

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

CVE Appeal of:

Starblast, Inc.,

Appellant,

U.S. Department of Veterans Affairs

SBA No. CVE-164

Decided: September 9, 2020

**ORDER DISMISSING APPEAL AS UNTIMELY**<sup>1</sup>

**I. Background**

On June 3, 2020, the U.S. Department of Veterans Affairs (VA) Center for Verification and Evaluation (CVE) denied an application filed by Starblast, Inc. (Appellant) for verification in the Vendor Information Pages (VIP) database of eligible Service-Disabled Veteran-Owned Small Businesses (SDVOSBs). The denial letter stated that any appeal of the decision must be filed with the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA) within 10 business days.

On June 5, 2020, Appellant transmitted an appeal petition to VA at vip@va.gov and verificationfollowup@va.gov. On August 24, 2020, Appellant sent an updated appeal petition to CVEAppealsService@va.gov. Appellant did not send its appeal petition to OHA until August 31, 2020.

Because the appeal appeared to have been filed at OHA more than 10 business days after the denial of Appellant's application, OHA ordered Appellant to show cause why the appeal should not be dismissed as untimely. On September 4, 2020, Appellant responded to OHA's order. Appellant asserts that a VA representative orally advised Appellant to submit its appeal to vip@va.gov and verificationfollowup@va.gov. Further, the denial letter did not provide a mailing address, phone number, or e-mail to directly contact OHA. Appellant therefore requests that OHA consider the appeal to be timely.

**II. Discussion**

Under applicable regulations, an appeal of a CVE denial must be filed “within 10 business days of receipt of the denial.” 13 C.F.R. § 134.1104(a). A pleading is considered “filed”

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<sup>1</sup> OHA adjudicates CVE appeals pursuant to 38 U.S.C. § 8127(f)(8)(A), 38 C.F.R. part 74, and 13 C.F.R. part 134

when it is received by OHA. *Id.* § 134.204(b). An untimely appeal must be dismissed. *Id.* § 134.1104(c). Further, OHA has no authority to extend, or waive, the deadline for filing an appeal. *Id.* § 134.202(d)(2)(i)(a). Applying these rules, OHA has held that “[a]n appeal that is properly served [to other parties] but not timely filed [at OHA] must be dismissed as an untimely filed appeal.” *CVE Appeal of KOIOS Sys. & Tech., LLC*, SBA No. CVE-124-A, at 1 (2019) (quoting *Size Appeal of Bid Solve, Inc.*, SBA No. SIZ-5906, at 1 (2018)).

Here, although Appellant transmitted its appeal to VA within 10 business days after issuance of CVE's decision to deny Appellant's application, Appellant did not file the appeal with OHA until nearly three months after issuance of the decision. Section I, *supra*. As a result, the appeal is untimely and must be dismissed.

Appellant maintains that the delay in filing its appeal with OHA was not intentional. Although I sympathize with Appellant, the regulations afford OHA no discretion to extend, or waive, the deadline for filing an appeal. 13 C.F.R. § 134.202(d)(2)(i)(A).

Appellant also observes that the denial letter did not provide an address, phone number, or e-mail for contacting OHA. Section I, *supra*. While this is true, such information is readily accessible via the internet and through applicable regulations. *E.g.*, 13 C.F.R. § 134.204(b)(1). It therefore is immaterial that OHA's contact information was not specifically included in the denial letter. Appellant further argues that a VA representative misled Appellant by recommending that Appellant transmit the appeal to VA. While it is unfortunate that Appellant may have received faulty guidance from a VA representative, the denial notice itself, as well as regulations governing the VIP verification program, make clear that an appeal may be filed only at OHA. 38 C.F.R. § 74.13; *see also* 13 C.F.R. § 134.1102. Insofar as Appellant was advised to submit its appeal to VA rather than to OHA, such advice would have been inconsistent with the denial letter and applicable regulations, and Appellant should have sought clarification of such advice.

### III. Conclusion

For the above reasons, the appeal is DISMISSED as UNTIMELY. This is the final agency action of the U.S. Small Business Administration. 38 U.S.C. § 8127(f)(8)(A); 13 C.F.R. § 134.1112(d). In accordance with 38 C.F.R. § 74.14(a), Appellant may reapply for admission to the VIP verification program after the requisite six-month waiting period.

KENNETH M. HYDE  
Administrative Judge