

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

VSBC Protest of:

Triaxx Land Management LLC,

Protestor,

Re: Irvington Maintenance Venture, LLC

Solicitation No. FA302024Q0011

U.S. Department of the Air Force

SBA No. VSBC-386-P

Decided: August 26, 2024

ORDER DISMISSING PROTEST¹

On August 13, 2024, Triaxx Land Management LLC (Protestor) filed the above-captioned protest, purporting to challenge the size and Service-Disabled Veteran-Owned Small Business (SDVOSB) status of Irvington Maintenance Venture, LLC (Irvington Maintenance). The Contracting Officer (CO) forwarded the status portion of the protest to the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA).

Because the protest appeared untimely, OHA ordered Protestor to show cause why the protest should not be dismissed. OHA explained that, for a negotiated procurement, a status protest by a non-governmental party must be submitted “by the close of business on the fifth business day after notification by the contracting officer of the apparent successful offeror.” (Order at 1, quoting 13 C.F.R. § 134.1004(a)(3).) An untimely protest must be dismissed, and OHA has no discretion to extend, or modify, the deadline for filing a protest. (*Id.*, citing 13 C.F.R. §§ 134.202(d)(2)(i)(A) and 134.1004(a)(6).) Protestor did not respond to OHA's Order.

By failing to respond to OHA's Order to Show Cause, Protestor essentially concedes that its protest is untimely. *See, e.g., VSBC Protest of Winergy, LLC*, SBA No. VSBC-372-P (2024). Furthermore, a party's failure to comply with an OHA order may, by itself, be grounds for dismissal. 13 C.F.R. § 134.219. Regardless, the record reflects that Protestor was notified on August 5, 2024 that Irvington Maintenance was the apparent awardee. Accordingly, Protestor's deadline to file a timely status protest was August 12, 2024. The instant protest, however, was

¹ 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.

not filed until August 13, 2024, and therefore is untimely. *See, e.g., VSBC Protest of NEIE Med. Waste Servs., LLC*, SBA No. VSBC-358-P (2024).

For these reasons, the protest is DISMISSED as UNTIMELY. This is the final decision of the U.S. Small Business Administration. 13 C.F.R. § 134.1007(b).

KENNETH M. HYDE
Administrative Judge