

## REPRESENTATIONS AND CERTIFICATIONS (5-98)

**NOTICE.** Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small or small disadvantaged 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; 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 boxes or blocks.)*

**1. TYPE OF ORGANIZATION.** It operates as  an individual,  a partnership,  a nonprofit organization,  a professional corporation, or  other corporation incorporated in the State of \_\_\_\_\_.

**2. SMALL BUSINESS.** It  is,  is not a small business concern and that  all,  not all end items to be furnished will be manufactured or produced by a small business concern in the United States, its territories or possessions, Puerto Rico, or the Trust Territory of the Pacific Islands. "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 and size standards in 13 CFR 121.

**3. SMALL DISADVANTAGED BUSINESS.** It  is,  is not a small disadvantaged business concern. It  is,  is not certified as an 8(a) contractor by the Small Business Administration. "Small disadvantaged business concern" means a small business concern that (a) is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals and (b) has its management and daily business controlled by one or more such individuals. This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian Organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one of these entities which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian Organization, and which meets the requirements of 13 CFR 124.

**4. WOMEN-OWNED SMALL BUSINESS.** It  is,  is not, a women-owned small business concern. A "women-owned small business concern," as used in this provision, means a small business 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 whose management and daily business operations are controlled by one or more women.

**5. BUY AMERICAN.** *(Applicable if offer exceeds \$2500.)* Each end product, except those listed below, is a domestic end product (as defined in the clause entitled "Buy American Act"); and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

Excluded End Products

Country of Origin

**6. 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.

**7. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS.** (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  at present 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, 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 subdivision (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 purposes 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 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.

**8. EQUAL OPPORTUNITY.** *(Applicable if offer exceeds \$10,000.)* It  has,  has not, participated in a previous contract or subcontract subject to the Equal Opportunity clause herein, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114; it  has,  has not, filed all required compliance reports; and that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards.

**9. AFFIRMATIVE ACTION.** *(Applicable if offer exceeds \$10,000.)* (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 requirement of the rules and regulations of the Secretary of Labor.

**10. CLEAN AIR AND WATER.** *(Applicable if offer for other than a commercial item exceeds \$100,000, or a facility to be used has been the subject of a conviction under the Air Act (42 U.S.C. 7413(c)(1)) or the Water Act (33 U.S.C. 1319(c)) and is listed by EPA, or is not otherwise exempt.)* (a) Any facility to be utilized in the performance of this proposed subcontract  is,  is not, listed on the Environmental Protection Agency List of Violating Facilities. (b) The offeror will promptly notify the Company, prior to award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the offeror proposes to use for the performance of the subcontract is under consideration to be listed on the EPA List of Violating Facilities. (c) The offeror will include substantially this certification, including this paragraph (c), in every nonexempt subcontract.

**11. PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS.** *(Applicable if offer exceeds \$100,000.)* (a) The definitions and prohibitions contained in the Limitation on Payments to Influence Certain Federal Transactions clause, included in this 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 as of December 23, 1989, that (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 or modification of any Federal contract, grant, loan, or cooperative agreement; (2) if any funds other than Federal appropriated 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 her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Company; and (3) he or she will include the language of this 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 or entering into this subcontract imposed by Section 1352, Title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form 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.

Offeror: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

Title: \_\_\_\_\_

Date: \_\_\_\_\_