

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

SIZE APPEAL OF:

Lukos, LLC,

Appellant,

RE: SkyBridge Tactical, LLC

Appealed From

Size Determination No. 03-2020-012

SBA No. SIZ-6047

Decided: February 11, 2020

APPEARANCES

Shane J. McCall, Esq., Matthew T. Schoonover, Esq., Nicole D. Pottroff, Esq., Robert Kampen, Esq., of Koprince Law, LLC, Lawrence, Kansas, for Appellant

Timothy J. Turner, Esq., of Whitcomb, Selinsky, PC, Denver, CO, for Skybridge Tactical, LLC

DECISION<sup>1</sup>

I. Introduction and Jurisdiction

On November 22, 2019, the U.S. Small Business Administration (SBA) Office of Government Contracting, Area III (Area Office) issued Size Determination No. 03-2020-012 finding that SkyBridge Tactical, LLC (SkyBridge Tactical), is a small business under the \$15 million annual receipts size standard. Protestor, Lukos, LLC (Appellant), maintains the size determination is clearly erroneous, and requests that SBA's Office of Hearings and Appeals (OHA) reverse or remand. For the reasons discussed *infra*, the appeal is denied and the size determination is affirmed.

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

---

<sup>1</sup> This decision was initially issued under a protective order. Pursuant to 13 C.F.R. § 134.205, OHA afforded counsel an opportunity to file a request for redactions if desired. OHA received one or more timely requests for redactions and considered any requests in redacting the decision. OHA now publishes a redacted version of the decision for public release.

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

On June 6, 2019, the U.S. Department of Defense (DOD) issued Solicitation No. HQ0034-19-R-0142 for assessment, monitoring, and evaluation (AM&E) support services to the Defense Security Cooperation Agency under Functional Category #1 for Security Cooperation Support; Functional Category #2 for AM&E Training; Functional Category #3 for Evaluations; and Functional Category #4 for Program Management, Budgeting, and Staff Augmentation. The Solicitation was issued for multiple-award indefinite-delivery indefinite-quantity (ID/IQ) contracts.

The Contracting Officer (CO) set aside Task Order # 1 under the ID/IQ for Functional Category #2, AM&E Training, for small businesses, and designated the procurement under North American Industry Classification System (NAICS) code 541990, All Other Professional, Scientific, and Technical Services, with a corresponding \$15 million annual receipts size standard. Offers were due on July 19, 2019.

On October 2, 2019, the DOD announced that Appellant, SkyBridge Tactical, and several other contractors were awarded an ID/IQ contract under the solicitation.

### B. Area Office Proceedings

#### 1. Protest

On October 3, 2019, Appellant filed a protest challenging SkyBridge Tactical's size. Specifically, Appellant argued, "Skybridge Tactical has multiple affiliates, has common management with several of these affiliates, and is controlled through economic dependence on those affiliates." (Protest, at 1.) Appellant contended the aggregated receipts of SkyBridge Tactical and its affiliates appear to be greater than the \$15 million size standard.

In its protest, Appellant claimed that SkyBridge Tactical has common management with, and is economically dependent upon, SkyBridge Resources, LLC (SkyBridge Resources), and controls SkyBridge Defense, LLC (SkyBridge Defense) and SkyBridge GMT International, LLC (SkyBridge GMT). Additionally, SkyBridge Tactical and SkyBridge Global Incorporated (SkyBridge Global), share common management and resources. (*Id.*) So, if SkyBridge Tactical is affiliated with SkyBridge Resources, it is also affiliated with SkyBridge Global. Appellant also argued SkyBridge Resources and SkyBridge Global are large international firms, each having nearly 1000 employees. (*Id.*, at 2.)

Appellant provided screenshots from LinkedIn.com and the SkyBridge Tactical website identifying Mr. Randall Bahlow as the Managing Partner of SkyBridge Tactical and the President of SkyBridge Resources. (*Id.*) Appellant contended, as a senior officer for SkyBridge

Tactical and SkyBridge Resources, Mr. Bahlow exerts control over both firms. Appellant provided screenshots from the internet to support its claim that SkyBridge Resources is a large business with hundreds of employees, and that SkyBridge Global is a large, international firm with over 950 employees. (*Id.*, at 3.) In the protest, Appellant pointed out that SkyBridge Tactical, SkyBridge Global, and SkyBridge Resources operate as the same entity in that they share the same office location and phone number, thus the firms share resources since they are commonly managed. (*Id.*, at 4.)

Appellant argued that there is a family of companies that are related, affiliated, and share company corporate resources including: SkyBridge Tactical, SkyBridge Global, SkyBridge Resources, SkyBridge GMT, SkyBridge Defense, and SkyBridge Aviation LLC (SkyBridge Aviation). (*Id.*, at 5.)

With respect to Skybridge Tactical, Appellant asserted that the company was incorporated in the State of Florida in 2008 and listed Mr. Randall Bahlow and Ms. Juhi Shah as the managing members of the concern. (*Id.*) In 2014, SkyBridge Tactical listed its managing members as Ms. Juhi Shah, Mr. Stephen Rumbley, and Mr. Randall Bahlow. Appellant noted that in the past Ms. Shah was listed as the Vice President and co-founder of SkyBridge Tactical. Appellant also pointed out that SkyBridge Tactical shared an address with SkyBridge Resources until 2016, as evidenced in two corporate filings with the State of Florida. Mr. Bahlow is listed as the Managing Partner of SkyBridge Tactical on the company's website and on Mr. Bahlow's LinkedIn profile. (*Id.*, at 6.) Appellant contended that Mr. Bahlow has control over SkyBridge Tactical under Florida law. (*Id.*)

With respect to Skybridge Defense, Appellant asserted the company mailing address is that of SkyBridge Resources, the registered agent is Stephen Rumbley, Chief Executive Officer (CEO) of SkyBridge Tactical at the address of SkyBridge Tactical, and the manager listed is Mr. Randall Bahlow, the Managing Partner of SkyBridge Tactical and President of SkyBridge Resources. Appellant maintained this information further shows how the firms are interrelated and affiliated. (*Id.*, at 8.)

