May 23, 2018

Reference Number 18-0023

Joe Claiborne
Senior Manager, Business Diversity Development
Memphis Shelby County Airport Authority
REDACTED
Memphis, TN 38118-2718

Dear Mr. Claiborne:

Global Logistics Solutions (GLS) appeals the Memphis Shelby County Airport Authority's (MSCAA) October 19, 2017 denial of its application for certification as a Disadvantaged Business Enterprise (DBE) under the standards of 49 C.F.R. Part 26 (the Regulation). After carefully reviewing the full administrative record, we reverse under Regulation §26.89(f)(2) and direct MSCAA to certify GLS.

MSCAA cites §26.55(c), (d), and (e) as its only grounds for determining that GLS is ineligible for certification.[1] These provisions relate to commercial useful function (CUF), which is a post-certification counting issue generally unrelated to initial eligibility. Section 26.73(a)(1) states that "[c]onsideration of whether a firm performs a commercially useful function or is a regular dealer pertains *solely* to counting toward DBE goals the participation of firms that have *already been certified* as DBEs . . . *you must not consider commercially useful function issues in any way in making decisions about whether to certify a firm as a DBE*." (Emphasis added.) We cannot affirm the denial because MSCAA cites only CUF reasons for its decision.

Thus, we reverse MSCAA's ineligibility determination as unsupported by substantial evidence and inconsistent with applicable certification rules, and we direct MSCAA to certify GLS without delay. Please note that we decide only issues presented on appeal, not absolute eligibility. MSCAA retains its rights and responsibilities under §26.87.

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

Sincerely,

Samuel F. Brooks

---

[1] The denial letter, contrary to the requirements of §26.86(a), merely cites §26.55 without analysis or supporting evidence.

DBE Appeal Team Lead
Disadvantaged Business Enterprise Division

cc: GLS