

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

NAICS APPEAL OF:

AllSource Global Management, LLC,

Appellant,

Solicitation No. W81K04-11-R-0026  
Department of the Army  
U.S. Army Medical Command  
Center for Health Care Contracting  
Fort Sam Houston, Texas

SBA No. NAICS-5292

Decided: October 12, 2011

APPEARANCE

Jason Wilson, Vice President, Business Development, AllSource Global Management, LLC, Sierra Vista, Arizona

DECISION

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 designation of North American Industry Classification System (NAICS) 561110, Office Administrative Services, with a size standard of \$7 million, to the subject procurement was clearly erroneous. *See* 13 C.F.R. § 134.314.

III. Background

A. Solicitation

On September 8, 2011, the Center for Health Care Contracting of the U.S. Army Medical Command (MEDCOM) issued Solicitation No. W81K04-11-R-0026 for administrative support services including clerical, secretarial, logistical, and administrative services to Brooke Army Medical Center (BAMC), Camp Bullis U.S. Army Health Clinic (USAHC), McWethy Troop Medical Clinic (TMC) and Fort Sam Houston Primary Care Clinic (PCC).

The Center for Health Care Contracting set the procurement aside for 8(a) Business Development concerns and designated NAICS code 561110, Office Administrative Services, with a corresponding \$7 million annual receipts size standard, as the appropriate code for the procurement. Offers are due on October 18, 2011.

B. Performance Work Statement

The contractor is to provide the qualified personnel, services, materials, equipment and supplies necessary to perform the administrative services to support BAMC, USAHC, TMC, and PCC.

The contractor will provide: administrative assistant support services, word processing services, medical records technician services, medical clerk support services, education technician training support services, and accounting clerk services.

The contractor will also provide material coordinating services, drafting support services, material coordinating, and supply technician services, warehousing services, heavy and medium truck driving services, and secretarial support services.

The Performance Work Statement (PWS) requires these services for a large number of offices with BAMC, USAHC, TMC, and PCC. The contractor must provide administrative support services in the form of administrative assistants and secretaries, who will also perform word processing duties. The PWS specifies administrative assistant services for 14 activities, medical clerk services for 32 activities, medical records technician services for 2 activities, secretarial services for 7 activities, word processing services for 2 activities, drafting services for 1 activity, material coordinating services for 5 activities, warehousing services for 1 activity, truck driving services for 2 activities, accounting clerk services for 5 activities, and educational technician services for 1 activity.

In addition to the administrative support services required for all the offices, the contractor must also provide the more specialized medical clerk and medical records technician services. These clerks will prepare medical records, schedule meetings, account for and track patient actions, relay sensitive patient information, monitor patient attendance at appointments, notify staff if patients in waiting rooms are in discomfort or stress, maintain practitioner credential files, review emergency room logs, and review incoming mail for potential claims, among other duties.

The personnel providing material coordinating services will handle the distribution of medical supplies, pharmaceuticals, and equipment. They will also identify environmental and hazardous materials program deficiencies. The personnel performing warehousing services will perform a wide range of warehousing services, including receiving, storing, selecting, and shipping supplies and equipment. The personnel performing truck driving services will support warehouse operations by driving, loading, and unloading trucks.

The personnel providing drafting services will prepare and design drawings for construction projects, and make arithmetic computations, revise floor plans, and maintain the

BAMC drawings database.

The personnel providing educational technician training services will review training data for entry into the system, identify, track, and report education and training requirements in the system track, ensure accurate assignment of education and training requirements, and assist staff in creating new courses.

The services performed by the accounting clerks will include contacting insurance companies regarding patient claims, generating bills for services, verifying that patient information is correct, providing medical documentation for insurance companies, maintaining metrics for files on insurance claims, performing debt management procedures, follow-up on all self-pay bills, utilizing an appropriate database to generate all documents required for the transfer of bills, and coordinating with attorneys on the transfer of claims for collection.

C. Appeal

On September 16, 2011, AllSource Global Management, LLC (Appellant) appealed the contracting officer's final NAICS code designation to the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA). Appellant asserts that the correct code is NAICS code 561210, Facilities Support Services, with corresponding \$35.5 million annual receipts size standard.

Appellant asserts, based on its experience with a predecessor contract, that this contract consolidates requirements from multiple smaller contracts utilizing NAICS code 561110, creating a much larger contract which will require approximately 200 personnel performing in multiple labor categories and conducting multiple industry-related tasks.

