



**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

March 4, 2022

Docket No. 21-0018

Emilio Aguilera



Long Beach, CA 90804

Dear Mr. Aguilera:

Popple, LLC (Popple) appeals the California Department of Transportation's (Caltrans) removal of the firm's certification for failing to provide documentation of business size and gross receipts. See 49 CFR secs. 26.109(c) (failure to cooperate), 26.83(j) (annual affidavit requirements), and 26.87(f)(6) (removal for failure to cooperate).

A DBE must provide the certifier, every year on the anniversary of certification, its owner's affidavit that there have been no changes in the firm's circumstances affecting its eligibility. The affidavit must include supporting documentation of the DBE's size (gross receipts). Section 26.83(j). A DBE is in noncompliance with the regulation if it fails to provide the supporting documentation, and the rule allows the certifier to remove the firm's certification in such instances. Sections 26.83(j), 26.87(b), and 26.87(f)(6).

You submitted the standard affidavit without documenting gross receipts. On appeal you assert that Popple did not provide the information because you did not have an accountant. Unfortunately for Popple, that is not a defense. Your non-compliance made Popple ineligible, and Caltrans properly decertified it.

We affirm the decertification under section 26.89(f)(1). This decision is administratively final..

Sincerely,

Samuel F. Brooks
DBE Team Lead
Disadvantaged Business Enterprise Division

cc: Caltrans