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NAICS IMPACT ON SMALL
BUSINESS SET-ASIDES

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December 2014

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NAICS IMPACT ON SMALL BUSINESS SET-ASIDES

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Submitted in partial fulfillment of the requirements for the degree of

MASTER OF SCIENCE IN PROGRAM MANAGEMENT

from the

**NAVAL POSTGRADUATE SCHOOL
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ABSTRACT

This project describes the role of the North American Industry Classification System (NAICS) in the federal government contracting process, especially with respect to small-business solicitations. Because of its importance, mistakes made by contract officers in assigning a NAICS code to a project may have serious adverse effects on small business competition and participation. An analysis of small business opportunities in construction over the years 2012–2014 reveals mistakes in assigning NAICS codes, suggesting that additional oversight is needed along with enhanced efficiency in the NAICS appeal process.

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LIST OF ACRONYMS AND ABBREVIATIONS

ACO	administrative contracting officer
AETC	Air Education and Training Command
ARP	Acquisition Research Program
CBD	Commerce Business Daily
CCR	Central Contractor Registration
CFR	Code of Federal Regulations
CICA	Competition in Contracting Act
CLIN	contract line item number
COR	contracting officer's representative
COTR	contracting officer's technical representative
COTS	commercial off-the-shelf
DERN	Department of Environment and Natural Resources
DUNS	Data Universal Numbering System
EBS	Environmental Baseline Surveys
ECPC	Economic Classification Policy Committee
EDWOSB	Economically Disadvantaged Women-Owned Small Business
FAR	Federal Acquisition Regulation
FASA	Federal Acquisition Streamlining Act
FBO	Federal Business Opportunities
FFP	firm fixed price
FOSET	Findings of Suitability for Early Transfer
FOSL	Findings of Suitability for Lease
FOST	Findings of Suitability for Transfer
GPE	government-wide point of entry
GSA	General Services Administration
HTW	hazardous and toxic waste
HUBZone	historically underutilized business zone
IDIQ	indefinite-delivery, indefinite-quantity
IFB	invitation for bid
INECI	Instituto Nacional de Estadística, Geografía Informática

LF	launch facilities
MAF	missile alert facilities
MATOC	multiple award task order contracts
MPIN	marketing partner identification number
NAICS	North American Industry Classification System
NASA	National Aeronautics and Space Administration
OHA	Office of Hearings and Appeals
OMB	Office of Management and Budget
OTS	other than small
PCO	procuring contracting officer
PO	purchase order
POC	point of contact
RFI	requests for information
RFP	request for proposal
RFQ	request for quotation
SADBUS	small and disadvantaged business utilization specialist
SAM	System for Award Management
SAP	simplified acquisition procedures
SB	small business
SBA	Small Business Administration
SDB	small disadvantaged business
SDVOSB	service-disabled veteran-owned small business
SIC	standard industrial classification
SOO	statement of objectives
SOW	statement of work
SPD	South Pacific Division
START	Strategic Arms Reduction Treaty
TCO	termination contracting officer
USACE	United States Army Corps of Engineers
WOSB	women-owned small business

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I. INTRODUCTION

The North American Industry Classification System (NAICS) classifies businesses according to the particular production process they use. All levels of government and private organizations use the NAICS when collecting and publishing information relating to North American industries. The NAICS selection, by contracting officers, influences how small businesses, especially small businesses, participate in government contracting. Although the contracting officer receives help from small business professionals, there appears to be a wide range of selection across the federal government when considering which NAICS to use. In this study, I focus on government solicitations, notices, and awards relating to construction, and whether mistakes are made in NAICS selection. I analyze and discuss in detail the impact and consequences of an incorrect NAICS selection. At the conclusion of this study, I make recommendations and focus on future solicitations and proposals dealing with small business set-asides.

A. IMPORTANCE OF PROJECT

According to Federal Acquisition Regulation (FAR) 19.201 (2012), the federal government requires that contracting officers provide the maximum number of opportunities to small businesses. The Acquisition Research Program (ARP) has stated that NAICS selection, by a contracting officer, is influencing small business participation in government contracting. This study focuses on past solicitations, notices, and awards in order to determine if contracting officers selected the right NAICS code and possible outcomes to their actions. Small businesses depend on government contracting officers to select the correct NAICS code so that everyone interested in a contract abides by the same rules and regulations. Through this research, I demonstrate the importance of selecting the precise NAICS code and the consequences resulting in the selection of an incorrect code.

B. SCOPE OF THE RESEARCH

The focus of my research is on small business set-asides involving construction projects. In this report, I review federal contracting activities posted on the Federal

Business Opportunities (FBO) website, along with other government-run websites. Publicly available data composed of solicitations, awards, and notices cover contracts from the 2012–2013 fiscal years and vary in size, location, and small business programs. The goal of the project is to demonstrate how the NAICS selection influences small business participation with the most current available data.

C. APPROACH TO RESEARCH

In my research, I focus on publicly available information posted by the federal government. All of the information collected is based on past and current contracting information posted on government websites. All of the research is associated with small business set-asides pertaining to construction. I collected, analyzed, and verified all information between November 2012 and August 2014. The investigation does not include human opinion or human subject research but rather focuses on analyzing notices, solicitations, and proposals released by contracting officers. By analyzing information that is publicly available, a connection between the NAICS selection and small business participation can be established.

D. PROJECT ORGANIZATION

The focus of this study is to use publicly available solicitations, notices, and awards to identify if mistakes exist in NAICS selection. An error in NAICS selection has the potential of negatively impacting small businesses. The goal of this study is to educate readers on the government solicitation process and identify whether contracting officers are providing equal opportunities to all small businesses.

1. Chapter I

I begin this research by identifying the relationship between NAICS selection and small business participation in government contracting. I discuss the findings made by the ARP and identify the major players in government contracting. The importance of this topic is discussed along with federal regulations that encourage small business participation. I conclude Chapter I by describing the scope of the project and the overall organization of the research.

2. Chapter II

I focus on describing the rules and regulations of government contracting and the requirements necessary for a contractor to do business with the government. I concentrate my research on small business set-asides related to government construction projects, for they make up a large portion of the available solicitations and they are easy for everyone to understand. Roles of government acquisition specialists are presented and the rules they must follow to meet strict government policies. Furthermore, I describe the acquisition process and discuss the required steps needed by the contractor in further detail. In the second half of the chapter, I focus on the NAICS and provide a brief history and explanation of its origin. I describe the NAICS in detail, along with the corresponding codes relating to construction. The goal is to provide the reader with all the necessary background information in order to understand the project without the need to look up information from other sources.

3. Chapter III

I center my attention on providing the reader with critical data analyzed in Chapter IV. The data illustrate multiple solicitations, proposals, and awarded contracts. All of the data presented come from government websites and do not involve any human subject research or personal opinions. The data selected will provide the information needed to demonstrate how the NAICS selection can influence small business participation. Although the information presented varies in location, size, and government agencies, all of the data relate to government construction contracting. All of the information is located on the FBO website, and a reference link is provided in order to facilitate verification. All of the information is available to the public and does not require any special permission to access.

4. Chapter IV

I focus on analyzing the data presented in previous chapters in order to uncover common errors that contracting officers make. Government solicitations and proposals are analyzed, dissected, and interpreted in order to demonstrate how NAICS selection influences small business participation. Such analysis focuses on data presented in

Chapters II and III. The decisions and options conducted by contracting officers for small business set-asides are studied and analyzed for any mistakes. I make recommendations in Chapter V regarding any mistakes found during the analysis in Chapter IV.

5. Chapter V

Chapter V consists of the conclusion and recommendations for the contracting officers. Once common mistakes are identified and documented, I make recommendations for future solicitations and proposals. In the conclusion, I summarize the importance of selecting the correct NAICS code and the consequences for small businesses, if an error is made.

E. SUMMARY

A contracting officer's NAICS selection has the potential of positively or negatively affecting a small business. The federal government requires that contracting officers provide the maximum number of opportunities to small businesses. Any error by a contracting officer is a clear violation of FAR 19.201 (2012). There appears to be a wide range of interpretation across the federal government when considering which NAICS to use. In this study, I focus on government solicitations, notices, and awards to identify whether mistakes exist in NAICS selection.

II. RULES AND REGULATIONS OF GOVERNMENT CONTRACTING

Chapter II focuses on government contracting along with the rules and regulations that everyone must follow in order to meet federal mandates. The federal government is constantly looking for responsible small businesses to fulfill goods and services required to conduct day to day operations. Key players in government contracting are described along with programs used to promote small business participation in federal contracting. Chapter II provides the reader with the background information needed to understand federal contracting along with small businesses participation.

A. FEDERAL GOVERNMENT CONTRACTING

The federal government routinely uses commercial contractors to purchase goods and services needed to run operations and meet its goals. Each fiscal year (October 1 through September 30), the government spends billions of dollars on purchases from the private sector. According to Stanberry (2009), “There are over 310,000 government contractors, receiving more than \$400 billion worth of contracts each year.” Purchases are so vast and wide, that any contractor has the ability to sell material or service to the government. The federal government is the largest consumer in the world and awards a contract worth \$465,000 every 20 seconds of each working day (Stanberry, 2009, p. 19). The federal government can be a dependable line of work for any company looking for business opportunities.

B. DEFINING SMALL BUSINESS

The House Armed Services Committee (2012) defines a small business as follows:

By statute, a small business is one that is independently owned and not dominant in its field of operation, but the SBA is permitted to further define size standards on an industry by industry basis. In doing so, “the number of employees is used as one of the criteria in making such definition...the maximum number of employees which a small-business concern may have under the definition shall vary from industry to industry

to the extent necessary to reflect differing characteristics of such industries and to take proper account of other relevant factors.

The Small Business Administration (SBA) in conjunction with FAR 19.102 is used to set the size standards for small business participation in government contracting set-asides.

According to FAR 19.102 (2012):

- The SBA establishes the small business size standards on an industry-by-industry basis by matching an industry with an NAICS code.
- The table of Small Business Size Standards matched to NAICS can be found at <http://www.sba.gov/content/small-business-size-standards>

C. SMALL BUSINESS OPPORTUNITIES

According to the FAR:

It is the policy of the government to provide maximum practicable opportunities in its acquisition to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. (FAR part 19, 2012)

In order to comply with the requirements set by the government, FAR part 6 (2012) encourages the use of full and open competition after the exclusion of sources or set-asides for small businesses. The government is looking to help small businesses grow by providing them with the opportunity to bid on certain projects while competing with businesses their own size.

The federal government provides many opportunities to small businesses that are willing to follow the guidelines. The majority of large federal contracts (>\$150,000) are set aside exclusively for small businesses participation (Stanberry, 2009, p. 189). Government set-asides create remarkable opportunities for small businesses to grow. A small business can bid on a contract from anywhere in the United States as long as it meets the requirements of the solicitation. There is no favoritism in the government or special documents that a company must provide in order to bid on a contract. A small business can participate in a contract as long as it follows the rules, regulations, and laws.

D. THE TYPE OF CONTRACTOR THE GOVERNMENT IS LOOKING FOR

The government is looking for skilled, talented contractors to deliver the required goods and services at fair and reasonable prices. Contractors must be able to offer fair and reasonable prices while complying with the government's socioeconomic goals (Stanberry, 2009, p. 34).

Contractors must

- demonstrate an ability to comply with the rules and regulations set by the government;
- have the financial resources to complete the contract;
- possess the skills necessary to complete the contract; and
- demonstrate the ability to meet the contract deadline.

E. DOWNSIDE OF CONTRACTING WITH THE GOVERNMENT

High levels of bureaucracy and regulation are a major downside to contracting with the government.

According to the House Armed Services Committee (2012, pp. 32–33),

[A]nalysts believe that there is room to further streamline and simplify acquisition regulations in order to reduce the burdens on contractors.... These analysts believe that the complexity of the defense acquisition process, the constantly changing rules of the game, the regulatory burden associated with government contracts, and the business risks associated with defense contracts discourage many companies, particularly small and midsize companies, from competing for defense contracts.

Small and midsize businesses, which often do not have the resources to hire in-house counsel or experts in government contracting, may find government contracting too difficult to navigate.

The amount of rules and procedures are vast and always seem to favor the government over the contractor. Contractors working with the government must be patient and accepting of the mandates in order to successfully navigate the procedures. The federal government implements excessive rules and regulations to ensure tax dollars are being spent responsibly. Unfortunately for small businesses, the complexity of the acquisition process may be preventing many from contracting with the government.

Table 1 illustrates federal contracting goals for the 2010 fiscal year. It clearly demonstrates the failure of the federal government to meet small businesses contracting goals in four out of the five small business types.

Table 1. Federal Contracting Goals and Percentage of Fiscal Year 2010 Federal Contract Dollars Awarded to Small Business, by Type (after House Armed Services Committee, 2012)

Business Type	Federal Goal	Percentage of FY2010 Federal Contract Dollars	Amount Awarded
Small Businesses	23.0%	20.3%	\$ 108.8 billion
Small Disadvantaged Businesses	5.0%	7.0%	\$ 37.7 billion
Women-Owned Small Businesses	5.0%	4.4%	\$ 23.5 billion
HUBZone Small Businesses	3.0%	2.4%	\$ 12.7 billion
Service-Disabled Veteran-Owned Small Businesses	3.0%	2.2%	\$ 12.1 billion

F. GOVERNMENT CONTRACTING OPTIONS

Table 2 lists four contract options available to the government for purchasing goods and services. The list covers small purchases (< \$3,000) up to the largest and most complicated purchases (> \$150,000).

Table 2. Acquisition Methods (from Department of Defense [DOD] Office of Small Business Programs, 2012)

CONTRACT METHODS		
<i>NOTE: Dollar thresholds change for contingency & Commercial</i>		
THRESHOLD	TYPE	ACTION
<\$3,000 (\$2,000 Davis Bacon; \$2,500 Service Contract Act)	Micro-Purchase	Not advertised
>\$3,000 <\$25,000 (\$2,000 Davis Bacon; \$2,500 Service Contract Act)	SAP	Not advertised (sometimes posted locally) Oral or Request for Quotation (RFQ) Normally reserved for small business
>\$25,000 <\$150,000	SAP	Advertised in FBO Oral or RFQ Normally reserved for small business set-aside
>\$150,000	Formal / Large Contract	Advertised in FBO Invitation for Bid (IFB) or Request for Proposal (RFP) Set-aside if ≥ 2 capable 8(a) / HUBZone / SD-VOSB/SB will submit offers @ fair market price

SAP - Simplified Acquisition Procedures

1. Solicitation

According to FAR 2.101 (2012),

‘Solicitation’ means any request to submit offers or quotations to the Government. Solicitations under sealed bid procedures are called ‘invitations for bids.’ Solicitations under negotiated procedures are called ‘requests for proposals.’ Solicitations under simplified acquisition procedures may require submission of either a quotation or an offer.

Goods and services must be solicited in a manner that ensures the government is receiving the best value for the taxpayers. The government uses “full and open

competition” to acquire most of its goods and services over the micro-purchase limit of \$3,000 (Stanberry, 2009, p. 185).

The federal government largely uses three methods to solicit contractors’ offers:

- Simplified acquisition procedures;
- negotiated procurement procedures (formal acquisition procedure); and
- best value—trade off source selection.

2. Micro-Purchases

According to FAR 2.101 (2012),

‘Micro-purchase’ means an acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold.

‘Micro-purchase threshold’ means \$3,000, except it means—

(1) For acquisitions of construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), \$2,000;

(2) For acquisitions of services subject to 41 U.S.C. chapter 67, Service Contract Labor Standards, \$2,500.

Micro-purchases normally cover routine supplies and services and are valued at \$3,000 or less. Micro-purchases make it possible for the federal government to handle day-to-day businesses quickly and efficiently without the large amount of documentation. Supplies and services under \$3,000 are the most common form of procurement and account for 70 percent of the government’s purchasing actions (Stanberry, 2009, p. 189). Micro-purchase values do not change from year to year or with the rate of inflation.

Micro-purchases must follow the following guidelines:

- Government personnel must distribute purchases equally among eligible suppliers.
- Purchases can be made without soliciting multiple contractors, as long as the price is considered reasonable.

a. Davis Bacon Act

The Davis-Bacon Act of 1931 establishes salary requirements for laborers working on public works projects. Under FAR 22.403-1,

[W]age Rate Requirements (Construction), formerly known as the Davis-Bacon Act, provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works within the United States, shall contain a clause (see 52.222-6) that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor.

b. \$2,500 Service Contract Act

The service contract of 1965 requires contractors and subcontractors, working on contracts exceeding \$2,500, to compensate employees at or above the rates determined by the United States Department of Labor. Under FAR 22.1002-1 (2012),

Service contracts over \$2,500 shall contain mandatory provisions regarding minimum wages and fringe benefits, safe and sanitary working conditions, notification to employees of the minimum allowable compensation, and equivalent Federal employee classifications and wage rates.

