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

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| NAICS APPEAL OF:<br><br>Applewood Engineering,<br><br>Appellant,<br><br>Solicitation No. 80GSFC21R0021<br><br>National Aeronautics and Space Administration | SBA No. NAICS-6119<br><br>Decided: August 24, 2021 |

APPEARANCES

Jeffrey D. Jones, President, for Applewood Engineering, Sterling, Virginia

Alonda L. Woodley, Contracting Officer, for the National Aeronautics and Space Administration, Goddard Space Flight Center, Greenbelt, Maryland

DECISION

## I. Introduction and Jurisdiction

On July 27, 2021, the National Aeronautics and Space Administration (NASA), Goddard Space Flight Center (GSFC), in Greenbelt, Maryland, issued Final Request for Proposals (RFP) No. 80GSFC21R0021 seeking a contractor to perform Support for Atmospheric Modeling and Data Assimilation II (SAMDA II). The RFP will result in the award of a five-year contract. The Contracting Officer (CO) set aside the procurement entirely for small businesses, and assigned North American Industry Classification System (NAICS) code 541715, Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology). NAICS code 541715 ordinarily has a corresponding 1,000-employee size standard, but the RFP indicated that the procurement fits within the exception for Guided Missiles and Space Vehicles, Their Propulsion Units and Propulsion Parts, which utilizes a corresponding 1,250 employee size standard. Proposals are due on August 26, 2021. (RFP, at 4; 13 C.F.R. § 121.201, fn. 11.)

On August 6, 2021, Applewood Engineering (Appellant), filed the instant appeal. Appellant concedes that the correct NAICS code is 541715 but appeals the use of exception for Guided Missiles and Space Vehicles, Their Propulsion Units and Propulsion Parts and its 1,250-employee size standard. Appellant asserts this procurement does not fit within the exception and argues that the appropriate code and standard is Research and Development in the Physical,

Engineering, and Life Sciences with a corresponding 1,000-employee size standard. For the reasons discussed *infra*, the appeal is granted.

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 the instant appeal within ten calendar days after issuance of the RFP, 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. Statement of Work (SOW)

The scope of the contract is for Support of Atmospheric Sciences, Modeling and Data Assimilation (SAMDA) research conducted by GSFC scientists in the Earth Science Division (Code 610). The contract will support the full range of research and development activities of the Earth Sciences Division-Atmospheres (Code 610AT) and the Global Modeling and Assimilation Office (GMAO, Code 610.1). (SOW, at 1.)

> Code 610AT conducts a comprehensive atmospheric science research and technology development program directed towards observing, monitoring, characterizing, modeling, understanding, and advancing knowledge of the Earth's atmosphere. The research program is aimed at understanding the structure, dynamics, and radiative properties of clouds, aerosols, and precipitation; understanding atmospheric chemistry, especially the role of natural and anthropogenic trace species on the ozone balance in the stratosphere and troposphere; understanding the influence of solar variability on the Earth's climate; and advancing our understanding of the physical properties of the Earth's atmosphere including its interaction with the Earth's surface [. . . ] This program of research provides support for GSFC to observe, monitor, explain, and predict trends in the spatial and temporal variability of the Earth's atmosphere. The research also addresses the possible consequences of these trends with respect to climate change, human health, food production, water management, and other issues of societal importance. These research activities are carried out in collaboration across GSFC organizations and with domestic and international partners in universities, private industry, and other government agencies. All of this work supports and is consistent with the NASA mission in Earth Science. This contract shall support the full scope of this GSFC Code 610AT research and technology development program for studying the Earth's atmosphere. . .
>
> GMAO develops, operates and maintains comprehensive models and data assimilation systems for the Earth's atmosphere, ocean, land surface and cryosphere, including atmospheric composition and ocean biogeochemistry. GMAO models and assimilation systems support NASA's Earth Science research enterprise and contribute to our nation's capabilities in climate, weather and environmental prediction. The data assimilation systems comprise the assembly, pre-processing, quality control and characterization of all the observations being

> assimilated, the analysis systems which combine model and observation information, and the Earth system models required to interface with the analysis systems. The GMAO effort includes the development and implementation of advanced coupled models (e.g., ocean-atmosphere-land surface, chemistry-climate, ocean dynamics-biology) to support the assimilation systems and to address key scientific questions and prediction goals identified by the NASA Science Mission Directorate. The GMAO collaborates with Code 610AT scientists and with the external science community in developing and validating its models and data assimilation systems. In particular, the GMAO participates fully in the NOAA/NASA/DOD Joint Center for Satellite Data Assimilation (JCSDA) and maintains a strong collaboration with NOAA's National Centers for Environmental Prediction (NCEP). All GMAO models and assimilation systems are developed and implemented using the Earth System Modeling Framework (ESMF). This contract supports the full range of GMAO research, development and production activities.

