

Certifications for Assistance Instruments

1. Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions

(a) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal 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) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(b) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Applicants Other Than Individuals)

(a) The applicant certifies that it will or will continue to provide a drug-free workplace by:

(1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(2) Establishing an ongoing drug-free awareness program to inform employees about—

(i) The dangers of drug abuse in the workplace;

(ii) The applicant's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Making it a requirement that each employee to be engaged in the performance of the assistance instrument be given a copy of the statement required by paragraph (a)(1);

(4) Notifying the employee in the statement required by paragraph (a)(1) that, as a condition of employment under the assistance instrument, the employee will—

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(5) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (a)(4)(ii) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grants officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected assistance instrument;

(6) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (a)(4)(ii), with respect to any employee who is so convicted—

(i) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(ii) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a)(1), (2), (3), (4), (5) and (6).

(b) The applicant may insert in the space provided below the site(s) for the performance of work done in connection with the specific assistance instrument:

Place of Performance (Street address, city, county, State, zip code)

Check ☐ if there are workplaces on file that are not identified here.

Alternate II. (Applicants Who Are Individuals)

(a) The applicant certifies that as a condition of the assistance instrument, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the assistance instrument;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any activity under this assistance instrument, he or she will report the conviction in writing, within 10 calendar days of the conviction, to every assistance instrument office or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected assistance instrument.

3. Certification for Contracts, Grants, Loans, and Cooperative Agreements Regarding Lobbying

(a) The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress 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 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 in connection with this Federal contract, grant,

loan, or cooperative agreement, the undersigned shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

(b) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

4. Certification Regarding Domestic Source – Defense Production Act, Title III

(a) **Definition of Domestic Source.**

The term "domestic source" means a business concern—

(1) that performs in the United States or Canada substantially all of the research and development, engineering, manufacturing, and production activities required of such business concern under a contract/agreement with the United States relating to a critical component or a critical technology item; and

(2) that procures from business concerns described in subparagraph (A) substantially all of any components and assemblies required under a contract/agreement with the United States relating to a critical component or critical technology item. Territories and Protectorates of the United States, and the District of Columbia are considered part of the domestic United States.

(b) **Other Related Definitions:**

Critical Component.—The term "critical component" includes such components, subsystems, systems, and related special tooling and test equipment essential to the production, repair, maintenance, or operation of weapon systems or other items of military equipment identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States. Components identified as critical by a National Security Assessment conducted pursuant to section 113(i) of title 10, United States Code, or by a Presidential determination as a result of a petition filed under section 232 of the Trade Expansion Act of 1962 shall be designated as critical components for purposes of this Act, unless the President determines that the designation is unwarranted.

Critical Technology.—The term "critical technology" includes any technology that is included in 1 or more of the plans submitted pursuant to section 6681 of title 42, United States Code, or section 2508 of title 10, United States Code (unless subsequently deleted), or such other emerging or dual use technology as may be designated by the President.

Critical Technology Item.—The term "critical technology item" means materials directly employing, derived from, or utilizing a critical technology.

(c) **Certifications.** (1) The Offeror certifies that--

(i) In accordance with the Defense Production Act, Title III, the offeror hereby certifies that the company/corporation/organization they represent meets the definition of Domestic Source as shown above and in the Defense Production Act.

Name/Title of Authorized Offeror Representative

Date

5. Certification Regarding Merchant Supplier – Defense Production Act, Title III

A. Definition of Merchant Supplier.

The term “merchant supplier” (also referred to as an “open-source supplier”) is defined as a business concern that —

(a) is a production source which manufactures, supplies, and supports the use of its products by external customers independent of affiliation with internal or sister organizations; i.e., is not solely vertically integrated (restricted to supplying intra-company divisions, parent company, etc.);

(b) is committed to supporting a variety of specifications from eligible commercial and military customers;

(c) operates in a fair, equitable, and responsive manner under generally accepted business principles when responding to internal and external customers for commercial and military applications;

(d) does not, as a matter of policy, place restrictions or limitations on which eligible customers may buy or how they may subsequently use its products.

B. Other: The Merchant Supplier requirements are superseded by applicable regulations, including but not limited to ITAR.

C. Certifications.

(a) The Offeror certifies that it is a Merchant Supplier; and it will continue Merchant Supplier business practices for a minimum of 5 years after completion of this Defense Production Act, Title III investment.

(b) The Offeror certifies that it shall maintain the integrity of the competitive environment between all its customers, both internal and external, through demonstrated and documented processes that safe-guard all customer confidential sourcing information (such as specifications, order quantities, pricing, delivery schedules, financing agreements, etc.);

(c) The Offeror certifies that it will comply with Merchant Supplier audits, if requested and performed by the Defense Production Act, Title III Program Office.

Name/Title of Authorized Offeror Representative

Date

6. Qualification of Offeror Under Export-Controlled Restrictions and Military Critical Technology Restrictions.

(a) This Title III program involves technology that has a military or space application. Only U.S. Contractors who are registered and certified with the Defense Logistics Services Center (DLSC), Federal Center, Battle Creek MI 49017-3084 (1-800-352-3572) and have a legitimate business purpose may participate in this BAA (solicitation). If you are registered and certified with DLSC, you must submit a copy of the approved [DD Form 2345](#), Military Critical Technical Data Agreement, with your request for the BAA (solicitation). Note: It is the offeror’s responsibility to ensure the DD Form 2345 remains current.

(a) This Title III program involves technology that is regulated/governed by the International Traffic in Arms Regulation (22 CFR pt. 120 et seq.), the DOD Industrial Security Regulation (DOD 5220.22-R) and the Department of Commerce Export Regulation (15 CFR pt. 770 et seq.)

