



**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 11, 2022

Docket No. 22-0051

Jennifer Abraham  
A.B. Steel, Inc.  
[REDACTED]  
Allentown PA 18106

Vicki Tilghman-Ansley  
Director, Division of Civil Rights and Affirmative Action  
New Jersey Department of Transportation  
P.O. Box 600  
Trenton, NJ 08652-0600

Dear Ms. Abraham and Ms. Tilghman-Ansley:

A.B. Steel, Inc. (ABS) was certified as a DBE in Pennsylvania on August 4, 2021. ABS made an out-of-state application for certification to the New Jersey Department of Transportation (NJDOT) on August 24, 2021. New Jersey's interstate application summary shows that ABS supplied the required documentation to NJDOT in August and October of 2021.

All these documents, part of NJDOT's administrative record in the case, clearly showed that a firm already certified in another state was applying for interstate certification in New Jersey. A certifier's actions in such actions are governed by the interstate certification procedures of section 26.85 of the Department's DBE regulation.

Nevertheless, NJDOT's February 8, 2022, letter denying certification to the firm betrayed no awareness that section 26.85 procedures applied, or even that this section exists. Rather, NJDOT issued a decision on the merits of ABS' application as if the firm had made an initial application to NJDOT, never providing notice or an opportunity to respond, as mandated by section 26.85(d)(2)-(4).

Because NJDOT's action was inconsistent with the procedural provisions of section 26.85(d)(2) of the regulation, we reverse its decision under section 26.89(f)(2), and we direct NJDOT to certify the firm immediately.

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

Sincerely,

Samuel F. Brooks  
DBE Team Lead  
Disadvantaged Business Enterprise Division