

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

NAICS APPEAL OF:

Salvadorini Consulting LLC,

Appellant,

Solicitation No. 36C26121Q0033

U.S. Department of Veterans Affairs

SBA No. NAICS-6082

Decided: December 1, 2020

ORDER DISMISSING APPEAL<sup>1</sup>

On November 20, 2020, Salvadorini Consulting LLC (Appellant) filed the captioned appeal challenging the North American Industry Classification System (NAICS) code assigned to Request for Quotations (RFQ) No. 36C26121Q0033. On November 24, 2020, Appellant filed an amended appeal with a signed certificate of service. Because the appeal appeared to have been filed more than 10 calendar days after issuance of the RFQ, the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA) ordered Appellant to show cause why the appeal should not be dismissed as untimely.

On November 30, 2020, Appellant responded to OHA's order. Appellant acknowledges that the RFQ was issued on November 6, 2020, and that any NAICS code appeal would thus have been due by November 16, 2020. (Response at 1-2.) Appellant “made a bad assumption” that a NAICS appeal could be filed anytime prior to the deadline for receipt of quotations. (*Id.* at 2.) Moreover, Appellant was attempting to resolve its concerns directly with the procuring agency, and did not wish to resort to litigation until it became clear that the procuring agency would not change the assigned NAICS code. (*Id.* at 1-2.)

The instant appeal is untimely and must be dismissed. Pursuant to applicable regulations, an appeal of a NAICS code designation must be filed within 10 calendar days after issuance of the solicitation, or within 10 calendar days after issuance of an amendment affecting the NAICS code or size standard. 13 C.F.R. §§ 121.1103(b)(1) and 134.304(b); *see also* Federal Acquisition Regulation (FAR) 19.103(a)(1). An untimely appeal must be dismissed. 13 C.F.R. §§

---

<sup>1</sup> This appeal is decided under the Small Business Act of 1958, 15 U.S.C. § 631 *et seq.*, and 13 C.F.R. parts 121 and 134.

121.1103(b)(1) and 134.304(c); FAR 19.103(a)(4). Here, Appellant filed the instant appeal more than 10 calendar days after the issuance of the subject RFQ, so the appeal is untimely.

Although Appellant's misunderstanding of the appeal deadline is unfortunate, OHA has no discretion to extend, or waive, the deadline for filing an appeal. 13 C.F.R. § 134.202(d)(2)(i)(A). Nor do Appellant's discussions with the procuring agency alter the appeal deadline. It is well-settled that “deliberations with a procuring agency, which do not result in any change to the solicitation, do not extend the [NAICS] appeal deadline.” *NAICS Appeal of AMEL Techs., Inc.*, SBA No. NAICS-5892, at 2 (2018) (quoting *NAICS Appeal of Metris, LLC*, SBA No. NAICS-5700, at 2 (2015)); *NAICS Appeal of Trans Aero Ltd.*, SBA No. NAICS-5443, at 5 (2013); *NAICS Appeal of R. Christopher Goodwin & Assocs., Inc.*, SBA No. NAICS-5382, at 2 (2012); *NAICS Appeal of Secure Network Sys., LLC*, SBA No. NAICS-5236, at 1 (2011).

For the above reasons, the appeal is **DISMISSED** as untimely. This is the final decision of the U.S. Small Business Administration. *See* 13 C.F.R. § 134.316(d).

KENNETH M. HYDE  
Administrative Judge