(*Id.*, at 1-2.)

The SOW contains Indefinite Delivery, Indefinite Quantity (IDIQ) functional requirements that describe the work to be performed by the contractor in terms of NASA-required outcomes and/or results. The contractor is responsible and accountable for achieving the required results outlined in Sections II, III, IV, and V. Particularly, the IDIQ requirements for GMAO research and development support are outlined in Section II, and those for GMAO production systems and project support are outlined in Section III. The IDIQ requirements for 610AT research and development support are outlined in Section IV, while general project and mission science support requirements are outlined in Section V. (*Id.*, at 2.)

Under Section II. Functional Requirements for GMAO Research and Development Support, GMAO's mission is to enhance the value of NASA's observations to understand, analyze, and predict changes in the physics, chemistry, and biology of the Earth system. (*Id.*, at 3.) It approaches its mission by advancing the science of Earth system modeling and data assimilation, using NASA satellite data, for climate analyses and for weather, climate and environmental prediction. Here, the contractor will support projects that encompass all aspects of the GMAO research and development effort, and provide all necessary resources, including personnel, facilities, equipment, and materials, unless otherwise provided by the Government in order to meet the requirements. (*Id.*)

Additionally, GMAO's research and development effort consists of the following:

> a. Development and use of atmosphere, ocean, land surface and cryosphere models and data assimilation systems to enhance the utility of satellite data in weather, climate and environmental modeling, analysis and prediction;
>
> b. Development and use of atmospheric constituent (aerosols and trace gases) models and assimilation systems;
>
> c. Development and use of coupled climate models and coupled chemistry-climate models;

d. Development and use of ocean biology and carbon cycle models and assimilation systems;

e. Development and use of subseasonal-to-seasonal climate forecast systems to support research into predictability and to enhance forecast skill by optimizing the use of satellite data in the initialization of the coupled forecast system;

f. Scientific analysis and visualization of model simulations, data assimilation products, and both satellite and in situ data.

(*Id.*)

Further, the contractor shall support: (1) Atmospheric data assimilation system development and experimentation; (2) Atmospheric constituent modeling and data assimilation; (3) Land surface data assimilation; (4) Ocean data assimilation system development and experimentation; (5) Observing system simulation experiments; (6) Model development; (7) Systems integration; (8) Climate simulations, analyses and experimental forecasts and: (9) Visualization of observed and model-generated fields and the publication of scientific results. (*Id.*, at 5-11.)

Under Section III. Requirements for GMAO Production Systems and Project Support, the SOW indicates GMAO develops, operates and maintains the Goddard Earth Observing System (GEOS) data assimilation system (DAS). The GEOS DAS assimilates data from numerous space-borne, airborne and in situ platforms. The DAS provides assimilated data products to EOS instrument teams for use in their retrieval algorithms. It also generates products in support of NASA field campaigns and various international projects, including routine inter-comparison with analyses and forecasts made at numerical weather prediction (NWP) centers around the world. The GEOS DAS also provides reanalysis products focused on the climate record, by reprocessing historical data streams throughout the satellite era, which are openly available online through the Goddard Earth Sciences Data and Information Services Center (GES DISC). Products that support international projects and field campaigns are generally available through the data portal of the NASA Center for Climate Simulation (NCCS). Model simulations are also generated for scientific analysis and are available for collaborating scientists. (*Id.*, at 11.) Thus, the contractor provides development, maintenance, management, coordination and general, technical and administrative support to GMAO (*Id.*, at 12-14.)

Under Section IV. Functional Requirements for Atmospheric Science Support, the SOW is divided into four technical areas to specify the functional requirements of the contract: (1) instrument development, (2) field deployment, (3) data processing and analysis, and (4) management of instrument laboratories. (*Id.*, at 15-19.) The contractor shall provide support in each of these areas, as specified in detail. (*Id.*)

Similarly, Section V. Functional Requirements for General Project and Mission Science Support underlines the contractor's responsibility to provide support for project scientists and principal investigators in formulating future satellite missions, overseeing the implementation of it, managing its operations, and formulating other plans within the scope of its mission. (*Id.*, at 25.)

