DECISION

I. Introduction and Jurisdiction

On March 13, 2015, the U.S. Department of the Air Force (Air Force) issued Request for Proposals (RFP) No. FA8773-15-R-8007 seeking a contractor to provide support services to operate, sustain, and assure the availability of the Air Force Information Network (AFIN) to enable war-fighter mission execution. The Contracting Officer (CO) set the procurement entirely as a Woman-Owned Small Business set-aside and designated North American Industry Classification System (NAICS) code 517110, Wired Telecommunications Carriers, with a size standard of 1,500 employees.

On March 23, 2015, RCF Information Systems, Inc. (Appellant) filed an appeal challenging the CO's choice of NAICS code. Appellant argues for the use of NAICS code 541513, Computer Facilities Management Services, with a corresponding $25.5 million annual receipts size standard. For the reasons discussed infra, the appeal is denied.

The U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA) decides NAICS code 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 this appeal within ten calendar days after issuance of the RFP, and within ten days after the subsequent change of the NAICS code and size standard, so the appeal is timely. 13 C.F.R. §§ 121.1103(b)(1), 134.304(b). Accordingly, this matter is properly before OHA for decision.
II. Background

A. The RFP

The RFP states the Air Force plans to award a firm-fixed price and cost reimbursable contract as a result of the solicitation. Proposals are due on April 27, 2015.

The RFP's Performance Work Statement (PWS) states the contractor will provide support services in the operation, sustainment, and availability of the AFIN to enable the execution of war-fighter missions. The contractor will be supporting the 690th Cyberspace Operations Group (COG). The services will be performed at Joint Base Langley-Eustis, VA; Peterson AFB, CO; Andrews AFB, MD; Scott AFB, IL; Wright-Patterson AFB, OH; and Lackland AFB, TX. PWS, § 1.2.

The contractor will be responsible for carrying out the following performance requirements: (i) Operations and Maintenance; (ii) Training and Knowledge Transfer; (iii) Information Assurance; and (iv) Technical Support. PWS, §§ 3.1.1-3.1.4. Under these requirements, the contractor's duties will include the monitoring and maintenance of enterprise capability health, supporting the inspection and exercise of unit operational readiness in support of the AFIN, maintenance services of all servers and equipment, hardware equipment troubleshooting, performing fault-detection, fault-isolation, and recovery/resolution services, maintaining, updating, and creating documentation that ensures continuity of knowledge and operation. Additionally, the contractor will perform preventive and corrective maintenance for systems and components operated under this contract, as well as ensuring proper knowledge transfer via study aids, provide certain subject matter input, issue incident tickets and assess change requests relating to security issues, provide recommendations as to changes to technical and conceptual documentation relating to operations and technical sufficiency, participate in technical working groups, and provide in depth analysis of reportable tasks. The PWS also requires the contractor to attend meetings to recommend a course of action and provide update of status and emerging capabilities; provide information on how to improve AFIN's performance, infrastructure, operations, and standardization; report weekly and monthly activities; and establishing and resolving change request and incident tickets with other AFIN operators and users. PWS, §§ 3.1.1-3.1.11.

Regarding infrastructure devices, including network devices and technologies, network boundary devices and technologies, and telephony systems, the PWS requires the contractor to configure, standardize, monitor, operate, maintain, install, administer, troubleshoot, and manage routers, switches, load balancers, and wireless local area network devices. PWS, §§ 3.2-3.2.3.4. In addition, the contractor must perform vulnerability management operations for these devices. Through this contract, the Air Force will receive vulnerability assessments, patch management for servers, workstations, and infrastructure devices, and deployment, management, troubleshooting and technical solutions for the Host Base Security System (HBSS). Security updates must be performed for all AFIN infrastructure and devices.

