



**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

August 31, 2020

Docket No. 20-0092

Lisa Wilson
NC Department of Transportation
Office of Civil Rights
1511 Mail Services Center
Raleigh, NC 27691

Dear Ms. Wilson:

This is in response to the appeal of Pritchett Steinbeck Group, Inc. (PSG) of the decision by the North Carolina Department of Transportation (NCDOT) finding the firm ineligible for DBE certification. This case has a complex procedural history.

PSG was certified by NCDOT in September 2018. At that time, the 55 percent owner of the company was Joyce Pritchett. On October 31, 2019, NCDOT suspended the firm's certification upon learning of a change in the firm's ownership, as Cynthia Grizzle replaced Ms. Pritchett as PSG's 55 percent owner.¹ The October 31 letter requested that PSG provide a new application package by November 30, 2019. Not having received it, NCDOT wrote PSG on January 3, 2020, proposing to remove the firm's certification if PSG did not provide the package by January 18.²

On May 12, 2020, NCDOT certified PSG, saying that the certification was effective as of the date of the approval letter. Then, on May 28, 2020, NCDOT again wrote the firm, this time saying that it had "incorrectly certified" the firm. Because of concerns about the language of certain corporate documents, NCDOT "denied" PSG's certification on the basis of control.

We need not address the substance of the corporate documents issues raised in the May 28 letter and PSG's appeal because NCDOT's action is clearly flawed procedurally. NCDOT certified the

¹ Under section 26.88(g) of the regulation, NCDOT had 30 days from its October 31, 2019, suspension letter to reinstate PSG or commence a section 26.87 decertification proceeding. A letter proposing to decertify the firm was sent on January 3, 2020, with an ultimate certification not coming until May 12, 2020. By that time, PSG's eligibility had remained suspended for 194 days. This time frame is not compliant with section 26.88(g).

² The record does not include a new or updated application package from PSG, but we assume from the fact that NCDOT certified the firm in May 2020 that one had been provided.

firm effective May 12, 2020. A firm, once certified, remains certified unless its certification is removed through a proceeding under section 26.87 of the Department's rules.³

Having certified PSG, NCDOT cannot remove the firm's certification unless it notifies the firm that it proposes to remove the certification, articulates the reasons for the proposal, such as NCDOT's concerns about the corporate documents, and gives the firm an opportunity for an informal hearing. In such a proceeding, NCDOT bears the burden of proving that PSG is ineligible, for one of the reasons specified in section 26.87(f). In such a proceeding, the corporate documents then in effect would control.

Because NCDOT's action in its May 28, 2020, letter is inconsistent with the procedural provisions of the DBE regulation,⁴ we reverse the decertification and direct NCDOT to reinstate PSG's certification immediately.

This decision is administratively final.

Sincerely,

Samuel F. Brooks
DBE Team Lead
Disadvantaged Business Enterprise Division

cc: Cynthia Grizzle

³ 49 CFR 26.83(h)(1).

⁴ 49 CFR 26.89(f)(2).