says you came in and changed
 6 something. We agree with that, right?
 7 A No. What I -- what I --
 8 Q No, no. I'm saying Mr. Dargin says that. Do you agree
 9 with that, yes or no?
 10 A I don't know if Mr. Dargin says that or not. I see that
 11 somebody put it in a report.
 12 Q Okay.
 13 A But I don't know what Mr. Dargin said or didn't say.
 14 Q So if Mr. Dargin --
 15 A To the person reporting.
 16 Q So if Mr. Dargin says that it's true, would you agree
 17 with him or disagree with him?
 18 MR. DITTENBER: Objection, calls for
 19 speculation.
 20 THE WITNESS: I don't know what
 21 Mr. Dargin said.
 22 BY MR. WILLIAMS:
 23 Q I'm just saying if hypothetically -- Mr. Dargin is
 24 going to be here next week, so hypothetically if
 25 Mr. Dargin says yes you did come in and change

Page 74

1 something, would you disagree with him or agree with
 2 him?
 3 A What I would --
 4 MR. DITTENBER: Objection, calls for
 5 speculation.
 6 THE WITNESS: Say is we all changed
 7 it, our perception. We evaluated the information, and
 8 we developed a consensus score.
 9 BY MR. WILLIAMS:
 10 Q If Mr. Dargin says there was a semi, preliminary
 11 consensus score developed before you came back, and you
 12 came in and altered that document, would you disagree
 13 with him?
 14 MR. DITTENBER: Objection, calls for
 15 speculation and assumes facts that aren't in evidence.
 16 THE WITNESS: I don't think I can
 17 answer your question.
 18 BY MR. WILLIAMS:
 19 Q Miss Foster sent you two e-mails requesting a debriefing
 20 meeting with you after this evaluation. Do you recall
 21 that?
 22 A Yes.
 23 Q And you didn't respond to either e-mail?
 24 A I -- we had a debriefing, so I must have responded.
 25 Q No, you responded -- she then sent you a certified

Page 75

1 letter asking for a debriefing meeting. You responded
 2 to that. Did you ever respond to the e-mails?
 3 A I do not recollect.
 4 Q Do you recollect Miss Foster asking you to make all of
 5 the various panel members available at the debriefing
 6 meeting?
 7 A I see that she had put it in her letter.
 8 Q Did you --
 9 A Requesting the selections team.
 10 Q Was the selections team available at the debriefing
 11 meeting?
 12 A The selections team was not assembled for the
 13 debriefing meeting.
 14 Q And why was that?
 15 A Because we had fifty-million-plus dollars worth of work
 16 going, and everybody had more on their plate than they
 17 could handle. It was a matter of this is when I could
 18 squeeze it in my schedule to meet with her.
 19 Q So again MDOT was too busy?
 20 A (No response)
 21 Q Yes?
 22 A I will state --
 23 MR. DITTENBER: Objection.
 24 THE WITNESS: For myself.
 25

Page 76

1 BY MR. WILLIAMS:
 2 Q That MDOT was too busy --
 3 MR. DITTENBER: Objection.
 4 BY MR. WILLIAMS:
 5 Q To bring them all together?
 6 MR. DITTENBER: Calls for
 7 speculation.
 8 MR. WILLIAMS: He just said they
 9 were too busy.
 10 MR. DITTENBER: But you're talking
 11 about MDOT, the entire State agency.
 12 THE WITNESS: I will state that I
 13 was extremely busy.
 14 BY MR. WILLIAMS:
 15 Q Well, was Mr. Dargin too busy?
 16 MR. DITTENBER: Objection, calls for
 17 speculation.
 18 MR. WILLIAMS: He just said they
 19 were busy. I'm asking him --
 20 THE WITNESS: I cannot --
 21 MR. WILLIAMS: How he knows that.
 22 THE WITNESS: I cannot speak for
 23 Mr. Dargin.
 24 BY MR. WILLIAMS:
 25 Q What about Mr. Kerley, was he too busy?

Page 77

1 MR. DITTENBER: The same objection.
 2 MR. WILLIAMS: He just said he was
 3 busy.
 4 BY MR. WILLIAMS:
 5 Q So was he too busy?
 6 A My statement is that I was extremely busy.
 7 Q Well, what about the selection team members, were they
 8 too busy?
 9 A I cannot speak for the selections team.
 10 Q Did you contact them at all asking them to be present
 11 for this debriefing meeting?
 12 A I do not recollect.
 13 Q If Mr. Dargin says you never contacted him, would you
 14 disagree with that?
 15 MR. DITTENBER: Objection, calls for
 16 speculation and facts that aren't in evidence. You're
 17 asking him to talk about statements that haven't been
 18 made.
 19 MR. WILLIAMS: We'll tie it up next
 20 week.
 21 BY MR. WILLIAMS:
 22 Q Would you disagree with him if he says you never
 23 contacted him to be available at the debriefing meeting?
 24 A At this point, I have no answer.
 25 Q Do you recall telling Miss Foster that her company

Page 78

1 simply did not measure up?
 2 A What I recall was indicating to Miss Foster that, as
 3 compared to the other proposals, her proposal was not
 4 the best proposal.
 5 Q So you don't recall telling her that her company did not
 6 measure up?
 7 A I don't recollect using those words. I know that I made
 8 it clear that there was a proposal that was the best
 9 proposal, and it wasn't hers.
 10 Q Do you know if those proposals are still available?
 11 A I do not.
 12 Q Do you know if the evaluation sheets for all of those
 13 proposals are still available?
 14 A I do not.
 15 Q Did she ask you for copies of all of the scoring sheets?
 16 A I definitely do not remember.
 17 Q Do you recall coming back into the room and telling the
 18 other members of the panel that, oh, no, I hate
 19 Miss Foster?
 20 A I do not recollect making that statement.
 21 Q Is it possible you made that statement?
 22 A I don't remember making that statement.
 23 Q You don't remember, or you did not?
 24 A I do not remember making that statement.
 25 Q So it's possible you made the statement?

Page 79

1 MR. DITTENBER: Objection, asked and
 2 answered.
 3 MR. WILLIAMS: No, it's not asked
 4 and answered.
 5 BY MR. WILLIAMS:
 6 Q It's possible you made the statement? That's a
 7 different question.
 8 A I do not remember making that statement.
 9 Q So you can't tell me whether it was possible you did or
 10 did not make that statement?
 11 MR. DITTENBER: Objection, asked and
 12 answered.
 13 MR. WILLIAMS: No, he hasn't
 14 answered the question is it possible he made the
 15 statement.
 16 BY MR. WILLIAMS:
 17 Q I mean is it possible you said it? That's all I'm
 18 saying.
 19 MR. DITTENBER: The same objection.
 20 MR. WILLIAMS: He hasn't answered
 21 that question. He said he doesn't recall. I'm saying
 22 is it possible he said it.
 23 THE WITNESS: I'm a Christian man,
 24 and it would be out of character for me.
 25 MR. WILLIAMS: I've got a liberal

Page 80

1 and a Christian. Okay.
 2 (Whereupon Deposition Exhibit Number
 3 2 was marked for identification.)
 4 MR. WILLIAMS: Mr. Stuecher, I've
 5 handed you what's been marked as Deposition Exhibit 1 --
 6 Exhibit 2, I'm sorry.
 7 BY MR. WILLIAMS:
 8 Q Have you seen that document before?
 9 A Yes, or at least the first letter. Let me get through
 10 the rest. I recollect seeing the letter, the first two
 11 pages.
 12 Q Yes.
 13 A The Report of Inquiry, except for the --
 14 Q The last page?
 15 A Second from last page, which I saw this for the first
 16 time at Miss Foster's Deposition. I don't ever remember
 17 seeing the -- well, the Page 1, 2, 3, 4 and 5 of this
 18 document.
 19 Q All right. If you look at what's been Bate stamped
 20 Page BBF 516 in the lower right-hand corner, you see
 21 that?
 22 A (Witness Indicating)
 23 Q The last sentence on that page says: Per Mr. Paul
 24 Ajegba, Mr. Stuecher was removed from
 25 participating on future selection teams due to his

Page 81

1 actions on this one. Do you disagree with that
 2 statement?
 3 A Yes.
 4 Q So Mr. Ajegba is mistaken or mischaracterizing what
 5 happened?
 6 A Well, I was never selected for a team, so how could I be
 7 removed from it?
 8 Q Removed from future selection teams?
 9 A What -- what selection teams are --
 10 Q I'm just asking about do you disagree with Mr. Ajegba's
 11 statement, or the statement in this document?
 12 A I -- it -- I don't know what selection teams you'd be
 13 talking about, and I -- if I wasn't there --
 14 Q I'm not talking about anything. I'm just --
 15 A If -- if I was -- if I was never on a selection team,
 16 how could I be removed?
 17 Q Were you on any other selection teams after the
 18 selection team that reviewed BBF's proposal in this
 19 situation, for CS63052?
 20 A Which says --
 21 Q That's the contract, the award contract number. Were
 22 you on any other selection teams after that particular?
 23 A This -- this team was in 2009.
 24 Q Yes.
 25 A I left the department in 2010.

Page 82

1 Q Yes. December 2010.
 2 A So between the period in 2009 and 2010, I was not on any
 3 other teams.
 4 Q If you turn to what's been marked as BBF Page 517.
 5 A (Witness Complied)
 6 Q Exhibit Roman Numeral X, Paragraph C says that the
 7 preponderance of the evidence shows that MDOT, Mr. Mark
 8 Stuecher willfully changed the scores on the sheet to
 9 remove BBF Engineering from the top three so the firm
 10 would not be considered, you would disagree with that
 11 statement or conclusion?
 12 A I would disagree with that statement and conclusion.
 13 Q Were you interviewed by Miss Hudson?
 14 A No.
 15 Q Were you interviewed by Miss Finch?
 16 A No.
 17 Q So there was never an interview with you?
 18 A No.
 19 Q Was an interview requested with you?
 20 A No.
 21 (Whereupon Deposition Exhibit Number
 22 3 was marked for identification.)
 23 MR. WILLIAMS: Mr. Stuecher, I've
 24 handed you what's been marked as Stuecher Exhibit 3.
 25

Page 83

1 BY MR. WILLIAMS:
 2 Q Have you seen that document before?
 3 A No, sir.
 4 Q If you look at the second page, you were at MDOT in
 5 2007?
 6 A Yes.
 7 Q Would you have any reason to disagree with the ranking
 8 of the top seven construction contractors by dollars for
 9 the year 2007 shown there?
 10 MR. DITTENBER: Objection, lack of
 11 foundation.
 12 THE WITNESS: I don't know who even
 13 put this document together.
 14 BY MR. WILLIAMS:
 15 Q Okay, so you really have no reason -- you have no basis
 16 for analyzing whether it's correct or incorrect?
 17 A I have no clue.
 18 Q Is that true for 2008 as well?
 19 A That is true for 2008.
 20 Q Have you --
 21 A I've never seen this.
 22 Q Okay. Have you worked on --
 23 A I didn't know that they -- I didn't know that somebody
 24 actually put this together.
 25 Q Have you worked with any of those companies listed on

Page 84

1 this sheet for --
 2 A In thirty years?
 3 Q Yes.
 4 A Yes.
 5 Q How many of them have you worked for on the list for
 6 2007?
 7 MR. DITTENBER: Are you asking him
 8 if he's worked for these companies?
 9 MR. WILLIAMS: Worked with. With.
 10 I said with.
 11 THE WITNESS: Actually have these
 12 companies --
 13 MR. WILLIAMS: Worked for.
 14 THE WITNESS: Worked for the
 15 Michigan Department --
 16 MR. WILLIAMS: Yes.
 17 THE WITNESS: Of Transportation?
 18 MR. WILLIAMS: Yes.
 19 THE WITNESS: Is that what you're
 20 asking?
 21 MR. WILLIAMS: Yes.
 22 BY MR. WILLIAMS:
 23 Q Worked with you while you were at MDOT?
 24 MR. DITTENBER: I'll just object to
 25 the relevance because these are construction

Page 85

1 contractors.
 2 MR. WILLIAMS: He's a construction
 3 contract engineer. Okay, I got you. I'm just asking
 4 him the question.
 5 MR. DITTENBER: You can answer.
 6 THE WITNESS: How many are total?
 7 How many companies are actually here?
 8 MR. WILLIAMS: Well, I think there
 9 are some overlapping.
 10 THE WITNESS: All right. That's
 11 what I'm trying to --
 12 MR. WILLIAMS: Like just deal with
 13 that.
 14 THE WITNESS: You asked me -- you
 15 asked me how many of these companies that I --
 16 MR. WILLIAMS: That you worked --
 17 THE WITNESS: That I've worked with?
 18 MR. WILLIAMS: That you --
 19 BY MR. WILLIAMS:
 20 Q In the list for 2007, how many, of that group how many
 21 have you worked with while you were at MDOT?
 22 A Six.
 23 Q And on 2008?
 24 A Four, and that's over the span of thirty years.
 25

Page 86

1 (Whereupon Deposition Exhibit Number
2 4 was marked for identification.)
3 MR. WILLIAMS: Mr. Stuecher, I've
4 handed you a document that's been identified as
5 Stuecher Exhibit 4.
6 BY MR. WILLIAMS:
7 Q I ask you if you've ever seen that document before?
8 A No. I have not.
9 Q Were you aware of the existence of this document ever?
10 A This document?
11 Q Yes.
12 A I'm not -- I didn't know that they had this document,
13 no.
14 Q Were you aware that there was a Title VI program at
15 MDOT?
16 A Yes. I've heard of Title VI.
17 Q Have you had any training on Title VI while you were at
18 MDOT?
19 A None that I can remember.
20 Q Have you -- when was the last time you had occasion to
21 speak with Mr. Dargin?
22 A I saw Cedric one time this summer up on the Rochester
23 Road job. He attended one of our progress meetings.
24 Q That was while you were working for your present
25 employer, Iafate?