Wage determinations based on prevailing rates FAR 22.1002-2 (2012),

Contractors performing on service contracts in excess of \$2,500 to which no predecessor contractor's collective bargaining agreement applies shall pay their employees at least the wages and fringe benefits found by the Department of Labor to prevail in the locality or, in the absence of a wage determination, the minimum wage set forth in the Fair Labor Standards Act.

3. Simplified Acquisition or Small Purchase Procedures

Simplified acquisition procedures (SAPs) focus on streamlining the acquisition process while reducing administrative cost. Purchases costing between \$3,000 and \$150,000 qualify as SAPs and are usually reserved exclusively for small businesses (Stanberry, 2009, p. 53). The federal government requires agencies to use SAPs to the maximum extent possible as long as the contracting officer is confident of receiving two or more offers from responsible small businesses at fair and reasonable prices. According to FAR 13.003(a) (2012),

Agencies shall use simplified acquisition procedures to the maximum extent practicable for all purchases of supplies or services not exceeding

the simplified acquisition threshold (including purchases at or below the micro-purchase threshold). This policy does not apply if an agency can meet its requirement using— (1) Required sources of supply under Part 8 (e.g., Federal Prison Industries, Committee for Purchase from People Who are Blind or Severely Disabled, and Federal Supply Schedule contracts); (2) Existing indefinite delivery/indefinite quantity contracts; or (3) Other established contracts.

SAPs represent 90 percent of the government's purchases but account for only 20 percent of the total contracted dollars (Stanberry, 2009, p. 188). By using SAPs, the contracting officer is able to avoid the excessive regulations that slow the procurement of goods and services. SAPs make it possible for contracting officers to acquire goods and services in less time while using fewer government resources.

As stated in Stanberry (2009), SAPs provide the government with different options of entering into contracts as described below.

a. Government-wide Commercial Purchase Card

Government commercial purchase cards are provided to government employees for the purchase of goods and services under \$3,000. Purchase cards facilitate the acquisition process by empowering employees to procure necessary items without the added paperwork of a standard SAP. According to FAR 13.301(a),

Except as provided in 32.1108(b) (2), the Government wide commercial purchase card is authorized for use in making and/or paying for purchases of supplies, services, or construction. The Government wide commercial purchase card may be used by contracting officers and other individuals designated in accordance with 1.603-3. The card may be used only for purchases that are otherwise authorized by law or regulation.

b. Purchase Order

A purchase order (PO) is a binding contract issued by the government to purchase goods and services at the vendors quoted price. All POs come with a firm-fixed-price agreement and requires the government to know the exact quantities along with the delivery date. According to FAR 13.302-1(b) (2012),

Purchase orders shall—(1) Specify the quantity of supplies or scope of services ordered; (2) Contain a determinable date by which delivery of the

supplies or performance of the services is required; (3) Provide for inspection as prescribed in Part 46. Generally, inspection and acceptance should be at destination. Source inspection should be specified only if required by Part 46. When inspection and acceptance will be performed at destination, advance copies of the purchase order or equivalent notice shall be furnished to the consignee(s) for material receipt purposes. Receiving reports shall be accomplished immediately upon receipt and acceptance of supplies; (4) Specify f.o.b. destination for supplies to be delivered within the United States, except Alaska or Hawaii, unless there are valid reasons to the contrary; and (5) Include any trade and prompt payment discounts that are offered, consistent with the applicable principles at 14.408-3.

c. Request for Quotation

The government uses Standard Form 18 to solicit a price for contracts under the SAP limit of \$150,000. The purpose of the request for quotation (RFQ) is to attract as many contractors as possible and have them bid for a specific product or service. A RFQ is used to acquire quotes from contractors, but is not a binding contract. A RFQ contains details on the required product/service along with evaluation criteria. Interested contractors must submit a quote by the set date and time in order to be considered for an award.

4. Sealed Bidding Procedures (Formal Acquisition Procedure)

The federal government normally uses sealed bidding for noncommercial goods or services exceeding \$150,000. Sealed bidding has no dollar limit and can be used by the government as long as specifications can be clearly defined. Adequate time and two or more bidders are required for a successful sealed bidding process. The contracting officer awards the contract to the supplier that is able to meet the requirements at the lowest reasonable price. Sealed bidding creates an environment in which competition results in lower prices for the government while avoiding any favoritism. Sealed bidding always ends with a fixed-price-type contract.

a. The Solicitation Process

The contracting officer begins the process by publishing a summary of the solicitation package, known as an invitation for bid (IFB), on the FBO website

(Stanberry, 2009, p. 199). The summarized IFB identifies the required goods and services and is published 15 days before the actual solicitation. Due to government regulations, the contracting officer needs to allow at least 30 days between the IFB and the bid opening.

- Stanberry (2009) highlights the major components of the Sealed Bidding (IFB) Process and displays them in four distinct parts.
 - The contracting officer publishes the actual IFB on the FBO website.
 - The IFB contains all the necessary information an interested bidder needs in order to fulfill the contract.
 - The bidder agrees to the terms of the IFB and proposes a price.
 - The IFB has a transmittal sheet that identifies the solicitation number, required goods, contract period, and other relevant information.
- The IFB should include
 - a complete description of the goods and services needed by the government;
 - performance schedules;
 - a statement of work (SOW): Segment in the contract that outlines the work to be performed, location of work, period of performance, deliverable schedule, applicable performance standards, and special requirements a contractor must accomplish (FAR Subpart 8.405-2, 2012);
 - technical data;
 - acceptance criteria; and
 - a closing date for bids.

5. Negotiated Procurement Procedures (Formal Acquisition Procedure)

The government uses a negotiated procurement when it is relying on the technical knowledge of the contractor for a certain product or service. The greatest benefit to a negotiated procurement is the ability for the government to discuss the details of the contract prior to making a final selection. Negotiated procurement offers the government the most flexible acquisition process but comes with many complications for the

contracting officer. Negotiated procedures are used in 80 percent of contracts that exceed the simplified acquisition threshold of \$150,000 (Stanberry, 2009, p. 264).

The following conditions should be present when negotiated procedures are used:

- The contract meets all federal regulations.
- The contract provides incentive, to the winning contractor, to perform at the lowest possible cost to the government.
- The contractor provides a fair and reasonable contract price. (Stanberry, 2009, p. 217)

a. The Exchange of Information Prior to Proposal Acceptance

The government encourages the exchange of information between offerors and contracting officers. Interested offerors should begin exchanging information at the earliest stage possible and only stop when the proposal has been accepted. The exchange of information brings the government's needs to the surface and illustrates the capabilities of the industry (FAR 15.201, 2012).

The government implements many techniques to encourage interaction between the contracting officers and offerors (FAR 15.201(c), 2012):

- industry or small business conferences;
- public hearings;
- market research;
- presolicitation notices;
- draft RFPs;
- requests for information (RFIs), or government looking for industry information for planning purposes; and
- site visits.

b. Presolicitation Notices

Presolicitation notices provide government officials with the information necessary to identify interested contractors. The government encourages feedback from contractors and in return acquires valuable information from the industry. Interested contractors obtain enough information from presolicitation notices so that they can decide whether to participate in the government contract. Presolicitation notices can favor both

the government and potential contractors by providing both parties with valuable information early in the acquisition process. Under FAR 15.202(a),

(a) The agency may publish a presolicitation notice (see 5.204) that provides a general description of the scope or purpose of the acquisition and invites potential offerors to submit information that allows the Government to advise the offerors about their potential to be viable competitors. The presolicitation notice should identify the information that must be submitted and the criteria that will be used in making the initial evaluation. Information sought may be limited to a statement of qualifications and other appropriate information (e.g., proposed technical concept, past performance, and limited pricing information). At a minimum, the notice shall contain sufficient information to permit a potential offeror to make an informed decision about whether to participate in the acquisition. This process should not be used for multi-step acquisitions where it would result in offerors being required to submit identical information in response to the notice and in response to the initial step of the acquisition.

c. Request for Proposal

According to Stanberry (2009), a request for proposal (RFP) document is used for the solicitation of goods and services when following a negotiated procurement procedure. An RFP contains cost and technical details, along with other required information, a contractor needs in order to prepare a proposal. A contractor's response to an RFP is considered an offer and can be accepted by the government, resulting in a binding contract. An RFP must state whether the contracting officer intends to evaluate and award a contract with or without discussion with the offerors. A contracting officer must communicate with all responsible offerors, within a competitive price range, if the intent of the government is to award a contract after discussions (Stanberry, 2009, p. 216). Under FAR 15.203(a),

(a) Requests for proposals (RFPs) are used in negotiated acquisitions to communicate Government requirements to prospective contractors and to solicit proposals. RFPs for competitive acquisitions shall, at a minimum, describe the—(1) Government's requirement; (2) Anticipated terms and conditions that will apply to the contract: (i) The solicitation may authorize offerors to propose alternative terms and conditions, including the contract line item number (CLIN) structure; and (ii) When alternative CLIN structures are permitted, the evaluation approach should consider the potential impact on other terms and conditions or the requirement (e.g.,

place of performance or payment and funding requirements) (see 15.206); (3) Information required to be in the offeror's proposal; and (4) Factors and significant subfactors that will be used to evaluate the proposal and their relative importance.

The following are RFP requirements:

- RFP must be able to describe the government requirements, along with the contract's terms and conditions.
- Information required for the contractor's proposal must be provided in the RFP.
- The RFP must contain all relevant information that will be used to evaluate the proposal. (Stanberry, 2009, p. 220)

d. Negotiated (RFP) Process

Negotiated procurement procedures share many of the same solicitation steps with sealed bidding. The contracting officer begins with publishing presolicitation notice which outlines the basic details of an upcoming solicitation on the FBO website. Once the presolicitation notice has been on the website for 15 days, the actual solicitation is published. The biggest difference between an IFB and a solicitation can be found in the solicitation provision, proposal preparation instruction, and the evaluation criteria (Stanberry, 2009, p. 220).

Figure 1 provides the typical process for the negotiated procurement of goods and services. The figure provides the complete process while highlighting the most important steps required by the contracting officer and the contractor.

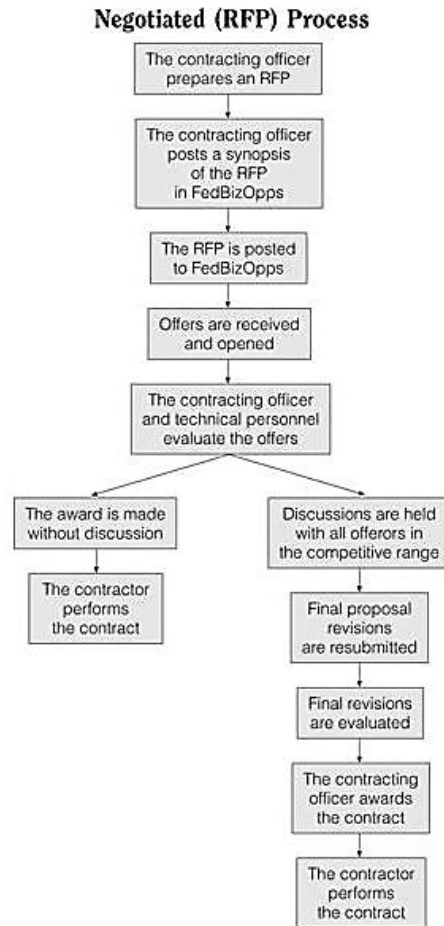


Figure 1. Negotiated (RFP) Process (from Stanberry, 2009, p. 219)

G. FEDERAL BUSINESS OPPORTUNITIES

On January 4, 2002, the FBO replaced the Commerce Business Daily (CBD) and became the only authorized source for government procurement openings and information (Stanberry, 2009, p. 151). FBO is open to the public and can be located by going to www.fbo.gov or www.fedbizopps.gov. The General Services Administration (GSA) is responsible for maintaining and operating the website, but each government buying agency is responsible for the information it provides (Stanberry, 2009, p. 151). Government agencies throughout the United States publicize their business opportunities on the FBO website. Anybody looking to do business with the government on projects over \$25,000 can find useful information ranging from past to current business opportunities. Interested contractors can search, monitor, and obtain opportunities from

the entire federal contracting community. According to Stanberry (2009), over 95 percent of all federal opportunities are listed on FBO.

FBO is responsible for publicizing the following:

- summaries and notices of planned contract activities;
- contract solicitation;
- amendments/modifications;
- subcontracting opportunities;
- contracting awards;
- special notices and announcements;
- other business opportunities; and
- approximately 500–1,000 new notices each business day. (Stanberry, 2009, pp. 151–152)

H. KEY PLAYERS IN GOVERNMENT CONTRACTING

1. Contracting Officer

The contracting officer is the most important person to a seller conducting business with the government. The contracting officer is the only person with the authority to bind the government to a contract greater than \$3,000 (Stanberry, 2009, p. 68). Contracting officers have the power to enter into, manage, or terminate a contract in accordance with government regulations. A contracting officer is appointed by the head of the agency and is issued a Certificate of Appointment, Standard Form 1402 (Stanberry, 2009, p. 69). The Certificate of Appointment is also known as the “warrant” and states the maximum amount to which the contracting officer is able to bind the government. The contracting officer has the responsibility of protecting the interest of the government by ensuring contract agreement between the government and the offeror.

Stanberry (2009) lists the contracting officer’s responsibilities:

- ensures that sufficient funds are available for the obligation;
- issues solicitations, accepts contractor bids, and produces the original award of the contract;

- ensures that the price paid by the government is “fair and reasonable” - a sensible price, in an open market, for a good or service that a businessperson would pay for;
- answers any questions a contractor may have prior to the contract award;
- ensures that the contractor receives impartial, fair, and equitable treatment; and
- ensures that the contract meets the requirements of the applicable laws and regulations (p. 71).

Contracting officers can delegate their authority and responsibility to other government personnel. By delegating their authority, contracting officers have more time to award new contracts or attend to other tasks. Although contracting officers may delegate their authority, they still have the final power on all issues that impact a contract. Contracting officers may choose to delegate their power to the following government employees:

- administrative contracting officer (ACO);
- termination contracting officer (TCO); or
- contracting officer’s representative (COR) or contracting officer’s technical representative (COTR). (Stanberry, 2009, p. 171)

a. Administrative Contracting Officer

The contracting officer has the option to pass on the executive responsibility of a contract to the ACO. Once executive responsibility is accepted, the ACO can observe a contractor’s performance, review and accept goods and services, and ensure payment to the contractor. The ACO can also modify the contract within the limitations delegated by the contracting officer.

b. Termination Contracting Officer

Although uncommon, a TCO may be used to settle the final details with the contractor in the event of a terminated contract. The TCO runs the settlement process focuses on providing a fair deal to the government and the contractor. The process begins with the contractor completing the settlement proposal and forwarding it for review to the TCO and the government auditors. Once the TCO agrees with the settlement proposal, the agreement is signed, and payment can be made to the contractor.

c. Contracting Officer's Representative

The contracting officer has the option of assigning a COR or a COTR to help monitor a contractor's performance. The contracting officer appoints the COR in writing, along with his or her responsibilities and the extent of their authority. Both the COR and the COTR are hired to ensure that the contractor follows the terms and conditions of the contract. The COR is responsible for providing technical advice concerning a contract's provisions and statement of work. Inspections provide the COR with the necessary information to update the contracting officer on the status of the contract and any problems he or she may be facing. Although the COR is there to assist, the contracting officer has the final power on things like unit cost, total price, quantity, or delivery schedules (Stanberry, 2009).

An individual assigned as a COR must have proper certification prior to working on an acquisition. COR certification requirements vary by government agency, for each agency focuses on competency-based and assignment-specific training. All government agencies require ongoing continuous learning in order to maintain active certification. All active COR's must meet all requirements in order to assist a contracting officer in the acquisition process.

2. Competition Advocates

The Competition in Contracting Act (CICA) of 1984 requires that all federal agencies assign a competition supporter, who is responsible for encouraging full and open competition (Stanberry, 2009, p. 73). Competition advocates must remain neutral and cannot be given any tasks that may jeopardize their ability to do their job. A competition supporter looks for details in a contract that can limit competition or discourage contractors. Unnecessary details or specifications, unfavorable statements of work, and troublesome procedures discourage contractors and reduce competition for a specific contract. Competition advocates review their agency's contracting procedures environment and ensure that appropriate actions are taken to encourage competition and the use of commercial goods. CICA holds the government responsible for promoting full and open competition.

