

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

SIZE APPEAL OF:

Solvet Services, LLC,

Appellant,

Re: Ansible Government Solutions, LLC

Appealed From

Size Determination No. SIZ-2025-130

SBA No. SIZ-6351

Decided: April 29, 2025

APPEARANCES

Joshua Sather, Esq., Jonathan D. Perrone, Esq., Timothy J. Turner, Esq., Whitcomb, Selinsky, P.C., Denver, CO, for Appellant

Derek Johnson, CEO, Pro Se, Ansible Government Solutions, LLC, Malvern, PA, for Ansible Government Solutions, LLC

DECISION<sup>1</sup>

I. Introduction and Jurisdiction

On March 28, 2025, the U.S. Small Business Administration (SBA) Office of Government Contracting — Area II (Area Office) issued Size Determination No. SIZ-2025-130, dismissing the size protest of Solvet Services, LLC (Appellant) for lack of specificity under 13 C.F.R. § 121.1007, which governs the requirements for a size protest to be considered specific. Appellant, which had previously protested the size of Ansible Government Solutions, LLC (Ansible), maintains that the dismissal 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 granted, and the size determination is remanded.

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 appeal within fifteen

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<sup>1</sup> This decision was originally issued under a protective order. Pursuant to 13 C.F.R. § 134.205, OHA afforded the parties an opportunity to file a request for redactions if desired. No redactions were requested, and OHA therefore now issues the entire decision for public release.

days of receiving the size determinations, 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

In October of 2007, the Department of Veterans Affairs (VA) issued solicitation RFP-797-FSS-00-0115-R4 to provide vehicles for all Federal Government agencies and other authorized users to obtain quality-staffing solutions from qualified/experienced contractor(s) under a Multiple Award Federal Supply Schedule. (Solicitation at 1.) The Contracting Officer (CO) set aside the procurement entirely for small businesses and assigned North American Industrial Classification System (NAICS) code 561320, Temporary Help Services, with a corresponding \$12.5 million, now updated to \$34 million annual receipts size standard under Solicitation RFP-797-FSS-00-0115-R4. 13 C.F.R. § 121.201. Initial offers were due on May 29, 2018. *Id.* On January 2, 2020, the CO notified offerors that Ansible was the apparent successful offeror for Solicitation RFP-797-FSS-00-0115-R4. (*Id.* at 1.)

### B. Protest and Response

On January 21, 2025, Protestor filed a size protest with the CO challenging Ansible's size. Protestor alleged that Ansible is not an eligible small business for procurement RFP-797-FSS-00-0115-R4, because for the past five years, Ansible's annual revenue exceeded the small business threshold established by NAICS code 561320. (Protest at 2.) Protestor contended that a review of publicly available contract award data indicates that Ansible is not a small business concern under NAICS code 561320, as Ansible's annual receipts for Fiscal Year (FY) 2020 through FY2024 have exceeded the specified \$34 million threshold. *Id.* Additionally, Protestor provided the following table to show Ansible's annual receipts for FY2020 through FY2024:

<b>Fiscal Year</b>	<b>Annual Revenue</b>
FY 2020	\$33,600,000.00
FY 2021	\$37,048,790.00
FY 2022	\$38,500,000.00
FY 2023	\$58,600,000.00
FY 2024	\$48,578,032.00

(*Id.* at 2-3.) Furthermore, per SBA's calculation of annual receipts, as provided in 13 C.F.R. § 121.104(c), Protestor claimed that the combined revenue from Ansible from FY2020-FY2024, will be in excess of \$34 million per year on a five-year average (\$43,265,364.40). (*Id.* at 3.) Protestor further claimed that as a result, Ansible is not a small business with a size standard below the required threshold of \$34 million. *Id.* Thus, Protestor requested that SBA investigate the size of Ansible and find that Ansible is not a small business within the size standard of NAICS code 561320. *Id.* Additionally, Protestor requested that SBA direct both the Agency and Ansible to immediately revise all applicable Federal contract databases, including FSS 621 I, to reflect Ansible's correct size status, in accordance with 13 C.F.R. § 121.404.