B. The Appeal

On August 6, 2021, Appellant filed the instant appeal. Appellant contends that NAICS code 541715 and use of the exception for Guided Missiles and Space Vehicles, Their Propulsion Units and Propulsion Parts, is inappropriate for this RFP because the principal purpose of the solicitation is development of climate models, data assimilation systems, and climate forecast systems, and the RFP does not require "Research and Development in Space Vehicles and Guided Missiles, their Propulsion Units, their Propulsion Units Parts, and their Auxiliary Equipment and Parts." (Appeal, at 2-4.) Appellant request OHA holds that NAICS code 541715 with a corresponding 1,000-employee size standard is the appropriate NAICS code for this RFP.

Appellant argues the SOW and scope of the contract show that SAMDA II's primary components are research and development in atmospheric science (physical science). (*Id.*, at 3-6.) Appellant states the work is "atmospheric science research and technology development program directed towards observing, monitoring, characterizing, modeling, understanding, and advancing knowledge of the Earth's atmosphere," and developing, operating and maintaining "comprehensive models and data assimilation systems for the Earth's atmosphere, ocean, land surface and cryosphere, including atmospheric composition and ocean biogeochemistry." (*Id.*, at 6.)

Appellant further argues:

> As can be seen, the principal purpose of the product or service being acquired are the development of climate models, data assimilation systems, and climate forecast systems. The fact that the data is being provided by a science instrument that is using a satellite platform (many of which have been in operation for years) is ancillary to the work described and does not require Research and Development in Space Vehicles and Guided Missiles.

(*Id.*, at 4.)

Appellant notes the SOW lists 17 support areas including providing support on future satellite missions for project scientists and principal investigators to plan and implement orbital and sub-orbital missions for atmospheric process studies, contribute to the specification of requirements for instruments, pre-and post-launch sensor calibration and performance. These operations are focused on the design and operations of scientific instruments and sensors that simply interface with the carrier platform, similar to those instruments which interface with aircraft, balloons and ground or ocean-based platforms. This is not research and development into space vehicles and guided missiles. (*Id.*, at 6.)

C. CO's Memorandum and Response

On August 11, 2021, the CO submitted a memorandum at OHA's request, indicating that the purpose of the solicitation is "[t]o provide research conducted by [NASA GSFC] scientists in the Earth Science Division. The contract will support the full range of research and development activities of the Earth Sciences Division-Atmospheres Office and the Global Modeling and Assimilation Office." (CO's Memorandum, at 1.)

On August 18, 2021, the CO responded to the appeal. The CO argues the designation of NAICS code 541715 under the exception for Space Vehicles and Guided Missiles with a 1,250-employee size standard is correct. (Response, at 1.) The CO explains that prior to the issuance of the RFP, NASA synopsized the requirement on April 6, 2021, and published a draft RFP on May 25, 2021, seeking a contractor for the SAMDA II requirement. (*Id.*, at 2.) The synopsis initially identified NAICS code 541715 without exceptions and assigned a size standard of 1,000 employees. On April 26, 2021, the synopsis was updated to include an Attachment of Interested Parties list and corrected the NAICS Code 541715 under the Guided Missiles and Space Vehicles and 1,250-employee size standard.

The CO argues that SAMDA II's RFP includes a SOW, which defines a contractor's tasks and responsibilities consistent with NAICS code 541715 and the Guided Missiles and Space Vehicles exception. (*Id.*) The SOW requires a contractor to support the full range of research and development activities of the NASA GSFC's Code 610AT and GMAO or Code 610.1. (*Id.*, citing SOW at 1.) Taken as a whole, the CO argues the SOW describes the design, development, testing and deployment of NASA's Earth-observing satellite instruments, along with the near-real time two-way production and analysis of science data from these orbital instruments and other instruments to formulate earth systems data and models. The instruments are part of NASA's Earth observing satellites and constitute the main purpose of those space vehicles.