The contractor will also be responsible for operating, configuring, administering, troubleshooting, managing, and maintaining AFIN directory and authentication services,
including its servers and software, enterprise messaging and collaboration services, enterprise email, unified communications, mobile and collaboration services, for the Enterprise Service Unit (ESU). Within these requirements, contractor duties will include disaster recovery and restoration actions, and assisting Air Force bases in preparation for Command Cyberspace readiness inspections. PWS, §§ 3.3-3.3.2. The PWS further requires the contractor configure and optimize Government network monitoring tools and applications; monitor resources for suspicious or disruptive behavior or high-end threat activities; administer, operate, manage, and maintain storage area networks (SAN) and virtualized systems environments; and perform disaster recovery procedures and process for SAN and virtual systems environments. PWS §§ 3.3.3.1-3.3.4.3. Facility management services and touch management services must also be performed for all servers and equipment at Area Processing Centers (APC).

The RFP states the contractor will perform change management services for the 690th COG units and stakeholders; release and deployment management; configuration and service asset management; track hardware, software and configuration attributes for the 690th COG using a Government-provided Configuration Management Database; develop and maintain a Government-approved Service Map that correlates hardware, software and configuration attributes to mission capabilities for assets and devices controlled by the 690th COG; and populate and maintain a 690th COG configuration baseline. PWS §§ 3.5-3.5.3.3. Providing support to Enterprise-Level Mission Area will require the contractor to perform operation and maintenance to routers, switches, hardware and software and other network management systems. Further, vulnerability management operations support, boundary operation, directory and authentication services support, messaging and collaboration services support, monitoring management support, SAN support, and virtualization support for the Enterprise-level Mission Area is required by the contractor. PWS §§ 3.5.5-3.5.5.8. For automated change and incident management tools, the contractor will provide administration, management, analysis of customer feedback, and delivery of AFIN metrics and trend analysis.

Lastly, the PWS requires monitoring, identification, analysis, documentation, and reporting of events and incidents on AFIN systems, which include 24 Air Force operated systems. This includes identifying and deconflicting outages, service interruptions, and reporting end-user incidents and vulnerabilities. PWS § 3.6.

B. Appeal

On March 23, 2015, Appellant filed its appeal of the NAICS code. Appellant argues that NAICS code 541513 is more suitable for the solicitation's required services.

Appellant argues the code chosen by the CO does not match the RFP's required services. Appellant contends the CO's chosen code requires the contractor to perform on transmission facilities and infrastructure the contractor owns or leases. According to Appellant, the RFP requires performance at government locations, on government equipment and without the contractor required to provide any infrastructure. Appeal at 2. Thus, the Appellant requests that OHA change the NAICS code to 541513 as it believes it to be the correct code for this procurement.
C. *NAICS Manual*\(^1\) Descriptions

The NAICS code designated by the CO, 517110, Wired Telecommunications Carriers, covers:

[E]stablishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.

*NAICS Manual* at 679. Illustrative examples include:

- Broadband Internet service providers, wired (e.g. cable, DSL);
- Local telephone carriers, wired;
- Cable television distribution services;
- Long-distance telephone carriers, wired;
- Closed circuit television (CCTV) services;
- VoIP service providers, using own operated wired telecommunications infrastructure;
- Direct-to-home satellite system (DTH) services;
- Telecommunications carriers, wired; Satellite television distribution systems;
- Multichannel multipoint distribution services (MMDS).

NAICS code 541513, Computer Facilities Management Services, covers:

[E]stablishments primarily engaged in providing on-site management and operation of clients' computer systems and/or data processing facilities. Establishments providing computer systems or data processing facilities support services are included in this industry.

*NAICS Manual* at 754. Index entries which refer to this NAICS code are: Computer systems facilities (i.e., clients' facilities) management and operation services; Data processing facilities (i.e., clients' facilities) management and operation services; Facilities (i.e., clients' facilities) management and operation services, computer systems or data processing; and Facilities (i.e., clients' facilities) support services, computer systems or data processing.

