

NEW YORK STATE
DEPARTMENT OF ECONOMIC DEVELOPMENT
625 BROADWAY
ALBANY, NEW YORK 12207

In the Matter

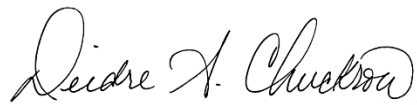
- of -

the Application of R2I Defense, Inc.
for Certification as a Woman-Owned Business Enterprise
pursuant to Executive Law Article 15-A.

NYS DED File ID No. 72612

RECOMMENDED ORDER

-by-



Deidre A. Chuckrow
Administrative Law Judge
July 14, 2025

This matter considers the written appeal by R2I Defense, Inc. (“R2I” 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 June 28, 2024, R2I applied for certification as a women-owned business enterprise (“WBE”). R2I based its application on Ms. Shannon Secor. (DED Exhibit 1).
2. On November 26, 2024, the Division denied the application on the following grounds (DED Exhibit 2):
 - (a) The woman owner relied upon for certification does not possess adequate, industry-specific competence to make critical business decisions without relying upon other persons as required under 5 NYCRR § 144.2(c)(1); and
 - (b) The woman owner relied upon for certification does not make operational decisions on a day-to-day basis with respect to the critical functions of the business enterprise, as required under 5 NYCRR § 144.2(c)(2).
3. On December 24, 2024, R2I submitted a request to appeal the denial determination. (DED Exhibit 3).
4. On January 2, 2025, a Notice to Proceed via Written Appeal was sent to R2I (DED Exhibit 4).

5. Applicant submitted a written appeal letter with attachments dated January 23, 2025. (APP Exhibit A).
6. The Division filed an Affirmation of Eugenio Alcantara, Certification Director, dated May 28, 2025, and a brief of Misha M. Wright, Esq., counsel for the Division, dated May 29, 2025.

FINDINGS OF FACT

7. R2I is engaged in the business of defense cybersecurity. (DED Exhibit 1).
8. Ms. Shannon Secor, the woman-owner relied upon for certification, is the CEO and 100% owner of the applicant business. (DED Exhibit 1).
9. The critical functions of the applicant business include research and development (R&D) of cyber tools to operation and solutions. Its services range from software tool development, “force multiplier automation,” and “reverse engineering and rapid prototyping.” This work consists of “custom computer programming; writing, modifying, testing, and supporting software. . .” “Software development. . . is the entire business.” (DED Exhibits 1, 5, and 9).
10. Ms. Secor has a Bachelor’s Degree in Accounting and has participated in business and leadership trainings, including record retention, Contractor Purchasing System Review (“CPSR”), contract cost and pricing, and defense contracting and auditing. Her expertise is in managing personnel, financial reports, financial strategies, accounting practices, forecasting, pricing, and budgets. She has knowledge of federal contracting policies, and contract administration, as well as in writing and implementing corporate policies. (DED Exhibits 7 and 8).
11. Ms. Secor has been the President and CEO of R2I since its founding in 2020. She manages all operations and business activities for R2I, including managing “the general oversight of the activities for contracting, business development, information technology, security, and

program execution.” She is the lead for accounting and financing for the applicant business, administers employee benefits, and handles corporate insurance, banking, and payroll. She “[c]ollects, inputs, reconciles, maintains, and reviews all financial functions, including A/P, A/R, payroll, taxes, cash flow, budgeting, forecasting, and financial statements” for the applicant business. (DED Exhibits 7 and 8).

12. Ms. Secor devotes more than 40 hours a week to the business and is on call every day. She provides “leadership and direction” to employees and “enforce[s] adherence to legal guidelines and in-house policies.” She manages the general oversight for contracting, business development, information technology, security, and program execution. She describes her day-to-day decisions as including hiring and termination of personnel and states that her specific expertise is in “the accounting side, the government accounting side.” Ms. Secor is “not tech savvy. . . , but [she] get[s] to know what [staff] are working on and where they are applying it.” (DED Exhibits 7, 8, 9, and 15).

13. Ms. Secor’s work history includes 15 years at Assured Information Security, Inc. (“AIS”), four years of which she served as the V.P. of Finance and Controller. Ms. Secor’s work at AIS included managing, directing, and mentoring accounting and finance staff. (DED Exhibits 7 and 8).

14. R2I entered into a contract with Millennium Corporation (“Millennium”) in 2022 which scope of work included supporting researching cyber threats, and providing “System Enhancements, Next Generation System Design, and Implementation Services. . . .” the development and implementation of a mobile application, and the provision of “end user services.” The contract was signed by Adrian Piaschyk, Director of Contracts for the applicant business. (DED Exhibit 10).

