

**NEW YORK STATE**  
**DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**207 GENESEE STREET**  
**UTICA, NEW YORK 13501**

**In the Matter**

**- of -**

**the Application of Atlantic Coast Consulting, Inc. dba Atlantic Coast  
for Certification as a Woman-owned Business Enterprise  
pursuant to Executive Law Article 15-A.**

**NYS DED File ID No. 70777**

**RECOMMENDED ORDER**

**-by-**



---

**David A. Murad**  
**Administrative Law Judge**  
**April 17, 2024**

This matter considers the written appeal by Atlantic Coast Consulting, Inc. dba Atlantic Coast (“Atlantic Coast” or “applicant”) pursuant to New York State Executive Law Article 15-A and Title 5 of the Official Compilation of Codes, Rules and Regulations of the State of New York (5 NYCRR) parts 140-144, challenging the determination of the Division of Minority and Women’s Business Development (“Division”) of the New York State Department of Economic Development (“DED”) that the business enterprise does not meet the eligibility criteria for certification as a woman-owned business enterprise (“WBE”).

### **PROCEDURAL HISTORY**

1. On April 21, 2023, Ms. Stephanie LaSala, as President, applied on behalf of Atlantic Coast for certification as a woman-owned business enterprise (“WBE”) (DED Exhibit 1).
2. On September 21, 2023, the Division denied the application on the following grounds (DED Exhibit 2):
  - (a) Minority group members or women relied upon for certification do not devote time on an ongoing basis to the daily operation of the business enterprise, as required under 5 NYCRR §144.2(c)(3); and
  - (b) The business enterprise does not operate independently, as required under 5 NYCRR § 144.2(e).
3. Atlantic Coast timely filed a Request to Appeal on October 23, 2023 (APP Exhibit A).
4. A notice to proceed via written appeal was sent to Atlantic Coast on October 23, 2023 (DED Exhibit 3).
5. Atlantic Coast filed its written appeal by undated letter. (APP Exhibit B).

6. The Division filed an Affidavit of Raymond Emanuel, Associate Director, dated February 23, 2024, and a brief of Michael Paff Esq., counsel for the Division, dated February 26, 2024.

### **FINDINGS OF FACT**

7. Atlantic Coast is engaged in the business of consulting and professional program and project management services (DED Exhibit 1).
8. Ms. Stephanie LaSala is the President and has a 100% ownership interest. (DED Exhibit 1).
9. The business address is 85 Broad Street, 16<sup>th</sup> Floor, New York, New York. The mailing address is 421 Silver Creek Lane, Murrells Inlet, South Carolina. Atlantic Coast subleases its office space and operates from the same business location as Winsor Consult Group Corporation (“Winsor”), Ms. LaSala’s employer. Atlantic Coast pays no rent to Winsor. The number of Atlantic Coast employees is listed as zero. (DED Exhibits 1 and 6).
10. Ms. LaSala’s resume reflects that she has 15 years of experience in management in the public sector concentrated in disaster response programs. She received a Bachelor of Science degree in criminal justice from Rochester Institute of Technology and a Juris Doctorate from New England School of Law (DED Exhibit 5).
11. Ms. LaSala is an employee of Winsor, working an average of 40 hours per week. She has worked there since 2017 as a Program Manager and became a Deputy Program Director in 2021. She manages a team of over 100 employees in the call center, application processing and case management services (DED Exhibits 1 and 5).
12. Applicant earned no gross income until 2021 (DED Exhibit 8). In 2021, applicant earned \$██████ in gross income (DED Exhibit 9). Applicant provided the only two contracts

acquired since its inception (DED Exhibit 7). Both contracts are with Winsor, Ms. LaSala's employer and Atlantic Coast's landlord.

### **APPLICABLE LAW**

5 NYCRR §144.2(c) states in relevant part as follows:

Operation. Minority group members and women relied upon for certification must make day-to-day decisions concerning the operation of the business enterprise for which certification is sought. The division shall evaluate whether minority group members or women operate a business enterprise for which certification is sought based upon the following criteria:

...(3) Time devoted to operation of the business enterprise. Minority group members and women relied upon for certification must devote time on an ongoing basis to the daily operation of the business enterprise for which certification is sought.

5 NYCRR §144.2(e) states as follows:

Independence. Business enterprises for which certification is sought must operate independently. In order to determine whether such business enterprises operate independently, the division shall consider but not be limited to the following criteria:

- (1) Whether the business enterprise shares resources with another entity, including, but not limited to, personnel, equipment, office space, warehouse and other storage space, and yard space;
- (2) Whether the business enterprise transacts business primarily with one other entity; and
- (3) Whether the business enterprise receives tangible benefits as a result of a connection to another entity, and whether such benefits are consistent with standard industry practices.

### **STANDARD OF REVIEW**

On this administrative appeal, applicant bears the burden of proof to establish that Division staff's determination to deny the application filed by Atlantic Coast for certification as a WBE is not supported by substantial evidence (*see* State Administrative Procedure Act § 306[1]). The substantial evidence standard "demands only that a given inference is reasonable and plausible,

not necessarily the most probable,” and applicant must demonstrate that Division staff’s conclusions and factual determinations are not supported by “such relevant proof as a reasonable mind may accept as adequate to support a conclusion or ultimate fact.” (*Matter of Ridge Rd. Fire Dist. v Schiano*, 16 NY3d 494, 499 [2011]).

