DECISION

I. Introduction

On August 1, 2016, the U.S. Small Business Administration (SBA) Office of Government Contracting, Area VI (Area Office) issued Size Determination No. 06-2016-049 concluding that Quigg Bros., Inc. (Appellant) is affiliated with several concerns and therefore is not a small business under the North American Industry Classification System (NAICS) code and size standard associated with Appellant's primary industry. Appellant contends that the size determination is clearly erroneous, and requests that the SBA Office of Hearings and Appeals (OHA) reverse. For the reasons discussed infra, the appeal is denied, and the size determination is affirmed.


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1 This decision was originally issued under the confidential treatment provision of 13 C.F.R. § 134.205. OHA received one or more timely requests for redactions and considered any requests in redacting the decision. OHA now publishes a redacted version of the decision for public release.
fifteen days after receiving the size determination, so the appeal is timely. 13 C.F.R. § 134.304(a). Accordingly, this matter is properly before OHA for decision.

II. Background

A. HUBZone Application

By letter of March 30, 2016, SBA's Office of Historically Underutilized Business Zone (HUBZone) Certification requested that a size determination be performed on Appellant. The letter explained that Appellant had applied for entry into the HUBZone program, and had identified its primary industry as NAICS code 237310, Highway, Street, and Bridge Construction, with a corresponding size standard of $36.5 million average annual receipts. (Letter from C. Fooks to J. Gambardella (Mar. 30, 2016), at 1.) Appellant's own receipts do not exceed this size standard, but Appellant's application listed 14 potential affiliates. (Id.) Therefore, a size determination was requested to verify whether Appellant is a small business.

B. Area Office Proceedings

During the course of the size investigation, the Area Office learned that Appellant is owned by six individuals associated with the Quigg family, with John D. Quigg and Patrick Quigg holding the largest interests. The Area Office sent Appellant an email entitled “Identity of Interest — Familial Relations” identifying several Quigg family members, including William (Bill) Quigg, brother of John D. Quigg and Patrick Quigg, and noting that the family members appear to hold “investments in multiple common entities”. (Email from E. Sanchez to R. Hadley (May 26, 2016).) The Area Office instructed Appellant to produce “any reason that SBA should not aggregate the holdings belonging to these family members”, and to “explain or submit documentation as to why these family members should not be treated as one party”. (Id.) Appellant responded that “[n]on[e] below are estranged”. (Email from R. Hadley to E. Sanchez (May 27, 2016).)

On June 1, 2016, the Area Office wrote Appellant to “provide [Appellant] with the opportunity to rebut the presumption of identity of interest based on familial relations.” (Email from E. Sanchez to R. Hadley (June 1, 2016), at 1 (emphasis in original).) The Area Office stated that “Should you wish to rebut, you will need to submit evidence to support any assertion that there is a clear fracture between the family members.” (Id., (emphasis in original).) Among other family connections, the Area Office noted that William Quigg is presumed to share an identity of interest with his brothers John D. Quigg, Patrick Quigg, and Tim Quigg. (Id. at 4 (“As siblings, William, John D., Patrick, and Tim have an identity of interest based on their familial relations.”)). Appellant did not dispute the identity of interest between William Quigg and his brothers but instead stated that it “would like to rebut one company that is not listed below.” (Email from R. Hadley to E. Sanchez (June 2, 2016).)

On June 6, 2016, the Area Office again emailed Appellant to inquire why Root Construction, Inc. (RC), Barrier West, Inc. (BW) and Cottonwood, Inc. (Cottonwood) were identified as “related parties” in Appellant's financial statements. (Email from E. Sanchez to R. Hadley (June 6, 2016, 9:49 a.m.).) Appellant replied that “These companies are owned by Bill
Quigg. Because we have loaned money to these entities our CPAs feel they are related.” (Email from R. Hadley to E. Sanchez (June 6, 2016, 10:18 a.m.).) Later that same morning, Appellant added that “We don't interface with these companies much other than trying to get paid on the loans.” (Email from R. Hadley to E. Sanchez (June 6, 2016, 11:18 a.m.).) The Area Office responded that “Bill has an identity of interest with John D and Patrick (based on familial relations) and has common ownership with John D and Patrick (based on common investments).” (Email from E. Sanchez to R. Hadley (June 6, 2016, 11:44 a.m.).)