### C. Size Determination

On March 28, 2025, the Area Office issued Size Determination No. SIZ-2025-130, dismissing the protest for lack of specificity under 13 C.F.R. § 121.1007. (Size Determination at 1.) The Area Office found that Protestor did not provide notice of the grounds upon which Protestor challenged Ansible's size. (*Id.* at 2.) Furthermore, the Area Office observed that Protestor stated that “Ansible was issued an award under the Solicitation on January 13, 2025.” *Id.* The Area Office also observed that Protestor claimed that “Ansible's annual receipts for FY2020 through FY2024 have exceeded the specified \$34 million threshold.” *Id.* The Area Office held that Protestor's stated years are incorrect. *Id.* Additionally, the Area Office noted that as an awardee of the contract, Protestor would have been aware that recertifications as small were due “[w]ithin 60 to 120 days prior to the exercise date specified in the contract for any option thereafter.” *Id.* Accordingly, the Area Office found that Ansible's re-representation for an option exercised in January 2025 would have had to be made in 2024, resulting in the applicable years for size being FY2019 through FY2023. *Id.* Thus, the Area Office held that since Protestor did not allege that Ansible's five-year average receipts exceed the applicable size standard based on the applicable years, its protest would be dismissed for lack of specificity. (*Id.* at 3.)

### D. Appeal

On April 1, 2025, Appellant appealed Size Determination No. SIZ-2025-130 to OHA. Appellant maintains that the size determination is clearly erroneous and should be reversed or remanded.

Appellant first argues that the Area Office's finding was based on clear error because, pursuant to FAR 52.219-28(b)(3), incorporated into the Solicitation, Ansible was required to update its System for Award Management (“SAM”) profile within 60 to 120 days prior to the end of fifth year of the contract (i.e., January 14, 2025) and within 60 to 120 days prior to the date specified for exercising any contract option. (Appeal at 1-2.) Additionally, Ansible was required to recertify its size status no more than 120 days prior to the Government's exercising of any option under the Solicitation (i.e., September 15, 2024). (*Id.* at 2.) Appellant claims that on October 14, 2024, which Appellant considers a part of FY2025, Ansible re-certified its small business status under NAICS code 56130 and updated its SAM profile. *Id.* So, contrary to SBA's conclusion, the applicable years for a size determination were FY2020 through FY2024. *Id.*

Next, Appellant argues that the Size Determination is fundamentally flawed because SBA failed to properly assess Ansible's size status in relation to Ansible's October 14, 2024, size recertification for NAICS code 561320. (*Id.* at 5.) Appellant contends that in dismissing the Protest, SBA ignored that the recertification was made in FY2025, and that Ansible's SAM profile was updated that same day pursuant to FAR 52.219-28(b)(3), such that the applicable years for the requested size determination were FY2020 through FY2024. (*Id.* at 7.) According to Appellant, under 13 C.F.R. § 125.12(b), Ansible was required to recertify its size status no more than 120 days prior to the VA's exercising of any option under the Solicitation (i.e., September 15, 2024). *Id.* Appellant asserts that in relation to the VA's exercise of an option under the Solicitation, Ansible re-certified its small business status under NAICS code 561320 on October 14, 2024, and updated its SAM profile that same day, both of which fell in

FY2025. *Id.* Accordingly, FY2020 through FY2024 were the preceding five years for calculating Ansible's annual revenue and the appropriate years for SBA to consider in issuing the Size Determination. *Id.* Appellant holds that SBA's dismissal on this basis was a clear error of law and its argument to the contrary is unavailing. *Id.*

Appellant further contends that even if SBA was correct that FY2019 through FY2023 were the appropriate years to review for a size determination, Ansible's annual revenue for that time period still exceeded the \$34 million threshold, and so SBA should have found that Ansible was not a small business under the applicable NAICS designation. *Id.* Appellant claims that since SBA raised the issue of FY2019 through FY2023 in the Size Determination, Appellant has standing to address Ansible's annual revenue for that time period in this appeal. (*Id.* at 7-8.) Appellant provides information about Ansible's Annual Revenue from FY2019 through FY2023:

<b>Fiscal Year</b>	<b>Annual Revenue</b>
FY 2019	\$26,300,000.00
FY 2020	\$33,600,000.00
FY 2021	\$37,048,790.00
FY 2022	\$38,500,000.00
FY 2023	\$58,600,000.00

(*Id.* at 8.) Appellant asserts that pursuant to 13 C.F.R. § 121.104(c), the combined revenue from Ansible from FY2019 through FY2023 was \$38,809,758.00, which far exceeds the \$34 million threshold. *Id.* Thus, had SBA evaluated the time period it referenced in the Size Determination (i.e., FY2019 through FY2023), the result would have been the same — Ansible is not a small business under NAICS 561320. *Id.*

