

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

NAICS APPEAL OF:

Salvadorini Consulting, LLC,

Appellant,

Solicitation No. 36C24224Q0203

U.S. Department of Veterans Affairs

SBA No. NAICS-6268

Decided: February 23, 2024

APPEARANCES

Shane J. McCall, Esq., Nicole D. Pottroff, Esq., John L. Holtz, Esq., Gregory P. Weber, Esq., Stephanie L. Ellis, Esq., Koprince McCall Pottroff LLC, Lawrence, Kansas, for Salvadorini Consulting, LLC

DECISION

I. Introduction and Jurisdiction

On January 22, 2024, the U.S. Department of Veterans Affairs (VA) issued Request for Quotations (RFQ) No. 36C24224Q0203, seeking to lease a Magnetic Resonance Imaging (MRI) machine and accompanying trailer. The Contracting Officer (CO) set aside the procurement entirely for Service-Disabled Veteran-Owned Small Businesses, and assigned North American Industry Classification System (NAICS) code 532490, Other Commercial and Industrial Machinery and Equipment Rental and Leasing, with a corresponding size standard of \$40 million average annual receipts.

On February 1, 2024, Salvadorini Consulting, LLC (Appellant), a prospective offeror, filed the instant appeal. Appellant contends that the CO clearly erred in selecting NAICS code 532490, and that the correct NAICS code for this procurement is 621512, Diagnostic Imaging Centers, with an associated size standard of \$19 million average annual receipts. For the reasons discussed *infra*, the appeal is denied.

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 10 calendar days after issuance of the RFQ, so the appeal is timely. Federal Acquisition Regulation (FAR) 19.103(a)(1); 13 C.F.R. §§ 121.1103(b)(1) and 134.304(b). Accordingly, this matter is properly before OHA for decision.

## II. Background

### A. The RFQ

The RFQ seeks the “[I]ease of an MRI and MRI Trailer with required Preventative Maintenance and Repairs.” (RFQ, SF 1449.) The base period of performance is 12 months with four one-year options. (*Id.*)

The contractor will “deliver, install, connect, ensure functionality, service and support all components of the equipment listed in Section G.” (RFQ, Performance Work Statement (PWS), at 1.) Section G in turn identifies the following equipment/services:

Item	Requirement	Quantity
1	12'x48' Transportable unit for a 1.5T MRI System	1
1a	Magnetic and RF Shielding	
1b	Front mounted Northern Air combination HVAC/Chiller System	
1c	Hydraulic Handicapped Lift capable of accommodating a bariatric patient on a gurney and lays flush to ground at its lowest position	
1d	Prep unit for Bayer/Medrad patient injector	
1e	Install supplied patient injector	
1f	SKY FACTORY SKY LIGHT — 6ft x 4ft	
1g	Wall Mural on both scan room walls	
1h	Code Blue Button	
1i	Nurses Call Button	
1j	Hard walled Patient Changing Area, changing room in use light to illuminate when patient is in room	
1k	Extra Coil Storage Cabinet — Located in scan room behind magnet	
1l	Wave guide pass through in scan room wall	
1m	44" Gaven Scan Room Door	
1n	MRI Always on light at Scan Room Door	
1o	Underbelly compartments — All utilities terminate in underbelly compartment, inclusive of power, telecommunications and water.	
1p	Fire Suppression System — Gas Suppression System	
1q	Combination lock access at main entry door	
1r	Lunos Fresh Air Exchange System	
1s	Merv 14 Filtration	
1t	PE Stamped Drawings	
1u	42" wide stairs with hand-rails on both sides of step	
1v	Transportation to site	
1w	In Service Applications Training at Site upon delivery	
1x	Wiring installation for two (2) voice lines	
1y	Wiring installation for six (6) data lines	
1z	Wiring installation for fire alarm system	
1ab	On board Generator capable of powering MRI and HVAC during power outage	
1ac	Aluminum Stairs for entering and exiting of the MRI Trailer	
1ad	Americans with Disabilities Act Compliant Aluminum ramp for entering and exiting of the MRI Trailer	
2	1.5T MRI Unit	1
2a	Advanced Applications: 3D processing for all modality datasets, Neuro, Ortho, Body, Cardiovascular, Muscular, Oncology, Vascular, MRA, Elastography,	