3. Small Business Specialist

Small and Disadvantaged Business Utilization Specialists (SADBUS) are required to be present at all major federal agencies. The SADBUS is there to help small businesses with the contracting process and assist with any rules or regulations. SADBUS works with their agency in ensuring a fair portion of contracts are going to small businesses. A SADBUS reviews contracts above \$10,000 and determines if small business firms in the 8(a), HubZone, SDVOSB, WOSB, EDWOSB, or SB programs are capable of satisfying the contract requirement. The SADBUS goal is to maximize small business contracting opportunities while educating federal agencies on the benefits and requirements of contracting with SBs.

I. RULES AND REGULATIONS

The federal government sets guidelines for contracting officers to follow when purchasing goods and services. The goal is to develop and maintain a federal acquisition process that is both simple and efficient.

1. Federal Acquisition Streamlining Act

Congress passed the Federal Acquisition Streamlining Act (FASA) in 1994 with the goal of streamlining the federal acquisition process (Stanberry, 2009, p. 52). FASA was necessary due to the increasing amount of regulation causing the purchase of goods and services to become inefficient. The Act encourages federal agencies to maximize the use of commercial off-the-shelf (COTS) items and avoid any federal specifications and standards. The government is encouraged to accept goods and services offered by the private sector unless an agreement can be made resulting in a lower price. FASA focuses on reserving contracts between \$3,000 and \$100,000 to small businesses and using fixed-price performance-based contracting to the maximum extent possible. The changes discussed in this act focus on making the federal acquisition process as simple and efficient as possible.

2. Federal Acquisition Regulation

The Federal Acquisition Regulation (FAR; 2012) is a set of regulations pertaining to the federal purchases of goods and services. The FAR contains rules and procedures that all contracting officers must follow when acquiring goods or service. The GSA, DoD, and the National Aeronautics and Space Administration (NASA) are responsible for distributing and maintaining the FAR (Stanberry, 2009, p. 46). The Code of Federal Regulations (CFR) (2010) states that the FAR is intended to establish uniform policies and procedures for the acquisition of goods and services by all executive agencies (Federal Register National Archives and Records Administration, 2010, p. 5). The FAR was developed by the government with the goal to deliver the best value goods and services while ensuring all interested contractors have an equal opportunity in federal contracting.

The FAR was created to provide a set of rules and regulations for both the public and government to follow and ensures all contracting officers follow the same guidelines regardless of location, contract size or history. FAR part 5 informs the public of the procedures and regulations contracting officers must obey when posting a new solicitation for a good or service. FAR part 6 lists the policies that encourage full and open competition among all businesses bidding for government contracts. FAR parts 19 and 26 describe small business participation and identify how the NAICS is used to identify size standards for small businesses. Through my research, I have selected the following excerpts from FAR parts 5, 6, 19, and 26 (2012) as relevant policies concerning small business participation in government contracting. The policies and procedures provided in the following sections are taken directly from the FAR; the original formatting and wording has been summarized, but content and intent of the FAR has been maintained.

a. FAR Part 5-Publicizing Contract Actions

The policies described in FAR part 5 (2012) state that contracting officers must publicize any contracting action through the government-wide point of entry (GPE). Publicizing all federal contracts increases competition among contractors, improves

industry participation, and reminds everyone to support socio-economic programs by maximizing SB participation in federal contracting. The information being publicized must be in agreement with the interface description located at www.fedbizopps.gov (FAR part 5, 2012).

- This section of the FAR highlights the necessary actions and guidelines when publicizing any contract through the GPE.
 - 5.201 General
 - a) As required by the Small Business Act (15 U.S.C. 637(e)) and 41 U.S.C. 1708, agencies must make notices of proposed contract actions available as specified in paragraph (b) of this section.
 - b) (1) For acquisition of supplies and services, the contracting officer must transmit a notice to the GPE, for each proposed
 - I. Contract action meeting the threshold of \$25,000 or higher
 - II. modification to an existing contract for additional supplies or services that meets the threshold of \$25,000 or higher;
 - III. Contract action in any amount when advantageous to the government.
 - c) The primary purposes of the notice are to improve small business access to acquisition information and enhance competition by identifying contracting and subcontracting opportunities.
 - d) The GPE may be accessed via the Internet at <http://www.fedbizopps.gov>.
 - 5.203 Publicizing and Response Time
 - a) Whenever agencies are required to publicize notice of proposed contract actions under 5.201, they must proceed as follows:

An agency must transmit a notice of proposed contract action to the GPE. The notice must be published at least 15 days before issuance of solicitation.

For acquisitions of commercial items, the contracting officer may

 - Establish a shorter period for issuance of the solicitation; or
 - Use the combined synopsis and solicitation procedure.

b) The contracting officer must establish a solicitation response time that will afford potential offeror's a reasonable opportunity to respond to each proposed contract action, in an amount estimated to be greater than \$25,000, but not greater than the simplified acquisition threshold (\$150,000).

c) Except for the acquisition of commercial items, agencies shall allow at least a 30-day response time for receipt of bids or proposals from the date of issuance of a solicitation if the proposed contract action is expected to exceed the SAP threshold.

- 5.204 Presolicitation Notices

a) Contracting officers must provide access to presolicitation notices through the GPE. The contracting officer must synopsise a proposed contract action before issuing any resulting solicitation (see 5.201 and 5.203).

- 5.207 Preparation and Transmittal of Synopses

a) Content: Each synopsis transmitted to the GPE must address the following data elements, as applicable:

1. Action Code,
2. Date,
3. Year,
4. Contracting Office ZIP Code,
5. Classification Code,
6. Contracting Office Address,
7. Subject,
8. Proposed Solicitation Number,
9. Closing Response Date,
10. Contact Point or Contracting Officer,
11. Contract Award and Solicitation Number,
12. Contract Award Dollar Amount,
13. Contract Line Item Number,
14. Contract Award Date,
15. Contractor,
16. Description,
17. Place of Contract Performance, and
18. Set-aside Status.

- This section of the FAR makes clear the rules a contracting officer must follow when releasing information. (FAR part 5, 2012)
 - 5.401 General
 - a) When it is necessary to obtain information from potential contractors and others outside the government for use in preparing government estimates, contracting officers shall ensure that the information is not publicized or discussed with potential contractors.
 - 5.403 Request From Member of Congress
 - a) Contracting officers shall give members of Congress, upon their request, detailed information regarding any particular contract.

b. FAR Part 6-Competition Requirements

The policies and procedures described in FAR part 6 (2012) are given to encourage and provide full and open competition during the acquisition process. In order to comply with the requirements set by the government, FAR part 6 encourages the use of full and open competition after the exclusion of sources or set-asides for small businesses. The government is looking to help small businesses grow by providing them with the opportunity to bid on certain projects while competing with businesses their own size. Full and open competition between small businesses is fair for everyone and leads to better products at the lowest possible prices. The policies and procedures found in FAR part 6 provide all the necessary information for a contracting officer to produce a full and open contract that is beneficial to both the government and contractors.

- FAR Subpart 6.1 Full and Open Competition (FAR part 6, 2012)
 - 6.101 Policy
 - a) Contracting officers shall promote and provide for full and open competition in soliciting offers and awarding government contracts.
 - b) Contracting officers shall provide for full and open competition through use of the competitive procedure(s) contained in this Subpart that are best suited to the circumstances of the contract action and consistent with the need to fulfill the government's requirements efficiently.
 - 6.102 Use of Competitive Procedures

- a) The competitive procedures available for use in fulfilling the requirements for full and open competition are as follows:
 1. Sealed bids. (see 6.401);
 2. Competitive proposals;
 3. Combination of competitive Procedures; and
 4. Other Competitive Procedures.
- FAR Subpart 6.2 Full and Open Competition After Exclusion of Sources (FAR part 6, 2012)
 - 6.202 Establishing or Maintaining Alternative Sources
 - a) Agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being acquired if the agency head determines that to do so would
 1. Increase or maintain competition and likely result in reduced overall costs for the acquisition, or for any anticipated acquisition; and
 2. Be in the interest of national defense in having a facility available for furnishing the supplies or services in case of a national emergency or industrial mobilization.
 - 6.203 Set-Asides for Small Business Concerns
 - a) To fulfill the statutory requirements relating to small business concerns, contracting officers may set aside solicitations to allow only such business concerns to compete.
 - b) No separate justification or determination and findings is required under this part to set aside a contract action for small business concerns.
- FAR Subpart 6.3 Other Than Full and Open Competition (FAR part 6, 2012)
 - 6.300 Scope of Subpart

This Subpart prescribes policies and procedures, and identifies the statutory authorities, for contracting without providing for full and open competition.
 - 6.301 Policy
 - a) Contracting without providing for full and open competition or full and open competition after exclusion of sources is a violation of statute, unless permitted by one of the exceptions in 6.302.

- 6.302 Circumstances permitting other than full and open competition
 - 6.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements;
 - 6.302-2 Unusual and compelling urgency;
 - 6.302-3 Industrial mobilization; engineering, developmental, or research capability; or expert services;
 - 6.302-4 International agreement;
 - 6.302-5 Authorized or required by statute;
 - 6.302-6 National security; or
 - 6.302-7 Public interest.
- FAR Subpart 6.4 Sealed Bidding and Competitive Proposals (FAR part 6, 2012)
 - 6.401 Sealed Bidding and Competitive Proposals
 - a) Sealed bids: Contracting officers shall solicit sealed bids if
 - 1. Time permits the solicitation, submission, and evaluation of sealed bids;
 - 2. The award will be made on the basis of price and other price-related factors;
 - 3. It is not necessary to conduct discussions with the responding offeror's about their bids; and
 - 4. There is a reasonable expectation of receiving more than one sealed bid.
 - b) (1) Contracting officers may request competitive proposals if sealed bids are not appropriate under paragraph (a) of this section.

c. FAR Parts 19-Small Business Programs and 26-Other Socioeconomic Programs

The policies and procedures described in FAR parts 19 and 26 pertain to small business programs (socioeconomic programs) important to the federal government. FAR parts 19 and 26 describe the rules and regulations that all contracting officers must follow when acquiring goods and services for the government. The federal government provides small businesses with unparalleled opportunities to grow and prosper. Government

policies, size standards, and small business set-asides ensure small businesses are given the maximum amount of opportunities in contracting.

- FAR Subpart 19.001 Definitions (FAR part 19, 2012)
 - 19.001 Definitions
 - Concern: any business entity organized for profit with a place of business located in the United States or its outlying areas and that makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. “Concern” includes but is not limited to an individual, partnership, corporation, joint venture, association, or cooperative.
 - Fair market price: a price based on reasonable costs under normal competitive conditions and not on lowest possible cost.
 - Industry: all concerns primarily engaged in similar lines of activity, as listed and described in the NAICS manual.
 - Non manufacturer rule: a contractor under a small business set-aside or 8(a) contract shall be a small business under the applicable size standard and shall provide either its own product or that of another domestic small business manufacturing or processing concern.
- FAR Subpart 19.1 Size Standards (FAR part 19, 2012)
 - 19.101 Explanation of Terms
 - Affiliates: business concerns are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other, or another concern controls or has the power to control both.
 - 19.102 Size Standards
 - a) (1) The SBA establishes small business size standards on an industry-by-industry basis. Small business size standards matched to industry NAICS codes are published by the Small Business Administration and are available at <http://www.sba.gov/content/small-business-size-standards>
 - (2) NAICS codes are updated by the Office of Management and Budget (OMB) through its Economic Classification Policy Committee every five years. New NAICS codes are not available for use in Federal contracting until the Small Business Administration publishes corresponding industry size standards.
 - b) Small business size standards are applied by
 - 1. Classifying the product or service being acquired in the industry whose definition, as found in the NAICS

manual, which best describes the principal nature of the product or service being acquired; and

2. Identifying the size standard SBA established for the industry; and

3. Specifying the size standard in the solicitation so that the offeror's can appropriately represent themselves as small or large.

c) For size standard purposes, a product or service shall be classified in only one industry, whose definition best describes the principal nature of the product or service being acquired even though for other purposes it could be classified in more than one.

d) When acquiring a product or service that could be classified in two or more industries with different size standards, contracting officers shall apply the size standard for the industry accounting for the greatest percentage of the contract price.

- FAR Subpart 19.2 Policies (FAR part 19, 2012)

- 19.201 General Policy

a) It is the policy of the government to provide maximum practicable opportunities in its acquisitions to small business, veteran-owned small business, service-disabled veteran-owned small business, historically underutilized business zone (HUBZone) small business, small disadvantaged business, and women-owned small business concerns.

b) The Department of Commerce will determine on an annual basis, by NAICS Industry Subsector, and region, if any, the authorized small disadvantaged business (SDB) procurement mechanisms and applicable factors (percentages).

c) Heads of contracting activities are responsible for effectively implementing the small business programs within their activities, including achieving program goals.

d) The Small Business Act requires each agency with contracting authority to establish an Office of Small and Disadvantaged Business Utilization.

e) A Small Business Specialist must be appointed and act in accordance with agency regulations.

- 19.202 Specific Policies

a) Contracting officers shall comply with the specific policies listed in this section and shall consider recommendations of the agency Director of Small and Disadvantaged Business Utilization, or the Director's designee, as to whether a particular acquisition

should be awarded under FAR Subpart 19.5, 19.8, 19.13, 19.14, or 19.15.

- 19.202-1 Encouraging Small Business Participation in Acquisitions
- Small business concerns shall be afforded an equitable opportunity to compete for all contracts that they can perform to the extent consistent with the government's interest.
- 19.202-2 Locating Small Business Sources
- The contracting officer must, to the extent practicable, encourage maximum participation by small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in acquisitions by taking the following action:
 - a) Before issuing solicitations, make every reasonable effort to find additional small business concerns, unless lists are already excessively long and only some of the concerns on the list will be solicited.
- 19.202-4 Solicitation
- The contracting officer must encourage maximum response to solicitations by small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by taking the following actions:
 - a) Allow the maximum amount of time practicable for the submission of offers.
 - b) Furnish specification, plans, and drawings with solicitations, or furnish information as to where they may be obtained or examined.
- 19.202-5 Data Collection and Reporting Requirements
- Agencies must measure the extent of small business participation in their acquisition programs by taking the following actions:
 - a) Require each prospective contractor to represent whether it is a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, women-owned small business economically disadvantaged women-owned small business (EDWOSB) concern, or WOSB concern eligible under the WOSB Program.

- b) Accurately measure the extent of participation by small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in government acquisitions in terms of the total value of contracts placed during each fiscal year, and report data to the SBA at the end of each fiscal year.
- 19.202-6 Determination of Fair Market Price
 - a) The fair market price shall be the price achieved in accordance with the reasonable price guidelines in FAR 15.404-1
 - b)
 - 1. FAR 15.404-1 (b)

Price analysis for commercial and non-commercial items.

(1) Price analysis is the process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit. Unless an exception from the requirement to obtain certified cost or pricing data applies, at a minimum, the contracting officer shall obtain appropriate data, without certification, on the process at which the same or similar items have previously been sold and determine whether the data is adequate for evaluating the reasonableness of the price. Price analysis may include evaluating data other than certified cost or pricing data obtained from the offeror or contractor when there is no other means for determining a fair and reasonable price. Contracting officers shall obtain data other than certified cost or pricing data from the offeror or contractor for all acquisitions (including commercial item acquisitions), if that is the contracting officer's only means to determine the price to be fair and reasonable (p. 369).
- 19.203 Relationship Among Small Business Programs
 - a) There is no order of precedence among the 8(a) Program, HUBZone Program, Service-Disabled Veteran-Owned Small Business (SDVOSB) Procurement Program, or the Women-Owned Small Business (WOSB) Program.
 - b) At or below the simplified acquisition threshold. For acquisitions of supplies or services that have anticipated dollar value exceeding \$3,000 but not exceeding \$150,000, the requirement at 19.502-2(a) to exclusively reserve acquisitions for small business concerns does not preclude the contracting officer from awarding a contract to a small business under the 8(a)

Program, HUBZone Program, SDVOSB Program, or WOSB Program.

c) Above the simplified acquisition threshold. For acquisitions of supplies or services that have an anticipated dollar value exceeding the simplified acquisition threshold definition at 2.101, the contracting officer shall first consider an acquisition for the small business socioeconomic contracting programs before considering a small business set-aside.

d) In determining which socioeconomic program to use for an acquisition, the contracting officer should consider, at a minimum,

1. Results of market research that was done to determine if there are socioeconomic firms capable of satisfying the agency's requirement; and
2. Agency progress in fulfilling its small business goals.

