



**U.S. Department of
Transportation**

Office of the Secretary
Of Transportation

Departmental Office of Civil Rights
1200 New Jersey Avenue, S.E., W76-401
Washington, DC 20590

March 17, 2020

Reference Number 20-0020

Marsha E. Murray
Interim Director
City of Houston Office of Business Opportunity
611 Walker St., 7th floor
Houston, TX 77002

Dear Ms. Murray:

This letter addresses City of Houston's September 24, 2019 denial of Primate Construction, LP's (Primate) application for Disadvantaged Business Enterprise (DBE) certification under the rules of the DBE program regulation at 49 CFR part 26. Per section 26.89(f)(2), we reverse a denial decision if it is inconsistent with the regulation's substantive or procedural certification provisions.

The record confirms Primate's contention that contrary to section 26.83(k), City of Houston took more than one year to make an eligibility decision – without explanation or acknowledgment of the delay.¹ The record also confirms Primate's contention that City of Houston ignored the firm's written request for a copy of the onsite report.² Nonetheless, Primate complied with section 26.89(c) requirements.

City of Houston's actions (or lack thereof) are inconsistent with the regulation's substantive or procedural provisions and deprived Primate of necessary due process. Thus, we reverse and direct City of Houston to certify Primate without delay.³

This decision is administratively final and not subject to petitions for reconsideration. Thank you for your continued cooperation.

¹ Section 26.83(k) provides in part that a certifier must make decisions on certification applications within 90 days of receiving all required information from the applicant firm. A certifier may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension.

² The record confirms that Primate sent the written request.

³ We refrain from determining whether Primate meets the regulation's certification standards and remind City of Houston of its right to exercise section 26.87 procedures.

Sincerely,

Samuel F. Brooks
DBE Team Lead
Disadvantaged Business Enterprise Division

cc: Jeff P.H. Cazeau, P.L. for Primate Construction, LP