United States Small Business Administration
Office of Hearings and Appeals

NAICS APPEAL OF: The Tolliver Group, Inc., Appellant, Solicitation No. W91CRB-16-R0001 Department of the Army Army Contracting Command Aberdeen Proving Ground, Maryland	SBA No. NAICS-5705 Decided: January 11, 2016

APPEARANCES

Jon. D. Levin, Esq., J. Andrew Watson III, Esq., Allie C. Tucker, Esq., Maynard, Cooper & Gale, P.C., Huntsville, Alabama, for Appellant

Megan C. Grigas, Contracting Officer, Aberdeen Proving Ground, Maryland, for the U.S. Department of the Army

DECISION

I. Introduction and Jurisdiction

On December 11, 2015, the Department of the Army, Army Contracting Command in Aberdeen Proving Ground, Maryland, issued Request for Proposals (RFP) No. W91CRB-16-R-0001, seeking a contractor to provide programmatic support services to the United States Army Security Assistance Command (USASAC). USASAC administers the Army's Foreign Military Sales (FMS) initiative and serves as executive agent for the Security Assistance (SA) program. RFP § C.1, at 5.

The RFP contemplates award of a five-year, cost-plus-fixed-fee Indefinite Delivery/ Indefinite Quantity (IDIQ) contract. *Id.* § C.2.1. The Contracting Officer (CO) set the procurement aside for small businesses and designated North American Industry Classification System (NAICS) code 541330, Engineering Services, under the Military and Aerospace Equipment and Military Weapons (MAE&MW) exception, with a corresponding $38.5 million annual receipts size standard. Offers were due January 11, 2015.

On December 17, 2015, The Tolliver Group, Inc. (Appellant) appealed the NAICS designation to the U.S. Small Business Administration (SBA) Office of Hearings and Appeals

(OHA).[1] Appellant argues the CO erred in designating NAICS code 541330, and the appropriate code is 541611, Administrative Management and General Management Consulting Services, with a corresponding $15 million annual receipts size standard. For the reasons discussed *infra*, the appeal is granted.

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. 13 C.F.R. §§ 121.1103(b)(1), 134.304(b). Accordingly, this matter is properly before OHA for decision.

II. Background

A. The Performance Work Statement (PWS)

The PWS states that in providing FMS programmatic support to USASAC, the contractor "shall assist, conduct research, and provide recommendations to USASAC in the development and execution of [SA] programs." RFP § C.1, at 5. "Efforts associated with this task encompass providing analyses, assistance, input and recommendations for the development of FMS cases to accommodate a customer's unique requirements." *Id.* The contractor will advise on the implementation of cases, which "requires a thorough understanding of SA Management procedures." *Id.* The RFP states further that this work "requires a working knowledge of the weapon system, the ability to coordinate the technical task, to include the cost and schedule facets of the FMS case, while eliminating, reducing, or mitigating program risk." *Id.*

The PWS breaks out the required efforts into the following functional requirements: Human Resource Support; Resource Management Support, Program Management Plans and Integration, Cost Estimating and Analysis, Schedule Development/Assessment, Analysis and Leader Development, International Program Support, and Security Assistance Program Support. *Id.* § C.13.2, at 12.

In providing Human Resource Support, the PWS states that the contractor will assist in the development of workforce planning strategy, and will provide advice and conduct research to optimize human resource management. *Id.* § C.13.4.1, at 12.

In providing Resource Management Support, the contractor will assist in performing financial analysis and systems analysis. *Id.* § C.13.4.2, at 12-13. The financial analysis consists of assisting with budgeting, the administration of various funds, and participating in meetings at higher headquarters. *Id.* § C.13.4.2.2.2 at 13. The systems analysis consists of monitoring and managing FMS administration and case capabilities. *Id.* § C.13.4.3.3, at 14. The tasks included in the detailed lists of functions for this requirement are all administrative and financial tasks. *Id.*, at 14-16.

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[1] On December 21, 2015, the CO issued Amendment 2, staying the solicitation until the instant appeal is adjudicated. RFP, Amendment 2.

In providing Program Management, Plans and Integration services, the contractor will perform research and analysis on customer requirements, USASAC program policies and procedures, using data obtained from project managers. *Id.* § C.13.4.2.4 at 16-17. The contractor will track FMS assets throughout the life cycle and analyze non-U.S. Government furnished equipment (GFE) and make recommendations on the impact of such equipment on the production and testing of major end items to be purchased or operated by foreign nations. *Id.* § C.13.4.2.4.7, at 16-17.

