United States Small Business Administration
Office of Hearings and Appeals

SIZE APPEAL OF: SIMMEC Training Solutions, Appellant, RE: Tier-One Quality Solutions Corp. Appealed From Size Determination Nos. 2-2012-134, 137	SBA No. SIZ-5404 Decided: September 24, 2012

APPEARANCES

Steve M. Miyares, Esq., Miyares & Knight, P.C., Norfolk, Virginia, for Appellant

Edward Agnew-Rossbauer, President, Tier-One Quality Solutions, Virginia Beach, Virginia

DECISION

I. Introduction and Jurisdiction

On July 27, 2012, the U.S. Small Business Administration (SBA) Office of Government Contracting, Area II (Area Office) issued Size Determination Nos. 2-2012-134 and -137, finding Tier-One Quality Solutions Corp. (TQS) an eligible small business for the procurement at issue. The Area Office determined TQS was not affiliated with its subcontractor, Assessment & Training Solutions Consulting Corporation (ATSCC). SIMMEC Training Solutions (Appellant) maintains the Area Office committed several errors. For the reasons discussed below, the appeal is denied, and the size determination is affirmed.

SBA's Office of Hearings and Appeals (OHA) decides size determination appeals under the Small Business Act of 1958,15 U.S.C. § 631 *et seq.*, and 13 C.F.R. Parts 121 and 134. Appellant filed the instant appeal within fifteen days of receiving the size determination, so the appeal is timely. 13 C.F.R. § 134.304(a). Accordingly, this matter is properly before OHA for decision.

II. Background

A. Solicitation and Protest

On February 23, 2012, the Department of the Navy (Navy) issued Solicitation No. N00189-12-R-0019 (RFP) for tactical combat first aid and live tissue training. The Contracting Officer (CO) set aside the procurement exclusively for small businesses, and assigned North American Industry Classification System (NAICS) code 611699, All Other Miscellaneous Schools and Instruction, with a corresponding $7 million average annual receipts size standard. TQS submitted its proposal on March 29, 2012, the date offers were due.

On May 21, 2012, the CO announced TQS was the apparent awardee. On May 22, 2012, Appellant, a disappointed offeror, filed a size protest. On May 25, 2012, Warrior Medical Resources, LLC (WMR), another disappointed offeror, filed a size protest. Both protesters alleged TQS was not an eligible small business due to affiliation with ATSCC. Appellant asserted TQS and ATSCC share ownership, personnel, and office space, and that TQS relies on ATSCC for necessary certifications to meet the primary and vital requirements of the instant procurement. Appellant also asserted TQS and ATSCC are in the same industry and have been in a continuous relationship for the past three years. WMR contended TQS and ATSCC share office space and a registered agent, are managed by family members, and established a partnership to collaborate on tactical combat casualty care training.[1]

B. Performance Work Statement

The Performance Work Statement (PWS) states the contractor will provide tactical combat first aid and live tissue training for 360 personnel in the Navy Expeditionary Combat Command (NECC) Force. The curriculum consists only of the NECC Combat First Aid Course Category III. The solicitation lists two contract line items: first aid and live tissue training for the East Coast and for the West Coast. The contractor will provide 24 sessions of training, 12 on the East Coast and 12 on the West Coast. Training must take place within 50 miles of both training areas: Virginia Beach, Virginia, and San Diego, California. Each training session will occur over three days, with a classroom lecture on the first day, practical lab instruction and exercises with the use of synthetic training aids on the second, and interactive review of combat wounds and first-aid scenario drills using live tissue in a field environment on the third. The first and second days will be eight hours long, and the third will be seven hours long.

The PWS requires the contractor to offer a dedicated veterinarian technician, fully licensed and credentialed to practice and perform in Virginia and California, or wherever the contractor's facilities are located. The contractor must also have valid certifications, including accreditation by the Association for Assessment and Accreditation of Laboratory Animal Care

[1] . WMR also claimed TQS was affiliated with Tier 1 Group. The Area Office determined this allegation had no merit, and Appellant did not appeal this determination. Therefore, the issue of whether TQS is affiliated with Tier 1 Group is not before OHA. *Size Appeal of Apex Group, Inc.*, SBA No. SIZ-4300 (1998).

