



**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 23, 2020

Reference Number 20-0093

Reidar M. Keating
Compliance Services Manager
Office of Business Development
Michigan Department of Transportation

Dear Mr. Keating:

All Star Power, LLC. (ASP) appeals the Michigan Department of Transportation's (MDOT) June 25, 2020 removal of the firm's Disadvantaged Business Enterprise (DBE) certification under the rules of 49 C.F.R. Part 26 (the Regulation).

The denial letter concludes that ASP did not prove eligibility under regulation at section 26.71(e) because the disadvantaged owner had granted a non-disadvantaged durable power of attorney (POA) the power to control of the firm. MDOT explains that the POA gives the employee "absolute discretion" to act on the firm's behalf. Denial Letter at 2.

Available evidence suggests that MDOT would have certified ASP but for the existence the POA. See, e.g., On-Site Review Report at 14. On appeal, ASP provided the attached Revocation of Power of Attorney (July 2, 2020) (Revocation).

Because the revocation may remedy MDOT's sole concern about ASP's eligibility,¹ we remand under section 26.89(f)(4) so that MDOT may reconsider the application in light of the Revocation. We request that MDOT send ASP notice of its decision, copying us, by November 10, 2020.

Thank you for your continued cooperation.

Sincerely,

Samuel F. Brooks
DBE Team Lead
Disadvantaged Business Enterprise Division

cc: ASP

¹ If that is the case, we remind MDOT that it might have told ASP that the POA was the obstacle to certification, permitted a cure, and avoided the denial and appeal. See DOCR Guidance on Curative Measures during ACDBE/DBE Certification Application Process, available at <https://www.transportation.gov/sites/dot.gov/files/docs/mission/civil-rights/disadvantaged-business-enterprise/345906/docr-curative-measures-memorandum-august-7-2019.pdf>.