Appellant further asserts the current corporate registration for SkyBridge Global lists Randall Bahlow, SkyBridge Resources President, as the registered agent. Mr. Satish Shah is listed as "DPT" and Ms. Juhi Shah, previously a Managing Member of SkyBridge Tactical, is also listed as an officer of SkyBridge Global. Mr. Satish Shah's profile on LinkedIn.com lists him as President of SkyBridge Global. (*Id.*, at 9.)

SkyBridge Resources shared the same address with SkyBridge Tactical from 2008 through 2016. Mr. Randall Bahlow is listed as SkyBridge Resources President, and lists Ms. Juhi Shah as an officer of SkyBridge Resources and an officer of SkyBridge Global. (*Id.*, at 10.)

SkyBridge Aviation shares an address with SkyBridge Resources, as found in the System for Award Management (SAM) and the Florida Division of Corporations. The registered agent for SkyBridge Aviation is listed as Mr. Bahlow, and the officer/owner of the concern is SkyBridge Resources. (*Id.*, at 11.)

SkyBridge GMT's address is the same as SkyBridge Tactical. The point of contact for the company is Mr. Bryan Andrews, who is the Business Operations Manager for SkyBridge Tactical. Mr. Stephen Rumbley, SkyBridge Tactical CEO, is listed as the registered agent for SkyBridge GMT. (*Id.*, at 12.)

Appellant contended the revenues for SkyBridge Tactical, alone, exceed the \$15 million size standard based on information found on USASpending.gov. According to the website, SkyBridge Tactical received approximately \$5 million in prime awards and \$46 million in subcontract awards solely for 2018. Appellant retrieved additional information regarding SkyBridge Tactical, on iq.govwin.com, that the company generated \$6.762 million in prime contracts in 2018. (*Id.*, at 13.)

Appellant also pointed out that SkyBridge Tactical, SkyBridge Resources, and SkyBridge Global “all share the same name and logo design. This is not a coincidence.” (*Id.*, at 14.) Appellant argued, if the firms were not related, “SkyBridge Resources or SkyBridge Global would have filed a trademark infringement suit against SkyBridge Tactical.” (*Id.*)

## 2. Protest Response

On October 22, 2019, SkyBridge Tactical provided the Area Office with an initial response to the protest. SkyBridge Tactical argued the “entire protest rests on faulty assumptions based on information (much of it outdated) culled from the internet.” (Protest Response, at 1.)

SkyBridge Tactical explained the company was formed from SkyBridge Resources as a separate company in December 2008. SkyBridge Tactical was co-founded by Ms. Juhi Shah, with a 51% ownership interest in the company, and Mr. Randall Bahlow, with a 49% ownership interest in the company. (*Id.*, at 2.) In 2012, Mr. Stephen Rumbley became managing partner of SkyBridge Tactical by purchasing 33% ownership in the company, leaving Mr. Bahlow with a 33% ownership interest and Ms. Shah with a 34% interest in the company. In January 2014, Mr. Rumbley purchased additional interest in SkyBridge Tactical, pushing his ownership interest to 51%, allowing him to take a controlling interest in the company, leaving Ms. Shah and Mr. Bahlow each with a 24.5% ownership interest in the firm. Thereafter, Mr. Rumbley became President and Manager of SkyBridge Tactical, managing the organization and overseeing the day-to-day operations. (*Id.*)

In January 2017, Mr. Rumbley and Mr. Bahlow bought Ms. Shah's remaining interest in SkyBridge Tactical, resulting in Mr. Rumbley having a 68.5% interest in the company, and Mr. Bahlow becoming a silent partner with a 31.5% ownership interest. SkyBridge Tactical argued, despite Appellant's assumptions, Mr. Bahlow exercises no control over the concern. (*Id.*) SkyBridge Tactical also contended there is a complete separation and no affiliation between SkyBridge Tactical and SkyBridge Resources or SkyBridge Global. SkyBridge Tactical maintained that “the 2017 Third Amended and Restated Operating Agreement of SkyBridge Tactical clearly details that this company is now wholly controlled and operated by one person — Stephen Rumbley.” (*Id.*) Additionally, SkyBridge Tactical has not shared office space with SkyBridge Resources since 2016, paid a fair market price for the space it once previously rented

from the company, and does not share any third-party support with the SkyBridge Holdings entities.

SkyBridge Tactical maintained that it does not have common management with SkyBridge Resources. Mr. Bahlow is a silent partner and minority owner of SkyBridge Tactical, holding a 31.5% ownership interest in the company. SkyBridge Tactical is not economically dependent on SkyBridge Resources, nor does it currently share office space with any entities. (*Id.*, at 3.) SkyBridge Tactical does control SkyBridge Defense (which is active but has zero transactions and zero revenue to date) and SkyBridge GMT (which is inactive).

In response to Appellant's argument that Mr. Bahlow is a Managing Partner of SkyBridge Tactical and President of SkyBridge Resources, SkyBridge Tactical stated that Mr. Bahlow is a Member, but is not a Manager or Managing Member, of SkyBridge Tactical. "Mr. Bahlow, and by extension SkyBridge Resources and SkyBridge Global, do not have positive or affirmative control over SkyBridge Tactical, despite his minority interest in the company of 31.5%." (*Id.*, at 4.) Mr. Rumbley has supermajority control over SkyBridge Tactical, controls all fundamental business operations, and makes all significant decisions of the company. (*Id.*) Mr. Bahlow "does not participate in daily/weekly battle rhythm events, does not issue any guidance or direction to the firm, is not involved in any decision-making process, and has absolutely no participation in the proposal writing and submission process." (*Id.*)