(AAALAC) and a certification from the U.S. Department of Agriculture (USDA), as well as an internal system for instructor development, training, and evaluation. All instructors must be certified National Registry of Emergency Medical Technicians Paramedics, non-active duty medics/corpsmen, or other trauma certified medical professionals.

The Navy would evaluate proposals based on three factors: Technical, Past Performance, and Price, with a tradeoff between Past Performance and Price. Past Performance would be evaluated based on quality of performance and relevance to the contract in scope and magnitude. The Navy would rate Technical proposals acceptable or unacceptable. Unacceptable Technical proposals would not receive further evaluation.

C. Proposal and Teaming Agreement

The Executive Summary of TQS's Technical Proposal states that TQS specializes in providing medical subject matter experts and customized combat medical training solutions around the country. The Navy Bureau of Medicine and Surgery has approved TQS's performance of live tissue trainings. TQS is a USDA “R” approved facility.

TQS proposed ATSCC as its subcontractor. On March 2, 2012, the firms executed a teaming agreement. Under the teaming agreement, TQS will utilize ATSCC's services, curriculum, protocols, and one or two medical providers for live tissue training on the third day of training, depending on class size. If ATSCC provides two medical providers, ATSCC will perform approximately 33% of the work performed on the third day and 8% of the total work provided under this contract.

The teaming agreement states further TQS is responsible for preparing and submitting the proposal. TQS will interface with the Government and retain control of program management, technical direction, and subcontractor selection and management.

The proposal states ATSCC holds the requisite AAALAC accreditation for providing live tissue training. ATSCC is not an incumbent on this contract. Both the program manager responsible for the day-to-day contract management and the veterinarian overseeing the staffing and performance of live tissue training are TQS employees.

For past performance, TQS submitted three references, two of which TQS performed and one ATSCC performed. On the first TQS past performance, TQS provided live tissue training services as a subcontractor to JTM Training Group (JTM) on a contract with the Air Force. The second reference was for a contract with the Navy in which TQS provided a combat trauma medicine instructor/advisor to support acquisition of combat and emergency trauma training. The ATSCC reference was for a contract with the Army in which ATSCC provided tactical combat casualty care, emergency medical treatment, and evacuation.

D. Size Determination

On July 27, 2012, the Area Office issued its size determination, finding TQS and ATSCC were not affiliated under the affiliation principles of common ownership, 13 C.F.R. § 121.103(c),

common management, 13 C.F.R. § 121.103(e), identity of interest, 13 C.F.R. § 121.103(f), or the ostensible subcontractor rule, 13 C.F.R. § 121.103(h)(4).

As for common ownership and management, the Area Office noted Appellant's contention that Mr. John Janota owns ATSCC and is CEO of TQS. According to WMR, Mr. Janota is listed as a principal point of contact for both TQS and ATSCC in the Central Contractor Registry (CCR), and his wife, Ms. Magaly Janota, is listed as a principal point of contact for government business on ATSCC's CCR entry. The Area Office explained it did not find any evidence in the record to support these allegations. Its review of the stock purchase agreement executed by Mr. Janota and Mr. Ed Agnew-Rossbauer showed Mr. Janota transferred his entire interest in TQS and transferred all corporate assets to Mr. Agnew-Rossbauer on October 31, 2011. That same day, Mr. Janota resigned from his TQS management and board positions. The board of directors provided written consent to the stock sale and resignation. Because Mr. Janota did not have any ownership interest or management position with TQS at the time of self-certification, the Area Office determined TQS and ATSCC were not affiliated based on common ownership or management.

As for identity of interest, the Area Office considered Appellant's and WMR's assertions that TQS and ATSCC are owned by family members, operate in the same line of business, share personnel and office space, and are economically interdependent. The Area Office determined there was ample evidence to support a finding of identity of interest prior to October 31, 2011. During that time, the two firms shared office space, were owned and managed by family members, and had a strategic relationship to collaborate on tactical combat casualty training.

The Area Office reasoned this interdependent relationship ceased as of October 31, 2011, when Mr. Janota resigned and transferred his ownership interest to Mr. Agnew-Rossbauer. That day, ATSCC assigned its lease to TQS and has since signed a lease at a different location. Thus, the Area Office found no evidence to support the protesters' allegations that TQS and ATSCC are affiliated based on an identity of interest.