Page 87

1 A Yes.
2 Q Just general conversation with Mr. Dargin?
3 A We really didn't speak much. My recollection was he
4 said something about he had been in contact with
5 Randy McKinney.
6 Q Did you ever work on the Gateway Project?
7 A No.
8 Q How about the Southfield Freeway Project?
9 A No.
10 Q Are you familiar with a firm Great Lakes Engineering?
11 A I've heard the name, but I am not familiar. If the
12 question was are you familiar, the answer is no.
13 Q Did you do debriefings in person with your consultants
14 or contractors?
15 A Which debriefings? What -- what's the context?
16 What are we --
17 Q Any?
18 A I'm not sure what your question is.
19 Q All right. Did you have a policy of only doing
20 debriefings over the phone?
21 A I didn't do many debriefings because I never did any --
22 anything to do with consultants. I had very little
23 experience with consultants, certainly not enough to
24 have developed a policy.
25 Q Are you familiar with the term pre-qualifications?

Page 88

1 A Yes.
2 Q You're aware that consultants had to have certain
3 pre-qualifications to actually submit Requests for
4 Proposals on jobs?
5 A Yeah. I'm more familiar with pre-qualifications as they
6 apply to construction contractors. I am aware that
7 there is a process that they have to go through to be
8 eligible to submit a proposal. I didn't -- if they call
9 it pre-qualifications, then I would say I'm vaguely
10 familiar.
11 Q And if they didn't meet the pre-qualifications, they
12 basically wouldn't be eligible for the job?
13 A That's all handled in Lansing, so we really never saw
14 that end of the -- or that part of the process.
15 Q And how do you normally get pre-qualified? Is it by
16 work or by training?
17 MR. DITTENBER: Objection as to
18 foundation.
19 If you know.
20 MR. WILLIAMS: If you know.
21 MR. DITTENBER: You can answer.
22 THE WITNESS: Pre-qualifications for
23 consultants or contractors?
24 MR. WILLIAMS: Let's start with
25 contractors.

Page 89

1 THE WITNESS: I believe they have to
2 apply to Lansing to demonstrate that they've -- that
3 they can be pre-qualified in that particular category.
4 BY MR. WILLIAMS:
5 Q What about consultants?
6 A I would assume the same thing, that they have to show
7 that they've done a certain amount of work in some
8 category to gain that pre-qualification. I didn't deal
9 with it. I had no experience with it in the Lansing
10 level, or how they go about it, so vaguely I'm familiar.
11 Q How many debriefings did you participate in, if you
12 recall?
13 A I think one.
14 Q Was that the one with Miss Foster?
15 A Yes.
16 Q Have you ever selected a woman-owned firm as a
17 consultant on any project that you managed?
18 A I've never selected any firms. I've worked on panels
19 that had made selections.
20 Q Have any of the panels you ever worked on selected a
21 woman-owned firm as a consultant on a project you were
22 managing?
23 MR. DITTENBER: Are you asking him
24 as a prime consultant?
25 THE WITNESS: Pardon?

Page 90

1 MR. DITTENBER: Were you asking as a
2 prime consultant?
3 MR. WILLIAMS: Yes.
4 THE WITNESS: I don't know. I -- I
5 -- I don't remember. I -- like I say, as part of the
6 selections team, I've been to very few, so I really
7 don't have much recollection as to what the --
8 BY MR. WILLIAMS:
9 Q Were you on the selection team for Tyme Engineering?
10 A No.
11 Q Have you ever been on a selection team where the team
12 selected a DBE as a prime consultant?
13 A I simply don't recall.
14 Q Is there any type of rumor mill, or a list of
15 consultants that gets discussed among the resident
16 engineers at MDOT?
17 A Not to my knowledge.
18 Q There is no type of black list at MDOT?
19 A I am completely unaware of anything of that nature.
20 Q Is there a list of problem consultants or contractors?
21 A Not to my knowledge.
22 Q Is there a list of disapproved consultants or
23 contractors?
24 A Not to my knowledge.
25 MR. WILLIAMS: All right. Give me a

Page 91

1 second.
2
3 (Whereupon there was an
4 interruption in the proceedings.)
4 BY MR. WILLIAMS:
5 Q Mr. Stuecher, just on Exhibit 1, the score sheet, in the
6 upper right-hand corner it says Guideline for Percentage
7 of Work Performed in Michigan. Do you see that?
8 A Yes.
9 Q It says -- am I reading that right, if the person
10 submitting the proposal has ninety-five to one-hundred
11 percent of their work in the State of Michigan, they
12 should get five points?
13 A Okay. Sure. I see that on the chart. Is that five or
14 six?
15 Q No, that's five.
16 A Five, okay. Yeah.
17 Q And were you aware that BBF did one-hundred percent of
18 its work in Michigan?
19 A No, I was not.
20 Q So is that why they ended up with a three?
21 A We actually prorated the distances. Since we had no way
22 to verify for anybody, what the amount of work they do
23 in Michigan was, so we simply prorated the distance from
24 that particular consultant's locations, and then we just
25 rated them by who was the farthest and who was the

Page 92

1 closest to the actual job site. We used the job site as
2 a -- call it an engineering method, but we used the job
3 site to make that determination.
4 Q Do you know how far BBF was from the job site?
5 A Well, somebody did, or we used a graph, because somehow
6 we, as a group, determined how far they were, because
7 we did -- we actually measured them on a map, and --
8 Q So somebody had a map and you actually measured how far?
9 A Yeah. We scaled it off the map. We're engineers.
10 MR. WILLIAMS: All right. Okay.
11 Thank you, Mr. Stuecher.
12 MR. DITTENBER: Very briefly,
13 Mr. Stuecher.
14 R E D I R E C T E X A M I N A T I O N
15 BY MR. DITTENBER:
16 Q On Exhibit 1, the location scoring that you just
17 discussed with Mr. Williams, was that method applied to
18 every proposal that was submitted for that project?
19 A Yes.
20 Q And I believe you testified that BBF was the only
21 consulting firm that requested a debriefing meeting with
22 you; is that correct?
23 A Yes.
24 Q So you would have -- is it safe to assume that no other
25 consulting firm requested a full panel meeting or

Page 93

1 debriefing?
2 A Yes.
3 Q Mr. Stuecher, do you recall when you became aware of the
4 Complaint that is the first two pages of Exhibit 1?
5 A I became aware of that Complaint when I was served at
6 the Iafrate's office.
7 Q And when you say served, are you referring to Service of
8 the Complaint in this lawsuit?
9 A Yes.
10 Q In your capacity as a project engineer for MDOT, did you
11 have the authority to hire employees for consulting
12 firms?
13 A No.
14 Q Did you have the authority to terminate employees of
15 consulting firms?
16 A No.
17 MR. DITTENBER: Thank you. That's
18 all I have.
19 R E C R O S S - E X A M I N A T I O N
20 BY MR. WILLIAMS:
21 Q On the jobs where you were managing the project, could
22 you influence who your consultants assigned to the
23 project, or to work on the project?
24 A My understanding is that the proposals indicate the
25 people that are there, and so it's that list that they

1 put in the proposal, so I don't have any influence on
 2 that list.
 3 Q If you looked at the list and saw someone that you
 4 disagreed with, you couldn't indicate to them that you
 5 disagreed with it?
 6 A I don't know if I could or I couldn't. I never did.
 7 Q So you don't know whether you could. You just never did
 8 it.
 9 A No.
 10 MR. WILLIAMS: Okay. Thank you,
 11 Mr. Stuecher.
 12 THE WITNESS: You're welcome.
 13 MR. DITTENBER: All right.
 14 (Whereupon at about 3:50 o'clock, p.m., the
 15 Deposition was concluded.)
 16 * * *

CERTIFICATE OF NOTARY PUBLIC

STATE OF MICHIGAN }
 COUNTY OF OAKLAND }

I, JUDITH HALPRIN, a Notary Public within and for the County of Oakland, State of Michigan, do hereby certify that the witness whose attached Deposition was taken before me in the entitled cause, was sworn to testify the truth, the whole truth, and nothing but the truth; that the testimony contained in said Deposition was taken by me by means of Stenomask; that said testimony was thereafter reduced to written form and that the said Deposition is a true and correct transcript of the testimony given by said witness.

I do further certify that I am not connected by blood or marriage to any of the parties, or their attorneys or agents; that I am not an employee of any of them; nor am I interested directly or indirectly in the matter in controversy either as counsel, agent, attorney or otherwise.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at West Bloomfield, County of Oakland, State of Michigan, this 31st day of December, 2012.

Judith Halprin
 Judith Halprin, CSMR-3202
 Notary Public, Oakland County,
 Michigan
 My Commission Expires: 12/31/2013

EXHIBIT 32

EXECUTIVE BUDGET
Fiscal Years 2012 and 2013

State of Michigan
Rick Snyder, Governor

John E. Nixon, CPA, State Budget Director

This publication was produced and printed by the Department of Technology, Management and Budget at a cost of \$2,077.92 for printing 250 copies or \$8.31 per copy. The purpose of the publication is to inform state and local officials and citizens about Governor Snyder's recommended budget for fiscal year 2012 and projections for fiscal year 2013. This document is required by law MCLA 18.1363 and by the Michigan Constitution, Article V, Section 18.

FISCAL YEARS 2012 AND 2013 EXECUTIVE BUDGET

TABLE OF CONTENTS

	<u>Page</u>
Budget Overview	A 1
Department Detail.....	B 1
Background Information.....	C 1

Web site address for this document: <http://www.michigan.gov/budget>



Budget Overview





STATE OF MICHIGAN
EXECUTIVE OFFICE
LANSING

RICK SNYDER
GOVERNOR

BRIAN CALLEY
LT. GOVERNOR

February 17, 2011

My Fellow Michigan Citizens:

As I said in my State of the State address, reinventing Michigan demands that we break the bad habits of the past and embrace opportunities for our future. State government has been spending more than it receives for far too long. A gaping budget deficit and serious problems have been the result. These are problems that cannot be fixed with accounting gimmicks or a one-time infusion of federal money. These are problems that require the resolve to make tough decisions.

I have been clear that the months ahead will not be easy. They will involve difficult but necessary changes to bring Michigan's budget into structural balance. There will be shared sacrifice, but through that shared sacrifice, Michigan will emerge as a stronger and more vibrant state. This budget will lay the foundation for economic growth, job creation and our robust collective future and quality of life.

The budget I am recommending is submitted in conjunction with a restructuring of Michigan's tax system in order to make it more simple, fair and efficient. In order to stimulate the economy and ensure that the state is open for business, my plan includes the promised elimination of the Michigan Business Tax, to be replaced with a flat Corporate Income Tax set at 6 percent. The scheduled reduction in the individual income tax rate from 4.35 percent remains and will be fixed at 4.25 percent. Michigan is one of only three states in the nation that exempt most or all of pension income from state income tax. This plan will broaden the base of taxpayers by including all those earning private and public pensions. In addition, I am proposing the elimination of many of the other credits for individual income tax.

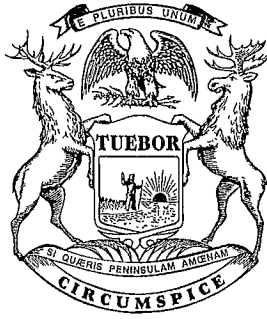
This budget presents a balanced two-year plan that creates a forward-thinking approach to keeping the state's fiscal house in order. And for the first time, state spending will be tied to measured outcomes through the use of performance metrics. It's a responsible budget that cuts \$1.8 billion and tackles other necessary reductions for a long-term solution to our problems, while providing a critical safety net for Michigan citizens in need and preserving core, essential services. It provides the course correction that is needed to help businesses succeed and create jobs. Simply put, we are done kicking the can down the road.

Adoption of this budget plan by May 31, 2011, will send the message that Michigan is ready for a new, sound foundation, and it's the necessary budget for job creation and moving forward together. My administration stands ready to work in partnership with the members of the Michigan House and Senate to enact the fiscal year 2012 budget.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Snyder".

Rick Snyder
Governor



FOUNDATION FOR MICHIGAN'S REINVENTION

Fiscal Years 2012 and 2013 Executive Budget Recommendation

Michigan's reinvention begins in earnest with Governor Rick Snyder's fiscal years 2012 and 2013 Executive Budget Recommendation, which reflects his bold and decisive plan to energize Michigan's lagging economy, protect citizens and preserve critical functions, and reshape the delivery of public services. Turning the page on the old ways of doing business, Governor Snyder's budget recommendation lays the foundation for Michigan's resurgence with tax restructuring essential to spurring economic growth and job creation, as well as the difficult, but necessary actions needed to restore long-term fiscal solvency to the state.

Budget Process Reforms

Among Governor Snyder's priorities is reforming the budget process, and making state government more transparent and accountable to the citizens of Michigan. The budget presented today is a balanced, two-year spending plan with recommended fiscal year 2012 appropriations, as well as anticipated appropriations for fiscal year 2013. This new two-year approach to budgeting will allow for more long-term strategic planning, and if enacted by May 31, 2011, as requested by Governor Snyder, it will give schools, municipalities and other local service providers more time to manage their operations.

The two Executive Budget bills presented today for legislative introduction are also "omnibus" in nature, with one bill including all departmental operations and the other bill comprehensive to education. The two consolidated bills will allow for greater transparency in government spending, making appropriations easier to monitor across agencies. In addition, the bills have been streamlined to allow for greater flexibility in driving program performance.

Measuring Michigan's Performance

Governor Snyder's commitment to government transparency and accountability includes the creation of MiDashboard, available online at www.michigan.gov/midashboard. MiDashboard establishes clear statewide measures in the areas of economic strength, health and

education, value for money government, quality of life and public safety that allow the citizens of Michigan to easily gauge the state's progress across a number of key performance indicators.