On June 7, 2016, the Area Office informed Appellant that “Pursuant to 13 CFR 121.103(f), Bill is found to have an identity of interest based on familial relations and common investments. Bill has common investments with his brothers John D., Patrick, and Tim and his cousin Mike in Olympic Land Company and Cascade Pumice, Inc. So Bill and these family members also have an identity of interest based on common investments. In addition, [Appellant] has lent money to [RC], [BW], and [Cottonwood]. These are links that further support the identity of interest finding. Even [Appellant's] CPA believes that these are related entities. However, if you wish to rebut this finding, you have the right to rebut the finding by submitting evidence that these entities are in fact separate.” (Email from E. Sanchez to R. Hadley (June 7, 2016).)

Appellant responded the next day that “We will be protesting [BW], [RC] and [Cottonwood] as affiliate companies of [Appellant] if in fact you state that you believe they are.” (Email from R. Hadley to E. Sanchez (June 8, 2016, 8:26 a.m.).) Shortly thereafter, Appellant stated that “we do not agree that any of the Bill Quigg companies should be affiliates [of Appellant]”. (Email from R. Hadley to E. Sanchez (June 8, 2016, 9:10 a.m.).) Appellant offered no further explanation or evidence to support this contention. The Area Office reiterated its position that “the identity of interest rule would apply in this case — both because of familial relations and common investments”. (Email from E. Sanchez to R. Hadley (June 8, 2016).) “Because there is an identity of interest, any entity that Bill controls would be considered an affiliate of [Appellant]. Since Bill owns and controls [RC], [BW], and [Cottonwood], we would need to aggregate their revenues to calculate [Appellant's] size.” (Id.)

On July 6, 2016, Appellant wrote the Area Office to “propose that the Bill Quigg companies should not be added as there is absolutely no influence that he bears on [Appellant] and we would claim that his relationship with the other family members is estranged.” (Email from R. Hadley to E. Sanchez (July 6, 2016).)

C. The Size Determination

On August 1, 2016, the Area Office issued Size Determination No. 06-2016-049 concluding that Appellant is not a small business. Appellant submitted its application for the HUBZone program on October 14, 2015, so the Area Office determined Appellant's size as of both October 14, 2015 and March 30, 2016, the date of the letter requesting a size determination. (Size Determination at 1, citing 13 C.F.R. § 121.404(b).)

The Area Office found that Appellant is owned by six related individuals: John D. Quigg (38.9%), Patrick Quigg (32.6%), Matthew Zepeda (17.4%), Peter Ewen (3.7%), Charles Quigg
(3.7%), and J. Neil Quigg (3.7%). (Id. at 3.) John D. Quigg and Patrick Quigg are brothers, and Matthew Zepeda is their cousin. In addition, John D. Quigg, Patrick Quigg, and Matthew Zepeda “have economic holdings in multiple similar entities.” (Id.) Charles Quigg and J. Neil Quigg are brothers and are the sons of Mike Quigg, a cousin of John D. Quigg and Patrick Quigg. Peter Ewen is the nephew of Mike Quigg and the cousin of Charles Quigg and J. Neil Quigg. The Area Office determined that the family members are not estranged and should be treated as one entity based on their familial identity of interest. Together, the six family members have the power to control Appellant. (Id.)

The Area Office proceeded to analyze Appellant's potential affiliates. John D & Gail B Quigg Family LLC (Quigg Family LLC) is equally owned by John D. Quigg, John David Quigg, Gail Quigg, and Elizabeth Lucas. John D. Quigg and Gail Quigg are husband and wife, John David Quigg is the son of John D. Quigg and Gail Quigg, and Elizabeth Lucas is Gail Quigg's daughter and John D. Quigg's stepdaughter. The Area Office determined that each of the four owners has the power to control Quigg Family LLC. (Id. at 4.) Therefore, Appellant is affiliated with Quigg Family LLC.

John D. Quigg, Patrick Quigg, Tim Quigg, and Mike Quigg each own 23.75% of Quigg State & Lincoln LLC (QSL). Tim Quigg is the brother of John D. Quigg and Patrick Quigg. The remaining 5% of QSL is owned by Matthew Zepeda. The Area Office found that, based on familial identity of interest and common investments, QSL and Appellant are affiliated. (Id. at 4-5.)