The review is limited to such information that was before the division at the time of the denial determination (5 NYCRR 145.2(b)(1)). Evidence that seeks to clarify and explain previously submitted materials will be considered, however new evidence will not be considered. See *Scherzi Systems, LLC v. White*, 197 A.D.3d 1466 (3d Dept 2021).

## **DISCUSSION**

### I. Operation

The application was denied on the ground that the woman-owner does not devote sufficient time on an ongoing basis to the daily operation of the business, as required by 5 NYCRR§144.2(c)(3). The Division has consistently found that part-time work for a business does not qualify as devoting time to the daily operation of the business. See *Matter of Brandt Equipment*, Recommended Order dated April 28, 2020, Final Order 20-06, dated June 2, 2020.

Ms. LaSala is an employee of Winsor, working an average of 40 hours per week. She has worked there since 2017 as a Deputy Program Director. She manages a team of over 100 employees in the call center, application processing and case management services (DED Exhibits 1 and 6). All of her income comes from Winsor (DED Exhibit 9).

Applicant earned no gross income until 2021 (DED Exhibit 8). In 2021, applicant earned \$██████ in gross income (DED Exhibit 9). Ms. LaSala has earned no income from applicant (DED Exhibit 9).

On appeal, applicant states: “The denial narrative provided on September 21, 2023 assumes that there are only 40 working hours in a week, and that an individual cannot concurrently work a full-time position for one employer while operating another company and pursuing business development.” (APP Exhibit B). However, no proof was submitted detailing how many hours Ms. LaSala devotes to the applicant business.

The Division’s finding that Ms. LaSala does not devote time to the daily operation of the business as required under 5 NYCRR §144.2(c)(3) is supported by substantial evidence.

## II. Independence

The Division further found that Atlantic Coast is not an independent business enterprise, as required under 5 NYCRR §144.2(e). This section considers “whether the business enterprise shares resources with another entity, including, but not limited to, personnel, office space, warehouse and other storage space, and yard space... 5 NYCRR §144.2(e)(1), and “whether the business enterprise receives tangible benefits as a result of a connection to another entity...”. 5 NYCRR §144.2(e)(3).

The business address is 85 Broad Street, 16<sup>th</sup> Floor, New York, New York. The mailing address is 421 Silver Creek Lane, Murrells Inlet, South Carolina. Atlantic Coast subleases its office space and operates from the same business location as Winsor Consult Group Corporation (“Winsor”), Ms. LaSala’s employer. Atlantic Coast pays no rent to Winsor. The number of Atlantic Coast employees is listed as zero. (DED Exhibits 1 and 6).

Applicant provided the only two contracts acquired since its inception (DED Exhibit 7). Both contracts are with Winsor, Ms. LaSala’s employer and Atlantic Coast’s landlord.

Applicant receives tangible benefits from Winsor by not paying any rent to Winsor and having its only contracts with Winsor.

On appeal, applicant states: “Winsor, a NYS Certified MBE, would derive no direct benefit from Atlantic Coast becoming a NYS Certified WBE, and in fact the purpose of being transparent about the sponsorship of Atlantic Coast by Winsor, was to shine a light on the “pay it forward” mentality that is encouraged by the State of New York. Sharing office space, in a shared office space location such as WeWork, does not negate the independence of the two companies.” (APP Exhibit B). However, the issue is not whether Winsor derives a benefit from Atlantic Coast. Atlantic Coast derives tangible benefits from Winsor. Applicant confirms this when it states: “Winsor has asked for no rent to be paid in and effort to minimize overhead and maximize earnings for Atlantic Coast.” (APP Exhibit B).

The Division’s determination to deny the application on the basis that Atlantic Coast failed to demonstrate that the business is an independent enterprise, as required under 5 NYCRR §144.2(e), is supported by substantial evidence.

### **CONCLUSION**

Atlantic Coast did not meet its burden to demonstrate that the Division’s determination to deny its application for certification as a woman-owned business enterprise with respect to the eligibility criteria at 5 NYCRR §§144.2(c)(3) and 144.2(e) was not based on substantial evidence.

### **RECOMMENDATION**

For the reasons set forth above, I recommend that the Director affirm the Division’s determination to deny Atlantic Coast’s application for certification as a woman-owned business enterprise.

In the Matter of Atlantic Coast Consulting, Inc. dba Atlantic Coast  
 DED File ID No. 70777  
 Exhibit Chart

Exhibit #:	Description of the Exhibits	Offered (Yes/No)	Admitted (Yes/No)
APP A	Request to Appeal	Y	Y
APP B	Appeal Submission	Y	Y
DED 1	Application for Certification	Y	Y
DED 2	Denial Letter	Y	Y
DED 3	Request to Appeal	Y	Y
DED 4	Notice to Proceed Via Written Appeal	Y	Y
DED 5	Resume of Stephanie LaSala	Y	Y
DED 6	Atlantic Coast Lease	Y	Y
DED 7	Service Agreements	Y	Y
DED 8	Atlantic Coast 2021 Tax Return	Y	Y
DED 9	Stephanie LaSala 2021 Tax Return	Y	Y