



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

**Angad Construction Corp.**

FINAL ORDER 24-11

From a denial of certification as a Minority-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 Angad Construction Corp., (“Angad” or “Appellant”) pursuant to Section 144.2 of Title 5 of the New York Codes, Rules and Regulations. Appellant seeks reversal of the decision of the Division of Minority and Women’s Business Development (the “Division”), dated August 10, 2023, to deny Angad’s October 21, 2022, application for certification as a Minority-owned Business Enterprise (“MBE”).

Appellant initiated its appeal by sending a notice of appeal letter dated August 18, 2023, to the Division, requesting to appeal the denial determination via hearing. On March 18, 2024, the Division sent a notice of hearing to the Appellant. The hearing was held and concluded on June 27, 2024. Henry C. Chan, Esq., of Wilson & Chan, LLP, appeared at the hearing on behalf of the Appellant with one witness, President of Angad, Gurmeet Singh Chadha. Misha Wright, Counsel for Department of Economic Development, appeared at the hearing on behalf of the Division with one witness, Associate Certification Director for the Division of Minority and Women’s Business

Development, Glenn Butler. Administrative Law Judge (“ALJ”) Deidre A. Chuckrow presided over the appeal.

The issue on appeal was whether Appellant sufficiently demonstrated that the business enterprise operates independently, as required under 5 NYCRR § 144.2(e).

Counsel for the Appellant argued that the Division’s denial determination articulated only one, narrow, reason for denial under independence: that the applicant business, a general contractor, subcontracted all its business, did not self-perform any work, and therefore did not operate independently. Counsel further contended that other considerations relating to independence, such as whether Angad shares resources with another entity, or whether the business enterprise transacts business primarily with one other entity, should not have been considered on appeal, as the Appellant had insufficient notice as to these other reasons, aside from the one articulated in the denial determination, for denial. (See, 5 NYCRR §§ 144.2(e)(1) and (2) and 145.2(a)(2)(ii)(d)<sup>1</sup>; NYS Administrative Procedures Act (“SAPA”) § 301.2). ALJ Chuckrow agreed with Appellant’s Counsel and subsequently limited testimony to the issue of self-performance.

The Division’s position is that the ALJ erred in her interpretation and subsequent limitation of the elements that were discussed at the hearing. SAPA Section 301(2) requires that the hearing notice include, among other items, a reference to the particular sections of the statutes and rules involved, and a short and plain statement of the matters asserted. Similarly, 5 NYCRR § 145.2

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<sup>1</sup> Cited as 145.2(a)(2)(ii)(4) in the Recommended Order.

(2)(ii) requires the hearing notice contain, among other items, the certification criteria at issue. Notices for administrative hearings “need only be reasonable and sufficiently definite to inform the public of the nature of the proceeding and the hearing to be held.” (See *Washington County. Cease, Inc. v. Persico*, 120 Misc. 2d 207, 232, 465 N.Y.S.2d 965, 981 (Sup. Ct. 1983), *aff'd*, 99 A.D.2d 321, 473 N.Y.S.2d 610 (1984), *aff'd*, 64 N.Y.2d 923, 477 N.E.2d 1084 (1985)).

Here, the Notice of Denial Determination stated, “[t]he business enterprise must operate independently,” and cited 5 NYCRR § 144.2(e). This reference is reasonably particular and provides sufficient notice of the certification criteria at issue, considering there are only three underlying subsections, and all underlying subsections are reasonably related. Without further enumeration of the underlying three subsections, it is reasonable to infer that the entirety of section 144.2(e) was at issue on appeal. Additionally, per SAPA § 301(2), any party can request a more definite and detailed statement to be furnished. No such request was made.


Further, pursuant to 5 NYCRR § 145.2, the Notice of Denial Determination is appealable administratively and, therefore, cannot be considered a final agency determination. Angad chose to exercise its right to appeal via an administrative hearing, at which both parties had the opportunity to be heard for the purpose of developing a record upon which the Division's final decision would be based. Consequently, the parties have had the opportunity to develop all issues associated with the denial of the application for certification as a Minority-owned business enterprise and the Appellant has not suffered prejudice.

On July 24, 2024, the Division received a Recommended Order from ALJ Chuckrow that recommended the reversal of the Division’s denial of Angad Construction Corp.’s certification application as an MBE, on the grounds set forth in the Division’s August 10, 2023, denial letter.

**ORDERED:** In conformity with the attached Revised Recommended Order, with the distinction regarding sufficient notice, **Angad Construction Corp.** will be listed in the Division's directory for Minority and Women-owned Business Enterprises.

This decision is Ordered by Jason M. Clark, the Executive Vice President and Executive Director of the Division of Minority and Women's Business Development.

November 23, 2024

A handwritten signature in black ink, appearing to read "Jason M. Clark", written over a horizontal line.

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