

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

SIZE APPEAL OF:

DecisionPoint Corporation,

Appellant

Re: UNCOMN, LLC

Appealed from Size Determination
Case No. SIZ-2025-240

RFP No. HTC71125RD002

SBA No. SIZ-6379

Decided: April 8, 2026

APPEARANCES

Edward J. Tolchin, Esq., Offit Kurman, Bethesda, Maryland, for DecisionPoint Corporation

Scott F. Lane, Esq., Jayna Marie Rust, Esq., Katherine S. Nucci, Esq., Thompson Coburn LLP, St. Louis, Missouri, for Uncomn, LLC

DECISION¹

I. Introduction and Jurisdiction

On December 16, 2025, the U.S. Small Business Administration (SBA) Office of Government Contracting - Area IV (Area Office) issued Size Determination No. SIZ-2025-240, dismissing a size protest filed by DecisionPoint Corporation (Appellant) against UNCOMN, LLC (UNCOMN). The Area Office found that the protest was nonspecific as required by regulations at 13 C.F.R. § 121.1007.

On December 29, 2025, Appellant filed the instant appeal. Appellant contends that the Area Office erred in dismissing the protest, and requests that SBA's Office of Hearings and

¹ 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, so OHA now issues the entire decision for public release.

Appeal (OHA) reverse or remand. For the reasons discussed *infra*, the appeal is DENIED, and the Area Office dismissal 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 timely filed the instant appeal. Accordingly, this matter is properly before OHA for decision.

Pursuant to 5 U.S.C. § 3344 and 5 C.F.R. § 930.208, Administrative Law Judges of the U.S. Department of Health and Human Services — Office of Medicare Hearings and Appeals have been appointed by the Administrator of SBA under an Interagency Agreement (IAA) in effect beginning October 1, 2025, and are authorized to hear size appeals under 13 C.F.R. § 134.102(k). The undersigned was appointed to adjudicate this matter under the IAA.

II. Background

A. Solicitation

On October 31, 2024, the U.S. Transportation Command (USTRANSCOM) issued Solicitation No. HTC71125RD002 (the RFP) to acquire enterprise architecture, enterprise data management, and information technology engineering services for USTRANSCOM and its Transportation Component Commands (TCCs). (CO's Memorandum). The RFP was competed as a 100% small business set-aside under NAICS Code 541512, Computer Systems Design Services, and its associated \$34 million size standard. (RFP). Appellant and UNCOMN submitted timely offers.

B. Protest

On September 9, 2025, the Contracting Officer (CO) informed Protestor (Appellant) of the intended award to UNCOMN. (CO Referral Ltr. dated 9/16/2025). On September 16, 2025, Appellant filed a timely protest with the CO. The CO forwarded Appellant's protest to the Area Office for review.

In its protest, Appellant argued that UNCOMN was not an eligible small business at the time that phase II pricing was due. Under this RFP, phase I proposals were due on December 9, 2024, and phase II proposals, including price, were due on April 10, 2025. (Protest at 2). Appellant observed that UNCOMN submitted its phase I and phase II proposals (including price) on or before December 9, 2024. *Id.* Appellant argued that as of January 1, 2025, UNCOMN was large pursuant to its System for Award Management (SAM) data. (Protest at 2-3). Because pricing was not due until April 10, 2025, Appellant argued that UNCOMN's phase II proposal was not evaluated until that time, and April 10, 2025, should be the date upon which UNCOMN's size must be evaluated. (Protest at 3). Thus, because UNCOMN submitted its pricing with its phase I offer in December 2024, and pricing was subject to amendment until April 10, 2024, UNCOMN's early offer constitutes an attempt to “end-run the regulations, and this end run should not be allowed.” (Protest at 3).

C. Size Determination

On December 16, 2025, the Area Office issued Size Determination No. SIZ-2025-140, dismissing the protest as nonspecific. (Size Determination at 1.) The Area Office found that Appellant did “not allege that UNCOMN was other than small on the applicable date for determining size, but rather that you feel that UNCOMN exploited the regulation.” (Size Determination at 2).