Appellant asserts that services required by this solicitation fall into nine separate NAICS codes, none of which comprise more than 50% of the work required:

NAICS Code	NAICS Title	Solicitation Listed Service
484220	Specialized Freight (except Used Goods) Trucking, Local	Truck Driving Services
493110	General Warehousing and Storage	Material Coordinator Services Supply Clerk Services Warehouse Specialist Services

541219	Other Accounting Services	Accounting Clerk Services
541340	Drafting Services	Drafter Services
541519	Other Computer Related Services	Systems Administrator Services
541990	All Other Professional, Scientific and Technical Services	Medical Records Clerk Services Medical Clerk Services
561110	Office Administrative Services	Administrative Assistant Services Quality Control Clerk Services Secretary Services
561410	Document Preparation Services	Medical Transcription Services Word Processor Services
611710	Educational Support Services	Education Technician Services

Appellant also asserts its analysis of the PWS shows that percentage of the work attributable to each NAICS code is as follows:

NAICS Code	NAICS Percentage
484220	.99%
493110	8.7%
541219	15.92%
541340	.44%
541519	.5%
541990	45.48%
561110	25.14%
561410	2.24%
611710	.44%

Appellant thus argues that this procurement requires the combining of work from several different activities attributable to several different NAICS codes, and therefore NAICS code 561210 is the appropriate code.

Appellant argues that information from the SBA Size Standard Methodology table published in April 2009 to assist in determining size standards, establishes that the appropriate size standard here is \$35.5 million.

Appellant further argues that the size and scope of this contract will cause any awardee to outgrow the size standard. In addition, Appellant asserts that a company within the \$7 million size standard might not be capable of performing the contract.

#### D. Contracting Officer's Response

On October 4, 2011, the contracting officer responded. The contracting officer provided background and explained Solicitation No. W81K04-11-R-0026 has been modified to increase requirements due to the Base Closure and Realignment Commission. The contracting officer asserts any increases to the contract are within the scope of the positions published in the solicitation. The contracting officer states she was not required to use the same NAICS code as the predecessor contract, but was responsible for choosing the NAICS code that best fits the solicitation. After considering several NAICS codes, the contracting officer decided, with input from the local SBA/Procurement Center Representative, to maintain NAICS code 561110. The contracting officer states of the estimated 193 full-time employees proposed under the solicitation, an estimated 167 provide services which are generally administrative in nature as outlined in the PWS paragraphs 5.2.1.1-5.2.1.6. The contracting officer maintains that NAICS code 561110 best describes the requirements in the solicitation.

#### IV. Discussion

Appellant filed the instant appeal within ten days after the contracting officer's designation of the NAICS code. Accordingly, the appeal is timely. 13 C.F.R. §§ 121.1103(b)(1), 134.304(a)(3). Appellant has the burden of proving, by a preponderance of the evidence, all elements of its appeal. Specifically, Appellant must prove the contracting officer's NAICS code designation is based 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). OHA will not reverse a NAICS code designation “merely because OHA would have selected a different code.” *NAICS Appeal of Eagle Home Medical Corp.*, SBA No. NAICS-5099, at 3 (2009).

SBA regulations do not require the contracting officer to designate the perfect NAICS code. Rather, the contracting officer must designate the NAICS code that best describes the principal purpose of the product being acquired in light of the industry description in the

NAICS MANUAL,<sup>1</sup> the description in the solicitation, and the relative weight of each element in the solicitation. 13 C.F.R. § 121.402(b).

The NAICS MANUAL description of the NAICS code selected by the contracting officer, 561110, Office Administrative Services, provides that this industry comprises:

[E]stablishments primarily engaged in providing a range of day-to-day office administrative services, such as financial planning; billing and recordkeeping; personnel; and physical distribution and logistics for others on a contract or fee basis. These establishments do not provide operating staff to carry out the complete operations of a business.

NAICS MANUAL, at 766-67.

Appellant's requested NAICS code, 561210, Facilities Support Services, covers:

[E]stablishments primarily engaged in providing operating staff to perform a combination of support services within a client's facilities. Establishments in this industry typically provide a combination of services, such as janitorial, maintenance, trash disposal, guard and security, mail routing, reception, laundry, and related services to support operations within facilities. These establishments provide operating staff to carry out these support activities; but are not involved with or responsible for the core business or activities of the client. Establishments providing facilities (except computer and/or data processing) operation support services and establishments providing private jail services or operating correctional facilities (i.e., jails) on a contract or fee basis are included in this industry.

NAICS MANUAL, at 767-78.

This code is further defined in SBA's size regulations:

- (a) If one or more activities of Facilities Support Services as defined in paragraph (b) (below in this footnote) can be identified with a specific industry and that industry accounts for 50% or more of the value of an entire procurement, then the proper classification of the procurement is that of the specific industry, not Facilities Support Services.
- (b) "Facilities Support Services" requires the performance of three or more separate activities in the area of services or specialty trade contractors industries. If services are performed, these services activities must each be in a separate NAICS industry. If the procurement requires the use of specialty trade contractors (plumbing, painting, plastering, carpentry, etc.), all such specialty trade

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<sup>1</sup> EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM-UNITED STATES (2007), available at <http://www.census.gov/eos/www/naics/> (hereinafter NAICS MANUAL).

contractors activities are considered a single activity and classified as “Building and Property Specialty Trade Services.” Since “Building and Property Specialty Trade Services” is only one activity, two additional activities of separate NAICS industries are required for a procurement to be classified as “Facilities Support Services.”

