

Small Business Administration Size Protests: The Basics

Frank V. Reilly, Esq.
101 NE Third Avenue, Suite 1500
Fort Lauderdale, FL 33301
Telephone: (561) 400-0072 Fax: (954) 691-3098
frank@frankvreilly.com
www.frankvreilly.com

Small Business Administration Size Protests, Size Determinations & Appeals: The Basics

Size Protests

With regard to procurement or sales of government property, a procuring (or selling) agency must accept as conclusive the SBA's determination as to which a firm is a "small business concern." Offerors on a procurement self-certify that they are small. In the case of protest by another firm or interested party questioning the size status of the low offeror, the contracting officer will forward the size protest to the Office of Government Contracting where they will then be referred to the appropriate area office.

Who can make a size protest?

- Unsuccessful Offeror
- Contracting Officer
- SBA Government Contracting Area Office
- Other Interested Parties
- Other Government Officials

Size Determination

The appropriate area office makes the initial size determination after a size protest. They are given a very tight time constraint (usually within 10 days of receiving a protest).

Area office determinations may be appealed to the Office of Hearings and Appeals at SBA headquarters in Washington, D.C., by any of the interested parties.

Appeals

An appeal for a size determination must begin by serving and filing an appeal petition in writing. The following lists the basic rules for appeals:

- If the appeal is for a size determination in a procurement or pending government property sale, then the appeal petition must be served and filed within 15 calendar days after the size determination was made.
- If the appeal is for a size determination other than one in a pending procurement or pending government property sale, then the appeal petition must be served and filed within 30 calendar days after the size determination was made.
- An untimely appeal will be dismissed.

The Office of Hearing and Appeals will do a standard review of the appeal, issue a decision containing the facts and the conclusion that was made based on the appeal, and notify in writing all parties involved. This is the final decision of the SBA.

ABOUT THE AUTHOR

Frank V. Reilly is a [Martindale - Hubbell Peer Reviewed Attorney](#) with a perfect 5.0/5.0 Peer Rating. Martindale-Hubbell® Peer Review Ratings™ are the gold standard in attorney ratings, and have been for more than a century.

Mr. Reilly practices federal procurement law in Washington, DC.