MiDashboard represents an important step in moving Michigan's budget process toward a new model of managing for results. The spotlight cast by MiDashboard will require that elected officials and state leaders continually evaluate the efficiency and effectiveness of programs to determine if they are delivering the desired results. Further, it will be an honest representation of where Michigan stands relative to national benchmarks. It will identify strengths, but also illuminate areas where improvement is needed.



- Top 10 States ↑ Performance improving
- Middle 30 States ↔ Performance staying about the same
- Bottom 10 States ↓ Performance declining

Economic Strength				
	Prior	Current	Rank	Progress
Unemployment	12.4%	11.7%	●	↑
Gross Domestic Product (GDP)	(2.7)%	(5.2)%	●	↓
Real personal income per capita	\$28,250	\$27,558	●	↓
Number of structurally deficient bridges	2,732	2,726	●	↑
Children living in poverty	19%	23%	●	↓

Additional agency-specific performance measures that compliment MiDashboard are available for each program area supported in the Governor's budget recommendation. These measures, along with an indicator of how performance is trending, are key to the Governor's focus on managing for results. The measures presented are transitional, and reflect the initial steps of a work process that will culminate with the development of detailed balanced scorecards for each agency.

Michigan's Economic & Fiscal Challenges

While reforming the budget process and ensuring greater accountability are important components of Governor Snyder's road map for moving Michigan forward, the central task at hand is jump-starting the economy and getting Michigan's fiscal house in order.

"We have been spending more than we have in revenue and we have serious problems. It's not time to cry about it, it's not time to whine about it. It's time to go to work."

Governor Rick Snyder speaking at the Business Leaders for Michigan Leadership Summit on January 31, 2011

The reality facing Michigan is that our state continues to trail the nation in terms of economic recovery, and although there are positive signs related to the turnaround of the auto industry, unemployment remains unacceptably high and job growth is lagging. Further compounding Michigan's situation, the financial models of our state and local governments are unsustainable. Service duplication, debt, public employee compensation and unfunded retirement obligations are impacting the long-term fiscal health of state and local governments. Governor Snyder believes Michigan and its public institutions must correct course, stop spending money they don't have, and implement pragmatic solutions to the economic and fiscal problems that exist.

To address these fundamental issues, Governor Snyder's Executive Budget Recommendation fulfills his commitment to create a more competitive business climate by eliminating the onerous and complex Michigan Business Tax, replacing it with a new tax structure that is simple, fair and efficient for all taxpayers. Governor Snyder also resolves the structural budget deficit that has plagued Michigan for the last decade.

The Governor's budget recommendation includes difficult spending cuts, changes in service delivery, and the shared sacrifice of many, including public employees. It challenges schools and local governments to tackle necessary reforms. It constrains spending, stops the one-time fixes, and puts Michigan back on a path to long-term fiscal stability.

In short, this budget represents Governor Snyder's Foundation for Michigan's Reinvention: a bold plan requiring decisive action with a commitment to providing measurable results for the citizens of Michigan.

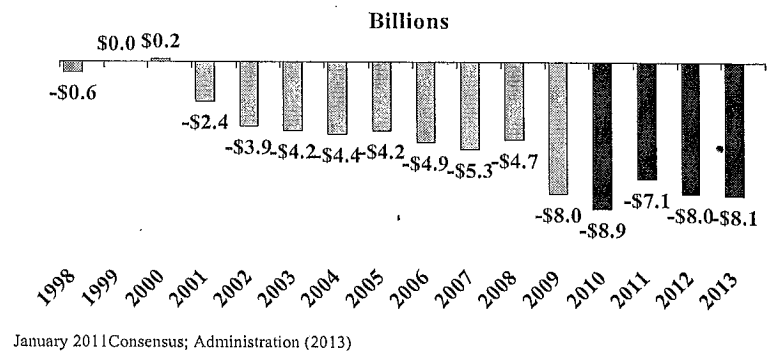
State Revenue Forecasting and Spending Limits

State law requires two revenue estimating conferences each year, typically held in mid-January and mid-May, corresponding to key points in the annual budget development and legislative appropriations process. The January conference provides the revenue estimates for the Governor's budget recommendation presented in February, while the May conference updates the revenue estimates prior to conclusion of legislative deliberations and the enactment of appropriations.

Conferees include the State Treasurer and the directors of the Senate and House fiscal agencies. The conferees agree on baseline revenue estimates for the current year, and the upcoming fiscal year for both the general fund and School Aid Fund. For fiscal year 2012, the conferees project combined general fund and School Aid Fund revenues totaling \$18.5 billion, an increase of \$281 million or 1.5 percent from fiscal year 2011.

Revenues supporting the anticipated appropriations for fiscal year 2013 were not a part of the formal consensus process, and were instead developed by the State Treasurer. Combined general fund and School Aid Fund revenues for fiscal year 2013 are estimated to total \$18.6 billion. Baseline revenue growth from fiscal year 2012 to 2013 is \$503 million or 2.8 percent, however, it is offset by \$410 million in enacted tax expenditure commitments.

State Revenues are \$8 Billion Below the Constitutional Revenue Limit



Michigan's constitution includes a provision that limits revenue growth from year to year. This constitutional limitation – commonly known as the Headlee amendment – has been in place since 1978. The Headlee amendment limits annual growth in state revenues to a level that cannot exceed the year-to-year growth in personal income. This limit is intended to ensure that the state's overall revenues, both tax and non-tax, do not grow faster than the incomes of Michigan's citizens.

It is anticipated that state revenues will be \$8 billion below the constitutional revenue limit in fiscal year 2012, and \$8.1 billion below in fiscal year 2013. Both estimates include the Governor's tax restructuring proposal.

Fiscal Year 2011: Michigan's Current Year Budget

Fiscal year 2011 represents the last year in which federal stimulus revenues provided through the American Recovery and Reinvestment Act are available. General fund spending in the current year has been offset by these temporary revenues, and without them the fiscal year 2011 general fund spending would have been \$900 million higher.

At present, both the general fund and the School Aid Fund in fiscal year 2011 are balanced, and no action is needed at this time to reduce the current year spending plan. However, potential risks related to federal Medicaid disallowances and caseload growth, unemployment insurance loan interest payments and other spending pressures are being closely monitored. Should revenues and expenditures warrant budgetary action in the current year, adjustments will be recommended to revise the spending plan.

Fiscal Years 2012 and 2013 Executive Recommendation

The Consensus Revenue Estimating Conference held in January projected revenues will be \$7.3 billion in the general fund and \$11.2 billion in the School Aid Fund for fiscal year 2012, reflecting a combined total of \$18.5 billion. Due to the end of federal recovery assistance, Medicaid and Family Independence Program caseload growth and other unavoidable spending pressures, the fiscal year 2012 budget begins with a general fund budget gap of \$1.4 billion.

	GF/GP	School Aid Fund	Combined
Consensus Revenue Estimate	\$7,294	\$11,194	\$18,488
Non-Tax Revenue Adjustments	\$903	\$11	\$914
Federal Aid to Schools	\$0	\$1,653	\$1,653
Total Available Revenue	\$8,197	\$12,858	\$21,055
FY 11 Current Law Spending	\$8,302	\$13,134	\$21,436
Baseline Spending Adjustments:			
Replace FY 2011 One-Time Federal Stimulus Dollars	\$900	\$0	\$900
Community Health and Human Services Caseload	\$193	\$0	\$193
Employee Economics	\$88	\$0	\$88
Retiree Health Insurance Costs	\$17	\$0	\$17
Debt Service	\$98	\$0	\$98
Other Cost Adjustments	\$11	(\$422)	(\$411)
Total Baseline Spending Estimate	\$9,609	\$12,712	\$22,321
Projected Funding Gap	(\$1,412)	\$146	(\$1,266)

In fiscal year 2013, projected revenues are \$7.1 billion in the general fund and \$11.5 billion in the School Aid Fund, for a combined total of \$18.6 billion. Assuming enactment of the Governor's fiscal year 2012 plan, the fiscal year 2013 budget is balanced with a modest surplus remaining.

"Reinventing Michigan demands that we break the bad habits of the past and embrace opportunities for our future....working together, we will chart a new course and measure our progress. At the end of the day, we will be a stronger, more vibrant state."

**Governor Rick Snyder, State of the State Address,
January 19, 2011**

Governor Snyder's budget recommendation confronts Michigan's underlying economic and fiscal issues in a decisive manner. First, the Governor's plan will restructure business taxes to grow the economy and create jobs by making Michigan a more competitive state for business. Most businesses in Michigan will experience a net tax reduction as a result of the Governor's plan. His plan further recommends additional tax restructuring to leverage this new economy and improve the quality of life in our state for all citizens.

Second, the Governor's recommendation resolves the state's structural budget deficit, and challenges the Legislature to quickly move forward with adoption of the budget to avoid delays in implementing cuts and reforms that will produce long-term savings.

Declaring Michigan "Open for Business"

The centerpiece of Governor Snyder's plan to stimulate the economy and create jobs is to eliminate the Michigan Business Tax and replace it with a flat Corporate Income Tax. Michigan's reputation as a state that is open and friendly to business has been tarnished by the Michigan Business Tax, which has stymied growth and hampered our state's ability to rebound from the prolonged recession.

Corporate Income Tax

Michigan's business taxes have traditionally been very complex, including an intricate web of incentives, credits and deductions that unfairly favor some businesses or industries over others. Governor Snyder believes this complicated tax structure hurts Michigan businesses and constrains job growth. He proposes a simple, fair and efficient Corporate Income Tax that will even the playing field and enable all businesses and industries, large and small, to grow and create jobs.

Under the Governor's proposal, generally only those business entities that issue public or private stock, known as "C" corporations for federal tax purposes, would be subject to the proposed 6 percent tax. Other businesses, such as partnerships, sole-proprietorships, limited liability companies and "S" corporations that are not classified as "C" corporations for federal tax purposes would be exempt, resulting in significant tax relief for these companies enabling them to invest and expand. It is estimated over 95,000 companies will no longer have to file a state business tax return, ending a practice of double-taxation for those companies that already pay tax on business profits under the individual income tax.

The Corporate Income Tax will also eliminate the practice of picking winners and losers via the old system of tax credits and deductions. Michigan is projected to forego almost \$2 billion in revenue for these tax preferences in fiscal year 2013, which represent spending done through the tax code and not the more transparent appropriations process. Under the Corporate Income Tax, business credits for brownfield re-development, the Michigan Economic Growth Authority, Next Energy, advanced battery, film, renaissance zones and others are eliminated. Governor Snyder's

plan honors the existing commitments made to businesses through signed agreements under the old tax structure, which total \$500 million in fiscal year 2013, and it stops the practice of appropriating money through the tax system moving forward. Instead, economic development incentives will be awarded through the appropriations process and reviewed for effectiveness.

Enacted Credits:*	FY12	FY13	FY14	FY15
MEGA	\$111	\$116	\$245	\$296
Battery**	\$40	\$293	\$317	\$274
Brownfield	\$50	\$50	\$40	\$32
Film	\$75	\$25	\$5	\$0
Other ***	\$17	\$16	\$16	\$16
Total	\$293	\$500	\$623	\$618

* Estimates of when awarded certified credits will be claimed.
 ** Includes battery, photovoltaic and polycrystalline credits.
 *** Includes renaissance zone, historic preservation, farmland preservation, workers disability, and anchor credits.

"As difficult as it will be in these tough economic times, Michiganders must join the governor in thinking about the long-term consequences of the next budget, not just dodging as much pain as possible in the short-term. And everyone, including taxpayers, should be prepared to pitch in."

Detroit Free Press editorial, February 2, 2011

In keeping with this philosophy, the Governor recommends direct appropriation of general fund revenues for investment in critical business and economic incentives, including \$25 million for business retention activities and \$25 million for film incentives. This funding will augment the \$75 million in the 21st Century Jobs Fund and provide the Michigan Economic Development Corporation with important tools to attract, retain and grow existing

businesses and encourage economic development in Michigan. The budget also includes \$5 million general fund for an innovative Quality of Place partnership that will provide matching funds in support of art and cultural initiatives in local communities.

The elimination of the Michigan Business Tax and the shift to a 6 percent Corporate Income Tax will result in a net loss of revenue to the state of nearly \$1.8 billion on a full-year basis. To offset the impact of this tax restructuring on the state budget, Governor Snyder proposes additional tax changes that will further streamline the tax code and make the shift to the Corporate Income Tax essentially revenue neutral beginning in fiscal year 2013.

Other Tax Changes Necessary to Leverage Economic Growth

Governor Snyder supports a tax code that is simple, fair and efficient for individual taxpayers, as well as businesses. Along with a flat Corporate Income Tax, the Governor proposes that the individual income tax rate be reduced on October 1, 2011, from 4.35 to 4.25 percent, as currently planned.

Further, Governor Snyder believes all taxpayers should pay the same rate regardless of their source of income. In conjunction with the reduced rate, the Governor recommends broadening the base to which the individual income tax is applied in order to capture all individual income in the state regardless of source. This more equitable application will ensure that all income is taxed at the same 4.25 percent rate.

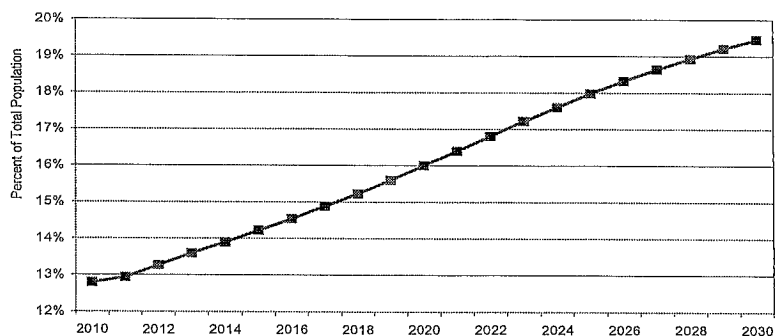
Consistent with his simple, fair approach to the Corporate Income Tax, the Governor also recommends that all credits and deductions related to the individual income tax, with the exception of the personal exemption, the exemption for individuals with disabilities, special provisions dealing with military personnel and veterans, the homestead property tax credit and a few other subtractions, be eliminated. These changes are designed to provide equitable treatment for taxpayers.