SkyBridge Tactical argued that SkyBridge Tactical, SkyBridge Global, and SkyBridge Resources do not and have never operated as the same entity. SkyBridge Tactical has not shared an office space with SkyBridge Resources since 2016, and when it did share space prior to 2016, paid the fair market rent to SkyBridge Resources. (*Id.*, at 5.) Mr. Rumbley is not involved with any of the entities organized under SkyBridge Holdings, LLC (SkyBridge Holdings), which is owned 50% by Mr. Satish Shah and 50% by Mr. Randall Bahlow. Additionally, Mr. Shah is not associated in any capacity with SkyBridge Tactical. (*Id.*, at 6.) "Despite Mr. Bahlow's partnership with Mr. Shah in SkyBridge Holdings (to include SkyBridge Resources, SkyBridge Global, SkyBridge Aviation and SkyBridge Healthcare), these ventures do not carry over or affiliate to any degree with SkyBridge Tactical." (*Id.*, at 7.) SkyBridge Tactical found it irrelevant that Bryan Andrews, who is a current, but not key, employee of SkyBridge Tactical, may have had a role in administratively creating SkyBridge Defense and/or SkyBridge GMT. (*Id.*)

SkyBridge Tactical clarified that its current annual receipts are \$[XXXXXXX] - well under the \$15 million size standard. SkyBridge Tactical's response to Appellant's argument about the possibility of a trademark lawsuit was that Mr. Rumbley purchased a majority interest in the company, including the logo in 2014, and has every right to use it. SkyBridge Tactical is its own independent entity and is not affiliated with any of the other listed companies. (*Id.*, at 8.)

SkyBridge Tactical noted that it used the [XXXXXXXXXXXX] provided by SkyBridge Resources and paid market price for those services. SkyBridge Tactical stopped using SkyBridge Resources as a [XXXXXXXXXXXX] in January 2019. (*Id.*, at 10.)

### 3. Supplemental Protest Responses

On November 18, 2019, SkyBridge Tactical provided a letter in response to supplemental questions posed by the Area Office. In the response, SkyBridge Tactical answered that it moved offices from the space shared with SkyBridge Resources in May 2016. (Supplemental Protest Response #1, at 4.) With respect to the Area Office's statement that affiliation could arise due to an identity of interest through a contractual relationship, SkyBridge Tactical explained that the company “does not have identical or even substantially identical business or economic interests.” (*Id.*, at 5.) SkyBridge Tactical continued that none of the officers or owners of the company are related in any capacity “among each other or with owners, officers, partners, or managers, etc. of SkyBridge Resources or SkyBridge Global.” (*Id.*)

SkyBridge Tactical stated that Mr. Rumbley has supermajority control of the concern and is not married to, or in a civil union with, a parent, child, or sibling of Mr. Bahlow or Ms. Shah when she was minority owner of the concern. (*Id.*) SkyBridge Tactical does not subcontract with SkyBridge Resources or SkyBridge Global. SkyBridge Tactical has never shared or provided loans or received loans from SkyBridge Resources or SkyBridge Global. SkyBridge Tactical does not share employees, resources, or equipment with SkyBridge Resources or SkyBridge Global. (*Id.* at 6.)

SkyBridge Tactical argued its accounting demonstrates its independence from SkyBridge Resources and SkyBridge Global. Though Mr. Bahlow is a common owner between SkyBridge Tactical (31.5% interest) and SkyBridge Resources (50% interest), he does not have any controlling interest in SkyBridge Tactical. (*Id.*)

SkyBridge Tactical explained that at all times during her ownership of the concern, Ms. Juhi Shah was married to Mr. Satish Shah. However, Mr. Shah and his companies “played no role in the development and success of SkyBridge Tactical, which upon the entry of Mr. Rumbley slowly began to diversify its business holdings in the government contracting sector, always without the assistance, financial or otherwise of SkyBridge Resources or SkyBridge Global.” (*Id.*)

On November 19, 2019, SkyBridge Tactical provided a second response to the Area Office's supplemental inquiry. In the response, SkyBridge Tactical stated since January 2017, Ms. Juhi Shah has not received any equity distributions or dividends from the concern. (Supplemental Protest Response #2, at 1.) When asked if Ms. Shah is an employee, manager, officer or, board member in the entities owned by Satish Shah or Randall Bahlow, SkyBridge Tactical replied, “No.” (*Id.*, at 2.)

On November 19, 2019, the Area Office requested that SkyBridge Tactical provide a direct response from Ms. Juhi Shah as to whether she “has no ownership interest, officer, employee, board member in any entity.” ((E-mail from I. Bascumbe to T. Turner (November 19, 2019).) In response, Ms. Shah stated:

I currently have no ownership interest within SkyBridge Tactical, SkyBridge Resources or SkyBridge Global. However, I am currently the acting Secretary for SkyBridge Global; as the secretary I'm responsible for keeping corporate records.

(E-mail from J. Shah to I. Bascumbe (November 19, 2019).) In response, the Area Office clarified that, "the question was does Ms. Juhi Shah have any ownership interest, or is an officer, employee, board member in any entity?" (E-mail from I. Bascumbe to J. Shah (November 20, 2019).)

In response, Ms. Shah stated: "I do not have any ownership interest in SkyBridge Global, SkyBridge Resources and SkyBridge Tactical. I am not an officer in any of these companies. I am not a director. I am not a board member in any one of these companies." (E-mail from J. Shah to I. Bascumbe (November 20, 2019).) She also described her 50% ownership in S2RJ, LLC and Crestex, LLC, both real estate holding companies in which Mr. Satish Shah is also 50% owner. Ms. Shah states that she has no ownership interest in any other entities, does not serve on the board of any other entities, and is not a director or officer of any other entities. Ms. Shah concluded in stating:

I am a salaried W2 employee of SkyBridge Resources only. I have been an employee with SkyBridge Resources since 2005. I review financial records for the company. I am currently an unpaid secretary for SkyBridge Global and handle the corporate records.

(*Id.*)

#### 4. Resume of Mr. Randall Bahlow

In response to the Area Office's request for the resumes of the key employees for SkyBridge Tactical, Mr. Randall Bahlow's resume states in part:

SkyBridge Resources (President) 2004-Present

SkyBridge Tactical (Member)

...

