

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

SIZE APPEAL OF:

SoftConcept, Inc.,

Appellant,

RE: Enterprise Information Services, Inc.

Appealed From

Size Determination No. 2-2011-65

SBA No. SIZ-5197

Decided: February 16, 2011

ORDER DENYING APPEAL¹

I. Background

On December 22, 2010, the Army Contracting Command issued a pre-award notification of apparent successful offerors for Solicitation No. W91QUZ-08-R-0011.

On December 30, 2010, SoftConcept, Inc. (Appellant) challenged several of the apparent awardees, including Enterprise Information Services, Inc. (EIS). Appellant stated that EIS's sales are unknown, and that EIS did not list the solicitation's primary North American Industry Classification System (NAICS) code in EIS's Central Contractor Registration (CCR).

On January 27, 2011, the Small Business Administration Office of Government Contracting, Area II (Area Office) dismissed Appellant's protest as insufficiently specific, citing 13 C.F.R. § 121.1007.

On February 7, 2011, Appellant appealed the Area Office's decision to the Office of Hearings and Appeals.

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).

The Area Office properly dismissed the protest. The applicable regulation provides, in pertinent part:

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.

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).

Here, as the Area Office concluded, Appellant “submitted no specific grounds to allege that EIS exceeded the size standard for the applicable NAICS Code.” Letter from David Loines, Area Director, Area Office, to Kye Lee, President, SoftConcept, Inc. (Jan. 27, 2011). Thus, Appellant's protest lacks the specificity required by 13 C.F.R. § 121.1007(b) to permit the Area Office to investigate the challenged firm's size and make a size determination. As a result, the Area Office correctly dismissed the protest. 13 C.F.R. § 121.1007(c).

Appellant's contention that EIS “did not, at the time of submission of their proposal list the primary NAICS code 541519 in their CCR dated December 30,” Appeal at 1-2, is immaterial. This issue does not affect whether or not EIS is a small business under the applicable size standard. 48 C.F.R. § 19.301-1. Therefore, the Area Office need not have considered this issue.

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).

KENNETH M. HYDE
Administrative Judge