



**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

July 23, 2020

Docket No. 20-0073

Deysi Cruz  
AD Torres Contractor, Inc.  
[REDACTED]  
Severn, MD 21144

Dear Ms. Cruz:

This is in response to your appeal of the denial of the DBE application of AD Torres Contractor, Inc. (ADT) by the Maryland Department of Transportation (MDOT). MDOT determined that ADT did not meet the ownership and control requirements for DBE certification.

With respect to ownership, MDOT said that the [REDACTED] you used to start the company was drawn from a joint bank account you hold with your husband. There was no evidence in the record that he had renounced his interest in the funds. As a result, no more than 50 percent of those funds could be attributed to you, falling short of the 51 percent ownership required to meet DBE certification requirements. Please see the Department's DBE rule in 49 CFR 26.69(i).

With respect to control, MDOT stated that you did not have experience in the rebar installation field, ADT's main type of work. While you had learned something of the rebar field through conversations with your husband, your son Dennis Torres had the technical competence, experience, and expertise needed to the control ADT's primary activities. He handles bidding and estimating, marketing and sales, supervision of field operations, and bid opening and lettings for the firm; he also has office management responsibilities. MDOT noted that you do not hold the industry certifications or licenses to perform the work. Dennis Torres does hold the contractor/salesman license for the firm, and he performs all field work.

MDOT concluded that you did not demonstrate sufficient knowledge or expertise to control ADT, as 49 CFR 26.71(d) requires. Nor did you demonstrate that you have the critical evaluation and independent decision making skills that section 26.71(g) of the rule requires.

On appeal, you say that your husband had no chance to discuss the issue of renouncing his ownership because he was not involved in MDOT's review. A legally effective document in which your husband formally renounces his share of the \$500 start-up money, and any claim to own part of ADT, would resolve the ownership problem MDOT identified. Please see sections 26.69(i) and 26.86(a) of the rule. The renunciation document, not Mr. Torres' testimony, is what you must provide to resolve the marital property concern.

You assert that you were nervous during MDOT's interview and that you would like another chance to show that you control ADT. You may address MDOT's concerns more thoroughly if ADT reapplies for certification. ADT may reapply after February 2, 2021.

We conclude that MDOT had substantial evidence to find that ADT did not meet ownership and control requirements for certification. Consistent with the DBE rule's requirements, we affirm MDOT's decision.

This decision is administratively final.

Sincerely,

Samuel F. Brooks  
DBE Team Lead  
Disadvantaged Business Enterprise Division

cc: Monica Crusse