The Area Office then determined TQS did not violate the ostensible subcontractor rule, finding TQS would perform the contract's primary and vital requirements and TQS was not unduly reliant on ATSCC to perform the contract. In determining TQS would perform the primary and vital requirements, the Area Office observed the RFP's intent is to train support personnel with limited medical training on tactical combat first aid, so they could perform life-saving emergency medical services in battlefields. The Area Office also noted the CO identified training services as the primary and vital requirement.

The Area Office observed TQS would provide personnel, equipment, protocols, and supervision to deliver training; ATSCC would provide personnel, protocols, and certifications for live tissue training for the third day of training. The Area Office then considered Exhibit A to the teaming agreement, which stipulates that if TQS requests an additional medical provider, ATSCC's contribution represents 33% of the work scheduled for the third day and 8% of the total work provided under this contract. The Area Office reasoned TQS was performing the contract's primary and vital requirements because TQS and ATSCC are performing identical services, and TQS is performing 92% of the work on the contract. *Size Appeal of LOGMET,*

LLC, SBA No. SIZ-5155 (2010) (holding that when the prime and subcontractor perform identical services towards the primary and vital requirements, and the prime performs the majority of that work, the prime contractor is deemed to perform the contract's primary and vital requirements).

In determining TQS was not unduly reliant on ATSCC to perform the contract, the Area Office noted there was no evidence that TQS would hire ATSCC's employees for the contract's key positions or that TQS relied on ATSCC for past performance. The Area Office emphasized aspects of the teaming agreement stating TQS is responsible for preparing and submitting the proposal; interfacing with the Government; and retaining control of program management, technical direction, and subcontractor selection and management. The Area Office also noted Appellant submitted a copy of its Class R research facility certification from the USDA.

The Area Office then made a size determination of TQS based on its tax returns and those of its affiliate, The Canvas Boat Company. The Area Office explained TQS and The Canvas Boat Company were affiliated based on common ownership, as TQS's SBA Form 355 shows Mr. Agnew-Rossbauer owns 100% of TQS's stock and 50% of The Boat Canvas Company's stock. The Area Office then combined the annual receipts of TQS and The Boat Canvas Company for the years 2011, 2010, and 2009, and determined TQS was small for purposes of the instant procurement.

E. Appeal

On August 13, 2012, Appellant filed its appeal of the size determination with OHA. Appellant maintains the size determination is clearly erroneous and requests OHA reverse the size determination and find TQS affiliated with ATSCC. Appellant also requests the opportunity to produce witness testimony and documents at a hearing.

Appellant argues the Area Office should have analyzed the relationship between TQS and ATSCC over the three years preceding the date of self-certification, as it is the annual receipts of this period that are considered when making a size determination. Federal Acquisition Regulation (FAR) Part 19.101. In addition, "SBA considers . . . previous relationships with or ties to another concern, in determining whether affiliation exists." 13 C.F.R. § 121.103(a)(2). Appellant interprets this regulation to mean that SBA will consider previous affiliation when determining whether firms are affiliated as of the date of self-certification.

Appellant then argues the Area Office erred in finding TQS was not affiliated with ATSCC under identity of interest. Appellant emphasizes TQS and ATSCC operate in the same industry, because they both provide specialized military training, and contends ATSCC is TQS's former parent. Appellant maintains Mr. Janota's former control of TQS gives rise to affiliation with ATSCC because his wife is presently the CEO of ATSCC.

Appellant also argues, contrary to the size determination, that TQS and ATSCC do in fact share office space. Appellant contends ATSCC employees still work out of TQS's office, located at 2601 Performance Court, Suite 101, in Virginia Beach, Virginia. To substantiate this argument, Appellant seeks to admit new evidence in the form of witness testimony and internet

search results.

Next, Appellant argues TQS is unduly reliant on ATSCC and therefore violates the ostensible subcontractor rule. According to Appellant, TQS shares key employees with ATSCC. Appellant contends Mr. Chris Hagerman performs all of the contracting for both firms, and Mr. Brian Holland prepares the proposals for both firms.

Contrary to the size determination, Appellant argues ATSCC is in fact the incumbent contractor. According to Appellant, the CO for the Government Accountability Office noted, "The solicitation was for a larger number of presentations of the same three day course previously provided to a different command under contract no. N00189-10-F-0393, which was held by Assessment and Training Solutions, Inc." Appeal at 16 (citing *Statement of the Dept. of the Navy* at 1).[2]

Next, Appellant questions the verity of TQS's past performance references. According to Appellant, JTM, the prime contractor on the contract with the Air Force, can host, but not perform, live tissue training courses. Appellant contends JTM typically subcontracts the training to ATSCC.

