

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

NAICS APPEAL OF:

Air Center Helicopters, Inc.,

Appellant,

Solicitation No. N0042121R0077

SBA No. NAICS-6130

Decided:, November 23, 2021

ORDER DISMISSING APPEAL¹

On November 12, 2021, Air Center Helicopters, Inc. (Appellant) filed the above-captioned appeal challenging the North American Industry Classification System (NAICS) code assigned to Request for Proposals (RFP) No. N0042121R0077. Because the appeal appeared to have been filed more than 10 calendar days after issuance of the RFP, 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. OHA stated that Appellant would have until November 19, 2021, to respond to the order to show cause. To date, Appellant has not responded to OHA's order.

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. §§ 121.1103(b)(1) and 134.304(c); FAR 19.103(a)(4). Here, the Contracting Officer has informed OHA that the RFP was issued on October 13, 2021. Appellant did not file the instant appeal until November 12, 2021, some 30 calendar days after the issuance of the RFP, so the appeal is plainly untimely. Further, Appellant's failure to respond to OHA's order to show cause is largely fatal to this appeal. Pursuant to 13 C.F.R. § 134.219, noncompliance with an OHA order may result in sanctions, to include dismissal of an appeal with prejudice.

For the above reasons, the appeal is **DISMISSED**. 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

¹ 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.