

Small Business Administration

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on the Online Representations and Certifications Application (ORCA) that it qualifies as an EDWOSB or WOSB.

(b) *Form of certification.* In conjunction with its required registration in the CCR database, the concern must submit a self-certification to the electronic annual representations and certifications at <http://orca.bpn.gov>, that it is a qualified EDWOSB or WOSB. The self-certification must include a representation, subject to penalties for misrepresentation, that:

(1) The concern is certified as a EDWOSB or WOSB by a certifying entity approved by SBA and there have been no changes in its circumstances affecting its eligibility since certification; or

(2) The concern meets each of the applicable individual eligibility requirements described in subpart B of this part, including that:

(i) It is a small business concern under the size standard assigned to the particular procurement;

(ii) It is at least 51 percent owned and controlled by one or more women who are United States citizens, or it is at least 51 percent owned and controlled by one or more women who are United States citizens and are economically disadvantaged; and

(iii) Neither SBA, in connection with an examination or protest, nor an SBA-approved certifier has issued a decision currently in effect finding that it does not qualify as a EDWOSB or WOSB.

(c) *Update of certification.* The concern must update its EDWOSB and WOSB representations and self-certification on ORCA as necessary, but at least annually, to ensure they are kept current, accurate, and complete. The representations and self-certification are effective for a period of one year from the date of submission or update to ORCA.

§ 127.301 When may a contracting officer accept a concern's self-certification?

(a) *General.* A contracting officer may accept a concern's self-certification on ORCA as accurate for a specific procurement reserved for award under this Part in the absence of a protest or other credible information that calls into question the concern's eligibility

as a EDWOSB or WOSB. An example of such credible evidence includes information that the concern was determined by SBA or an SBA-approved certifier not to qualify as an EDWOSB or WOSB.

(b) *Referral to SBA.* When the contracting officer has information that calls into question the eligibility of a concern as an EDWOSB or WOSB, the contracting officer must refer the concern's self-certification to SBA for verification of the concern's eligibility by filing an EDWOSB or WOSB status protest pursuant to subpart F of this Part.

§ 127.302 What third-party certifications may a concern use as evidence of its status as a qualified EDWOSB or WOSB?

(a) *General.* In order for a concern to use a certification by another entity as evidence of its status as a qualified EDWOSB or WOSB in support of its representations in ORCA pursuant to § 127.300(b), the concern must have a current, valid certification from:

(1) SBA as an 8(a) BD or SDB women-owned concern in good standing;

(2) The Department of Transportation as a disadvantaged business enterprise (DBE) that is at least 51 percent owned and controlled by one or more women; or

(3) An entity designated as an SBA-approved certifier on SBA's Web site located at <http://www.sba.gov/GC>.

(b) [Reserved]

§ 127.303 How will SBA select and identify approved certifiers?

(a) *General.* SBA may enter into written agreements to accept the EDWOSB or WOSB certification of a Federal agency or national certifying entity if SBA determines that the entity's certification process complies with SBA-approved certification standards and is based upon the same EDWOSB or WOSB eligibility requirements set forth in subpart B of this part. The written agreement will include a provision authorizing SBA to terminate the agreement if SBA subsequently determines that the entity's certification process does not comply with SBA-approved certification standards or is not based on the same EDWOSB or WOSB

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eligibility requirements as set forth in subpart B of this part.

(b) *Required certification standards.* In order for SBA to enter into an agreement to accept the EDWOSB or WOSB certification of a Federal agency, state government, or national certifying entity, the entity must establish the following:

(1) It will render fair and impartial EDWOSB or WOSB eligibility determinations.

(2) Its certification process will require applicant concerns to pre-register on CCR and submit sufficient information to enable it to determine whether the concern qualifies as an EDWOSB or WOSB. This information must include documentation demonstrating whether the concern is:

(i) A small business concern under SBA's size standards for its primary industry classification;

(ii) At least 51 percent owned and controlled by one or more women who are United States citizens; and

(iii) In the case of a concern applying for EDWOSB certification, at least 51 percent owned and controlled by one or more women who are United States citizens and economically disadvantaged.

(3) It will not decline to accept a concern's application for EDWOSB or WOSB certification on the basis of race, color, national origin, religion, age, disability, sexual orientation, or marital or family status.

(c) *List of SBA-approved certifiers.* SBA will maintain a list of approved certifiers on SBA's Internet Web site at <http://www.sba.gov/GC>. Any interested person may also obtain a copy of the list from the local SBA district office.

§ 127.304 How does a concern obtain certification from an approved certifier?

A concern that seeks EDWOSB or WOSB certification from an SBA-approved certifier must submit its application directly to the approved certifier in accordance with the specific application procedures of the particular certifier. Any interested party may obtain such certification information and application by contacting the approved certifier at the address pro-

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vided on SBA's list of approved certifiers.

§ 127.305 May a concern determined not to qualify as an EDWOSB or WOSB submit a self-certification for a particular EDWOSB or WOSB requirement?

A concern that SBA or an SBA-approved certifier determines does not qualify as an EDWOSB or WOSB may not represent itself to be an EDWOSB or WOSB, as applicable, unless SBA subsequently determines that it is an eligible EDWOSB or WOSB pursuant to the examination procedures under § 127.405 of subpart D, and there have been no material changes in its circumstances affecting its eligibility since SBA's eligibility determination. Any concern determined not to be a qualified EDWOSB or WOSB may request that SBA conduct an examination to determine its EDWOSB or WOSB eligibility at any time once it believes in good faith that it satisfies all of the eligibility requirements to qualify as an EDWOSB or WOSB.

Subpart D—Eligibility Examinations

§ 127.400 What is an eligibility examination?

An eligibility examination is an investigation by SBA to verify that a concern meets the EDWOSB or WOSB eligibility requirements at the time of the examination. SBA may, in its sole discretion, perform an examination at any time after a concern self-certifies in CCR or ORCA that it is an EDWOSB or WOSB.

§ 127.401 What is the difference between an eligibility examination and an EDWOSB or WOSB status protest pursuant to subpart F of this part?

(a) *Eligibility examination.* An eligibility examination is the formal process through which SBA verifies and monitors the continuing eligibility of a concern that is designated on CCR or ORCA as an EDWOSB or WOSB. For purposes of an examination, the D/GC will determine the eligibility of a concern as of the date SBA notifies the concern that it will conduct the examination. The D/GC's eligibility decision constitutes the final agency decision