As for Cost Estimating and Analysis, the PWS requires the contractor to provide advice on programs, budgets and pricing of performance requirements. Additionally, the contractor will provide recommendations for cost estimating and budget activities for all phases of the program. *Id.* § C.13.4.2.5, at 17.

In performing Schedule Development/Assessment, the contractor will analyze events and schedule data to provide evaluations on achieving hardware delivery and case milestones in accordance with program objectives. *Id.* § C.13.4.2.6, at 17-18.

Under the Analysis and Leader Development requirement, the PWS requires the contractor to provide recommendations for workforce training and leader development. The contractor must be proficient with Lean Six Sigma and Kaizen management techniques. *Id.* § C.13.4.2.7, at 18.

In providing International Program Support, the PWS requires the contractor to provide input and recommendations for preparation of plans for the co-production of U.S. weapons systems, and in development and production planning of subsystems or components on foreign countries. *Id.* § C.13.4.2.8, at 18. The contractor will also provide technical and engineering analyses of weapons systems to meet international security assistance requirements. *Id.*

Further, the contractor will provide Security Assistance Program Support, including planning and preparation for program management reviews, financial management reviews and country management reviews, and briefings. Support will include analyzing information on engineering, programmatic, logistical and financial issues. The contractor will conduct meetings, determine agendas and attendees and prepare correspondence, develop and publish minutes, briefing papers and reports. The contractor will also coordinate all administrative aspects of the reviews. *Id.* § C.13.4.2.9, at 18-19.

The PWS requires the contractor to provide qualified personnel in the eleven labor categories: Senior Program Manager; Concept/Principal Analyst; Senior Principal Investigator; Logistician Staff III; Systems Analyst I, II, and III; Analyst I, II, and III; and Administrative Assistant. *Id.* § C.13.4.3, at 21-22. The PWS includes the qualifications for these positions. While engineering degrees would meet the requirements for these positions, they are not required, as degrees in business, accounting, economics or information resource management would also meet the qualifications. *Id.* § C.13.4.3.1, at 22-27. For the positions of Concept/Principal Analyst, Systems Analysts II and III, the responsibilities include "[a]bstract or concept studies and analysis, requirements definition, preliminary planning evaluation of alternative technical approaches and associated costs for the development or enhancement of

high level general performance specification of a system, project, mission or activity." *Id.* § C.13.4.3.3, at 22-24.

B. The Appeal

On December 17, 2015, Appellant filed this appeal. The appeal is timely, Appellant argues, because it was filed within ten days after the issuance of the initial solicitation. (Appeal at 2, citing 13 C.F.R. §§ 134.101, 134.304(b).) To appeal earlier in the process—*e.g.*, appealing the draft solicitation—would have been premature. (*Id.*, citing *NAICS Appeal of Secure Network Sys., LLC*, SBA No. NAICS-5246 (2011).) Moreover, Appellant represents, the draft solicitation issued on November 3, 2015 did not contain a NAICS code. *Id.* at 4.

Appellant argues the CO erred in designating NAICS code 541330 under the MAE&MW exception because the principal purpose of the solicitation is not engineering services. To support this argument, Appellant notes the PWS does not require the contractor to design, develop, or build anything. *NAICS Appeal of McNeil Techs., Inc.*, SBA No. NAICS-4496 (2002). Instead, the Army requires assistance with performance analysis, business process design, and workforce training. This requires a thorough understanding of USASAC management procedures, but only a "working knowledge" of the weapon systems. (*Id.* at 6-7.)

Appellant further argues the descriptions of the functional requirements do not meet the NAICS code designation. The contractor must provide Human Resources Support, advising on optimizing human capital. The Resource Management requirement is for the performance of systems and financial analysis. The financial analysis function deals exclusively with management, oversight and advice on planning, programming and budgeting. The PWS describes "systems analysis" in terms of budgetary analysis rather than the application of physical laws. (*Id.* at 9, citing RFP § C.13.4.2.3.)

