

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

SIZE APPEAL OF:

Alrac Escalators, LLC,

Appellant,

Appealed From  
Size Determination No. 1-SD-2022-13

SBA No. SIZ-6156

Decided: May 31, 2022

ORDER DISMISSING APPEAL<sup>1</sup>

On May 24, 2022, the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA) received an appeal in the above-captioned matter from Alrac Escalators, LLC (Appellant). The appeal purports to challenge Size Determination No. 1-SD-2022-13, issued by SBA's Office of Government Contracting — Area I (Area Office) on April 22, 2022.

Upon review, this appeal is untimely and must be dismissed. Pursuant to applicable regulations, a size appeal “must be filed within 15 calendar days after receipt of the formal size determination.” 13 C.F.R. § 134.304(a). An untimely appeal must be dismissed, and OHA has no discretion to extend, or modify, the deadline for filing an appeal. *Id.* §§ 134.202(d)(2)(i)(A) and 134.304(c); *see also Size Appeal of Red Orange N. Am., Inc.*, SBA No. SIZ-6121 (2021), *recons. denied*, SBA No. SIZ-6136 (2021) (PFR). Here, Size Determination No. 1-SD-2022-13 was issued on April 22, 2022, and Appellant acknowledges in its appeal petition that it received the size determination that same day. (Appeal at 1.) As a result, any appeal would have been due by May 9, 2022. The instant appeal was not actually filed at OHA until May 24, 2022, and therefore is plainly untimely.

It is worth noting that, even if it were not untimely, the appeal also appears deficient in other respects. Appellant bases its appeal largely on new evidence not previously provided to the Area Office. OHA, though, cannot consider such information unless “[a] motion is filed and served establishing good cause for the submission of such evidence.” 13 C.F.R. § 134.308(a)(2). No such motion was filed here. Further, Appellant did not sign its appeal petition, as required by 13 C.F.R. §§ 134.209 and 134.305(a)(4), and failed to serve the appeal to other interested parties, as required by 13 C.F.R. §§ 134.204 and 134.305(b). Because the appeal is untimely, however, it is unnecessary to explore these issues in greater detail.

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<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.

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