

**United States Small Business Administration  
Office of Hearings and Appeals**

NAICS Appeal of:

ITC Defense Corp.,

Appellant,

Solicitation No. HQ0853-25-R-0001

Missile Defense Agency  
U.S. Department of Defense

SBA No. NAICS-6364

Decided: August 6, 2025

APPEARANCES

Jeffery M. Chiow, Esq., Eleanor M. Ross, Esq., Olivia C. Bellini, Esq., Greenberg Traurig LLP, Washington, DC, for Appellant

Jonathan Dickens, Contracting Officer, Missile Defense Agency, Huntsville, Alabama, for Missile Defense Agency

DECISION<sup>1</sup>

I. Introduction and Jurisdiction

On June 4, 2025, the Missile Defense Agency (“MDA” or “Agency”), a component of the U.S. Department of Defense, issued Solicitation No. HQ0853-25-R-0001. The Solicitation is a total small business set-aside to provide contractor logistics support (CLS), program management, training support, and materials in support of the Terminal High Altitude Area Defense (THAAD) weapon system, which is an anti-ballistic missile system designed to intercept and destroy short, medium, and intermediate range ballistic missiles as they descend toward earth. The Contracting Officer (CO) designated North American Industry Classification System (NAICS) code 541614, Process, Physical Distribution and Logistics Consulting Services, with a corresponding \$20 million annual receipts size standard, as the appropriate code. The Solicitation announced that MDA intended to procure support, maintenance, material, and personnel from a small business contractor to support THAAD peculiar equipment.

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<sup>1</sup> This decision was originally issued under a protective order. After receiving and considering one or more timely requests for redactions, OHA now issues this redacted decision for public release.

On June 13, 2025, ITC Defense Corp. (Appellant) filed the instant appeal challenging the NAICS code designation. Appellant asserts NAICS code 541614 does not best describe the principal purpose of the procurement and is thus inappropriate. Appellant argues that the most appropriate NAICS code is 541330 — Engineering Services (Exception 1 for Military and Aerospace Equipment and Military Weapons), with a corresponding \$47 million annual receipts size standard. For the reasons discussed *infra*, I GRANT this appeal.

OHA decides appeals of NAICS code designations 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 the instant appeal within ten calendar days after issuance of the Solicitation, so the appeal is timely. Federal Acquisition Regulation (FAR) 19.303(c)(1); 13 C.F.R. §§ 121.1103(b)(1), 134.304(b). Accordingly, this matter is properly before OHA for decision.

## II. Background

### A. Solicitation / Statement of Work (SOW)

The Statement of Work (SOW) for the Solicitation explains that the contractor under this contract will “provide[] system support to include Maintenance and Supply Support; Packaging Handling Storage & Transportation (PHS&T); Forward Stationing for Theater Support; Training and Training Support; and limited Missile Support to the THAAD Weapon system. The Contractor is responsible for providing supply support, maintenance, material and personnel necessary to support THAAD peculiar equipment.” (Solicitation at 6).

In further detail, the Agency intends to procure:

- ¶ 4: Risk Management The contractor will implement a risk management plan and process with consideration to cost, schedule and technical performance.
- ¶ 5: Logistics Support: The contractor is required to maintain THAAD peculiar equipment at the operational readiness standard as defined in Army Regulation (AR) 700-138, Army Logistics Readiness and Sustainability. The contractor will provide management of Contractor Logistics Support (CLS) and ensure the logistics support team has trained personnel. The contractor will report to the THAAD Logistics Operation Center, documenting all repair parts and maintenance and supply actions. The contractor will daily report on status and provide repair and maintenance to ensure readiness. (PWS at 9-10).
- ¶ 6: Maintenance Support: The contractor is required to provide maintenance for all THAAD peculiar equipment and meet all battery mission and operational requirements. The contractor will maintain adequate and trained CLS personnel. The CLS Field Team will perform an extensive range of logistics and support functions. The contractor personnel are to wear Mission Oriented Protective Posture gear (gas masks, etc.) when required by the commander and will be responsible for Portable Vapor Detector and Preventive Maintenance Checks and Services training. The contractor will perform preventive maintenance checks on

missile rounds located with the unit. The contractor will maintain the THAAD peculiar support equipment in its entirety. The PWS requires that the contractor reside in the field with the unit and essentially operate as military personnel. (*Id.* at 10-12).