13 C.F.R. § 121.201, fn. 12.

A review of the PWS establishes that the purpose of this procurement is to provide administrative support services in direct and non-direct patient care. The successful contractor will provide qualified personnel, services, materials, equipment, and supplies necessary to perform administrative services in support of MEDCOM's mission to provide quality healthcare to its active duty, reserve, National Guard, and retired soldiers and their family members at BAMC, USAHC, TMC, and PCC.

The contracting officer's designation of NAICS code 561110, Office Administrative Services, includes the range of day-to-day office administrative services required by this solicitation. However, because the solicitation is not seeking management and operating staff for the complete operation of BAMC, USAHC, TMC and PCC, it need not be categorized under the hospital industry.

The services provided by administrative assistants, secretaries, word processors, and accounting clerks all clearly come within the ambit of the NAICS code 561110. The duties are all of the office and administrative type. This is also true of the medical clerk and medical records technician services, which, while specific to medical issues, are still primarily administrative services positions, dealing with records, written and electronic correspondence, logs, files, calendars, and schedules. Appellant's argument that the medical clerk and medical records technician services should come under NAICS code 541990, All Other Professional, Scientific and Technical Services, is meritless. That code covers:

[E]stablishments primarily engaged in the provision of professional, scientific, or technical services (except legal services; accounting, tax preparation, bookkeeping, and related services; architectural, engineering, and related services; specialized design services; computer systems design and related services; management, scientific, and technical consulting services; scientific research and development services; advertising, public relations and related services; market research and public opinion polling; photographic services; translation and interpretation services; and veterinary services).

NAICS MANUAL, at 758. The code thus covers the performance of actual scientific or technical services, and not the administrative and clerical duties performed by medical clerks and medical records technicians. These would more properly come under Office Administrative Services.

NAICS code 561110 also covers physical distribution of items and logistics. It is therefore an appropriate code for the material coordination, warehousing, and even the truck driving services.

It is clear that the great breadth of services required here means that no one designation can be a perfect fit. Such services as the drafting and education training may not come directly under NAICS code 561110. However, OHA has held that a NAICS code designation need not be a “perfect fit,” as long as it “best describes the principal purpose” of the procurement. *NAICS Appeal of Computer Cite*, SBA No. NAICS-5010 (2008).

Appellant's proffered NAICS code, 561210, covers establishments which provide a combination of support services that are not involved with the core business of the client. The description in the NAICS MANUAL mentions services such as janitorial, maintenance, security, trash disposal, guard and security, mail routing, reception, and laundry. Thus, this code usually covers custodial services, rather than the administrative services required by this procurement. *NAICS Appeal of JBS Int'l, Inc.*, SBA No. NAICS-5021 (2008).

Appellant asserts that a number of codes are included in this procurement, none of them covering the majority of the work, and thus it meets the standard of requiring performance in at least three different NAICS codes, none of which cover more than 50% of the work. However, Appellant's argument on the share of work required in each code is nothing more than mere assertion, and not based upon any reference to the solicitation. Appellant's assignment of NAICS codes to the various tasks is also no more than mere assertion, and not based upon any analysis of the tasks as compared to the NAICS MANUAL descriptions. As discussed above, the medical clerk, medical records technician, material coordination and warehousing are all more properly categorized under NAICS code 561110. This covers some 68 of the 72 tasks required by the PWS. Thus, under the PWS's requirements, clearly the great majority of tasks under this solicitation fall under NAICS code 561110.

Appellant's other arguments are meritless. The argument based upon a table in an unidentified SBA publication dealing with the setting of NAICS codes and size standards is inapposite. The factors considered in setting SBA's size standards cannot be used in deciding appeals at OHA, because they require discretion that SBA has reserved to the rulemaking process, and not to OHA. *See Size Appeal of Hui O Aina, LLC*, SBA No. SIZ-5262, at fn. 8 (2011). Further, the argument that the size of this contract will cause an awardee to outgrow it has no bearing on the issue of whether the contracting officer's NAICS code designation is erroneous.

I thus conclude that the Appellant has failed to meet its burden of establishing that the contracting officer's NAICS code designation was based on clear error of fact or law. I therefore deny the appeal.

#### V. Conclusion

In consideration of the foregoing, I AFFIRM the contracting officer's NAICS code designation, 561110, Office Administrative Services, with a size standard of \$7 million and DENY the instant appeal.

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

CHRISTOPHER HOLLEMAN  
Administrative Judge