



**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

November 15, 2022

Docket No. 22-0089

Ashley K. Hogan  
President  
Sugarland Geoservices Inc.  
525-K East Market St. #314  
Leesburg, VA 20176

Dear Ms. Hogan:

This letter concerns the Virginia Unified Certification Program's (VUCP) May 16, 2022 denial of Sugarland Geoservices Inc.'s (Sugarland) application for Disadvantaged Business Enterprise (DBE) certification under the DBE program regulation at 49 CFR Part 26. VUCP determined that you do not meet section 26.69 ownership requirements.<sup>1</sup> We affirm based on sections 26.69(b)(1) and (c)(1).<sup>2</sup>

You and non-disadvantaged co-owner Joshua D. April founded Sugarland in October 2019. You each contributed [REDACTED] to start the firm and acquire 50 percent ownership. The firm's Uniform Certification Application and stock transfer ledger list you as owning 51 percent. You contend that you and Mr. April informally agreed that you are entitled to the additional one percent because of activities you performed during Sugarland's start-up period, such as soliciting clients and paying invoices.

VUCP cited section 26.69(c)(1) in concluding that you made no real, substantial, and continuing capital contribution for the additional one percent. You did not contribute money or property to acquire the one percent ownership interest, and the start-up activities you performed do not qualify as expertise under the regulation.<sup>3</sup> Rather, you assert that your work earned you "sweat equity," which unfortunately does not count as a capital contribution either.<sup>4</sup> The regulation

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<sup>1</sup> The applicant firm bears the burden of proving, by a preponderance of the evidence, that it fully meets the regulation's certification requirements. See section 26.61(b).

<sup>2</sup> Section 26.69(b)(1) provides that to be an eligible DBE, a firm must be at least 51 percent owned by socially and economically disadvantaged individuals. Section 26.69(c)(1) requires that a disadvantaged ownership, including a contribution of capital or expertise to acquire ownership interest, must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents.

<sup>3</sup> Section 26.69(f) states the criteria for demonstrating qualifying expertise. They are rigorous.

<sup>4</sup> See e.g., 19-0091 Dynamik, Inc. (Aug. 6, 2019), 17-0124 SS Haulin' & Excavating, Inc. (March 16, 2018), and 17-0116 SE Supply Company, Inc. (Dec. 20, 2017).

considers you and Mr. April to own 50 percent each. See generally sections 26.69(c), (e), and (f).

Having found that you and Mr. April share ownership equally, VUCP concluded that Sugarland is ineligible for DBE certification under section 26.69(b)(1).<sup>5</sup>

Substantial evidence supports VUCP's decision. Thus, we affirm. See section 26.89(f)(1).<sup>6</sup>

This decision is administratively final.

Sincerely,

Samuel F. Brooks  
DBE Team Lead  
Disadvantaged Business Enterprise Division

cc: Virginia Unified Certification Program

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<sup>5</sup> We do not take into consideration your additional [REDACTED] contribution because you made it after VUCP issued its final decision. See section 26.89(f)(6) (facts and circumstances as of decision date control). However, the regulation generally permits firms to cure defects in eligibility. This means that you could claim the [REDACTED] as a further capital contribution if Sugarland decides to reapply. We advise that you consider whether the amount is commensurate with the value of one percent of the company and whether it exceeds any further capital contribution Mr. April (or any successor) makes by at least that amount.

<sup>6</sup> Sugarland may reapply for certification after VUCP's waiting period expires. See section 26.86(c).