- FAR Subpart 19.3 Determination of Small Business Status for Small Business Programs (FAR part 19, 2012)

- 19.301-1 Representation by the Offeror

a) To be eligible for award as a small business, an offeror must represent in good faith that it is a small business at the time of its written representation.

b) The contracting officer shall accept an offeror's representation in a specific bid or proposal that it is a small business unless

1. another offeror or interested party challenges the concern's small business representation; or
2. the contracting officer has a reason to question the representation.

c) If an offeror's small business status is challenged, the SBA will evaluate the status of the concern and make a determination which will be binding on the contracting officer, as to whether the offeror is a small business.

- FAR Subpart 19.4 Cooperation With the Small Business Administration (FAR part 19, 2012)

- 19.401 General

a) The Small Business Act is the authority under which the Small Business Administration (SBA) and agencies consult and cooperate with each other in formulating policies to ensure that small business interests will be recognized and protected.

- b) The Director of Small and Disadvantaged Business Utilization serves as the agency focal point for interfacing with SBA.
- 19.402 Small Business Administration Procurement Center Representatives
 - a) (1) The SBA may assign one or more procurement center representatives to any contracting activity or contract administration office to carry out SBA policies and programs.
 - b) Upon their request and subject to applicable acquisition and security regulations, contracting officers shall give SBA procurement center representatives access to all reasonably obtainable contract information that is directly pertinent to their official duties.
 - c) The duties assigned by SBA to its procurement center representatives include the following:
 - 1. Reviewing proposed acquisitions to recommend
 - i. The setting aside of selected acquisition not unilaterally set-aside by the contracting officer;
 - ii. New qualified small business sources, including veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, economically disadvantaged women-owned small, and women-owned small eligible under the Woman-Owned Small Business Program; and
 - iii. Breakout of components for competitive acquisitions.
 - 2. Reviewing proposed acquisition packages provided in accordance with 19.202-1(e). If the SBA procurement center representative believes that the acquisition, as proposed, makes it unlikely that small businesses can compete for the prime contract, the representative shall recommend any alternate contracting method that the representative reasonably believes will increase small business prime contracting opportunities.
- FAR Subpart 19.5 Set-Asides for Small Business (FAR part 19, 2012)
 - 19.501 General
 - a) The purpose of small business set-asides is to award certain acquisitions exclusively to small business concerns. A “set-aside

for small business” is the reserving of an acquisition exclusively for participation by small business concerns.

b) The determination to make a small business set-aside may be unilateral or joint. A unilateral determination is one that is made by the contracting officer. A joint determination is one that is recommended by the SBA procurement center representative and concurred in by the contracting officer.

c) The contracting officer shall review acquisitions to determine whether they can be set-aside for small business, giving consideration to the recommendations of agency personnel having cognizance of the agency’s small business programs. The contracting officer shall perform market research and document why a small business set-aside is inappropriate when an acquisition is not set-aside for small business, unless an award is anticipated to a small business under the 8(a), HUBZone, SDVOSB, or WOSB Programs.

d) At the request of an SBA procurement center representative, the contracting officer shall make available for review at the contracting office (to the extent of the SBA representative’s security clearance) all proposed acquisitions in excess of the micro-purchase threshold that have not been unilaterally set-aside for small business.

e) To the extent practicable, unilateral determinations initiated by a contracting officer shall be used as the basis for small business set-asides rather than joint determinations by an SBA procurement center representative and contracting officer.

f) All solicitations involving set-asides must specify the applicable small business size standard and NAICS code (see 19.303).

- 19.502-1 Requirements for Setting Aside Acquisitions

a) The contracting officer shall set-aside an individual acquisition or class of acquisitions for competition among small businesses when

1. It is determined to be in the interest of maintaining or mobilizing the nation’s full productive capacity, war, or national defense programs; or
2. Assuring that a fair proportion of government contracts in each industry category is placed with small business concerns.

- 19.502-2 Total Small Business Set-Asides

- a) Each acquisition of supplies or services that has an anticipated dollar value exceeding \$3,000, but not over \$150,000, is automatically reserved exclusively for small business concerns and shall be set aside for small business unless the contracting officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery.
 - b) The contracting officer shall set aside any acquisition over \$150,000 for small business participation when there is reasonable expectation that
 - 1. Offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns; and
 - 2. Award will be made at fair market prices.
- 19.502-5 Methods of Conducting Set-Asides
 - a) Total small business set-asides may be conducted by using simplified acquisition procedure (Part 13), sealed bids (Part 14), or competitive proposals (Part 15).
- 19.502-6 Insufficient Causes for not Setting Aside an Acquisition

None of the following is, in itself, sufficient cause for not setting aside an acquisition:

 - a) A large percentage of previous contracts for the required item(s) has been placed with small business concerns.
 - b-e) Material deliberately left out. Does not fall within the scope of the project.
 - f) Small business concerns are already receiving a fair proportion of the agency's contracts for supplies and services.
 - g) A class small business set-aside of the item or service has been made by another contracting activity.
 - h) A "brand name or equal" product description will be used in the solicitation.
- 19.505 Rejecting Small Business Administration Recommendations
 - a) If the contracting officer rejects a recommendation of the SBA procurement center representative, written notice shall be furnished to the appropriate SBA representative within 5 working days of the contracting officer's receipt of the recommendation.
- 19.506 Withdrawing or Modifying Small Business Set-Asides

- a) If, before award of a contract involving a small business set-aside, the contracting officer considers that award would be detrimental to the public interest (e.g., payment of more than a fair market price), the contracting officer may withdraw the small business set-aside determination whether it was unilateral or joint.
- 19.508 Solicitation Provisions and Contract Clauses
 - a-b) Material deliberately left out. Does not fall within the scope of the project.
 - c) The contracting officer shall insert the clause at 52.219-6, Notice of Total Small Business Set-Aside, in solicitations and contracts involving total small business set-asides or reserves.

J. BASIC SMALL BUSINESS PROGRAMS (SOCIO-ECONOMIC CATEGORIES)

The following is a list created by the SBA covering the most common small business programs available to the public. Additional information of the following small business programs can be found in FAR parts 19 and 26 (DOD Office of Small Business Programs, 2012, p. 2):

- Small Business (SB): Located in the U.S., organized for profit, independently owned and operated (including affiliates), not dominant in field of operation in which it is bidding on government contracts, and meets Small Business Administration (SBA) size standards included in solicitation. Size standard is based upon the NAICS assigned to the specific procurement dependent upon product/service purchased.
- Woman-Owned Small Business (WOSB): Small business, at least 51% owned by ≥ 1 women, and management and daily business operations controlled by ≥ 1 woman. Small Disadvantaged Business (SDB); small business, unconditionally owned and controlled by ≥ 1 socially and economically disadvantaged individuals who are of good character and citizens of the U.S. and SBA-certified.
- Small Disadvantaged Business 8(a) Certified [8(a)]: Small business, self-certified as an SDB, and SBA-certified or self-certified into the 8(a) business development program for a period of nine years.
- Historically Underutilized Business Zone (HUBZone): Small business, owned and controlled $\geq 51\%$ by U.S. citizens, SBA-certified as a HUBZone concern (principal office located in a designated HUBZone and $\geq 35\%$ of employees live in a HUBZone).

- Veteran-Owned Small Business (VOSB): Small business, veteran-owned as defined in 38 USC 101(2), $\geq 51\%$ owned by ≥ 1 veterans, and management/daily operations controlled by ≥ 1 veterans.
- Service-Disabled Veteran Owned Small Business (SD-VOSB): Small business, veteran-owned, $\geq 51\%$ owned by ≥ 1 service-disabled veterans, and management and daily business operations controlled by ≥ 1 service disabled veterans or in the case of veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran, and with 0–100% service-connected disability as defined in 38 USC 101(16) and documented on DD 214 or equivalent. (DOD Office of Small Business Programs, 2012, p. 2)

K. NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM

The North American Industry Classification System (NAICS) is used by the United States, Canada, and Mexico to classify businesses according to the production process it uses (U.S. Bureau of Labor Statistics, 2002). The NAICS is used by all levels of government and private organizations when collecting and publishing information relating to North American industries. The OMB appointed the Economic Classification Policy Committee (ECPC) with the responsibility of updating the NAICS every five years (U.S. Department of Commerce, 2012a).

The primary focuses of the NAICS are to:

- facilitate the collection and analysis of data among similar businesses;
- promote consistency when analyzing statistical information relating to the North American economy; and
- group together businesses that use similar production processes (Vogel, 2001).

1. History

The NAICS was first released in 1997 after a joint effort by Mexico's Instituto Nacional de Estadística, Geografía Informática (INEGI), Statistics Canada, and the United States OMB (U.S. Department of Commerce, 2012a). The NAICS replaced the Standard Industrial Classification (SIC) and has become the primary system used to classify industrial establishments in North America. According to Vogel (2001), with the 1997 publication of NAICS came the end of SIC as an industrial classification system in the United States.

2. Standard Industrial Classification

The SIC was developed in the 1930s as a way of categorizing the reporting of industrial activity data (Vogel, 2001, p. 9). Under the SIC system, some businesses were classified by what they produced, but in other situations businesses were classified by the type of customers they assisted (U.S. Bureau of Labor Statistics, 2002). SIC codes were developed during a time when the United States economy was manufacturing based. With the U.S. moving towards a service sector economy, SIC codes can no longer serve as an effective way to classify our businesses. The U.S. government last updated the SIC in 1987 (Vogel, 2001, p. 9).

3. SIC Codes

The SIC system uses a total of four digits to define a U.S. industry. Table 3 illustrates the different levels of detail used in the SIC system.

Table 3. SIC Code Levels of Detail

SIC	
Level	Code
Division	X
Major Group	XX
Industry Group	XXX
Industry	XXXX

4. NAICS Codes

The NAICS numbering system uses a maximum of six digits to accurately define a U.S. industry. Table 4 illustrates the different levels of detail used in the NAICS.

Table 4. NAICS Code Levels of Detail

NAICS	
Level	Code
Economic Sector	XX
Subsector	XXX
Industry Group	XXXX
NAICS Industry	XXXXXX
National (U.S.) Industry	XXXXXXX

The highest level is made up of a two-digit number and is used to identify an establishment's sector. There are a total of 20 sectors in the NAICS used to label all industries located in North America. The first five levels are shared among North American countries, but the sixth digit informs the user of the country in which the business is located. A complete detailed NAICS code for a business located in the United States contains six digits.

5. Advantages of the NAICS Over the SIC

The NAICS has many advantages over the old SIC system. The NAICS can recognize many of the new fast-growing service sector businesses that were not possible under the SIC system (U.S. Bureau of Labor Statistics, 2002). The NAICS was designed to recognize new industries and provide the framework in which new industries can be introduced in the future (Vogel, 2001, p. 12). The NAICS also has twice as many sectors as the SIC, making it easier for a company to fall under a specific sector. The NAICS changed the way businesses are classified by introducing detailed lists of sectors where industries are classified based on their production processes (U.S. Bureau of Labor Statistics, 2002).

Table 5 compares the similarities and differences between the SIC and NAICS. Table 5 shows that NAICS has twice as many sectors as the SIC. The NAICS does a particularly good job at classifying service sector businesses.

Table 5. Comparison of the SIC Division/NAICS Sector (after Vogel, 2001, p. 12)

SIC Division Title	NAICS Sector Title
A Agriculture, Forestry, and Fishing	11 Agriculture, Forestry, and Hunting
B Mining	21 Mining
C Construction	23 Construction
D Manufacturing	31-33 Manufacturing
E Transportation, Communication and Public Utilities	22 Utilities 48-49 Transportation and Warehousing
F Wholesale Trade	42 Wholesale Trade
G Retail Trade	44-45-72 Retail Trade Accommodation and Food Services
H Finance, Insurance, and Real Estate	52 Finance and Insurance 53 Real Estate and Rental and Leasing
I Services	51 Information 54 Professional, Scientific, and 56 Technical Services 55 Administrative and Support and 61 Waste 62 Management and Remediation 71 Services 81 Education Services Health Care and Social Assistance Arts, Entertainment, and Recreation Other Services (except Public Administration)
J Public Administration	92 Public Administration
K None (previously, categories within each division)	55 Management of Companies and Enterprises

L. NAICS ROLE IN GOVERNMENT CONTRACTING

Although the NAICS was developed for statistical purposes, the federal government uses NAICS codes to determine the eligibility of businesses to bid on certain contracts (U.S. Department of Commerce, 2012b). According to FAR 6.203, a contracting officer may set aside solicitations to allow only small businesses to compete for a contract (FAR part 6, 2012, p. 161). FAR 19.102 states the size standards needed for small business participation in government set-asides.

FAR 19.102 (FAR part 19, 2012, p. 461)

- The SBA establishes the small business size standards on an industry-by-industry basis by matching an industry with an NAICS code.
- The table of Small Business Size Standards matched to NAICS can be found at <http://www.sba.gov/content/small-business-size-standards>

A contracting officer is responsible for following the size standards established by the SBA when accepting or creating a solicitation/proposal. Although NAICS was established for statistical purposes, it plays a major role in small business set-asides.

1. Locating and Assigning an NAICS Code

The United States government does not have a specific agency that assigns or monitors an establishment's NAICS code. The government determines a business NAICS code by the information exchanged during surveys, census forms and organizational documents. Every establishment is entitled to one NAICS code that identifies each business primary source of income. I have included a list that provides more information on how NAICS codes are assigned and how a business can locate their own specific code.

According to the U.S. Department of Commerce (2012b), NAICS codes are located and assigned as follows:

- A business can locate its NAICS code by using the search feature located at www.census.gov/naics. Once a user enters keywords describing his or her business, a list of business activities will populate along with NAICS codes. The user must select the code that most closely corresponds to his or her business.
- Users can also search for their NAICS code if they know their old SIC code. An online SIC to NAICS converter is available at <http://www.census.gov/eos/www/naics/concordances/concordances.html>
- There is no central government agency with the role of assigning, monitoring, or approving NAICS codes for establishments.
- The U.S. Census Bureau has no formal role as an arbitrator of NAICS classification.
- The U.S. Census Bureau assigns one NAICS code to each establishment based on its primary activity (generally the activity that generates the most revenue for the establishment).

- NAICS classification codes are derived from information that the business establishment provided on surveys, census forms, or administrative records.

2. NAICS Code Appeal

Once a contracting officer has made the RFP public, it is the responsibility of small business owners to bring to attention and appeal any errors they may have discovered on the RFP. For example, if any small business owner feels that the contracting officer has made a mistake in selecting an NAICS code for a particular contract, he or she is entitled to submit an appeal. Submitting an NAICS appeal is the only option that a small business owner has if a mistake has been made on the RFP. Here is a list of the most frequently asked questions provided by the SBA website in regards to a NAICS code appeal (U.S. Small Business Administration, 2012a):

NAICS Code Appeal FAQs

- What is an NAICS appeal?
 - Each NAICS code identifies an industry and has a corresponding receipts-based or employee-based small business size standard. In a small business set-aside procurement, the contracting officer designates the applicable NAICS code, whose size standard the awardee must meet. Any offeror or other interested party adversely affected by the designated NAICS code may appeal that NAICS code to Office of Hearings and Appeals (OHA). 13 C.F.R. §§ 121.402 & 121.1102.
- What is the time limit for filing a NAICS appeal?
 - NAICS appeals must be filed within 10 days of the issuance of the solicitation or within 10 days of the issuance of the amendment if the appeal relates to an amendment affecting the NAICS code. 13 C.F.R. § 134.304(a) (3).
- To whom must I send a copy of the appeal petition?
 - In addition to filing your appeal at OHA, you must send a copy of the appeal petition and all attachments to (1) the contracting officer who made the NAICS code designation, and (2) SBA's Office of Procurement Law. 13 C.F.R. § 134.305(c).
- What are the other important rules regulating a NAICS appeal?

- The regulations governing NAICS appeals are found at 13 C.F.R. part 121 (NAICS/size regulations) and part 134 (OHA regulations).
- In addition to the information listed in the FAQs for all OHA appeals, 13 C.F.R. § 134.305(a) requires you to include specific information with a NAICS appeal, most importantly, the solicitation number and the name, address, and telephone number of the contracting officer who designated the NAICS code.
- What happens after the OHA judge has issued the decision?
 - The decision in a NAICS code appeal may not be reconsidered. 13 C.F.R. § 134.316(d).

M. U.S. SMALL BUSINESS ADMINISTRATION

The United States Small Business Administration (2012) is an independent agency of the federal government created in 1953 “to aid, counsel, assist and protect the interest of small business concerns, to preserve free competitive enterprise and to maintain and strengthen the overall economy of our nation.”

The SBA recognizes the importance of a strong small business sector and will do everything in its power to help small businesses thrive.

