

**REPRESENTATIONS AND CERTIFICATIONS (Rev. 4 – 5/21/10)**

Before awarding Government subcontracts, work orders, or purchase orders to your firm, we are required to obtain certain representations/certifications that are mandated by the Federal Acquisition Regulations. We provide this standardized representation/certification form to avoid delays in processing such procurements. Please review each paragraph below and check the applicable option for each certification. This must be executed by an official of your firm who is authorized to sign legally binding sales contracts.

The following definitions, representations, and certifications are applicable when the contract is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (FAR 552.209-5) (DEC 2001)**

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that –

(i) The Offeror and/or any of its Principals-

(A) **Are • are not •** presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) **Have • have not •**, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) **Are • are not •** presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offences enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) The Offeror **has • has not •**, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) “Principals,” for the purpose of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division or business segment, and similar positions)

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject

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to Prosecution Under Section 1001, Title 18, United States Code.

- (b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances
- (c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror non-responsible
- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

**(End of provision)**

**SMALL BUSINESS PROGRAM REPRESENTATIONS (FAR 52-219-1) (MAY 2002)**

(a)

- (1) The North American Industry Classification System (NAICS) code for this acquisition is 336611.
- (2) The small business size standard is 1000.
- (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

*(b) Representations*

- (1) The offeror represents as part of its offer that it • is, • is not a small business concern.
- (2) *[Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.]* The offeror represents, for general statistical purposes, that it • is, • is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.
- (3) *[Complete only if the offeror represented itself as a small business concern in paragraph*

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*b)(1) of this provision.]* The offeror represents as part of its offer that it • is, • is not a women-owned small business concern.

(4) *[Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.]* The offeror represents as part of its offer that it • is, • is not a veteran-owned small business concern.

(5) *[Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.]* The offeror represents as part of its offer that it • is, • is not a service-disabled veteran-owned small business concern.

(6) *[complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.]* The offeror represents, as part of its offer, that –

(i) It • is, • is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It • is, • is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate of the HUBZone small business concern or concerns that are participating in the joint venture. *[The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: \_\_\_\_\_.]* each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(C) *Definitions.* As used in this provision –

“Service-disabled veteran-owned small business concern” –

(1) Means a small business concern –

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

“Small business concern” means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

“Veteran-owned small business concern” means a small business concern—

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

“Women-owned small business concern,” means a small business concern –

- (1) that is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

(d) *Notice.*

- (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.
- (2) Under 15 U.S.C. 645(d), any person who misrepresents a firm’s status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall--
  - (i) Be punished by imposition of fine, imprisonment, or both;
  - (ii) Be subject to administrative remedies, including suspension and debarment; and
  - (iii) Be ineligible for participation in programs conducted under the authority of the Act.

**(End of Provision)**

*Alternate I (Apr 2002).* As prescribed in 19.308(a)(2), add the following paragraph (b)(7) to the basic provision:

- (7) [Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision. The offeror shall check the category in which its ownership falls:

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\_\_\_ Black American.

\_\_\_ Hispanic American.

\_\_\_ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

\_\_\_ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

\_\_\_ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

\_\_\_ Individual/concern, other than one of the preceding.

**SMALL DISADVANTAGED BUSINESS STATUS (FAR 52.219-22) (OCT 1999)**

(a) *General.* This provision is used to access an offeror's small disadvantaged business status for the purpose of obtaining a benefit on this solicitation. Status as a small business and status as a small disadvantaged business for general statistical purposes is covered by the provision at FAR 52.219-1, Small Business Program Representation.

(b) Representations

*General.* the offeror represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either --

\_\_\_ (i) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

(A) No material change in disadvantaged ownership and control has occurred since its certification;

(B) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(C) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net); or

\_\_\_ (ii) It has submitted a complete application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(c) *Penalties and Remedies.* Anyone who misrepresents any aspects of the Small Business status of a concern for the purposes of securing a contract or subcontract shall:

- (1) Be punished by imposition of a fine, imprisonment, or both;
- (2) Be subject to administrative remedies, including suspension and debarment; and
- (3) Be ineligible for participation in programs conducted under the authority of the Small Business Act.

**PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FAR 552.222-22) (FEB 1999)**

The offer represents that –

- (a) It has • , has not • , participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;
- (b) It has • , has not • , filed all required compliance reports; and
- (c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

**AFFIRMATIVE ACTION COMPLIANCE (FAR 522.222-25) (APR 1984)**

The offeror represents that (a) • it has developed and has on file, • has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor.

(41 CFR 60-1 and 60-2), or (b) • it has not previously had contracts subject to the written affirmative action programs required of the rules and regulations of the Secretary of Labor.

**CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (FAR 52.223-13) (AUG 2003)**

- (a) Executive Order 13148, of April 21, 2000, Greening the Government through Leadership in Environmental Management, requires submission of this certification as a prerequisite for contract award.
- (b) By signing this offer, the offeror certifies that –
  - (1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the

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Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) AND SECTION 6607 OF THE pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: [*Check each block that is applicable.*]

- (i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;
- (ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);
- (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);
- (iv) The facility does not fall within the following Standard Industrial Classification System (SIC) codes or their corresponding North American Industry Classification System sectors:
  - (A) Major group code 10 (except 1011, 1081, and 1094).
  - (B) Major group code 12 (except 1241).
  - (C) Major group codes 20 through 39.
  - (D) Industry code 4911, 4931, 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).
  - (E) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, *et seq.*)), or 5169, 5171, 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or
- (v) The facility is not located within any State of the United States or its outlying areas.

**(End of Provision)**

**CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APRIL 1991) FAR 52.203-11:**

- (a) The definitions and prohibitions contained in the clause, at FAR 52.203-121) Limitations on Payments to Influence Certain Federal Transaction, included in the solicitation, are hereby incorporated by reference in paragraph (b) of this certification.
- (b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment of modification of any Federal contract, grant, loan, or cooperative agreement.

- \*• (2) If any funds other than Federal appropriate funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or on her behalf in connection with the solicitation, the offeror shall complete and submit, with its offer, OMB standard Form LLL (3 pages), Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of the certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

- (c) Submission of this certification and disclosure is a prerequisite for making of entering into this contract imposed by section 1352, title 31, United States code. Any person who makes an expenditure prohibited under this provision or who fails to file an amendment to the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less that \$10,000 and not more than \$100,000, for each such failure.

\*Note: If this box is checked, the offeror **MUST COMPLETE AND SUBMIT** the attached Standard Form LLL (3 pages).

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By signing below the offeror hereby certified the foregoing representations and certifications are correct:

Company Name \_\_\_\_\_

Name of Authorized Rep \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_