

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

CVE Protest of:

MicroTechnologies LLC,

Protestor,

Re: 1TechJV, LLC

Solicitation No. 36C10B23R0011

U.S. Department of Veterans Affairs

SBA No. VSBC-328-P

Decided: January 8, 2024

**ORDER DISMISSING PROTEST<sup>1</sup>**

**I. Background**

On November 7, 2023, MicroTechnologies LLC (Protestor) filed the above-captioned protest, alleging that 1TechJV, LLC (1TechJV) is not an eligible Service-Disabled Veteran-Owned Small Business (SDVOSB) joint venture. Protestor based its claim on the fact that 1TechJV is not included in the U.S. Small Business Administration (SBA) database of certified SDVOSBs. (Protest, at 1 and Attach. 3.) On November 17, 2023, the Contracting Officer (CO) forwarded the protest to SBA's Office of Hearings and Appeals (OHA) for review.

Because the protest appeared nonspecific, OHA ordered Protestor to show cause why the protest should not be dismissed. OHA explained that, under applicable regulations, a valid SDVOSB status protest must include “[s]pecific allegations supported by credible evidence that the [challenged] concern (or joint venture) does not meet the VOSB or SDVOSB eligibility requirements listed in [13 C.F.R.] part 128.” 13 C.F.R. § 134.1005(a)(2). Furthermore, an SDVOSB joint venture may be protested “regarding the status of the managing [SDVOSB] joint venture partner or for failure to meet the requirements of [13 C.F.R.] § 128.402.” 13 C.F.R. § 134.1003(d).

Here, Protestor did not identify and/or dispute the eligibility of the SDVOSB members of the joint venture, nor allege any reason(s) to believe that 1TechJV is not in compliance with specific joint venture requirements at 13 C.F.R. § 128.402. Plainly, Protestor failed to make any

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<sup>1</sup> This protest is decided under the Small Business Act of 1958, 15 U.S.C. §§ 631 *et seq.*, and 13 C.F.R. parts 128 and 134 subpart J.

reference at all to any of the eligibility criteria in 13 C.F.R. part 128 for grounds to make a valid protest. (*See* Protest and Attachs.)

On December 6, 2023, Protestor filed an untimely response to OHA's Order.<sup>2</sup> Protestor requests that OHA verify the joint venture status of 1TechJV and reiterates the points made in the protest, that 1TechJV is not listed on the database of certified SDVOSBs and they are specifically identified as not a joint venture on the SBA website. Protestor claims it has submitted evidence of both and based on the publicly available information, there is conflicting information regarding 1TechJV's status as a joint venture. (Response, at 1.)

Protestor asserts there was little to no information regarding the apparent awardee, and it was “forced to rely upon publicly available information” as the basis for its original protest. (*Id.*) Protestor now adds that 1TechJV was established on January 4, 2023, which was about two months before the Solicitation was released and about five months before offers were due. Protestor now claims 1TechJV “inappropriately received an award as a newly established entity and could not have had the required past performance to receive an award under the Solicitation.” (*Id.*) With the lack of relevant past performance, Protestor claims 1TechJV should be considered non-responsible under FAR Subpart 9.1. (*Id.*)

Lastly, Protestor argues 1TechJV is specifically identified as not a joint venture of any socio-economic category on the SBA website. Protestor states “[b]ased on the conflicting publicly available information as outlined in the original protest, we continue to contest the joint venture status and matter of responsibility determination of [1TechJV].” (*Id.*, at 2.)

## II. Analysis

The instant protest is plainly nonspecific, and I must dismiss it. Under OHA's rules of procedure, a compliant SDVOSB status protest must contain “[s]pecific allegations supported by credible evidence that the [challenged] concern (or joint venture) does not meet the VOSB or SDVOSB eligibility requirements listed in [13 C.F.R.] part 128.” 13 C.F.R. § 134.1005(a)(2). “A protest merely asserting that the protested concern is not an eligible VOSB or SDVOSB, without setting forth specific facts or allegations, is insufficient.” *Id.* A nonspecific protest will be dismissed. *Id.*, § 134.1007(b).

As explained in OHA's Order to Show Cause, the protest fails to provide any arguments with credible evidence that 1JVTECH does not meet the VOSB or SDVOSB eligibility requirements under 13 C.F.R. part 128. Section I, *supra*. Protestor also fails to give any reason to believe that 1TechJV is not in compliance with specific joint venture requirements at 13 C.F.R. § 128.402.

Protestor's argument is based on what Protestor characterizes as “conflicting publicly available information” with no conclusive evidence and that 1TechJV is not listed in SBA's

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<sup>2</sup> OHA directed Protestor to file a response to OHA's order by December 5, 2023. Protestor's response was filed after the close of business on December 5, 2023, at 5:01 PM EST. Therefore, it is counted as filed on the next business day. 13 C.F.R. § 134.204(b)(2).

database of certified SDVOSBs. Section I, *supra*. However, Protestor overlooks that according to SBA regulations a “joint venture itself need not be a certified VOSB or SDVOSB”; instead, only “the VOSB or SDVOSB joint venture partner must be certified.” 13 C.F.R. § 128.402(a). Thus, the instant protest is based on the absence of evidence, advancing no SDVOSB eligibility arguments, which is not sufficient to constitute a specific protest of a concern's status.

In its response to OHA's Order, Protestor raises new grounds for protests, such as 1TechJV being a newly established entity and lacking relevant past performance, with no credible evidence. These grounds, even if true, are not relevant to 1TechJV's status as an SDVOSB, and are not proper grounds for an SDVOSB status protest before OHA. *See* 13 C.F.R. § 134.1003.

### III. Conclusion

Protestor has not offered any reason(s) to support its allegation that 1TechJV is non-compliant with any of the SDVOSB eligibility criteria set forth in 13 C.F.R. Part 128. A request that OHA investigate a concern's SDVOSB status, without any specific facts or supporting evidence, is insufficient. 13 C.F.R. § 134.1005(a)(2). Accordingly, I DISMISS the instant protest. This is the final decision of the U.S. Small Business Administration. 13 C.F.R. § 134.1007(b).

CHRISTOPHER HOLLEMAN  
Administrative Judge