- Supply Support: The contractor's field team must be able to operate military vehicles, and account for, manage and issues spares and accept returns. The contractor is responsible for operation of the THAAD Distribution Center at multiple locations. (*Id.* at 13-14).

- Program Management: The contractor is responsible for program management services for field support activities and transition. (*Id.* at 5, 7-8).

- Product Management: The contractor must manage the risks (cost, schedule, and technical performance) in relation to the THAAD weapon system. (*Id.* at 8).

- ¶ 7 Supply Support The contractor is responsible for the operation of the THAAD Distribution Center. The task involves supply chain management. The contractor will handle the receiving, stocking, storing and issuing of THAAD parts. Theses duties consist of cataloguing, receipt, store, transfer issue and dispose of spares/repairs parts and supplies. The contractor will assess and procure the necessary office supplies and Information Technology equipment. (*Id.*, at 14-16.)

## B. The Appeal

On June 13, 2025, Appellant filed the instant appeal. Appellant argues the CO erred in choosing NAICS code 541614 for the purposes of the subject procurement, and that NAICS code 541330 is the more appropriate code. (Appeal at 6).

Appellant's argument breaks down into two sections: why NAICS code 541614 is inappropriate, and why NAICS code 541330 is more appropriate.

NAICS code 541614 covers concerns which provide “advice and assistance” in a variety of substantive areas; correspondingly, each of the “illustrative examples” of tasks that are performed under this NAICS code pertain to “consulting services.” (Appeal at 7). The SOW for the subject procurement simply does not reflect activities of this nature, but rather requires that the contractor itself provide maintenance, supply, and logistics support for the THAAD product. There is no mention of “consulting services,” “advice,” or “advisory services,” anywhere in the SOW. Accordingly, NAICS code 541614 does not describe the principal purpose of this solicitation, since the actual work being performed by the contractor in this effort is directly providing logistics support. (*Id.*)

Furthermore, while a few of the categories of industry under NAICS code 541614 are part of the solicitation, even those contractor tasks involve direct execution, not advisory services. (Appeal at 8). For the overall procurement, less than [REDACTED PERCENTAGE] of contract performance relates to these three categories of industry under NAICS code 541614.

(*Id.* at 9). A breakdown of the SOW reveals 22 performance areas. (*See* Exh. B.) Only 2 of those areas directly relate to the categories of industry enumerated under NAICS code 541614 — those being supply chain management and support for the distribution center. (Appeal at 9). Correspondingly, the labor hours related to these two areas also constitute less than [REDACTED PERCENTAGE] of the contemplated labor hours to be performed under this SOW. (*See* Exh. C). Therefore, since only 2 of the 22 SOW topic areas — accounting for less than [REDACTED PERCENTAGE] of the total work to be performed under the subject procurement — relate to NAICS code 541614, this NAICS code cannot constitute the “principal purpose” of the solicitation. (*Id.* at 9).

By contrast, NAICS code 541330, Exception 1, Military and Aerospace Equipment and Military Weapons (MAE&MW) directly applies to the principal purpose of the THAAD product support contract, because the contract is fundamentally about maintaining THAAD equipment readiness in compliance with government specifications. (*Id.* at 10). The primary objective of this NAICS code is to provide various engineering services related to aerospace equipment and military weapons. OHA has itself held that NAICS code 541330 is appropriate where a solicitation contemplates provision of services “critical to, supportive of, and ancillary to the provision of engineering services.” (*Id.*, citing *NAICS Appeal of Inklings Media Co.*, SBA No. NAICS-5054, at 13 (2009) (“The NAICS Manual does not limit the reach of NAICS code 541330 to pure engineering services.”).)