- Responsible for operations for both SkyBridge Resources and SkyBridge Tactical
- Payroll, Budget, Proposal, Hiring, Training and Mentoring
- Established locations in Tampa & Orlando, FL; Louisville, KY and Atlanta, GA
- Oversee operations for over 500 billable consultants nationally

- Developed company strategic direction for identifying/capturing new business and entry into new markets
- Manages existing sub-vendor relationships
- . . .

## 5. Membership Interest Purchase Agreement

On January 1, 2017, Ms. Juhi Shah, SkyBridge Tactical, and the Continuing Members (Mr. Stephen Rumbley and Mr. Randall Bahlow) entered into a Membership Interest Purchase Agreement (Purchase Agreement). In the Purchase Agreement, Ms. Shah agreed to sell her 24.5% membership interest in SkyBridge Tactical to the firm's Continuing Members for \$[XXXXXXX], which was payable as follows:

- (i) [XXXXXXXXXXXX] (\$[XXXXXXX]) in immediately available funds upon Closing. . . ;
- (ii) four (4) installments in the amount of \$[XXXXXXX] each to be paid on March 31, 2017, June 31, 2017, September 30, 2017, and December 31, 2017. . . ; and
- (iii) [delivery of a promissory note in the amount of [XXXXXXXXXXXX] (\$[XXXXXXX]) . . . secured by the Membership Interests until paid in full, per the terms herein, and which shall be accelerated and immediately due and payable in the event of a Change of Control (as defined below).

The Note shall mature and shall be fully payable upon a Change in Control (as defined below),[XX]  
[XX]  
XX  
XX]

(Purchase Agreement, at 1.) (emphasis original) [XXXXXXXXXXXXXXXXXXXXXXXXXXXX  
XX  
XX  
XX  
XX]. An Excluded Entity meant another concern formed by Mr. Bahlow and Mr. Rumbley. (*Id.*, at 2.)

As a deliverable, Ms. Shah was required to provide a letter resigning from any SkyBridge Tactical offices that may have been held by her.

## 6. Promissory Note

On January 1, 2017, SkyBridge Tactical and Juhi Shah entered into a Promissory Note (Promissory Note) pursuant to the Purchase Agreement. In the Promissory Note, SkyBridge



Tactical promised to pay Ms. Shah the principal sum of \$[XXXXXXX]. The maturity date for payment is defined as “[i]f not sooner paid, the entire outstanding principal balance, shall be due and payable in full upon the following: A Change in Control of the Company.” (Promissory Note, at 1.) A “Change of Control” in the Promissory Note is defined as it is in the Purchase Agreement. (*Id.*, at 2.; *See supra* Section II.B.5.)

## 7. Pledge Agreement

On January 1, 2017, Ms. Juhi Shah and SkyBridge Tactical entered into a Membership Interest Pledge Agreement (Pledge Agreement). In consideration of the Purchase Agreement, the parties agreed to the following in relevant part:

1. Pledge Interest. To secure the payment of the hereinafter defined Obligation, [SkyBridge Tactical] hereby assigns, transfers, and conveys to Seller and gives and grants [Juhi Shah] a security interest in and to a membership interest of 24.5% . . . , together with all additions, accessions, and substitutions thereto or therefor, and proceeds thereof.

...

3. [XXXXXXXXXXXXXXXXXXXXXXXXXXXXX]. [XXXXXXX] [SkyBridge Tactical] [XXX] XX [SkyBridge Tactical], and [SkyBridge Tactical] [XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX] [XXX] [XXXXX] [XXX XX XX].

...

7. Remedies Upon Event of Default. Upon Buyer's failure to repay the [Promissory] Note when due, the holder of the [Promissory] Note shall have the following rights and remedies, in addition to all other rights and remedies provided by law or at equity, and those provided for under all agreements executed in connection with the Obligations, all of which shall be cumulative and may be exercised from time to time, either successively or concurrently, and all of which shall apply to all of the Transferred Membership Interest:

(i) to declare the [Promissory] Note and all other indebtedness secured hereby immediately due and payable in full, with all accrued interest thereon;

(ii) to require [SkyBridge Tactical] to surrender immediate possession of the Pledged Membership Interest to [Juhi Shah]; and

On November 22, 2019, the Area Office issued Size Determination No. 03-2020-012, finding SkyBridge Tactical small under the \$15 million size standard. (Size Determination, at 6.)

In its affiliation analysis under stock ownership, the Area Office found that SkyBridge Tactical is owned 68.5% by Mr. Stephen Rumbley, President and Manager, and Mr. Randall Bahlow, Member, owns 31.5%, and the individuals are not related by blood, marriage, civil union, or adoption. (*Id.*, at 4.) The Area Office determined that Mr. Rumbley, with 68.5% ownership interest in SkyBridge Tactical, has the power to control the company. Mr. Rumbley also has controlling interest in Steve Rumbley, Inc.; Bayshore Outfitter, Inc.; Condor Defense, LLC; Arlington Holding Properties, LLC; RW Outdoors, LLC; SkyBridge Defense, LLC; and Comfort Creek Holdings, LLC, which are all affiliated with SkyBridge Tactical based on common ownership. (*Id.*)

The Area Office found that Ms. Juhi Shah has the power to control SkyBridge Tactical because the company is indebted to Ms. Shah due to the January 1, 2017 Promissory Note. The Area Office noted that the Promissory Note is secured by the membership interest until paid in full, and shall be accelerated and immediately due and payable upon a change in control of the concern. Additionally, the Promissory Note “has no due date and it has no fixed payments nor an interest rate.” (*Id.*) The Area Office found that SkyBridge Tactical still owes a substantial amount on the promissory note and therefore Ms. Shah has the power to control SkyBridge the concern because it is indebted to her. The Area Office further found the Promissory Note “is not an arm's-length agreement because the note lacks normal business practices including provision for default, interest rate, fixed payments, etc.” (*Id.*)

The Area Office determined that SkyBridge Holdings, which comprises SkyBridge Resources, SkyBridge Global, SkyBridge Aviation, and SkyBridge Healthcare, are all owned equally by Randall Bahlow and Mr. Satish Shah, Ms. Juhi Shah's husband. (*Id.*, at 5.) Although SkyBridge Tactical seems to be interconnected with the SkyBridge Holdings entities, SkyBridge Tactical stopped using the [XXXXXXXXXX] provide by SkyBridge Resources in early 2019. Thus, SkyBridge Resources is considered a former affiliate of SkyBridge Tactical under 13 C.F.R. § 121.104(d)(4). (*Id.*)

Mr. Rumbley is the managing member of SkyBridge Tactical, conducts the day-to-day operations, and has the supermajority vote. The Area Office therefore concluded SkyBridge Tactical has demonstrated a clear line of fracture between itself and its alleged affiliates because the record does not show a continued business relationship with any of the SkyBridge Holdings entities.

