



**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

February 28, 2022

Docket No. 21-0102

Manik K. Arora
President and CEO
Electronic Data, Inc.
400 Carillon Parkway, Suite 100
St. Petersburg, FL 33716

Dwayne T. Moore
DBE & Small Business Development Manager
Florida Department of Transportation
605 Suwannee Street
Tallahassee, FL 32399-0450

Dear Mr. Arora and Mr. Moore:

The Florida Department of Transportation (FDOT) denied DBE certification to Electronic Data, Inc. (EDI), based on findings that the firm's principal place of business is not in Florida and that EDI is not controlled by its disadvantaged owner.

Having its principal place of business in a given state is not required for a firm to be eligible for certification there. Rather, per section 26.81(d) of the Department's DBE regulation, a certifier may decide not to process an application from a firm the principal place of business of which is outside the state, if the firm is not already certified in its home state. If FDOT believed that EDI did not have its principal place of business in Florida, FDOT could simply have declined to process the firm's application. Because FDOT did not choose this option, but instead considered the application on its merits, this issue is not relevant to the case.

EDI is 100 percent owned by a Pennsylvania-based corporation, Arora Engineers, Inc. (AE). AE, in turn, is 100 percent owned by Manik Arora, a disadvantaged individual, who holds the titles of President and CEO of EDI. Scott Yates, a non-disadvantaged individual, is the Florida-based chief operating officer of EDI. The debate between FDOT and EDI on EDI's ability to meet control requirements focuses on the relative roles of Mr. Arora and Mr. Yates.

This focus fails to take into account a more basic issue affecting the eligibility of EDI. Being 100 percent owned by AE, and given Mr. Arora's role as the company's President and CEO, it is clear that EDI is an affiliate of AE, as defined in section 26.5 of the regulation. In determining whether an applicant meets the small business size standard of section 26.65(b) of the regulation, a certifier must aggregate the annual gross receipts of the applicant, averaged over the previous

three fiscal years, with those of its affiliates. Whoever might ultimately be determined to control EDI's affairs, EDI cannot be certified unless, together with its affiliates, it meets business size requirements.

Under section 26.89(e) of the regulation, the Department may supplement the administrative record by adding relevant information provided by a firm or other private party. In three other cases recently considered by the Department,¹ AE presented data concerning its gross receipts. AE's gross receipts, according to the company itself, were [REDACTED] for 2019; [REDACTED] for 2018; and [REDACTED] for 2017. The three-year average of these figures is [REDACTED] which exceeds the section 26.65(b) limit of \$26.69 million.

Under these circumstances, FDOT cannot certify EDI with respect to financial assistance programs of the Federal Highway Administration and Federal Transit Administration, to which the section 26.65(b) limit applies. However, this limit does not apply to the financial assistance programs of the Federal Aviation Administration (FAA). If EDI chooses to pursue its application with respect to FAA programs only, it should notify FDOT, which must then decide under section 26.81(d) whether to process the application and, if so, whether the firm meets all regulatory criteria for certification.

This decision is final and not subject to administrative reconsideration.

Sincerely,

Samuel F. Brooks
DBE Team Lead
Disadvantaged Business Enterprise Division

¹ Docket No. 21-0124 *Arora Engineers, Inc.* (CA); 21-0126 *Arora Engineers, Inc.* (GA); and 21-0094 *Arora Engineers, Inc.* (DC)