



**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

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Docket No. 21-0063

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Christine Miklaszewski
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Dear Mr. Bardosy:

This is in response to your letter dated September 17, 2020, on behalf of your client Straightline Grading and Excavating, LLC (SGE), appealing the Wisconsin Department of Transportation's (WISDOT) denial of SGE's application for DBE certification under the rules in 49 CFR pt. 26 (the regulation). We affirm WISDOT's decision.

Background

Disadvantaged 95% owner Christine Miklaszewski (CM) established SGE in June 2008 so that she could hire her husband, who had recently lost his job with another construction firm.¹ SGE specializes in grading and excavating. CM is SGE's president. CM's husband Thomas Miklaszewski (TM) is SGE's "operator," foreman, and primary estimator. Karl Goetzke (KG), who owns 5% of the company, is SGE's vice president.

KG has 32 years of work experience in the construction industry, including 19 years in a supervisory role. TM has 15 years of experience in construction. CM had no construction experience or training prior to joining SGE. She worked as a dental hygienist, full time from 1999 to 2008 and part time (while serving as SGE's president) from 2008 to 2016. Her resume

¹ Per her testimony memorialized in WISDOT's on-site report (OSR). All facts in this section are assertions in the record which the firm does not challenge on appeal.

entry for SGE is: “Dedicated owner with 10 years of experience combining management and customer service expertise in clerical and ownership of an excavating company.”

Discussion

Section 26.71(g) of the regulation requires CM to demonstrate that she has an overall understanding of, and managerial *and technical competence and experience directly related to, the type of business in which SGE is engaged and the firm's operations*. (Emphasis added.) CM must also show that she has the ability to *intelligently and critically evaluate information presented by other participants* in SGE's business and use the information to *make independent decisions concerning the firm's daily operations, management, and policymaking*. See section 26.61(b).

WISDOT relies on CM's description of the participants' daily responsibilities in concluding that she has demonstrated limited managerial and technical competence and experience directly related to SGE's grading and excavation activities. WISDOT relies on CM's statements that she seldom visits job sites and has never supervised any of SGE's over 1000 jobs in concluding that “[CM] plays virtually no role in the supervision of the company's jobs.”

Without denigrating CM's important, perhaps essential contributions to the business, we find nothing in the record that demonstrates the overall operational understanding or directly related technical competence that the regulation requires.

Conclusion

We affirm WISDOT's ineligibility as consistent with applicable certification rules and supported by substantial evidence as noted. See section 26.89(f)(1).

This decision is administratively final.

Sincerely,

Samuel F. Brooks
DBE Team Lead
Disadvantaged Business Enterprise Division