

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

NAICS APPEAL OF:

Latvian Connection, LLC,

Appellant,

Sources Sought Notice No. W912D1-14-R-0001

U.S. Department of the Army

SBA No. NAICS-5525

Decided: January 8, 2014

**ORDER DISMISSING APPEAL**

On December 12, 2013, the U.S. Department of the Army, Kuwait Contracting Command (Army) published Sources Sought Notice No. W912D1-14-R-0001 on the Federal Business Opportunities website (FedBizOpps.gov). The notice stated that the Army was “conducting market research in order to determine the availability and capability of companies to perform Laundry Services” at military installations in Kuwait. (Notice at 1.) The notice cautioned that “[t]his is not a request for proposals” and “[n]o contract shall be awarded based on this notice.” (*Id.*) The notice asked interested parties to state whether they qualified as small businesses under North American Industry Classification System (NAICS) Code 812332, Industrial Launderers, with a corresponding size standard of \$35.5 million average annual receipts.

On December 16, 2013, Latvian Connection, LLC (Appellant) filed the instant NAICS code appeal with the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA). Because the appeal appeared to pertain to a sources sought notice, rather than to a solicitation, OHA ordered Appellant to show cause why the appeal should not be dismissed as premature. Appellant did not respond to OHA's order.

Pursuant to applicable regulations, a NAICS code appeal must be filed within ten calendar days after issuance of a solicitation. 48 C.F.R. § 19.303(c)(1); 13 C.F.R. §§ 121.1103(b)(1), 134.304(b). OHA has held that a pre-solicitation notice, such as a sources sought notice, is not a solicitation and therefore may not be the subject of a NAICS code appeal. *NAICS Appeal of Integrated Laboratory Systems, Inc.*, SBA No. NAICS-5406 (2012); *NAICS Appeal of Secure Network Systems, LLC*, SBA No. NAICS-5246 (2011). “Mere publication of a [pre-solicitation] notice guarantees neither that the [contracting officer (CO)] will issue a procurement nor that the CO will assign the NAICS code anticipated in the notice.” *NAICS Appeal of Ross Aviation, Inc.*, SBA No. NAICS-4548, at 2 (2003). Consequently, a NAICS appeal based upon a sources sought notice is premature and must be dismissed.

Absent a formally issued solicitation, the instant appeal is premature, and OHA has no jurisdiction to consider it. Further, Appellant did not respond to OHA's show cause order, and has not established any valid basis for the instant appeal. For these reasons, Appellant's NAICS code appeal is DISMISSED. This is the final decision of the Small Business Administration. 13 C.F.R. § 134.316(d).

KENNETH M. HYDE  
Administrative Judge