



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

**LHS International, Inc. DBA Solar  
HVACR Supply**

FINAL ORDER 23-07

From a denial of certification as a Minority and Woman-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 LHS International, Inc. DBA Solar HVACR Supply (“LHS” or “Appellant”) pursuant to section 144.2 of Title 5 of the New York Codes, Rules and Regulations.<sup>1</sup> Appellant seeks reversal of the decision of the Division of Minority and Women’s Business Development (the “Division”), dated April 21, 2020, to deny LHS’s April 4, 2018, certification application as a Minority and Woman-owned Business Enterprise (“MWBE”).

Appellant initiated its appeal by sending a notice of appeal letter dated May 19, 2020, to the Division, requesting to appeal the denial determination via written submission, this also included Appellants arguments. On June 26, 2020, the Division sent a notice to proceed by written appeal to the Appellant. The Division responded to the written appeal submission with its Memorandum of Law dated May 10, 2023, and an affidavit from Matthew LeFebvre, Associate Certification Director for the Division, with attached Exhibits. Administrative Law Judge (“ALJ”) David A. Murad presided over the appeal.

The issues on appeal were whether Appellant sufficiently demonstrated that the woman owner relied upon for certification (1) has made contributions in the form of money, property, equipment or expertise in proportion to her equity interest, as required by 5 NYCRR § 144.2(a)(1); (2) shares in the risks and profits in proportion to her ownership interest in the business, as required

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<sup>1</sup> The Division’s April 21, 2020, denial determination and Appellant’s May 19, 2020, request to appeal pre-date the December 2, 2020, amendments made to 5 NYCRR Parts 140 et al. Accordingly, the eligibility criteria set forth under the former regulations are referenced throughout this final order.

by 5 NYCRR § 144.2(c)(2), (3) makes decisions pertaining to the operation of the business, as required by 5 NYCRR § 144.2(b)(1), (4) has adequate managerial experience or technical competence to operate the business enterprise, as required by 5 NYCRR §144.2(b)(1)(i), (4) is permitted by relevant business agreements to make decisions without restrictions, as required by 5 NYCRR § 144.2(b)(2), and (5) is permitted to make decisions without restrictions, as permitted by the relevant business agreements, as required by 5 NYCRR § 144.2(b)(2).

On June 26, 2023, the Division received a Recommended Order from ALJ Murad that recommended affirmation of the Division’s denial of the application to certify LHS as a MWBE on the grounds set forth in the Division’s April 21, 2020, denial letter.

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 April 21, 2020, is affirmed. Accordingly, LHS International, Inc. DBA Solar HVACR Supply will not be listed in the Division’s directory for Minority and Women-owned Business Enterprises.

August 11, 2023



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Jason M. Clark  
Executive Vice President and Executive Director  
Division of Minority and Women’s Business Development