Appellant also questions the validity of TQS's past performance as the prime contractor for the Navy. To support this argument, Appellant cites an unsworn statement absent from the record in which an unnamed witness contradicted the validity of this reference. Appellant also argues the Navy has an indefinite delivery/indefinite quantity contract with ATSCC, which ATSCC would breach by being the subcontractor on the instant procurement.

Appellant goes on to argue TQS is unduly reliant on ATSCC for its certifications and protocol. Appellant first questions the Area Office's finding that TQS is USDA-certified. Appellant explains its internet search and telephone conversation with USDA, which revealed ATSCC was USDA-certified but did not reveal a certification for TQS. Appellant has not yet received a response to its request with USDA under the Freedom of Information Act as to whether TQS is certified. Appellant argues TQS does not possess its own protocol and must rely on ATSCC's.

Appellant then argues ATSCC will perform the contract's primary and vital requirements because ATSCC will perform the majority of the training hours. Appellant reasons ATSCC will perform all of the live tissue trainings on the third day because TQS lacks the requisite certifications. According to Appellant, the third day requires eight instructors for seven hours. This means ATSCC will perform 56 hours of training. The first and second days require only one instructor for eight hours each day. This means TQS will perform 16 hours of training.

Appellant argues the applicable standard of review is one that requires Appellant "to produce substantial evidence to prove the[ ] flawed aspects [of the size determination]." Appeal at 7.

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[2] This statement is not in the record and was not included with the appeal.

F. TQS's Response

On August 29, 2012, TQS filed its response to the appeal.[3] TQS asserts it does in fact hold the required USDA certification.

G. New Evidence and Objection Thereto

On August 29, 2012, Appellant submitted a report from a private investigator and an audio recording of the investigation. Appellant also includes a 146-page list of contracts awarded to ATSCC and contends this evidence demonstrates ATSCC is not a small business. Appellant did not file a corresponding motion demonstrating why OHA should admit any of this evidence. On August 31, 2012, after the record closed, TQS filed its objection to Appellant's new evidence. TQS argues Appellant has not shown good cause for admission and the "proffered theatrical evidence should be ruled inadmissible."

On September 8, 2012, Appellant responded to TQS's objection. Appellant emphasizes TQS submitted its objection after the close of record, and contends the new evidence was not "evidence" but supporting statements permitted under 13 C.F.R. § 134.212(a)(1).

H. Motion for Summary Decision

On August 29, 2012, Appellant moved for summary decision. Appellant references the arguments from the appeal and contends it is entitled to judgment as a matter of law, as there is no genuine issue of material fact regarding the arguments on appeal. According to Appellant, it has conclusively proven that TQS is affiliated with ATSCC and that ATSCC is not a small business. TQS did not respond to the motion for summary decision.

On September 14, 2012, Appellant filed a memorandum of law, requesting OHA to grant the motion for summary decision because TQS did not submit a response within fifteen days of receiving Appellant's motion. Thus, argues Appellant, because TQS is deemed to have consented to the relief sought, 13 C.F.R. § 121.211(c), Appellant is entitled to a favorable decision.

III. Discussion

A. Standard of Review

Appellant has the burden of proving, by a preponderance of the evidence, all elements of the appeal. Specifically, Appellant must prove the size determination is based upon a clear error of fact or law. 13 C.F.R. § 134.314. OHA will disturb an area office's size determination only if,

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[3] TQS represents it did not receive the appeal petition until August 28, 2012. Appellant responded it served TQS's president, Mr. Agnew-Rossbauer, by email, but the email was returned to Appellant because the attachments were too large. Appellant resent the appeal and did not receive a response. TQS did not request an extension to the close of record.

after reviewing the record, the administrative judge has a definite and firm conviction that the area office erred in making its key findings of fact or law. *Size Appeal of Taylor Consultants, Inc.*, SBA No. SIZ-4775, at 11 (2006).

