

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

VSBC Protest of:

DataCom Solutions, Inc.,

Protestor,

Re: Veterans First Enterprise LLC

Solicitation No. 36C24724Q0070

U.S. Department of Veterans Affairs

SBA No. VSBC-331-P

Decided: January 25, 2024

ORDER DISMISSING PROTEST

On December 27, 2023, DataCom Solutions, Inc. (Protestor) filed the above-captioned protest, alleging that Veterans First Enterprise LLC (VFE) is not an eligible Service-Disabled Veteran-Owned Small Business (SDVOSB) and not eligible for award in connection with the U.S. Department of Veterans Affairs (VA) Solicitation No. 36C24724Q0070. On January 3, 2024, VA's Contracting Officer forwarded the protest to the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA) for review.

Because the protest appeared untimely, nonspecific, and non-complaint with the applicable regulations, *infra*, OHA ordered Protestor to show cause why the protest should not be dismissed. OHA first explained 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). Any protest received after the time limit is untimely and will be dismissed. *Id.*, 13 C.F.R. § 134.1004(a)(6). Further, OHA has no discretion to modify the deadline for filing a petition. 13 C.F.R. § 134.202(d)(2)(i)(A).

Furthermore, under OHA's rules of practice, a proper VOSB or SDVOSB protest must be in writing and 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 part 128 of this chapter.” 13 C.F.R. § 134.1005(a)(2). In addition, a VOSB or SDVOSB status protest must contain the “signature of the protestor or its attorney.” 13 C.F.R. § 134.1005(a)(4). A non-specific protest must be dismissed. 13 C.F.R. § 134.1007(b).

Here, the CO issued a public notification of the identity of the apparent successful offeror, VFE, through SAM.gov on December 13, 2023. Therefore, Protestor had until December 19, 2023, to file a timely protest, but failed to do so. Protestor filed on December 27, 2023, the

10th business day, after notice of award. Additionally, the protest is in the form of an unsigned e-mail and fails to offer any specific reasons or supporting evidence as to why VFE does not meet SDVOSB eligibility requirements. Rather, the protest consists entirely of size related claims against VFE. (E-mail from J. Brooks (Dec. 27, 2023).) Protestor, however, makes certain that “this is an official protest on the size, status, and qualification of the awardee and its adjoining affiliates with regards to the federal regulations to 100% SDVOSB set-a-sides.” ((E-mail from J. Brooks (Dec. 28, 2023).)

On January 11, 2024, after receipt of OHA's Order, Protestor filed a response. In its response, Protestor states that it made a “mere inquiry” as to whether an awarded company met the set-a-side eligibility but concedes that the protest was untimely and in an unsigned format upon review of OHA's Order. Protestor indicates that OHA may proceed with dismissing the formal protest as it was unaware of the regulations, characterizing them as “formalities.”¹ (E-mail from J. Brooks (Jan. 11, 2024).)

The instant protest is plainly untimely, nonspecific and non-complaint with the applicable regulations, *supra. E.g., VSBC Protest of Seventh Dimension, LLC*, SBA No. VSBC-315-P (2023); *VSBC Protest of Ronjon Rentals, Inc.*, SBA No. VSBC-287-P (2023). Accordingly, I DISMISS the status portion of its protest. This is the final decision of the U.S. Small Business Administration. 13 C.F.R. § 134.1007(b).

CHRISTOPHER HOLLEMAN
Administrative Judge

¹ Protestor also claims that it was not aware of the regulations and makes vague allegations that the CO did not answer to questions regarding “the steps needed” when it had “clearly asked about the process.” The nature of such allegations against the CO, the VA, and SBA regulations are outside of OHA's jurisdiction