John D. Quigg, Patrick Quigg, Tim Quigg, and Karen Brown, sister-in-law of John D. Quigg, each own 25% of Sand Park LLC (Sand Park), a land-holding company. Based on their ownership interests, familial identity of interest, and common investments, all four owners have the power to control Sand Park. Therefore, Sand Park and Appellant are affiliates. (Id. at 5.)

10466 E. Hillery LLC (Hillery) is a land-holding company equally owned by John D. Quigg, Gail Quigg, Karen Brown, and David Wolford. Each owner has the power to control Hillery. John D. Quigg and Karen Brown, equal owners in Sand Park, have an identity of interest based on common investments and together can also control Hillery. Appellant and Hillery are affiliates. (Id.)

Olympic Land Company (OLC) is another land-holding company. It is owned by John D. Quigg (14.28%), Patrick Quigg (14.29%), Tim Quigg (14.28%), William Quigg (14.29%), Mike Quigg (14.28%), Jane Quigg (7.15%), George Donovan (14.50%), and James T. Quigg Jr. Credit Shelter Trust (JTQ Trust) (7.15%). William Quigg is the brother of John D. Quigg, Patrick Quigg, and Tim Quigg. Jane Quigg is the widow of James T. Quigg Jr., deceased brother of John D. Quigg, Patrick Quigg, Tim Quigg, and William Quigg. Jane Quigg further serves as trustee of the JTQ Trust. Therefore, Jane Quigg has the power to control the 7.15% ownership interest of OLC held by the JTQ Trust. The Area Office found that each of the seven individual owners has the power to control OLC. (Id. at 6.) The Area Office found that Jane Quigg and her children do not share an identity of interest with John D. Quigg, Patrick Quigg, William Quigg, Tim Quigg, and Mike Quigg. (Id. at 6-7.)
Next, the Area Office examined Appellant's claim that William Quigg should be excluded from any finding of familial identity of interest. Appellant asserted that William Quigg has no ownership or management position in Appellant. Additionally, John D. Quigg, Patrick Quigg, Tim Quigg, and Mike Quigg hold no ownership interest or management position in any of William Quigg's investments. (Id. at 7.) The Area Office found that William Quigg wholly owns RC and had the power to control RC as of October 2015 and March 2016. In addition, William Quigg wholly owns, and has the power to control, BW and Cottonwood. Appellant's financial documents indicate that Appellant has loaned money to RC, BW, and Cottonwood, and those loans are currently outstanding. Further, Appellant performed work for BW between 2012 and 2014. (Id.)

The Area Office reiterated that the familial relationship itself gives rise to an identity of interest. (Id. at 8, citing Size Appeal of Golden Bear Arborists, Inc., SBA No. SIZ-1899 (1984).) The Area Office determined that based on William Quigg's common ownership with John D. Quigg and Patrick Quigg in OLC and Cascade Pumice, Inc. (Cascade) and the financial transactions between Appellant and RC, BW, and Cottonwood, which included contracts and loans, William Quigg, John D. Quigg, and Patrick Quigg are not estranged. Thus, an identity of interest exists between William Quigg, John D. Quigg, Tim Quigg, and Mike Quigg, resulting in the aggregation of their holdings. (Id.) Appellant is therefore affiliated with RC, BW, and Cottonwood.

Quigg International LLC (QI) and Quigg Oil Processing LLC (QOP) are both 100% owned by Tim Quigg. Given Tim Quigg's identity of interest with John D. Quigg and Patrick Quigg, the Area Office found QI and QOP affiliated with Appellant. Cascade is owned by John D. Quigg (20%), Patrick Quigg (18.64%), Tim Quigg (20%), William Quigg (18.64%), Mike Quigg (18.64%), Mary Ann Quigg (1.36%), Kathleen Quigg (1.36%), and Carol T. Quigg (1.36%). Because none of these family members are estranged, the Area Office found a familial identity of interest between them. In addition, John D. Quigg, Patrick Quigg, Tim Quigg, William Quigg, and Mike Quigg have common ownership in OLC and Cascade, and therefore have an identity of interest based on common investments, resulting in Cascade being affiliated with Appellant. (Id. at 8-9.)