The personal exemption will be retained, but phased-out for income in excess of \$75,000 for single filers, and \$150,000 for joint filers. Similarly, the homestead property tax credit will be retained, but the phase-out range is lowered to \$61,000 to \$70,000. The homestead property tax credit will also now equal 80 percent of the difference between property taxes and 3.5 percent of income for most homeowners.

Significantly impacted by these tax changes will be those with private and public pension income. Michigan is one of only three states in the nation that exempt most or all of pension income from state income tax.

Given our state's declining population and growing senior demographic, Governor Snyder believes Michigan can no longer afford to exempt any segment of the population from supporting an equitable share of public services. Under the tax plan pension income will be taxed, but social security benefits will continue to be exempt from state income tax.

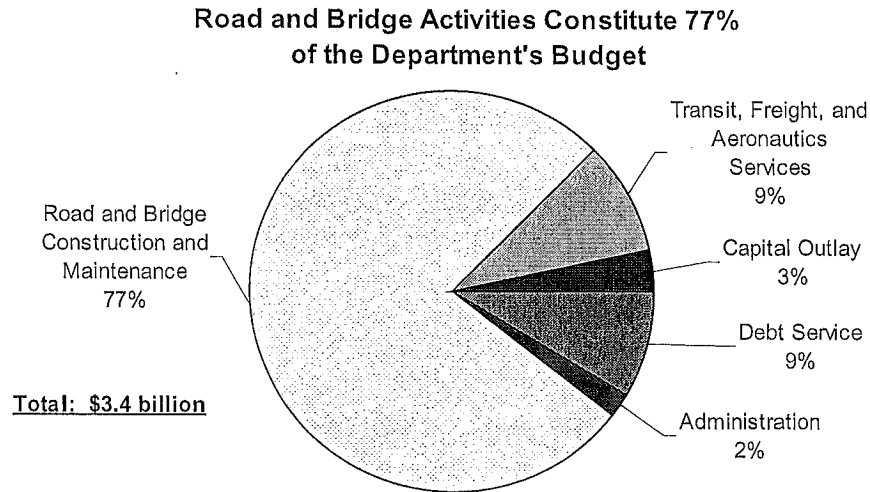
Michigan's Senior Population Projected to Increase From 12.8% to 19.5% Over Next 20 Years



Source: U.S. Census Bureau, Interim Projections of Population by State and Age, 2004-2030 (released April,

Department of Transportation

Through investments in the state's network of roads and bridges, public transportation systems, freight development, and aviation programs, the Department of Transportation (MDOT) works to ensure a safe, efficient and effective transportation infrastructure. *The Governor's proposed budget for fiscal year 2012 and 2013 recommends total funding of nearly \$3.4 billion in each year, supported entirely with federal and state restricted revenues.*



Highlights of Governor's Budget Recommendation

- Governor Snyder's budget recommendation for the Department of Transportation matches all available federal highway aid in fiscal years 2012 and 2013. The budget does so with an innovative, and federally approved, use of Canadian funding being provided to cover Michigan's costs associated with the construction of the New International Trade Crossing. Governor Snyder announced his support for this new bridge connecting Detroit to Windsor, Ontario in his State of the State Address in January, citing the significant economic development potential of this global trade corridor.
- Of the Canadian funds, a total of \$50 million in fiscal year 2012, and \$100 million in fiscal year 2013, will be used for federal aid match purposes. Additionally, the department has identified other administrative reductions, efficiencies, and continued use of restricted funds to ensure that Michigan receives its full federal allocation.
- With the match of federal highway aid, the Governor's budget provides \$2.6 billion in each fiscal year for state and local road and bridge construction and maintenance projects. At present, 91 percent of state trunkline roads in Michigan are in good or fair condition as measured by remaining service life.
- The Governor's budget also includes roughly \$305 million in each fiscal year for public transportation services to preserve local bus operating assistance, and support other public transportation, rail freight and marine programs. The Governor's recommendation also supports \$113 million in fiscal year 2012, and \$97 million in fiscal year 2013, for building and airport improvement projects.

**Department of Transportation
Transitional Performance Measures**

Metric No.	Metric	Most Recent Measure	Trend
Road and Bridge Construction and Maintenance			
1	Percentage of state trunkline pavement in good/fair condition: RSL index - remaining service life SSC index - sufficiency surface condition	RSL = 91% SSC = 83%	↔
2	Total final project costs shall not exceed total bid awards by more than 5% annually.	0.11%	↔
3	50% of all road and bridge bid awards will be within 10% of engineer's estimate.	58%	↑
Transit, Freight, and Aeronautics Services			
1	Preserve intercity bus service to ensure all Michigan citizens are within 100 miles of an intercity bus route.	100%	↔
2	Preserve existing local bus transit service: 1) Number of passengers 2) Hours of service 3) Miles of service	1) 99,800,000 2) 6,400,000 3) 99,500,000	↔
3	Percentage of tier 1 airport runway(s) pavement in good condition based on the pavement condition index.	82%	↑
Debt Service			
1	State Trunkline Fund debt service should be no more than 25% of revenue.	22%	↓
2	Manage bond portfolio to minimize interest payments, reviewing all issues for refunding at least annually.	100%	↔
3	Maintain or increase bond rating at AA or greater.	AA+	↔
Administration			
1	No federal funds will be returned to Washington D.C.	\$0.00	↔
3	Process contractor payments in an accurate and timely manner.	99%	↔

- 1 = Effectiveness Measure
- 2 = Efficiency Measure
- 3 = Quality Measure

- ↑ = Performance improving; moving in desired direction
- ↔ = Performance stable
- ↓ = Performance declining; moving away from goal

**Governor's Recommendation
Department of Transportation
(\$ in Thousands)**

FY11 Current Law		FY12 Recommendation		FY13 Recommendation	
GF/GP	All Funds	GF/GP	All Funds	GF/GP	All Funds
\$0.0	\$3,235,819.3	\$0.0	\$3,377,770.7	\$0.0	\$3,399,943.5
	% Change from Previous Year	\$0.0	4.4%	\$0.0	0.7%

Programs					
Road and Bridge Construction and Maintenance		\$0.0	\$2,602,442.6	\$0.0	\$2,672,012.6
Transit, Freight, and Aeronautics Services		\$0.0	\$305,047.5	\$0.0	\$304,298.3
Debt Service		\$0.0	\$287,473.4	\$0.0	\$246,468.2
Capital Outlay		\$0.0	\$112,752.1	\$0.0	\$96,922.0
Administration		\$0.0	\$70,055.1	\$0.0	\$80,242.4
Total Recommendation		\$0.0	\$3,377,770.7	\$0.0	\$3,399,943.5

EXHIBIT 33

BBF Engineering Services, P.C.

Report of Inquiry

XI. Complainants Request for Resolution:

1. Funds	Monetary Losses Due to Projects		Pain/Suffering/Mental Distress	Punitive Damages	Attorney Fees 20%	Totals
Project 2006-0490	Profit Loss	Interest				
Year 2006	\$308,000.00	7%	\$494,340.00 150%	\$346,038.00 105%	\$65,912.00	\$1,338,275.90
Year 2007	\$23,069.20					
Year 2008	\$24,684.00					
Year 2009	\$26,412.00					
Year 2010	\$28,260.70					
Project CS63052- JN72404						
Year 2009	\$55,000.00	7%	\$88,275.00 150%	\$61,792.50 105%	\$11,770.00	\$224,807.00
Year 2010	\$4,119.50					
Project 2008-0044						
Loss of Work Profit Opportunities (FY 2006-2009)			\$25,000.00	\$20,000.00	\$9,000.00	\$54,000.00
2006-2009						
Total (FY 2006-2009)			\$900,000.00 10%	\$540,000.00 6%		\$9,000,000.00
2. Other						
a. Restoration of all current MDOT prequalifications upon expiration date of 10/2011 for a period of 4 years.						
b. MDOT Guaranteed as-needed services inspection and project administration contracts(s) for the period of 9/2011 through 12/2014						
\$3,000,000.00 (BBFES must receive work).						\$1,440,000.00
						\$12,057,082.90

This report is not to be shared unless needed to obtain settlement.

EXHIBIT 34

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BBF ENGINEERING SERVICES, P.C.
a Michigan Corporation, and
BELLANDRA FOSTER, an individual

PLAINTIFFS,

CASE NO.: 11-CV-14853

THE HONORABLE RICK SNYDER, in his capacity as
GOVERNOR OF THE STATE OF MICHIGAN,
KIRK T. STEUDLE, in his capacity as DIRECTOR
of the MICHIGAN DEPARTMENT of
TRANSPORTATION, VICTOR JUDNIC,
and MARK STEUCHER

**DEMAND FOR
JURY TRIAL**

DEFENDANTS.

AVERY K. WILLIAMS (P34731)
WILLIAMS ACOSTA, PLLC
Attorneys for Plaintiffs
535 Griswold, Suite 1000
Detroit, MI 48226
(313) 963-3873
Awilliams@WilliamsAcosta.com

MICHAEL J. DITTENBER (P72238)
Assistant Attorney General
Attorneys for Defendants
Transportation Division
425 W. Ottawa Street, 4th Floor
Lansing, MI 48913
(517) 373-1470
DittenberM@michigan.gov

FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs BBF Engineering Services, P.C., (“BBF Engineering”) and Bellandra Foster (“Foster”) (“collectively Plaintiffs”) state as follows as their First Amended Complaint against Defendants, the Honorable Rick Snyder in his capacity as Governor of the State of Michigan (“Snyder”), Kirk T. Steudle, (“Steudle”) in his capacity as Director Michigan Department of Transportation (“MDOT”), Victor Judnic (“Judnic”) and Mark Steucher (“Steucher”).

NATURE OF THE COMPLAINT

1. This complaint alleges various constitutional, statutory and common law claims arising under the United States Constitution, the Michigan Constitution of 1963, 42 U.S.C. §

1981 and 42 U.S.C. § 1983 and the State of Michigan's WhistleBlower's Protection Act, MCL §15.361, as amended.

2. Plaintiffs Foster and Plaintiff BBF Engineering have been systematically, routinely and regularly discriminated against by Defendants Snyder, Steudle, Judnic, and Steucher as evidenced by the report and evaluation of MDOT's Civil Rights Program Manager, Mary Finch (**See Exhibit A**) in direct contravention of applicable law as well as their inalienable constitutional rights.

PARTIES

3. Plaintiff Foster is an individual who is a professional engineer registered and licensed in the State of Michigan who owns BBF Engineering and who has regularly provided engineering services to various clients, including but not limited to MDOT, and who resides in the Eastern District of Michigan.

4. Plaintiff Foster was first licensed in 1987.

5. Upon information and belief, Plaintiff Foster was the first black female professional engineer licensed by the State of Michigan.

6. Plaintiff Foster was the first black female to receive her Doctorate in civil engineering from a Michigan college and may have been one of the first in the country.

7. Plaintiff BBF Engineering is a civil engineering company licensed in the State of Michigan that has regularly provided civil engineering services to various clients including MDOT with offices in both Southfield, Michigan, and Detroit, Michigan, in the Eastern District of Michigan, although Plaintiff BBF Engineering's Southfield office closed on November 30, 2011, as a result of Defendants' actions.

8. Plaintiff BBF Engineering was formed as a professional service corporation in 1997.

9. To the best of Plaintiffs' knowledge, BBF Engineering began performing contract work for Defendant MDOT in 1997.

10. Defendant Snyder is the Governor of the State of Michigan at all times relevant to this Complaint was a public corporation based in Lansing, Michigan.

11. Defendant Steudle is the Director of MDOT, a Department of the State of Michigan with offices in Southfield and Detroit.

12. Defendant Judnic is at all times relevant to this Complaint is a duly appointed project engineer and as a project manager for Defendant MDOT.

13. Defendant Steucher was at all times a duly designated project engineer and a project manager for Defendant MDOT.

JURISDICTION AND VENUE

14. Jurisdiction is vested in this Court under 28 USC §§ 1331 and 1342 and 42 USC § 2000, as amended.

15. Jurisdiction is further vested in this Court under 28 USC§ 1367.

16. Venue is vested in this Court under 28 USC § 1399 because all of the Defendants in this action either reside in this district or a substantial part of the events giving rise to Plaintiffs' claims in this action occurred within this district.

GENERAL ALLEGATIONS

17. Plaintiff Foster is a Black female professional engineer.

18. Plaintiff Foster is the sole shareholder of Plaintiff BBF Engineering.

19. During all times relevant to this complaint, Plaintiff BBF Engineering has had one of the lowest overhead billing rates of any professional services construction, inspection and/or testing firms providing services to Defendant MDOT.

20. On or about July 2010, Plaintiffs submitted eleven (11) Title VI complaints to the United States Department of Transportation, Federal Highway Administration ("FHWA") alleging discrimination and disparate treatment by Defendants related to a series of projects in which Plaintiffs participated or for which they submitted bids.

21. The projects at issue were all located in Southeastern Michigan.

22. Four (4) of these complaints were accepted by the FHWA after they were submitted in July 2010.

23. Two additional complaints were submitted by February 2011 resulting in a total of six (6) complaints that have been accepted by and are pending before the FHWA. Additional complaints based upon ongoing retaliatory actions of MDOT and its employees were made in 2011 and 2012. **(Exhibits B-1 - B-6)**

24. While the investigation should have been completed by this point in time under FHWA regulations, it has not.

25. The investigation of these accepted complaints continue today. **(See Exhibits B-1 - B-6).**

26. Seven (7) of the original eleven (11) complaints were deemed as untimely since they were not made within 180 days of the alleged act of discrimination.

