

Response to NAICS code January 15, 2009

"The referenced solicitation issued by the Department of Energy, National Nuclear Security Administration requests proposals for performance of various administrative services related to background investigations and security clearance adjudications. We believe a more appropriate NAICS Code to be 561611 - Investigation Services and request your consideration of the following.

I. Solicitation Scope

Section 3.0 Scope of Attachment J, Performance Based Work Statement provides a general description of the services as follows: "The personnel security program work involves numerous and varied personnel security access authorization adjudicative and processing activities, as well as requesting and analyzing the required background investigations of approximately 8,200 clearance holders and 4,000 applicants per year. Additionally, PSD conducts security reviews for approximately 9,500 human reliability program incumbents per year and performs the adjudication of approximately 4,000 applicants for HSPD-12 Personal Identification Verification per year. PSD also supports the due process (Administrative Review) described in 10 CFR 710." Section 4.0 Specific Requirements of Attachment J provides additional detail as follows: "The contractor shall provide technical support expertise for the implementation of the DOE Personnel Security Program to include clearance processing, adjudication of investigative reports or other security related information, management and administration of Human Reliability and Special Access Programs, the Administrative Review process, HSPD-12, the Foreign Ownership Control and Influence Program (FOCI) and the Facility Approval and Registration of Security Activities (FARA) Program. Clearance and adjudicative actions shall be completed in accordance with Executive Orders, Presidential Directives, U.S. Code of Federal Regulations, and DOE Headquarters, NNSA and NNSA SC orders, policies, directives, standards, regulations, and PSD policies and standard operating procedures (SOPs). The contractor uses experience in applying procedures, policies, and/or precedents; determines when further information is required; contacts appropriate source(s) to obtain information and maintains a range of professional contacts within and outside the NNSA, NNSA Service Center, and the Personnel Security Department, being tactful and articulate; and performs routine statistical data analysis related to clearance and adjudicative actions and expenditures." The Performance Based Work Statement further describes the investigative and adjudicatory functions of the contract as well as the requirements to administer and manage the overall personnel clearance process. The Performance Based Work Statement focuses primarily, to an overwhelming degree, on work efforts associated with managing the existing personnel clearance process and adjudicating clearance and investigative matters for personnel and department contractors. There is no requirement for, nor reference made, to providing advice or guidance on scientific or technical consulting related issues.

II. Initial NAICS Code Designation

The Contracting Officer has assigned NAICS code 541690- Other Scientific and Technical Consulting Services to this effort. The United States Census Bureau (responsible for maintaining and defining NAICS codes) defines 541690 as covering work related to "This industry comprises establishments primarily engaged in providing advice and assistance to businesses and other organizations on scientific and technical issues (except environmental)." The Census Bureau classifies within this code work related to the following: (<http://www.census.gov/cgi->

[bin/sssd/naics/naicsrch?code=541690&search=2007](http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=541690&search=2007))

2007 NAICS Corresponding Index Entries

- 541690 Agricultural consulting services
- 541690 Agrology consulting services
- 541690 Agronomy consulting services
- 541690 Biological consulting services
- 541690 Chemical consulting services
- 541690 Dairy herd consulting services
- 541690 Economic consulting services
- 541690 Energy consulting services
- 541690 Entomology consulting services
- 541690 Geochemical consulting services
- 541690 Horticultural consulting services
- 541690 Hydrology consulting services
- 541690 Livestock breeding consulting services
- 541690 Motion picture consulting services
- 541690 Nuclear energy consulting services
- 541690 Physics consulting services
- 541690 Radio consulting services
- 541690 Safety consulting services

541690 Security consulting service The overall characterization of 541690 is for scientific related consulting services and not investigative or administrative support services. The reference to Security consulting service addresses science related security matters such as biometric scanning, retinal scanning, and other physical security systems requiring new and novel applications of science and technology. This does not include the administrative, adjudicative, and investigative review services addressed in the Performance Based Work Statement. Further, all of the index entries describe the services as “consulting services,” which have little relevance to this Performance Based Statement of Work. As such, NAICS code 541690 is not applicable to this solicitation and we request a change be made to the NAICS code. III. Alternative NAICS Code We propose an alternative NAICS code which provides a closer alignment with the services contemplated by the Performance Based Work Statement. NAICS 561611 NAICS code is 561611- Investigation Services. The U.S. Census Bureau defines this code as covering investigative services such as the following:

<http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=561611&search=2007>)

2007 NAICS Corresponding Index Entries

- 561611 Detective agencies
- 561611 Fingerprint services
- 561611 Investigation services (except credit), private
- 561611 Investigators, private
- 561611 Lie detection services
- 561611 Missing person tracing services
- 561611 Polygraph services
- 561611 Private detective services
- 561611 Private investigation services (except credit)
- 561611 Skip tracing services This work scope includes investigative services,

fingerprinting, etc., which is closely in line with the investigative and adjudicative nature of the Performance Based Work Statement. NAICS 561611 is much more appropriate to the nature of services described in the Performance Based Work Statement. The work is not scientific or technical in nature and is not Consulting. In our experience, other Federal Agencies use 561611 for their similar security/investigative services procurements. Assignment of NAICS code 561611 will ensure the most appropriate mix of qualified small businesses are aware of and able to effectively bid this opportunity and will best encourage the maximum level of competition and small business opportunity. In addition, use of 561611 will avoid protests based on the use of an inappropriate NAICS code. Therefore, we request that this procurement be assigned the NAICS code of 561611. Please, notify us as soon as possible regarding your consideration of our request."

Answer: The Sources Sought announcement was posted on September 8, 2008, indicating that the NAICS code assigned to this requirement was 541690, with a corresponding size standard of \$7M. The RFP was issued on December 17, 2008 with no change to the assigned NAICS code. In accordance with FAR 19.303(c), the Contracting Officer's determination is final unless appealed. The appeal must be served and filed within 10 days after the issuance of the initial solicitation. Please note that the assigned NAICS code is the same as the current contract and no appeal was initiated on the previous assignment.