Further, Appellant points out Cost Estimating and Analysis requires advice on programs, budgets, and pricing. Schedule Development/Assessment requires expertise on schedule techniques, software and milestones. Analysis and Leader Development requires expertise in management improvement processes. The contractor must apply these techniques to make recommendations regarding workloads and training. Security assistance program support requires coordination with engineering, logistics, programmatic and financial experts, but the contractor performs no engineering duties itself. (*Id.* at 9-10.)

Appellant contends that, although engineering support may be involved in the Program Management Plans and Integration and International Program Support categories, it is not a primary component. The contractor must integrate information based on diverse requirements, including from engineering experts. Although an engineering background would be helpful in this regard, it is not any more required than it is for the other fields a program manager must consider. The only functional requirement that seems to require substantive engineering analysis is International Program Support. (*Id.* at 10-11.)

The labor categories also do not support the CO's designated NAICS code. Although engineering degrees are acceptable for every labor category, they are not required. A proposal

could therefore consist entirely of individuals with business degrees and meet the solicitation's requirements. Appellant points out the Concept/Principal Analysts and Systems Analysts I and III labor categories have job descriptions which do not include engineering skills. The majority of the work force is not called to perform engineering functions, and "the entire level of effort may be performed without a single engineer." (*Id.* at 12.)

Appellant argues that NAICS code 541611, Administrative Management and Consulting Services, covers the requirements of this procurement. This NAICS code covers a broad range of administrative services. The term administrative management includes assisting with the administrative functions of handling a program, and Appellant argues this is the work required by the RFP. The PWS emphasizes human resources, financial planning and budgeting, records management, and administrative management. Administrative management includes assisting with the administrative functions of handling a program, as is the case here. (*Id.* at 12-13.)

Appellant argues the principal purpose of this solicitation is to obtain guidance and assistance on the management and administration of the FMS program. The job functions here emphasize the activities covered by code 541611. The term "engineering" appears only five times in the PWS. There are few engineering activities, but instead human resources, financial planning and budgeting, records management, strategic process improvement and administrative management. (*Id.* at 13-15.)

C. CO's Response

On December 28, 2015, the CO responded to the appeal. The CO asserts the NAICS code was correctly selected. The CO points to the solicitation, and maintains its principal purpose is programmatic support services to support the U.S. Army's FMS enterprise. (Response at 1-2.) The CO notes NAICS code 541330 covers establishments engaged in applying physical laws and principles of engineering, and stresses that a NAICS classification should be that which "best describes the principal nature of the product or service being acquired **even though for other purposes it could be classified in more than one**." (*Id.* at 2, quoting FAR 19.102(c) (emphasis added by the CO).)

The CO explains it was a major undertaking to combine the complex mix of services required by this procurement into one NAICS code, so the CO took several steps to ensure the NAICS code is correct. On July 22, 2015, she issued a Sources Sought notice, seeking input from commercial vendors as to the appropriate NAICS code. Eight vendors responded 541330 was the correct code. One vendor indicated 541611 was the correct code, without explanation. Second, she coordinated with the Army Research, Development and Engineering Command Headquarters Office of Small Business Programs multiple times, and they agreed with this 541330 NAICS code designation. She received a signed DD-2579 with the NAICS code 541330 prior to posting the solicitation. (*Id.* at 3.)

The CO notes further that NAICS code 541330 was used for this requirement's predecessor contract. Because the prior requirement is similar to the subject RFP, the CO states she used it as a precedent. (*Id.*)

The CO explains that she used the MAE&MW exception to 541330 to increase the possibility of competition, while permitting small businesses to compete for the contract. Her market research and the response to the Sources Sought indicated there were at least two small business vendors capable of performing the requirement. (*Id.* at 4.)

The CO challenges Appellant's claims that the draft solicitation did not contain a NAICS code. According to the CO, the NAICS code was clearly marked in the "General Information" section of the October 23, 2015 synopsis of the requirement. (*Id.*)

The CO then argues the PWS makes clear that NAICS code 541330 is the appropriate code. The CO emphasizes that the PWS seeks "case development"; "performance analysis and business process design"; "an operational and supportable system"; and "independent evaluation, assessments, and analysis." The CO also emphasizes that the contractor must "conduct research," and have "a working knowledge of the weapon system, the ability to coordinate the technical task, and to include the cost and schedule facets of the FMS case." (*Id.* at 5, citing PWS, § C.1.)

