United States Small Business Administration
Office of Hearings and Appeals

SIZE APPEAL OF: NFRL LLC, Appellant, Appealed From Size Determination Nos. 06-2022-036, -037	SBA No. SIZ-6174 Decided: September 28, 2022

APPEARANCES

Jeffrey G. Richardson, Esq., Miller, Canfield, Paddock and Stone, P.L.C., Troy, Michigan, for Appellant

William D. David, Esq., Office of General Counsel, U.S. Small Business Administration, Washington, D.C.

DECISION[1]

I. Introduction and Jurisdiction

On May 20, 2022, the U.S. Small Business Administration (SBA) Office of Government Contracting — Area VI (Area Office) issued Size Determination Nos. 06-2022-036 and 06-2022-037, finding that NFRL LLC (Appellant) is not eligible for two Small Business Innovation Research (SBIR) grant awards. The Area Office found that Appellant does not meet the ownership and control requirements for the SBIR program as set forth at 13 C.F.R. § 121.702(a)(1). On appeal, Appellant maintains that the size determination is clearly erroneous, and requests that SBA's Office of Hearings and Appeals (OHA) reverse. For the reasons discussed *infra*, the appeal is denied and the size determination is affirmed.

OHA decides size determination appeals under the Small Business Act of 1958, 15 U.S.C. § 631 *et seq.*, and 13 C.F.R. parts 121 and 134. Appellant filed the instant appeal within 15 days after receiving the size determination, so the appeal is timely. 13 C.F.R. § 134.304(a). Accordingly, this matter is properly before OHA for decision.

[1] This decision was originally issued under a protective order. After receiving and considering one or more timely requests for redactions, OHA now issues this redacted decision for public release.

II. Background

A. The Proposals

On February 9, 2022, Appellant submitted proposal number S2D-0228 for an SBIR Phase II award issued by the U.S. Special Operations Command (USSOCOM). The award was for a Next Generation Sniper Display under solicitation number SOCOM221-D004. On February 10, 2022, Appellant submitted proposal number S2D-0233 for another SBIR Phase II award to be issued by USSOCOM for a Long-Range Machine Gun Sight. The solicitation number for this requirement was SOCOM221-D002. In both proposals, Appellant stated that it intended to utilize Lightforce USA, Inc. d/b/a Nightforce Optics (Lightforce) as its subcontractor.

B. Protest

On April 5, 2022, the Contracting Officer (CO) filed a size protest against Appellant in relation to the two SBIR awards. The CO expressed concern that the relationship between Appellant and its proposed subcontractor, Lightforce, may make Appellant ineligible for the awards due to its inability to satisfy SBIR ownership and control requirements.

Specifically, during Appellant's "pitch day" presentation to USSOCOM, questions arose regarding the employment of the Principal Investigator (PI). (Protest at 2.) The SBIR program requires that the PI be an employee of the SBIR awardee at the time of award. (*Id.*) The CO also observed that Appellant identified Lightforce as an affiliate as well as a subcontractor for the planned awards, and that Appellant's majority owner, [Individual 1], apparently works for Lightforce as Vice President (VP) of Engineering. (*Id.*) While Appellant has only one employee, Lightforce has at least 190 employees. (*Id.*) Furthermore, according to publicly-available information, Lightforce "is a foreign owned corporation" and thus may be ineligible for participation in the SBIR program. (*Id.* at 3.)

The CO requested that the Area Office determine whether Appellant and its affiliates are small under the 500-employee size standard. (*Id.*) If Lightforce is not an affiliate of Appellant, but only a subcontractor, the CO requested that the Area Office resolve the question of whether the PI may be considered an employee of Appellant under a secondment agreement. (*Id.* at 3.)

On April 11, 2022, USSOCOM notified Appellant that it was the apparent awardee of the SBIR grants, subject to the outcome of the pending size protest. (Award Notification Letter, at 1.)

C. Protest Response

In response to the protest, Appellant denied that it is a joint venture or a party to a joint venture with Lightforce. (Protest Response at 3.) Appellant also disputed the allegation that it cannot satisfy the ownership and control requirements for the SBIR program. [Individual 1], the majority owner, Manager, and CEO of Appellant, is a U.S. citizen and he "has sole authority to establish and direct general policies and day-to-day operations" of Appellant. (*Id.*, citing Appellant's Operating Agreement § 3.01.)

