

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

CVE Protest of:

Spacewave, Inc.,

Protester,

Re: Strategic Approach Solutions, LLC

Solicitation No. 36C10A20R0003

U.S. Department of Veterans Affairs

SBA No. CVE-149-P

Decided: April 17, 2020

ORDER DISMISSING PROTEST AS UNTIMELY

I. Background

On November 22, 2019, the U.S. Department of Veterans Affairs issued Request for Proposals No. 36C10A20R0003 for satellite telecommunications. The Contracting Officer (CO) set aside the procurement entirely for Service-Disabled Veteran-Owned Small Businesses (SDVOSBs). Proposals were due December 30, 2019. On March 3, 2020, the CO informed unsuccessful offerors, including Spacewave, Inc. (Protester), that Strategic Approach Solutions, LLC (SAS) was the apparent awardee.

On March 16, 2020, Protester submitted a protest to the CO, which, among other issues, challenged whether SAS qualifies as an SDVOSB joint venture. The CO forwarded the protest to the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA) for review.¹

Because the protest appeared to have been filed more than five business days after Protester learned the identity of the apparent awardee, OHA ordered Protester to show cause why the protest should not be dismissed as untimely. Protester did not respond to OHA's order.

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.

II. Discussion

OHA's rules of procedure provide that an SDVOSB status protest must be filed "within five business days of notification of the apparent awardee's identity." 13 C.F.R. § 134.1004(a)(2)(i). An untimely protest must be dismissed. *Id.* § 134.1004(a)(4).

In the instant case, Protester was informed that SAS was the apparent awardee on March 3, 2020. Any status protest would therefore have been due by March 10, 2020. Protester did not actually file its status protest until March 16, 2020. As a result, the protest is plainly untimely and must be dismissed. *CVE Protest of Price Gordon Company LLC d/b/a Veterans National Transportation*, SBA No. CVE-141-P (2019).

III. Conclusion

For the above reasons, the protest is DISMISSED AS UNTIMELY. 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