



**REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS
FOR CONSULTANTS
(U. S. DEPARTMENT OF ENERGY)**

Various statutes and regulations require Federal agencies and prime contractors to obtain certain representations, certifications, and other statements from Consultants in connection with the award of subcontracts. **Please complete Items 1 through 5 and Item 10.** Additional representations and certifications (Items 6 through 9 must be completed by the Consultant ***only*** if required by the solicitation, as indicated by the placement of an "X" to the right of the numerical designation for the Item.

1. Taxpayer Identification (OCT 1998) (FAR 52.204-3)
2. Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters (DEC 2001) (FAR 52.209-5)
3. Small Business Program Representations (APR 2002) (FAR 52.219-1)
4. Type of Business Organization
5. Place of Performance (OCT 1997) (FAR 52.215-6)

COMPLETE ITEMS 6 THROUGH 9 ONLY AS INDICATED

6. _____ Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 1991) (FAR 52.203-11)
7. X Organizational Conflicts of Interest - Advisory and Assistance Services (JUN 1997) (DEAR 952.209-8)
8. _____ Representation of Limited Rights Data and Restricted Computer Software (MAY 1999) (FAR 52.227-15)
9. _____ ITAR/ Foreign Corrupt Practices Act Disclosure Statement
10. Signature/Certification



**REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS
FOR CONSULTANTS
(U.S. DEPARTMENT OF ENERGY)**

1. Taxpayer Identification (OCT 1998) (FAR 52.204-3)(Modified)

(a) Definitions.

"*Common parent*," as used in this solicitation provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the Consultant is a member.

"*Corporate status*," as used in this solicitation provision, means a designation as to whether the Consultant is a corporate entity, an unincorporated entity (e.g., sole proprietorship or partnership), or a corporation providing medical and health care services.

"*Taxpayer Identification Number (TIN)*," as used in this solicitation provision, means the number required by the IRS to be used by the Consultant in reporting income tax and other returns.

- (b) All Consultants are required to submit the information required in paragraphs (c) through (e) of this solicitation provision in order to comply with reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M and implementing regulations issued by the Internal Revenue Service (IRS). If the resulting contract is subject to the reporting requirements described in FAR 4.903, the failure or refusal by the Consultant to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) Taxpayer Identification Number (TIN).

TIN: _____

TIN has been applied for.

TIN is not required because: _____

Consultant is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.;

Consultant is an agency or instrumentality of a foreign government;

Consultant is an agency or instrumentality of a Federal, state, or local government;

Other. State basis. _____

(d) Corporate Status.

Corporation providing medical and health care services, or engaged in the billing and collecting of payments for such services;

Other corporate entity;

Not a corporate entity

Sole proprietorship

Partnership

Hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation under 26 CFR 501(a).

(e) Common Parent.

Consultant is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

Name and TIN of common parent:

Name _____

TIN _____

2. Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters (DEC 2001) (FAR 52.209-5)(Modified)

(a)(1) The Consultant certifies, to the best of its knowledge and belief, that- (i) The Consultant 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 offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) The Consultant has o has not o, 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 Consultant shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Consultant 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 Consultant's responsibility. Failure of the Consultant to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Consultant

nonresponsible.

(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 Consultant 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 Consultant 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.

3. SMALL BUSINESS PROGRAM REPRESENTATIONS (APR 2002) (52.219-1)(Modified)

SMALL BUSINESS PROGRAM REPRESENTATIONS

(a) (1) The standard industrial classification (SIC) code for this acquisition is _____ [*insert SIC code*].

(2) The small business size standard is _____ [*insert size standard*].

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) *Representations.* (1) The Consultant represents as part of its offer that it is, is not a small business concern.

(2) (Complete only if the Consultant represented itself as a small business concern in paragraph (b)(1) of this provision.) The Consultant 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 Consultant represented itself as a small business concern in paragraph (b)(1) of this provision.) The Consultant represents as part of its offer that it is, is not a women-owned small business concern.

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

_____ 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.

(c) *Definitions.*

“Small business concern,” as used in this provision, 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.

“Women-owned small business concern,” as used in this provision, means a small business concern—

- (1) Which 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, 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.
- (5) [Complete only if Consultant represented itself as a small business concern in paragraph (b)(1) of this provision.] The Consultant 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 place of ownership, 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)(5)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture.

[The Consultant 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.

4. Type of Business Organization (OCT 1997) (FAR 52.215-4)

The Consultant or respondent, by checking the applicable box, represents that—

- (a) It operates as an individual, a partnership, a nonprofit organization, or a joint venture; or a corporation incorporated under the laws of the State of _____.
- (b) If the Consultant or respondent is a foreign entity, it operates as an individual, a partnership, a nonprofit organization, or a joint venture, or a corporation, registered for business in the country of _____.

5. Place of Performance (OCT 1997) (FAR 52.215-6)

- (a) The Consultant or respondent, in the performance of any contract resulting from this solicitation, **intends**, **does not intend** (check applicable block) to use one or more plants or facilities located at a different address from the address of the Consultant or respondent as indicated in this proposal or quotation or response to request for information.
- (b) If the Consultant or respondent checks "intends" in paragraph (a) of this provision, it shall insert in the spaces the required information:

Place of Performance (Street Address, City, County, State, Zip Code)	Name and Address of Owner and Operator of the Plant or Facility if Other than Consultant or Respondent
_____	_____
_____	_____
_____	_____

COMPLETE ITEMS 6 THROUGH 9 ONLY AS INDICATED ON CHECKLIST.

6. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 1991) (FAR 52.203-11) (Modified)

- (a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.
- (b) The Consultant, 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 a contract resulting from this solicitation.
 - (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 Consultant shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Buyer, 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 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 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.

7. Organizational Conflicts of Interest - Advisory and Assistance Services (JUN 1997) (DEAR 952.209-8) (Modified)

- (a) Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.
- (b) An Consultant notified that it is the apparent successful Consultant shall provide the statement described in paragraph (c) of this provision. For purposes of this provision, "apparent successful Consultant" means the proposer selected for final negotiations or, where individual contracts are negotiated with all firms in the competitive range, it means all such firms.
- (c) The statement must contain the following:
- (1) A statement of any past (within the past twelve months), present, or currently planned financial, contractual, organizational, or other interests relating to the performance of the statement of work. For contractual interests, such statement must include the name, address, telephone number of the client or client(s), a description of the services rendered to the previous client(s), and the name of a responsible officer or employee of the Consultant who is knowledgeable about the services rendered to each client, if, in the 12 months preceding the date of the statement, services were rendered to the Government or any other client (including a foreign government or person) respecting the same subject matter of the instant solicitation, or directly relating to such subject matter. The agency and contract number under which the services were rendered must also be included, if applicable. For financial interests, the statement must include the nature and extent of the interest and any entity or entities involved in the financial relationship. For these and any other interests enough such information must be provided to allow a meaningful evaluation of the potential effect of the interest on the performance of the statement of work.
- (d) Failure of the Consultant to provide the required statement may result in the Consultant being determined ineligible for award. Misrepresentation of failure to report any fact may result in the assessment of penalties associated with false statements or such other provisions provided for by law or regulation.

**8. REPRESENTATION OF LIMITED RIGHTS DATA AND RESTRICTED COMPUTER SOFTWARE
(MAY 1999) (52.227-15) (Modified)**

- (a) Any data delivered under the agreement will be subject to the Rights in Data--General clause at 52.227-14 that is to be included in the agreement. Under the clause, a Consultant may withhold from delivery, data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data in lieu thereof. The clause also may be used with its **Alternates II** and/or **III** to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of **Alternate V** with this latter clause provides the Government the right to inspect such data at the Contractor's facility.
- (b) As an aid in determining the Government's need to include **Alternate II or Alternate III** in the clause at 52.227-14, Rights in Data--General, the Consultant shall complete paragraph (c) of this provision to either state that none of the data qualify as limited rights data or restricted computer software or identify, to the extent feasible, which of the data qualifies as limited rights data or restricted computer software. Any identification of limited rights data or restricted computer software in the Consultant's response is not determinative of the status of such data should a contract be awarded to the Consultant.
- (c) The Consultant has reviewed the requirements for delivery of data or software and states (Consultant check appropriate box):

REPRESENTATION CONCERNING DATA RIGHTS

Consultant has reviewed the requirements for the delivery of data or software and states (Consultant check appropriate block)--

None of the data proposed for fulfilling such requirements qualifies as limited rights data or restricted computer software.

Data proposed for fulfilling such requirements qualify as limited rights data or restricted computer software and are identified as follows:

NOTE: "Limited rights data" and "Restricted computer software" are defined in the contract clause entitled "Rights In Data--General."

9. ITAR/Foreign Corrupt Practices Act Disclosure Statement

Consultant hereby certifies that it has paid, or offered or agreed to pay, or has caused to be paid, or offered or agreed to be paid directly or indirectly, in respect of this award, the following political contributions, fees, and commissions (as defined in Part 130 of the International Traffic in Arms Regulations):

- (a) _____
(State "none" if no political contributions, fees, or commissions have been paid, or offered or agreed to be paid or caused to be paid.)

If Consultant has made an entry other than "none" in space (a). above, Consultant shall hereinafter in space (b). furnish such further information as is required under Section 130.12 of the International Traffic in Arms Regulations:

(b). _____
(State "Not Applicable" if no entry has been made in space (a).)

(c). Consultant further certifies that it has not and will not offer, pay, promise to pay, or authorize the payment of any money, or offer, give, promise to give, or authorize the giving of anything of value to a Territory official (as defined in the Foreign Corrupt Practices Act (P.L. 95-213), as amended), to any Territory political party or official thereof or any candidate for Territory political office, or to any person, while knowing or being aware of a high probability that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to any Territory official, to any Territory political party or official thereof, or to any candidate for Territory political office, for the purposes of:

- (i) influencing any act or decision of such Territory official, political party, party official, or candidate in his or its official capacity, including a decision to fail to perform his or its official functions; or
- (ii) inducing such Territory official, political party, party official, or candidate to use his or its influence with the Territory government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality, in order to assist Buyer or Consultant in obtaining or retaining business for or with, or directing business to Buyer or Consultant.

Consultant further agrees that if subsequent developments cause the certifications and information reported hereinafter to be no longer accurate or complete, Consultant will immediately furnish Buyer with a supplementary report detailing such change in circumstances.

10. Signature/Certification

By signing below, the Consultant certifies, under penalty of law, that the representations and certifications are accurate, current, and complete. Consultant further certifies that it will notify the Buyer of any changes to these representations and certifications. The representations and certification made by the Consultant, as contained herein, concern matters within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent representation or certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

Signature

Date of Execution

Taxpayer I.D. Number or Social Security Number

Street Address

City, State