The SBA’s strategic goals (U.S. Small Business Administration, 2012c) are to

- grow businesses and create jobs;
- build an SBA that meets the needs of today’s and tomorrow’s small businesses; and
- serve as the voice for small business.

According to the U.S. Small Business Administration (2012c), the SBA provides assistance primarily through its four programmatic functions:

- Access to Capital (Business Financing)
 - The SBA provides small businesses with an array of financing for small businesses from the smallest needs in microlending to substantial debt and equity investment capital (venture capital).
- Entrepreneurial Development (Education, Information, Technical Assistance, and Training)
 - The SBA provides free individual face-to-face and internet counseling for small businesses, and low-cost training to nascent

entrepreneurs and established small businesses in over 1,800 locations throughout the United States and U.S. territories.

- Government Contracting (Federal Procurement)
 - In keeping with the mandate of Section 15(g) of the Small Business Act, the SBA's Office of Government Contracting sets goals with other federal departments and agencies to reach the statutory goal of 23% in prime contract dollars to small businesses. This office also provides small businesses with subcontracting procurement opportunities, outreach programs, and training.
- Advocacy (Voice for Small Business)
 - Created in 1978, this Office reviews Congressional legislation and testifies on behalf of small business. It also assesses the impact of the regulatory burden on behalf of small businesses. Additionally, it conducts a vast array of research on American small businesses and the small business environment. The Chief Counsel of this office is appointed by the President of the United States.

1. Defining a Small Business

According to the U.S. Small Business Administration (2012b), a small business cannot be dominant in its field of operation and must qualify as a small business concern under Title 13, Code of Federal Regulation, part 121. The SBA has established size standards for all for-profit businesses situated in the United States. Small business owners can find their small business status by looking at the Table of Small Business Size Standards located in the SBA government website (U.S. Small Business Administration, 2012b).

The table of small business size standard evaluates businesses by their NAICS code and states the maximum number of employees, or average annual receipts, a business can have in order to qualify as a small business. A small business size standard varies by industry.

Table 6 is an example of the small business size standards released by the SBA. This example covers six industries under Sector 11 (Agriculture, Forestry, Fishing and Hunting) and Subsectors 111 (Crop Production) and 112 (Animal Production). As illustrated in table 6, all of the industries are allowed a maximum of \$750,000 in annual receipts except for Cattle Feedlots, which are entitled \$2.5 million.

Table 6. Small Business Size Standard (after U.S. Small Business Administration, 2012 b, pp. 1–2)

NAICS Codes	NAICS Description	Industry	Size Standards in Millions of Dollars	Size Standards in Number of Employees
Sector 11 – Agriculture, Forestry, Fishing and Hunting				
Subsector 111 – Crop Production				
111110	Soybean Farming		\$0.75	
111120	Oilseed (except Soybean) Farming		\$0.75	
111130	Dry Pea and Bean Farming		\$0.75	
Subsector 112 – Animal Production				
112111	Beef Cattle Ranching and Farming		\$0.75	
112112	Cattle Feedlots		\$2.5	
112120	Dairy Cattle and Milk Production		\$0.75	

N. SUMMARY

Chapter II focuses on identifying the rules and regulations necessary for a contractor to conduct business with the government. Federal mandates require both the contracting officer and interested contractors to follow certain rules and regulations in order to meet strict government policies. I focus my research on small business set-asides, for they make up a large portion of publicly available solicitations and they are easy to understand. The acquisition process is identified and discussed in detail along with the required steps needed to ensure compliance with federal mandates.

The second half of chapter two focuses on the history and description of the NAICS and its importance in small business contracting. Disagreements between a contractor and a contracting officer related to NAICS selection is discussed along with the required steps needed to submit an appeal with OHA. Chapter two provides the reader

with the necessary information required to understand federal contracting along with the rules and regulations that everyone must follow.

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III. CONSTRUCTION CODE DATA

The purpose of this chapter is to provide the reader with the necessary information to facilitate their understanding of the material analyzed in Chapter IV. In Chapter III, I begin by describing the NAICS construction sector along with the three subsectors that make up the majority of the construction related projects in government contracting. I continue with the description of three common construction NAICS codes used by contracting officers for projects related to construction, demolition, and environmental remediation. The NAICS code size standards are illustrated in Tables 7 and 8 along with a complete description in Appendix A. Examples of solicitations, awards, and notices containing the three NAICS construction codes are shown in Appendices B–F. I collected all of the information provided in this chapter from publicly available sources and did not involve human subject research. The SBA, U.S. Department of Commerce, and FBO provided all the information presented in this chapter.

A. SBA CONSTRUCTION SET ASIDES

The SBA has set aside sector 23 for construction related businesses operating in North America. Sector 23 comprises of 31 individual NAICS codes used by government contracting officers during construction related projects. The majority of construction businesses fall under one of the three subsectors: construction of buildings (subsector 236), heavy and civil engineering construction (subsector 237), and specialty trade contractors (subsector 238). Although the majority of construction projects fall under sector 23, there are other sectors that also deal with certain construction related projects such as environmental remediation.

Construction Subsectors (U.S. Small Business Administration, 2012 b, pp. 6–7):

- Subsector 236 (Construction of building)—Incorporates six NAICS codes used to describe the construction of new single and multifamily housing, commercial and institutional building construction, and industrial construction.
- Subsector 237 (Heavy and Civil Engineering Construction)— Incorporates six NAICS codes used to describe services that tie into a structure such as: water, sewer, oil, gas, power, and communication lines. Land subdivision,

highway and street construction, heavy and civil engineering construction, and bridge construction are also included in subsector 237.

- Subsector 238 (Specialty Trade Contractors)—Incorporates 19 NAICS codes used to describe different contracting specialties such as: concrete foundation, structural steel, framing, masonry, roofing, siding, plumbing, heating, and air-conditioning, drywall and insulation, painting, and site preparation contractors.

B. NAICS CONSTRUCTION CODES

The NAICS codes described in this section are commonly used by contracting officers for construction related solicitations and notices. Contracting officers frequently pick these codes for jobs dealing with demolition, construction, and remediation services. All of the solicitations, notices, and awards provided in this research have one of the three codes provided in Tables 7 and 8. Please see Appendix A for a complete description of the NAICS codes provided in this chapter.

Common NAICS codes used for construction are shown in Tables 7 and 8.

Table 7. Subsectors 237 & 238 NAICS Code Size Standards (after U.S. Small Business Administration, 2012 b, pp. 6–7)

Subsector	NAICS Codes	NAICS Industry Description	Size Standards in Millions of Dollars	Size Standards in Number of Employees
237 Heavy and Civil Engineering Construction	237990	Other Heavy and Civil Engineering Construction	\$33.5	
238 Specialty Trade Contractors	238910	Site Preparation Contractors	\$14.0	

Table 8. Subsector 562 NAICS Code Size Standards (after U.S. Small Business Administration, 2012 b, p. 35)

Subsector	NAICS Codes	NAICS Industry Description	Size Standards in Millions of Dollars	Size Standards in Number of Employees
562 Waste Management and Remediation Services	562910	Remediation Services	\$14	
	Except,	Environmental Remediation Services ¹⁴		500 ¹⁴

Note. NAICS 562910—Environmental Remediation Services Exemptions (see Appendix A for complete details).

C. SUMMARY

The information provided in Tables 7 and 8 along with Appendix A are there to provide the reader with the necessary information to fully understand all of the construction related postings presented in this study. The five solicitations, awards, and notices presented in this study are located in Appendices B through F. All of the data originated from the FBO government website and is fully analyzed in Chapter IV. Please take a look at the material presented in Appendices A through F, for the information provided will be helpful in the understanding NAICS and the government contracting process.

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IV. FINDINGS/RESULTS

The purpose of this chapter is to analyze all of the data provided in chapter 3 along with Appendices A through F. The goal of this research is to take a look at the data collected and see if there is a wide range of interpretation when considering which NAICS to use. Three commonly used construction related NAICS codes are provided along with five government approved solicitations, notices, and awards. The data is analyzed in the same order that is presented in chapter three and Appendices A through F.

A. NAICS CONSTRUCTION CODES OUTLINE

The three NAICS codes outlined in this section are: Other heavy and civil engineering construction (237990), remediation services (238910), and site preparation contractors (562910). The data provided in this section highlights the most important information regarding each code and will serve as the foundation for the analysis in the following section. All three NAICS codes deal with construction and are used in the solicitation examples provided in the next section.

1. Other Heavy and Civil Engineering Construction

- NAICS Code: 237990
- Size Standard: \$33.5 million

According to the U.S. Department of Commerce (2011), NAICS 237990 is comprised of:

- Establishments engaged primarily in heavy and engineering construction projects (excluding highway, street, bridge, and distribution line construction).
- Establishments performing new work, reconstruction, rehabilitation, and repairs.
- Specialty trade contractors engaged in activities primarily related to engineering construction projects.
- Construction projects involving water resources (e.g., dredging and land drainage), development of marine facilities, and projects involving open space improvement (e.g., parks and trails).

2. Site Preparation Contractors

- NAICS Code: 238910
- Size Standard: \$14.0 million

According to the U.S. Department of Commerce (2011), NAICS 238910 is comprised of:

- Establishments primarily engaged in site preparation activities, such as excavating and grading, demolition of buildings and other structures, and septic system installation.
- Establishments involved in earth moving and land clearing for all types of sites (e.g., building, nonbuilding, mining)
- Establishments primarily engaged in construction equipment rental with operator (except cranes) are also included.

3. Remediation Services

- NAICS Code: 562910
- Size Standard: \$14.0 million
- Except, Environmental Remediation Services: 500 employees.

According to the U.S. Department of Commerce (2011), NAICS 562910 is comprised of:

- Establishments involved with remediation and cleanup of contaminated buildings, mine sites, soil, or ground water.
- Establishments involved with integrated mine reclamation activities, including demolition, soil remediation, waste water treatment, hazardous material removal, contouring land, and revegetation.
- Establishments involved with asbestos, lead paint, and other toxic material abatement.

According to the U.S. Small Business Administration (2012b), footnote #14:

- The government can classify a procurement as Environmental Remediation Services if the general purpose of the procurement is to restore or directly support the restoration of a contaminated environment. This includes activities such as:
 - Preliminary assessment
 - Site inspection
 - Testing

- Remedial investigation
- Feasibility studies
- Remedial design
- Remediation services Containment
- Removal of contaminated materials or security and site closeouts
- The general purpose of the procurement need not necessarily include remedial actions.
- The procurement must be composed of activities in three or more separate industries with separate NAICS codes.
- If any activity of the procurement can be identified with a separate NAICS code, or component of a code with a separate distinct size standard, and that industry accounts for 50 percent or more of the value of the entire procurement, then the proper size standard is the one for that particular industry, and not the Environmental Remediation Service size standard.

B. GOVERNMENT APPROVED SOLICITATIONS, NOTICES, AND AWARDS

The following five examples work together to inform the reader of the mistakes made by contracting officers and how they affect small businesses. The first three examples demonstrate good decisions made by the contracting officers in selecting a NAICS code for a solicitation, notice or award. Example four has an incorrect NAICS code that does not accurately represent the work being solicited. Example five has an error in the small business size standard and is provided to demonstrate that although contracting officers may pick the correct NAICS code, there is still some confusion when there are two distinct size standards under the same code. The negative impact on small businesses, due to an error by a contracting officer, is evaluated along with possible steps a small business can take to correct the problem.

1. Appendix B Outline and Analysis

Demolition of Building 840 (Department of the Air Force, 2012):

Solicitation Number: FA8201-12-B-0011

Notice Type: Award

Set-aside: Total Small Business

NAICS Code: 238910—Site Preparation Contractors

Size Standard: \$14.0 Million

a. *Synopsis*

The contractor shall provide services to demolish building 840 at Hill AFB, UT to include the removal of debris and all utilities connected to the facility back to their respective source/main point of disconnection.

b. *Analysis*

The contracting officer correctly used NAICS code 238910 to describe the requirements for solicitation FA8201-12-B-0011. The synopsis clearly describes a requirement for the demolition of building 840 at Hill Air Force base, UT. According to the definition by the U.S. Department of Commerce (2011), NAICS 238910 comprises of “establishments primarily engaged in site preparation activities, such as excavating and grading, demolition of buildings and other structures, and septic system installation.” In this example the contracting officer correctly established this solicitation as a total small business set-aside for businesses with NAICS code 238910 and annual receipts of \$14 million or less.

Small business supporters along with the contracting officer worked together to ensure that example one solicitation provides equal opportunities to all small businesses. The SADBUS performed their job effectively by ensuring this solicitation is set-aside for small businesses. The contracting officer along with their assistants correctly identified the NAICS code and size standard. By working together and not committing any mistakes, the contracting officer ensured all small businesses have a level playing field with equal opportunities of winning the contract.

The contracting officer along with their assistants correctly followed the rules and regulations set by the FAR.

FAR 19.201, states:

It is the policy of the government to provide maximum practicable opportunities in its acquisition to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small

business, small disadvantaged business, and women-owned small business concerns.

FAR 19.202-2 part (a), states, “The contracting officer must, to the extent practicable, encourage maximum participation by small business, veteran-owned, etc...”

By correctly identifying the NAICS code and size standard, the contracting officer provided the maximum opportunities to all qualifying small businesses.

2. Appendix C Outline and Analysis

Crosswinds Airfield Demolition (Department of the Air Force, 2012):

Solicitation Number: FA3099-12-R-0004

Notice Type: Award

Set-aside: Total Small Business

NAICS Code: 562910—Remediation Services

Size Standard: 500 employees

a. Synopsis

Laughlin Air Force base, Texas needs a contractor to demolish abandoned airfield pavements and turn over a complete graded area that will prevent all forms of standing water. The description at the end of the solicitation states that the “purpose of this project is to provide all supervision, labor, tools and material to demolish abandoned crosswinds airfields and return the land back to its natural state.”

b. Analysis

The contracting officer correctly used NAICS code 562910 (Environmental Remediation Services) to describe the requirements for solicitation FA3099-12-R-0004. The synopsis clearly describes a requirement for the demolition of abandoned airfield pavements and turn over a complete graded area. The description at the end of the solicitation states that the purpose of the project is to “return the land back to its natural state.” According to the definition by the U.S. Small Business Administration (2012b), NAICS 562910 Environmental Remediation Services, “the general purpose of the procurement must be to restore or directly support the restoration of a contaminated

environment.” In this example the contracting officer correctly established this solicitation as a total small business set-aside for businesses with a NAICS code 562910 and a size standard of 500 employees or less.

Small business supporters along with the contracting officer worked together to ensure that example two solicitation provides equal opportunities to all small businesses. The SADBUS performed their job effectively by ensuring this solicitation is set-aside for small businesses. The contracting officer along with their assistants correctly identified the NAICS code and size standard. By working together and not committing any mistakes, the contracting officer ensured all small businesses have a level playing field with equal opportunities of winning the contract.

The contracting officer along with their assistants correctly followed the rules and regulations set by the FAR.

FAR 19.201 (2012), states:

It is the policy of the government to provide maximum practicable opportunities in its acquisition to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

FAR 19.202-2 part (a) (2012), states, “The contracting officer must, to the extent practicable, encourage maximum participation by small business, veteran-owned, etc...”

By correctly identifying the NAICS code and size standard, the contracting officer provided the maximum opportunities to all qualifying small businesses.

3. Appendix D Outline and Analysis

Environmental Support for Small Hazardous and Toxic Waste Removal Actions and Investigations (Department of the Army, 2011)

Solicitation Number: W91238-12-R-0009

Notice Type: Solicitation

Set-aside: 8(a) firms

NAICS Code: 562910 Remediation Services

Size Standard: 500 employees

a. Synopsis

The solicitation is for environmental support for small, hazardous and toxic waste (HTW) removal actions, investigations, and operations and maintenance type projects, for the U.S. Army Corps of Engineers (USACE), within the USACE South Pacific Division (SPD) boundaries.

Work will include, but is not limited to the following tasks:

- Aboveground/underground storage tank closures, replacement/tightness testing and all associated compliance activities.
- Excavation, removal, manifesting, transportation, storage, treatment and disposal of all types of hazardous and non-hazardous wastes in addition to asbestos, and lead/PCB containing paints and coatings.
- Multi-media chemical sampling and analysis, chemical data quality control for a wide variety of compounds.
- Demolition and debris removal and disposal.
- For more tasks please see the complete list on Section 3.3 Example #3.

b. Analysis

The contracting officer correctly used NACIS code 562910 (Environmental Remediation Services) to describe the requirements for solicitation W91238-12-R-0009. The synopsis clearly describes a requirement for environmental support for small, hazardous and toxic waste removal actions, investigations, and operations and maintenance type projects. According to the definition by the U.S. Small Business Administration (2012b), NAICS 562910 Environmental Remediation Services, “the general purpose of the procurement must be to restore or directly support the restoration of a contaminated environment.” In this example the contracting officer correctly established this solicitation as 8(a) small business set-aside with a NAICS code 562910 and a size standard of 500 employees or less.