15. R2I entered into a contract with Radiance Technologies (“Radiance”) in 2023, signed by Mr. Piaschyk, for work involving the implementation of the Air Force Research Laboratory’s (“AFRL”) “Agile Cyber Technology 3 program and involved “rapid research, development, prototyping, demonstration, evaluation, and transition of cyber capabilities.” The contract required an “Electronic/Electrical Engineer / Software Engineer / Systems Analyst” at the senior level with 15 years of direct related experience, and/or at the junior level with 10 years of direct related experience, and a Test Engineer at the senior level with 15 years of direct related experience, and/or a junior Test Engineer with 10 years of direct related experience.” In addition, the Engineer positions require the individual to hold either an M.S. or Ph.D. (DED Exhibits 11 and 12).
16. R2I contracted with Raytheon BBN Technologies Corp. (“BBN”) in 2023 for work “center[ing] around a government of[f] the Shelf (GOTS) toolkit that [R2I] are experts in, and integrating it into a BBN built suite of tools.” “R2I will provide systems engineering, tool improvements in the form of pluggable software modules, and planning for next phase scope to the current government tool.” The contract stipulates that R2I provide “subject matter expertise and systems engineering support to ongoing classified sponsor work.” Tim Hanna is listed as the Technical Representative for R2I and Adrian Piaschyk as the contract representative. (DED Exhibits 13 and 14).
17. Some work done for the Department of Defense is classified, and for those contracts Ms. Secor does not know the details of the work being completed. (DED Exhibit 9).
18. Patrick Kotary is the Business Director and Director of Programs for R2I. Ms. Secor shares responsibility for marketing and sales of software development tools with Mr. Kotary. Mr. Kotary ensures that R2I’s customer “requirements are fulfilled.” Mr. Kotary “mak[es] all the

calls and mak[es] [all] the connections” which generate business for the company and “meet[s] with customers to showcase [R2I’s] capabilities.” Mr. Kotary is responsible for “managing any programs that [R2I] has.” (DED Exhibits 1, 9, and 10).

19. Adrian Piaschyk is the Director of Contracts for R2I and works full time for the business. He shares responsibility for negotiating contracts with Ms. Secor. Mr. Piaschyk performs the internal IT work and does some program management. (DED Exhibits 1, 9, 10, 11, and 12).

APPLICABLE LAW

5 NYCRR § 144.2 (c)(1) states as follows:

Competence in the industry. Minority group members and women relied upon for certification must possess adequate, industry-specific competence to make critical business decisions without relying upon other persons. This requirement cannot be satisfied by expertise or experience in office management or general business administration, among other things. In evaluating whether a minority group member or woman possesses adequate, industry-specific competence, the division shall consider factors including but not limited to:

- (i) Whether individuals employed by the business enterprise for which certification is sought are required to obtain licenses or certifications to provide products or services to the clients of the business enterprise;
- (ii) The extent to which academic credentials exist for persons employed in the industry; and
- (iii) The extent to which industry-specific expertise may be obtained via direct work experience.

5 NYCRR § 144.2 (c)(2) states as follows:

Operational decisions. Minority group members and women relied upon for certification must make operational decisions on a day-to-day basis with respect to the critical functions of the business enterprise for which certification is sought. The critical functions of a business enterprise shall be determined by the division based upon the following factors, but is not limited to:

- (i) The products or services the business enterprise provides to clients; and
- (ii) The means by which the business enterprise obtains contracts or orders.

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 R2I 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. Industry-Specific Competence and Day-to-Day Operations

R2I's application for certification as a WBE was denied on the basis that the applicant failed to demonstrate that Ms. Secor possesses adequate, industry-specific competence to make critical business decisions without relying upon other persons, as required by 5 NYCRR § 144.2(c)(1) and that the applicant failed to demonstrate that she makes operational decisions on a day-to-day basis with respect to the critical functions of the business enterprise as required by 5 NYCRR § 144.2(c)(2). (DED Exhibit 2).

The Division interprets these regulations to require an applicant to demonstrate that the owner, relied on for certification, has the working knowledge necessary to review or evaluate the

work of more experienced employees. See *In the Matter of Upstate Electrical, LLC v New York State Department of Economic Development*, 179 A.D.3d 1343 (3d Dept. 2020) citing to *Matter of C.W. Brown, Inc. v Canton*, 216 A.D.2d 841, 842 (1995) (where the Court affirmed the denial where the owner had no training or experience in the industry to make her qualified to supervise the work of her employees.) The Division consistently denies applications for certification where an applicant fails to demonstrate that they possess adequate industry competence. See *Matter of cSide Tech, LLC*, Recommended Order, August 14, 2023 (Final Order 23-08, August 17, 2023) (Certification denied where owner relied on for certification for an IT services company handled accounts payable and receivable, marketing, execution and proposal development, and had no degrees or work experience in IT, and the non-qualifying owner held degrees in electrical engineering and computer software engineering and had over twenty years of experience in IT).

