



**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

October 19, 2022

Docket No. 22-0062

Richard M. Haberle
Concierge Paralegal Services, LLC
2797 First St., Unit 1405
Fort Myers, FL 33916

Dear Mr. Haberle:

This letter concerns the Florida Department of Transportation's (FDOT) April 11, 2022 denial of Concierge Paralegal Services, LLC's (CPS) application for Disadvantaged Business Enterprise (DBE) certification under the DBE program regulation at 49 CFR Part 26. FDOT determined that you, the sole owner of CPS, are not socially and economically disadvantaged.¹ We affirm. See section 26.89(f)(1).

You do not claim membership in a group(s) whose members are rebuttably presumed socially and economically disadvantaged (SED). See sections 26.5 and 26.67(a)(1). Rather, you claim individual social and economic disadvantage because of your membership in the LGBTQI+ community. See section 26.67(d); see also Appendix E.

In addition to providing evidence of social disadvantage, each individual claiming economic disadvantage under section 26.67(d) must describe the conditions that are the basis for the claim.² Factors that a certifier considers include the individual's personal net worth (PNW), the fair market value of all assets, and the financial condition of the applicant compared to the financial profiles of small businesses in the same primary industry classification, or, if not available, in similar lines of business, which are not owned and controlled by SED individuals.³

You submitted a PNW statement showing that your PNW is below the DBE regulation's \$1.32 million limit. As additional evidence of economic disadvantage, you claim (in third person) that you have a "demonstrated a history of working twice as hard for business (in both his scholastic and educational endeavors and advanced certifications and also in his commitment to his Firm in the face of such fierce adversity) and yet has earned half as much through these efforts. (Substantial financial records were produced with the application to the FDOT and even the most

¹ An owner on whom a firm relies for DBE certification eligibility must be socially *and* economically disadvantaged. The test is conjunctive. Having found substantial evidence to support FDOT's determination that you are not economically disadvantaged, we need not consider your social disadvantage.

² See Appendix E Economic Disadvantage (B)(1).

³ See *id.* at (C).

cursory review of the same would reveal that the Owner has had to rely upon the SBA to fund paycheck protection loans to stay afloat, and the Owner is far from earning any substantial sums from his role).”⁴

You did not submit any personal financial information other than your PNW statement. Nor did you provide evidence to support your description of your economic disadvantage. For example, you did not proffer specific information about your inability to compete in the free enterprise system, diminished capital and credit opportunities, and low net worth compared to others in the paralegal services industry who are not economically disadvantaged.⁵ Your claims are assertions insufficiently supported by the kind of individualized evidence of economic disadvantage that the rule requires.⁶

We affirm FDOT’s determination because it is consistent with applicable certification rules and supported by substantial evidence. See sections 26.67(d) and 26.89(f)(1).⁷

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

Sincerely,

Samuel F. Brooks
DBE Team Lead
Disadvantaged Business Enterprise Division

cc: Florida Department of Transportation

⁴ See “Notice of Appeal” (undated) (unpaginated).

⁵ See Appendix E Economic Disadvantage (B) and (C).

⁶ An applicant firm bears the burden of proving, by a preponderance of the evidence, that it fully meets the DBE regulation’s certification requirements. See section 26.61(b).

⁷ We emphasize that we are sensitive to the nature of your circumstances and do not condone any bias you have experienced.