Quigg Investments, Inc. was dissolved on October 1, 2015, so it is not an affiliate of Appellant. Grayland Associates LP (Grayland) is 100% owned by Quigg Family LLC, which in turn is controlled by John D. Quigg, Gail Quigg, John David Quigg, and Elizabeth Lucas. Grayland is thus affiliated with Appellant. Gail Quigg owns 100% of an authorship/sewing business. John D. Quigg and Gail Quigg share an identity of interest, so Gail Quigg's authorship/sewing business is affiliated with Appellant. (Id. at 9.) Gail Quigg and John D. Quigg are also joint owners of a rental property located at 308 L Street, Hoquiam, Washington. This rental property, based on their ownership, is also affiliated with Appellant. The Area Office found no affiliation between Appellant and SRI Acquisition Corporation, Grays Harbor Paper LP, D.A. Davidson & Co., or LepercQ Corporate. (Id. at 10.)

The Area Office determined that Appellant itself is a small business. (Id. at 11.) However, the combined receipts of Appellant and its affiliates exceed the size standard for
D. Appeal

On August 16, 2016, Appellant filed the instant appeal. According to Appellant, William Quigg does not share an identity of interest with his brothers. On the contrary, William Quigg’s brothers “find William difficult to deal with and avoid doing business with him.” (Appeal at 2.) Appellant highlights that none of Appellant's owners have any ownership interest in RC, BW, or Cottonwood, and William Quigg likewise has no ownership interest in Appellant. Thus, neither party has the power to control the other. (Id. at 3.) Appellant urges OHA to conclude that Appellant is not affiliated with RC, BW, or Cottonwood, and that Appellant is therefore a small business.

Appellant contends that the Area Office erred in dating William Quigg's ownership of RC to 2014 based on dealings between William Quigg and RC's prior owner. 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Hence, William Quigg did not have complete ownership of RC until January 2016. (Id.)

Next, Appellant maintains that William Quigg and his brothers do not share an identity of interest. Appellant states that an identity of interest between family members may be rebutted by showing a clear line of fracture between the entities in question. In addition, when the business ties between the firms are minimal, OHA has found that a clear fracture exists. (Id. at 5-6, citing Size Appeal of Hal Hays Construction, Inc., SBA No. SIZ-5217 (2011), Size Appeal of RGB Group, Inc., SBA No. SIZ-5351 (2012), and Size Appeal of GPA Technologies, Inc., SBA No. SIZ-5307 (2011).) Here, William Quigg and his companies are separate from Appellant, and Appellant's business with these companies “collectively comprise less than 1% of each company's billings over a three year period.” (Id. at 6, emphasis in original.) The business dealings between RC and Appellant are minimal, and RC does not share any officers, employees, facilities, or equipment with Appellant, nor do they share customers. (Id.)

Appellant argues that the situation here is analogous to that in GPA Technologies, where OHA found that family members whose companies had subcontracted work amounting to less than 5% of revenues had shown a clear fracture. (Id. at 7.) Because the relationship between RC and Appellant predates William Quigg's complete ownership of RC, and the concerns' business ties are minimal in any event, the Area Office should have found a clear line of fracture between Appellant and RC.

Similarly, Appellant's relationship with BW does not support a finding of affiliation. Appellant's business with BW comprises “approximately 0.001% of [Appellant's] billings and approximately 0.04% of BW's billings over a three year period.” (Id. at 8, emphasis in original.) The Area Office failed to support its analysis finding that BW and Appellant are affiliated as it “did not ask details regarding BW and its interactions with [Appellant] before making its identity

Appellant's primary industry. (Id.) Consequently, Appellant is ineligible for the HUBZone program.
of interest determination.” (Id.) The Area Office likewise erred in finding Cottonwood affiliated with Appellant. According to Appellant, Cottonwood is a ranch that was owned by William and Carol Quigg, which they used as their personal residence until Cottonwood was sold in 2015. Even though Cottonwood was structured as corporation, it did not perform any business and the only tie between Cottonwood and Appellant is some “very minor work” totaling $11,500. (Id.)

