

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

NAICS APPEAL OF:

DCX/CHOL Enterprises, Inc.

Appellant

Solicitation No. SPM4A6-08-Q-2727

Defense Logistics Agency

Defense Supply Center Richmond

Richmond, Virginia

SBA No. NAICS-4883

Decided: January 28, 2008

APPEARANCE

Mark W. Uslan, Government Sales Manager, for Appellant.

DECISION

HOLLEMAN, Administrative Judge:

I. Jurisdiction

This appeal is decided under the Small Business Act of 1958, 15 U.S.C. § 631 *et seq.*, and 13 C.F.R. Parts 121 and 134.

II. Issue

Whether the appropriate NAICS code for cable assembly, radio frequency, branch, is 334419 Other Electronic Component Manufacturing, or 336992 Military Armored Vehicle, Tank, and Tank Component Manufacturing.

III. BACKGROUND

On January 8, 2008, the Defense Logistics Agency, Defense Supply Center Richmond, in Richmond, Virginia (DSCR), issued the subject Request for Quotations No. SPM4A6-08-Q-2727 (solicitation) for cable assemblies. The Contracting Officer (CO) set the procurement totally aside for small businesses, and designated North American Industry Classification System (NAICS) code 334419, Other Electronic Component Manufacturing, with a corresponding small business size standard of 500 employees, as the NAICS code for this procurement. Proposals are due on January 29, 2008.

The solicitation does not contain a detailed statement of work, rather, it simply describes the item DSCR seeks to procure as “cable assembly, radio frequency.”

On January 16, 2008, DCX/CHOL Enterprises, Inc. (Appellant), filed a NAICS code appeal with the Small Business Administration’s (SBA) Office of Hearings and Appeals (OHA). Appellant argues that the appropriate NAICS code for this solicitation is 336992, Military Armored Vehicle, Tank and Tank Component Manufacturing, with a corresponding small business size standard of 1,000 employees.

Appellant asserts that the CO’s NAICS code is a generic code which can be used to describe anything electronic, while NAICS code 336992 is a specific code used to describe components used in the type of vehicle defined in the code, the Bradley Fighting Vehicle. Therefore, the code for armored vehicles is the appropriate code for this solicitation.

IV. DISCUSSION

A. Timeliness

Appellant filed the instant appeal within 10 days after DSCR issued the solicitation. Thus, the appeal is timely. 13 C.F.R. §§ 121.1103(b)(1); 134.304(a)(3).

B. Standard of Review

Appellant has the burden of proving, by a preponderance of the evidence, all elements of its appeal. Specifically, it must prove 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. The correct NAICS code is that which best describes the principal purpose of the services being procured, in light of the industry description in the *NAICS Manual*,¹ the description in the solicitation, and the relative weight of each element in the solicitation. *Durodyne*, SBA No. NAICS-4536, at 4; 13 C.F.R. § 121.402(b).

C. The Merits

The NAICS code designated by the CO, 334419, Other Electronic Component Manufacturing, covers:

[E]stablishments primarily engaged in manufacturing electronic components (except electron tubes; bare printed circuit boards; semiconductors and related devices; electronic capacitors; electronic resistors; coils, transformers and other inductors; connectors; and loaded printed circuit boards).

Illustrative Examples:

Crystals and crystal assemblies, electronic, manufacturing
Printed circuit laminates manufacturing
LCD (liquid crystal display) unit screens manufacturing

¹ Executive Office of the President, Office of Management and Budget, *North American Industry Classification System Manual* (2007).

Switches for electronic applications manufacturing
Microwave components manufacturing
Transducers (except pressure) manufacturing
Piezoelectric devices manufacturing

<http://www.census.gov/naics/2007/def/ND334419.HTM#N334419>.²

Appellant's requested NAICS code, 336992, Military Armored Vehicle, Tank, and Tank Component Manufacturing, covers:

[E]stablishments primarily engaged in manufacturing complete military armored vehicles, combat tanks, specialized components for combat tanks, and self-propelled weapons.

<http://www.census.gov/naics/2007/def/ND336992.HTM#N336992>.³

Here, I find that the plain language of the NAICS Manual provides a clear answer to issue presented. Appellant's requested NAICS code, 336992, applies to the manufacture of "complete military armored vehicles" (emphasis added). In other words this NAICS code covers the manufacture of whole armored vehicles themselves, not of the component parts which go into the vehicle. DSCR seeks here not to procure an armored vehicle, but an electronic part which will be used in an armored vehicle. Conversely, the CO's designated NAICS code, 334419, applies to individual electronic components, such as those DSCR seeks to procure here.

Accordingly, I find that the CO's designation of NAICS code 334419, Other Electronic Component Manufacturing, is the appropriate NAICS code for this procurement, because it best describes what this solicitation seeks to procure, an electronic cable assembly, rather than an armored vehicle.

V. CONCLUSION

For the above reasons, the Contracting Officer's NAICS code designation is **AFFIRMED**. The instant appeal is **DENIED**.

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

CHRISTOPHER HOLLEMAN
Administrative Judge

² The description is the same as that found in the 2002 *NAICS Manual*, at 437.

³ The description is the same as that found in the 2002 *NAICS Manual*, at 482.