Appellant noted that to determine the principal purpose of a solicitation, OHA must first consider the service descriptions in the solicitation and the industry descriptions in the *NAICS Manual*. (*Id.*, citing 13 C.F.R. 121.402(b)(1).) For the instant procurement, of the 22 task areas outlined in the SOW, 15 are related to services performed under NAICS code 541330. (*See* Exh. B.) The significant maintenance support for the THAAD weapons system is fundamentally engineering support. (*See* Exh. A at 9-13.) The SOW tasks also cover logistics, maintenance, and supply support, which are all areas that involve applying engineering practices to the design, development, and use of the THAAD system. These tasks all relate to engineering and associated responsibilities as described in the *NAICS Manual* for NAICS code 541330. (*Id.*, at 11.)

Similarly, the labor categories (LCATs) in the solicitation support a finding that NAICS code 541330 covers the principal purpose of the solicitation. There are ten LCATs assigned for this procurement. [REDACTED NUMBER] of them are solely dedicated to tasks that fall under NAICS Code 541330, and they make up the majority of actual personnel count. [REDACTED] has a majority of responsibilities under NAICS Code 541330. (*See* Exh. D.) Overall, [REDACTED PERCENTAGE] of the labor hours are associated with NAICS Code 541330 tasks in performing the direct sustainment-level maintenance and repairs of THAAD. (*See* Exh. C). This demonstrates the alignment of NAICS Code 541330 to the procurement's principal purpose. (Appeal at 11-12).

The second main argument in favor of NAICS code 541330 derives from the fact that the CO is required to consider which requirements drive the greatest contract value. (*Id.* at 12, citing FAR 19.102(b) (“A procurement is usually classified according to the component that accounts for the greatest percentage of contract value.”).) Since this Solicitation is primarily for services,

the cost of this effort will therefore be predominantly driven by the labor hours dedicated by each of the positions assigned under the contract. (*Id.*)

Appellant argues that since the vast majority of the actual work to be performed under this Solicitation will be in tasks related to NAICS code 541330, the value of the Solicitation is therefore also principally driven by the costs associated with the performance of tasks associated with NAICS code 541330. Accordingly, the Agency must designate the Solicitation under NAICS Code 541330. (*Id.* at 12-13).

Finally, Appellant's third main argument in favor of NAICS code 541330 is precedent. OHA has previously recognized that NAICS code 541330 applies to procurements of this nature. (*Id.*, at 13 citing *Inklings Media, supra*, at 12 (finding that procurement requiring substantive expertise in weapons system constituted engineering services, and that the MDA required not only state of the art but “edge of the art engineering and science.”)

MDA here seeks direct sustainment-level maintenance and repairs of the THAAD weapon system. (*See* Exh. A.) This is closely aligned with the industry description for NAICS code 541330. (Appeal at 14). Moreover, an analysis of similar contracts across DoD shows that these contracts are generally classified under NAICS codes other than 541614, the code selected by the CO. In fact, since the award of the predecessor contract in 2020, the majority of RFIs, solicitations, and contracts for MDA mission equipment sustainment work with a similar scope to the current solicitation have been awarded under NAICS 541330. (*Id.*)

Appellant argues NAICS code 541330 more accurately reflects the principal purpose of the THAAD procurement. OHA should therefore grant the instant appeal and instruct the CO to amend the solicitation by changing the NAICS code designation from 541614 to 541330, as required by 13 C.F.R. § 134.318(b).

### C. CO's Response

On July 2, 2025, the CO responded to the instant appeal.

The CO first argues that the appeal should be denied because Appellant has not shown that the selection of NAICS Code 541614 was a clear error of fact or law. (Resp. at 13.) The CO analyzed the SOW and found NAICS Code 541614 to best align with the contract as the work under paragraphs 5 & 7, which is primarily consulting and advice, and with some sub-paragraphs of paragraph 6. The work to be performed under these three paragraphs of the SOW will be under the Logistical Services CLIN and constitute a majority of the estimated value of the TPSC-SB contract. Furthermore, the work of Paragraphs 5 & 7 goes beyond merely providing maintenance. The work includes providing analyses, recommendations and logistical assistance to other contractors or USG personnel, and optimization of logistical processes related to THAAD operations. This work combines some direct work — “assistance” on the larger project — with consultative work, such as analysis. Therefore, the CO contends that the selection of 541614 was reasonably made and cannot be said to be clearly erroneous. (Resp. at 13-14).

