

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

VSBC Protest of:

United States Coast Guard,

Protestor,

Re: Heartland Energy Partners, LLC

Solicitation No. 70Z02324R77100001

SBA No. VSBC-417-P

Decided: November 21, 2024

APPEARANCES

Robert D. Budlong, Contracting Officer, United States Coast Guard, Washington, D.C.

William A. Shook, Esq., The Law Offices of William A. Shook PLLC, Washington, D.C., for Heartland Energy Partners, LLC

DECISION

I. Introduction and Jurisdiction

On October 23, 2024, the United States Coast Guard (Protestor), acting through the responsible Contracting Officer (CO), filed the above-caption protest, challenging the Service-Disabled Veteran-Owned Small Business (SDVOSB) status of Heartland Energy Partners, LLC (Heartland), the apparent awardee of Request for Proposals (RFP) No. 70Z02324R77100001. For the reasons discussed *infra*, the protest is sustained.

The U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA) adjudicates SDVOSB status protests pursuant to 15 U.S.C. § 657f and 13 C.F.R. Part 134 Subpart J. A CO may file an SDVOSB protest in conjunction with a negotiated procurement “at any time after the apparent awardee has been identified,” so the protest is timely. 13 C.F.R. § 134.1004(a)(2). Accordingly, this matter is properly before OHA for decision.

II. Background

A. The Procurement

On March 15, 2024, Protestor issued RFP No. 70Z02324R77100001 for “program management and technical support services to support all phases of the requirements generation process.” (RFP § C.1.1.) The CO set aside the procurement entirely for SDVOSBs, and assigned North American Industry Classification System (NAICS) code 541611, Administrative

Management and General Management Consulting Services, with a corresponding size standard of \$24.5 million average annual receipts. Proposals were due May 15, 2024. Heartland submitted a timely offer and was identified as the apparent awardee.

B. Protest

On October 23, 2024, Protestor filed the instant protest, challenging Heartland's status as an SDVOSB. Protestor alleges:

On 11 Jun 2024 and 11 Sep 2024, per [Civilian Agency Acquisition Council (CAAC)] Letter 2024-02, the [CO] visited the [SBA] Dynamic Small Business Search website [] and the SBA Certifications website[.] Neither site confirmed that Heartland was certified as an SDVOSB. The [CO] submitted a request to Heartland for proof of submitting its certification to the SBA, but they did not respond within the period specified by the [CO].

(Protest at 2.)

C. Case File

The Case File (CF) indicates that Heartland applied for SDVOSB certification in January 2023. On July 26, 2023, SBA, acting through the Director of the Office of Government Contracting (D/GC), denied Heartland's application. (CF, Exh. 10.) The D/GC explained that the U.S. Department of Veterans Affairs could not confirm that Heartland's owner, Mr. John English, is a service-disabled veteran. (*Id.* at 1.) As a result, “[y]our business may not represent itself as a certified [SDVOSB].” (*Id.*)

D. Heartland's Response

On November 15, 2024, Heartland responded to the protest. Heartland acknowledges that it currently is not, and never has been, a certified SDVOSB. (Response at 1-2.) More specifically, due to an “internal misunderstanding,” Heartland did not appeal the D/GC's denial decision of July 26, 2023. (*Id.* at 1.) Heartland adds that it “will address this matter separately with the SBA and will not contest the protest.” (*Id.* at 2.)

III. Discussion

A. Burden of Proof

As the protested firm, Heartland has the burden of proving its eligibility by a preponderance of the evidence. 13 C.F.R. § 134.1010.

B. Analysis

In order to compete for, and be awarded, an SDVOSB set-aside procurement, a concern must be an SBA-certified SDVOSB. 15 U.S.C. § 657f(g); Federal Acquisition Regulation (FAR)

19.1405; 13 C.F.R. §§ 128.201(c) and 128.401(a); *VSBC Protest of Aero-Tel Wire Harness Corp.*, SBA No. VSBC-344-P (2024). Here, the record reflects that Heartland is not a certified SDVOSB. Sections II.B-II.D, *supra*. Although Heartland applied for SDVOSB certification in early 2023, that application was denied and Heartland did not appeal the decision. Sections II.C and II.D, *supra*. Furthermore, in response to the protest, Heartland concedes that it is not a certified SDVOSB. Section II.D, *supra*. Accordingly, Heartland is ineligible for award of the instant procurement, which was set aside entirely for SDVOSBs.

IV. Conclusion

For the above reasons, the protest is SUSTAINED. Heartland is not an eligible SDVOSB for the instant procurement. This is the final agency action of the U.S. Small Business Administration. 15 U.S.C. § 657f(f)(6)(B); 13 C.F.R. § 134.1007(i).

KENNETH M. HYDE
Administrative Judge