

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

CVE Protest of:

Land Shark Shredding, LLC

Protester,

Re: Earth Smart Environmental Solutions,
LLC

Solicitation No. 36C24819Q0260

SBA No. CVE-136-P

Decided: October 1, 2019

ORDER DISMISSING PROTEST

I. Background

On April 19, 2019, the U.S. Department of Veterans Affairs (VA) issued Request for Quotations No. 36C24819Q0260 for on-site shredding services. The Contracting Officer (CO) set aside the procurement entirely for Service-Disabled Veteran-Owned Small Businesses (SDVOSBs). Quotations were due May 21, 2019. Land Shark Shredding, LLC (Protester) and Earth Smart Environmental Solutions, LLC (Earth Smart) submitted timely quotations.

On June 14, 2019, the CO awarded the contract to Earth Smart. On June 21, 2019, Protester filed a protest with the CO challenging Earth Smart's size and its status as an SDVOSB. On July 31, 2019, the CO forwarded the status portion of Protester's allegations to the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA).¹

Earth Smart requested that the contract be terminated, explaining that it had incorrectly calculated its price. On September 26, 2019, the CO issued a modification formally terminating the contract for the Government's convenience. The accompanying Notice of Termination stated that "[t]his termination for convenience completely terminates the contract based upon [Earth Smart's] request to be released from contract obligation." (Notice at 1.) The Notice further stated that "[t]he Government will issue a new solicitation with [VA's] revised need description for award." (*Id.*)

¹ OHA adjudicates SDVOSB status protests pursuant to 38 U.S.C. § 8127(f)(8)(B) and 13 C.F.R. part 134 subpart J. Protester's size allegations were directed to SBA's Office of Government Contracting — Area III.

II. Discussion

OHA's rules of procedure permit an offeror to bring an SDVOSB status protest against a competitor "that is awarded a contract for a VA procurement." 13 C.F.R. § 134.1002(b). In the instant case, although Earth Smart initially was awarded the instant contract, that contract has now been terminated, and the CO has indicated that a new solicitation will be issued for this requirement. Accordingly, there is no longer any mechanism for Protester to challenge Earth Smart's status as an SDVOSB. In the event that Protester and Earth Smart choose to compete for the new procurement, and Earth Smart is selected for award of the new procurement, Protester could file a new SDVOSB status protest at that time.

III. Conclusion

For the above reasons, the protest is DISMISSED. This is the final agency action of the U.S. Small Business Administration. 38 U.S.C. § 8127(f)(8)(B); 13 C.F.R. § 134.1007(b).

KENNETH M. HYDE
Administrative Judge