IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY

MID-AMERICA MILLING COMPANY, LLC, et al.,

Plaintiffs,

v. Case No. 3:23-cv-72

UNITED STATES DEPARTMENT
OF TRANSPORTATION, et al.,

Defendants.

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

As set forth in the brief in support of this motion, the race and gender presumptions of eligibility for the Disadvantaged Business Enterprise Program (the "DBE Program") are unconstitutional in violation of the Fifth Amendment's Equal Protection Guarantee and the Administrative Procedure Act.

Pursuant to Fed. R. Civ. P. 65 and 5 U.S.C. § 705, and as set forth in the brief in support of this motion, Plaintiffs hereby move for a preliminary injunction prohibiting Defendants from implementing or enforcing the DBE Program's race and gender presumptions and DBE participation goal as set forth in P.L. 117-58, § 11101(e) and in 49 C.F.R. §§ 26.21, 26.41, 26.45, 26.47, 26.5, 26.51, 26.53, 26.67, 26.69, and 13 C.F.R. §§ 124.101, 124.103, 124.104, 124.105, and/or as otherwise applied to the DBE Program and other DBE programs and services.

Dated: December 15, 2023

Respectfully submitted,

WISCONSIN INSTITUTE FOR
LAW & LIBERTY, INC.

s/ Daniel P. Lennington

Richard M. Esenberg (WI Bar No. 1005622)
Daniel P. Lennington (WI Bar No. 1088694)
Cara M. Tolliver (WI Bar No. 1112818)
330 East Kilbourn Avenue, Suite 725
Milwaukee, WI 53202
Telephone: (414) 727-9455
Facsimile: (414) 727-6385
Rick@will-law.org
Dan@will-law.org
Cara@will-law.org

Attorneys for Plaintiffs