Small business supporters along with the contracting officer worked together to ensure that example three solicitation provides equal opportunities to all 8(a) small business firms. The SADBUS performed their job effectively by ensuring this solicitation

is set-aside for 8(a) small business firms. The contracting officer along with their assistants correctly identified the NAICS code and size standard. By working together and not committing any mistakes, the contracting officer ensured all 8(a) small business firms have a level playing field with equal opportunities of winning the contract.

The contracting officer along with their assistants correctly followed the rules and regulations set by the FAR.

FAR 19.201 (2012), states:

It is the policy of the government to provide maximum practicable opportunities in its acquisition to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

FAR 19.202-2 part (a), states, The contracting officer must, to the extent practicable, encourage maximum participation by small business, veteran-owned, etc...

By correctly identifying the NAICS code and size standard, the contracting officer provided the maximum opportunities to all qualifying 8(a) small business firms.

4. Appendix E Outline and Analysis

Dismantling, Demolition and Removal of Existing Structures to Include but not Limited to Launch Facilities (LF) and Missile Alert Facilities (MAF) Located throughout WY, MT and CA (Department of the Army, 2012)

Solicitation Number: W9128F-12-S-M013

Notice Type: Special Notice

Set-aside: N/A

NAICS Code: 237990 Other Heavy and Civil Engineering Construction

a. Synopsis

The U.S. Army Corps of Engineers, Omaha District is seeking qualified small business community members or small business-led teams and joint ventures and Other Than Small (OTS) business concerns, for the entire management,

demolition/dismantlement and site closure of all specified Launch Facilities (LF) and Missile Alert Facilities (MAF) sites.

- Project requires demolishing approximately 103 LF. 100 of the LF are located on government property in rural areas throughout Wyoming (50 sites) and Montana (50 sites), with three sites located in California on government property.
- MAF structures will remain intact, only selected infrastructure (pavements, antenna, wells, etc.) and access to underground features will be demolished and sealed at MAF sites.
- This notice is provided as information to the marketplace and is an invitation for an expression of interest and demonstration of small business capability to perform the anticipated work.
- This announcement is part of our market research, and your responses are sought to identify sources that have the knowledge, skills, and capability to provide the consolidated requirements.
- Interested contractors, including small business and small business-led teams that qualify under NAICS Code 237990 (Other Heavy and Civil Engineering Construction) are hereby invited to submit a response to the market survey of no more than five pages to demonstrate their technical, managerial and business capability to provide the requested services.

b. Analysis

Through review of this synopsis, it appears that the contracting officer incorrectly used NAICS code 237990 (Other Heavy and Civil Engineering Construction) to describe the requirements for solicitation W9128F-12-S-M013. The synopsis clearly describes a requirement for the demolition/dismantlement and site closure of all specified LF and MAF sites. According to the definition by the U.S. Department of Commerce (2011), NAICS 237990 “comprises establishments primarily engaged in heavy and engineering construction projects (excluding highway, street, bridge, and distribution line construction). The work performed may include new work, reconstruction, rehabilitation, and repairs.” The description in the synopsis DOES NOT describe any construction of new work, reconstruction, rehabilitation, or repairs. From the synopsis, this project clearly defines a demolition requirement and should carry a NAICS code 238910 with annual receipts of \$14.0 million or less for small businesses. Unfortunately, without talking to the contracting officer, it is not possible to determine why they did not use

NAICS code 238910 which appears to be a proper match for the synopsis described in solicitation W9128F-12-S-M013.

The contracting officer, competition advocate, and small business supporter were unsuccessful in providing an equal opportunity to all small businesses. Due to the seemingly mismatched NAICS selection, any small business under NAICS code 23810 will not be able to respond to this notice.

The following two regulations pertain to the mistake committed in solicitation W9128F-12-S-M013.

FAR 19.201 (2012), states:

It is the policy of the government to provide maximum practicable opportunities in its acquisition to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

FAR 19.102 (b) (2012), states:

Small business size standards are applied by classifying the product or service being acquire in the industry whose definition, as found in the NACIS manual, best describes the principal nature of the product or service being acquired.

By apparently misidentifying the NAICS code, the contracting officer inadvertently left out any business operating under NAICS code 23810. The FAR is in place to help the contracting officer create solicitations that help all small businesses equally.

c. The Impact/Consequences of an Incorrect NAICS Code

- Any small business under NAICS code 238910 will not be able to respond or participate in this notice.
- Loss of revenue for any small businesses classified under NAICS code 238910.
- Invalid and flawed market research for the government.
- Small businesses must file a NAICS appeal in order to repair the error made by the contracting officer.

- Loss of time and money for any small business filling a NAICS appeal.
- No guarantee the OHA judge will correct the mistake.

5. **Appendix F Outline and Analysis**

Removal of Contaminated Soil (Department of the Air Force, 2012)

Solicitation number: FA4690-13-T-0001

Notice type: Presolicitation

Set-aside: Total Small Business

NAICS Code: 562910 Remediation Services

Size standard: \$14.0 million

a. *Synopsis*

The 28th contracting squadron, Ellsworth AFB, SD intends to solicit, compete and award a Firm Fixed Price (FFP) requirement to remove contaminated soil. Contractor shall provide all labor, materials, transportation, and equipment necessary to remove and dispose contaminated soil (200 cubic yards).

(1) Statement of Work:

This project consists of the removal and disposal of contaminated soil at the Edgemont, SD, C-130 crash site located on U.S. Forest Service land. Approximately 1,500 gallons of JP-8 was released at the time of the crash. On 20 July 2012, approximately 35 cubic yards of contaminated soil were removed and samples collected at each excavation site. Results show that contamination remains in three areas as identified in the attachments.

- The contractor shall remove 200 cubic yards of contaminated soil with the option to remove up to an additional 100 cubic yards of contaminated soil.
- Preliminary restoration of the site will be conducted using soil from the surrounding area.
- Task 4—Site Restoration
 - The contractor shall be mindful of the natural terrain as existing on the site and restore excavated areas to fit in with the surroundings. Preliminary erosion control measures (such as straw matting/mesh) shall be used to prevent erosion of any disturbed areas. Final site

restoration and reseeding will be conducted by the National Forest Service.

b. Analysis

The contracting officer correctly used NAICS code 562910, but put a limitation on who could compete by selecting \$14.0 million as the maximum size standard for solicitation FA4690-13-T-0001. The synopsis along with the statement of work describes a project that consists of removing and disposing of contaminated soil and restoring the land to fit with surroundings. The statement of work also states:

- Preliminary restoration of the site will be conducted using soil from the surrounding area.
- The contractor shall be mindful of the natural terrain as existing on the site and restore excavated areas to fit in with the surroundings.

According to the definition by the U.S. Small Business Administration (2012b), NAICS 562910 Environmental Remediation Services, “the general purpose of the procurement must be to restore or directly support the restoration of a contaminated environment.” The statement of work informs the contractor to be “mindful of the natural terrain as existing on the site and restore excavated areas to fit in with the surroundings.” This statement clearly describes the need for a contractor to perform environmental remediation services. The contracting officer should continue to use NAICS code 562910 (Environmental Remediation Services), but with a small business size standard of 500 employees or less, which would potentially open the solicitation to more small business participation.

Due to the selection of a size standard based on a dollar amount, any small business with annual receipts over \$14.0 million will not be able to participate in this solicitation. This apparent error will limit small business participation.

The following two regulations pertain to the size standard in solicitation FA4690-13-T-0001.

FAR 19.201 (2012), states:

- It is the policy of the government to provide maximum practicable opportunities in its acquisition to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small

business, small disadvantaged business, and women-owned small business concerns.

FAR 19.102 (b) (2012), states, Small business size standards are applied by classifying the product or service being acquire in the industry whose definition, as found in the NACIS manual, best describes the principal nature of the product or service being acquired.

By selecting the size standard based on dollar amount, the contracting officer inadvertently excluded any business with annual receipts over \$14.0 Million. The FAR is in place to help the contracting officer create solicitations that help all small businesses equally.

c. Impact/Consequences of an Incorrect Size Standard

- Small businesses with annual receipts over \$14.0 million will not be able to participate in this solicitation.
- There will be less competition among small businesses for the government to choose from, leading to higher cost for the solicitation.
- Small businesses specializing in environmental remediation services will lose revenue.
- Small businesses must file a NAICS appeal in order to repair the error made by the contracting officer.
- Loss of time and money for any small business filling a NAICS appeal.
- No guarantee the OHA judge will correct the mistake.

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V. CONCLUSION

This chapter focuses on answering the most important questions involving this project. The use of government solicitations, notices, and awards are used to verify if mistakes exist in NAICS selection. The question of whether NAICS selection can negatively influence how small businesses participate in government contracting is answered. The importance of selecting the correct NAICS code is discussed along with the consequences for small businesses, if an error is made. This chapter will conclude by addressing future topics focusing on government contracting, NAICS and small business participation.

This investigation does not include human opinion or human subject research but rather focuses on analyzing notices, solicitations, and proposals released by contracting officers. By analyzing information that is publicly available, a connection between the NAICS selection and small business participation can be established.

A. RESEARCH QUESTIONS

The following questions are fundamental to understanding the objectives of this study. Research questions are provided to facilitate the reader in their pursuit to comprehend government contracting and the NAICS selection process.

1. Do Mistakes Occur in NAICS Selection?

After analyzing multiple notices, solicitations and proposals, mistakes were discovered in the NAICS selection process. Although uncommon, contracting officers do make mistakes when selecting a NAICS code. This project investigated numerous government contracting projects and only discovered two clear examples of incorrect NAICS selection affecting small businesses. Five examples are presented, but it is incorrect for the reader to assume that 20 percent of government notices, solicitations and proposals have an incorrect NAICS code.

After conducting a lengthy investigation, two clear examples were selected to illustrate an apparent mistake committed by the contracting officer. The two examples

presented in this investigation clearly demonstrate an error in both NAICS selection and NAICS size standards. This project discovered that apparent mistakes, although uncommon, are made by contracting officers during the government solicitation process.

a. Solicitation Number: W9128F-12-S-M013 (Appendix E)

This solicitation clearly illustrates an apparent error in NAICS selection. The contracting officer incorrectly used NAICS code 237990 (Other Heavy and Civil Engineering Construction) to describe the requirements, but the synopsis clearly describes a requirement for the demolition/dismantlement and should carry a NAICS code 238910 with annual receipts of \$14.0 million or less for small businesses. The contracting officer, competition advocate, and small business supporter appear to have incorrectly selected the correct NAICS code and thus did not provide an equal opportunity to all small businesses with NAICS code 238910.

b. Solicitation Number: FA4690-13-T-0001 (Appendix F)

This solicitation clearly illustrates a potential error in NAICS size standards. The contracting officer correctly used NAICS code 562910, but committed a mistake when they selected \$14.0 million as the maximum size standard for solicitation FA4690-13-T-0001. The synopsis along with the statement of work describes a project that consists of removing and disposing of contaminated soil and restoring the land to fit with surroundings. The contracting should update the solicitation with NAICS code 562910 (Environmental Remediation Services) and a small business size standard of 500 employees or less to enhance competition. The contracting officer, competition advocate, and small business supporter did not provide an equal opportunity to all small businesses working on environmental remediation.

2. Can NAICS Selection Negatively Influence Small Businesses Participation?

An incorrect NAICS selection negatively affects small business participation in government contracting. It is the responsibility of the contracting officer to correctly select a NAICS code in order to provide all small businesses an equal opportunity to bid

for a specific solicitation. The FAR was created to assist contracting officers in developing a solicitation that will help all small businesses equally. When the FAR is not followed, there will always be small businesses that are negatively impacted.

Contracting officers who incorrectly select a NAICS code do not follow the regulations set by the FAR:

FAR 19.201 (2012), states:

It is the policy of the government to provide maximum practicable opportunities in its acquisition to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

FAR 19.102 (b) (2012), states, “Small business size standards are applied by classifying the product or service being acquire in the industry whose definition, as found in the NACIS manual, best describes the principal nature of the product or service being acquired.”

a. The Impact/Consequences of an Incorrect NAICS Code Solicitation Number: W9128F-12-S-M013 (Appendix E)

- Any small business under NAICS code 238910 will not be able to respond or participate in this notice.
- Loss of revenue for any small businesses classified under NAICS code 238910.
- Small businesses must file a NAICS appeal in order to repair the error made by the contracting officer.
- Loss of time and money for any small business filling a NAICS appeal.
- No guarantee the OHA judge will correct the mistake.

b. Impact/Consequences of an Incorrect Size Standard Solicitation Number: FA4690-13-T-0001 (Appendix F)

- Small businesses with annual receipts over \$14.0 million will not be able to participate in this solicitation.
- There will be less competition among small businesses for the government to choose from, leading to higher cost for the solicitation.

- Small businesses specializing in environmental remediation services will lose revenue.
- Small businesses must file a NAICS appeal in order to repair the error made by the contracting officer.
- Loss of time and money for any small business filling a NAICS appeal.
- No guarantee the OHA judge will correct the mistake.

B. RECOMMENDATIONS

The following recommendations are provided to help the reader focus on the importance of amending the mistakes discovered in NAICS selection process. Recommendations are provided as a starting point for anyone that may want to pursue further investigation.

1. How to Confront Mistakes in NAICS Selection?

A thorough analysis of the NAICS selection process needs to be conducted by an outside organization in order to discover any flaws in government contracting. The analysis needs to focus on how contracting officers elect a NAICS code under normal working conditions. The analysis should investigate a contracting officer's workload, responsibilities and training received prior to obtaining their position. The goal of the analysis should be to identify all personnel working on a solicitation and discover any weaknesses that need resolving. Only after learning the details of the analysis can the government focus on the corrective actions required to mitigate NAICS mistakes.

a. Possible Corrections the Government Might Consider

- Hiring additional contracting officers to lower the workload and improve working conditions.
- Develop new training practices for all contracting officers.
- Require all contracting officers to fulfill certain training requirements every three years.
- Develop software that monitors all solicitation and cross reference them with NAICS appeals.
- Develop a new process to facilitate a NAICS appeal.

2. Helping Negatively Affected Small Businesses

A contracting officer will eventually make an error in NAICS selection. The government needs to focus their attention on decreasing the number of NAICS code errors while facilitating the NAICS appeal process. The NAICS appeal process is very demanding both for small businesses and contracting officers. The following must be done in order to submit a NAICS appeal (U.S. Small Business Administration, 2012a):

- NAICS appeals must be filed within 10 days of the issuance of the solicitation or within 10 days of the issuance of the amendment if the appeal relates to an amendment affecting the NAICS code. 13 C.F.R. § 134.304(a) (3).
- In addition to filing your appeal at OHA, small businesses must send a copy of the appeal petition and all attachments to (1) the contracting officer who made the NAICS code designation, and (2) SBA's Office of Procurement Law. 13 C.F.R. § 134.305(c)

The NAICS appeal process needs to be streamlined in order to help both small businesses and contracting officers. It currently takes a large commitment by small businesses to pursue a NAICS appeal. Time and money are being spent on submitting all paperwork to the OHA, SBA and the contracting officer who made the NAICS code designation. The government needs to develop an easier way for small businesses to voice their concern without having to submit a large amount of paperwork.

C. FUTURE RESEARCH RECOMMENDATIONS

This investigation focused on identifying whether or not NAICS mistakes exist and if NAICS selection negatively influences small businesses participation. The data presented in this project highlights the need for additional research in the government contracting environment. The following are some of the questions that require additional research and investigation:

1. What percentage of contracts has an incorrect NAICS code?
2. Does government contracting have an adequate workforce?
3. What is the cost for small businesses filing a NAICS code appeal?
4. What is the success rate for a company pursuing a NAICS code appeal?
5. What NAICS selection mistakes are being made in non-construction industries?

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APPENDIX A. NAICS CONSTRUCTION CODES

The three NAICS codes identified in section 3.1 are further evaluated in this appendix in order to provide a better understanding of how NAICS operates. All of the information provided originates from the U.S. Department of Commerce (2011) official website.

1. 2012 NAICS Definitions

a. NAICS #237990

(1) Other Heavy and Civil Engineering Construction

This industry comprises establishments primarily engaged in heavy and engineering construction projects (excluding highway, street, bridge, and distribution line construction). The work performed may include new work, reconstruction, rehabilitation, and repairs. Specialty trade contractors are included in this group if they are engaged in activities primarily related to engineering construction projects (excluding highway, street, bridge, distribution line, oil and gas structure, and utilities building and structure construction). Construction projects involving water resources (e.g., dredging and land drainage), development of marine facilities, and projects involving open space improvement (e.g., parks and trails) are included in this industry.