The CO also contends that Appellant mischaracterized the requirement in the Solicitation while ignoring the “assistance” aspect of the NAICS Code 541614 definition. (Resp. at 14). Appellant did so by ignoring the consultative work in paragraphs 5 & 7 of the SOW which, as noted above, along with paragraph 6, constitute a majority of the work (by value) required by the subject procurement. The CO contends that here, where “assistance” is combined with “advice,” it is appropriate to say that providing maintenance and providing logistical analysis fits under the broad category of “advice and assistance.” However, Appellant focuses throughout its appeal on consulting and advisory services to the exclusion of “assistance.” Appellant also ignores that “assistance” is included in the definition of NAICS Code 541614 and does allow direct provision of support. (*Id.* at 15).

Third, the CO argues that Appellant's examples of work required by the Solicitation actually demonstrate the consultative nature of the work. (*Id.*, at 16). While Appellant showcasing the role of engineering principles in performing troubleshooting the actual work involves the application of already established existing technical manuals which describe the maintenance tasks and how they are to be performed. These include the interactive electronic technical manual (IETM) and/or contractor logistic support (CLS) manual. If following those procedures do not resolve the problem, the contractor will use reach-back support to THAAD program management (PM) and/or the OEM. (*Id.*)

Next, the CO argues that Appellant's reliance on Labor Categories (LCATs) is not consistent with FAR 19.102, and that Appellant was merely working backwards from its conclusion to justify its preferred NAICS code. (*Id.*, at 16-17). However, this approach is misplaced as it focuses not where FAR 19.102(b)(1) requires (“the product or service descriptions in the solicitation”) but rather on the LCATs which describe the kind of personnel needed to get that work done. The LCATs are not a description of the work, but rather a description of the personnel required to get the work done. It is the SOW which is prescriptive of the work to be done. Appellant's arguments on this front are therefore inapposite. (*Id.*)

Finally, the CO characterizes Appellant's references to other MDA contracts use of other NAICS codes in other acquisitions as irrelevant. (*Id.*, at 17-18). This analysis is incorrect because it is irrelevant as only the factors at FAR 19.102 should have been and were considered. (*Id.*, citing *NAICS Appeal of Environment International Ltd*, SBA No. NAICS-5628, at 6 (2014) (“[OHA] gives little weight in any event to the codes assigned to other procurements.”). Furthermore, the predecessor contract was designated under NAICS Code 541614 and the overwhelming majority of the work on the solicitation remains unchanged from the predecessor contract. NAICS Code 541614 was therefore properly selected in accordance with the factors identified in FAR 19.102. (*Id.* at 18).

D. NAICS Manual<sup>2</sup> Descriptions

The NAICS code designated by the CO, 541614 — Process, Physical Distribution and Logistics Consulting Services — covers:

[E]stablishments primarily engaged in providing operating advice and assistance to businesses and other organizations in: (1) manufacturing operations improvement; (2) productivity improvement; (3) production planning and control; (4) quality assurance and quality control; (5) inventory management; (6) distribution networks; (7) warehouse use, operations, and utilization; (8) transportation and shipment of goods and materials; and (9) materials management and handling.

Illustrative Examples: Freight rate or tariff rate consulting services; Productivity improvement consulting services; Manufacturing management consulting services; Inventory planning and control management consulting services; Transportation management consulting services.

*NAICS Manual*, at 468.

The NAICS code proposed by Appellant, 541330 — Engineering Services (Exception 1 for Military and Aerospace Equipment and Military Weapons) — comprises:

[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.

Illustrative Examples: Civil engineering services; Environmental engineering services; Construction engineering services; Mechanical engineering services; Engineers' offices; Robotics automation engineering services.

*NAICS Manual*, at 460.