Appellant acknowledged that Lightforce is a "foreign owned corporation ultimately owned by Australian citizen [Individual 2]," and that [Individual 1] and a proposed PI, [XXXXX], are both employed by Lightforce. (*Id.*) However, Appellant maintained, [the proposed PI] also will "serve [Appellant] under a Secondment Agreement with Lightforce." (*Id.*) Appellant clarified that NFO Holdings Pty Ltd, which owns Lightforce and is wholly-owned by [Individual 2], has no employees. (*Id.* at 4.) Appellant also offered an explanation of proposal assistance that Lightforce provided to Appellant:

> The alleged affiliate [Lightforce] provided assistance to [Appellant] in preparing the bid/proposal. The alleged affiliate [Lightforce] provided [Appellant] sales, technical, accounting, and legal support to prepare the bid/proposal. The alleged affiliate [Lightforce] also provided background information regarding proposals S2D-0233 and S2D-028 because the feasibility studies were primarily performed by the proposed Principal Investigators, [XXXXX] and [XXXXX] respectively, and [Lightforce].

(*Id.* at 5.)

Appellant argued that Lightforce need not meet SBIR eligibility criteria. Rather, only the applicant (*i.e.*, Appellant) must qualify for the SBIR program, but as an affiliate of Appellant, Lightforce's employees are included in determining whether Appellant is small. (*Id.* at 3-4.) Appellant qualifies for the awards based on size because the combined employee count of Appellant and Lightforce is less than 500 employees. (*Id.* at 4.) Appellant agreed that it is affiliated with Lightforce under the "newly organized concern rule" but reiterated that it nevertheless is still small. (*Id.*)

Accompanying its response to the protest, Appellant submitted a completed SBA Form 355. According to the SBA Form 355, Appellant is 51% owned by [Individual 1], who is Manager and CEO of Appellant as well as VP of Engineering at Lightforce. (Protest Response, Exh. B at 4-5.) Lightforce owns the remaining 49% interest in Appellant. (*Id.* at 4.) Lightforce and Appellant operate under the same primary NAICS code, 333314, Optical Instrument and Lens Manufacturing. (*Id.* at 3-4.) Lightforce is owned by NFO Holding Pty Ltd, which in turn is 100% owned by [Individual 2]. (*Id.* at 4, 9.) [Individual 2] is also the 100% owner of seven other businesses. (*Id.* at 9.) Of these seven businesses, five are based in Australia and two in Idaho.

According to Appellant's Operating Agreement, Appellant is a limited liability company (LLC) established in the state of Michigan on February 1, 2022. (Protest Response, Exh. D.) Appellant has two Members: [Individual 1] and Lightforce. (*Id.* § 2.01.) [Individual 1] is Appellant's Manager, and is empowered to "establish and direct the general policies and day-to-day operations of [Appellant]." (*Id.* § 3.01.) However, "[n]otwithstanding the general powers granted to the Manager set forth in Section 3.01, certain actions shall require the approval by the Unanimous Vote of the Members." (*Id.* § 3.02.) The Operating Agreement specifies 13 types of actions requiring a Unanimous Vote of the Members, including:

> (f) approval of the purchase, acquisition, alienation, exchange, sale, lease, mortgage, encumbrance or other disposition of any real or personal property owned, held or leased by or to the Company in excess of $[XXXX];
>
> (g) approval of the annual operating and capital expenditure budgets of the Company, including any subsequently made material revisions in either amount or purpose in such budgets and capital expenditures of the Company which are not otherwise a part of the capital expenditure budget, if such expenditure is in excess of $[XXXX]; [and]
>
> (h) approval of the incurrence of any indebtedness or issuance of any guarantee by the Company for the indebtedness of others in excess of $[XXXX], except for endorsement of negotiable instruments for deposit in the ordinary course of business[.]

(*Id.*, Attach. B at 1-2.)

