

REPRESENTATIONS AND CERTIFICATIONS – LEASE OF REAL PROPERTY (August 2010)

NOTE: "Offeror" as used in the following representations and certifications means the owner of the property offered, not an individual or agent representing the owner.

NOTICE: Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, small disadvantaged, HUBZone small, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to Sections 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 (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 Act.

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)*

U.S./Domestic

- individual
- sole proprietorship
- partnership
- educational institute/nonprofit organization
- corporation
- professional corporation (licensed professionals such as doctors, lawyers, accountants, etc.)
- limited liability company
- state or local government
- federal government

Foreign

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

Organized in the State of _____

Organized in the Country of _____

2. SMALL BUSINESS. It is, is not a small business concern. "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 121.

3. VETERAN-OWNED SMALL BUSINESS. It is, is not a veteran-owned small business concern. "Veteran-owned small business concern" means a small business concern (a) 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 the stock of which is owned by one or more veterans; and (b) the management and daily business operations of which are controlled by one or more veterans.

4. SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS. It is, is not a service-disabled veteran-owned small business concern. (a) "Service-disabled veteran-owned small business concern" 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 veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran. (b) "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).

5. HUBZone SMALL BUSINESS. It is, is not a HUBZone small business concern appearing, 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.

6. SMALL DISADVANTAGED BUSINESS CONCERN. It is, is not a small disadvantaged business concern. "Small disadvantaged business concern" means a small business concern that meets the criteria of social and economic disadvantage and other eligibility requirements for disadvantaged status set forth in 13 CFR 124.1002.

7. WOMEN-OWNED SMALL BUSINESS. It is, is not a women-owned small business concern. "Women-owned small business concern" means a small business concern that (a) 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 (b) the management and daily business operations of which are controlled by one or more women.

8. 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.

9. EQUAL OPPORTUNITY. *(Applicable if offer exceeds \$10,000.)*

(a) It has, has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation, or the clause contained in Section 201 of Executive Order No. 11114;

(b)(1) It has filed all required compliance reports, or

(2) It is not required by regulations of the Office of Federal Contract Compliance Programs at 41 CFR 60-1 to file compliance reports because:

It has less than 50 employees, or

It does not have a Government contract or first-tier subcontract of \$50,000 or more, or

It does not have a Government contract of \$50,000 or more below the first tier for construction work at the site of construction, or

(3) It 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.

11. AFFIRMATIVE ACTION. *(Applicable if offer exceeds \$10,000.)*

(a) It has developed and has 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),

(b) It has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor because it has not had 50 or more employees and a Government contract or subcontract of \$50,000 or more, or

(c) It has not developed and does not have on file at each establishment a required affirmative action program.

12. 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.

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

(Applicable if offer exceeds \$100,000.)

(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.

14. ASBESTOS. (a) The offered space, spaces above suspended ceilings in the offered space, air plenums elsewhere in the building which service the offered space, engineering spaces in the same ventilation zones as the offered space, public spaces, and common uses space (e.g., lobbies, hallways) does, does not include asbestos-containing materials (ACM). ACM as used in this provision is defined as any materials with a concentration of one percent or greater by dry weight of asbestos fibers.

(b) If any of the above areas include ACM, indicate whether the materials are:

(1) Friable: Yes No

(2) Non-friable and located where they are not likely to be disturbed during the term of the ensuing lease: Yes No

(3) In a solid matrix, already in place, and in good conditions: Yes No

15. HAZARDOUS WASTE OPERATIONS. (a) To the best of its knowledge, the site upon which space offered for lease to the Company was a site used for any or all of the following operations:

(1) Generation of hazardous waste: Yes No

(2) Treatment, temporary/permanent storage, or disposal of solid or hazardous waste: Yes No

(3) Storage of hazardous substances or petroleum products: Yes No

(4) Used/waste oil storage or reclamation units: Yes No

(5) Laboratory or rifle range: Yes No

(6) Chemical manufacturing/storage: Yes No

(7) Military or intelligence weapons or ammunition training or testing: Yes No

(8) Ordnance and/or weapons production, storage, or handling: Yes No

(b) If any of the above operations ever occurred at the site, appropriate cleanup or other action was, was not performed in accordance with local, state, and Federal laws.

16. RADON CERTIFICATION. (a) The portion of the space proposed for lease to or acquisition by the Company which is in ground contact or closest to the ground (i.e., if space offered is on Floors 4 through 8, certification is required for the 4th floor only) has been measured for radon. Radon detectors were placed throughout the required area to ensure each detector covered no more than 2000 square feet of space. Radon analyses were performed by a laboratory successfully participating in the Environmental Protection Agency-sponsored Radon Measurement Proficiency Program. The highest radon level was found to be:

below 4 picocuries per liter (pCi/l).

4 pCi/l or greater, but less than 200 pCi/l.

200 pCi/l or greater.

(b) The highest radon level measured was: _____.

(c) The measurement method used was: _____.

17. POLYCHLORINATED BIPHENYLS (PCBs). (a) The building in which the space is offered for lease to the Company:

(1) contains, does not contain transformers with one quart or more of PCB fluid.

- (2) contains, does not contain other equipment (e.g., capacitors), with one quart or more of PCB fluid. If present, specify the type of equipment: _____.
- (b) If PCB transformers are present, please indicate the number that:
- (1) are owned by the building _____ and/or by the utility company _____
 - (2) are leaking _____; are not leaking _____
 - (3) have overcurrent protection _____; have low current fault protection _____
 - (4) are inspected quarterly _____

Offeror (legal business name): _____

DUNS Number: _____ DUNS+4 Number: _____

EMPLOYER IDENTIFICATION NUMBER (EIN): _____

By: _____

Printed/Typed Name

Signature

Title: _____

Date: _____