The Area Office further erred when it cited to Appellant's certified public accountant's description of BW, RC, and Cottonwood as “related parties” of Appellant. (Id.) The Area Office failed to explain how the use of this terminology by the accounting firm creates affiliation. Appellant claims that “the term ‘related parties’ was only intended [to] reflect[ ] that there was some limited business between the companies.” (Id. at 9.) Thus, the CPA's remarks do not suggest control or ownership between Appellant and BW, RC, and Cottonwood. (Id.)

Appellant argues that OLC cannot be used as a basis to find a familial identity of interest because it is not in the same industry as Appellant, has no current business activity, and has not had any revenue in the last three years. The Area Office erroneously utilized William Quigg's 14.29% interest in OLC to find an identity of interest between William Quigg and his brothers. Appellant notes that Jane Quigg, also an owner of OLC, was not found to have an identity of interest with any of Appellant's owners, thus proving that ownership in OLC cannot be a determining factor in finding an identity of interest between William Quigg and his brothers. (Id.) Finding OLC an affiliate of Appellant was also in error. Only two of Appellant's shareholders have an ownership interest in OLC, and they each only own 14.2% of OLC's stock, which is an approximate equal percentage to the other shareholders of OLC. Appellant contends that 13 C.F.R. § 121.103(c)(1) does not envision the stock held by multiple individuals to be blocked together. Because none of Appellant's owners holds a majority of OLC's stock, the Area Office erred in applying this regulation in concluding that any of Appellant's owners controls OLC. (Id. at 9-10.)

Lastly, similarly to OLC, Cascade cannot be utilized to find a familial identity of interest. Cascade is also a land holding company. The same argument regarding the application of § 121.103(c)(1) to OLC applies to Cascade. Thus, none of Appellant's owners have the power to control Cascade.

E. New Evidence

Accompanying its appeal, Appellant attached several exhibits. Specifically, Appellant attached copies of correspondence between Appellant and the Area Office; documentation concerning Appellant's dealings with William Quigg's companies; and information about OLC and Cascade. Appellant did not submit a motion to introduce new evidence, and did not explain why good cause exists to supplement the record.
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. New Evidence

OHA's review is based upon the evidence in the record at the time the Area Office made its determination. As a result, evidence that was not previously presented to the Area Office is generally not admissible and will not be considered by OHA. E.g., Size Appeal of Maximum Demolition, Inc., SBA No. SIZ-5073, at 2 (2009) (“I cannot find error with the Area Office based on documents the Area Office was unable to review.”). New evidence may be admitted on appeal at the discretion of the administrative judge if “[a] motion is filed and served establishing good cause for the submission of such evidence.” 13 C.F.R. § 134.308(a). The proponent must demonstrate, however, that “the new evidence is relevant to the issues on appeal, does not unduly enlarge the issues, and clarifies the facts on the issues on appeal.” Size Appeal of Vista Eng'g Techs., LLC, SBA No. SIZ-5041, at 4 (2009). OHA “will not accept new evidence when the proponent unjustifiably fails to submit the material to the Area Office during the size review.” Size Appeal of Project Enhancement Corp., SBA No. SIZ-5604, at 9 (2014).

In this case, Appellant has not established good cause to admit new evidence. Appellant did not file the requisite motion to admit new evidence, and OHA has found that such an omission may be “fatal” to an attempt at introducing new evidence. Size Appeal of Eagle Consulting Corp., SBA No. SIZ-5267, at 4 (2011), recons. denied, SBA No. SIZ-5288 (2011) (PFR). Moreover, except for the correspondence between Appellant and the Area Office, which is already included in the record and therefore is not new evidence, all of the material Appellant seeks to admit was available to Appellant during the size review, and Appellant offers no rationale as to why this information could not have been provided to the Area Office. OHA has consistently held that it will not accept new evidence when the material in question was available during the course of the size investigation but not submitted to the Area Office. E.g., Size Appeal of BCS, Inc., SBA No. SIZ-5654, at 10 (2015). For these reasons, the new evidence is EXCLUDED from the record and has not been considered for purposes of this decision.

