



**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

April 30, 2020

Docket Number 20-0062

Missy Stuedle
Interim Director, External Civil Rights Division
Missouri Department of Transportation
105 W. Capitol Ave.
Jefferson City, MO 65102

Dear Ms. Stuedle:

JKS Industries, Inc. (JKS) appeals the Missouri Department of Transportation's (MODOT) January 21, 2020 denial of the firm's application for interstate DBE certification under the rules of 49 CFR part 26, specifically section 26.85. We reverse and direct prompt certification.

JKS is a DBE in its home state, Colorado. It applied to MODOT for interstate certification and provided MODOT all the information described in section 26.85(c). MODOT then obtained a copy of the Colorado onsite report. These actions were consistent with the rule.

MODOT then had two options: 1) certify JKS, or 2) provide written notice of its "good cause" objection and give JKS an opportunity to respond. See section 26.85(d)(2)(i-v). MODOT did neither. It summarily denied JKS's application based on its own assessment of information that Colorado had already considered.¹ MODOT provided no particularized notice of intent, no good cause, and no opportunity to respond.

Section 26.85 precludes a denial based on a difference of opinion and without due process.² Accordingly, we reverse under section 26.89(f)(2) and direct MODOT to certify JKS without delay.

This decision is administratively final. Thank you for your continued cooperation.

Sincerely,

Samuel F. Brooks
DBE Team Lead
Disadvantaged Business Enterprise Division

cc: Jeffery Knight, JKS Industries, Inc.

¹ MODOT opined that shared bank signatory authority and a non-DBE firm's loan precluded section 26.71 control.

² Disagreement with another state's certification decision falls far short of the stringent and highly specific section 26.85(d) standards for rejecting an interstate application. See Final Rule Preamble at 76 Fed. Reg. 5089 (Jan. 28, 2011).