The Area Office then concludes that, based on the November 20, 2019 E-mail from Ms. Juhi Shah, that the issue of affiliation “is moot because Ms. Juhi Shah has no ownership interest in any of the SkyBridge entities.” (*Id.*) The Area Office calculated the relevant three-year average annual receipts of SkyBridge Tactical and its affiliates, Steve Rumbley, Inc.; Bayshore Outfitter, Inc.; Condor Defense, LLC; Arlington Holding Properties, LLC; RW Outdoors, LLC; SkyBridge Defense, LLC; and Comfort Creek Holdings, LLC, and determined that the receipts were less than the applicable size standard, and the company is a small business concern.

#### D. Appeal Petition

On December 9, 2019, Appellant filed the instant appeal. Appellant argues the Area Office largely ignored all of the affiliation arguments in the protest. (Appeal, at 6.)

Appellant contends the size determination did not address many of its protest grounds, as there was no analysis of Mr. Randall Bahlow's management of SkyBridge Tactical and SkyBridge Resources. The Area Office provided no analysis regarding the shared offices, shared resources, and common management of SkyBridge Tactical, SkyBridge Resources, and SkyBridge Global. There was also no analysis of the shared management of SkyBridge Resources and SkyBridge Global, and no analysis of the shared offices and common management of SkyBridge Aviation and SkyBridge Resources. (*Id.*, at 7.) Appellant argues SkyBridge Tactical is affiliated with each of the SkyBridge Companies, in addition to those already identified in the size determination.

Appellant maintains the Area Office erred in its analysis, or lack thereof, regarding the evidence showing (1) identity of interest based on family relationship of Ms. Juhi Shah and Mr. Satish Shah, as well as common investments between Mr. Shah and Mr. Bahlow; (2) common management between SkyBridge Tactical and the other SkyBridge Companies; and (3) the totality of the circumstances. (*Id.*, at 8.)

Appellant contends SkyBridge Tactical and the other SkyBridge companies share an identity of interest. The business interest of Mr. and Ms. Shah are intertwined, with no clear line of fracture between those interests. (*Id.*) Appellant argues the Area Office ignored evidence presented by Appellant related to the Shah's familial affiliation with respect to their involvement in SkyBridge Resources, SkyBridge Global, and the other SkyBridge Holdings companies. The Area Office concluded that Ms. Shah controls SkyBridge Tactical and that Mr. Shah owns 50% of SkyBridge Holdings, which should have led to a finding of affiliation between the two companies. (*Id.*, at 10.) Instead, the Area Office focused on Ms. Shah's "unsupported email" to explain how the companies have no relationship.

Ms. Shah works for and keeps the records for SkyBridge Global and is listed as a member and corporate secretary on the company's corporate filings, which are "significant, ongoing roles in Mr. Shah's company." (*Id.*) Also, SkyBridge Tactical and SkyBridge Global share an address and telephone number. Mr. Shah and Mr. Bahlow equally own SkyBridge Holdings. Mr. Bahlow is 31.5% owner and Managing Partner of SkyBridge Tactical and is the President of SkyBridge Resources. (*Id.*, at 11.) Thus, The Shahs share connections through their mutual business partner, Mr. Bahlow. (*Id.*)

Appellant questions the rationale in the size determination that Mr. Rumbley, not Ms. Shah, controls SkyBridge Tactical, where the Area Office previously stated in the size determination that Ms. Shah's note to Mr. Rumbley allows Ms. Shah to control SkyBridge Tactical. (*Id.*, at 12.) In Appellant's view, "her security interest, if given present effect under 13 C.F.R. § 121.103(d)(1), would give rise to common ownership affiliation between her company and her husband's company." (*Id.*) The Area Office ignoring its own conclusion finding that Ms. Shah controls SkyBridge Tactical, and finding no affiliation between SkyBridge Tactical and the

SkyBridge Holdings companies owned equally by Mr. Shah and Mr. Bahlow is clearly erroneous. (*Id.*)

Appellant argues that SkyBridge Tactical and SkyBridge Holdings are affiliated based on an identity of interest in common investments. Mr. Satish Shah and Mr. Randall Bahlow have equal ownership in SkyBridge Holdings. There is no evidence to establish a clear line of fracture between Mr. Shah and Mr. Bahlow, and therefore, they can be treated as one party. (*Id.*, at 14, citing 13 C.F.R. § 121.103(f).) Thus, Mr. Bahlow's minority interest in SkyBridge Tactical means Mr. Shah can be treated as minority owner of the concern.

SkyBridge Tactical has common management with the other SkyBridge companies. Mr. Randall Bahlow is the Managing Partner/Member of SkyBridge Tactical, the President of SkyBridge Resources, and the Manager of SkyBridge Defense, and controls each firm. (*Id.*, at 15.) The Area Office erred by not attributing Mr. Bahlow's role in the management of SkyBridge Tactical, despite his minority ownership in the company. The Area Office ignored common management affiliation entirely. Mr. Bahlow's management role in SkyBridge Tactical demonstrated affiliation with the other SkyBridge Companies, as he has 50% ownership and controls SkyBridge Holdings. (*Id.*, at 16.)

