



**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 18, 2022

Docket No. 21-0054

Sherry Green Mullins  
Mullins Utility and Contracting, LLC  
1045 Pleasant Hill Road  
Jasper, GA 30143

This is in response to your letter dated January 9, 2021, appealing the Georgia Department of Transportation's (GDOT) denial of Mullins Utility and Contracting, LLC's (MUC) application for Disadvantaged Business Enterprise (DBE) certification. GDOT determined in part<sup>1</sup> that you do not control MUC within the meaning of 49 CFR sec. 26.71(k).

GDOT cites information you provided in the application and on-site interview to support its conclusion. According to the application and on-site interview, GDOT said, you and your husband share significant operational and managerial responsibilities and make major decisions by consensus. You both have full authority to sign company checks and incur debt on the firm's behalf, for example, and you make decisions about bidding, starting, and terminating jobs jointly.<sup>2</sup>

From this information, GDOT determined that MUC is a family-run firm which you and Mr. Mullins control jointly, as distinct from a business that you control. See section 26.71(k). When a certifier cannot determine that disadvantaged owners – as distinct from the family as a whole – control a firm, then the disadvantaged owners have failed to carry their burden of proof concerning control, even though they do participate significantly in the firm's activities. Section 26.71(k).

As GDOT's determination is consistent with applicable certification rules and supported by substantial evidence, we affirm it under section 26.89(f)(1).

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<sup>1</sup> There is no need for us to address every denial ground because the company's failure to prove any single eligibility requirement (here, the one in regulation sec. 26.71(k)) renders it ineligible. See sec. 26.61(b).

<sup>2</sup> MUC challenges none of these assertions on appeal. Although you explain more clearly your role in managing projects, you provide no evidence that you can or do overrule your husband when you disagree. The record, in contrast, shows roughly equal powers and consensus decisions.

This decision is administratively final.

Sincerely,

Samuel F. Brooks  
DBE Team Lead  
Disadvantaged Business Enterprise Division

cc: GDOT