

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

SIZE APPEAL OF:

Horizon, Inc.,

Appellant,

RE: Chemtica USA, LLC

Appealed From
Size Determination No. 5-2012-74

SBA No. SIZ-5408

Decided: October 2, 2012

ORDER DISMISSING APPEAL

On August 24, 2012, the U.S. Small Business Administration (SBA) Office of Government Contracting, Area V (Area Office) issued Size Determination No. 5-2012-74. The Area Office found Chemtica USA, LLC (Chemtica) an eligible small business for the subject solicitation.

On September 19, 2012, Horizon, Inc. (Appellant) filed the instant appeal of the size determination with OHA. An appeal from a size determination must be filed with the SBA Office of Hearings and Appeals (OHA) within fifteen days after an appellant receives the size determination. 13 C.F.R. § 134.304(a). The term “days” in the regulation means calendar days, unless a judge specifies otherwise. 13 C.F.R. § 134.101.

On September 19, 2012, OHA directed Appellant to demonstrate, no later than October 1, 2012, why its appeal should not be dismissed as untimely under 13 C.F.R. § 134.304(c). Appellant made no such demonstration.

OHA later received the record from the Area Office's size determination. The record contains proof of delivery from the United Parcel Service establishing Appellant received the size determination on August 27, 2012. Therefore, an appeal received by OHA later than September 11, 2012 is untimely. OHA did not receive the subject appeal until September 19, 2012. Accordingly, the appeal is untimely and therefore dismissed. 13 C.F.R. § 134.304(c).

CHRISTOPHER HOLLEMAN
Administrative Judge