	Spectroscopy, Phase contrast MRI and Flow analysis, Parametric prostate imaging, Fiber tracking software	
2b	Coil Requirements: Torso, Knee, Shoulder, Head/neck/spine/array, Neurovascular, Run-off, Foot/ankle, Wrist, Elbow, Prostate imaging, Functional MRI head, Carotid, periphery vascular, Extremity; flexible, transmit/receive, adjustable neurovascular head, whole body imaging	
2c	Compatibility with Philips Stenor and AGFA PACS	
3	Corrective (Unscheduled) and Preventive (Scheduled) Maintenances for the MRI and MRI Trailer during the life of the contract	
4	Delivery and Installation of Mobile MRI and Trailer	1
5	De-installation and removal of Mobile MRI and Trailer	1

(RFQ Amend. 0001, Revised PWS, at 2-4.) The contractor will perform both preventive and corrective maintenance of the equipment throughout the lease. (PWS, at 5.)

The MRI unit and associated services will be delivered to the Toms River Community-Based Outpatient Clinic (CBOC), Radiology Department, in Toms River, New Jersey. (*Id.* at 2.) The RFQ explains that “[w]ithout this equipment, the Radiology Department will not have the ability to perform MRIs at the Toms River CBOC.” (*Id.* at 1.)

Quotations were due February 21, 2024. (RFQ Amend. 004.)

### B. Appeal

On February 1, 2024, Appellant filed the instant appeal. Appellant contends that NAICS code 532490 is improper for this procurement because the RFQ does not merely call for the lease of an MRI unit but rather for the provision of a complete “diagnostic imaging *center*—a system for ordering and producing the diagnostic images directly referred by a medical professional.” (Appeal at 4 (emphasis Appellant's).)

Appellant allows that NAICS code 532490 might be appropriate if the contractor were simply asked to “drop off” an MRI machine at the CBOC. (*Id.*) The contractor here, though, will also supply the “coach” that houses the MRI and where the MRI will be utilized. (*Id.* at 5.) Appellant maintains that VA essentially seeks an “extension of the VA hospital” or “an attached center with the same highly technical and sensitive nature and hardwired systems as the Toms River CBOC.” (*Id.*)

Appellant urges that NAICS code 621512, Diagnostic Imaging Centers, is a “perfect” fit for this RFQ. (*Id.* at 4.) In Appellant's view, the procurement seeks a complete diagnostic imaging center that includes “shielding, HVAC, fire suppression, storage furniture and compartments, wiring, and filtration, among other imaging center systems.” (*Id.* at 6.) Appellant highlights that VA has utilized NAICS code 621512 for other solicitations, including the procurement of a “mobile MRI unit.” (*Id.* at 6-7.) Appellant also asserts that, if this procurement is not designated under NAICS code 621512, the code will be rendered “useless,” because the ultimate awardee is likely to be a larger concern with less specialized expertise. (*Id.* at 7.)

### C. NAICS Manual<sup>1</sup>

The NAICS code designated by the CO, 532490, Other Commercial and Industrial Machinery and Equipment Rental and Leasing, covers:

establishments primarily engaged in renting or leasing nonconsumer-type machinery and equipment (except heavy construction, transportation, mining, and forestry machinery and equipment without operators; and office machinery and equipment). Establishments in this industry rent or lease products, such as manufacturing equipment; metalworking, telecommunications, motion picture, theatrical machinery and equipment, or service industry machinery; institutional (i.e., public building) furniture, such as furniture for schools, theaters, or buildings; or agricultural equipment without operators.

*NAICS Manual* at 452. Index entries which refer to NAICS code 532490 include “[m]edical equipment (except home health furniture and equipment) rental or leasing.” *Id.* at 814. The *NAICS Manual* reiterates that establishments primarily engaged in “[r]enting medical equipment (except home health equipment), such as electromedical and electrotherapeutic apparatus[,] are classified in Industry 532490, Other Commercial and Industrial Machinery and Equipment Rental and Leasing.” *Id.* at 449.

The NAICS code Appellant advocates, 621512, Diagnostic Imaging Centers, covers:

diagnostic imaging centers primarily engaged in producing images of the patient generally on referral from a health practitioner.

*NAICS Manual* at 527. Industries classified under NAICS code 621512 include “[m]agnetic resonance imaging (MRI) centers,” “[m]edical X-ray laboratories,” “[m]obile X-ray facilities (medical),” and “[r]adiological laboratories, medical.” *Id.* at 808, 814, 820, and 869. NAICS code 621512 is one of several industries within NAICS subsector 621, Ambulatory Health Care Services. According to the *NAICS Manual*, “[i]ndustries in the Ambulatory Health Care Services subsector provide health care services directly or indirectly to ambulatory patients.” *Id.* at 519.