Appellant notes that since SBA dismissed the Protest for lack of specificity, it did not evaluate whether Ansible was a small business concern under NAICS 561320. *Id.* To Appellant, it remains an open question whether Ansible is a small business and eligible for award under that NAICS designation. *Id.* So, SBA's failure to assess Ansible's small business status because the Protest lacked specificity was a clear error. *Id.* Appellant maintains that under SBA regulations, the Protest was specific as it clearly articulated Ansible's annual Federal contracting revenue for the applicable time period. *Id.* Thus, the Area Office committed a clear error of fact and law when it dismissed the Protest for lack of specificity in the Size Determination. *Id.* Lastly, in its appeal, Appellant reiterates that OHA should vacate the Area Office's dismissal and remand this case for further investigation. *Id.*

#### E. Response to Appeal

Ansible declined to respond to Appellant's appeal, citing a lack of understanding of the appeal process.

### 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 that the size determinations are 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. Analysis

Appellant has shown that the Area Office committed a clear error of fact or law in the size determination. Therefore, this appeal must be granted.

A protest must be sufficiently specific to provide reasonable notice as to the grounds upon which the protested concern's size is questioned. 13 C.F.R. § 121.1007. Some basis for the belief or allegation stated in the protest must be given. *Id.* A protest merely alleging that the protested concern is not small or is affiliated with unnamed other concerns does not specify adequate grounds for the protest. *Id.* Protests which do not contain sufficient specificity will be dismissed by SBA. *Id.* In reviewing non-specific protests, SBA will consider whether (1) the protest was sufficiently specific to provide notice of the grounds upon which the protestor was contesting the challenged firm's size; and (2) whether the protest included factual allegations as a basis for these grounds. *Size Appeal of Carriage Abstract, Inc.*, SBA No. SIZ-4430, at 6 (2001); *Size Appeal of Alutiiq International Solutions, LLC*, SBA No. SIZ-5069, at 4 (2009); *Size Appeal of NuGate Group, LLC*, SBA No. SIZ-5821, at 2 (2017).

Per the standard of the Federal Fiscal Year, Ansible was required to update its SAM profile by January 14, 2025, and exercise its option by September 15, 2024. Sections II.B and II.D., *supra*. However, Ansible re-certified its small business status and updated its SAM profile on October 14, 2024. *Id.* October 14, 2024, falls under Fiscal Year 2024. The Area Office was incorrect in finding that the applicable years for size was FY2019 through FY2023. Section II.C., *supra*. If Ansible re-certified its status and updated its SAM profile before September 30, 2024, the applicable years for size would have ended in FY2023. *Id.* However, Ansible re-certified its status and updated its SAM profile on October 14, 2024, so the applicable years for the requested size determination were FY2020 through FY2024. Sections II.B and II.D, *supra*.

Here, Appellant's protest provides reasonable notice as to the grounds upon which the protested concern's size is questioned. Section II.B., *supra*. Given how thorough Appellant's Protest was, Ansible is well-aware of the grounds on which they were challenged. *Id.* Rather than to merely state that Ansible is not small, Appellant provided a full and detailed overview of its argument. Sections II.B. and II.D., *supra*. Appellant's protest was sufficiently specific to provide notice, and the protest also included factual allegations as a basis for these grounds. *Id.* In its protest, Appellant provided Ansible's annual receipts for FY2020 through 2024 to bolster its argument that Ansible is not a small business concern under NAICS 561320. *Id.* The Area Office

failed to consider Appellant's evidence in showing that Ansible's combined revenue is in excess of \$34 million per year on a five-year average (\$43,265,364.40). *Id.* The Area Office's preemptive dismissal of Appellant's protest barred a proper evaluation of Ansible's size status in relation to its October 14, 2024, size recertification.

The Area Office has unsuccessfully articulated valid grounds for rejecting Appellant's protest. Additionally, the Area Office has not addressed all issues of decisional significance in the Size Determination. Thus, Appellant's protest should be remanded so that the Area Office can conduct a proper investigation of Ansible's size in relation to NAICS 561320.

#### IV. Conclusion

Appellant has proven that the size determinations are clearly erroneous. Accordingly, the appeal is GRANTED, and the size determination is REMANDED. This is the final decision of the Small Business Administration. 13 C.F.R. § 134.316(d).

CHRISTOPHER HOLLEMAN  
Administrative Judge