



Championing America's Entrepreneurs

Fax Transmission Cover Sheet
Area VI — OFFICE of GOVERNMENT CONTRACTING
455 Market Street, 6th Floor
San Francisco, CA 94105-2040

To: Raul Espinosa

Organization: FitNet International Corporation

Phone 904-599-9920

Fax 866-381-0908

Date 7/14/09

Time

Number of Pages (include this one)

5

From: John Bagaason

Phone (206) 553-8546

Information:

Mr. Espinosa,

The attached is a copy of the SBA size determination on Unisen, Inc (dba Star Trac) based upon your protest, SBA Size Determination File Number 6-2009-071.

All parties will receive a faxed copy of our determination.

PLEASE NOTE THAT RECEIPT OF THIS FACSIMILE STARTS THE CLOCK REGARDING YOUR APPEAL RIGHTS. SHOULD YOU DECIDE TO FILE AN APPEAL, PLEASE REVIEW THE REGULATIONS AT 13 CFR PART 134 ON OUR WEBSITE FOR VERY SPECIFIC FILING INSTRUCTIONS.

If you have any questions, please feel free to contact me at the number above or by e-mail at john.bagaason@sba.gov.

Did you know the SBA ...

The SBA Size regulations (13 CFR Part 121) and SBA Office of Hearings and Appeals regulations (13 CFR Part 134) can be obtained from our website at <http://www.sba.gov/tools/resourcelibrary/lawsandregulations/index.html>.



U. S. SMALL BUSINESS ADMINISTRATION
Office of Government Contracting -- Area VI
455 Market Street, 6th Floor
San Francisco, California 94105

JUL 01 2009

VIA FACSIMILE

Unisen, Inc. doing business as (dba) Star Trac
14410 Myford Road
Irvine, CA 92606

ATTENTION: Pat Paul, Government Sales Manager

SUBJECT: Size Determination Case No.: 6-2009-071
Solicitation No.: FA4690-09-T-0031
Procuring Agency: Department of the Air Force
Size Standard: NAICS 423910; Number of
employees not to exceed 500
(corrected by SBA)

Dear Mr. Paul:

The Small Business Administration (SBA) has made a formal size determination that your firm is other than a small business since you have failed to completely respond to our request for information. A copy of our determination is enclosed.

In an email sent from Jai Lee, Risk Manager, on June 29, 2009, Mr. Lee stated the following:

Please accept this email as formal notice to you that Unisen, Inc. dba Star Trac will not be applying for self-certification as a small business entity.

In gathering information to submit the application, the preceding 12 month average of employee count globally exceeded the maximum size limit of 500 employees for a small business for our industry.

Therefore, your firm, Unisen, Inc. dba Star Trac, did not submit a size determination application packet to the SBA. Pursuant to 13 CFR 121.1008(d), without this information, "SBA may presume that disclosure of the information required by the form or other missing information would demonstrate that the concern is other than a small business."

Section 16(d) of the Small Business Act, 15 USC 645(d), provides severe criminal penalties for knowingly misrepresenting the small business size status of a concern in connection with procurement programs. Also, pursuant to 13 CFR 121.1009(g)(5), Unisen, Inc. dba Star Trac is prohibited from self-certifying as a small business within the same or a lower size standard unless it is recertified as small by the SBA.

Any person adversely affected by this decision may appeal to SBA's Office of Hearings and Appeals (OHA). The appeal petition must be filed with OHA at the following address:

**Office of Hearings and Appeals
U.S. Small Business Administration
409 Third Street, S.W.
Washington, D.C. 20416**


The appeal petition must include the following information:

- 1. The Area Office which issued the size determination;**
- 2. The date of receipt of the size determination;**
- 3. The solicitation or contract number;**
- 4. Name, address and telephone number of the contracting officer;**
- 5. A full and specific statement as to why the size determination is alleged to be in error, together with argument supporting such allegations; and**
- 6. The name, address, telephone number and signature of the appellant or its attorney.**

A link to a copy of the OHA regulations (13 CFR Part 134) is enclosed for your assistance. Please read them carefully for very specific filing instructions.

If additional information or assistance is needed, please contact John C. Bagaason, Size Specialist, at (206) 553-8546.

Sincerely,


NICHOLAS L. MANALISAY
Acting Area Director
for Government Contracting
Area Office VI

Enclosures

cc: FitNet International Corporation
Department of the Air Force



U. S. SMALL BUSINESS ADMINISTRATION
Office of Government Contracting -- Area VI
455 Market Street, 6th Floor
San Francisco, California 94105

JUL 01 2009

SIZE DETERMINATION

FILE NUMBER - 6-2009-071

Unisen, Inc. doing business as (dba) Star Trac
14410 Myford Road
Irvine, CA 92606

SOLICITATION NO.: FA4690-09-T-0031

PROCURING ACTIVITY: Department of the Air Force

SIZE STANDARD: NAICS 423910; Number of employees not to exceed 500 (corrected by SBA)

INTRODUCTION:

The U.S. Department of the Air Force, 28th Comptroller and Contracting Squadron, Ellsworth Air Force Base, SD, issued the subject solicitation for a contractor to supply "Spin Bikes" on May 29, 2009. The solicitation was a total small business set-aside.

It should be noted that the procuring activity stated an incorrect size standard of 100 employees for the subject solicitation. Pursuant to 13 CFR 121.402(d), the U.S. Small Business Administration corrected the size standard to 500 employees.

By email dated June 15, 2009, FitNet International Corporation, an unsuccessful quoter, protested the eligibility of Unisen, Inc. dba Star Trac (Unisen), the apparent successful quoter, as a small business concern. The protestor alleged that Unisen exceeds the above size standard of number of employees not to exceed 500, thus making Unisen other than small. The protest was determined to be specific and timely.

By letter dated June 19, 2009, the SBA notified Unisen of the protest and asked, pursuant to 13 CFR 121.1008, that a complete size determination application packet be submitted to the SBA within three (3) working days after receipt of the letter. Unisen asked for and received from the SBA an extension of three working days to submit its size determination application packet to the SBA. In an email sent to the SBA on June 29, 2009, from Jai Lee, Risk Manager, Mr. Lee stated the following:

Please accept this email as formal notice to you that Unisen, Inc. dba Star Trac will not be applying for self-certification as a small business entity.

In gathering information to submit the application, the preceding 12 month average of employee count globally exceeded the maximum size limit of 500 employees for a small business for our industry.

Therefore, Unisen did not submit a size determination application packet to the SBA.


EVIDENCE:

Because a complete application has not been filed, pursuant to 13 CFR 121.1008(d), the SBA presumes that disclosure of the requested information would show that Unisen is other than a small business. Therefore, Unisen is other than small under the size standard of number of employees not to exceed 500.

CONCLUSION:

Unisen, Inc. dba Star Trac is other than small under the size standard of number of employees not to exceed 500. Also, pursuant to 13 CFR 121.1009(g)(5), Unisen, Inc. dba Star Trac is prohibited from self-certifying as a small business within the same or a lower size standard unless it is recertified as small by the SBA.

For further information regarding this determination, please contact John C. Bagaason, Size Specialist, at (206) 553-8546.


NICHOLAS L. MANALISAY
Acting Area Director
for Government Contracting
Area Office VI