

March 30, 2020

Docket Number 20-0036

Adrina Avanes
President and CEO
LA CNC
4529 San Fernando Road, Unit #E
Glendale CA 92104

Dear Ms. Avanes:

The California Unified Certification Program (CUPC)¹ denied LA CNC's application for DBE certification on the basis of control. In doing so, it cited several factors. The immediate business ancestor of LA CNC was Burbank Machine Shop (BMS), owned and controlled by your spouse, Masis Melkomian, who has acted for many years of as a head of production in machine shops and has extensive experience and skill in the field. BMS and LA CNC were located in the same business center. Mr. Melkomian signed the lease for BMS' space there. The equipment used by BMS was transferred to LA CNC. Mr. Melkomian and a key employee, Arno Sepanossian, lead LA CNC in important functions like attending bids and openings and field operations.

Your resume, CUPC states, focuses on functions like finance, budget, contract administration, procurement, payroll, marketing, and personnel. Under the circumstances, in CUPC's judgment, Mr. Melokomian is disproportionately responsible for operation of LA CNC.

Your appeal lists in detail the how interactions between you and Mr. Melokomian and Mr. Sepanossian in the operations of the firm work, and the important role you perform in these interactions. It states that you developed and implemented a quality manual, and that, while you delegate important technical functions of the company to your spouse, you have sufficient knowledge and experience, from your years of experience in the field, to be able to fully manage LA CNC. Moreover, LA CNC, with you as the President, has been more successful economically than was BMS.

Both CUPC's denial letter and your appeal focus on section 26.71(g) of the Department's DBE regulation, which concerns the ability of the disadvantaged owner to "to intelligently and critically evaluate information presented by other participants in the firm's activities and to use this information to make independent decisions concerning the firm's daily operations, management, and policymaking." Each makes a credible argument supported by substantial evidence. CUCP relies on Mr. Melkomian's predominant expertise, LA CNC's origination as his firm, the two firms' very similar attributes. The appeal provides a detailed explanation of precisely how you are involved

¹ The Los Angeles County Metropolitan Transportation Authority made the decision for the CUCP.

in various aspects of the firm's operations. Section 26.89(f)(1) of the regulation resolves a situation like this in favor of the certifier and requires us to affirm CUCP's determination.²

We conclude that substantial evidence supports CUCP's decision on the basis of section 26.71(g) and that the decision is consistent with applicable rules. We affirm.

This decision is administratively final.

Sincerely,

Samuel F. Brooks
DBE Team Lead
Disadvantaged Business Enterprise Division

cc: Ramon Ortiz, CUCP

² Although we do not rely on it in resolving this appeal, we think a "family business" analysis may illustrate the point more clearly. The pertinent rule, section 26.71(k), provides that if a certifier "cannot determine that the socially and economically disadvantaged owners—as distinct from the family as a whole—control the firm, then the socially and economically disadvantaged owners have failed to carry their burden of proof concerning control, even though they may participate significantly in the firm's activities." We doubt that the facts presented here permit such a determination, notwithstanding the information about the significance of your participation.