The Division requires that owners be able to perform the core revenue generating functions of the business enterprise. See *Matter of CCS Custom Construction Services Corp.*, Recommended Order, March 25, 2025 (Final Order 25-04, April 11, 2025) (Construction and mill work company where owner relied on for certification reviewed and signed contracts, discussed contract details, and hired subcontractors and employees, but did not possess appropriate licenses or certifications, and had no experience in construction or millwork, owner relied on for certification was determined to not possess adequate industry competence, without relying on others), see also, *Matter of Bore Tech, LLC*, Recommended Order, June 1, 2021 (Final Order 21-05, February 7, 2022), see also, *Matter of Occupational Safety & Environmental Assoc., Inc. v New York State Department of Economic Development*, 161 A.D.3d 1582 (4th Dept. 2018). Expertise or experience in office management or general business administration will not satisfy these requirements. 5 NYCRR § 144.2(c)(1).

In considering 5 NYCRR § 144.2(c)(1), regarding industry-specific competence, the Division shall consider:

- (i) Whether individuals employed by the business enterprise for which certification is sought are required to obtain licenses or certifications to provide products or services to the clients of the business enterprise;
- (ii) The extent to which academic credentials exist for persons employed in the industry; and
- (iii) The extent to which industry-specific expertise may be obtained via direct work experience.

Under 5 NYCRR 144.2(c)(2) the critical functions of the business enterprise shall be determined by the Division based upon, but not limited to, the following factors: (1) “The products or services the business enterprise provides to clients; and” (2) “The means by which the business enterprise obtains contracts or orders.” The Division consistently denies certification where the owner has no training, experience, or working knowledge in the core business functions and other employees or owners have more significant or substantive experience, and exercise that experience, such as by supervising or controlling field operations. *Matter of Panko Electrical and Maintenance Corp. v Zapata et. al*, 172 A.D.3d 1682 (3d Dept. 2019), see also *Matter of Upstate Electrical, supra*.

The Applicant bears the burden of establishing that the woman relied upon for certification has met this requirement. Failure to satisfy this burden is proof that the denial was supported by substantial evidence. See *Matter of A.A.C. Contracting, Inc. v. New York State Dept. of Economic Development*, 195 A.D.3d 1284 (3d Dept. 2021).

Here, Ms. Secor does not possess adequate, industry-specific competence to make critical business decisions without relying upon other persons and does not maintain independent operational control of the business. Ms. Secor’s education and professional background, prior to

starting the applicant business in 2020, is in accounting, finance, and government contract administration. (DED Exhibits 7 and 8). The Division determined that the critical functions of R2I, based on the application and what products and services the applicant business provides to clients include research and development (R&D) of cyber tools to operation and solutions, IT services, software tool development, “force multiplier automation,” and “reverse engineering and rapid prototyping.” This work consists of “custom computer programming; writing, modifying, testing, and supporting software. . .” (DED Exhibits 1 and 2).

Ms. Secor’s resume lists no work experience, courses or trainings relating to the field of custom computer programming, R&D of cyber tools, software development, force multiplier automation, reverse engineering and rapid prototyping, or in any type of writing, modifying, or testing computer software programs (DED Exhibits 5 and 7).

Section 4.a of the application provides that Ms. Secor is solely responsible for most managerial operations except for marketing & sales, which is shared with Mr. Kotary, the Director of Programs and negotiating contracts, which is shared with Mr. Piaschyk, the Director of Contracts. (DED Exhibit 1). While the application states that Ms. Secor is responsible for supervising field operations, nowhere in the application, nor in the appeal, is there any information regarding Ms. Secor performing or supervising any technical work relating to the critical functions of the business. By contrast, information provided in the narrative responses to questions asked by the Division, and in an interview with the Division, establish that Ms. Secor is not involved in the work of software development, which Ms. Secor describes as the “entire business.” (DED Exhibits 1, 9, and 15).

