

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

SIZE APPEAL OF:

Val-Coast, Inc.

Appellant

Re: Condor Reliability Services, Inc.

Appealed from
Size Determination No. 2-2009-032

SBA No. SIZ-5031

Decided: March 19, 2009

ORDER DENYING APPEAL¹

I. Background

On October 15, 2008, the Department of Homeland Security, Coast Guard, issued Solicitation No. HSCG89-08-R-6SP006 (RFP) for ground maintenance services as a small business set-aside. The RFP was assigned North American Industry Classification System (NAICS) code 561730, with a corresponding \$7 million size standard. On February 16, 2009, the Contracting Officer (CO) notified unsuccessful offerors that Condor Reliability Services, Inc. (Condor) was the apparent successful offeror. On February 19, 2009, Val-Coast, Inc. (Appellant) filed a size protest stating, "After some review of [Condor's] Company Profile I believe the validity of their size standard in relation to their NAICS Code should be researched. Additionally, there appears to be no evidence of this Company [Condor] having NAICS Code 561730 anywhere in their profile."

On February 25, 2009, the Small Business Administration's (SBA) Office of Government Contracting, Area VI, in San Francisco, California (Area Office) dismissed Appellant's protest as insufficiently specific, citing 13 C.F.R. § 121.1007(b).

On March 4, 2009, Appellant appealed the size determination at the Office of Hearings and Appeals (OHA).

II. Discussion

Appellant filed its appeal within 15 days of receiving the size determination and, thus, the appeal is timely. 13 C.F.R. § 134.304(a)(1).

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.

I find the Area Office properly dismissed the protest. The applicable regulation provides:

A protest must include specific facts. A protest must be sufficiently specific to provide reasonable notice as to the grounds upon which the protested concern's size is questioned. Some basis for the belief or allegation stated in the protest must be given. A protest merely alleging that the protested concern is not small ... does not specify adequate grounds for the protest.

13 C.F.R. § 121.1007(b). Moreover, the Area Office must dismiss protests that are not sufficiently specific. 13 C.F.R. § 121.1007(c).

As the Area Office concluded, Appellant's protest offers no factual basis for concluding that the "validity of [Condor's] size standard in relation to their NAICS Code should be researched." Thus, Appellant's protest lacks the specificity required by 13 C.F.R. § 121.1007(b) to authorize the Area Office to investigate the challenged firm's size and issue a size determination. For that reason, the Area Office correctly dismissed the protest. 13 C.F.R. § 121.1007(c). While Appellant's appeal presents additional reasons for protesting Condor's size, Appellant cannot cure an insufficiently specific protest on appeal by submitting information it did not present to the Area Office. *See Size Appeal of Pentzien, Inc.*, SBA No. SIZ-4674 (2004).

In addition, Appellant's protest contention that there is "no evidence of [Condor] having NAICS Code 561730 anywhere in their profile" is not a size issue, as it does not make Condor other than small and thus the Area Office properly did not consider it.

III. Conclusion

For the above reasons, I AFFIRM the Area Office's dismissal of Appellant's protest and DENY the instant appeal.

This is the final decision of the Small Business Administration. *See* 13 C.F.R. § 134.316(b).

CHRISTOPHER HOLLEMAN
Administrative Judge