

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

CVE Protest of:

Security Logistics Intelligence
Construction Engineering Company,

Protester,

Re: Allserv, Inc.

Solicitation No. 36C24720Q0658

U.S. Department of Veterans Affairs
Network Contracting Office 7 - Augusta

SBA No. CVE-182-P

Decided: March 31, 2021

APPEARANCES

Cecil Avery, Moline, Illinois, Chief Executive Officer, Security Logistics Intelligence
Construction Engineering Company

Matthew T. Schoonover, Esq., Matthew P. Moriarty, Esq., John M. Mattox II, Esq., Ian
P. Patterson, Esq., Schoonover & Moriarty, LLC, Olathe, Kansas, for Allserv, Inc.

DECISION¹

I. Introduction and Jurisdiction

On February 8, 2021, Security Logistics Intelligence Construction Engineering Company (Protester) protested the Service-Disabled Veteran-Owned Small Business (SDVOSB) status of Allserv, Inc. (Allserv) in connection with U.S. Department of Veterans Affairs (VA) Request for Quotations (RFQ) No. 36C24720Q0658. Protester alleges that Allserv is not owned and controlled by a service-disabled veteran, and that Allserv therefore should be excluded from the

¹ This decision was originally issued under a protective order. Pursuant to 13 C.F.R. § 134.205, OHA afforded the parties an opportunity to file a request for redactions if desired. After reviewing the decision, one party informed OHA that it had no requested redactions. The other party did not respond to OHA's order for redactions. Therefore, I now issue the entire decision for public release.

VA Center for Verification and Evaluation (CVE) database of eligible SDVOSBs. For the reasons discussed *infra*, the protest is denied.

The U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA) adjudicates SDVOSB status protests pursuant to 38 U.S.C. § 8127(f)(8)(B) and 13 C.F.R. part 134 subpart J.² Protester filed its protest within five business days after receiving notification that Allserv was the apparent awardee, so the protest is timely. 13 C.F.R. § 134.1004(a)(2)(i). Accordingly, this matter is properly before OHA for decision

II. Background

A. CVE Verification

On November 24, 2020, CVE informed Allserv that its application for reverification of its SDVOSB status had been approved after determining that Allserv “is presently, as of the issuance of this notice, in compliance with the regulation”. (Case File (CF), Ex. 415, at 1.) The verification was valid for a period of three years. (*Id.*) Allserv was required to report any changes that might adversely affect its eligibility within 30 days of the change. (*Id.*)

B. Solicitation

On May 27, 2020, the VA issued RFQ No. 36C24720Q0658 for lawn care maintenance services. The Contracting Officer (CO) set aside the procurement entirely for SDVOSBs and assigned North American Industry Classification System (NAICS) code 561730, Landscaping Services, with a corresponding \$8 million annual receipts size standard. Proposals were due August 25, 2020.

C. Protest

On February 5, 2021, the VA notified all unsuccessful offerors, including Protestor, that Allserv was the apparent awardee of the procurement. On February 8, 2021, Protestor filed the instant protest. Protestor alleges Allserv shares the same address with several other companies.

In its protest, Protestor provides snapshots from an unidentified source showing 307 Lexington Ave., Chapin, SC 29036 as the address for Allserv as well as other businesses including Calvin's Investment Group, LLC; 307 Lexington Associates; and Healthy Lawn, LLC. The snapshots also provide information regarding Allserv's business registration in South Carolina and North Carolina. Additionally, the snapshots show Allserv's business registration in New York, Indiana, Kentucky, Arkansas, Texas, and Minnesota as a foreign business entity. (Protest, at 2.)

Protestor questions who controls Allserv based on the snapshots provided. Protestor argues, “[t]he agency awarded the contract to a SDVO[S]B owner that appears to share resources

² The regulations at 13 C.F.R. part 134 subpart J became effective October 1, 2018. 83 Fed. Reg. 13,626 (Mar. 30, 2018).

with, registered, owner, or associated with other companies he either owns or has an equitable interest in.” (*Id.*, at 3.) Protestor contends Allserv shares the same address with several companies where the point of contact is Jeffrey Calvin, the service-disabled veteran upon whom Allserv's status as an SDVOSB is based. Protestor contends the work required could not be performed by Allserv and “[a]ll their ground keeping work will be subcontracted out.” (*Id.*)

On March 17, 2021, Protestor filed with OHA additional documentation to support its protest and requested the protest be amended to include the information. The additional documentation is a compilation of screenshots from various websites. Protestor did not provide an argument to support its filing additional documents after filing its protest nor any grounds upon which OHA should amend the record to include the additional filing.

