

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

NAICS APPEAL OF:

Keating Dental Arts,

Appellant,

Solicitation No. 36C26219Q1381

U.S. Department of Veterans Affairs
Network contracting Office 22
Long Beach, CA

SBA No. NAICS-6033

Decided: October 24, 2019

ORDER DISMISSING APPEAL¹

I. Background

On September 23, 2019, the U.S. Department of Veterans Affairs (VA) issued Request for Quotations (RFQ) No. 36C26219Q1381 for dental products. The Contracting Officer (CO) set aside the procurement entirely for small businesses, and assigned North American Industry Classification System (NAICS) code 339114, Dental Equipment and Supplies Manufacturing, with a corresponding size standard of 750 employees. Quotations were due September 30, 2019.

On October 3, 2019, Keating Dental Arts (Appellant) filed the instant NAICS code appeal with the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA). Appellant asserts that NAICS code 339116, Dental Laboratories, with an associated 500-employee size standard, is most appropriate for this RFQ.

On October 21, 2019, the CO cancelled the RFQ in order to address certain issues including “an incorrect NAICS code.” (Cancellation Notice, at 2.) The CO stated that a new solicitation would be forthcoming in the near future. (*Id.*)

¹ This appeal is decided under the Small Business Act of 1958, 15 U.S.C. § 631 *et seq.*, and 13 C.F.R. Parts 121 and 134.

II. Analysis

Under OHA precedent, if a solicitation is cancelled, any dispute over the NAICS code is moot. *E.g.*, *NAICS Appeal of Elevator Serv., Inc.*, SBA No. NAICS-5862 (2017); *NAICS Appeal of Delta Solutions and Strategies, LLC*, SBA No. NAICS-5819 (2017); *NAICS Appeal of Noble Supply & Logistics*, SBA No. NAICS-5784, at 1 (2016) (“Cancellation of a solicitation eliminates the need for a review and decision on the selection of a NAICS code.”). Accordingly, because the RFQ has been cancelled, the instant appeal has become moot and must be dismissed. 13 C.F.R. § 134.318(c).

III. Conclusion

The instant appeal is moot because it seeks to challenge the NAICS code assigned to a solicitation that has been cancelled. For this reason, the appeal is DISMISSED. This is the final decision of the U.S. Small Business Administration. 13 C.F.R. § 134.316(d).

KENNETH M. HYDE
Administrative Judge