



**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

February 2, 2021

Docket No. 21-0017

Leo Phillips, Jr.  
Infiniti Solutions Global



Greg Davis  
Division Director, Minority and Small Business Affairs  
South Carolina Department of Transportation  
P.O. Box 191  
Columbia, SC 29202-0101

Dear Mr. Phillips and Mr. Davis:

This is in response to the appeal of Infiniti Solutions Global (ISG) of the decision of the South Carolina Department of Transportation (SCDOT) to decertify ISG for failure to cooperate. SCDOT states that ISG did not file the annual no-change affidavit (NCA), with accompanying documentation of the firm's gross receipts, as section 26.83(j) of the Department's DBE regulation requires.

SCDOT provided a detailed chronology of its attempts to contact ISG to concerning the need to comply with this requirement. These included email notices on August 17 and September 1, 2020; a written notice of suspension on October 1,<sup>1</sup> which was picked up October 7; and a phone conversation between Mr. Phillips and an SCDOT staff member on October 15. Not having received the required material, SCDOT sent out a certified decertification letter on November 3, 2020.

However, the chronology and the removal letter show that SCDOT skipped an important step in the decertification process. Under section 26.88(g), a certifier must, before moving from a suspension to a removal of certification, conduct a decertification proceeding under section 26.87, including a notice proposing removal and the opportunity for a hearing. For failing to conduct such a proceeding, SCDOT's removal of ISG's certification was improper procedurally.

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<sup>1</sup> Section 26.88(b)(1) authorizes a summary suspension of a firm's DBE certification for failure to timely file an NCA.

Consequently, we find that, as provided under section 26.89(f)(2), SCDOT's decision was inconsistent with the procedural provisions of the regulation. For this reason, we reverse and direct SCDOT to reinstate ISG's certification.<sup>2</sup>

We urge ISG to promptly submit, and SCDOT to promptly review, an NCA and supporting documents for 2020. Hopefully, this will obviate the need for further decertification proceedings. ISG remains obligated to submit an NCA for 2021 on its regular anniversary date.

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

Sincerely,

Samuel F. Brooks  
Team Lead  
Disadvantaged Business Enterprise Division

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<sup>2</sup> Since more than 30 days have passed since the October 1, 2020, summary suspension without a section 26.87 proceeding having been commenced, the suspension is no longer in effect. See section 26.88(g).