C. Analysis

I find no merit to this appeal. As the Area Office recognized, SBA regulations create a rebuttable presumption that close family members have identical interests and must be treated as one person. 13 C.F.R. § 121.103(f); Size Appeal of Knight Networking & Web Design, Inc., SBA No. SIZ-5561 (2014). The challenged firm may rebut this presumption by demonstrating “a clear line of fracture among the family members.” Size Appeal of Carwell Prods., Inc., SBA No. SIZ-
In the instant case, the Area Office correctly presumed that William Quigg shares an identity of interest with his brothers, and afforded Appellant several opportunities to rebut this presumption. Section II.B, supra. As a result, the burden shifted to Appellant to rebut the presumption.

Based on the information Appellant provided to the Area Office, the Area Office reasonably concluded that Appellant did not rebut the presumption of identity of interest. Appellant initially informed the Area Office that William Quigg and his brothers are not estranged. Section II.B, supra. In addition, Appellant did not dispute the Area Office's preliminary finding that “As siblings, William, John D., Patrick, and Tim have an identity of interest based on their familial relations.” Id. Although Appellant later reversed course and asserted that William Quigg is estranged from his brothers and does not share an identity of interest with them, Appellant offered no evidence or explanation to support this contention. Id. Moreover, as the Area Office informed Appellant, the record reflects various business dealings between the brothers and their respective companies, including both contracts and loans, as well as joint investments in OLC and Cascade. These factors undermine Appellant's claim of clear fracture, as OHA has recognized that “whether there is financial assistance, loans, or significant subcontracting between the firms” and “whether the family members participate in multiple businesses together” are among the criteria to be considered in determining whether clear fracture exists. Size Appeal of Trailboss Enters., Inc. SBA No. SIZ-5442, at 5 (2013), recons. denied, SBA No. SIZ-5450 (2013) (PFR). Thus, based on the information provided by Appellant, the Area Office reasonably found that Appellant did not rebut the presumption of identity of interest.

On appeal, Appellant complains that the Area Office should have undertaken a company-by-company analysis to determine whether Appellant is affiliated with each of the individual companies owned and controlled by William Quigg. This argument reflects a misunderstanding of the principle of identity of interest. OHA has explained that “if a challenged firm does not rebut the presumption of identity of interest between family members, all of the family members' investments are aggregated.” Size Appeal of W&T Travel Servs., LLC, SBA No. SIZ-5721, at 14 (2016). Indeed, it would be “incoherent” for an area office to find an identity of interest between family members, but not also find all of the firms controlled by those family members affiliated. Id. In the instant case, then, given that Appellant did not persuasively rebut the presumption of identity of interest, the Area Office correctly determined that Appellant is affiliated with all of the companies owned and controlled by William Quigg.

Appellant attempts to offer evidence that there have been only minimal business dealings between Appellant and RC, BW, and Cottonwood. This argument is flawed for two reasons. First, as explained above, such materials cannot be accepted at this late stage because they could have been, but were not, submitted to the Area Office during the size review. Section III.B, supra. Second, Appellant overlooks the fact that, under 13 C.F.R. § 121.103(f), an identity of interest may arise not only through family relationships but also through common investments. Here, in addition to their business dealings, William Quigg and his brothers have joint investments in OLC and Cascade, and thus may share an identity of interest based on common investments. E.g., Size Appeal of W. Harris, Gov't Servs. Contractor, Inc., SBA No. SIZ-5717 (2016). Accordingly, even supposing that the business dealings between the companies
are in fact minimal, Appellant has not established that there is no identity of interest based on common investments.

Appellant also contends that the Area Office erred in finding that William Quigg and RC's prior owner reached an agreement during 2014 or 2015 for William Quigg to acquire RC. This argument too is meritless. Significantly, Appellant itself acknowledges that William Quigg acquired complete ownership of RC by January 2016. Section II.D, supra. It follows, therefore, that William Quigg fully owned RC prior to March 30, 2016, one of the dates for determining size. Due to the identity of interest between William Quigg and his brothers, Appellant was affiliated with RC as of March 30, 2016. Thus, the specific details of how William Quigg came to acquire RC, or the exact date of this transaction, are immaterial to the Area Office's analysis and provide no basis to disturb the size determination. E.g., Size Appeal of WG Pitts Co., SBA No. SIZ-5575, at 7 fn.4 (2014).

IV. Conclusion

Appellant has not proven that the size determination is clearly erroneous. 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).

KENNETH M. HYDE
Administrative Judge