27. However, even when these complaints were deemed untimely, the determination letter indicated that the complaints were not without merit **(See Exhibit C).**

28. The latter seven (7) complaints were ultimately referred to MDOT and were investigated by Ms. Finch, FHWA Civil Rights Program Manager, Michigan Division.

29. Ms. Finch has since completed her investigation, which culminated in the report attached at **Exhibit A**.

30. This investigation included approximately twenty (20) personal interviews conducted by Ms. Finch and MDOT's EEO Officer and the Title VI Program Specialist, Cheryl Hudson. Among the persons interviewed was Ms. Marilyn Caldwell, then secretary for Defendant Judnic who had been Judnic's secretary for the preceding five years before Defendant Judnic resigned in 2010.

31. Plaintiffs cannot address the outcome of the accepted complaints because the investigation is ongoing.

32. Plaintiff BBF Engineering is both a certified minority contractor and a disadvantaged business enterprise ("DBE").

A. CONTRACT ABUSES AND CUTS

33. In June 2006, Defendant Judnic notified Plaintiffs that MDOT was reducing the face amount of an as needed contract that had been previously awarded to Plaintiff BBF Engineering (Contract Nos. 2006-0490 originally, awarded at \$4.2 million) and rebidding a portion of the contract which encapsulated work for the M-10 highway in Southeastern Michigan.

34. In his interview with Ms. Finch, Defendant Judnic indicated when asked if he had considered Plaintiff BBF Engineering's status as a disadvantaged business ("DBE") when he made the unilateral decision to cut the contract, he stated that, "he did not think of that".

35. He responded in his interview when questioned with the foregoing answer even though there was a committee at MDOT that had been created to unbundle larger contracts to build a viable consulting industry that was more diverse.

36. Plaintiff BBF Engineering was subsequently awarded a \$2.2 million dollar as needed contract after the contract was rebid by MDOT at the behest of Defendant Judnic.

37. The M-10 portion of Plaintiff BBF Engineering's contract (Contract #2006-0490) was subsequently awarded to a majority firm, Fishbeck, Thompson, Carr and Huber Engineering Services ("Fishbeck").

38. In 2007, the records at MDOT indicated that Fishbeck was the third largest contractor doing business with MDOT with \$8.1 Million Dollars in contracts.

39. URS Corporation ("URS") and HNTB both had larger scopes of work. URS, another majority contractor, billed \$13.1 million dollars to MDOT in 2007. HNTB billed \$17.6 million dollars to MDOT in 2007.

40. MDOT's response to Plaintiffs was that Plaintiff BBF Engineering should have bid on the contract that it had already won even though it was divested of the award for discriminatory reasons.

41. In October 2007, Plaintiff BBF Engineering was selected for Contract No. 2008-0044

42. Subsequently, Plaintiff BBF Engineering was again asked to cut the contract in half by Project Engineer Jason Voigt who had been supervised by Defendant Judnic. The orchestrated conspiracy, to deprive Plaintiffs of their constitutional rights and to discriminate against them, intentionally, in violation of the United States Constitution including, but not limited to, the Fourteenth Amendment is demonstrated by Voigt's actions.

43. When Plaintiffs complained to Mr. Myron Frierson, (finance division director) efforts to cut the contract were stopped.

44. In September 2009, Fishbeck was awarded an as needed contract that was also bid by Plaintiff BBF Engineering.

45. The score sheet for Plaintiff BBF Engineering indicated it was missing key MDOT staff.

46. MDOT (Defendant Judnic) refused to meet with Plaintiffs to explain the scoring or the mysterious reference.

47. Defendant Judnic became the project manager on this contract for HTNB after he resigned from MDOT.

48. Defendant Judnic claimed that he did not conduct in person debriefing meetings with consultants even though he did them for other consultants.

49. Defendant Judnic also emailed Plaintiffs that he would only conduct a debriefing meeting with them by phone.

50. The contract, which was recently awarded to HTNB, included a term of three (3) years which is outside the norm.

51. Plaintiff BBF Engineering received low evaluation scores on MDOT Contract #2006-0490, as well as MDOT Contract #2008-0044.

52. The scores were explained as related to an office technician, Mr. Love Charles.

53. The issues were addressed by the technician, Mr. Charles.

54. The technician in question left the employment of Plaintiffs in December 2008.

55. The scoring occurred in March and April of 2009.

56. Plaintiffs had to submit a request under the Freedom of Information Act to obtain the scores for its sub-consultants on Contract #2008-0044 and possibly Contract #2006-0490 because Defendant Judnic would not release the scores to Plaintiff BBF Engineering.

57. Upon receiving the scores, Plaintiffs discovered that even though Plaintiff BBF Engineering was the prime consultant, it had received the lowest scores from among its team members for Contract Nos. 2006-0490 and 2008-0044.

B. PAST DUE INVOICES – MDOT GATEWAY PROJECT

58. In June 2010, Plaintiffs did not receive payment for work performed as a subcontractor on the MDOT Gateway project; URS was the prime consultant on the project.

59. On or about June 7, 2010, Plaintiffs submitted to MDOT a past due payment request for services that it provided on MDOT's Gateway project

60. The past due invoices were dated from January to April 2010. Plaintiffs had previously submitted the invoices and resubmitted them to URS and MDOT a number of times.

61. Plaintiffs were subsequently contacted by Mr. Paul Ajegba (assistant MDOT region engineer) and he stated that Plaintiffs would be paid. Mr. Ajegba also stated that he had spoken with Defendant Judnic regarding the non-payment issue and Defendant Judnic, the project engineer manager for the project stated "it is not our problem."

62. Mr. Ajegba replied that it was MDOT's problem since MDOT has a prompt payment requirement and that Plaintiffs were DBE subconsultants to URS, which had a contract with MDOT.

63. Plaintiffs exchanged emails with URS regarding the past due invoices and Plaintiffs were told that URS's invoices had been submitted to MDOT in June 2010. When Mr. Cedric Dargin (MDOT construction engineer) checked with MDOT's finance division to verify

this information, he discovered that URS had been submitting its invoices since January 2010, but had not included any of Plaintiffs' invoices for the period of January to June 2010.

64. Defendant Judnic never questioned URS about its failure to submit Plaintiffs' invoices even though Plaintiffs' staff person was working under his direction at the MDOT Detroit office.

65. On June 11, 2010, Plaintiffs received a telephone call from Mr. Mike Guter of URS stating "If you are in a bad situation, I can look into it if needed." In a phone conversation with Plaintiff Foster, Mr. Guter also asked that Plaintiff Foster forward a letter to URS stating that everything was "okay". Foster replied that everything was not okay.

66. On June 16, 2010, Plaintiffs received an email from MDOT's finance division stating that URS was not billing Plaintiffs invoices even though URS had been submitting its own invoices.

67. As of July 28, 2010, Plaintiffs had not received payment for any of its Gateway Project invoices which exceeded \$84,000.

68. Even though Defendant Judnic was the project engineer manager on the Gateway Project, he did not contact Plaintiffs regarding the issue with respect to the past due invoices.

C. OFFICE TECHNICIAN COURSE

69. In 2007 and again in 2008, MDOT Lansing staff member, Ms. Ally Wellington, told Plaintiffs that MDOT required that office technicians take an office technician course every 5 years.

70. MDOT had approved Fishbeck, one of Plaintiff BBF Engineer's competitors for MDOT projects, to provide the certification course.

71. In March 2010, Plaintiffs were notified by Ms. Tia Schnee that Plaintiffs' staff would be used to provide construction engineering and inspection services for MDOT project US-12/Michigan Avenue ("US-12"). The contract for professional services on this project had originally been under the supervision of Defendant Judnic. MDOT hired Ms. Schnee in November 2009 and Defendant Judnic served as her supervisor.

72. Mr. Ray Stewart who had provided office technician services on MDOT projects for over twenty (20) years, was assigned to this project by Plaintiffs.

73. Mr. Stewart's most recent office technician certification was issued in August 2008.

74. Ms. Schnee contacted Plaintiff Foster and stated that in order for Mr. Stewart to provide office technician services on the US-12 project, he had to take the office technician course. Plaintiff Foster explained that Mr. Stewart had been certified in August 2008, well within the five (5) year requirement about which Ms. Wellington had or originally spoken of 2007 and 2008.

75. Ms. Schnee responded that MDOT had been performing an audit for several of its projects and Mr. Stewart had worked on some of them.

76. Following Plaintiff Foster's discussion with Ms. Schnee, Plaintiff Foster met with Ms. Rita Screws (Detroit TSC Manager) and discussed the informal records review on project CS84917-JN100155.

77. Mr. Stewart had been the office technician on this project; however, prior to its completion, MDOT cut his hours to 16 per week.

78. In October 2009, Mr. Stewart had requested final figures for the project, but never received them.

79. Mr. Stewart's final work day for the season was December 18, 2009.

80. MDOT had not contacted Mr. Stewart to raise any issues or questions related to this project and moreover, MDOT had not been onsite full time at their office to oversee the integrity of the project files during the period of December 2009 from March 2010.

81. In March 2010, almost 5 months after Mr. Stewart stopped working on the project, Fishbeck performed a project review for CS84917-JN100155 and sent its report to Defendant Judnic.

82. When Ms. Screws met with Plaintiff Foster, Ms. Screws stated that the review for project CS84917-JN100155 was better than many of the reviews for MDOT employee office technicians. Ms. Screws further stated that Mr. Stewart just needed an update on the material certification component of the office technician documentation for the project.

83. Plaintiff Foster contacted Mr. Tom Gray of Fishbeck, in order to arrange a meeting between Mr. Stewart and Fishbeck to discuss the materials certification component since Fishbeck was the prime contractor that managed the course. Mr. Gray responded that Fishbeck would not meet regarding this issue, but for \$900 Mr. Stewart could attend the next day's course which still had openings.

84. Since Ms. Schnee had said that Mr. Stewart could not work on the US-12 project unless he again took the office technician course, Plaintiffs enrolled Mr. Stewart in Fishbeck's course.

85. Mr. Stewart completed the course and received another certificate dated March 2010.

86. Mr. Stewart subsequently provided the office technician services for the contract; however, Ms. Schnee required one of the staff persons from URS (a subconsultant to Plaintiff

BBF Engineering) to go to Plaintiff BFF Engineering's office every 1-2 months to review the office technician documents and then subsequently contact Ms. Schnee with a report of his findings.

87. Plaintiffs later had a discussion with another consultant of a majority firm about combining their efforts to bid on MDOT projects. When the company forwarded its field manager/office technician certificate to Plaintiffs, it was dated 2002.

88. Plaintiff Foster informed the company that its staff person would need to take the office technician course since he had not been certified in the last five (5) years.

89. • The company replied that it had contacted Mr. Steve Nichols, the Vice President at Fishbeck and was told MDOT did not have a specific standard that required an office technician to take the office technician course.

90. Plaintiff Foster explained to the company that it had been told by MDOT that office technicians had to take the office technician course every five (5) years and that her staff member had been forced to take the course about two (2) years after he had already taken it.

91. Clearly, MDOT was arbitrarily and capriciously developing and applying a separate set of rules for Plaintiff BBF Engineering, an African American company, that were much more stringent than the rules it applied to non-minority companies.

92. In 2008, Plaintiffs' staff member Mr. Jason Jackson completed the course.

93. In 2004, two (2) of Plaintiffs' other employees completed the course.

94. Plaintiffs have only been able to obtain office technician assignments for Mr. Stewart; and in 2010, Plaintiffs had to jump through an arbitrary and capricious hoop uniquely designed only for Plaintiffs, so that Mr. Stewart could work on project US-12.

95. All of Plaintiffs current employees that have completed the office technician course are African American.

96. The State of Michigan and MDOT did not and does not require that office technicians from other majority companies take a course every five (5) years in order for them to provide services for consultant contracts.

97. The State of Michigan and MDOT have only approved majority owned firms to provide project reviews and moreover, the reviewers compete with the firms that they are allowed to review

98. Even when Defendant Judnic had not been directly involved in Plaintiffs' contracts his imprimatur and influence was still overbearing since he used his MDOT colleagues to accomplish his orchestrated plan to discriminate against and eliminate Plaintiffs' business with MDOT.

99. Defendant Judnic has intentionally treated Plaintiffs in a disparate manner because Plaintiff Foster is a Black woman.

100. Defendant Steucher has manifested his substantial ill will, hatred, and malice against Plaintiff Foster since 2006 when he was certified to be a project engineer.

101. The State of Michigan and MDOT did not, nor have they been willing to rectify the obvious injuries that Defendant Judnic and Defendant Steucher caused Plaintiffs.

D. BID SELECTION ABUSES

102. On or about May 2009, Plaintiffs bid for contract CS63052-JN72404.

103. Initially, this contract was scored by members of the scoring team selected in accordance with the selection team guidelines, revised as July 17, 2007.

104. During the initial selection process, Plaintiffs had the highest score on the scoring sheets.

105. Subsequently, Plaintiffs scores were unilaterally reduced by Defendant Steucher and Plaintiff BBF Engineering became the lowest scoring contractor on the scoring sheets and did not win the bid.

106. When Plaintiffs requested that Defendant Steucher debrief them on why they were not selected, Plaintiffs were informed by Defendant Steucher that Plaintiff BBF Engineering had not measured up.

107. Plaintiffs subsequently learned that after the initial scoring was made, Defendant Steucher unilaterally changed the scoring sheets to reduce Plaintiff BBF Engineering's score.

108. According to the investigation conducted by Ms. Finch, Defendant Steucher changed all of the score sheets after coming into the room and ascertaining that Plaintiff BBF Engineering was the number one bidder and stated that, "Oh no, I hate her."

109. After stating that, "Oh no, I hate her", Defendant Steucher unilaterally changed all of the score sheets, resulting in Plaintiff BBF Engineering going from the first position to the last position in overall scores.

