



**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 31, 2023

Docket No. 22-0087

Irma Juarez
AJ General Construction Services, Inc.
[REDACTED]
Dover, FL 33527

Dear Ms. Juarez:

The Florida Department of Transportation (FDOT) certified AJ General Construction Services, Inc. (AJ) in 2018. In April 2022, FDOT denied AJ's request to add North American Classification Industry Classification (NAICS) code 237310 Highway, Street and Bridge Construction to its DBE certification.¹

Section 26.71(n) of the regulation provides that to become certified in an additional type of work, the firm must demonstrate that the socially and economically disadvantaged owner(s) is able to control the firm with respect to that type of work. Section 26.61(b) states clearly that the firm has the burden of proving, by a preponderance of the evidence, that it meets the regulation's certification requirements. FDOT determined that AJ is not eligible for the requested code because you failed to demonstrate that you meet the control requirements of section 26.71(g). On appeal you state that you might not have submitted enough information to show your eligibility under section 26.71(g).² You effectively agree with FDOT that you did not meet your burden of proof.

We find substantial evidence supports FDOT's determination that AJ is not eligible for NAICS code 237310. Thus, we affirm. See section 26.89(f)(1).

This decision is administratively final and not subject to petitions for review. AJ may reapply after the applicable waiting period expires.

Sincerely,

Samuel F. Brooks
DBE Team Lead
Disadvantaged Business Enterprise Division

cc: FDOT

¹ NAICS code 237310 applies to firms primarily engaged in the construction of highways, streets, roads, airport runways, public sidewalks, or bridges. See www.census.gov/naics/?input=237310&year=2022&details=237310.

² You claim that you have all the information necessary to prove to our Office that you are eligible. Our Office does not make eligibility determinations. Our role is to determine whether substantial evidence supports a certifier's decision. See section 26.89(f)(1).

