

Cite as: *Size Appeals of Blueprint Consulting Services, LLC, dba Excelicon and STS-Optimo, CTA*, SBA. No. SIZ-6077 (2020)

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

SIZE APPEALS OF:

Blueprint Consulting Services, LLC, dba
Excelicon and STS-Optimo, CTA,

Appellants,

RE: Favor TechConsulting, LLC

Appealed From
Size Determination Nos. 02-2020-129, -
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SBA No. SIZ-6077

Decided: November 4, 2020

APPEARANCES

Lawrence J. Sklute, Esq., Sklute & Associates for Blueprint Consulting Services, LLC

Eden Brown Gaines, Esq., Brown Gaines, LLC, for STS-Optimo, CTA

Jeffery M. Chiow, Esq., Rogers Joseph O'Donnell, PC, for Favor TechConsulting, LLC

Thomas H. Armstrong, Esq., Office of General Counsel, U.S. Small Business
Administration

ORDER DISMISSING APPEAL¹

I. Background

On May 18, 2020, the Federal Emergency Management Agency (FEMA) issued Request for Quotation No. 70FA3020Q0000010 announcing its intention to award a single Blanket Purchase Agreement (BPA) under the General Service Administration (GSA) Federal Supply Schedule (FSS) for its Recovery Technology Programs Division (RTPD). The Request for Quote (RFQ) was solicited under GSA Schedule 70, Special Item Number (SIN) 132-51 and 54151S, as a 100% set-aside for 8(a) program GSA schedule holders. The Contracting Officer (CO) designated North American Industry Classification Code System (NAICS) code 541512, Computer System Design Services, with a corresponding \$30 million annual receipts size

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.

standard as the appropriate code. Phase I offers were due on June 1, 2020. On September 17, 2020, the CO notified unsuccessful offerors of the award to Favor TechConsulting (FTC).

On September 21, 2020, STS-Optimo (STS) filed a size protest alleging FTC was other than small. On September 22, 2020, Blueprint Consulting Services, LLC, dba Excelicon (Blueprint), also filed a size protest alleging FTC was other than small.

On September 30, 2020, the Small Business Administration (SBA) Office of Government Contracting — Area II (Area Office) issued Size Determination No. 02-2020-129, dismissing Blueprint's protest as untimely. On that same day, the Area Office also issued Size Determination No. 02-2020-130, dismissing STS's protest as untimely.

On October 13, 2020, Blueprint filed Size Appeal No. 2020-10-13-97, from the dismissal of its protest. On October 15, 2020, STS filed Size Appeal No. 2020-10-15-101, from the dismissal of its protest. On October 15, 2020, I issued an order consolidating the two appeals.

On October 19, 2020, FEMA moved to dismiss the consolidated appeals. FEMA noted that on September 24, 2020, Blueprint filed a bid protest at the Government Accountability Office (GAO) challenging the establishment of the BPA with FTC. On October 8, 2020, FEMA moved to dismiss the GAO protest because it plans to terminate the BPA and take other corrective action as appropriate. Thereafter, on October 14, 2020, GAO dismissed Blueprint's protest as academic in light of the Agency's corrective action. *See Protest of Blueprint Consulting Services, LLC d/b/a/ Excelicon*, B-419189.1. FEMA argues that its plans to terminate the BPA and take corrective action rendering the consolidated appeals moot.

On November 3, 2020, FTC filed a response to FEMA's motion to dismiss in accordance with 13 C.F.R. § 134.211(c). FTC requested that OHA dismiss the appeals as moot since there is no longer a live controversy for OHA to decide. Neither Blueprint nor STS filed a response to FEMA's motion to dismiss.

II. Analysis

The issue here is whether the Blueprint and STS (collectively, Appellants) protests challenging the size of FTC as untimely are rendered moot by the GAO's decision to terminate the BPA and take corrective action. Once an issue becomes moot after the contract awarded to the challenged firm is terminated, OHA precedent is clear that no live controversy remains to be decided. *See Size Appeal of Tridentis, LLC*, SBA No. SIZ-5607, at 1 (2014) (“The size appeal is tied to the award of a task order that no longer exists. Due to the award's cancellation, the timeliness of Appellant's size protest is no longer an issue. Thus, there is thus no longer a live case or controversy to decide.”); *see also Size Appeal of Navarro Research and Engineering, Inc.*, SBA No. SIZ-5473 (2013). Here, because FEMA plans to terminate the subject BPA, FTC's eligibility for award is no longer an issue and there is no live controversy for OHA to decide. The issue of whether the Area Office erred in dismissing Appellant' protests is now moot. *See Size Appeal of Allserv, Inc.*, SBA No. SIZ-5934, at 1 (2018); *see also Size Appeal of Bosco Constructors, Inc.*, SBA No. SIZ-5345, at 2 (2012). Additionally, since the Appellants did not

file a response motion to FEMA's motion to dismiss, the Appellants are deemed to have consented to the motion. 13 C.F.R. § 134.211(c).

Accordingly, I find that the instant appeal is moot, as there is no longer a live controversy to be decided. OHA will not adjudicate substantive issues which have become moot. 13 C.F.R. § 134.316(c).

III. Conclusion

For the reasons stated above, I DISMISS the appeals as MOOT. This is the final decision of the Small Business Administration. 13 C.F.R. § 134.316(d).

CHRISTOPHER HOLLEMAN
Administrative Judge