Further, the CO maintains the RFP contains direct support for the SAMDA II objectives throughout the SOW, noting that SAMDA II provides support for Code 610AT scientists that "identify requirements of atmospheric observations via orbital and suborbital instrumentation and missions [and] conceive, design, develop, and implement optical, microwave, radar, and lidar technologies." (*Id.*) In turn, the contractor shall assist in supporting "the full range of GMAO research, development, and production activities," which involve near-real time transmission of science data to and from numerous NASA Earth-observing satellites. (*Id.*)

Next, the CO identifies objectives in the SOW, which include development of satellite data assimilation; development of models; development of diagnostic, monitoring, and evaluation tools for models; generation of products to support NASA instrument teams and field campaigns; and other requirements involving the production and assimilation of NASA's GMAO research and development effort. (*Id.*, at 3, citing SOW ¶ II.0 at 3-5.) Here, the CO notes, the RFP identifies specific objectives requiring "the development and routine use of comprehensive diagnostic, monitoring and evaluation tools" for "(c) observing system evaluation and design of new satellite missions, (d) input to instrument team algorithms. . ." as a key SOW requirement. (*Id.*, citing RFP § L at 102; SOW § II.0.5 at 4.) Additionally, the SOW contains sections directly implicating space flight and the contractor shall provide "GMAO Production Systems Development and Maintenance" to develop, operate, and maintain the GMAO production systems so the systems can operate in near-real time to support 20 ongoing NASA satellite missions and numerous NASA field campaigns. (*Id.*, citing SOW § III.1 at 11.) The CO further notes that the contractor shall support "NASA instrument teams in testing of the GEOS systems upgrades by providing sample operational datasets" and "coordinat[e] the management and organization of data products generated by or used in the operational systems in support of the GMAO product generation" and "provide high-level project management" support. (*Id.*, citing SOW §§ III.1.1 and III.1.7 at 12, and III.3.1 at 13.)

Code 610AT requires additional support for space flight instrumentation from the SAMDA II contractor in addition to broad earth systems modeling and simulation, data processing, and project/mission support. (Id., citing SOW § IV.1 at 15-20.) Particularly, the contractor is to "support the specification, design, development, maintenance, calibration and operation of orbital and suborbital instruments for atmospheric and solar observations," including the operation of instruments "at GSFC and in the field, and aboard orbital and sub-orbital platforms." (*Id.*, citing SOW § IV.1 at 15.) The SOW identifies the types of instruments and describes the development, deployment and operation, including design, development, drawings, fabrication of parts and electrical boards, testing, calibration, maintenance, and repair. Moreover, the SOW requires a contractor to provide support for "algorithm development, sensor correction" and other tasks, including the ICESAT-2 (Ice, Cloud, and land Elevation Satellite-2) satellite and SAGE III (Stratospheric Aerosol and Gas Experiment-III) to be flown aboard the ISS instrument development. (*Id.*, at 3-4, citing SOW § IV.1.3 at 17-18.)

Relying on OHA precedent, the CO argues the SOW clearly describes a broad range of complex research and development tasks for NASA's Earth Sciences Division and Global Modeling and Assimilation Office at the GSFC. (*Id.*, at 4, citing *NAICS Appeal of Millennium Engineering and Integration Co.*, SBA No. NAICS-5309, at 11-12 (2011).) Here, the complex tasks involve the processing and assimilation of satellite data, but also assistance with the design, development, testing, and deployment of NASA's Earth-observing satellite instruments.

The CO notes, the *NAICS Manual* states that research and development involving space vehicles includes "evaluations and simulation, and other services requiring thorough knowledge of complete. . . spacecraft." (*Id.*, citing 13 C.F.R. § 121.201 at fn 11(d).) The CO points to OHA's finding that the use of the exception to NAICS code 541715 is appropriate when the procurement requires evaluation and simulations involving spacecraft, as well as a "thorough knowledge" of these technologies. (*Id.*, at 4-5, citing *NAICS Appeal of DCS Corp.*, SBA No. NAICS-5703 at 4 (2016).) Further, the CO explains that GMAO production activities involve near-real time transmission of science data to, and reception of science data from, a plethora of instruments on NASA Earth-observing satellites, rendering all aspects of the SOW as inextricably interrelated services to support NASA's Earth Science mission. (*Id.*, at 5.)

The CO argues that based on the complex interrelated spaceflight tasks outlined in the SOW, the NAICS code and size standard for the SAMDA II procurement is appropriate. (*Id.*) Particularly, NASA's Earth-observing satellite instruments and systems are extremely complex and require thorough knowledge of the intricacies of spaceflight, thereby justifying the larger size standard under the Guided Missiles and Space Vehicles exception. Thus, the CO concedes that the principal purpose of the SAMDA II solicitation is research and development in Atmospheric Sciences, however, disagrees with Appellant's unsupported conclusion that the Guided Missiles and Space Vehicles exception is not appropriate. (*Id.*, at 6.)