During Ms. Secor’s interview with the Division, she explained that her day-to-day work included cash flow management, reviewing contracts and purchase orders, reviewing regulations

to ensure the business is up to date, payroll and bill payments, reviewing benefits, and attending meetings regarding new business and the status of internal projects. Ms. Secor described the work as creating software tools for research and development for government defense projects. When asked what her direct role is in the development of this software Ms. Secor stated that she is “not tech savvy in the role, but I get to know what [her staff] is working on and where they are applying it.” However, she stated that some of the work is classified, and in those situations, she cannot know the details of the work. (DED Exhibit 9).

The Division requested that “[r]esumes of all owners, directors, officers, and **other key employees** of the applicant business” be provided, however the resumes of the key employees of R2I were not provided. (DED Exhibit 1). Mr. Kotary is listed on the application as sharing responsibility with Ms. Secor, for marketing and sales. When asked to explain Mr. Kotary’s role in the applicant business, Ms. Secor stated that he is the one “making all the calls and making connections,” and “meet[s] with customers to showcase our capabilities” and is the one who ensures that “customer requirements are getting fulfilled.” (DED Exhibits 1 and 9).

Mr. Piaschyk is listed on the application as sharing responsibility with Ms. Secor for negotiating contracts. Ms. Secor described his role as the person who does “contract stuff and IT stuff” and that he also works in program management. (DED Exhibits 1 and 9).

Contracts were supplied to the Division which all indicate that Mr. Piaschyk is the only signatory. (DED Exhibits 10, 11, 12, 13, and 14). On the subcontract with Millenium Corporation, Mr. Piaschyk is the signatory for the business and Mr. Kotary is listed as R2I’s Field Security Officer (“FSO”), while Ms. Secor is not referenced anywhere in the contract. (DED Exhibit 10).

Applicant entered into a subcontractor agreement with Radiance Technologies, Inc. (“Radiance”) which evidences that Mr. Piaschyk is the only signatory and Ms. Secor is not

referenced in the contract. (DED Exhibits 11 and 12). The subcontract entered into with Raytheon BBN Technologies is only signed by Mr. Piaschyk, and lists Mr. Piaschyk as the “Contract Representative” and Tim Hanna, as the “Technical Representative” Ms. Secor is not referenced anywhere in the contract. The contract is for work involving the implementation of the Air Force Research Laboratory’s (“AFRL”) “Agile Cyber Technology 3 program and involved “rapid research, development, prototyping, demonstration, evaluation, and transition of cyber capabilities.” (DED Exhibits 13 and 14).

The Radiance agreement requires R21 to provide an “Electronic/Electrical Engineer / Software Engineer / Systems Analyst” at the senior level with 15 years of direct related experience, and/or at the junior level with 10 years of direct related experience, and a Test Engineer at the senior level with 15 years of direct related experience, and/or a junior Test Engineer with 10 years of direct related experience.” In addition, the Engineer positions require the individual to hold either an M.S. or Ph.D. (DED Exhibits 11 and 12). Here, not only would Ms. Secor not be able to fulfill this role, she would not be able to supervise the work of others with this technical experience. (DED Exhibits 7, 11, and 12).

R2I’s contract with BBN for work “center[ing] around a government off[f] the Shelf (GOTS) toolkit that [R2I] are experts in and integrating it into a BBN built suite of tools.” The work requires that R2I “provide systems engineering, tool improvements in the form of pluggable software modules, and planning for next phase scope to the current government tool.” The contract stipulates that R2I provide “subject matter expertise and systems engineering support to ongoing classified sponsor work.” Tim Hanna is listed as the technical representative for R2I and Adrian Piaschyk as the contract representative. Ms. Secor is not referenced anywhere in the contract. (DED Exhibits 13 and 14).

While there is ample evidence to support a finding that Ms. Secor controls the administrative and financial side of the business, and has extensive experience in accounting and governmental contracts, the record is devoid of evidence that indicates that she has anything to do with the critical functions of R2I, which Ms. Secor acknowledges is software development. There is no evidence that Ms. Secor is involved at all in the custom computer programming and support provided by R2I, and she is not listed as having any roles in the contracts provided with the application. (DED exhibits 10, 11, 12, 13, and 14). Further, the evidence, through statements made by Ms. Secor herself, establishes that it is Mr. Kotary who directs and manages the applicant business' programs, and is also the source of new business and conducts all client interaction. (DED Exhibit 9).

