

August 6, 2019

Reference Number 19-0112

Rodney Keller
JohnKel, LLC
1806 D Street NE, Suite 200D
Washington, DC 20002

Dear Mr. Keller:

This letter responds to your April 26, 2019 appeal of the Maryland Department of Transportation's (MDOT) February 19, 2019 denial of your firm JohnKel LLC's (JohnKel) application for Disadvantaged Business Enterprise (DBE) certification under the rules of 49 C.F.R. part 26 (the Regulation). After considering the entire record, we affirm MDOT's decision that JohnKel does not meet the requirements of section 26.71(b). *See* section 26.89(f)(1).

You and Calvin Johnson co-own JohnKel. You are both socially and economically disadvantaged (SED) under the Regulation. You applied for DBE certification in North American Industry Classification System (NAICS) codes for administrative management, commercial printing, and document copying services. You and Mr. Johnson hold minority ownership and are actively involved in the operations of JKB, LLC (JKB), a non-DBE commercial printing firm. JKB owns ABC Imaging, Inc., a non-DBE firm performing large document imaging.

MDOT found that JohnKel's viability depends on its relationships with JKB and ABC. *See* section 26.71(b). MDOT explained that JohnKel seeks certification in the same types of work that JKB and ABC perform, you and Mr. Johnson own and work at JKB, JohnKel uses JKB's equipment without a lease agreement, JohnKel shares an office with JKB, and JohnKel shares resources with ABC. These unchallenged facts constitute substantial evidence in support of MDOT's determination. *See* section 26.89(f)(1). Thus, we affirm.

It is your burden to prove that JohnKel's viability does not depend on JKB and ABC. *See* section 26.61(b). On appeal, you state only that JohnKel has a new office. That is not a full and specific statement explaining why MDOT's decision is erroneous, what significant facts MDOT failed to consider, or what provisions of the Regulation MDOT did not properly apply. *See* section 26.89(c).

Substantial evidence supports MDOT's ineligibility determination, and the determination is consistent with the certification rules. This decision is administratively final and not subject to petitions for review.

Sincerely,

Samuel F. Brooks
Appeal Team Lead
Disadvantaged Business Enterprise Division

cc: MDOT