



**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

January 27, 2022

Docket No. 21-0086

Kelly McCarty  
M3 Sixty, LLC  
1387 Cope Ave., East  
Maplewood, MN 55109

Dwayne T. Moore  
DBE & Small Business Development Manager  
Florida Department of Transportation  
605 Suwannee Street  
Tallahassee, FL 32399-0450

Dear Ms. McCarty and Mr. Moore:

The decision by the Florida Department of Transportation (FDOT) to deny the application of M3 Sixty for DBE certification is marred by two fatal procedural errors. First, M3 Sixty is certified in its home state of Minnesota, and FDOT did not apply the interstate certification procedures of section 26.85 of the Department's DBE regulation. Second, FDOT concluded, without any section 26.67(b)(2) rebuttal proceeding, that the firm's disadvantaged owner had the ability to accumulate substantial wealth. See section 26.67(b)(ii)(A).

We reverse FDOT's decision as inconsistent with applicable certification rules and direct FDOT to certify M3 Sixty without delay.<sup>1</sup>

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

Sincerely,

Samuel F. Brooks  
DBE Team Lead  
Disadvantaged Business Enterprise Division

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<sup>1</sup> If FDOT has reasonable cause to believe that the firm is ineligible, it must initiate a decertification proceeding under section 26.87(b) and follow the substantive and procedural rules of section 26.87 generally.