The applicant argues on appeal that the Division was incorrect in their finding that she lacks adequate industry specific competence, and states that Ms. Secor has "industry experience and understand[s] the technical approach, [and] technical operations. . ." Ms. Secor states that while she does not have a degree in software engineering, "nor can [she] write software code, [she has] been involved in the federal cyber security software industry for 20 years and understand[s] the requirements." She goes on to state that her "personnel provide [her] with briefs and demonstrations of [the applicant business'] technology for further clarification." In addition, Ms. Secor states that while Mr. Kotary "makes the relationships with potential customers, those customers are pointed by [her]," and though Mr. Kotar is "delegated authority to monitor the activity of any project," those projects are "reviewed and discussed monthly." Ms. Secor also states on appeal that "Adrian Piaschyk does not sign off on any contract until approval [is] granted by [Ms. Secor]," and that both she and Mr. Piaschyk review the contracts for items requiring negotiation, and that negotiation is "delegated to" Mr. Piaschyk. (APP Exhibit A)

Applicant also provides, on appeal, additional documents, including business trainings attended by Ms. Secor, a Federal Small Business Administration Woman-Owned (“WOSB”) Certification and approval letter, internal management meeting notes, personnel records, additional contracts, purchase orders, and other corporate documents. These documents, with the exception of the WOSB approval letter, were not before the Division at the time of the application. (APP Exhibit A) and hence is new and not clarifying information and therefore, cannot now be considered, pursuant to *Scherzi, supra*.

Applicant’s appeal submission concedes that Ms. Secor is not an engineer and that she cannot write software code but argues that her work in managing the contractual side of the business, the fact that she actively attends meetings and assigns and delegates work, combined with her prior work and expertise in the contract and financial side of the industry, provides her with the requisite expertise to run the business without relying on others. (APP Exhibit A). While there is ample evidence that Ms. Secor understands the contracting and financial side of the business, the record does not establish that Ms. Secor is involved in the critical functions of the business, which she herself states is software development.

The record taken as a whole indicates that Ms. Secor must rely on employees to fulfill contract requirements. (DED Exhibits 1, 5, 7, 8, 10, 11, 12, 13, 14, and 15). Specifically, all the contracts are signed by others, list other employees of R2I as points of contact, and involve the work of research and developing cyber tools for defense contractors, which includes “custom computer programming; writing, modifying, testing, and supporting software. . .” (DED Exhibits 1, 5, 10, 11, 12, 13, 14, and 15).

Based on the foregoing, I find that the Division’s determination that the woman-owner relied upon for certification does not possess adequate industry competence to make critical

business decisions without relying on other persons and does not make operational business decisions on a day-to-day basis with respect to the critical functions of the applicant business, as required under 5 NYCRR §§ 144.2(c)(1) and (2) is supported by substantial evidence.

CONCLUSION

R2I 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)(1) and 144.2(c)(2) was not based on substantial evidence.

RECOMMENDATION

The Division's determination to deny R2I Defense, Inc.'s application for certification as a woman-owned business enterprise should be affirmed.

In the Matter of R2I Defense, Inc.
DED File ID No. 72612
Exhibit Chart

| Exhibit #: | Description of the Exhibits | Offered (Yes/No) | Admitted (Yes/No) |
|------------|---|---------------------|----------------------|
| APP A | Applicant Appeal Letter and Submissions | Y | Y |
| DED 1 | R2I Defense, Inc. ("R2I") WBE Certification Application | Y | Y |
| DED 2 | Denial Determination Letter re: R2I's WBE Application (dated 11/26/24) | Y | Y |
| DED 3 | R2I's Request to Appeal Denial Determination | Y | Y |
| DED 4 | Notice to Proceed Via Written Appeal Submission (dated 1/2/25) | Y | Y |
| DED 5 | R2I Defense Statement Regarding Services Provided (Q&A Response Q.2, dated 9-25-24) | Y | Y |
| DED 6 | R2I Defense Inc.'s website homepage: https://r2idef.com | Y | Y |
| DED 7 | Resume of Shannon M. Secor | Y | Y |
| DED 8 | Shannon Secor Experience in Industry (Q&A Response Q.1, dated 10-11-24) | Y | Y |
| DED 9 | Division Interview of Shannon Secor Conducted on 11/15/24 | Y | Y |
| DED 10 | Millenium Subcontract (dated May 1, 2022) | Y | Y |
| DED 11 | Radiance Subcontract (dated May 19, 2023) | Y | Y |
| DED 12 | Amended Task Order to Radiance Subcontract (dated April 3, 2024) | Y | Y |
| DED 13 | Raytheon-BBN Subcontract (dated November 20, 2023) | Y | Y |
| DED 14 | Modification to Raytheon-BBN Subcontract (dated November 20, 2023) | Y | Y |
| DED 15 | Shannon Secor Daily Duties Q&A (Q&A Response Q.2, dated 10/11/24) | Y | Y |