Ms. Juhi Shah controls SkyBridge Tactical through the Promissory Note and is also the company's Vice President. Ms. Shah is also a member of SkyBridge Resources according to the company's corporate filings, and thus, manages SkyBridge Tactical and SkyBridge Resources. (*Id.*, at 17.) The Area Office placed great emphasis on Ms. Shah's "heat-of-litigation" E-mail response while ignoring documents filed with the State of Florida and also overlooked contradictory statements in Ms. Shah's November 19th and November 20th Emails. (*Id.*) First, Ms. Shah reported that she is Vice President of SkyBridge Tactical and a Member of SkyBridge Resources, and then minimized her role as an unpaid secretary who handles corporate records, "when in reality a secretary who handles corporate records is typically an officer-level position at a company." (*Id.*)

The Area Office was incorrect in finding the issue of affiliation based on a totality of circumstances moot because Ms. Shah controls the company through her security interest in the Promissory Note. The Area Office ignores that Ms. Shah and her husband and business partner, Mr. Shah, equally own the SkyBridge companies and SkyBridge Tactical shares offices and telephone numbers with SkyBridge Resources and SkyBridge Global. (*Id.*, at 18.) Thus, the Area Office erred in not finding affiliation.

#### E. Motion to Admit New Evidence

With the appeal, Appellant seeks to admit new evidence of entity registrations with the state of Georgia for S2RJ, LLC and Crestex Properties, LLC, which lists the same business address as that of SkyBridge Global. Appellant argues these documents further establish the business connections between SkyBridge Tactical, LLC and the business interests of Mr. Satish Shah and Ms. Juhi Shah. (Motion, at 1.) Appellant contends the information is relevant to the issue that there is no clear line of fracture between the business interests of the Shahs. Appellant states the evidence could not have been provided at the time of the size review because it was

unaware of the names of the two real estate companies owned by the Shahs until the Area Office provided the names in the size determination. (*Id.*, at 1-2.)

#### F. Appeal Response

On December 26, 2019, SkyBridge Tactical responded to the appeal. SkyBridge Tactical contends the documents provided to the Area Office delineated a clear line of fracture between SkyBridge Tactical and the alleged affiliates associated with SkyBridge Holdings, including SkyBridge Resources. (Appeal Response, at 1.) SkyBridge Tactical maintains at the time of bid submission for the subject solicitation, Mr. Stephen Rumbley was the only person in control of SkyBridge Tactical.

SkyBridge Tactical concedes the Area Office made a “harmless error” in finding that Ms. Juhi Shah's interest arising from the Promissory Note gave her the power to control SkyBridge Tactical because “the Area Office correctly determined that SkyBridge Tactical is a small business for the subject size standard, completely controlled by Stephen Rumbley.” (*Id.*, at 2.) SkyBridge Tactical explains that the Promissory Note is secured by Ms. Shah's minority membership interest and Appellant “presents no evidence of any documents stating otherwise, any control to block a sale of SkyBridge Tactical by the supermajority owner Mr. Rumbley.” (*Id.*, at 6.) Mr. Rumbley is free to sell the concern and “has complete control over the company's operations, day-to-day dealings, and future direction without assent of Juhi Shah or Mr. Bahlow.” (*Id.*, at 10.) SkyBridge Tactical disagrees with the Area Office's conclusion that the Promissory Note and Agreements were irregular, and none of the documents provided a mechanism allowing Ms. Shah the ability to approve of or restrict any SkyBridge Tactical activities or assets, and are not a basis for finding affiliation. (*Id.* at 11, citing *Size Appeal of Washington Patriot Construction, LLC*, SBA No. SIZ-5491 (2013).)

Since Ms. Shah no longer has an interest in SkyBridge Tactical, she lacks control over the company. Thus, what Mr. Satish Shah owns, the Shahs' marital relationship, and Ms. Juhi Shah's role in Mr. Satish Shah's companies is irrelevant. (*Id.*)

SkyBridge Tactical does not have identical or substantially identical business or economic interests with the SkyBridge Holdings entities. SkyBridge Tactical does not subcontract with, has never entered into a joint venture agreement with, and does not share or provide loans to SkyBridge Resources or SkyBridge Global. (*Id.*, at 12.)

Mr. Bahlow's shared ownership interest in SkyBridge Tactical and SkyBridge Resources does not give him control or the ability to control SkyBridge Tactical. (*Id.*, at 13.) Common investments between Mr. Shah and Mr. Bahlow are irrelevant to this matter, as Ms. Juhi Shah is no longer an owner or has control of SkyBridge Tactical. Ms. Shah's position within SkyBridge Holdings is irrelevant because she no longer has any connection to SkyBridge Tactical other than her interest established by the Promissory Note. (*Id.*)

SkyBridge Tactical does not share common management with SkyBridge Resources, as Mr. Bahlow is a member, but not a manager, of SkyBridge Tactical. Mr. Rumbley has supermajority control over SkyBridge Tactical, controls all fundamental business operations, and

makes all significant decisions of the company where Mr. Bahlow does not. (*Id.*, at 14.) Mr. Bahlow also lacks negative control over SkyBridge Tactical as evidenced by the Operating Agreement.

#### G. Supplemental Appeal

On January 3, 2020, after reviewing the record under the terms of an OHA protective order, Appellant supplemented its appeal. Appellant contends the case file reveals additional evidence demonstrating that SkyBridge Holdings and its subsidiaries are affiliates of SkyBridge Tactical. Appellant argues Mr. Bahlow's resume shows that he has "critical influence" over SkyBridge Tactical and is a common manager, making SkyBridge Tactical and the SkyBridge Holdings companies affiliates. Also, Ms. Juhi Shah is an officer of SkyBridge Resources and there is no clear line of fracture between Mr. Satish Shah and Ms. Shah's companies. Appellant argues the size determination did not consider SkyBridge Tactical's joint ventures receipts. (Supplemental Appeal, at 2.)

The Area Office failed to analyze Mr. Bahlow's role as an officer of SkyBridge Tactical. Mr. Bahlow combines his experience at SkyBridge Resources and SkyBridge Tactical into one entry on his resume, "further demonstrating the ties between the two companies." (*Id.*, at 3.) Mr. Bahlow's description of work reinforces that he manages SkyBridge Tactical and SkyBridge Resources and the Area Office erred in not analyzing common management affiliation. (*Id.*, at 4.) Mr. Bahlow's resume shows that he is responsible for substantive matters at SkyBridge Tactical and has a greater responsibility than other people listed as officers for the concern. (*Id.*, at 7.)

