

**United States Small Business Administration
Office of Hearings and Appeals**

VSBC Appeal of:

Florida Suncoast Transportation, LLC,

Appellant

SBA No. VSBC-452-A

Decided: December 18, 2025

APPEARANCE

Jerome Davis, Chief Financial Officer, Florida Suncoast Transportation, LLC

DECISION

I. Introduction and Jurisdiction

On September 9, 2025, Florida Suncoast Transportation, LLC (Appellant) appealed a decision of the U.S. Small Business Administration (SBA), denying Appellant's application for certification as a Service-Disabled Veteran-Owned Small Business (SDVOSB). SBA found that Appellant did not demonstrate that a qualifying veteran holds the highest officer position in the concern. On appeal, Appellant maintains that the denial decision was erroneous, and requests that SBA's Office of Hearings and Appeals (OHA) reverse. For the reasons discussed *infra*, the appeal is DENIED.

OHA adjudicates SDVOSB status appeals pursuant to the Small Business Act of 1958, 15 U.S.C. §§ 631 *et seq.*, and 13 C.F.R. parts 128 and 134 subpart K. Appellant filed the appeal within 10 business days after receiving the denial notice on September 8, 2025. 13 C.F.R. § 134.1104(a). Accordingly, this matter is properly before OHA for decision.

II. Background

A. The Case File

Appellant is a Limited Liability Company (LLC) established in the state of Florida. (Case File (CF), Exh. 30.) Appellant resolved to apply for certification as an SDVOSB and submitted various supporting documents to SBA. (CF, Exhs. 3-27.) Appellant is 51% owned by Mr. Jerome Davis, a service-disabled veteran, and 49% owned by Mr. Roosevelt R. Duval, Jr, a non-veteran. (CF, Exhs. 2, 25, 30, and 55.) Appellant provided a copy of its original Operating Agreement, dated August 4, 2023. (CF, Exh. 30.) Additionally, Appellant provided another copy of its Operating Agreement, dated May 1, 2025. (CF, Exh. 31.) In its new Operating Agreement, Appellant did not include information pertaining to its members, voting requirements, or

management structure. According to the original Operating Agreement, the purpose of the company is to provide transportation and delivery services in the State of Florida. (CF, Exh. 30 at 1.) The original Operating Agreement further states the following:

Article IV — Management

4.1 Management Structure. The Company shall be managed by Jerome Davis.

4.2 Management Decisions.

4.2.1 Decisions. Decisions regarding the ordinary business operations of the Company shall be made by Jerome Davis based on ownership interest. With a 51% ownership interest, Jerome Davis effectively has control over ordinary business decisions.

4.2.2 Major Business Decisions. The following actions shall require written consent of Jerome Davis as majority owner:

- Amendment of this Agreement
- Admission of new Members
- Dissolution of the Company
- Sale of substantially all the Company's assets
- Merger or conversion of the Company
- Entering into transactions outside the ordinary course of business
- Incurring debt amount \$0.00
- Any act that would make it impossible to carry on the ordinary business of the Company

4.3 Meetings. Meetings of the Members may be called by and Member. Notice of meetings shall be given to all Members at least 30 days in advance.

(CF, Exh. 30 at 3. (emphasis in original).)

Neither Operating Agreement identifies a CEO, nor specifically identifies a Managing Member of the concern.

Appellant's Articles of Organization filed with the State of Florida identify Mr. Duval, the non-Qualifying Veteran minority owner, as the concern's CEO and Registered Agent. Mr. Davis is identified as CFO. (CF, Exh. 54., Article IV.)

B. Denial

On September 8, 2025, the D/GC denied Appellant's application because its Operating Agreement was deficient in providing sufficient proof of eligibility. (Decline Letter at 1.) The D/GC pointed out that the regulations require the Qualifying Veteran to hold the highest officer position in the concern. 13 C.F.R. 128.203(b). Additionally, the D/GC found that Article IV of Appellant's Articles of Organization provides that its Chief Executive Officer (CEO) position is held by Mr. Roosevelt Duval, a non-qualifying owner, while Mr. Jerome Davis (Qualifying Owner) is listed as the Chief Financial Officer (CFO). (Decline Letter at 2.) Thus, D/GC could not conclude that the Qualifying Owner holds the highest officer position in the concern as required by the regulation. *Id.* Since the Qualifying Veteran/Owner is unable to overcome the highest officer position requirement, the D/GC determined that Appellant was not an eligible SDVOSB. *Id.*

C. Appeal

On September 9, 2025, Appellant appealed the D/GC's decision to OHA. Appellant argues that pursuant to the governing Partnership Agreement, Mr. Davis is explicitly designated as the final decision-maker for all matters of the company. (Appeal at 1.) Appellant contends that while Mr. Duval is designated CEO, the Agreement vests ultimate control and majority ownership in Mr. Davis, who therefore satisfies SBA's requirements under 13 C.F.R. §§ 125.11-125.13.¹ *Id.* Appellant further contends that the record demonstrates that Mr. Davis is the majority owner and highest controlling officer, meeting SBA's ownership and control standards. *Id.* Furthermore, the company is fully compliant with all eligibility criteria, and reconsideration is respectfully requested. *Id.*

III. Discussion

A. Standard of Review

When a concern seeks certification as a VOSB or SDVOSB, SBA regulations provide that:

An Applicant's eligibility will be based on the totality of circumstances, including facts set forth in the application, supporting documentation, any information received in response to any SBA request for clarification, any independent research conducted by SBA, and any changed circumstances. The Applicant bears the burden of proof to demonstrate its eligibility as a VOSB or SDVOSB.