- Illustrative examples:
 - Channel construction
 - Land drainage contractors
 - Dam construction
 - Marine construction
 - Dock construction
 - Microtunneling contractors
 - Dredging (e.g., canal, channel, ditch, waterway)
 - Nuclear waste disposal site construction
 - Earth retention system construction
 - Park ground and recreational open space improvement construction

- Flood control project construction
- Railroad construction
- Golf course construction
- Subway construction
- Horizontal drilling (e.g., cable, pipeline, sewer installation)
- Trenching, underwater
- Hydroelectric generating station construction
- Tunnel construction
- Cross-References. Establishments primarily engaged in
 - constructing water mains, sewers, and related structures are classified in Industry 237110, Water and Sewer Line and Related Structures Construction;
 - constructing oil and gas pipelines and related structures are classified in Industry 237120, Oil and Gas Pipeline and Related Structures Construction;
 - constructing power and communication transmission lines and related structures are classified in Industry 237130, Power and Communication Line and Related Structures Construction;
 - constructing highways, streets, and bridges are classified in Industry 237310, Highway, Street, and Bridge Construction; and
 - trenching (except underwater) are classified in Industry 238910, Site Preparation Contractors.

b. NAICS #238910

(1) Site Preparation Contractors

This industry comprises establishments primarily engaged in site preparation activities, such as excavating and grading, demolition of buildings and other structures, and septic system installation. Earth moving and land clearing for all types of sites (e.g., building, nonbuilding, and mining) is included in this industry. Establishments primarily engaged in construction equipment rental with operator (except cranes) are also included.

- Illustrative Examples:
 - Blasting, building demolition
 - Foundation digging (i.e., excavation)
 - Concrete breaking and cutting for demolition

- Foundation drilling contractors
- Cutting new rights of way
- Grading construction sites
- Demolition, building and structure
- Line slashing or cutting (except maintenance)
- Dewatering contractors
- Septic system contractors
- Dirt moving for construction
- Trenching (except underwater)
- Equipment rental (except crane), construction, with operator
- Underground tank (except hazardous) removal
- Excavating, earthmoving, or land clearing contractors
- Wrecking, building or other structure
- Cross-References. Establishments primarily engaged in
 - earth retention or underwater trenching are classified in Industry 237990, Other Heavy and Civil Engineering Construction;
 - crane rental with operator are classified in Industry 238990, All Other Specialty Trade Contractors;
 - overburden removal as an activity prior to mineral removal from quarries or open pit mines are classified in Sector 21, Mining, Quarrying, and Oil and Gas Extraction;
 - drilling oil and gas field water intake wells are classified in U.S. Industry 213111, Drilling Oil and Gas Wells;
 - dismantling tanks in oil fields are classified in U.S. Industry 213112, Support Activities for Oil and Gas Operations;
 - construction equipment rental without an operator are classified in U.S. Industry 532412, Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing;
 - tree and brush trimming for overhead utility lines are classified in Industry 561730, Landscaping Services; and
 - nuclear power plant decommissioning and environmental remediation work, such as the removal of underground steel tanks for hazardous materials are classified in Industry 562910, Remediation Services.

c. NAICS #562910

(1) Remediation Services

This industry comprises establishments primarily engaged in one or more of the following: (1) remediation and cleanup of contaminated buildings, mine sites, soil, or ground water; (2) integrated mine reclamation activities, including demolition, soil remediation, waste water treatment, hazardous material removal, contouring land, and revegetation; and (3) asbestos, lead paint, and other toxic material abatement.

- Cross-References. Establishments primarily engaged in
 - developing remedial action plans are classified in Industry 541620, Environmental Consulting Services;
 - excavating soil are classified in Industry 238910, Site Preparation Contractors;
 - individual activities as part of a reclamation or remediation project are classified according to the primary activity;
 - building modifications to alleviate radon gas are classified in Industry 238990, All Other Specialty Trade Contractors; and
 - collecting, treating, and disposing waste water through sewer systems or sewage treatment facilities are classified in Industry 221320, Sewage Treatment Facilities.

NAICS 562910 (Cont.) Environmental Remediation Services: Footnote 14 (U.S. Small Business Administration, 2012 b, p. 43)

a) For SBA assistance as a small business concern in the industry of Environmental Remediation Services, other than for government procurement, a concern must be engaged primarily in furnishing a range of services for the remediation of a contaminated environment to an acceptable condition including, but not limited to, preliminary assessment, site inspection, testing, remedial investigation, feasibility studies, remedial design, containment, remedial action, removal of contaminated materials, storage of contaminated materials and security and site closeouts. If one of such activities accounts for 50 percent or more of a concern's total revenues, employees, or other related factors, the concern's primary industry is that of the particular industry and not the Environmental Remediation Services Industry.

b) For purposes of classifying a government procurement as Environmental Remediation Services, the general purpose of the procurement must be to restore or directly support the restoration of a contaminated environment. This includes activities such as preliminary assessment, site inspection, testing, remedial investigation, feasibility studies, remedial design, remediation services, containment, and removal of contaminated materials or security and site closeouts. The general purpose of the procurement need not necessarily include remedial actions. Also, the procurement must be composed of activities in three or more separate industries with separate NAICS codes or, in some instances (e.g., engineering), smaller sub-components of NAICS codes with separate and distinct size standards. These activities may include, but are not limited to, separate activities in industries such as Heavy Construction; Special Trade Contractors; Engineering Services; Architectural Services; Management Consulting Services; Hazardous and Other Waste Collection; Remediation Services; Testing Laboratories; and Research and Development in the Physical, Engineering, and Life Sciences. If any activity in the procurement can be identified with a separate NAICS code, or component of a code with a separate distinct size standard, and that industry accounts for 50 percent or more of the value of the entire procurement, then the proper size standard is the one for that particular industry, and not the Environmental Remediation Service size standard.

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APPENDIX B. BUILDING DEMOLITION SOLICITATION

Demolition of Building 840 (Department of the Air Force, 2012)



- **Demolition of Building 840**
Solicitation Number: FA8201-12-B-0011

Agency: Department of the Air Force

Office: Air Force Materiel Command

Location: Hill AFB OO-ALC

Notice Type:

Award

Original Posted Date:

June 14, 2012

Posted Date:

October 3, 2012

Response Date:

- Mountain

Original Response Date:

Aug 14, 2012 2:00 pm

Archiving Policy:

Automatic, 15 days after award date

Original Archive Date:

July 13, 2012

Archive Date:

-

Original Set-aside:

Total Small Business

Set-aside:

Total Small Business

Classification Code:

Y -- Construction of structures and facilities

NAICS Code:

Solicitation Number:

FA8201-12-B-0011

Notice Type:

Award

Contract Award Date:

September 20, 2012

Contract Award Number:

FA8201-12-C-0064

Contract Award Dollar Amount:

\$499,076.00

Contract Line Item Number:

0001

Contractor Awarded Name:

Rio Vista Management, L.L.C.

Contractor Awarded DUNS:

168375256

Contractor Awarded Address:

2195 W 5400 S STE 202

Salt Lake City, Utah 84129

United States

Synopsis:

Added: Jun 14, 2012 10:17 am

This is a solicitation notice.

The contractor shall provide services to demolish building 840 at Hill AFB, UT to include the removal of debris and all utilities connected to the facility back to their respective source/main point of disconnection.

Added: Aug 08, 2012 11:45 am

Contractors are hereby put on notice that the original bid due date of 14 August 2012 has been postponed. An amendment to the solicitation will be posted to FBO.gov in the near future and will include updated information regarding this requirement as well as answers to contractor questions from the first site visit and a new bid due date.

A second site visit will be held for this requirement on 16 August 2012, 9:00 AM MST, concurrently with IFB No. FA8201-12-B-0010. Bus transportation will be provided. Contractors shall meet in the parking lot of Hill Aerospace Museum, 7961 Wardleigh

Road Hill AFB, UT 84056. See attached directions labeled Hill Aerospace Museum Directions.

Those planning to attend the site visit, must provide the POC, listed in this notice, a list of names and organization of each member who will be attending, before noon at least one day prior to date of visit.

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APPENDIX C. AIRFIELD DEMOLITION SOLICITATION

Crosswinds Airfield Demolition (Department of the Air Force, 2012)



- **Crosswinds Airfield Demolition**

Solicitation Number: FA3099-12-R-0004

Agency: Department of the Air Force

Office: Air Education and Training Command

Location: Laughlin AFB Contracting Squadron

Notice Type:

Award

Original Posted Date:

February 16, 2012

Posted Date:

August 23, 2012

Response Date:

- Central

Original Response Date:

-

Archiving Policy:

Automatic, 15 days after award date

Archive Date:

December 28, 2012

Original Set-aside:

Total Small Business

Set-aside:

Total Small Business

Classification Code:

P -- Salvage services

NAICS Code:

562 -- Waste Management and Remediation Services/562910 -- Remediation Services

Contract Award Date:

August 22, 2012

Contract Award Number:

FA3099-12-C-0005

Contract Award Dollar Amount:

\$254,499.00

Contractor Awarded Name:

Vision Construction Company Inc.

Contractor Awarded DUNS:

806605437

Contractor Awarded Address:

110 Broadway ST STE 50

San Antonio, Texas 78205-2072

United States

Synopsis:

Added: Feb 16, 2012 11:54 am Modified: Feb 27, 2012 12:04 pm [Track Changes](#)

The 47th Contracting Squadron at Laughlin Air Force Base, Texas will be requesting proposals to demolish abandoned airfield pavements. The performance area is Laughlin AFB. Work will consist of demolishing 353,703.28 Sqft of abandoned airfield pavement. The contractor is to furnish all materials, labor, tools, equipment, transportation, and all other incidentals necessary to complete the work outlined in the Statement of Objectives (SOO) and to turn over to the Government a complete graded area that will prevent all forms of standing water.

This proposed acquisition is 100% small business set-aside. The North American Industry Classification System (NAICS) code is 562910 and the size standard is 500 employees. This procurement will be a best value source selection using lowest price technically acceptable procedures. Evaluations of each proposal will be accomplished utilizing the submitted (a) technical proposal and (b) price proposal. The Solicitation package will be issued in the form of a Request for Proposal (RFP) and will be available for downloading from the Internet on the Federal Business Opportunities (Fed Biz Opps) Website at address: <http://www.fedbizopps.gov/> on or about 12 Mar 2009. No hard copies will be provided. The closing date is tentatively scheduled for on or about 12 Apr 12.

All interested parties must be registered in the Central Contractor Registration (CCR) database prior to award of a Government contract and must have complied with the VETS 100 reporting requirement. Offerors are further advised that failure to register in the CCR database will render your firm ineligible for award. CCR can be obtained by calling 1-888-227-2423 or through the Internet address: www.ccr.gov . Once the solicitation is posted, it is incumbent upon the interested parties to review this site

frequently for any updates/amendments to any and all documents. Prospective offerors interested in submitting a proposal on this solicitation must have a commercial and government entity code (CAGE CODE).

Funds are not currently available for this solicitation. Award of a contract as a result of this solicitation is contingent upon the availability of appropriated funds from which payment of this contract may be made. There shall be no legal liability on the part of the Government for contract purposes until funds are made available to the contracting officer. The contracting officer will confirm availability of funds in writing to the contractor upon award of contract.

Added: Aug 23, 2012 5:24 pm

Agency:

Department of the Air Force, Air Education and Training Command (AETC)

Contracting Office Address:

47th Contracting Squadron

171 Alabama Ave, Bldg. 7

Laughlin AFB, TX, 78843-5102

Point of Contact:

Kenneth Montgomery

Contract Specialist

Phone: (830) 298-4889

Fax: (830) 298-4159

Email: kenneth.montgomery.5@us.af.mil

Juanita Vasquez

Contracting Officer

Phone: (830) 298-5115

Fax: (830) 298-4159

Email: juanita.vasquez@laughlin.af.mil

Contract Award and Solicitation Number: FA3099-12-C-0005 & FA3099-12-R-0004

Contract Modification Number: NA

Contract Award Dollar Amount: \$254,499.00

Contract Award Date: 22 Aug 12

Contractor:

Vision Construction Company, Inc.

110 Broadway, Ste. 50,

San Antonio, TX 78205
Phone No: (210) 299-0707

Description:

The purpose of this project is to provide all supervision, labor, tools and material to demolish abandoned crosswinds airfields and return the land back to its natural state.

Place of Contract Performance: Laughlin AFB. TX

APPENDIX D. HAZARDOUS AND TOXIC WASTE REMOVAL SOLICITATION

Hazardous and Toxic Waste Removal (Department of the Army, 2011)



- **Environmental Support for Small Hazardous and Toxic Waste Removal Actions and Investigations**

Solicitation Number: W91238-12-R-0009

Agency: Department of the Army

Office: U.S. Army Corps of Engineers

Location: USACE District, Sacramento

Notice Type:

Solicitation

Original Posted Date:

November 23, 2011

Posted Date:

January 5, 2012

Response Date:

-

Original Response Date:

-

Archiving Policy:

Manual Archive

Original Archive Date:

-

Archive Date:

-

Original Set-aside:

N/A

Set-aside:

N/A

Classification Code:

F -- Natural resources & conservation services

NAICS Code:

562 -- Waste Management and Remediation Services/562910 -- Remediation Services

Solicitation Number:

W91238-12-R-0009

Notice Type:

Solicitation

Synopsis:

Added: Nov 23, 2011 5:54 pm

Environmental support for small, hazardous and toxic waste (HTW) removal actions, investigations, and operations and maintenance type projects, for the US Army Corps of Engineers (USACE), within the USACE South Pacific Division (SPD) boundaries. This procurement has been accepted by the SBA under the 8(a) Program and shall be awarded on the basis of competition limited to eligible 8(a) firms. The North American Industry Classification Code (NAICS) is 562910, Environmental Remediation Services. The small business size standard for this NAICS code is 500 employees. The Standard Industrial Classification (SIC) is 8744. The FSC Code is F108. All questions should be directed in writing to the Contract Specialist, Patricia Christie, email address at: Patricia.A.Christie@usace.army.mil or fax at: (916)557-5264.

TYPE OF AWARD: The Government intends to award two (2) Indefinite-Delivery, Indefinite-Quantity (IDIQ) Multiple-Award Task Order Contracts (MATOCs), with a total combined and cumulative "not to exceed" amount of \$9.9 million. over a five-year period (one base year and four option years). The acquisition method is negotiated procurement. The solicitation will reflect that both a technical proposal and a price proposal will be required. Offerors must be able to demonstrate that they are able to comply with FAR Clause 52.219-14, Limitations on Subcontracting. All task orders will be firm-fixed-price.

TYPE OF WORK: Work to be performed under this contract will require personnel and equipment to perform environmental services and environmental support for small hazardous and toxic waste (HTW) removal actions, investigations, and operations and

maintenance type projects for the US Army Corps of Engineers, within the USACE South Pacific Division (SPD) boundaries. These boundaries include the states of California, Arizona, Nevada, Utah and New Mexico, and parts of Oregon, Idaho, Wyoming, Colorado, and Texas. See website www.spd.usace.army.mil for a map. Work will include, but is not limited to the following tasks: a) Aboveground/underground storage tank closures, replacement/tightness testing and all associated compliance activities. b) Excavation, removal, manifesting, transportation, storage, treatment and disposal of all types of hazardous and non-hazardous wastes in addition to asbestos, and lead/PCB containing paints and coatings. c) Multi-media chemical sampling and analysis, chemical data quality control for a wide variety of compounds. d) Demolition and debris removal and disposal. e) Drilling, excavating and sampling to obtain geotechnical and chemical data, installation, development, and abandonment of groundwater monitoring, injection or extraction wells. f) Transformer removal and disposal, including disposal of PCB contaminated soils. g) Projects resulting from environmental compliance requirements. h) Installation of temporary facilities, permanent installations, and site restorations, to support above activities. i) Maintenance of an ongoing Safety and Health Program and preparation of implementation of Site Safety and Health Plans. j) Contractor quality control for removal actions. k) Other incidental services in direct support of project activities: such as environmental audit, surveys and mapping, planning and reporting documents and Human Health and Ecological Risk Assessments. l) Stormwater and drinking water compliance programs in accordance with Clean Air and Water Act, Porter-Cologne, the NPDES requirements. m) Construction, operation and maintenance of treatment systems for soil, water, groundwater or other media. n) Develop, implement and support community relations programs and activities and maintenance of administrative records. o) Property transfer documents including: development of Environmental Baseline Surveys (EBS), Findings of Suitability for Transfer (FOST), Findings of Suitability for Lease (FOSL), and Findings of Suitability for Early Transfer (FOSET). The Contractor will also coordinate with Army and regulatory agencies to complete the documentation. p) Value Engineering evaluation and technical recommendations. q) Prepare environmental reports to include but not limited to CERCLA related documentation including preliminary assessments, Site Inspections, Remedial Investigations, Feasibility Studies, Remedial Design and 5 year reviews. Equivalent RCRA documentation will also be required. Environmental compliance issues such as underground storage tank sites, asbestos surveys and lead-based paint assessment and abatement may also be included. The sites may be currently owned or controlled by the Federal Government, either military or civilian agencies, or may be other sites where,

the U.S. Army Corps of Engineers, Sacramento District, is otherwise authorized to respond.