D. Size Determination

On May 20, 2022, the Area Office issued Size Determination Nos. 06-2022-036 and 06-2022-037, finding that Appellant is ineligible for the subject SBIR awards.[2] The Area Office noted that, to participate in the SBIR program, a concern together with its affiliates must have no more than 500 employees, as required by 13 C.F.R. § 121.702(c), but must also meet the ownership and control requirements set forth at 13 C.F.R. § 121.702(a)(1). (Size Determination at 1.) Here, although Appellant and its affiliates do not exceed the 500-employee size standard, Appellant fails to meet the ownership and control requirements. (*Id.*)

The Area Office found that Appellant is affiliated with Lightforce and seven other entities through common ownership, the newly-organized concern rule, and the ostensible subcontractor rule. (*Id.* at 4-18.) Appellant is majority (51%) owned by [Individual 1], and 49% owned by Lightforce. (*Id.* at 5.) However, Lightforce has the power to control Appellant, because Appellant's Operating Agreement requires the unanimous consent of all Members for several types of actions, including all expenditures exceeding $[XXXX]. (*Id.* at 5-6.) Lightforce ultimately is owned by [Individual 2], who is not a U.S. citizen. (*Id.* at 5.) In addition to Lightforce, [Individual 2] holds controlling interests in seven other concerns. (*Id.* at 6.) Accordingly, Appellant is affiliated with Lightforce and the seven other concerns through common control by [Individual 2]. (*Id.*)

The Area Office determined that Appellant and Lightforce also are affiliated under the newly-organized concern rule. Appellant, founded on February 1, 2022, is a "new" business under SBA regulations because Appellant has "been actively operating continuously for less than one year." (*Id.* at 6-7, quoting 13 C.F.R. § 121.702(c)(5).) [Individual 1] is the majority owner of Appellant, and is an officer of Lightforce in his role as VP of Engineering. (*Id.* at 7.) Further, Lightforce has furnished and will furnish financial and technical assistance to Appellant,

[2] The Area Office issued a single size determination addressing both awards.

including "sales, technical, accounting, and legal support." (*Id.*) The two firms operate in the same or related industries. (*Id.* at 6-7.) Therefore, all elements of the newly-organized concern rule are present. (*Id.* at 7.)

The Area Office found that Appellant and Lightforce are affiliated under the ostensible subcontractor rule because Appellant will be reliant upon Lightforce, its proposed subcontractor, to perform the primary and vital requirements of both awards, including performing research, breadboard testing, and prototype assembly. (*Id.* at 16-18.) According to the proposals, these primary and vital duties will be performed by Lightforce employees, under the direction of [Individual 1], who is himself also a current Lightforce employee. (*Id.* at 13.) According to the price proposals for each award, approximately 64-66% of the total base year costs are associated with labor from Lightforce engineers and such costs will be billed to the subcontractor, Lightforce. (*Id.* at 10 and 14.) The Area Office concluded that Appellant could not have won the awards "without the employees, past performance, and technical approach" of Lightforce. (*Id.* at 12.)

The Area Office examined Appellant's size as of April 5, 2022, the date of the CO's protest. (*Id.* at 1.) Based on payroll records, Appellant and its affiliates combined do not exceed the 500-employee size standard for the SBIR grant awards. (*Id.* at 8, 18.)

Turning to the SBIR ownership and control requirements, the Area Office explained that, to be eligible for a SBIR award, Appellant must meet one of three criteria:

> (i) Be a concern which is more than 50% directly owned and controlled by one or more individuals (who are citizens or permanent resident aliens of the United States), other small business concerns (each of which is more than 50% directly owned and controlled by individuals who are citizens or permanent resident aliens of the United States), an Indian tribe, ANC or NHO (or a wholly owned business entity of such tribe, ANC or NHO), or any combination of these;
>
> (ii) Be a concern which is more than 50% owned by multiple venture capital operating companies, hedge funds, private equity firms, or any combination of these (for agencies electing to use the authority in 15 U.S.C. 638(dd)(1)); or
>
> (iii) Be a joint venture in which each entity to the joint venture must meet the requirements set forth in paragraph (a)(1)(i) or (a)(1)(ii) of this section. A joint venture that includes one or more concerns that meet the requirements of paragraph (a)(1)(ii) of this section must comply with § 121.705(b) concerning registration and proposal requirements.

