



**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

December 7, 2020

Docket No. 20-0104

Shelby M. Scales
Director, Office of Civil Rights
North Carolina Department of Transportation
1511 Mail Service Center
Raleigh, NC 27699-1501

Dear Ms. Scales:

This is in response to the appeal of BAE Urban Economics, Inc. (BAE) of the decision of the North Carolina Department of Transportation (NCDOT) remove the firm's DBE certification.

Under section 26.87(f) of the Department's DBE regulations, a certifier can remove a DBE firm's certification only on seven specified grounds. NCDOT's May 19, 2020, decertification neither cites section 26.87(f) nor relies on any of its seven possible grounds for decertification. Under these circumstances, NCDOT's action cannot stand, as it is contrary to the procedural requirements of the DBE regulation.¹

For this reason, we reverse NCDOT's decision and direct the agency to reinstate BAE's certification immediately.²

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

Sincerely,

Samuel F. Brooks
DBE Appeal Team Lead
Disadvantaged Business Enterprise Division

cc: Matt Kowta

¹ 49 CFR 26.89(f)(2).

² We note that if the membership of BAE's two- or three-person board of directors – not specified in the record -- includes another disadvantaged individual in addition to principal owner Matt Kowta, the section 26.71(c) concern on which NCDOT focused in its decertification letter would not be an issue. We recommend that BAE provide NCDOT with a current list of board members,