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 show that the CO's NAICS code designation is based

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<sup>2</sup> Executive Office of the President, Office of Management and Budget, *North American Industry Classification System-United States* (2022), available at 2022\_NAICS\_Manual.pdf (census.gov)

upon a clear error of fact or law. 13 C.F.R. § 134.314; *NAICS Appeal of Durodyne, Inc.*, SBA No. NAICS-4536, at 4 (2003). SBA regulations do not require the CO to select the perfect NAICS code. *NAICS Appeal of Evanhoe & Assocs., LLC*, SBA No. NAICS-5505, at 14 (2013). Rather, the CO must assign the NAICS code that 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, the relative value and importance of the components of the procurement making up the end item being procured, and the function of the goods or services being acquired. FAR 19.303(a)(2); 13 C.F.R. § 121.402(b). OHA will not reverse a NAICS code designation “merely because OHA would have selected a different code.” *NAICS Appeal of Eagle Home Med. Corp.*, SBA No. NAICS-5099, at 3 (2009).

### B. Analysis

Having reviewed the Solicitation, the SOW, the descriptions in the NAICS Manual, and the arguments of the parties, I agree with Appellant that the CO clearly erred in selecting NAICS code 541614 for the instant procurement.

OHA has previously reviewed NAICS code 541614. *NAICS Appeal of Primetech Intl, Inc.*, SBA No. NAICS-6014 (2019). OHA concluded the code covers establishments providing “operating advice” to organizations. The illustrative examples listed in the *NAICS Manual* are all consulting services. *NAICS Manual*, at 468. The 54 sector as a whole excludes “establishments primarily engaged in providing a range of day-to-day” services such as “physical distribution and logistics.” *Id.*, at 455. The subsector 5416 is described as Management, Scientific, and Technical Consulting Services, and the *NAICS Manual* notes this “group comprises establishments primarily engaged in providing advice and assistance to business and other organizations on management, environmental, scientific and technical issues.” *Id.*, at 466. Therefore, NAICS code 541614 covers establishments providing advice and consulting services. Logistics and the distribution of materials are explicitly excluded from the services covered by NAICS code 541614. *Primetech* found the code did not apply to a procurement whose principal purpose was the distribution of equipment to individual Marines, because the required tasks went beyond consulting services.

While the *NAICS Manual* description of code 541614 does include, as the CO says, the word “assistance,” this does not change that the essential nature of the code designation is a consulting code. The word “assistance” can encompass a wide range of activity, and to read it too broadly would render the code meaningless. I conclude that the inclusion of the word “assistance” in the code description does not alter the fact the NAICS code is a consulting code.

As such, I conclude it is not the appropriate code for this procurement. The PWS emphasizes the work the contractor must perform in maintenance, repair, Logistics Support and Maintenance Support. The contractor personnel are to be placed forward with the military personnel, will wear the same protective clothing as the troops, and use military vehicles in the course of their duties. The contract does not call for the provision of advice as much as it does the handling of logistics, and maintenance for the THAAD system. As a result, NAICS code 541614 is not an appropriate code.



I agree with Appellant that NAICS code 541330, under the MAE&MW Exception is the appropriate code here. The key issue in determining the applicability of the code is whether the services to be acquired are in support of military or aerospace weapons or equipment. *NAICS Appeal of Downrange Operations and Training, LLC, et al*, SBA No. NAICS-5647, at 8 (2015). The services to be provided need not be pure engineering services, but may be supportive of, and ancillary to engineering services. *NAICS Appeal of Inklings Media, Co.*, SBA No. NAICS-5054, at 11 (2009). Here, the contractor will be working directly on the THAAD system, providing maintenance directly on the weapons involved. The solicitation is seeking services directly in support of the aerospace weapons of the THAAD system here, and I thus conclude that NAICS 541330 Exception 1, MAE&MW, is the appropriate code.

#### V. Conclusion

For the above reasons, the instant appeal is GRANTED, the correct NAICS code designation for this procurement is NAICS code 541330, Engineering Services (Exception 1 for Military and Aerospace Equipment and Military Weapons) with a corresponding \$47 million annual receipts size standard. The CO MUST amend the RFQ to change the NAICS code designation from 541614 50 to 541330, Exception 1. 13 C.F.R. § 134.318(b); FAR 19.103(a)(7); *Eagle Home Med. Corp.*, B-402387, March 29, 2010, 2010 CPD ¶ 82. This is the final decision of the Small Business Administration. *See* 13 C.F.R. § 134.316(d).

CHRISTOPHER HOLLEMAN  
Administrative Judge