III. Discussion

A. Standard of Review

Appellant has the burden of proving, by a preponderance of the evidence, all elements of its appeal. Specifically, Appellant must demonstrate that the CO's NAICS code designation is based on a clear error of fact or law. *NAICS Appeal of Durodyne, Inc.*, SBA No. NAICS-4536, at 4 (2003); 13 C.F.R. § 134.314. A procuring agency must designate the NAICS code which best describes the principal purpose of the product or service being acquired in light of the industry descriptions in the *NAICS Manual*, the description in the solicitation, and the relative weight of each element in the solicitation. 13 C.F.R. § 121.402(b); *NAICS Appeal of Global Dynamics, LLC*, SBA No. NAICS-5470 (2013).

B. Analysis

Having examined the RFP, the descriptions in the *NAICS Manual*, and Appellant's appeal, I find the CO did not commit a clear error of fact or law in designating NAICS code 517110 for the instant procurement.

Here, Appellant makes one argument as to why the CO's NAICS code choice does not comport to the services sought. According to Appellant, the contractor is required to perform the services in transmission facilities and infrastructure the contractor owns or leases. However, OHA case law has previously stated the contractor is not always required to own the telecommunications transmission facilities and infrastructure for NAICS code 517110 to apply. *NAICS Appeal of AOC Connect, LLC*, SBA No. NAICS-5165 (2010); *NAICS Appeal of Technica Corporation*, SBA No. NAICS-5248 (2011). In *AOC Connect*, OHA found that NAICS code 517110 applies when the contractor operates and maintains the system, “even though the system was government-owned.” *AOC Connect, LLC*, SBA No. NAICS-5165, at 15 (2010). Thus, it appears the fact that the contractor will be performing the services sought by the RFP at a government-owned facility does not create a clear error of fact or law in the CO's designation of NAICS code 517110.

After examining the RFP, it is clear the contractor will not be simply responsible for management of computer facilities; instead the contractor will be providing a broad range of operations in support of a nationwide telecommunication network for the Air Force and ensuring that constant service is provided. The contractor will provide these services in support of the 690th COG, who performs operations for the AFIN. The AFIN in turn is comprised of the Integrated Network Operations and Security Center (I-NOSC), ESU, APC, or Operations Support. The 690th COG is also responsible for the operation of core services for additional networks. These networks provide a wide assortment of telecommunications that includes data, voice, and video.

Here, the contractor will be providing infrastructure, testing and supporting the systems and its software, training personnel, ensuring the security of the networks, and providing continued maintenance of the networks supported by the 690th COG. The solicitation's primary requirements calls for the operation and sustainment of the Air Force's AFIN infrastructure,
which extends nationwide, tasks that are more appropriately covered by the CO's designated code. Simply put, the work sought is not for the management of computer systems, but the complete operation, sustainment, and assured availability of a multifaceted Air Force telecommunications network.

Therefore, the complex and wide range of responsibilities required of the contractor go beyond the management and operation of facilities, the services covered by the Appellant's suggested NAICS code. Rather, this procurement is similar to that at issue in AOC Connect, LLC, SBA No. NAICS-5165 (2010), in that it calls for the “integration, testing, deployment, and most importantly, the sustainment of Air Force infrastructure and network operations.” This contractor, like the contractor in AOC Connect, will operate and maintain the system, and that fact supports a 517110 designation. The work required by this solicitation, again like that in AOC Connect, will ensure constant operation of the network and management of all network services and systems. This supports a 517110 designation. See also NAICS Appeal of Computer Cite, SBA No. NAICS-5010 (2008).

Appellant's one argument is based upon an interpretation of NAICS code 517110 which OHA has long abandoned. Conversely, the work in required in this solicitation is similar to that OHA has found properly designated under NAICS code 517110. Accordingly, I find the Appellant has not met its burden of proof, and so I affirm the CO's designation.

IV. Conclusion

For the above reasons, the instant appeal is DENIED and the CO's NAICS designation is AFFIRMED. The appropriate NAICS code for this procurement is 517110, Wired Telecommunications Carriers, with a corresponding size standard of 1,500 employees.

This is the final decision of the Small Business Administration. See 13 C.F.R. § 134.316(d).

CHRISTOPHER HOLLEMAN
Administrative Judge