

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

CVE Protest of:

Griffin Resources LLC,

Protestor,

Re: Dunlop Government Solutions, LLC

Solicitation No. 36C24521Q077

U.S. Department of Veterans Affairs

SBA No. CVE-211-P

Decided: December 3, 2021

ORDER DISMISSING PROTEST<sup>1</sup>

I. Background

On October 26, 2021, the Contracting Officer (CO) for the subject procurement forwarded to the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA) a protest filed by Griffin Resources LLC (Protestor) against Dunlap Government Solutions, LLC (Dunlap), the apparent awardee of U.S. Department of Veterans Affairs (VA) Request for Quotations (RFQ) No. 36C24521Q0774. The protest purported to challenge both Dunlap's size and its status as a Service-Disabled Veteran-Owned Small Business (SDVOSB) for the subject procurement.<sup>2</sup>

On October 29, 2021, OHA ordered Protestor to show cause why the status portion of the protest should not be dismissed. (Order to Show Cause at 1.) OHA explained that the protest appeared deficient in several respects. The underlying procurement did not appear to have been restricted to SDVOSBs, so it was not evident that Dunlap was required to be an SDVOSB for this procurement. (*Id.*) Further, the protest did not make reference to any of the grounds for a status protest set forth at 13 C.F.R. § 134.1003, nor to any of the eligibility criteria for SDVOSBs at 13 C.F.R. part 125. (*Id.*) Protestor did not provide any supporting evidence with the protest. (*Id.*) In addition, OHA could not determine whether the protest was timely filed with the CO

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<sup>1</sup> OHA adjudicates SDVOSB status protests pursuant to 38 U.S.C. § 8127(f)(8)(B) and 13 C.F.R. part 134 subpart J.

<sup>2</sup> Only the status portion of the protest is before OHA. The size portion of the protest was directed to SBA's Office of Government Contracting — Area V for review. *See* 13 C.F.R. § 134.1001(c).

within five business days after learning the identity of the apparent awardee, as required by 13 C.F.R. § 134.1004(a)(2). (*Id.*)

In response to OHA's order, Protestor asserts that Dunlap's status as an SDVOSB remains “highly relevant,” regardless of whether this particular RFQ was set aside for SDVOSBs, because “[VA] will still report its goals as Dunlap being an SDVOSB company nevertheless.” (Response at 2.) Protestor alleges that Dunlap may not be small under a \$12 million size standard. (*Id.* at 2-3.) According to Protestor, “[a] brief review of public records indicates that Dunlap and its registered agent/members/managers are connected to [other] entities,” some of which appear to be located in the same building as Dunlap. (*Id.*) Further, although Dunlap itself may be certified to conduct secure document destruction, the subject matter of this procurement, Protestor has found no indication that Dunlap maintains a physical office “within a 25-50 mile servicing radius” of the collection sites. (*Id.* at 4.) It therefore is possible that Dunlap or its service-disabled veteran owner “cannot exercise independent business judgment without great economic risks,” in contravention of 13 C.F.R. § 125.13(a) and (i)(7). (*Id.*)

With regard to protest timeliness, Protestor acknowledges that the CO awarded the instant contract to Dunlap on October 1, 2021. (*Id.* at 5.) Protestor, though, did not learn of the award until October 12, 2021. (*Id.*) Protestor “submitted a timely protest on October 15, 2021, three (3) days after discovery.” (*Id.*)

Accompanying its response to OHA's order, Protestor attached a copy of the RFQ; printouts from Dunlap's website and other public sources relating to Dunlap and the alleged affiliates; an e-mail from the CO confirming her receipt of the protest; a printout of the SAM.gov award notification; and printouts of Protestor's online research relating to companies that perform secure document destruction. Protestor does not explain why such information was not, or could not have been, provided with the initial protest.

## II. Discussion

The instant protest is deficient and must be dismissed. As stated in OHA's Order to Show Cause, a proper status protest must include “[s]pecific allegations supported by credible evidence that the [challenged] concern does not meet the eligibility requirements for inclusion in the [Center for Verification and Evaluation] database”. 13 C.F.R. § 134.1005(a)(2). A nonspecific protest, or a protest “based on non-protestable allegations,” must be dismissed. 13 C.F.R. § 134.1007(b).

Here, the protest did not make reference to any of the grounds for a status protest set forth at 13 C.F.R. § 134.1003, nor to any of the eligibility criteria for SDVOSBs at 13 C.F.R. part 125. Section I, *supra*. In addition, Protestor provided no supporting evidence with the protest. *Id.* The protest thus did not raise any valid reason to question Dunlap's status as an SDVOSB.

In response to OHA's Order to Show Cause, Protestor attempts to cure the defects in its initial protest, but these efforts are unavailing. Protestor devotes much of its response to arguing that Dunlap may be affiliated with other concerns through common ownership and/or common management. Section I, *supra*. While such allegations may be germane to the size portion of

Protestor's protest, Protestor has not demonstrated, or explained, how such matters, even if true, would affect Dunlap's status as an SDVOSB. The only SDVOSB status allegation advanced by Protestor is that, because Dunlap may intend to utilize one or more subcontractors in performing the instant procurement, Dunlap or its service-disabled veteran owner “cannot exercise independent business judgment without great economic risks”, in contravention of 13 C.F.R. § 125.13(a) and (i)(7). *Id.* This allegation, though, was not included in the initial protest, so Protestor's attempt to raise it for the first time at this juncture is untimely. *CVE Protest of Welch Constr., Inc.*, SBA No. CVE-181-P, at 6 (2021) (supplemental allegations filed more than five business days after bid opening were dismissed as untimely). Moreover, even if the allegation were not untimely, Protestor has not articulated any rationale as to why engaging a subcontractor on a single procurement might thwart the exercise of independent business judgment.

### 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