



**Division of Minority  
and Women's  
Business Development**

New York State  
Department of Economic Development  
Division of Minority and Women's  
Business Development

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In the matter of the appeal of

**Kelly Contracting, Inc.**

FINAL ORDER 16-35

From a denial of certification as a Women-owned Business Enterprise pursuant to Executive Law Article 15-A.

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This order arises from an administrative appeal brought on behalf of Kelly Contracting, Inc. ("Kelly Contracting") pursuant to 5 NYCRR Section 144.4. Appellant, Ms. Christine Burkey-Kelly, seeks reversal of the decision of the Division of Minority and Women's Business Development (the "Division"), dated November 12, 2015, to deny Kelly Contracting certification as a Women-owned Business Enterprise ("WBE").

This appeal was assigned to Administrative Law Judge Molly T. McBride. Appellant submitted a written appeal in this matter on February 6, 2016. The Division, represented by Phillip Harmonick, Esq., submitted a response on March 30, 2016. The submissions of the parties are contained in the appeal record.

On August 5, 2016, the Division received from Administrative Law Judge McBride a Recommended Order that reversed the Division's determination to deny the application by Appellant to certify Kelly Contracting as a WBE.

The issues on appeal were whether Appellant: made a capital contribution in proportion to her ownership interest in the business enterprise, shared in the risks and profits of the business enterprise in proportion to her ownership interest therein, and possessed the requisite technical competence or managerial experience to operate the business enterprise.

After considering the appeal record, I accept the recommendation of the Administrative Law Judge as it pertains to the facts of this case. Incorporation by reference is hereby made with respect to the findings and conclusions of the Recommended Order.

It is hereby **ORDERED** that the decision to deny certification, dated November 12, 2015, is reversed. Accordingly, Kelly Contracting will be listed in the Division's directory of certified Minority and Women-owned Business Enterprises.

August 17, 2016



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Lourdes Zapata  
Executive Director  
Division of Minority and Women's  
Business Development