

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

SIZE APPEAL OF:

MicroTechnologies, LLC,

Appellant

SBA No. SIZ-6341

Decided: March 12, 2025

ORDER DISMISSING APPEAL¹

I. Background

On February 26, 2025, MicroTechnologies, LLC (Appellant) filed the above-captioned appeal with the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA). The appeal purports to challenge a notification that Appellant's application for recertification was denied. (Appeal at 2.) According to information included with the appeal, on January 22, 2025, Appellant submitted a request to the U.S. General Services Administration (GSA), in conjunction with the VETS 2 Governmentwide Acquisition Contract (GWAC), asking that Appellant be "reinstated and be able to pursue VETS 2 opportunities." (E-mail from A. Cushman (Jan. 22, 2025).) GSA responded that, according to SBA, applicable regulations do "not allow for [Appellant] to be reinstated to VETS 2 until the next option period." (E-mail from V. Hampton (Feb. 11, 2025).)

Because the appeal did not reference any formal size determination issued by SBA, nor indicate that Appellant had previously filed a request for recertification with an SBA area office under 13 C.F.R. § 121.1010, OHA ordered Appellant to show cause why the appeal should not be dismissed as premature. (Order at 1.) In response to OHA's Order, Appellant maintains that, although deviating from SBA's "usual format" for size determinations, GSA's e-mail of February 11, 2025 constitutes an appealable size determination. (Response to Order at 1.)

Appellant asserts that it was erroneously determined to be other-than-small for the VETS 2 GWAC, but was "informed that its status under the VETS 2 GWAC could be restored 'through a unilateral modification by the contracting officer' if [Appellant] was able to re-represent itself as a small business" under the applicable North American Industry Classification System code. (*Id.* at 1-2.) As such, Appellant sought recertification and reinstatement from GSA. (*Id.* at 1-2.) Appellant believes that its request was referred to SBA for review. (*Id.* at 2.) Accordingly,

¹ This appeal is decided under the Small Business Act of 1958, 15 U.S.C. § 631 *et seq.*, and 13 C.F.R. parts 121 and 134.

Appellant reasons, the February 11, 2025 e-mail from GSA “is properly viewed as a formal size determination which is appealable to OHA.” (*Id.*)

II. Discussion

The SBA regulations instruct that:

A concern may request SBA to recertify it as small at any time by filing an application for recertification with the Government Contracting Area Office responsible for the area in which the headquarters of the applicant is located, regardless of the location of parent companies or affiliates. No particular form is prescribed for the application; however, the request for recertification must be accompanied by a current completed SBA Form 355 and any other information sufficient to show a significant change in its ownership, management, or other factors bearing on its status as a small concern.

13 C.F.R. § 121.1010(a). A denial of an application for recertification “may be reviewed by OHA at the discretion of that office.” 13 C.F.R. § 121.1010(c).

Here, as discussed in OHA’s Order to Show Cause, there is no indication that Appellant ever submitted an application for recertification to an SBA area office. While no particular form is mandated, any such application must, at a minimum, be accompanied by a completed SBA Form 355. It thus appears that Appellant has not yet filed a proper recertification request under 13 C.F.R. § 121.1010(a). Nor is there any indication that an SBA area office has rendered a formal decision on any application for recertification. Although GSA’s e-mail of February 11, 2025 purports to relay SBA’s opinion that Appellant is not immediately eligible for reinstatement as a small business prime contractor on the VETS 2 GWAC, a formal SBA size determination normally may be made only by “[t]he responsible Government Contracting Area Director or designee.” 13 C.F.R. § 121.1002. As such, Appellant has not shown that there is presently any size determination appealable to OHA under 13 C.F.R. § 121.1010(c).

III. Conclusion

For the above reasons, the appeal is DISMISSED as PREMATURE. This dismissal is WITHOUT PREJUDICE to a new appeal being filed in the event that SBA later issues an appealable size determination in response to a proper request for recertification. This is the final decision of the U.S. Small Business Administration. 13 C.F.R. § 134.316(d).

KENNETH M. HYDE
Administrative Judge