§ 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 provided 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.
§ 127.405 What is the process for requesting an eligibility examination?

(a) General. A concern may request that SBA conduct an examination to verify its eligibility as an EDWOSB or WOSB at any time after it is determined by SBA or an SBA-approved certifier not to qualify as an EDWOSB or WOSB, if the concern believes in good faith that it satisfies all of the eligibility requirements at the time of the eligibility examination, then the D/GC will send the concern a written decision to that effect and will allow the concern’s EDWOSB or WOSB designation in CCR and ORCA to stand.

(b) EDWOSB or WOSB protests. An EDWOSB or WOSB status protest provides a mechanism for challenging or verifying the EDWOSB or WOSB eligibility of a concern in connection with a specific EDWOSB or WOSB requirement. SBA will process EDWOSB or WOSB protests in accordance with the procedures and timeframe set forth in subpart F, and will determine the EDWOSB or WOSB eligibility of the protested concern as of the date the concern represented its EDWOSB or WOSB status as part of its initial offer including price. SBA’s protest determination will apply to the specific procurement to which the protest relates and to future procurements.

§ 127.404 What happens if SBA is unable to verify a concern’s eligibility?

(a) Notice of proposed determination of ineligibility. If SBA is unable to verify that the concern qualifies as an EDWOSB or WOSB at the time of the examination, then the D/GC will send the concern a written notice explaining the reasons SBA believes the concern does not qualify as an EDWOSB or WOSB. The notice will advise the concern that it has 15 calendar days from the date it receives the notice to respond.

(b) SBA determination. Following the 15-day response period, the D/GC or designee will consider the reasons of proposed ineligibility and any information the concern submitted in response, and will send the concern a written decision finding that it either qualifies or does not qualify as an EDWOSB or WOSB.

(1) If SBA verifies that the concern qualifies as an EDWOSB or WOSB at the time of the examination, then the D/GC will send the concern a decision to that effect and will allow the concern to continue to self-certify its EDWOSB or WOSB status.

(2) If SBA determines that the concern does not qualify as an EDWOSB or WOSB, then the D/GC will send the concern a written decision explaining the basis of ineligibility, and will require that the concern remove its EDWOSB or WOSB designation in the CCR and ORCA within five business days after the date of the decision.

§ 127.403 What happens if SBA verifies the concern’s eligibility?

If SBA verifies that the concern satisfies the applicable EDWOSB or WOSB eligibility requirements at the time of the eligibility examination, then the D/GC will send the concern a written decision to that effect and will allow the concern’s EDWOSB or WOSB designation in CCR and ORCA to stand.

§ 127.402 How will SBA conduct an examination?

(a) Notification. No less than 5 business days before commencing an examination, SBA will notify the concern in writing that it will conduct an examination to determine the status of the concern as an EDWOSB or WOSB. The notification also will advise the concern that its EDWOSB or WOSB eligibility will be determined based on the status of the concern on the date of the notification.

(b) Request for information. SBA may request that the concern provide documentation and information related to the concern’s EDWOSB or WOSB eligibility. SBA may draw an adverse inference where a concern fails to cooperate in providing the requested information.