Implicit in the Area Office's determination is that pursuant to 13 C.F.R. § 121.404(a), the date for determining size was the date upon which UNCOMN submitted its phase I pricing, and not the later phase II due date at which point the CO would consider the pricing data. Consequently, the Area Office dismissed the protest as nonspecific. (Size Determination at 2).

D. Appeal

On December 29, 2025, Appellant filed the instant appeal. Appellant argues that the Area Office erred in dismissing Appellant's protest. Appellant explains that it included a screenshot of UNCOMN's January 1, 2025, SAM profile showing that UNCOMN was large in January 2025.

Appellant thus argues that UNCOMN was still large in April 2025 when the phase II pricing was due under this RFP. Appellant explains that April 2025 is when the agency would ordinarily have considered UNCOMN's size, and size must be determined on the date upon which the pricing would be final (the phase II due date), and thus the date upon which the agency would consider an offeror's price.

E. UNCOMN's Response

On January 22, 2026, UNCOMN responded to this appeal. UNCOMN explains that under 13 C.F.R. § 121.404(a), size is determined as of the date of the initial offer which includes price. (Resp. at 7). UNCOMN asserts that “[t]he regulations do not prohibit early submission of proposals or change the date on which size status is determined based on early submission.” (Resp. at 6).

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. Analysis

Appellant has not shown that the Area Office erred in dismissing Appellant's protest. I must therefore deny the appeal.

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 the area office. *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).

Appellant's arguments that an offeror's early submission of pricing data is not final, or that pricing is subject to amendment, or that the agency would not consider pricing until a later date, are unavailing in this case. The regulation unambiguously provides that “[a] concern, including its affiliates, must qualify as small under the NAICS code assigned to a contract as of the date the concern submits a written self-certification that it is small to the procuring activity as part of its initial offer or response which includes price.” 13 C.F.R. § 121.404(a). While SBA recognizes exceptions to the date upon which a business' size is determined, Appellant points to no applicable exceptions, and I find that no exceptions apply in this case. *See generally* 13 C.F.R. § 121.404.

Here, the facts are undisputed. In December 2024, UNCOMN submitted its phase II pricing data early — four months before it was due. Appellant's evidence that UNCOMN was other than small is dated January 1, 2025. Appellant provided no specific details alleging that UNCOMN was other than small in December 2024 when UNCOMN submitted its pricing data. Rather, Appellant's SAM evidence shows that UNCOMN was other than small *after* UNCOMN submitted its phase II pricing data. Appellant's protest did not raise specific, credible evidence that UNCOMN was other than small on the date that it submitted its pricing. *Cf.* 13 C.F.R. § 121.1007(b). None of the exceptions apply that would require SBA to redetermine the putative awardee's size after January 1, 2025. *See generally* 13 C.F.R. § 121.404.

Appellant's assertion that UNCOMN's early offer including price constitutes an attempt to “end-run the regulations, and this end run should not be allowed,” is a disagreement with SBA regulations. I appreciate that Appellant disagrees with the law, but this does not constitute clear error on the part of the Area Office. Indeed, all offerors may avail themselves of the regulation, and this should be no surprise to Appellant: the rule that “[t]he size status of a concern is determined as of the date the concern submits a written self-certification that it is small to the procuring agency as part of its initial offer including price” has been recognized for decades. 67 Fed. Reg. 70339, 70343 (Nov. 22, 2002).

Appellant provided no specific details alleging that UNCOMN was other than small when UNCOMN submitted its initial offer with pricing data, and Appellant has not borne its burden of showing clear error of fact or law in the Area Office's dismissal of Appellant's protest as non-specific. *See* 13 C.F.R. § 134.314.

IV. Conclusion

Appellant has not shown that the Area Office's dismissal of Appellant's protest was based upon any error of fact or law. Accordingly, the appeal is DENIED, and the size determination is AFFIRMED. This is the final decision of the Small Business Administration. *See* 13 C.F.R. § 134.316(d).

JAMES PLOTT
Administrative Law Judge