The Area Office correctly found that Ms. Juhi Shah controls SkyBridge Tactical and that Mr. Satish Shah owns 50% of and controls SkyBridge Holdings, but erred in not completing a familial affiliation analysis. (*Id.*) There is no clear line of fracture between SkyBridge Tactical, which is controlled by Ms. Shah, and SkyBridge Global. The Area Office was correct in concluding that Ms. Shah controls SkyBridge Tactical through the terms of the Purchase Agreement, Promissory Note, and Pledge Agreement. (*Id.*, at 8.) Ms. Shah has the power to prevent SkyBridge Tactical from selling its assets, merging with another, or otherwise changing ownership, "lest [SkyBridge Tactical] become[s] immediately liable for the *significant* balance still outstanding on Ms. Shah's [Promissory Note]." (*Id.*, at 9.)

The Shahs have numerous business connections through their shared business ownerships, the connections between SkyBridge Tactical and SkyBridge Global, and Ms. Shah's role at SkyBridge Global. (*Id.*, at 11.) The Area Office relied on Ms. Shah's November 20, 2019 E-mail describing her role at SkyBridge Global as having no management responsibilities in SkyBridge Tactical and SkyBridge Resources, but ignored Ms. Shah's November 19, 2019 E-mail where she stated that she is a Secretary that handles the corporate documents for SkyBridge Global, indicating she is an officer of the company. (*Id.*) Appellant argues OHA has held that maintaining company records is a form of negative control. (*Id.*, at 12, citing *Size Appeal of Southern Contracting Solutions III, LLC*, SBA No. SIZ-5956 (2018).)

Lastly, the record includes evidence that SkyBridge Tactical is a member of MSK Tritech Group, LLC and K&S Tactical, LLC — joint ventures that had receipts in the applicable size calculation period from 2016 to 2018. (*Id.*, at 12-13.) However, it does not appear that the Area Office included these receipts in the calculation of SkyBridge Tactical's size. Thus, not including the proportionate share of the joint venture receipts is reversible error. (*Id.*, at 13.)

### 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, 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

Appellant seeks to introduce evidence establishing that SkyBridge Global shares an address with S2RJ, LLC and Crestex Properties. Appellant argues this information further suggests there is no clear line of fracture between the business interest of the Shahs.

OHA's review is based upon the evidence in the record at the time the Area Office made its determination. *Size Appeal of Equity Mortgage Sols., LLC*, SBA No. SIZ-5867, at 16 (2017). 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 6 (2009). OHA “will not accept new evidence when the proponent unjustifiably fails to submit the material to the Area Office during the size review.” *Size Appeal of Project Enhancement Corp.*, SBA No. SIZ-5604, at 9 (2014).

I find that the information Appellant seeks to admit is superfluous. In an E-mail communication between the Area Office and Ms. Juhi Shah, Ms. Shah stated that she and her husband, Satish Shah, equally share ownership of S2RJ, LLC and Crestex Properties. *See supra* Section II.B.3. Thus, Appellant's introduction of new evidence confirming what is already included in the record is unnecessary, as there is no dispute as to who owns S2RJ, LLC and Crestex Properties. Accordingly, the new evidence is EXCLUDED from the record and has not been considered for purposes of this decision.



### C. Analysis

A review of the record here reflects that both Appellant and SkyBridge Tactical maintain that the Area Office erred in its size determination. The Area Office found that Ms. Juhi Shah had control over SkyBridge Tactical because she held the Promissory Note for the payment due her, for selling her interest in the concern and a security interest in that ownership interest which she sold. SkyBridge Tactical maintains that this is a harmless error, and that Ms. Shah has no control over the firm. Appellant maintains the error is that the Area Office, having found control by Ms. Shah, failed to consider her identity of interest with her husband, and thus whether SkyBridge Tactical was affiliated with Mr. Shah's extensive interests through that identity of interest.

The first question I must consider is whether the Area Office properly found Ms. Shah had control over SkyBridge Tactical through the Promissory Note. If there is control, then there is affiliation between Ms. Shah and SkyBridge Tactical. 13 C.F.R. § 121.103(a)(1). OHA has considered before whether the holder of a note had control over the concern that gave the holder the note. A promissory note and its accompanying security agreement are generally not vehicles to control a concern. Rather, they are means to guarantee payment of an obligation, and do not by themselves justify a finding of control. *Size Appeal of Alex-Alternative Experts, LLC*, SBA No. SIZ-4974, at 3-4 (2008). Mere indebtedness, even when secured by a stock pledge agreement, is not sufficient to support a finding of control, otherwise, concerns would be found affiliated with the financial institutions that finance them. *Size Appeal of Blocksom & Co.*, SBA No. SIZ-3671, at 4 (1992). However, if a note and security agreement give the creditor the power to block ordinary business actions essential to running the company, then they may be found to give the creditor control of the debtor concern sufficient to support a finding of affiliation. *Size Appeal of Washington Patriot Construction, LLC*, SBA No. SIZ-5491, at 8 (2013). There may also be a finding of affiliation if the loans in question demonstrate a financial dependence by one firm upon another. *Size Appeal of Lajas Industries, Inc.*, SBA No. SIZ-4263, at 7 (1997). The issue is whether the provisions of the instruments do more than merely guarantee payment of an obligation, and actually give the creditor control over the debtor firm.

Here, the Purchase Agreement, Promissory Note, and Pledge Agreement call for Ms. Shah to be paid \$[XXXXXXXX] at the closing (January 1, 2017), four installments of \$[XXXXXX] each to be paid quarterly in 2017, and for Ms. Shah to receive the Promissory Note for \$[XXXXXXXX], to mature and be fully payable upon a "Change in Control," if not sooner. A Change in Control is, in essence, a sale of the concern by its current owners, excluding a sale to an entity controlled by the current owners (an "Excluded Entity"). Ms. Shah was to resign from her SkyBridge Tactical offices. SkyBridge Tactical granted to Ms. Shah a security interest in the membership interest it purchased from her. SkyBridge Tactical will receive and retain all payments made to the membership interest, and shall exercise all voting rights, as long as the Promissory Note is not in default. Contrary to the Area Office's finding, there are remedies upon event of default, essentially providing that Ms. Shah's membership interest will be returned to her.