B. New Evidence

OHA's review is based upon the evidence in the record at the time the Area Office made its determination. *Id.* at 10-11. As a result, evidence that was not previously presented to the Area Office is generally not admissible and will not be considered by OHA. *E.g., Size Appeal of Maximum Demolition, Inc.*, SBA No. SIZ-5073, at 2 (2009) ("I cannot find error with the Area Office based on documents the Area Office was unable to review."). New evidence may be admitted on appeal at the discretion of the administrative judge if "[a] motion is filed and served establishing good cause for the submission of such evidence." 13 C.F.R. § 134.308(a). The proponent must demonstrate, however, that "the new evidence is relevant to the issues on appeal, does not unduly enlarge the issues, and clarifies the facts on the issues on appeal." *Size Appeal of Vista Eng'g Techs., LLC*, SBA No. SIZ-5041, at 4 (2009).

In this case, I find Appellant has not shown good cause to admit the new evidence. First, Appellant did not file a motion pursuant to 13 C.F.R. § 134.308(a). Second, Appellant offers no explanation why this evidence could not have been prepared much earlier in the review process. Accordingly, if Appellant wished to have the new evidence considered, Appellant could, and should, have produced it to the Area Office during the size review. *Size Appeal of BR Constr., LLC*, SBA No. SIZ-5303, at 7 (2011) (denying motion to admit new exhibit, which "sets forth factual information that could have been communicated to the Area Office"); *Size Appeals of Safety and Ecology Corp.*, SBA No. SIZ-5177, at 17 (2010) (rejecting new evidence because "Appellant knew its relationship with [the alleged affiliate] was at issue and should have presented this information to the Area Office").

Third, Appellant's argument that its submissions are not new evidence, but supporting statements permitted by 13 C.F.R. § 134.212(a)(1), is meritless. Appellant proffers its evidence in order to obtain a decision reversing the size determination on the merits, and attempts to evade the limitations on the use of new evidence and the requirement to justify its admission by relying on § 134.212(a)(1). I see no support for a finding that the regulation permits such an evasion of the limitations on new evidence as the basis for a decision on the merits in a size case. Accordingly, I EXCLUDE Appellant's proffered new evidence from the record.

C. Summary Decision

Appellant argues it is entitled to summary decision because TQS did not respond timely to its motion. Appellant is incorrect. The regulation states, "All non-moving parties must file and serve a response to the motion or be deemed to have consented to the relief sought." 13 C.F.R. § 134.211(c). More important is what the regulation does not state. Contrary to Appellant's argument, the regulation does not state the moving party is entitled to judgment as a matter of law when nonmoving parties fail to timely respond. That determination is within the judge's discretion, and I decline to make such a ruling.

Appellant argues it has conclusively proven—based on new evidence—TQS's affiliation with ATSCC, and so there is no genuine issue of material fact. As stated above, OHA reviews the size determination for clear error based on the information the Area Office had available, and there is not good cause to admit the proffered evidence. As a result, Appellant has not conclusively proven TQS's affiliation with ATSCC. Accordingly, the motion is DENIED.[4]

D. Request for Hearing

Appellant requests the opportunity to produce witness testimony and documents at a hearing. However, Appellant has failed to establish that there are extraordinary circumstances requiring an oral hearing in this case. 13 C.F.R. § 134.311 ("Oral hearings ... will be held in appeals from size determinations only upon a finding by the Judge of extraordinary circumstances.") Accordingly, the request for a hearing is DENIED.

E. Analysis

1. TQS and ATSCC are not generally affiliated.

It is clear from the record that TSC and ATSCC have no common ownership, because the sale to Mr. Agnew-Rossbauer took place in 2011. There is no common management, because the two concerns share no common officers, directors, or managers.

Appellant argues, contrary to the size determination, TQS and ATSCC share office space. To support this argument, Appellant does not point to documents in the record that would lead the Area Office to such a conclusion. Rather, this argument is based upon evidence I have excluded from the record, and thus is without support here.

Appellant argues a more diligent investigation on the Area Office's behalf would have yielded this information. However, "the size determination [[is] based primarily on the information supplied by the protestor . . . and that provided by the concern whose size is at issue." 13 C.F.R. § 121.1009(b). Accordingly, if Appellant wanted the Area Office to conduct a more thorough investigation, Appellant should have submitted more evidence to the Area Office. *Size Appeal of Barlovento, LLC*, SBA No. Siz-5191 (2011) ("it was [[the challenged firm]'s responsibility to present all relevant evidence to the Area Office.")