13 C.F.R. § 128.302(d).

¹ Appellant relies on an outdated version of the regulations. The regulations for the Veteran Small Business Certification Program are now at 13 C.F.R. Part 128.

On appeal to OHA, Appellant has the burden of proving, by a preponderance of the evidence, that the denial decision is clearly erroneous. 13 C.F.R. § 134.1111.

B. Analysis

For a concern to be an eligible SDVOSB, the management and daily business operations of the concern must be controlled by one or more service-disabled veterans. 13 C.F.R. § 128.203(a). Control by one or more qualifying veterans means that one or more qualifying veterans controls both the long-term decision-making and the day-to-day operations of the Applicant or Participant. *Id.* The regulation explicitly requires that “A qualifying veteran must hold the highest officer position in the concern (usually President or Chief Executive Officer) and must have managerial experience of the extent and complexity needed to control the concern.” 13 C.F.R. § 128.203(b) (emphasis supplied). In the case of a limited liability company, one or more qualifying veterans must serve as managing members, with control over all decisions of the limited liability company. 13 C.F.R. § 128.203(d). The terms of a concern's governing documents determine who controls the company's decisions. *CVE Protest of Valiant Construction, LLC*, SBA No. CVE-205-P, at 15 (2021), citing *XOtech v. U.S.*, 950 F.3d 1376, 1380 (Fed. Circ. 2020).

Here, Appellant's formal Articles of Organization, filed with the state of Florida explicitly designate Mr. Duval as CEO, not Mr. Davis, the Qualifying Veteran. This is directly contrary to the explicit requirement in the regulation that a Qualifying Veteran must be the CEO. There is nothing in the Operating Agreement designating Mr. Duval as CEO, or Managing Member, or formally giving him the highest officer position in the concern in any way. The D/GC could thus properly conclude that Appellant had failed to comply with the regulation.

Appellant can argue its Operating Agreement explicitly vests Mr. Davis, the Qualifying Veteran with discretion to make “decisions regarding the ordinary business operations of the Company.” Section II.A., *supra*. The Operating Agreement also vests Mr. Davis control over “major” or extraordinary business decisions. *Id.* These decisions are based on ownership interest, and require written consent from the majority interest owner, Mr. Davis, who has a 51% ownership interest in the Company. *Id.* Furthermore, the Operating Agreement does not make mention of the concern's Manager, only its Members. Section II.A., *supra*.

Despite these provisions of the Operating Agreement, actual control of Appellant is, at best, ambiguous. Because Mr. Duval is Appellant's CEO, and there is no designation of a Managing Member, it is not clear whether he is the Manager, or if both he and Mr. Davis are the concern's Managers. *Id.* Thus, the D/GC could reasonably conclude that Appellant is not controlled by a service-disabled veteran. *E.g.*, *VSBC Appeal of BCP Mechanical, LLC*, SBA No. VSBC-392-A (2024); *see also VSBC Appeal of One Veteran LLC*, SBA No. VSBC-289-A (2023) (D/GC correctly denied SDVOSB certification when authority to manage an LLC had been delegated to a non-service-disabled veteran).

Ultimately, Appellant has the burden of proof and was responsible for proving its eligibility as a SDVOSB. 13 C.F.R. § 128.302(d); *VSBC Appeal of Wigs Plus L.L.C.*, SBA No.

VSBC-278-A (2023); *VSBC Appeal of FaceKay LLC*, SBA No. VSBC-388-A (2024). Here, Appellant failed to comply with the explicit mandate of the regulation that an SDV occupy its highest officer position, the CEO. The Operating Agreement's provisions giving Mr. Davis authority over the business cannot overcome the failure to comply with an explicit regulatory mandate that an SDV be the CEO.

Accordingly, I find that the D/GC did not err in finding Appellant ineligible as a qualified SDVOSB.

IV. Conclusion

Appellant has not shown that the D/GC committed an error in denying Appellant's application for SDVOSB certification. The appeal therefore is DENIED. This is the final agency action of the U.S. Small Business Administration. 15 U.S.C. § 657f(f)(6)(A); 13 C.F.R. § 134.1112(d).

CHRISTOPHER HOLLEMAN
Administrative Judge