SOLICITATION: The solicitation will be available for downloading on or about December 12, 2011. The solicitation and all amendments will be posted on this Government website FedBizOpps at (www.fbo.gov). Viewing/downloading documents from FedBizOpps will require prior registration in Central Contractor Registration at (www.ccr.gov). If you are a first-time FedBizOpps user, you will also be required to register in FedBizOpps (www.fbo.gov), before accessing the solicitation. To register, click on the Register Now button in the Vendors Block and follow the instructions. The following information will be required: Central Contractor Registration (CCR), Marketing Partner Identification Number (MPIN), DUNS Number or Cage Code; Telephone number, and email address. Once registered with FedBizOpps, interested parties will then be able to log in and access the RFP documents. Important Note: Solicitation documents can be accessed ONLY through FedBizOpps. Please note that all contractors that want to register with FedBizOpps must be CCR registered, and have a MPIN, DUNS number or Cage code. For further information, please click on the FedBizOpps homepage link and the Vendor User Guide. The only plan-holders bidders list now available is via FedBizOpps. When viewing the synopsis/pre-solicitation notice, you will click on the ADD ME TO INTERESTED VENDORS to enter your information. This function does not, however, allow you to identify yourself as a prime contractor or subcontractor. It is recommended that you identify your category in parentheses at the end of your company name. For example: (XYZ Inc. Prime) or (XYZ Inc. Sub). PLEASE NOTE THAT IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO CHECK FEDBIZOPPS FREQUENTLY FOR ANY AMENDMENTS OR CHANGES TO THE SOLICITATION ONCE IT IS POSTED.

APPENDIX E. REMOVAL OF EXISTING STRUCTURES SOLICITATION

Dismantling, Demolition and Removal of Existing Structures (Department of the Army, 2012)



- **Y--Sources Sought: W9128F-12-S-M013**
Dismantling, demolition and removal of existing structures to include but not limited to Launch Facilities (LF) and Missile Alert Facilities (MAF) located throughout WY, MT and CA.

Solicitation Number: W9128F12SM013

Agency: Department of the Army
Office: U.S. Army Corps of Engineers
Location: USACE District, Omaha

Notice Type:

Special Notice

Posted Date:

August 17, 2012

Response Date:

-

Archiving Policy:

Automatic, on specified date

Archive Date:

November 15, 2012

Original Set-aside:

N/A

Set-aside:

N/A

Classification Code:

Y -- Construction of structures and facilities

NAICS Code:

237 -- Heavy and Civil Engineering Construction/237990 -- Other Heavy and Civil Engineering Construction

Solicitation Number:

W9128F12SM013

Notice Type:

Special Notice

Synopsis:

Added: Aug 17, 2012 9:16 am

The US Army Corps of Engineers, Omaha District is seeking qualified Small Business Community members [Section 8(a), Service Disabled Veteran Owned Small Business (SDVOSB), Women Owned Small Business (WOSB), Historically Underutilized Business Zone (HUBZone)] or small business-led teams and joint ventures and Other than Small (OTS) Business concerns, that qualify under the North American Industry Classification System (NAICS-237990) for the entire management, demolition/dismantlement and site closure of all specified Launch Facilities (LF) and Missile Alert Facilities (MAF) sites.

This Sources Sought Notice is for the dismantling, demolition and removal of existing structures based on compliance with New Strategic Arms Reduction Treaty (START) Treaty requirements and will require each site to undergo strict observations by U.S. ICBM Treaty Staff members and Russian ICBM Treaty Staff members. The inspection team will ensure treaty compliance is met by the agreed to demolition methods, observance periods, and verification of non-use status of the designated LF. Project requires demolishing approximately 103 LF. 100 of the LF are located on Government property in rural areas throughout Wyoming (50 sites) and Montana (50 sites), with 3 sites located in California on Government property. 10 MAF (5 in WY, 5 in MT) are located on Government property in close proximity to related LF sites. MAF structures will remain intact, only selected infrastructure (pavements, antenna, wells, etc.) and access to underground features will be demolished and sealed at MAF sites. Demolition/dismantlement of the LF structure is anticipated to require explosive implosion as well as heavy civil construction. LF sites (approx. 1 acre each) and MAF sites will be final graded and placed in a condition for land disposal.

THIS SOURCES SOUGHT NOTICE DOES NOT CONSTITUTE A REQUEST FOR A FORMAL PROPOSAL AND OR BID.

This notice is provided as information to the marketplace and is an invitation for an expression of interest and demonstration of small business capability to perform the anticipated work. The Government will not pay for the provision of any information, nor will it compensate any respondents for the development of such information.

This announcement is part of our market research, and your responses are sought to identify sources that have the knowledge, skills, and capability to provide the consolidated requirements. Interested contractors, including small businesses and small business-led teams that qualify under NAICS Code 237990 (Other Heavy and Civil Engineering Construction) are hereby invited to submit a response to the market survey of no more than five pages to demonstrate their technical, managerial and business capability to provide the requested services. It is anticipated that the Government will issue a firm-fixed contract for services rendered.

The estimated period of performance is 2013 - 2016. THIS SOURCES SOUGHT NOTICE DOES NOT CONSTITUTE A REQUEST FOR A FORMAL PROPOSAL. This notice is provided as information to the marketplace and is an invitation for an expression of interest and demonstration of small business capability to perform the anticipated work. The Government will not pay for the provision of any information, nor will it compensate any respondents for the development of such information.

Contractors responding to this market survey must submit their responses via e-mail to Donna Larson at donna.r.larson@usace.army.mil no later than 1400 Central Daylight Time, August 31, 2012.

For technical assistance, firms should email Michael Pisci at michael.r.pisci@usace.army.mil For all other assistance, please contact Donna Larson via email at donna.r.larson@usace.army.mil All responses must provide the return e-mail address, mailing address, telephone number, and facsimile (fax) number. PLEASE BE ADVISED THAT ALL INFORMATION SUBMITTED WILL BE CONSIDERED PROCUREMENT SENSITIVE.

Market Survey

General Information

1) What is your company name, address, point of contact, phone number, and e-mail

address and DUNS number?

2) What is your business size?

3) Any socio-economic categories (i.e. SDB, HUBZone, SDVOSB, VOSB, WOSB)?

4) Do you have any corporate affiliations? If so, please identify.

5) Are you interested in participating as a leader or member of a small business-led team?

a. If so, specify what type of team arrangement (joint venture, prime contractor/subcontractor, other).

b. Provide a list of potential team members and associated disciplines, if known.

c. Describe your current/anticipated team management structure.

d. Explain any financing arrangements/options available to your team that would support performance under a firm fixed price at an anticipated cost of \$30 million.

Past Performance Information

1) Please provide any past performance information for the previous 5 years that clearly demonstrates familiarity and experience with similar projects (at least two). For each project, include the following information:

a. Size, term, and complexity of job;

b. Information on your role as either a prime contractor or sub-contractor; and

c. Point of contact (POC) at the agency or prime contractor's organization to verify contact information, including name, address, e-mail address, telephone number, and information on the specific tasks you performed on the project.

2) Please provide a brief description of your experience either managing a team or acting as a member of a team of businesses working on large, complex projects. Provide POCs (name, address, e-mail address, and telephone number) that can verify this experience.

3) Provide bonding limits per project and aggregate.

All interested Offeror/Contractors should submit their information to Donna Larson via email only, Not Later Than 1400 CDT on Friday, August 31, 2012. Email address: donna.r.larson@usace.army.mil.

Contracting Office Address:

USACE District, Omaha, 1616 Capital Ave, Omaha, NE 68102-4901

Point of Contact(s):

Donna Larson, 402-995-2066

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APPENDIX F. REMOVAL OF CONTAMINATED SOIL SOLICITATION

Removal of Contaminated Soil (Department of the Air Force, 2012)



- **Removal of Contaminated Soil**

Solicitation Number: FA4690-13-T-0001

Agency: Department of the Air Force

Office: Air Combat Command

Location: 28 CONS

Notice Type:

Presolicitation

Posted Date:

October 22, 2012

Response Date:

Oct 31, 2012 4:30 pm Mountain

Archiving Policy:

Automatic, 15 days after response date

Archive Date:

November 21, 2012

Original Set-aside:

N/A

Set-aside:

Total Small Business

Classification Code:

F -- Natural resources & conservation services

NAICS Code:

562 -- Waste Management and Remediation Services/562910 -- Remediation Services

Synopsis:

Added: Oct 22, 2012 5:53 pm

PRE-SOLICITATION
REMOVE CONTAMINATED SOIL
ELLSWORTH AFB, SD

(i). The 28th Contracting Squadron, Ellsworth AFB, SD intends to solicit, compete and award a Firm Fixed Price (FFP) Requirement to remove contaminated soil. The period of performance on this contract will be for 60 days. The acquisition will be conducted in accordance with FAR 12 and 15 procedures. The Request for Proposal (RFP) number FA4690-13-T-0001 and all related attachments will be posted in Federal Business Opportunities (FBO) approximately two weeks. This acquisition will utilize a small business set-aside. The North American Industry Classification System (NAICS) code for this acquisition is 562910. If you are claiming status of small business under this NAICS, the Small Business size standard is no more than \$14M. All interested parties must be System for Award Management (SAM) registered and have an assigned Cage Code. For SAM and Cage Code information, visit website <http://www.sam.gov>.

(ii). Description: Contractor shall provide all labor, materials, transportation, and equipment necessary to remove and dispose contaminated soil. (200 cu yds.) See attached Statement of Work for additional information.

(iii). DPAS Rating does not apply to this acquisition.

(iv). All questions must be submitted in writing to receiving a binding answer. Direct your questions to A1C Douglas Simpson by e-mail to douglas.simpson@ellsworth.af.mil. No questions will be answered by phone for this requirement.

(v). VISIT
SITE
A site visit is scheduled for this requirement on Monday, 29 October 2012 at 7:30 am Mountain Time. We will be meeting at the Visitor Center Parking lot, Ellsworth AFB, SD 57706, and driving to the C-130 Crash Site in Edgemont, SD. Transportation will not be provided. A four-wheel drive vehicle is recommended for this site visit.

(vi). Funds are not presently available for this project. No award will be made under this requirement until funds are available. The Government reserves the right to cancel this requirement, either before or after the closing date of the RFP.

Attachments:

1. Statement of Work

- **SOW**

Type:

Other (Draft RFPs/RFIs, Responses to Questions, etc...)

Posted Date:

October 22, 2012

[SOW_Soil_Removal.pdf](#) (1,422.50 Kb)

Description: Statement of Work

Contracting Office Address:

1000 Ellsworth Street, Suite 1200

Ellsworth AFB, South Dakota 57706-4904

Place of Performance:

1000 Ellsworth St suite 1200

Ellsworth AFB, South Dakota 57706

United States

Primary Point of Contact:

Douglas A. Simpson,

Contract Specialist

douglas.simpson@ellsworth.af.mil

Phone: 605-385-1798

Fax: 605-385-1759

Secondary Point of Contact:

David Goff,

Team Lead/Contracting Officer

david.goff@ellsworth.af.mil

Phone: 605-385-1734

Fax: 605-385-1759

STATEMENT OF WORK

Remove Contaminated Soil, C-130 Crash Site, Edgemont, SD 03 August 2012

Project Number: FXBMXX-XXXX

Background

This project consists of the removal and disposal of contaminated soil at the Edgemont, SO, C-130 crash site located on US Forest Service land. The site is located approximately 6 miles north east of Edgemont, access is via 2.5 miles of dirt trail ascending up over 1,000 ft. Maintenance of the access road will be the responsibility of the contractor during the duration of the contract. The road will be maintained to minimize dust and ensure safety.

Approximately 1500 gallons of JP-8 was released at the time of the crash. On 20 July 2012, approx. 35 cu. yds. of contaminated soil were removed and samples collected at each excavation site. Results show that contamination remains in three areas as identified in the attachments.

The contractor shall remove 200 cu. yds. of contaminated soil with the option to remove up to an additional 100 cu. yards of contaminated soil. Preliminary restoration of the site will be conducted using soil from the surrounding area. No offsite fill materials shall be used. Reseeding and final restoration of the site will be conducted by the US Forest Service. Maintenance of the access road will be the responsibility of the contractor during the duration of the contract. The road will be maintained to

The site is located within a post-fire restricted access area. The contractor will coordinate the US Forest Service to obtain the necessary access permits.

Task 1 -A&E Oversight Services

This work will include A&E oversight services which will be conducted by or under the responsible charge of persons who are certified by the South Dakota State Board of Technical Professionals as Certified Petroleum Release Assessor.

The selected A&E firm shall use accepted field screening methods or a mobile lab to direct removal of the most contaminated soils. The action level for this project is 500 ppm TPH as JP-8. If the removal of the initial 200 cu yds. of contaminated soil is insufficient to meet the action level, the Air Force contracting officer may elect to remove up to an additional 100 cu yds. of contaminated soil. The decision to remove any additional contaminated soil and where it will be removed will be based on available field/laboratory sampling results and consultation between the A&E, Forest Service, SO Department of Environment and Natural Resources (SO DENR) and the Air Force.

The A&E will collect sufficient samples to document any contamination remaining and prepare a report (see task 5) for submittal to the Air Force, National Forest Service and the South Dakota Department of Environment and Natural SO DENR).

Task 2 -Remove Contaminated Soil

The A-E firm shall hire an excavation contractor certified by the South Dakota State Board of Technical Professionals as a Certified Petroleum Release Remediator to remove JP-8 contaminated soil as directed by the Petroleum Release Assessor. Results from samples collected on 20 July 2012 indicated high levels of contamination remaining in the area where the left wing came to rest (grid areas AC10, AC9 , AB8, AB9 & AB1 0), the area at the top of the small (6' high) cliff (grid area AC12 & AC13), and where the right wing came to rest (grid area AA10, AA11, Z10 & Z11). The grid and previously collected sample locations are identified on the included map. Previously collected sample results are also provided.

Free product is not anticipated to be encountered, however if any free petroleum product is observed in the excavation, it shall be collected and delivered, by the contractor, to the Ellsworth AFB HAZMART for recycling or disposal.

Task 3 -Contaminated Soil Disposal

Contaminated soil shall be removed and hauled off site for disposal and treatment at a facility approved by the SO DENR for the remediation of petroleum contaminated soil. The contractor shall be responsible for providing to the disposal facility any sample results required.

Task 4 -Site Restoration

The contractor shall be mindful of the natural terrain as existing on the site and restore excavated areas to fit in with the surroundings. Preliminary erosion control measures (such as straw matting/mesh) shall be used to prevent erosion of any disturbed areas. Final site restoration and reseedling will be conducted by the National Forest Service.

Task 5 -Project Completion Report

The AE Contractor shall prepare a report describing location and level of contamination of the remaining contaminated soil on the site. This report will include site drawings and sample results. The report shall also include site completion pictures showing each of the excavation areas and contaminated soil disposal documentation.

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LIST OF REFERENCES

Competition in Contracting Act of 1984, 41 U.S.C. § 253 (1984)

Department of Defense Office of Small Business Programs. (2012, October 1). *Government contracting: The basics*. Retrieved December 17, 2012, from DOD Office of Small Business Programs
http://www.acq.osd.mil/osbp/docs/government_contracting_the_basics.pdf

Department of the Air Force. (2012, February 16). Crosswinds airfield demolition. Solicitation Number: FA3099-12-R-0004. Retrieved January 4, 2013, from Federal Business Opportunities
https://www.fbo.gov/?s=opportunity&mode=form&id=6ce53d28599b9579e49f3b3cd884e025&tab=core&tabmode=list&print_preview=1

Department of the Air Force. (2012, June 14). Demolition of building 840. Solicitation Number: FA8201-12-B-0011. Retrieved January 4, 2013, from Federal Business Opportunities:
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