



**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

October 30, 2020

Docket Number 20-0080

W. Barron A. Avery  
Baker & Hostetler LLP  
Washington Square, Suite 1100  
1050 Connecticut Avenue  
Washington DC 20036-5403

Dear Mr. Avery:

We write in response to your client EDS Service Solutions, LLC's appeal of the Georgia Department of Transportation's denial of its application to be certified as an ACDBE under rules found in 49 C.F.R. pts. 23 and 26. GDOT concluded that EDS is ineligible because its presumed-disadvantaged owner Sonya L. Damewood is not in fact economically disadvantaged. GDOT's reason is that Ms. Damewood has the "ability to accumulate substantial wealth" (AASW).

As EDS notes on appeal, when a certifier proposes to rebut the presumption of disadvantage because of AASW, section 26.67(b)(2) requires that it send the applicant a section 26.87(b) notice of its proposal and the reasons for it. The notice must offer the firm and owner the opportunity to respond in person at an informal hearing. Section 26.87(d).<sup>1</sup>

As GDOT provided neither notice nor opportunity, we reverse the denial and remand the matter for GDOT remedy its errors without delay. Specifically, we direct GDOT to provide EDS a regulation-compliant notice not later than the close of business November 9, 2020. The notice must specify a hearing date within the work week of November 23, a time between 9 a.m. and 4 p.m., and a place at or near GDOT's offices.

EDS may choose to appear, present written information and arguments, do both, or do neither. Regardless of EDS's choice, GDOT retains the burden of proving the owner's AASW under section 26.87(d).

This decision is administratively final.

Sincerely,

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<sup>1</sup> The firm cannot contest a proposal of which it is unaware. Failure of notice is deprivation of due process.

Samuel F. Brooks  
DBE Team Lead  
Disadvantaged Business Enterprise Division

cc: Kimberly A. King