While the Area Office is correct that the Promissory Note does not include customary terms such as an interest rate or fixed payments, the absence of these provisions does not grant

Ms. Shah any control over SkyBridge Tactical. No provisions of the instruments grant Ms. Shah any control over SkyBridge Tactical, or the ability to block or interfere in any way with the ordinary business actions essential to running the company. She has resigned her offices in SkyBridge Tactical, and thus has no role in managing the company. The mere fact that SkyBridge Tactical is indebted to Ms. Shah does not grant her any control over the concern. I conclude that the Purchase Agreement, Promissory Note and Pledge Agreement do not give Ms. Shah any control over SkyBridge Tactical, and that the Area Office erred in so finding. There is therefore no need to consider whether SkyBridge Tactical is affiliated with Mr. Shah's interests, due to identity of interest between Mr. and Ms. Shah, because Ms. Shah has no control over, and is thus not affiliated with, SkyBridge Tactical.

Second, Appellant alleges that SkyBridge Tactical is affiliated with other SkyBridge entities. By admission, SkyBridge Tactical, which is currently 68.5% owned by Mr. Stephen Rumbley and 31.5% owned by Mr. Randall Bahlow, claims it is affiliated with SkyBridge Defense and SkyBridge GMT. However, SkyBridge Tactical claims it is not affiliated with entities under the SkyBridge Holdings umbrella, which is 50% owned by Mr. Randall Bahlow and Mr. Satish Shah, and is comprised of SkyBridge Resources, SkyBridge Global, SkyBridge Aviation, and SkyBridge Healthcare.

Although the Size Determination did not provide an analysis on common management between SkyBridge Tactical and the other entities in which Mr. Bahlow has an ownership interest, I find this error harmless. An area office's error is harmless when rectifying the error would not have changed the result. *See Size Appeal of Melton Sales & Service*, SBA No. SIZ-5893, at 14 (2018); *Size Appeal of Automation Precision Tech., LLC*, SBA No. SIZ-5850, at 17 (2017).

Appellant contends Mr. Bahlow is a manager of SkyBridge Tactical, as allegedly evidenced by the description of his position on his resume. Mr. Bahlow's resume, which is essentially a personal marketing tool, lists his position as a Member of SkyBridge Tactical. Despite Appellant's contentions, the Operating Agreement, a legally binding document, makes it clear that Mr. Rumbley, and only Mr. Rumbley, is the Manager of SkyBridge Tactical. *See supra*, Section II.B.8. The Operating Agreement states that SkyBridge Tactical is a manager-managed limited liability company and explicitly states, that Mr. Bahlow is a "Non-Manager Member." *Id.* The Operating Agreement also states that Members are not to participate in the management or control SkyBridge Tactical. *Id.* In order for Mr. Bahlow to be considered management for the purposes of common management affiliation, he would have to exercise critical influence or substantive control over SkyBridge Tactical's operations and be part of the firm's overall management. *Size Appeal of Hardwire, LLC*, SBA No. SIZ-5983, at 6 (2019). Notwithstanding any language in Mr. Bahlow's resume that would suggest he is a manager of SkyBridge Tactical, the Operating Agreement clarifies Mr. Rumbley's role as the sole Manager of the firm. It is clear that Mr. Bahlow is not part of SkyBridge Tactical's overall management. Nevertheless, the Area Office's error in not conducting an analysis of common management between SkyBridge Tactical and its alleged affiliates is harmless, because it does not change the outcome of SkyBridge Tactical's size as a small business.

Appellant further maintains that SkyBridge Tactical shares office space and resources with SkyBridge Resources and SkyBridge Global. However, the record reflects that SkyBridge Tactical has not shared office space with SkyBridge Resources since 2016, and shares no resources with any SkyBridge Holdings entities. SkyBridge Tactical ceased using SkyBridge Resources as a recruiting source in January 2019. Accordingly, Appellant's mere assertions of shared resources are groundless and are no basis for a finding of affiliation.

Appellant also maintains that the Area Office failed to consider revenues from joint ventures in which SkyBridge Tactical has participated. The record contains a Joint Venture Operating Agreement, dated May 8, 2017, for K&S Tactical, a joint venture comprised of SkyBridge Tactical, 51% owner, and Kord Technologies, Inc., 49% owner. The record also contains an Operating Agreement dated April 4, 2019 for MSK TriTech Group, LLC (MSK TriTech), which lists SkyBridge Tactical, Kord Technologies, and the Mayvin Consulting Group, Inc. as equally owning a 33.3% interest in the concern. The MSK TriTech Operating Agreement explains that the firm was awarded an ID/IQ contract and would compete for solicitations under the ID/IQ contract. Revenues from both ventures were reported on SkyBridge Tactical's tax returns as part of the record reviewed by the Area Office when calculating the concern's annual receipts. Thus, Appellant's contention that the Area Office failed to consider revenues from these joint ventures is meritless.

Accordingly, I conclude that SkyBridge Tactical's indebtedness to Ms. Shah gives her no control, and thus results in no affiliation between SkyBridge Tactical and any concern in which Ms. Shah may have an ownership interest; that SkyBridge Tactical is not affiliated with concerns managed by Mr. Bahlow under the common management rule; and that the Area Office properly analyzed all applicable revenues when calculating SkyBridge Tactical's annual receipts. Accordingly, Appellant has failed to establish any clear error of fact or law in the size determination.

#### IV. Conclusion

Appellant has failed to establish that the size determination is based upon any clear error of fact or law. Accordingly, I DENY the instant appeal, and I AFFIRM the size determination. This is the final decision of the Small Business Administration. *See* 13 C.F.R. § 316(d).

CHRISTOPHER HOLLEMAN  
Administrative Judge