(c) Nothing in this notice contradicts other restrictions, identified in the BAA (solicitation) or Request For Proposal document, regarding eligible sources.

7. Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements--Representation (Jan 2017)

(a) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), Government agencies are not permitted to use funds appropriated (or otherwise made available) for assistance instruments with an entity that requires employees or subawardees of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subawardees from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(b) The prohibition in paragraph (a) of this provision does not contravene requirements applicable to Standard Form 312, (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(c) Representation. By submission of its offer, the Offeror represents that it will not require its employees or subawardees to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subawardees from lawfully reporting waste, fraud, or abuse related to the performance of a Government award to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (e.g., agency Office of the Inspector General).

8. Representation By Corporations Regarding An Unpaid Delinquent Tax Liability Or A Felony Conviction Under Any Federal Law--Fiscal Year 2016 Appropriations (Feb 2016)

(a) In accordance with section 101 (a) of the Continuing Appropriations Act, 2016 (Pub. 114-53) and any subsequent FY 2016 appropriations act that extends to FY 2016 funds the same restrictions as are contained in sections 744 and 745 of division E, title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), none of the funds made available by this or any other Act may be used to enter into a contract with any corporation that-

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government; or

(2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that-

(1) It is ☐ is not ☐ a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability,

(2) It is ☐ is not ☐ a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

9. Representation regarding the Prohibition on Using Funds under Grants and Cooperative Agreements with Entities that Require Certain Internal Confidentiality Agreements (JUN 2015)

By submission of its proposal or application, the applicant represents that it does not require any of its employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting those employees, contractors, or subrecipients from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. Note that: (1) the basis for this representation is a prohibition in section 743 of the Financial Services and General Government Appropriations Act, 2015 (Division E of the Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. 113-235) and any successor provision of law on making funds available through grants and cooperative agreements to entities with certain internal confidentiality agreements or statements; and (2) section 743 states that it does not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

10. Violation of Arms Control Treaties or Agreements—Certification (JUN 2018)

(a) This provision does not apply to acquisitions below the simplified acquisition threshold or to acquisitions of commercial items.

(b) Certification. [Offeror shall check either (1) or (2).]

____ (1) The Offeror certifies that—(i) It does not engage and has not engaged in any activity that contributed to or was a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a). The report is available via the internet at <https://www.state.gov/t/avc/rls/rpt/>; and (ii) No entity owned or controlled by the Offeror has engaged in any activity that contributed to or was a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a). The report is available via the internet at <https://www.state.gov/t/avc/rls/rpt/>; or

____ (2) The Offeror is providing separate information with its offer in accordance with paragraph (d)(2) of this provision.

(c) Procedures for reviewing the annual unclassified report (see paragraph (b)(1) of this provision). For clarity, references to the report in this section refer to the entirety of the annual unclassified report, including any separate reports that are incorporated by reference into the annual unclassified report.

(1) Check the table of contents of the annual unclassified report and the country section headings of the reports incorporated by reference to identify the foreign countries listed there. Determine whether the Offeror or any person owned or controlled by the Offeror may have engaged in any activity related to one or more of such foreign countries.

(2) If there may have been such activity, review all findings in the report associated with those foreign countries to determine whether or not each such foreign country was determined to be in violation of its obligations undertaken in an arms control, nonproliferation, or disarmament agreement to which the United States is a party, or to be not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. For clarity, in the annual report an explicit certification of noncompliance is equivalent to a determination of violation. However, the following statements in the annual report are not equivalent to a determination of violation:

- (i) An inability to certify compliance.
- (ii) An inability to conclude compliance.
- (iii) A statement about compliance concerns.

(3) If so, determine whether the Offeror or any person owned or controlled by the Offeror has engaged in any activity that contributed to or is a significant factor in the determination in the report that one or more of these foreign countries is in violation of its obligations undertaken in an arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. Review the narrative for any such findings reflecting a determination of violation or non-adherence related to those foreign countries in the report, including the finding itself, and to the extent necessary, the conduct giving rise to the compliance or adherence concerns, the analysis of compliance or adherence concerns, and efforts to resolve compliance or adherence concerns.

(4) The Offeror may submit any questions with regard to this report by email to NDAA1290Cert@state.gov. To the extent feasible, the Department of State will respond to such email inquiries within 3 business days.

(d) Do not submit an offer unless—

(1) A certification is provided in paragraph (b)(1) of this provision and submitted with the offer;

or

(2) In accordance with paragraph (b)(2) of this provision, the Offeror provides with its offer information that the President of the United States has—

(i) Waived application under U.S.C. 2593e(d) or (e); or

(ii) Determined under 22 U.S.C. 2593e(g)(2) that the entity has ceased all activities for which measures were imposed under 22 U.S.C.2593e(b).

(e) Remedies. The certification in paragraph (b)(1) of this provision is a material representation of fact upon which reliance was placed when making a award. If it is later determined that the Offeror knowingly submitted a false certification, in addition to other remedies available to the Government, such as suspension or debarment, the Agreements Officer may terminate any Agreement resulting from the false certification.

11. As an authorized representative, I hereby make the above certifications on behalf of the offeror.

Funding Opportunity Announcement (FOA) No.:

Proposal Title:

Name of Applicant:

Typed or printed name and title of official certifying on behalf of Applicant:

Signature of official certifying on behalf of
Applicant:

Date:

12. Applicant shall provide the following information:

(a) Applicant's **Taxpayer Identification Number (TIN)**: _____

(b) Applicant's applicable **Commercial and Government Entity (CAGE) Code**: _____