

**United States Small Business Administration  
Office of Hearings and Appeals**

IN THE MATTER OF:

Idaho Heatseeker, LLC,  
  
Appellant,

SBA No. WOSB-115

Decided: June 13, 2022

APPEARANCE

Shawn C. Maybon, Esq., Caldwell, Idaho, for Idaho Heatseeker, LLC

ORDER DIMISSING APPEAL

I. Background

On May 18, 2022, Idaho Heatseeker, LLC (Appellant), appealed a determination issued by the Small Business Administration (SBA) Office of Government Contracting, denying Appellant's admission to the Women-Owned Small Business (WOSB) program to the Office of Hearings and Appeals (OHA). Appellant stated, "OHA has authority and jurisdiction to conduct proceedings and process this appeal under 13 CFR § 134.102(s), 13 CFR § 134.102(c), 13 C.F.R. § 134.102(j)(1), and 13 CFR § 134.102(j)(2) as this is an appeal of the control status of a woman owned small business determination and the underlying determination will prevent [Appellant] from conducting business with government contracting authorities." (Appeal, at 3.)

On May 25, 2022, I issued a Show Cause Order (Order), directing Appellant to show cause, no later than June 1, 2022, as to why its appeal should not be dismissed for lack of jurisdiction. Appellant failed to respond.

II. Discussion

OHA's rules of procedure explicitly give OHA jurisdiction over and include rules of practice for Appeals of WOSB Concern and Economically Disadvantaged WOSB Concern (EDWOSB) Protests under 13 C.F.R. §§ 134.102(s), 134.701 — 134.715. OHA has jurisdiction over "Appeals from Women-Owned Small Business or Economically Disadvantaged Women-Owned Small Business protest determinations under part 127 of this chapter." 13 C.F.R. § 134.102(s). The scope of the rules of practice "apply to all appeals to OHA from formal protest determinations made by the Director for Government Contracting (D/GC) in connection with a Women-Owned Small Business Concern (WOSB) or Economically Disadvantaged WOSB Concern (EDWOSB) protest." 13 C.F.R. § 134.701. Protests are challenges to the WOSB or

EDWOSB status of a concern which has received a contract award as a concern with such status. 13 C.F.R. §§ 127.600 — 127.605. A protest may only be commenced when the protestor receives notice of the identity of the apparent successful offeror. 13 C.F.R. § 127.603(c)(1). The regulations thus only give OHA jurisdiction to adjudicate appeals of the Director of Government Contracting's determinations in response to protests of the status of a concern which has been identified as the apparent successful offeror in a procurement where status as a WOSB or EDWOSB is advantageous. The regulations give no jurisdiction over appeals of denial of admission into the WOSB/EDWOSB program.

The other regulations Appellant cites in its appeal are inapposite. Appellant has not had its privilege to do business with SBA revoked. 13 C.F.R. § 134.102(c). Nor has Appellant been denied admission to, been suspended from, been terminated from, graduated early from or been denied a waiver under the 8(a) Business Development program. 13 C.F.R. § 134.102(j)(1)-(2).

Here, Appellant seeks to appeal the Deputy D/GC's denial of Appellant's application for admission to the WOSB program and does not appeal a protest determination of the status of a WOSB concern under 13 C.F.R. §§ 127.604 — 127.605, the latter which is covered by the regulation cited above. OHA has no jurisdiction over this matter. Appellant also failed to respond to the Order and therefore, I must conclude that OHA does not have jurisdiction over this appeal.

### III. Conclusion

For the above reasons, I DISMISS the instant appeal for lack of jurisdiction. This is the final decision of the Small Business Administration. 13 C.F.R. § 134.227(b)(5).

CHRISTOPHER HOLLEMAN  
Administrative Judge