## 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

---

<sup>1</sup> Executive Office of the President, Office of Management and Budget, *North American Industry Classification System-United States (2022)*, available at <http://www.census.gov>.

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. 13 C.F.R. § 121.402(b); FAR 19.102(b)(1). 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

The instant case is analogous to OHA's decision in *NAICS Appeal of Salvadorini Consulting, LLC*, SBA No. NAICS-6020 (2019). In that case, VA issued a solicitation to lease a mobile Computerized Tomography (CT) scanner. *Salvadorini*, SBA No. NAICS-6020, at 1. The appellant argued that NAICS code 621512, Diagnostic Imaging Centers, would best describe the principal purpose of the solicitation, because that NAICS code covers CT-scan centers. *Id.* at 3. OHA rejected this argument, however, finding that the contractor itself would not “perform[] any diagnostic imaging services”; rather, “VA's own personnel will perform this work, using equipment leased from the contractor.” *Id.* at 5. OHA noted that the contractor would perform other, non-patient services, such as “testing, maintenance, and training VA personnel to operate the device.” *Id.* Nonetheless, the solicitation contained “no indication the contractor would ever perform diagnostic imaging on patients,” as is necessary for the use of NAICS code 621512. *Id.* OHA determined that the correct NAICS code for the procurement was 532490, Other Commercial and Industrial Machinery and Equipment Rental and Leasing, because it encompassed the solicitation's primary purpose, *i.e.*, the leasing of medical equipment other than equipment intended for home health use. *Id.* at 6.

Here, the RFQ calls for lease of an MRI machine and accompanying trailer. Section II.A, *supra*. The contractor will “deliver, install, connect, ensure functionality, service and support” the requested equipment. *Id.* Importantly, though, only VA radiology staff at the Toms River CBOC will administer MRIs to patients. *Id.* The contractor is not responsible for providing technicians or other medical personnel to conduct diagnostic imaging. *Id.* As in *Salvadorini*, then, the principal purpose of this RFQ is “[m]edical equipment (except home health furniture and equipment) rental or leasing,” and the CO did not err in designating the procurement under NAICS code 532490.

Appellant argues that failure to assign NAICS code 621512 here will render the code unusable. Section II.B, *supra*. This argument, though, misunderstands the proper scope of the code. NAICS code 621512 is a health care services code, and thus may apply to procurements when the contractor itself is engaged in diagnostic imaging. Section II.C, *supra*. OHA thus has found NAICS code 621512 appropriate for a procurement that sought “professional radiology technologists, who will perform ‘the full range of radiology imaging care’ — such as x-rays, MRIs, ultrasounds, and CAT scans — for VA inpatients and outpatients.” *NAICS Appeal of Laredo Tech. Servs., Inc.*, SBA No. NAICS-6216, at 6 (2023).

Appellant also highlights that NAICS code 621512 has been utilized for other procurements with similar requirements. Section II.B, *supra*. While this may be so, these other procurements are not before OHA, and OHA attaches little weight to the NAICS codes assigned

to other procurements that were not appealed to OHA. *E.g.*, *NAICS Appeal of Veterans First Health Care*, SBA No. NAICS-6212, at 6 (2023); *NAICS Appeal of Millennium Health & Fitness, Inc.*, SBA No. NAICS-6094, at 11 (2021); *NAICS Appeal of Oak Grove Techs., LLC*, SBA No. NAICS-5998, at 9 (2019). The procurements at issue in *Salvadorini* and *Laredo*, conversely, were appealed to OHA.

Because Appellant has not established that NAICS code 532490 is clearly incorrect for this procurement, OHA need not consider the NAICS code Appellant advocates, or other alternative codes. It is well-settled that “OHA will not assign a different NAICS code to a procurement unless the CO's choice of NAICS code is shown to be clearly erroneous.” *NAICS Appeal of Taurean Gen. Servs., Inc.*, SBA No. NAICS-6092, at 6 (2021) (quoting *NAICS Appeal of Dentrust Optimized Care Sols.*, SBA No. NAICS-5761, at 7 (2016)); *NAICS Appeal of Ascendant Program Servs., LLC*, SBA No. NAICS-5832, at 10 (2017).

#### IV. Conclusion

For the above reasons, the appeal is DENIED. The CO appropriately selected NAICS code 532490, Other Commercial and Industrial Machinery and Equipment Rental and Leasing, for this RFQ. This is the final decision of the Small Business Administration. *See* 13 C.F.R. § 134.316(d).

KENNETH M. HYDE  
Administrative Judge