According to the CO, Appellant misconstrues the management effort required by the contract. The word management appears in context to refer to program management, not management of employees. This type of management coincides with engineering duties. While the term "engineering" appears only five times in the PWS, the word "consulting" does not appear at all. The CO notes that Appellant concedes the PWS requires "[a]bstract or concept studies and analysis, requirements definition, preliminary planning and evaluation of alternative technical approaches and associated costs." (*Id.* at 5-6, citing Appeal at 11.) These are engineering skills, the CO argues, and they represent the bulk of the work to be performed.

The CO asserts the type of employee the solicitation seeks will perhaps be a mixture of two codes, but the Government selected the code which best describes the principal purpose of the services sought. The CO states the personnel need not be licensed or practicing engineers, but must demonstrate enough of the key characteristics of that class to function in kind. In every labor category, an engineering degree is an acceptable educational qualification. The preponderance of effort here will be executing, not managing or consulting. (*Id.* at 6.)

The CO includes copies of responses to the Sources Sought posting. While a number of concerns supported the 541330 designation, they did so without discussing why they considered this the appropriate code.

D. Reply

On December 30, 2015, Appellant moved to reply to the CO's response. On January 7, 2016, the CO opposed the Motion. A reply to a response is not permitted unless the Judge, orders it filed and served. 13 C.F.R. § 134.206(e). I conclude there is no need for further pleadings to clarify the issues in this case, and DENY Appellant's motion.

E. *NAICS Manual*[2] Descriptions

The NAICS code designated by the CO, 541330, Engineering Services, covers:

> [E]stablishments primarily engaged in applying physical laws and principles of engineering in the design, development, and utilization of machines, materials, instruments, structures, processes, and systems. The assignments undertaken by these establishments may involve any of the following activities: provision of advice, preparation of feasibility studies, preparation of preliminary and final plans and designs, provision of technical services during the construction or installation phase, inspection and evaluation of engineering projects, and related services.
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> Illustrative Examples:
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> Civil engineering services
> Environmental engineering services
> Construction engineering services
> Mechanical engineering services
> Engineers' offices

NAICS Manual, at 746.

The NAICS code urged by Appellant, 541611, Administrative Management and General Management Consulting Services, covers:

> [E]stablishments primarily engaged in providing operating advice and assistance to businesses and other organizations on administrative management issues, such as financial planning and budgeting, equity and asset management, records management, office planning, strategic and organizational planning, site selection, new business startup, and business process improvement. This industry also includes establishments of general management consultants that provide a full range of administrative; human resource; marketing; process, physical distribution, and logistics; or other management consulting services to clients.
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> Illustrative Examples:
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> Administrative management consulting services
> Site selection consulting services
> Financial management (except investment advice) consulting services
> Strategic planning consulting services
> General management consulting services

[2] Executive Office of the President, Office of Management and Budget, *North American Industry Classification System-United States (2012), available* at http://www.census.gov.

NAICS Manual, at 756-57.

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. SBA regulations do not require the CO to select the perfect NAICS code. *Size Appeal of Evanhoe & Assoc.*, SBA No. SIZ-5505, at 14 (2013). Rather, the CO must designate the NAICS code that best describes the principal purpose of the product or service being acquired in light of the industry description 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).

B. Analysis

1. Timeliness

This appeal is timely. A NAICS code appeal must be filed within ten calendar days after issuance of the solicitation. 48 C.F.R. § 19.303(c)(1); 13 C.F.R. §§ 121.1103(b)(1), 134.304(b). As OHA has explained:

> [P]ublication of a presolicitation notice does not constitute a NAICS code designation within the meaning of SBA regulations. *NAICS Appeal of NexOne*, SBA No. NAICS-5233 (2011) (citing *NAICS Appeal of Ukpik, LLC*, SBA No. NAICS-5006 (2008)). Rather, OHA's NAICS code appeal jurisdiction extends only to the issuance of solicitations. The publication of a presolicitation notice or a draft solicitation does not guarantee that the procuring agency will issue a solicitation, or that the agency will assign the same NAICS code originally anticipated in the presolicitation notice. Consequently, a NAICS appeal based upon a presolicitation notice or a draft solicitation must be dismissed as premature.

NAICS Appeal of Secure Network Sys., LLC, SBA No. NAICS-5246 (2011). In this case, the solicitation was issued on December 11, 2015. Because OHA received the appeal within ten calendar days of that date, it is timely.

