



COMMONWEALTH of VIRGINIA

Department of Small Business and Supplier Diversity

Ralph S. Northam  
Governor

Esther C. Lee  
Secretary of Commerce & Trade

Tracey G. Wiley  
Director

VIRGINIA UNIFIED CERTIFICATION PROGRAM

April 2, 2018

Christopher K Cox  
TUWYN LLC  
1125 Jefferson Davis Highway, Suite 400  
Fredericksburg, VA 22401

Certification Number: DBE 724582

Dear Christopher K Cox:

The Virginia Department of Small Business and Supplier Diversity (VDSBSD) has approved the certification of **TUWYN LLC** as a Disadvantaged Business Enterprise (DBE) subject to the requirements of the DBE Regulation 49 CFR, Part 26 and all the laws of this state applicable to the transaction of business. Your firm's **Certification Eligibility Period begins with the date identified below. *Every* year, prior to the anniversary of your certification, you are required to meet the annual submission requirement by submitting documents found online at [www.sbsd.virginia.gov](http://www.sbsd.virginia.gov) to continue in the DBE Program.**

We are pleased to inform you that we have certified your company in the following NAICS Code(s):

- 493110 Warehouse management and facilities operation services**
- 493190 Document warehousing and storage management**
- 541490 Multimedia (i.e., audio and visual) equipment and systems design services**
- 541512 Multimedia computer peripheral design integration and system management services**
- 541611 Administrative management and General management Consulting Services**
- 541614 Process, Physical Distribution and Logistics Consulting Services**
- 541618 Program and project management consulting services**
- 541690 Audio-visual media consulting services**

Your request for certification under NAICS code 492110 Courier and Express Delivery Services and 492210 Local Messengers and Local Delivery are being denied pursuant to Title 49 Code of Federal Regulations § 26.61, and 26.71.

The pertinent parts of Title 49 Code of Federal Regulations § 26.61 are:

*(b) The firm seeking certification has the burden of demonstrating to you, by a preponderance of the evidence, that it meets the requirements of this subpart concerning group membership or individual disadvantage, business size, ownership, and control.*

The United States Department of Transportation's Regulation, 49 CFR Part 26.71, states that "(4) A certifier is not precluded from changing a certification classification or description if there is a factual basis in the record. However, certifiers must not make after-the-fact statements about the scope of a certification, not supported by evidence in the record of the certification action."

The pertinent parts of Title 49 Code of Federal Regulations § 26.71 are:

*(b) Only an independent business may be certified as a DBE. An independent business is one the viability of which does not depend on its relationship with another firm or firms.*

*(1) In determining whether a potential DBE is an independent business, you must scrutinize relationships with non-DBE firms, in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.*

*(m) In determining whether a firm is controlled by its socially and economically disadvantaged owners, you may consider whether the firm owns equipment necessary to perform its work. However, you must not determine that a firm is not controlled by socially and economically disadvantaged individuals solely because the firm leases, rather than owns, such equipment, where leasing equipment is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the firm.*

*(n) You must grant certification to a firm only for specific types of work in which the socially and economically disadvantaged owners have the ability to control the firm. To become certified in an additional type of work, the firm need demonstrate to you only that its socially and economically disadvantaged owners are able to control the firm with respect to that type of work. You must not require that the firm be recertified or submit a new application for certification, but you must verify the disadvantaged owner's control of the firm in the additional type of work.*

*(1) The types of work a firm can perform (whether on initial certification or when a new type of work is added) must be described in terms of the most specific available NAICS code for that type of work. If you choose, you may also, in addition to applying the appropriate NAICS code, apply a descriptor from a classification scheme of equivalent detail and specificity. A correct NAICS code is one that describes, as specifically as possible, the principal goods or services which the firm would provide to DOT recipients. Multiple NAICS codes may be assigned where appropriate. Program participants must rely on, and not depart from, the plain meaning of NAICS code descriptions in determining the scope of a firm's certification. If your Directory does not list types of work for any firm in a manner consistent with this paragraph (a)(1), you must update the Directory entry for that firm to meet the requirements of this paragraph (a)(1) by August 28, 2011.*

*(2) Firms and recipients must check carefully to make sure that the NAICS codes cited in a certification are kept up-to-date and accurately reflect work which the UCP has determined the firm's owners can control. The firm bears the burden of providing detailed company information the certifying agency needs to make an appropriate NAICS code designation.*

*(3) If a firm believes that there is not a NAICS code that fully or clearly describes the type(s) of work in which it is seeking to be certified as a DBE, the firm may request that the certifying agency, in its certification documentation, supplement the assigned NAICS code(s) with a clear, specific, and detailed narrative description of the type of work in which the firm is certified. A vague, general, or confusing description is not sufficient for this purpose, and recipients should not rely on such a description in determining whether a firm's participation can be counted toward DBE goals.*

*(4) A certifier is not precluded from changing a certification classification or description if there is a factual basis in the record. However, certifiers must not make after-the-fact statements about the scope of a certification, not supported by evidence in the record of the certification action.*



The DBE regulations require that NAICS codes be assigned according to the most specific available NAICS codes for the firm's work. NAICS code 492110 Courier and Express Delivery Services and 492210 Local Messengers and Local Delivery is not an accurate reflection of the types of work your firm provides. Based upon your firm's description of services, you will not be performing these services, but rather hire and manage others in these services, thereby creating a dependence on others and an inability to independently perform. Management for these services are covered under NAICS codes 541611 and 541614. Therefore, your firm has been approved for those services under the correct NAICS codes of 541611 and 541614.

You have a right to appeal this decision within 90 days of receipt of this letter to the United States Department of Transportation, Office of Civil Rights, 1200 New Jersey Av., SE W-35, Washington, DC 20590.

It is your responsibility to notify VDSBSD immediately of any changes in your firm such as name, address, ownership, officers, or Board of Directors. Please check the accuracy of your internet entry in the DBE Directory at [www.sbsd.virginia.gov](http://www.sbsd.virginia.gov). Your firm's certification is subject to our review at any time during the year and you may be required to provide any and all relevant documentation. Failure to cooperate by providing the requested information may lead to de-certification.

You may receive management and technical assistance by writing to the Department of Small Business and Supplier Diversity, 101 N. 14th Street, 11th Floor, Richmond, VA 23219, or by calling (804) 786-6585. If you have questions, please contact **Rebecca Bates** at (804) 371-0488 or by email at [rebecca.bates@sbsd.virginia.gov](mailto:rebecca.bates@sbsd.virginia.gov).

Sincerely,



Calvin M. Thweatt

Director of Certification and Transportation Business Development

**Certification Eligibility Period:**      **Begins: APR 03 2018**