

REPRESENTATIONS AND CERTIFICATIONS – INTERNATIONAL April 17, 2020

This document is to be used if Offeror’s performance is outside the United States and Offeror has or will not recruit employees in the United States to work on this subcontract.¹

¹ If the Offeror will perform any portion of the subcontract in the United States, question 6 must be completed.

Offeror (legal business name): _____

Doing Business As (must be listed on line 2 of W-8BEN-E): _____

Physical Address: _____

DUNS Number: _____ DUNS+4 Number: _____

Parent DUNS Number (if applicable): _____

North American Industry Classification System (NAICS) Code for this acquisition is _____ (as indicated in the solicitation/ request for proposal (RFP), if applicable).

The Offeror represents and certifies as part of its offer that: *(Check or complete all applicable items.)*

1. TYPE OF ORGANIZATION. It operates as the following: *(check one)*

- Foreign** individual
- sole proprietorship
- partnership
- educational institute/nonprofit organization
- corporation
- limited liability company
- government

Organized in the Country of _____

2. ANTI-KICKBACK. By submission of this offer, the Offeror certifies that it has not provided, attempted to provide, offered to provide, solicited, accepted, or attempted to accept any kickback; and has not included, directly or indirectly, the amount of any kickback in the offer. “Kickback” means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind that is provided, directly or indirectly, to any Government prime contractor (e.g., the Company), prime contractor employee, subcontractor at any tier, or employee of a subcontractor at any tier, for the purpose of improperly obtaining or rewarding favorable treatment in connection with a Government prime contract or in connection with a subcontract at any tier relating to a Government prime contract.

3. CERTIFICATION REGARDING RESPONSIBILITY MATTERS. *(Applicable if offer exceeds \$30,000.)*

(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, violating Federal criminal tax laws, 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 offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(D) Have, have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in a case where enforced collection is precluded.

(2) Examples are provided in FAR 52.209-5.

(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) "Principal," for the purposes of this certification, means officer; director; owner; partner; or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a 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 TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

(b) The Offeror shall provide immediate written notice to the Company if, at any time prior to subcontract 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 Company 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 Company, the Company may terminate the subcontract resulting from this solicitation for default.

(f) Subcontractors must flow down FAR 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Aug 2013) to sub-tiers if the value of any subcontract exceeds \$30,000 and is not for commercially available off the shelf items.

4. CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS.

(Applicable if offer exceeds \$150,000.)

(a) *Definitions.* As used in this provision—"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8) The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).

(b) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.

(c) *Certification.* The Offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that 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 its behalf in connection with the awarding of this subcontract.

(d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the Offeror with respect to this subcontract, the Offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The Offeror need not report regularly employed officers or employees of the Offeror to whom payments of reasonable compensation were made.

(e) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into this subcontract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

5. BUY AMERICAN. *(Applicable if offer exceeds \$10,000 and the purchased item is to be used in the United States.)*

(a) Each end product, except those listed in paragraph (b) of this provision, is a domestic end product and that for other than COTS items, the Offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product." The terms "commercially available off-the-shelf (COTS) item," "component," "domestic end product," "end product," "foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American Act – Supplies."

(b) Foreign end products:

<u>Line Item No.</u>	<u>Country of Origin</u>
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(c) The Company will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation.

6. EMPLOYMENT ELIGIBILITY VERIFICATION

(a) If this Agreement exceeds \$3,000 and will include services that will be performed in the United States, this Agreement incorporates by reference FAR 52.222-54 Employment Eligibility Verification (Aug 2013). You must complete the following and submit proof that your company has completed the enrollment process.

- E-Verify is not applicable based on paragraph (e) of FAR 52.222-54 Employment Eligibility Verification.
- It is currently enrolled in E-Verify and will include FAR 52.222-54 in applicable lower-tier subcontracts.
- It will enroll in E-Verify within 30 calendar days of subcontract award and will include FAR 52.222-54 in applicable lower-tier subcontracts.

7. EXPORT CONTROL

(a) The Offeror represents that items being furnished under any resulting agreement are, are not Trigger List Items as defined below.

Trigger List Items - <https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r13p1.pdf>

Trigger List items are a listing of equipment, components, or materials especially designed for nuclear applications and are export controlled. These items are on the safeguards list of the International Atomic Energy Agency identified above. The regulatory authority is the US Nuclear Regulatory Commission (10 CFR 110). If the items are Trigger List items, provide the following information:

- Manufacturer's Name _____
- Description _____
- Commodity Category _____

(b) The Offeror represents that items being furnished under any resulting agreement are, are not Military/Space Items as defined below.

Military/Space Items - <https://www.ecfr.gov/cgi-bin/retrieveECFR>

Military and Space items/equipment are specially designed, fabricated and configured for military and space applications as listed on the United States Munitions List (22 CFR 120-130). The regulatory authority is the US Department of State. If the items are Military/Space items/equipment, provide the following information:

- Manufacturer's Name _____
- Description _____
- Commodity Category _____

(c) The Offeror represents that items being furnished under any resulting agreement are, are not Dual Use Items 500 or 600 series as defined below.

Dual Use Items 500 or 600 series - <https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>

Dual Use Military and Space Items that were previous on the Munitions List under the Department of State and have been moved to the Commerce Control List 15 CFR 730 – 774. If the items are Dual Use Military and Space, provide the following information:

- Manufacturer's Name _____
- Description _____
- Commodity Category _____

By: _____
Printed/Typed Name

Signature

Title: _____

Date: _____