110. Subsequently, Plaintiff BBF Engineering's score was not in the top three (3) scores.

111. Consequently, Plaintiffs' bid was not among the proposals sent to the region office for consideration.

112. This event was brought to management's attention and no action was taken to remedy the harm.

113. Instead, MDOT removed Defendant Steucher from further selection teams beginning in 2010.

114. Two sets of interviews conducted by Ms. Finch verified with Mr. Cedric Dargin, one of the selection team members that these events occurred. At least one of Ms. Finch's interviews was with Mr. Dargin.

115. According to Mr. Paul Ajegba, Deputy Region Engineer for the Metropolitan Detroit Region of MDOT, Defendant Steucher was removed from further selection teams due to his discriminatory actions related to Plaintiff BBF Engineering.

E. EVALUATION AND SCORING ABUSES

116. On April 8, 2009, Plaintiffs requested monthly meetings with Defendant Judnic and he says that he doesn't have time to meet with them. Defendant Judnic later arranged to meet with Plaintiffs, but he did not show up, instead sending an underling, Mr. Steven Griffith.

117. Contract No. 2008-0044 ended on December 31, 2009, but Plaintiffs did not receive the evaluation for this contract until June 2010.

118. Prior to Mr. Voigt's resignation and/or retirement, Plaintiffs requested both debriefings and interim evaluations regarding Plaintiff BBF Engineering's performance on the contract.

119. The first request for an evaluation was made on or about July 18, 2008 at the end of a meeting attended by Defendant Judnic who also heard Plaintiff Foster request the evaluation. Defendant Judnic was Mr. Voigt's supervisor at the time.

120. Mr. Voigt promised to provide Plaintiff Foster with the evaluation, but he never did.

121. A month after Mr. Voigt left MDOT, Plaintiff Foster received the evaluation from Mr. Steve Griffith and Mr. Voigt's mechanical signature was affixed to the evaluation.

122. The evaluation was ultimately provided and showed strangely low scores for Plaintiffs. In fact, there had been a prior interim evaluation that contained different and higher scores.

123. The evaluation was woefully inconsistent with the prior interim evaluations that Mr. Voigt previously provided to Plaintiffs and his interactions with Plaintiff Foster.

124. Plaintiff BBF Engineering received a score of 8 out of 10 which put Plaintiff BBF Engineering just above the threshold for appealing the score. This was all part of Defendant Judnic's carefully orchestrated vindictive plan to adversely affect Plaintiffs' ability to obtain contracts from MDOT.

125. Prior to the July 18, 2008, Plaintiff Foster created a list of so-called issues that Defendant Judnic indicated he had with Plaintiff BBF Engineering's work on the M-10 project.

126. The list was received when Plaintiffs' representatives arrived at the July 18, 2008, meeting. Msrs. Judnic and Papanek would not respond to Mr. Charles when he requested clarification from them about the items referenced on the list.

127. Plaintiff Foster did not receive a copy of the list until after the meeting, and when she requested an electronic copy of the list from Defendant Judnic so that each item could be addressed and documented, Defendant Judnic refused to provide her with an electronic copy.

128. Mr. Charles received the list from Defendant Judnic at the July 18, 2008, meeting so that he could address each issue; however, no one discussed anything about the alleged M-10 issues at the meeting.

129. Defendant Judnic engaged in an orchestrated scheme to remove Mr. Charles from Plaintiff's employment to create a negative impact on its ability to compete.

130. Defendant Judnic would not allow Mr. Charles to attend numerous DBE Technical Assistance meetings so that Plaintiffs would be available to assist other DBEs.

131. Mr. Charles was the office technician assigned to Defendant Judnic when Defendant Judnic received his project engineer certification in 2006.

132. In December 2008, Mr. Charles retired from Plaintiffs' company because of the issues created by Defendant Judnic.

F. **REQUEST FOR PROPOSAL**

133. A request for proposal ("RFP") posted on MDOT's website in July 2010 requested Construction Engineering Services for the MDOT Metro Region Detroit Transportation Center ("TSC"). MDOT assigned Defendant Judnic as the project engineer manager for this contract.

134. The RFP requested a price proposal inclusive of a fleet of a minimum of five (5) leased vehicle which Plaintiffs had never seen in any other RFP of similar scope posted on the MDOT website.

135. The RFP stated that the purpose for this request was to reduce both the cost of operation and overall vehicle expenses.

136. Since 1998, Plaintiffs have invoiced on the job mileage as a direct cost for its staff working on MDOT projects. Plaintiffs drive their personal vehicles to the worksite, and they are reimbursed for an equivalent to their on-the-job mileage as a direct cost.

137. Of the prequalified consultants located within the geographical proximity to be able to submit a proposal on this project, Plaintiffs are the only company that would be eliminated on account of the bizarre requirement to have five (5) leased vehicles.

138. The RFP also stated that "Consultant principal/officers could not be included in the budgeted hours and are considered an overhead expense unless approved by the PEM." In this case, that would have been Defendant Judnic.

139. Plaintiff Foster informed Defendant Judnic that she had been a working principal engineer of her company due to its size and that it never exceeded a staff of seventeen (17). Plaintiff Foster further explained that as the owner and principal engineer of a small business, it is necessary that she perform administrative and engineering functions relative to the daily operations of the company.

140. Persons in similar positions as Foster within other consulting firms that provide services to MDOT are allowed to invoice for those services.

141. Since 2006, Plaintiff Foster has not been approved to invoice for any of her services rendered for any contracts where Defendant Judnic was the project engineer manager.

142. Plaintiff Foster contacted MDOT officials to inquire as to the criteria used to determine whether a principal/officer can bill for services and whether the determinations had been applied in a non-discriminatory manner. Plaintiffs never received a response despite their efforts to obtain one.

G. SUBSEQUENT RETALIATION

143. Defendants Steudle and Snyder knew or should have known of Defendants Judnic and Steucher's egregious actions.

144. The pattern of arbitrary, capricious and abusive conduct was so egregious, Defendant Steudle and Defendant Snyder should have known or were grossly negligent in not knowing about the conduct of its officers, agents, supervisors and employees.

145. The Finch report concludes that by preponderance of the evidence, Plaintiff BBF Engineering has been discriminated against by Defendant Judnic based upon her gender.

146. Defendant Judnic has made statements to his staff that no woman should be making the kind of money that was being made by Plaintiff Foster.

147. The Finch report further indicates that by preponderance of the evidence that Defendant Steucher willfully changed score sheets on a bid that Plaintiffs should have won for purposes of discriminating against Plaintiffs and causing disparate treatment in the selection process involving Plaintiffs.

148. In March of 2008, Plaintiff BBF Engineering was selected as DBE Contractor of the Year.

149. Between December 2008 and September 2011, Plaintiff BBF Engineering bid on 22 MDOT Requests for Proposals and received only one selection as the prime consultant.

150. Plaintiff BBF Engineering has only been selected as the prime consultant on Contract No.'s 2006-0490, 2008-0044, 2008-0064-3 between 2006 and 2011.

151. Plaintiff BBF Engineering total fixed fees profit for this five (5) year period are less than \$416,000 (2006-0490 (\$139,000), 2008-0044 (\$205,000) and 2008-0064 (\$72,500))

152. Since 2007, Plaintiffs have bid on over 30 (**See Exhibit D**) contracts or segments of contracts and have not been selected as a prime for only two (2) of them (2008-0044 and 2008-0064-3), both which are the subject of complaints.

153. Upon information and belief since Plaintiff filed complaints against Defendants, Plaintiffs have been systematically eliminated from all sources of work and “blacklisted” by MDOT.

154. Before its complaints were filed, Plaintiffs periodically and regularly participated in contracts as subcontractors to other prime contractors.

155. Since the complaints were filed in this matter, Plaintiffs have received no awards on any contract they bid.

156. Since its original complaints were filed with the FHWA, Plaintiffs have not been asked to participate as subcontractors on any contract by any other prime contractor.

157. Since the original complaints were filed, Plaintiffs have been subjected to an ongoing audit as far back as 1999 by MDOT’s office of Commission audits.

158. MDOT has requested thousands of dollars in back charges as a result of this audit.

159. Plaintiffs have filed a complaint for retaliation based upon the unheard of tactics employed in this audit.

160. These facts clearly demonstrate an ongoing, systematic pattern of retaliation, discrimination, and disparate treatment against Plaintiffs by the Snyder, Steudle and their organizations.

161. These latter actions have continued well beyond the departure of Defendants Judnic and Steucher from MDOT’s employ.

H. TITLE VI AND THE UNITED STATES AND MICHIGAN CONSTITUTIONS

162. Title VI of the Civil Rights Act 1964 (“Title VI”) 42 U.S.C. § 2000d prohibits discrimination and disparate treatment in Contracts where federal funds being used.

163. 42 U.S.C. § 2000d states that “no person in the United States shall on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance.

164. Defendants’ acts of discrimination, disparate treatment and retaliation violate the Equal Protection Clause of the Fourteenth Amendment and therefore 42 U.S.C. § 1983.

165. All of Defendants’ Programs receive Federal financial assistance, and accept Federal funds.

166. Plaintiffs have been denied participation based upon race, color, national origin, and gender.

167. Defendants have retaliated against Plaintiffs in violation of Title VI.

168. Plaintiffs may maintain a private cause of action for intentional discrimination under Title VI.

169. The Finch Report also finds disparate treatment.

170. Disparate treatment even absent proof discriminatory intent is sufficient to support a private cause of action under Title VI.

171. Plaintiffs were the intended beneficiary of the federally funded National Highway Project.

172. Defendants retaliated against Plaintiffs because of their complaints.

173. MDOT’s policies place unreasonable and improper discretion with the selection panels to complete score sheets, which essentially allows the panel to pick whom they want to award contracts.

174. All of the monies related to this contract are related to FHWA projects and contracts.

175. Defendants' actions violate 23 U.S.C. § 324.

176. Other states hire independent boards to score bids; MDOT does not employ an objective approach.

177. Neither the State, nor the FHWA have followed their own regulatory scheme to correct the wrongs they readily acknowledge exist.

178. This Court should use its equitable power to prevent a wrong without a remedy.

179. The Equal Protection Clause of the 14th Amendment provides that “[no] State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” For the purposes of evaluating 14th Amendment violations as well as other constitutional provisions, race and/or gender are suspect classes. *U.S. Const. amend. XIV, §1.*

180. Defendants Steudle, Snyder, Judnic, and Steucher have singled out Plaintiffs for unequal treatment on the basis of race and gender or condoned and/or facilitated the continuation of this unconstitutional conduct in violation of 42 U.S.C. § 1983.

181. Defendants Snyder and Steudle had knowledge of and/or should have known that Plaintiffs were suffering disparate treatment that harmed Plaintiffs' business that continues even to this current date in violation of 42 U.S.C. § 1983.

182. Defendants Judnic and Steucher have made statements to other MDOT employees and officials related to Plaintiffs' gender and race which were followed by them making decisions with respect to scoring, splitting, and awarding contracts.

183. Defendant Judnic cut Plaintiffs' contracts, assigned low bid scores and manipulated performance evaluations simply because Plaintiff Foster was a Black woman with Black employees.

184. Defendants Judnic and Steucher's unequal treatment towards Plaintiffs was part of a vindictive campaign to eliminate Plaintiffs' ability to compete fairly for contracts, to be considered for contracts, to be awarded contracts, and to ultimately eliminate Plaintiffs' business from receiving contracts of a substantial nature which Defendants Snyder and Steudle have allowed to continue or facilitated the continuation of to the present date.

185. Defendants Judnic and Steucher overtly demonstrated their actionable malice and substantial ill will towards Plaintiffs through their verbal remarks to other MDOT employees.

186. Majority firms were treated more favorably including enjoying an advantage in the bidding process by being provided with substantive feedback, including, but not limited to, addressing issues where certain functions were not meeting MDOT requirements or where the contractor needed improvement, during the performance of their contracts, while Plaintiffs were denied these opportunities by Defendant Judnic and Defendants Snyder and/or Steudle have known of this conduct and have failed to take corrective or remedial action to prevent harm to Plaintiffs and to others who are similarly situated.

187. Defendants Judnic and Steucher's actions related to Plaintiffs' performance evaluations and bid scores were being undertaken to prevent and effectively eliminate Plaintiffs from lawfully bidding and receiving contracts which has had a continuing discriminatory impact even through to this date.

188. Plaintiffs have been injured by the actions of Defendants who have deprived Plaintiffs of their rights, privileges, and immunities to be free of discrimination and disparate treatment secured by law which harm is ongoing and continuing in violation of 42 U.S.C. § 1983.

189. Defendants as set forth above continue to discriminate against Plaintiffs by audits, denial of contracts, another activity that violate federal law and Defendants Snyder and Steudle have utterly failed to undertake remedial or corrective actions to protect Plaintiffs or others who are similarly situated in violation of 42 U.S.C. § 1983.

190. As a result of Defendant's actions, Plaintiffs have been damaged in an amount in excess of \$75,000.

COUNT I
42 U.S.C. § 1983

191. The allegations of Paragraphs 1- 190 above are restated as though fully set forth herein. To the extent that any of the foregoing allegations are inconsistent with the allegations set forth below, the allegations are set forth in the alternative.

192. Defendants Judnic and Steucher, Snyder and Steudle and others, acting in concert with them, in their personal and official capacity are persons covered by 42 U.S.C. §1983.

193. As a consequence, the actions of discrimination and disparate treatment caused by Defendants constitute State action in violation of 42 U.S.C. §1983 and were conducted or performed under color of State law.

194. As a result of Defendants' actions and/or omissions, Plaintiffs have been denied their civil rights under 42 U.S.C. § 1983 including the right to equal protection, the right to be free from discrimination, the right to contract, and the right to due process of the law.

195. Plaintiffs have been injured by the actions of Defendants who acting under the color of State law have deprived Plaintiffs of their rights, privileges, and immunities to be free of discrimination and disparate treatment secured by the Constitution and the laws of the United States and the State of Michigan and particularly under 42 U.S.C. § 1983.