D. Response

On March 17, 2021, Allserv filed a motion to exclude and strike Protestor's supplemental filing. Allserv contends the filing lacks specificity and consists of a “mere collection of documents.” (Motion, at 1.) The second filing does not raise any allegations and fails to discuss specifically why the documentation shows Allserv does not meet the SDVOSB eligibility criteria. Allserv argues Protestor misconceives of OHA's role as an investigator when OHA adjudicates cases based on the evidence presented. Protestor is not eligible to review the case file because Protestor is not represented by counsel. Thus, Protestor has no right to file a supplement to its protest. (*Id.*) Lastly, Protestor's second filing is untimely, as a protest must be filed within five business days from the date of notification of an apparent awardee's identity. (*Id.*, at 2.)

On March 19, 2021, Allserv responded to Protestor's allegations raised in the initial protest. Allserv argues Protestor's assertion that Allserv is not controlled by a service-disabled veteran because of Allserv's registrations in multiple states is meritless. The registrations are required in order for the concern to conduct business in those states. Allserv's registrations of its business in multiple states does not reflect multiple, separate entities or any other control in violation of 13 C.F.R. § 125.18(i)(4) or elsewhere. (Response, at 1.) Allserv also states it will not hire a subcontractor to complete the requirements of the instant contract. Thus, OHA should deny the protest.

Allserv asserts Mr. Jeffrey Calvin is the sole owner of Allserv and the documentation contained in the case file supports this contention. Mr. Calvin unconditionally controls Allserv because he controls all aspects of the day-to-day management and long-term decision making of the concern. (*Id.*, at 2.) Mr. Calvin devotes fifty to sixty hours weekly to the firm, performs this work during normal business hours and on weekends, and has no employment outside of Allserv. (*Id.*)

Allserv conducts business in multiple states, which requires registration under various state laws. Allserv registers its business under its name or a fictitious trade name such as 307 Lexington Associates, 307 Lexington Associates Co., Allserv Associates, and PO Box 85. (*Id.*, at 3.) Allserv maintains registration in states where it continues to conduct business and has withdrawn or dissolved its registration in states it no longer conducts business. Mr. Calvin owns and controls Allserv's business wherever it conducts business.

Allserv once owned a subsidiary, Healthy Lawn, LLC, a store that sold fertilizer and lawn products, but the company is no longer in business. (*Id.*) Calvin's Investment Group, LLC (CIG) is a real estate holding company that owns the 307 Lexington Avenue location where Allserv operates. CIG does not have any employees nor does it perform work or have any operations. CIG leases space to Allserv and all of CIG's income is reported on Mr. Calvin's personal tax return. There is therefore no basis for doubting Mr. Calvin's control over Allserv. Allserv does not share employees or other resources with any other firm. (*Id.*, at 4.)

Allserv argues that CVE has consistently found that Mr. Calvin asserts unconditional ownership and control over the concern and verified it for inclusion in the VIP since 2011. CVE recently reverified Allserv in November of 2020. (*Id.*, at 4-5.)

Allserv contends it will not hire a subcontractor to perform the work under the RFQ, finding Protestor's allegations meritless. (*Id.*, at 5.)

Lastly, Allserv contends Protestor's supplemental March 17, 2021 filing should be given no weight and the case file and Allserv's response substantiate Mr. Calvin's total ownership and control of Allserv and Allserv's SDVOSB eligibility. (*Id.*, at 9.)

III. Discussion

A. Burden of Proof

As the protested firm, Allserv has the burden of proving its eligibility as an SDVOSB by a preponderance of the evidence. 13 C.F.R. § 134.1010.

