

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

NAICS APPEAL OF:

The Centech Group, Inc.

Appellant

Solicitation No. 8502 (eFAST MOA)

DTFAWA-09-R-00041

Federal Aviation Administration

Washington, DC

SBA No. NAICS-5061

Decided: August 14, 2009

ORDER DISMISSING APPEAL¹

I. BACKGROUND

On July 19, 2009, the Federal Aviation Administration (FAA), in Washington, DC, issued Screening Information Request (SIR) No. DTFAWA-09-R-00041 for the Electronic FAA Accelerated and Simplified Tasks (eFAST) Master Ordering Agreement (MOA). The FAA will not award any contracts as a direct result of this solicitation. However, the solicitation will result in the award of MOAs to qualified and responsible small business vendors. The SIR states, “eFAST is a small business set aside program for MOA holders (prime contractors),” and “[t]he FAA will comply with the SBA’s business size standards.” Proposals are due August 20, 2009.

On July 29, 2009, The Centech Group, Inc. (Appellant), filed a NAICS code appeal with the SBA’s Office of Hearings and Appeals (OHA). Appellant asserts that NAICS code 517110, Wired Telecommunications Carriers, had been among the 41 NAICS codes listed in earlier versions of the SIR. Appellant requests that this NAICS code be restored to the SIR. Appellant asserts NAICS code 517110 is appropriate for some tasks described in the Statement of Work.

On August 13, 2009, the CO responded to the appeal. The CO asserts that OHA has no jurisdiction over this procurement process.

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

II. DISCUSSION

Appellant filed the instant appeal within 10 days after FAA issued the SIR. Thus, the appeal is timely. 13 C.F.R. §§ 121.1103(b)(1); 134.304(a)(3).

Nevertheless, I must dismiss this appeal because OHA lacks the authority to issue a ruling on it. Even though the SIR itself states the procurement is set aside for small businesses, the agency that issued it, the FAA, operates under special statutory authority and is exempt from the Small Business Act. 49 U.S.C. § 40110(d)(2)(D). Because OHA's authority to determine NAICS code appeals derives from the Small Business Act, OHA has no authority to issue a NAICS code decision in an FAA procurement. Accordingly, this appeal must be dismissed.

III. CONCLUSION

For the above reason, I DISMISS the instant appeal for lack of jurisdiction.

This is the Small Business Administration's final decision. 13 C.F.R. § 134.316(b).

CHRISTOPHER HOLLEMAN
Administrative Judge