196. As a result of Defendants' actions, Plaintiffs and others who are similarly situated have been subjected to a systematic pattern of disparate treatment, discrimination, and retaliation under 42 U.S.C. §1983 which violate 42 U.S.C. § 1983 and which continues until this day without specific remedy from any of Defendants, including specifically, Defendants Snyder and Steudle, who are in a position to effectuate said remedies.

197. Defendants' concurrent violations of 42 U.S.C. § 2000d also violate 42 U.S.C. § 1983.

198. As a result of Defendants' actions, Plaintiffs have been damaged in an amount of excess of \$75,000.

199. Plaintiffs are entitled to treble damages under 42 U.S.C. § 1983 as well as prospective injunctive relief as set forth in Plaintiffs' relief section below.

COUNT II
42 U.S.C. § 1981

200. The allegations of Paragraphs 1- 199 above are restated as though fully set forth herein. To the extent that any of the foregoing allegations are inconsistent with the allegations set forth below, the allegations are set forth in the alternative.

201. 42 U.S.C. § 1981 prohibits intentional discrimination based upon race, color, ancestry, and ethnicity.

202. Plaintiffs have been systematically discriminated against by Defendants in decisions with respect to contracting by Defendants.

203. Plaintiffs and Defendants are persons within the meaning of 42 U.S.C. § 1981.

204. Defendants Judnic, Steucher, Snyder and Steudle in their personal and official capacities acted in violation of 42 U.S.C. § 1981.

205. Defendants have systematically and intentionally excluded Plaintiffs from jobs and contracts based upon sex, gender, and race.

206. Defendants have retaliated against Plaintiffs in violation of 42 U.S.C. § 1981 or have failed to take action to remedy or prevent the acts of retaliation by the State and Defendants.

207. 42 U.S.C. § 1981 provides that all persons within the United States have the same right in every State to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white persons.

208. 42 U.S.C. § 1981 ensures that the rights are protected against nongovernmental discrimination and impairment under color of State law.

209. Defendants have systematically reduced the amount of work and available work opportunities to Plaintiffs based upon a systematic pattern of discrimination, disparate treatment, and retaliation based upon race, sex, color, ancestry, and ethnicity and Defendants Snyder and Steudle in particular have failed to take action to halt the pervasive pattern of discrimination and retaliation against Plaintiffs.

210. As a result of Defendants' actions, Plaintiffs have been damaged in an amount in excess of \$75,000 and are entitled to injunctive relief as set forth in their prayer for relief set forth below.

COUNT III
WHISTLE BLOWER

211. The allegations of Paragraphs 1 - 210 above are restated as though fully set forth herein. To the extent that any of the foregoing allegations are inconsistent with the allegations set forth below, the allegations are set forth in the alternative.

212. An employer may not discharge, threaten, or discriminate against an employee for reporting about a suspected violation of law. MCL § 15.362.

213. Defendants are employers within the meaning of MCL § 15.361.

214. Plaintiffs are employees within the meaning of MCL § 15.361.

215. The foregoing facts demonstrate that Defendants are systematically retaliating against Plaintiffs as a result of Plaintiff's complaints about discrimination and disparate treatment.

216. Plaintiffs were subjected to retaliation because they disclosed a pattern of systematic discrimination and disparate treatment under law by Defendants and because they refused to conform to Defendants' unconstitutional demands.

217. Defendants' actions constitute a violation of Michigan's Whistle Blower Act, MCL §15.361 et seq.

218. Plaintiffs have been retaliated against because they disclosed violations of law by Defendants and/or refused to conform to Defendants' unconstitutional demands.

219. As a result of Defendants' actions, Plaintiffs have been damaged in an amount in excess of \$75,000.

WHEREFORE, based upon the foregoing, Plaintiffs request that this Court do the following:

1. Declare that Defendants have violated the equal protection afforded Plaintiffs under the Fourteenth Amendment through 42 U.S.C. § 1983.
2. Declare that Defendants are retaliating against Plaintiffs through arbitrary and discriminatory actions and disparate treatment in violation of the constitutional protection afforded Plaintiffs under 42 U.S.C. § 1983.

3. Enjoin Defendants, and particularly Defendants Snyder and Steudle from further actions of retaliation against Plaintiffs.
4. Enjoin Defendants or otherwise fashion equitable relief that includes a plan to alleviate further systematic discrimination by Defendants against women and minorities, particularly as it relates to Defendants Snyder and Steudle.
5. Enter Judgment in favor of Plaintiffs in an amount not less than \$12 Million Dollars.
6. Award Plaintiffs their fees and costs for bringing and prosecuting this action.
7. Enjoin Defendants by entering an order requiring them to immediately comply with all applicable statutory and constitutional mandates, including Title VI and the 14th Amendment, particularly as it relates to Defendants Snyder and Steudle.
8. Award compensatory relief to Plaintiffs for all of their out of pocket costs and expenses in bringing this corrective action for prospective, injunctive and equitable relief against Defendants.
9. Award Plaintiffs the costs of implementation of a remedial plan to recover and reinstate their lost business.
10. Order a full scale investigation of all of MDOT's minority contracting practices.
11. Fashion a plan for assessment, evaluation, and re-orientation of all of Defendants' minority contracting practices.

12. Grant such other relief as is just and appropriate under the circumstances.

Respectfully submitted,

WILLIAMS ACOSTA, PLLC

By /s/ Avery K. Williams
Avery K. Williams (P34731)
Attorneys for Plaintiffs
535 Griswold St., Suite 1000
Detroit, Michigan 48226
awilliams@williamsacosta.com

Date: September 5, 2012

CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2012, I electronically filed the above document with the Clerk of the Court using the ECF System, which will provide electronic copies to counsel of record.

/s/ Avery K. Williams
Avery K. Williams (P34731)
Attorneys for Plaintiffs
535 Griswold St., Suite 1000
Detroit, Michigan 48226
awilliams@williamsacosta.com

EXHIBIT 35

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BBF ENGINEERING SERVICES, P.C.
a Michigan Corporation, and
BELLANDRA FOSTER, an individual,

Case No. 11-14853

Plaintiffs,

v

HON. NANCY G. EDMUNDS
MAG. LAURIE J. MICHELSON

STATE OF MICHIGAN, a Michigan Public
Corporation, MICHIGAN DEPARTMENT of
TRANSPORTATION, a Department of the
State of Michigan, VICTOR JUDNIC, and
MARK STUECHER,

Defendants.

**DEFENDANT JUDNIC AND STUECHER'S ANSWER TO PLAINTIFFS'
FIRST-AMENDED COMPLAINT AND AFFIRMATIVE DEFENSES**

Bill Schuette
Attorney General

Michael J. Dittenber
Michael J. Reilly
Assistant Attorneys General
Attorneys for Defendants
Transportation Division
425 W. Ottawa Street
Lansing, MI 48913
(517) 373-1470
DittenberM@michigan.gov
(P72238)

Dated: September 19, 2012

Defendants Judnic and Stuecher (hereinafter "Defendants") answer Plaintiffs' complaint and state:

1. In response to Paragraph 1, Defendants admit that the complaint makes allegations under the cited statutes and provisions.
2. In response to Paragraph 2, Defendants deny the allegations on the basis that they are untrue.

Parties

3. In response to Paragraph 3, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
4. In response to Paragraph 4, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
5. In response to Paragraph 5, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
6. In response to Paragraph 6, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
7. In response to Paragraph 7, Defendants admit that BBF Engineering is a civil-engineering company that has provided construction consulting services to MDOT. Defendants lack knowledge or

information sufficient to form a belief as to the truth of the remainder of the allegation.

8. In response to Paragraph 8, Defendants lack knowledge or information sufficient to form a belief as to the truth the allegation.
9. In response to Paragraph 9, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
10. In response to Paragraph 10, Defendants admit that Defendant Snyder is the current Governor of Michigan and that the State of Michigan is a sovereign state with its seat of government in Lansing, Michigan.
11. In response to Paragraph 11, Defendants admit.
12. In response to Paragraph 12, Defendants admit that Defendant Judnic was a project engineer and project manager for MDOT until March 12, 2011.
13. In response to Paragraph 13, Defendants admit that Defendant Stuecher was a project engineer and project manager for MDOT until December 31, 2010.

Jurisdiction and Venue

14. In response to Paragraph 14, Defendants admit that 28 U.S.C. § 1331 provides for federal subject-matter jurisdiction. Defendants deny that

28 U.S.C. § 1342 and 42 U.S.C. § 2000 provide for subject-matter jurisdiction in this case.

15. In response to Paragraph 15, Defendants admit that 28 U.S.C. § 1367 authorizes supplemental jurisdiction. Defendants deny that jurisdiction is “vested” because supplemental jurisdiction is discretionary.
16. In response to Paragraph 16, Defendants admit that venue is proper in this district. Defendants deny that 28 U.S.C. § 1399 provides for venue in this district.

General Allegations

17. In response to Paragraph 17, Defendants admit.
18. In response to Paragraph 18, Defendants admit.
19. In response to Paragraph 19, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
20. In response to Paragraph 20, Defendants admit.
21. In response to Paragraph 21, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
22. In response to Paragraph 22, Defendants admit.

23. In response to Paragraph 23, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
24. In response to Paragraph 24, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
25. In response to Paragraph 25, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
26. In response to Paragraph 26, Defendants admit.
27. In response to Paragraph 27, Defendants admit that the determination letter so states.
28. In response to Paragraph 28, Defendants admit.
29. In response to Paragraph 29, Defendants admit that the Finch report is attached to the complaint as Exhibit A.
30. In response to Paragraph 30, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

In further answer, Defendant Judnic admits that Marilyn Caldwell was his word-processing assistant for seven-and-a-half years prior to his departure from MDOT.
31. In response to Paragraph 31, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

32. In response to Paragraph 32, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation. In further answer, Defendants admit that Plaintiff BBF is certified as a disadvantaged business enterprise.

A. Contract Abuses and Cuts

33. In response to Paragraph 33, Defendants deny the allegation on the basis it is untrue. In further answer, Defendants admit a portion of the scope of work that resulted in Contract 2006-0490 was re-advertised during the price negotiation phase.
34. In response to Paragraph 34, Defendants deny the allegation on the basis that it is untrue.
35. In response to Paragraph 35, Defendants deny the allegation on the basis that it is untrue.
36. In response to Paragraph 36, Defendants deny the allegation on the basis that it is untrue. In further answer, Defendants admit that MDOT selected Plaintiff BBF for Contract 2006-0490, an as-needed \$2.2 million contract.
37. In response to Paragraph 37, Defendants deny the allegation on the basis that it is untrue. In further answer, Defendants admit that

Fishbeck, Thompson, Carr & Huber Engineering ("Fishbeck") was selected for Contract 2007-0351.

38. In response to Paragraph 38, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
39. In response to Paragraph 39, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
40. In response to Paragraph 40, Defendants deny the allegation on the basis that it is untrue.
41. In response to Paragraph 41, Defendants admit.
42. In response to Paragraph 42, Defendants deny the allegation on the basis that it is untrue.
43. In response to Paragraph 43, Defendants admit that Contract 2008-0044 was not re-advertised.
44. In response to Paragraph 44, Defendants admit that Fishbeck was selected for as-needed Contract 2010-0335 in 2009, and that BBF had submitted a proposal for that contract.
45. In response to Paragraph 45, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

46. In response to Paragraph 46, Defendants deny the allegation on the basis that it is untrue.
47. In response to Paragraph 47, Defendants deny the allegation on the basis that it is untrue.
48. In response to Paragraph 48, Defendants deny the allegation on the basis that it is untrue. In further answer, Defendants admit that Defendant Judnic did not schedule in-person debriefing meetings.
49. In response to Paragraph 49, Defendants admit. In further answer, Defendants admit that a debriefing meeting was conducted by phone.
50. In response to Paragraph 50, Defendants deny the allegation on the basis that it is untrue.
51. In response to Paragraph 51, Defendants deny the allegation on the basis that it is untrue.
52. In response to Paragraph 52, Defendants admit that the Contract 2006-0490 evaluation scores mention comments regarding the performance of Mr. Love Charles. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation regarding Contract 2008-0044.
53. In response to Paragraph 53, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

54. In response to Paragraph 54, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
55. In response to Paragraph 55, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
56. In response to Paragraph 56, Defendants admit that evaluation scores are to be released only to the evaluated consultant. Defendants further admit that Defendant Judnic advised Plaintiffs that they could obtain the scores under the Michigan Freedom of Information Act.
57. In response to Paragraph 57, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

B. Past Due Invoices—MDOT Gateway Project

58. In response to Paragraph 58, Defendants admit that Plaintiffs were not timely paid by their prime consultant and that URS was a prime consultant on the Gateway Project.
59. In response to Paragraph 59, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
60. In response to Paragraph 60, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

61. In response to Paragraph 61, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
62. In response to Paragraph 62, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
63. In response to Paragraph 63, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
64. In response to Paragraph 64, Defendants deny the allegation on the basis that it is untrue.
65. In response to Paragraph 65, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
66. In response to Paragraph 66, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
67. In response to Paragraph 67, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
68. In response to Paragraph 68, Defendants deny the allegation on the basis that it is untrue.