B. Preliminary Issues

Protestor filed its protest on February 8, 2021. On March 17, 2021, protestor provided a filing to supplement its protest. The filing contained no argument and only consists of screenshots of information purported to refer to Allserv. The judge may permit the filing and service of a supplemental pleading setting forth relevant transactions or occurrences that have taken place since the filing of the original pleading. *See* 13 C.F.R. § 134.207(b). Here, Protestor provided no argument regarding the purpose of the additional filing, nor did Protestor provide justification as to why I should include this second pleading in the record. The filing does not appear to contain information that became available or refer to transactions or occurrences that have taken place, between the time of filing of the initial protest and the filing of the supplemental pleading. Thus, Allserv's motion to exclude and strike the supplemental pleading is GRANTED and the information is excluded from the record.

C. Analysis

To be considered an eligible SDVOSB, a concern must be a small business that is unconditionally owned and controlled by one or more service-disabled veterans. 38 C.F.R. § 74.2(a); 13 C.F.R. §§ 125.12 and 125.13; *CVE Protest of Blue Cord Design and Constr., LLC*,

SBA No. CVE-100-P (2018). As discussed below, Allserv has persuasively demonstrated that it meets these requirements. In reviewing the protest in light of the record, I find Protestor's allegations to be speculative and without a legal or factual basis. Therefore, this protest must be denied.

In a CVE protest concerning a procurement, the dates for determining the eligibility of the protested concern are (1) the date of the bid or initial offer that included price, and (2) the date the CVE protest was filed. 13 C.F.R. § 134.1003(c)(1); *CVE Protest of Alpha4 Solutions, LLC d/b/a Alpha Transcription*, SBA No. CVE-103-P (2019). For the case at hand, the relevant dates are the date offers were submitted, August 23, 2020, and February 8, 2021, the date the protest was filed. Therefore, I must determine Allserv's eligibility as of both dates. Since the record reflects no change in Allserv's status in the intervening time, I will determine Allserv's eligibility relying upon the same documents for both dates.

On its face, the protest is baseless legally and factually. Protestor contends it is not clear who is controlling Allserv because the concern shares an address with other companies. To contest one's SDVOSB status based on ownership and/or control, the protestor must present credible evidence that the concern is not 51% owned and controlled by one or more veterans or service-disabled veterans. 13 C.F.R. § 134.1003(b). However, Protestor finds the mere fact that multiple businesses share the same address as questioning the ownership and control of Allserv. Protestor has not provided any evidence that a non-service-disabled veteran owns or controls Allserv.

In its response to the protest, Allserv explains that all of the entities that share an address with Allserv are owned by one person and one person alone — Mr. Jeffrey Calvin, the service-disabled veteran upon whom Allserv's SDVOSB status is based. The record confirms that Mr. Calvin is Allserv's sole owner. CF, Ex. 364. The record further establishes that the CVE has consistently over the years found Allserv an eligible SDV, most recently on November 24, 2020. CF, Ex. 415. Mr. Calvin is also Allserv's President and sole Member of the Board of Directors. CF, Ex. 315. The record thus clearly establishes that Allserv is owned and controlled by a service-disabled veteran.

Further, Protestor has not alleged at any time that another person owns or controls Allserv. In fact, Protestor states in its protest that Mr. Calvin owns, controls, and serves as the point of contact for all of the businesses identified in the protest. The protest itself makes no allegation that would support a finding that Allserv is not owned and controlled by a service-disabled veteran. Protestor merely makes allegations about firms co-located with Allserv, which Allserv's response explains.

Protestor also alleges that Allserv will subcontract all of the work required under the RFQ. Protestor offers no evidence whatsoever to support this allegation. The record reflects that Allserv will not hire any subcontractors to complete the requirements of the instant procurement. CF, Ex. 411, Response, Ex. A, at ¶ 12. Accordingly, I conclude that the instant protest is entirely meritless, based upon nothing more than mere assertions. Allserv is owned and controlled by a service-disabled veteran, and there is nothing in the record to support any other conclusion.

IV. Conclusion

Allserv has proven its eligibility as an SDVOSB by a preponderance of the evidence. I therefore DENY the protest. 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(i).

CHRISTOPHER HOLLEMAN
Administrative Judge