Additionally, the CO contends the increased size standard in the Guided Missiles and Space Vehicles exception is justified by the "thorough knowledge of complete . . . spacecraft" language of *NAICS Manual* in footnote 11(d). Here, the CO relies on OHA precedent finding the use of the exception is appropriate even in cases where the Guided Missiles and Space Vehicles exception seems more remote, like the procurement in *DCS*, where the NAICS code exception applied to aircraft stores certification activities. Even though NASA properly applied the Guided

Missiles and Space Vehicles exception to this procurement, the CO argues that *ANAICS Appeal of Advanced Concept Enterprises, Inc.*, SBA No. NAICS-5968 (2018), and *Millennium* demonstrate that the complexities of spaceflight demand broader categorization than in other disciplines. (*Id.*)

As for Appellant's allegations, the CO maintains that Appellant selectively omits discussion of critical parts of the SOW that demonstrate the applicability of the Guided Missiles and Space Vehicles exception. (*Id.*) Further, Appellant's misunderstanding of the integrated nature of NASA's atmospheric sciences program reflects an incomplete reading of the SAMDA II SOW, if not an inadequate understanding of the SOW. The CO underlines Appellant's mere disagreement with NASA's use of the exception fails to demonstrate that NASA's use of the exception was clearly erroneous. (*Id.*)

Finally, the CO claims that Appellant's reliance on other NAICS cases is misplaced, noting the following:

> NASA agrees that the CO must, and did, assign a NAICS code that best describes the principal purpose of the acquisition in light of the NAICS Manual. The Appellant's "primary component" argument is unavailing here, however, because that argument relates to the choice of NAICS code, not use of an appropriate size standard. Here, where the parties agree on the NAICS code, the agency is not required to conduct a specific accounting of which size standard within that NAICS code is appropriate, especially when the SOW describes complex and integrated spaceflight related tasks.

(*Id.*, at 6-7).

## D. Appellant's Reply

On August 18, 2021, the date of the close of record, Appellant replied to the CO's Response without filing a motion for leave to reply. Appellant argues that there are pertinent facts that need to be pointed out based on the CO's allegations. Under applicable regulations governing NAICS code appeals, a reply to a response is not permitted unless OHA so directs. 13 C.F.R. § 134.309(d). No such direction occurred here. Accordingly, Appellant's reply is EXCLUDED from the record. *NAICS Appeal of Dayton T. Brown, Inc.*, SBA No. NAICS-5164, at 4 (2010).

## E. *NAICS Manual* Descriptions

The NAICS code designated by the CO, 541715, Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology), covers:

> establishments primarily engaged in conducting research and experimental development (except nanotechnology and biotechnology research and experimental development) in the physical, engineering, and life sciences, such as agriculture, electronics, environmental, biology, botany, computers, chemistry, food, fisheries, forests, geology, health, mathematics, medicine, oceanography, pharmacy, physics, veterinary and other allied subjects.

*NAICS Manual* at 476. The *NAICS Manual* defines "research" as "original investigation undertaken on a systematic basis to gain new knowledge," and "experimental development" as "the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes." *Id.* at 475.

For NAICS code 541715, footnotes in the Size Standards table state that:

> "Research and Development" means laboratory or other physical research and development. It does not include economic, educational, engineering, operations, systems, or other nonphysical research; or computer programming, data processing, commercial and/or medical laboratory testing.

13 C.F.R. § 121.201, n.11(a).

For the exception Guided Missiles and Space Vehicles, Their Propulsion Unites and Propulsion Parts, footnotes in the Size Standards table state that:

> "Research and Development" for guided missiles and space vehicles includes evaluations and simulation, and other services requiring thorough knowledge of complete missiles and spacecraft.

13 C.F.R. § 121.201, n.11(d).

## 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 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). A procurement is usually classified according to the component that accounts for the greatest percentage of contract value. (*Id.*) 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 RFP, the descriptions in the *NAICS Manual*, OHA's prior decisions, and the arguments of the parties, I must agree with Appellant that the instant procurement does not fall within the exception under research and development. As a result, the CO clearly erred in selecting the Guided Missiles and Space Vehicles exception for NAICS code 541715.

