

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

VSBC Protest of:

DSoft Technology, Engineering &
Analysis, Inc.,

Protestor

Re: AdaptiveVets Solutions, LLC

Solicitation No. 36C10B23Q0434

U.S. Department of Veterans Affairs

SBA No. VSBC-312-P

Decided: October 25, 2023

ORDER DISMISSING PROTEST¹

On October 11, 2023, DSoft Technology, Engineering & Analysis, Inc. (DSoft) submitted a letter to the U.S. Department of Veteran Affairs regarding the Service-Disabled Veteran-Owned Small Business (SDVOSB) status of AdaptiveVets Solutions, LLC (AdaptiveVets), in connection with VA's Solicitation No. 36C10B23Q0434. On October 20, 2023, the Contracting Officer (CO) forwarded the letter to the U.S. Small Business Administration, Office of Hearings and Appeals (OHA).

DSoft requests the CO initiate a status protest to determine whether AdaptiveVets is a qualified SDVOSB for the instant procurement. (DSoft Request, at 1.) DSoft acknowledges that it “has lost the opportunity to bring such a protest” within five days after receiving notification that AdaptiveVets was the apparent successful awardee. (*Id.*)

On October 20, 2023, the CO submitted DSoft's letter and a CO Referral Letter to OHA for consideration. The CO notes he “is not requesting a Status Protest, but rather referring the request submitted by the ‘Protestor’ requesting the CO to initiate a Status Protest.” (Referral Letter at 2.) The CO states DSoft's letter and the CO Referral Letter were submitted for OHA to determine “timeliness and standing.” (*Id.*)

On October 24, 2023, DSoft submitted a response to OHA, stating that “DSoft never intended to initiate a status protest in its October 11, 2023 letter.” (DSoft Letter to OHA at 1.)

¹ OHA adjudicates this matter under the Small Business Act of 1958, 15 U.S.C. § 657f and 13 C.F.R. Part 134 Subpart J.

DSoft concludes that unless the CO “elects to initiate the status protest of whether AdaptiveVets is entitled to SDVOSB status based on individuals running the day-to-day operations not being service-disabled veterans, we should not waste OHA resources on what is clearly an untimely status protest by DSoft.” (*Id.* at 2.)

The regulations require that a status protest filed by an interested party for a negotiated acquisition must be submitted “by the close of business on the fifth business day after notification by the contracting officer of the apparent successful offeror.” 13 C.F.R. § 134.1004(a)(3). An untimely appeal must be dismissed, and OHA has no discretion to extend, or modify, the deadline for filing an appeal. 13 C.F.R. §§ 134.202(d)(2)(i)(A) and 134.1004(a)(6). The contracting officer, SBA, or VA may file a VOSB or SDVOSB status protest at any time after the apparent awardee has been identified. 13 C.F.R. § 134.1004(a)(2).

Here, DSoft acknowledged that this matter is an untimely status protest. Further, the CO confirmed that he does not intend to bring a status protest in this matter under 13 C.F.R. § 134.1004(a)(2). Accordingly, there is no longer any case or controversy for OHA to adjudicate. *See, e.g., VSBC Protest of R&M Government Services*, SBA No. VSBC-284-P (2023); *CVE Protest of U.S. Dep't of Veterans Affairs*, SBA No. CVE-248-P (2022).

For the above reasons, the protest is DISMISSED. This is the final agency action of the U.S. Small Business Administration. 15 U.S.C. § 657f(f)(6)(A); 13 C.F.R. § 134.1007(b).

CHRISTOPHER HOLLEMAN
Administrative Judge