

May 7, 2019

Reference Number 18-0155

Deborah M. Green
Administrator
Office of Small & Disadvantaged Business Enterprise
Ohio Department of Transportation
1980 W. Broad Street, Mail Stop 3270
Columbus, Ohio 43223

Dear Ms. Green:

J.D. Williamson Construction Co., Inc. (JDWC) appeals the Ohio Department of Transportation's (ODOT) May 22, 2018 decertification of JDWC as a Disadvantaged Business Enterprise (DBE) under the standards of 49 C.F.R. part 26 (Regulation). We conclude that ODOT's decision is inconsistent with applicable decertification provisions, reverse under §26.89(f)(2), and direct ODOT to restore JDWC's certification without delay.

Regulation §26.83(h) provides that once a firm is certified, it remains certified unless and until it is properly decertified through the procedures of §26.87. Section 26.87(g) requires the recipient to send written notice of its final decision to decertify and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. ODOT's Notice of Decision (NOD) does not satisfy the requirements of §26.87(g). In this case, the NOD fails to reference any evidence, or articulate any reason, to explain how JDWC's certification was clearly erroneous per §26.87(f)(5).¹ We cannot affirm under §26.89(f)(1) because the NOD is substantively deficient.

Accordingly, we reverse under §26.89(f)(2) and direct ODOT to restore JDWC's certification with all its attributes and correct any inaccurate entries in relevant databases.

This decision is administratively final. Please notify JDWC without delay that ODOT has restored certification, with a file copy of that notice to this Office.

As always, thank you.

Sincerely,

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

¹ It's in the certifier's best interest, in our view, to fully explain why it believes that it has carried its burden of proof as to each ground for decertification.

cc: JDWC