As discussed, *supra*, the *NAICS Manual* states that NAICS code 541715 is appropriate for procurements that involve "research and experimental development . . . in the physical, engineering, and life sciences. . . ." Section II.E, *supra*. The *NAICS Manual* defines "research" as "original investigation undertaken on a systematic basis to gain new knowledge," and "experimental development" as "the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes." *Id.* Applying these provisions, OHA has long held that procurements classified under a research and development NAICS code "must be for research and development, and thus must look to creating new processes or products." *NAICS Appeal of Dayton T. Brown, Inc.*, SBA No. NAICS-5164, at 5 (2010) (emphasis in original).

In the instant case, the parties agree to the extent that the RFP and SOW require the contractor to provide research conducted in the Earth Science Division and support the full range of research and development activities of the Earth Sciences Division-Atmospheres Office and the Global Modeling and Assimilation Office. The issue is whether the RFP's principal services being so complex fall within the exception of Guided Missiles and Space Vehicles, Their Propulsion Unites and Propulsion Parts with its 1,250-employee size standard.

In the *NAICS Manual* Footnote 11(d), the regulation provides that research and development for guided missiles and space vehicles includes "evaluations and simulation, and other services requiring thorough knowledge of missiles and spacecraft." Therefore, research and development for guided missiles and space vehicles includes evaluations and simulation, and other unspecified services requiring thorough knowledge of complete missiles and spacecraft.

In *NAICS Appeal of Advanced Concept Enterprises, Inc*. SBA No. NAICS-5968 (2018), OHA found that the categorization of procurements as research and development is therefore not as strict as it is in other disciplines and in the complex world of missiles and spacecraft, research and development may be viewed more expansively than in traditional disciplines. *Advanced*, at 13, citing *NAICS Appeal of Millennium Engineering and Integration Co.*, SBA No. NAICS-5309, at 11-12 (2011). OHA also found an RFP which requires evaluations and simulations involving missiles and similar devices, as well as a thorough knowledge of these technologies, may be designated under the NAICS 541715, under the Guided Missiles and Space Vehicles exception. *NAICS Appeal of DCS Corp.*, SBA No. NAICS-5703, at 4 (2016); *see also NAICS Appeal of Inklings Media Co.*, SBA No. NAICS-4850, at 6 (2007); *NAICS Appeal of IT Research Corp.*, SBA No. NAICS-4499, at 4 (2002).

Unlike *Advanced*, where the procurement involved the research and development of ballistic missile defense system, falling squarely within Footnote 11(d), here, SAMDA II's principal services do not involve evaluations and simulations involving missiles and similar devices, as well as a thorough knowledge of these technologies, in the context of Guided Missiles and Space Vehicles. While the CO identified specific SOW's requirements involving simulations, spacecraft, satellite instruments, and spaceflight, these involvements alone do not best describe the principal purpose of the procurement, which the CO conceded to be the full range of research and development activities of NASA GSFC's Earth Sciences Division-Atmospheres and Global Modeling and Assimilation Office.

I find the CO's reliance on *Advanced* is misplaced and resting on the mere fact that research and development of the instant RFP involves complex tasks for NASA to support an exception to NAICS code 541715. Certainly, the principal purpose of the procurement is undisputed and therefore, allegations of complexity without the subject matter, Guided Missiles and Space Vehicles, is meritless. Rather, this is a procurement for research and development efforts into Earth's atmosphere, the oceans and land surfaces, and cryosphere, including atmospheric composition and ocean biogeochemistry, as well as climate analysis for weather, climate and environmental prediction. This procurement does not call for research and development into space vehicles, or guided missiles or propulsion units. The principal purpose of the product or service being acquired here is the development of climate models, data assimilation systems, and climate forecast systems. The research here is into the atmosphere and the climate. Section II.A, *supra*.

Therefore, the most appropriate NAICS code for this RFP is 541715, Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology).

## IV. Conclusion

Appellant has shown that the CO clearly erred in selecting the NAICS code 541715, under the Guided Missiles and Space Vehicles exception, and I GRANT the instant appeal. The most appropriate NAICS code for this procurement is 541715, Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology), with a corresponding 1,000-employee size standard. Accordingly, because this decision is being issued before the close of the solicitation, the CO MUST amend the RFP to change the NAICS code designation from 541715, exception under Guided Missiles and Space Vehicles to the ordinary 541715 and its corresponding 1,000-employee size standard. FAR 19.303(c)(8); *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