



**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

April 13, 2020

Docket Number 20-0053

ML Miglino
Office Chief
Certification Branch
Office of Business and Economic Opportunity
California Department of Transportation
1823 14th St.
Sacramento, CA 95811

Dear Ms. Miglino:

EW Corporation Industrial Fabricators (EWC) appeals the California Unified Certification Program's December 19, 2019 denial of its application for DBE certification. We reverse the denial and remand the matter under sections 26.89(f)(2) and (4) for further proceedings.

CUCP determined that EWC is ineligible because its presumed-disadvantaged owner's personal net worth exceeds the section 26.67(a) cap. CUCP based its decision on adjustments it made to the Mr. Esparza's report of negative PNW. Contrary to the section 26.67(b)(2) requirement, CUCP did not employ section 26.87 procedures to rebut the presumption. The procedures concern notice, opportunity to respond, burden of proof, and related matters. See, e.g., sections 26.87(b), (d), and (g). Please consider also section 26.86(a).

We remand for CUCP to mount a rule-compliant rebuttal of Mr. Esparza's presumed economic disadvantage. Should CUCP choose to forego the rebuttal, we direct it to certify EWC promptly, as section 26.89(f)(2) prescribes.

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

Sincerely,

Samuel F. Brooks
DBE Team Lead
Disadvantaged Business Enterprise Division

cc: Tiberio Esparza, EWC