C. Office Technician Course

69. In response to Paragraph 69, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

70. In response to Paragraph 70, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
71. In response to Paragraph 71, Defendants admit.
72. In response to Paragraph 72, Defendants admit that Plaintiffs assigned Mr. Stewart as the office technician for the US-12 project. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation regarding Mr. Stewart's work experience.
73. In response to Paragraph 73, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
74. In response to Paragraph 74, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
75. In response to Paragraph 75, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
76. In response to Paragraph 76, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
77. In response to Paragraph 77, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
78. In response to Paragraph 78, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

79. In response to Paragraph 79, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
80. In response to Paragraph 80, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
81. In response to Paragraph 81, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation. In further answer, Defendant Judnic admits that Fishbeck conducted project reviews on randomly selected projects within the Detroit TSC to maintain a consistency of quality project documentation.
82. In response to Paragraph 82, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
83. In response to Paragraph 83, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
84. In response to Paragraph 84, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
85. In response to Paragraph 85, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
86. In response to Paragraph 86, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

87. In response to Paragraph 87, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
88. In response to Paragraph 88, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
89. In response to Paragraph 89, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
90. In response to Paragraph 90, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
91. In response to Paragraph 91, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
92. In response to Paragraph 92, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
93. In response to Paragraph 93, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
94. In response to Paragraph 94, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
95. In response to Paragraph 95, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

96. In response to Paragraph 96, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

97. In response to Paragraph 97, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

98. In response to Paragraph 98, Defendants deny the allegation on the basis that it is untrue.

99. In response to Paragraph 99, Defendants deny the allegation on the basis that it is untrue.

100. In response to Paragraph 100, Defendants deny the allegation on the basis that it is untrue.

101. In response to Paragraph 101, Defendants deny the allegation on the basis that it is untrue.

D. Bid Selection Abuses

102. In response to Paragraph 102, Defendants admit that Plaintiffs submitted a proposal for Contract CS63052-JN72404.

103. In response to Paragraph 103, Defendants deny the allegation on the basis that it is untrue. In further answer, Defendants admit that the scoring team's selection was in accordance with the selection guidelines.

104. In response to Paragraph 104, Defendants deny the allegation on the basis that it is untrue.
105. In response to Paragraph 105, Defendants deny the allegation on the basis that it is untrue.
106. In response to Paragraph 106, Defendants admit that Defendant Stuecher informed Plaintiffs that their proposal did not measure up to the other proposals submitted.
107. In response to Paragraph 107, Defendants deny the allegation on the basis that it is untrue.
108. In response to Paragraph 108, Defendants state that the result of Ms. Finch's investigation speaks for itself and is not relevant to the pending action.
109. In response to Paragraph 109, Defendants deny the allegation on the basis that it is untrue.
110. In response to Paragraph 110, Defendants admit that Plaintiff BBF's proposal score for Contract No. CS63052-JN72404 was not within the top three scores after the consensus of the scoring panel.
111. In response to Paragraph 111, Defendants admit.

112. In response to Paragraph 112, Defendants deny the allegation on the basis that it is untrue.
113. In response to Paragraph 113, Defendants deny the allegation on the basis that it is untrue. In further answer, Defendants admit that Defendant Stuecher was not selected to participate on future selection teams.
114. In response to Paragraph 114, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
115. In response to Paragraph 115, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

E. Evaluation and Scoring Abuses

116. In response to Paragraph 116, Defendants admit that Defendant Judnic scheduled monthly meetings with Plaintiffs, which Mr. Griffith attended.
117. In response to Paragraph 117, Defendants admit.
118. In response to Paragraph 118, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
119. In response to Paragraph 119, Defendants admit that Defendant Judnic was Jason Voigt's supervisor as of July 18, 2008. Defendants

lack knowledge or information sufficient to form a belief as to the truth of the remainder of the allegation.

120. In response to Paragraph 120, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
121. In response to Paragraph 121, Defendants admit.
122. In response to Paragraph 122, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
123. In response to Paragraph 123, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
124. In response to Paragraph 124, Defendants admit that Plaintiffs received evaluation scores of “8,” and that a consultant cannot appeal a score of “8” or above. Defendants deny the remainder of the allegation on the basis that it is untrue.
125. In response to Paragraph 125, Defendant Judnic admits that Ms. Deanna Papanek created a list of office-technician deficiencies on the M-10 project prior to the July 18, 2008 meeting. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remainder of the allegation
126. In response to Paragraph 126, Defendants admit that Plaintiffs received the list of deficiencies at the July 18, 2008 meeting.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the remainder of the allegation.

127. In response to Paragraph 127, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

128. In response to Paragraph 128, Defendants admit that Mr. Charles received the list at the July 18, 2008 meeting. In further response, Defendant Judnic admits that Plaintiff Foster dismissed Mr. Charles from the meeting before the M-10 issues were discussed in-depth.

129. In response to Paragraph 129, Defendants deny the allegation on the basis that it is untrue.

130. In response to Paragraph 130, Defendants deny the allegation on the basis that it is untrue.

131. In response to Paragraph 131, Defendants admit.

132. In response to Paragraph 132, Defendants deny the allegation on the basis that it is untrue.

F. Request for Proposal

133. In response to Paragraph 133, Defendants admit.

134. In response to Paragraph 134, Defendants admit that the RFP included a leased-vehicle provision. Defendants lack knowledge or

information sufficient to form a belief as to the truth of the remainder of the allegation.

135. In response to Paragraph 135, Defendants admit.
136. In response to Paragraph 136, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
137. In response to Paragraph 137, Defendants deny the allegation on the basis that it is untrue.
138. In response to Paragraph 138, Defendants admit that the RFP contained the quoted statement and that Defendant Judnic was listed as the project manager.
139. In response to Paragraph 139, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
140. In response to Paragraph 140, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
141. In response to Paragraph 141, Defendants admit that Plaintiff Foster was not permitted to bill as a principal on Contract 2006-0490, which is the only contract between MDOT and Plaintiffs during the relevant time period on which Defendant Judnic served as the project engineer and negotiated Plaintiffs' price proposal, pursuant to then-existing MDOT policy. In further answer, this policy was revised sometime

during the period of late 2008 and early 2009 when MDOT and the American Council of Consulting Engineers (ACEC) formed a committee to discuss these matters.

142. In response to Paragraph 142, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

G. Subsequent Retaliation

143. In response to Paragraph 143, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
144. In response to Paragraph 144, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
145. In response to Paragraph 145, Defendants state that the Finch report speaks for itself and is not relevant to the pending action.
146. In response to Paragraph 146, Defendants deny the allegation on the basis that it is untrue.
147. In response to Paragraph 147, Defendants state that the Finch report speaks for itself and is not relevant to the pending action.
148. In response to Paragraph 148, Defendants admit.
149. In response to Paragraph 149, Defendants admit.

150. In response to Paragraph 150, Defendants deny the allegation on the basis it is untrue.
151. In response to Paragraph 151, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
152. In response to Paragraph 152, Defendants admit.
153. In response to Paragraph 153, Defendants deny the allegation on the basis that it is untrue.
154. In response to Paragraph 154, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
155. In response to Paragraph 155, Defendants admit that Plaintiffs have not been selected as a prime consultant since the Title VI complaints were filed. Defendants deny the remainder of the allegation on the basis it is untrue. In further answer, Defendant Judnic is aware that Plaintiff BBF has been a sub-consultant on at least one team since the Title VI complaints were filed.
156. In response to Paragraph 156, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
157. In response to Paragraph 157, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

158. In response to Paragraph 158, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
159. In response to Paragraph 159, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
160. In response to Paragraph 160, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
161. In response to Paragraph 161, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

Title VI and the United States and Michigan Constitutions

162. In response to Paragraph 162, Defendants admit that Title VI prohibits intentional discrimination based on race, color, or national origin by entities receiving federal assistance.
163. In response to Paragraph 163, Defendants admit that 42 U.S.C. § 2000d so states.
164. In response to Paragraph 164, Defendants deny the allegation on the basis it is untrue.
165. In response to Paragraph 165, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

166. In response to Paragraph 166, Defendants deny the allegation on the basis it is untrue.

167. In response to Paragraph 167, Defendants deny the allegation on the basis it is untrue. In further response, the Court dismissed Plaintiffs' Title VI retaliation claim in its February 6, 2012 and June 7, 2012 orders.

168. In response to Paragraph 168, Defendants deny the allegation on the basis that the Court dismissed Plaintiffs' Title VI claims in its February 6, 2012 and June 7, 2012 orders.

169. In response to Paragraph 169, Defendants state that the Finch report speaks for itself and is not relevant to the pending action.

170. In response to Paragraph 170, Defendants deny the allegation because it is untrue.

171. In response to Paragraph 171, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

172. In response to Paragraph 172, Defendants deny the allegation because it is untrue. In further response, the Court dismissed Plaintiffs' Title VI retaliation claim in its February 6, 2012 and June 7, 2012 orders.

173. In response to Paragraph 173, Defendants deny the allegation because it is untrue.

174. In response to Paragraph 174, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
175. In response to Paragraph 175, Defendants deny the allegation because it is untrue.
176. In response to Paragraph 176, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
177. In response to Paragraph 177, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
178. In response to Paragraph 178, Defendants deny the allegation because it offers the Court advice rather than states a factual assertion.
179. In response to Paragraph 179, Defendants admit.
180. In response to Paragraph 180, Defendants deny the allegation because it is untrue.
181. In response to Paragraph 181, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.
182. In response to Paragraph 182, Defendants deny the allegation because it is untrue.
183. In response to Paragraph 183, Defendants deny the allegation because it is untrue.

184. In response to Paragraph 184, Defendants deny the allegation because it is untrue.

185. In response to Paragraph 185, Defendants deny the allegation because it is untrue.

186. In response to Paragraph 186, Defendants deny the allegation because it is untrue.

187. In response to Paragraph 187, Defendants deny the allegation because it is untrue.

188. In response to Paragraph 188, Defendants deny the allegation because it is untrue.

189. In response to Paragraph 189, Defendants deny the allegation because it is untrue.

190. In response to Paragraph 189, Defendants deny the allegation because it is untrue

Count I—42 U.S.C. § 1983

191. In response to Paragraph 191, Defendants restate their answers set forth above.

192. In response to Paragraph 192, Defendants admit that Defendants Judnic and Stuecher are “persons” covered by 42 U.S.C. § 1983 in their personal capacities only.
193. In response to Paragraph 193, Defendants deny the allegation because it is untrue.
194. In response to Paragraph 194, Defendants deny the allegation because it is untrue.
195. In response to Paragraph 195, Defendants deny the allegation because it is untrue.
196. In response to Paragraph 196, Defendants deny the allegation because it is untrue.
197. In response to Paragraph 197, Defendants deny the allegation because it is untrue. In further response, the Court dismissed Plaintiffs’ claims under 42 U.S.C. § 2000d (Title VI) in its February 6, 2012 and June 7, 2012 orders.
198. In response to Paragraph 198, Defendants deny the allegation because it is untrue.
199. In response to Paragraph 199, Defendants deny the allegation because it is untrue.

Count II—42 U.S.C. § 1981

200. In response to Paragraph 200, Defendants restate their answers set forth above.
201. In response to Paragraph 201, Defendants admit.
202. In response to Paragraph 202, Defendants deny the allegation because it is untrue.
203. In response to Paragraph 203, Defendants admit they are “persons” covered by 42 U.S.C. § 1981 in their personal capacity only.
204. In response to Paragraph 204, Defendants deny the allegation on the basis it is untrue.
205. In response to Paragraph 205, Defendants deny the allegation on the basis it is untrue.
206. In response to Paragraph 206, Defendants deny the allegation on the basis it is untrue.
207. In response to Paragraph 207, Defendants deny the allegation on the basis it is untrue.
208. In response to Paragraph 208, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

209. In response to Paragraph 209, Defendants deny the allegation on the basis it is untrue.

210. In response to Paragraph 210, Defendants deny the allegation on the basis it is untrue.

Count III—Whistle Blower

211. In response to Paragraph 211, Defendants restate their answers set forth above.

212. In response to Paragraph 212, Defendants admit that Mich. Comp. Laws § 15.362 so states.

213. In response to Paragraph 213, Defendants admit that they may be considered an employer under the statutory definition. In further answer, Defendants deny that they were Plaintiffs' employers.

214. In response to Paragraph 214, Defendants deny the allegation on the basis that it is untrue.

215. In response to Paragraph 215, Defendants deny the allegation on the basis that it is untrue.

216. In response to Paragraph 216, Defendants deny the allegation on the basis that it is untrue.

217. In response to Paragraph 217, Defendants deny the allegation on the basis that it is untrue.

218. In response to Paragraph 218, Defendants deny the allegation on the basis that it is untrue.

219. In response to Paragraph 219, Defendants deny the allegation on the basis that it is untrue.

Respectfully submitted,

Bill Schuette
Attorney General

/s/ Michael J. Dittenber
Assistant Attorney General
Attorneys for Defendants
Transportation Division
425 W. Ottawa Street, 4th Floor
Lansing, MI 48913
(517) 373-1470
DittenberM@michigan.gov
(P72238)

Dated: September 19, 2012

Defendants' Affirmative Defenses

1. Plaintiffs have failed to state claims upon which relief can be granted.
2. Defendants Judnic and Stuecher are entitled to qualified immunity from Plaintiffs' claims.
3. Plaintiffs' claims are barred by the applicable statutes of limitations.
4. Plaintiffs' claims are barred by the law-of-the-case doctrine.
5. The conclusions in reports drafted by Mary Finch are not binding on this tribunal.
6. The results of investigations conducted by Mary Finch are not binding on this tribunal.

Respectfully submitted,

Bill Schuette
Attorney General

/s/ Michael J. Dittenber
Assistant Attorney General
Attorneys for Defendants
Transportation Division
425 W. Ottawa Street, 4th Floor
Lansing, MI 48913
(517) 373-1470
DittenberM@michigan.gov
(P72238)

Dated: September 19, 2012

CERTIFICATE OF SERVICE (e-file)

I hereby certify that on September 19, 2012, I electronically filed the above document(s) with the Clerk of the Court using the ECF System, which will provide electronic copies to counsel of record.

/s/ Michael J. Dittenber
Assistant Attorney General
Attorneys for Defendants
Transportation Division
425 W. Ottawa Street, 4th Floor
Lansing, MI 48913
(517) 373-1470
DittenberM@michigan.gov
(P72238)