

March 22, 2018

Reference Number 17-0113

Samuel Febres, Manager
Florida Department of Transportation
605 Suwannee Street
Tallahassee, FL 32399-0450

Dear Mr. Febres:

Tectonic Group International, LLC (TGI) appeals the Florida Department of Transportation's (FDOT) May 17, 2017 denial of its application for certification as a Disadvantaged Business Enterprise (DBE) under the standards of 49 C.F.R. part 26 (Regulation). FDOT appears to determine, although it does not quite say so, that TGI is ineligible for failure to satisfy the disadvantaged ownership requirement of Regulation §26.69(c);¹ however, FDOT does not explain the reasons² for its conclusions sufficiently for us to make a fully informed decision. *See generally* Regulation §§26.86(a), 26.89(f)(1), 26.89(f)(2), 26.89(f)(5).³ We therefore remand under §26.89(f)(4) for FDOT, not later than April 13th, to reconsider its position and, if it again finds TGI ineligible on ownership grounds,⁴ issue TGI a new denial letter that fully explains the reasons for denial and specifically cites evidence supporting each reason.⁵

We request that FDOT provide this Office a courtesy copy of its timely determination. In the event FDOT denies certification, TGI will have the usual 90 days within which to appeal.

Thank you for your attention to these matters, which we consider to be §26.109(c) requests for information from FDOT.

This decision is administratively final and not subject to petitions for reconsideration.

Sincerely,

Samuel F. Brooks
DBE Appeal Team Lead
Disadvantaged Business Enterprise Division

cc: Maryam Shams, TGI

¹ FDOT also cites §26.69(h), a rule that principally requires *certifiers* to make a presumption, and so requires only when the §26.69(h)(1) conditions precedent make the rule operative. The only requirement imposed on applicants is that they rebut the presumption, which is a matter the Denial Letter does not address at all.

² In addition, we are skeptical that some of the evidence FDOT cites, such as the *LLC's* failure to issue ownership certificates, has much probative value.

³ FDOT also quotes, verbatim, a host of control provisions but provides no explanation of why the firm is ineligible under any. We consider FDOT to have had its opportunity to articulate control-based eligibility concerns.

⁴ Should FDOT, on further review, determine that TGI is eligible for certification, it can comply with our request by sending TGI notice of certification by April 13, 2018.

⁵ We read §26.86(a) to require FDOT to state actual reasons and connect those reasons to supporting evidence, not merely quote discrete Regulation sections without apparent linkage to any particular analysis or evidence.