(*Id.* at 2, quoting 13 C.F.R. § 121.702(a)(1).) Here, due to violation of the ostensible subcontractor rule, Appellant and Lightforce are deemed to be joint venturers for purposes of the instant SBIR grants. (*Id.* at 17-18, citing 13 C.F.R. § 121.702(c)(7).) Accordingly, as stated in 13 C.F.R. § 121.702(a)(1)(iii), both Appellant and Lightforce must meet the requirements of § 121.702(a)(1)(i) or (ii). Appellant is 51% owned by [Individual 1], a U.S. citizen, but Lightforce ultimately is owned and controlled by [Individual 2], who is neither a US citizen nor a permanent

resident alien. (*Id.* at 18.) Lightforce also does not satisfy the requirements of § 121.702(a)(1)(ii) because it is not owned by "multiple venture capital companies, hedge funds, private equity firms, or a combination of these." (*Id.*) Because both joint venturers do not satisfy the ownership and control requirements of § 121.702(a)(1), Appellant is ineligible for the SBIR awards. (*Id.* at 19.)

E. Appeal

On June 3, 2022, Appellant filed the instant appeal. Appellant argues that the Area Office clearly erred by finding that it has entered into a joint venture with Lightforce, and by finding that as a joint venture firm, Appellant failed to meet the ownership and control requirements for the SBIR program. (Appeal at 1.) Appellant requests that OHA affirm the Area Office's finding that it is small under the 500-employee size standard. OHA also should conclude that Appellant, as a standalone business, satisfies SBIR ownership requirements. (*Id.* at 6, 9, and 17.) The only issues on appeal are whether the Area Office erred in interpreting joint venture regulations for the purposes of determining SBIR ownership and control. (*Id.* at 5.)

Appellant does not dispute the Area Office's finding that Appellant and Lightforce are affiliated under the ostensible subcontractor rule, 13 C.F.R. § 121.702(c)(7). (*Id.* at 10.) Appellant highlights, however, that SBA regulations at §§ 121.702(c)(7) and 121.103(h)(2) make clear that a "contractor and its ostensible subcontractor are treated as joint venturers **for size determination purposes**" only. (*Id.* at 11 (emphasis Appellant's).) As such, the Area Office erred by applying its finding that Appellant violated the ostensible subcontractor rule under § 121.702(c)(7) in analyzing ownership and control issues under § 121.702(a)(1). (*Id.*) In Appellant's view, the Area Office disregarded the plain language of the regulatory text and "bootstrapped" a finding that should have been limited to size calculations to make separate findings pertaining to ownership and control. (*Id.* at 12.)

While the Area Office correctly found that Appellant and its affiliates, including Lightforce, do not exceed the 500-employee size standard, the Area Office should have only evaluated Appellant, and not any affiliates, in assessing whether Appellant satisfied the ownership and control requirements of § 121.702(a). (*Id.* at 12 and 16.) The Area Office should have found that Appellant satisfies such requirements because Appellant is more than 50% owned and controlled by [Individual 1], a U.S. citizen. (*Id.*)

Next, Appellant asserts that the Area Office erred in its analysis of Appellant's Operating Agreement. (*Id.* at 12-13.) [Individual 1] is the "CEO, manager, and majority member of [Appellant]" and thus controls Appellant pursuant to § 3.01 of the Operating Agreement. (*Id.* at 12-13.) The Operating Agreement also provides that the "Manager has the power, on behalf of the Company, to do all things necessary or convenient to carry out the business and affairs of the Company" and "shall have the sole authority and ability to establish and direct the general policies and the day-to-day operations of the Company." (*Id.*) [Individual 1] has sole control of the location of the principal office, commencement and maintenance of civil suits, appointment of officers, election of tax classification, selection of a qualified appraiser, and approvals to apply for letters of credit and enter into agreements for services with financial institutions. (*Id.* at 13.) Although the unanimous agreement of both Members is required for certain large-value

transactions, the "vast majority of business activities will involve transactions of an amount less than $[XXXX]," so [Individual 1] still essentially controls Appellant. (*Id.*)

Appellant discusses prior OHA decisions involving SBIR eligibility standards. According to Appellant, the instant case can be distinguished from *Size Appeal of Aspect Medical Systems, Inc.*, SBA No. SIZ-4567 (2003), where OHA found that a publicly-traded company whose stock was over 51% owned by institutions or corporations did not satisfy the requirement, under 13 C.F.R. § 121.702(a), that a SBIR concern "(1) [b]e at least 51 percent owned and controlled by one or more individuals who are either citizens of, or permanent resident aliens of, the United States." (*Id.* at 15.) Here, Appellant is 51% owned and controlled by an individual U.S citizen, [Individual 1]. (*Id.*) The instant case likewise is distinguishable from *Size Appeal of Emerald Bio Structures, Inc.*, SBA No. SIZ-5221 (2011), where OHA found that a concern with "multiple levels of corporate ownership" was not eligible for participation in the SBIR program under 13 C.F.R. § 121.702(a). (*Id.* at 15-16.)

