



**U.S. Department of
Transportation**

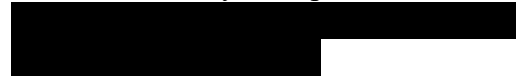
Office of the Secretary
Of Transportation

Departmental Office of Civil Rights
1200 New Jersey Avenue, S.E., W76-401
Washington, DC 20590

January 8, 2021

Docket Number 21-0007

Georgios Margaritis
Ultimate Security Group



Dear Mr. Margaritis:

This is in response to your appeal of the Los Angeles County Metropolitan Transportation Authority's (Metro) denial of your firm's application for DBE certification. The only issue on appeal is whether you control USG within the meaning of the DBE regulation.

Your ability to operate and control USG depends partly on the effect of certain California Bureau of Security and Investigative Services (BSIS) regulations. Those rules do not permit a firm to engage in the USG's business of private patrol operations without someone holding an applicable license.¹ Neither you nor anyone that USG employs holds such a license.

The appeal states USG will not start operations until it secures BSIS approvals and DBE certification. In the on-site interview and on appeal, you explain that Paul Kauadio Kouame, who is a qualified manager holding a Private Patrol Operator's license, will become an employee when USG commences operations. You advise that "we are aware that we cannot run the business without Mr. Paul Kouadio Kouame."

Your statements indicate that USG is not yet a going concern, which is a prerequisite to DBE certification. The DBE regulation does not permit agencies like Metro to certify firms that are not operational. Having a business plan is not enough. USG's application is at best premature.

The regulation also requires that one or more disadvantaged owners control an applicant at the time it applies, and there is the conundrum. BSIS rules provide that a private patrol operator's business "shall be operated under the active direction, control, charge, or management" of a "person who is qualified to act as the...manager."² This language suggests that once USG begins

¹ California Business and Professional Code, section 7582.3(a).

² California Business and Professional Code, section 7582.22.

operations, Mr. Kouame's supervision, management, and direction of its patrol operations may make it difficult to prove your own control for purposes of DBE certification.³

For these reasons, we conclude that Metro's ineligibility determination is consistent with applicable DBE rules and supported by substantial evidence.

This decision is administratively final and not subject to petitions for review.

Sincerely,

Samuel F. Brooks
Team Lead
Disadvantaged Business Enterprise Division

cc: Ramon Ortiz, Metro

³ See, e.g., 49 CFR sections 26.61(b); 26.71(e), (f), and (h); 26.89(f)(1). We do not pre-judge this or any other issue a future application may present. USG may reapply at any time after the one-year anniversary of Metro's denial.