The fact that the NAICS code was in the synopsis before the solicitation was issued does not make the appeal untimely. As is the case with presoliciation notices and draft solicitations, a synopsis does not guarantee that the CO will designate the same NAICS code to the solicitation in question.

2. Merits

In this case, the *NAICS Manual* description of 541330 is, by itself, not sufficient to describe the CO's designation. The CO used the MAE&MW exception, which has a higher size standard. 13 C.F.R. § 121.201. Neither the *NAICS Manual*, nor the regulation at 13 C.F.R. § 121.201 describe just what services fall under the MAE&MW exception. However, OHA has addressed the applicability of this size standard in its cases:

> Initially, OHA held the key question is whether the engineering services being procured are military in nature. Therefore, OHA upheld the designation of the MAE&MW exception for a procurement for automatic test equipment for Navy aircraft weapons systems. *SIC Appeal of Giordano Assocs., Inc.*, SBA No. SIC-2502 (1986). OHA upheld designation of the exception where procurement was for weapons testing and evaluation. *SIC Appeal of New Tech., Inc.*, SBA No. SIC-2505 (1986). Where the procurement contained no reference to aerospace equipment or military weapons, OHA reversed the designation of the size standard. *SIC Appeal of Jack Faucett Assoc.*, SBA No. SIC-2782 (1987).
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> Subsequently, OHA elaborated the test and held that in order for the MAE&MW exception to apply, the procurement must "involve professional engineering services with a military or aerospace application." *NAICS Appeal of CSMI, LLC*, SBA No. NAICS-5433, at 8 (2012); *NAICS Appeal of Davis-Page Mgmt. Sys. LLC*, SBA No. NAICS-5055, at 5 (2009). The size standard is not solely applicable to contracts for the Department of Defense, but can also apply to engineering or civilian aerospace equipment for agencies such as NASA or the Coast Guard. *NAICS Appeal of Millenniums Engineering and Integration Co.*, SBA No. NAICS-5309 (2011).
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> Nevertheless, merely because a procurement is for the military, does not justify use of the MAE&MW exception. Military agencies procure a host of services and supplies, most of which are not engineering services. A procurement for Installation and Logistics Management services did not qualify for the MAE&MW exception. *NAICS Appeal of Cape Fox Government Services, LLC*, SBA No. NAICS-5444 (2013). A procurement for passive security measures to protect military personnel and equipment also did not qualify for the MAE&MW exception. *NAICS Appeal of CSMI, LLC*, SBA No. NAICS-5433 (2012). A procurement supporting the development of the Ballistic Defense Missile Shield did qualify for the exception. *NAICS Appeal of Inklings Media Co.*, SBA No. NAICS-5054 (2009). . . . [T]he key issue in a case where the question is the applicability of the MAE&MW exception is whether those services are in support of military or aerospace weapons or equipment.

NAICS Appeal of QED Sys., LLC, SBA No. NAICS-5573, at 4-5 (2014).

The instant procurement is not for weapons, or the design and manufacture and development of weapons, but for the assistance in the marketing of weapons to foreign

governments. Further, it is important to remember the exception is part of the Engineering Services code, and therefore in order to be designated under this exception, a procurement designated under it must involve professional engineering services with a military or aerospace application, "applying physical laws and principles of engineering." *NAICS Manual*, at 746.

A review of the detailed requirements establishes the great majority of the work required here is not engineering. Human resource support management does not qualify as engineering. Neither is the financial and systems analysis required under resource management support. These deal with budgeting tasks and managing FMS administration. Neither task includes engineering of weapons systems. The program management includes research on customer requirements, and tracking FMS assets. These are all administrative tasks, not engineering. The same is true of the cost estimating and budget activities.

In addition, the workforce training requirement is clearly not an engineering requirement. Lean Six Sigma and Kaizen are not engineering, but management techniques. Schedule development and assessment is also not engineering, and neither are most of the requirements under security assistance program support.

Although the PWS does require some engineering tasks, these efforts appear in only two functional categories: Program Management, Plans and Integration and International Program Support. The former calls for analysis of the impact of GFE on the production and testing of major end items, and the latter calls for engineering analysis. These tasks, however, do not represent the majority of services being procured.