Appellant requests that OHA grant the appeal and reverse the Area Office's finding that it is controlled by Lightforce in contravention of the SBIR regulations. (*Id.* at 17.)

F. SBA's Comments

On June 24, 2022, SBA submitted comments in response to the appeal. SBA, first, disputes Appellant's contention that the constructive joint venture between Appellant and Lightforce need not satisfy the ownership and control requirements of the SBIR program. (Comments at 3.) The applicable regulations instruct that "[a] concern and its ostensible subcontractor are treated as joint venturers, and therefore affiliates, for size determination purposes." (*Id.*, quoting 13 C.F.R. § 121.702(c)(7).) Accordingly, upon finding violation of the ostensible subcontractor rule, the Area Office "applied the plain meaning of the regulatory text" to treat Appellant and Lightforce as a joint venture. (*Id.*) The arguments advanced by Appellant are "contrary to the plain meaning of SBA's SBIR size, ownership, and control regulations," and inconsistent with prior OHA case decisions which have held that SBIR size determinations should "address not only compliance with the 500-employee size standard, but also the SBIR ownership and control requirements." (*Id.*, citing *Size Appeal of Emerald Bio Structures, Inc.*, SBA No. SIZ-5221 (2011).)

Here, Appellant acknowledges that it is in violation of the ostensible subcontractor rule as Lightforce, the nominal subcontractor, will be performing the primary and vital aspects of the awards. (*Id.* at 4.) Appellant asserts that it is not a joint venture with Lightforce but fails to make any showing that the Area Office's determination was erroneous. (*Id.*) In accordance with 13 C.F.R. § 121.702(c)(7), "SBA regulations are clear that an SBIR prime contractor and its ostensible subcontractor are affiliated and treated as joint venturers." (*Id.*) Limiting the Area Office's review to the size standard alone, as Appellant advocates, "would create an exception that swallows the rules for SBIR joint venture compliance." (*Id.*)

SBA also challenges Appellant's claim that [Individual 1] alone has the power to control Appellant. (*Id.* at 3.) Contrary to Appellant's suggestions, the Area Office found that Lightforce has the power to exert negative control over Appellant, due to provisions in the Operating

Agreement requiring the unanimous agreement of Appellant's Members. (*Id.* at 4.) Lightforce is owned and controlled by [Individual 2], who is not a U.S. citizen or permanent resident alien. (*Id.*) The Area Office thus correctly concluded that [Individual 2], an Australian citizen, "has the power to control [Appellant] due to his negative control." (*Id.* at 3.)

III. Discussion

A. Standard of Review

Appellant has the burden of proving, by a preponderance of the evidence, all elements of the appeal. Specifically, Appellant must prove the size determination is based upon a clear error of fact or law. 13 C.F.R. § 134.314. OHA will disturb an area office's size determination only if, after reviewing the record, the administrative judge has a definite and firm conviction that the area office erred in making its key findings of fact or law. *Size Appeal of Taylor Consultants, Inc.*, SBA No. SIZ-4775, at 11 (2006).

B. Analysis

I find no error with the Area Office's conclusion that Appellant is ineligible for the SBIR program. Appellant does not dispute that it is affiliated with Lightforce on multiple grounds, including the ostensible subcontractor rule. Sections II.D and II.E, *supra*. Furthermore, Appellant does not contest the Area Office's determination that Lightforce is not eligible for participation in the SBIR program, because Lightforce is ultimately owned and controlled by [Individual 2], an Australian citizen. *Id.* The only issue for OHA to resolve is whether the Area Office appropriately treated Appellant and Lightforce as a joint venture for purposes of assessing compliance with the SBIR ownership and control requirements at 13 C.F.R. § 121.702(a)(1).