Appellant's argument that TSC and ATSCC are affiliated under the identity of interest rule based upon the two firms being in the same line of business is meritless. A finding of affiliation under the identity of interest rule requires that the two firms have identical or substantially identical economic interests. 13 C.F.R. § 121.103(f). The mere fact that the two firms are in the same line of business hardly suffices to establish this.

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[4] Even had Appellant's proffered evidence been admitted, TQS's Response to the Protest, already in the record, would raise sufficient issues of material fact to preclude a summary decision.

Appellant's other arguments fail because they are either baseless or rely on evidence not in the record. The record contains no evidence to support Appellant's arguments that ATSCC is the incumbent or that Messrs. Chris Hagerman and Brian Holland perform contracting and proposal work for both firms. Appellant's attempted impeachment of TQS's past performance references rely on evidence not in the record. Therefore, there is no basis whatever for a finding of affiliation between TQS and ATSCC, and the Area Office made no error in its determination that there was no affiliation between the two concerns.

2. TQS and ATSCC are not affiliated under the Ostensible Subcontractor Rule for this procurement.

Appellant also contends TQS violated the "ostensible subcontractor" rule. This rule provides that when a subcontractor is actually performing the primary and vital requirements of the contract, or the prime contractor is unusually reliant upon the subcontractor, the two firms are affiliated for purposes of the procurement at issue. 13 C.F.R. § 121.103(h)(4). To determine whether the relationship between a prime contractor and a subcontractor violates the ostensible subcontractor rule, the Area Office must examine all aspects of the relationship, including the terms of the proposal and any agreements between the firms. *Id.; Size Appeal of C&C Int'l Computers and Consultants Inc.*, SBA No. SIZ-5082 (2009); *Size Appeal of Microwave Monolithics, Inc.*, SBA No. SIZ-4820 (2006). The purpose of the rule is to "prevent other than small firms from forming relationships with small firms to evade SBA's size requirements." *Size Appeal of Fischer Bus. Solutions, LLC*, SBA No. SIZ-5075, at 4 (2009). Ostensible subcontractor inquiries are "intensely fact-specific given that they are based upon the specific solicitation and specific proposal at issue." *Size Appeals of CWU, Inc., et al.*, SBA No. SIZ-5118, at 12 (2010).

In this case, the Area Office found TQS performed the contract's primary and vital requirements and that TQS was not unduly reliant on ATSCC to perform the contract. Appellant argues TQS is unduly reliant on ATSCC because TQS lacks the requisite USDA certification. This argument lacks merit because the record contains a copy of TQS's USDA certification.

Appellant argues ATSCC will perform the contract's primary and vital requirements because it will perform the majority of the labor hours. This argument is unpersuasive because it rests on the faulty premise that the third day of training will require eight instructors. The teaming agreement reveals ATSCC will provide at most two medical providers. In that scenario, ATSCC is only performing 33% of the work on the third day and 8% of the total work. Thus, I find Appellant has not demonstrated clear error in the Area Office's determination that TQS is performing the bulk of the contract's primary and vital requirements.

3. The Area Office properly calculated TQS's receipts.

Appellant argues the Area Office erred by finding TQS and ATSCC were no longer affiliated after October 31, 2011. Appellant contends this previous affiliation should affect Appellant's size for this procurement, even though TQS self-certified as small many months after October 31, 2011. Appellant's argument is directly inconsistent with SBA regulations. "[T]he annual receipts of a former affiliate are not included if affiliation ceased before the date used for determining size. This exclusion of annual receipts of a former affiliate applies during the entire

period of measurement, rather than only for the period after which affiliation ceased." *Id.* § 121.104(d)(4). SBA determines the size status of a concern, including its affiliates, as of the date of self-certification. *Id.* § 121.404(a).

In this case, TQS self-certified as small on March 29, 2012. Thus, SBA uses March 29, 2012, as the date for determining TQS's size. On that date, TQS was not affiliated with ATSCC. Therefore, the annual receipts of the former affiliate were properly excluded from the size calculation despite the fact that TQS and ATSCC were affiliated for part of the three-year period. *Id.* § 121.104(d)(4). The Area Office made no error in its calculation of Appellant's receipts.

IV. Conclusion

Appellant has utterly failed to demonstrate that the size determination is clearly erroneous. Accordingly, the appeal is DENIED, and the size determination is AFFIRMED. This is the final decision of the Small Business Administration. 13 C.F.R. § 134.316(d).

CHRISTOPHER HOLLEMAN
Administrative Judge