The labor categories confirm the conclusion that the RFP is not for engineering services, as they do not <u>require</u> engineering degrees as part of their qualifications. The responsibilities which include "abstract or concept studies, etc." could describe engineering responsibilities, or could describe other disciplines as well, such as management.

I therefore conclude the work required by the RFP is not engineering work in support of weapons or aerospace equipment. The work required includes human resources tasks, financial analysis, management and administration. These do not require applying the physical laws or engineering principles to the design, development or manufacture of weapons or aerospace equipment. The detailed PWS includes only a few engineering tasks. The contractor here will conduct studies, convene meetings, prepare documents and provide advice. The clear priority of the PWS is that the contractor must have a thorough understanding of SA management procedures. The PWS simply does not support an engineering designation, because it does not require engineering tasks.

The CO's response to the appeal largely misses the point of this case. The CO stresses the procedures she followed and offices consulted in selecting the NAICS code. The procedures followed are not relevant here. The issue is whether the code chosen accurately describes the services the Government seeks to procure here. *Size Appeal of Heritage Health Solutions, Inc.*, SBA No. SIZ-5650 (2015). Recommendations the CO received from other officials carry no weight here. *NAICS Appeal of JBS Int'l, Inc.*, SBA No. NAICS-5021 (2008). Similarly, opinions expressed by potential vendors have no weight, especially here, where the responses were

conclusory and included no analysis. The issue is whether, in the light of the industry description and the requirements of the solicitation, this NAICS code best describes the principal purpose of the services being acquired. 13 C.F.R. § 121.402(b).

All the CO has to say on that subject is to assert, contrary to the text of the PWS itself, that the services here are engineering services. The CO states an engineering degree is acceptable for every position here. While this is true, it is also true, as noted above, that no position here requires an engineering degree. The CO does not analyze the PWS to show how the requirement here is an engineering requirement, and how it involves applying physical laws or engineering principles in support of weapons or aerospace equipment. The fact that previous requirements have used this NAICS code is not dispositive here because the decision in a NAICS code appeal must be based upon the procurement at issue, not other procurements. *NAICS Appeal of Downrange Operations and Training, LLC*, SBA No. NAICS-5647 (2015); *NAICS Appeal of CHP Int'l, Inc.*, SBA No. SIZ-5367 (2012).

Conversely, Appellant's proffered NAICS code, 541611, is more suited to this procurement. The code covers procurements for administrative and management services, and for contracts for advice and consulting services. *NAICS Appeal of Eng'g Servs. Network, Inc.*, SBA No. NAICS-5064 (2009). The code also covers operating advice and assistance to businesses and other organizations on administrative management issues. *NAICS Appeal of First Am. Sys. and Servs., LLC*, SBA No. NAICS-5119 (2010). Human resources and marketing are also covered. *NAICS Appeal of CHP Int'l, Inc.*, SBA No. SIZ-5367 (2012). In addition, it covers managing correspondence, and preparing publications and materials. *NAICS Appeal of Info. Ventures, Inc.*, SBA No. NAICS-4713 (2005).

The services sought in this solicitation call for work in human relations, advice on financial matters, assistance and recommendations on the development and execution of SA programs. These are management and management consulting services. The *NAICS Manual* description for 541611 specifically references strategic and organizational planning, financial planning and budgeting and human resources, all tasks identified in the PWS, as included in the code. This solicitation seeks administrative assistance and management consulting services, not engineering services related to weapons and aerospace equipment. Accordingly, I conclude Appellant has met its burden of showing clear error in the NAICS code designation for this procurement.

IV. Conclusion

For the above reasons, I GRANT the appeal and the CO's NAICS code designation is REVERSED. NAICS code 541611, Administrative Management and General Management Consulting Services, with a corresponding $15 million annual receipts size standard, is the appropriate NAICS code for the requirements of the solicitation.

Accordingly, because this decision is being issued before the close of the solicitation, the CO MUST amend the solicitation to change the NAICS code designation from 541330 to 541611. FAR § 19.303(c)(5); 13 C.F.R. § 134.318(b); *Matter of Eagle Home Med. Corp.*, Comp. Gen. B-402387, March 29, 2010, *available at*http://www.gao.gov/decisions/bidpro/402387.pdf.

NAICS-5705

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

CHRISTOPHER HOLLEMAN
Administrative Judge