As SBA observes in its comments, the applicable regulation instructs that "[a] concern and its ostensible subcontractor are treated as joint venturers, and therefore affiliates, for size determination purposes." 13 C.F.R. § 121.702(c)(7). The SBIR ownership and control rules are set forth in a separate paragraph of that same regulation. *Id.* § 121.702(a)(1). Based on this regulatory framework, then, having found violation of the ostensible subcontractor rule under § 121.702(c)(7), the Area Office appropriately treated Appellant and Lightforce as "joint venturers" for purposes of examining compliance with the SBIR ownership and control provisions at § 121.702(a)(1). Although Appellant maintains that the Area Office should only have considered Appellant and Lightforce a joint venture when computing their combined total employees, the actual text of the regulation contains no such limitation but rather broadly indicates that the concerns "are treated as joint venturers . . . for size determination purposes" — in other words, they are treated as joint venturers for purposes of the entire size determination (here, Size Determination Nos. 06-2022-036 and 06-2022-037). As a result, given the Area Office's undisputed conclusion that Lightforce will act as Appellant's ostensible subcontractor for the instant SBIR awards, the Area Office properly deemed Appellant and Lightforce to be "joint venturers" in analyzing compliance with the SBIR ownership and control rules at 13 C.F.R. § 121.702(a)(1).

In its appeal, Appellant also suggests that the Area Office's determination that Appellant and Lightforce are treated as joint venturers should not extend to the SBIR ownership and control rules at 13 C.F.R. § 121.702(a), because such matters are in the nature of eligibility issues rather than size issues. Section II.E, *supra*. I find Appellant's argument unpersuasive for several reasons. As noted above, the SBIR ownership and control rules are set forth in 13 C.F.R. § 121.702, which in turn is part of SBA's "Small Business Size Regulations" at 13 C.F.R. part 121. Accordingly, contrary to Appellant's contentions, the SBIR ownership and control provisions plainly are size issues. Likewise, in prior decisions, OHA has recognized that the SBIR ownership and control rules at 13 C.F.R. § 121.702(a) are size issues that may properly be examined by an area office in conducting a size determination, and which are properly before OHA in a subsequent size appeal. *E.g., Size Appeal of Emerald Bio Structures, Inc.*, SBA No. SIZ-5221 (2011).

In sum, Appellant does not dispute it is affiliated with Lightforce under the ostensible subcontractor rule, 13 C.F.R. § 121.702(c)(7), and complains only that the Area Office erred in treating Appellant and Lightforce as "joint venturers" for purposes of determining compliance with 13 C.F.R. § 121.702(a)(1). The Area Office's approach, though, is consistent with the plain language of the regulation, and I must therefore conclude that the Area Office reasonably treated Appellant and Lightforce as a joint venturers for all "size determination purposes." Pursuant to § 121.702(a)(1)(iii), when a joint venture seeks to participate in the SBIR program, all joint venturers must satisfy the ownership and control requirements of § 121.702(a)(1)(i) or (ii). Here, there is no dispute that Lightforce cannot meet these requirements as it is ultimately owned and controlled by [Individual 2], an Australian citizen. Sections II.C and II.D, *supra*. As a result, the Area Office correctly concluded that Appellant is ineligible for the instant SBIR awards.

I also agree with SBA that, even if OHA were to agree with Appellant that the Area Office should have refrained from analyzing whether Lightforce complies with § 121.702(a)(1), the issue appears to be largely immaterial in the instant case, because Appellant itself also apparently does not meet these requirements. Specifically, Appellant may not meet the requirement that an SBIR participant be "owned and controlled by one or more individuals" who are U.S. citizens. 13 C.F.R. § 121.702(a)(1)(i). Although Appellant is majority-owned by an individual U.S. citizen, [Individual 1], the Area Office determined that Appellant is affiliated with — and thus controlled by — Lightforce and/or [Individual 2]. Section II.D, *supra*. Insofar as Appellant is controlled by Lightforce and/or [Individual 2], Appellant would not meet the requirements of § 121.702(a)(1)(i). It is unnecessary for OHA to resolve this issue here, however, because as discussed above, Appellant has not established that the Area Office erred by treating Appellant and Lightforce as joint venturers for purposes of assessing compliance with the SBIR ownership and control requirements.

IV. Conclusion

Appellant has not shown clear error in the size determination. Accordingly, the appeal is DENIED and the size determination is AFFIRMED. This is the final decision of the Small Business Administration. *See* 13 C.F.R. § 134.316(d).

KENNETH M. HYDE
Administrative Judge