University of California, Lawrence Berkeley National Laboratory

Representations and Certifications for Procurements Under LBNL Contract No. DE-AC02-05CH11231 with the Department of Energy

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The following Representation & Certification provisions must be completed and this form must be signed and returned as part of the Offeror's proposal. As used herein, the term "contract" shall mean the UC/LBNL award resulting from the Offeror's proposal; "offer" includes "bid," "proposal," and "quotation;" and "Offeror" includes "bidder," "proposer," and "quoter", as may be applicable.

1. OFFEROR INFORMATION

(Complete and check all that applies.)

Legal Name of Business Entity:	
Taxpayer Identification Number (TIN):	
SAM Unique Entity Identifier Number (UEI):	
Legal Name of Parent Company (if applicable)	

List Legal Name of All Direct, Indirect, Aggregate Owned Affiliates (attach an additional sheet if needed)

Place of Performance (principal plant or place of business where the items will be produced, supplied from stock, or where the service will be performed): Zip+4 _____ Country _____

# of employees *(If known and not a government entity)*: _____

Type of Domestic Organization

- ☐ For-Profit
- ☐ Other Non-Profit
- ☐ Sole Proprietorship
- ☐ Partnership
- ☐ Corporation
- ☐ Limited Liability Co. (LLC)

incorporated or organized in the State of: _____

- ☐ Government entity (Federal, state, or local)
- ☐ Joint Venture, with:
- ☐ Indian Organization (see FAR 52.226-1 for definition)
- ☐ Indian owned Economic Enterprise (see FAR 52.226-1 for definition)

Eligibility Designations for Higher Education Programs as defined by the U.S. Department of Education https://www.ed.gov/grants-and-programs/grants-higher-education/eligibility-designations-higher-education-programs

- ☐ Minority Serving Institution
  - ☐ Historically Black College/University
  - ☐ Hispanic Serving Institution
  - ☐ Emerging Research Institution
  - ☐ Other *(describe)*: _____

Type of Foreign Organization

- ☐ Foreign Government entity *(describe below)*
- ☐ Non-U.S. company, institution, or organization *(describe below)*
- ☐ Nonresident alien or foreign corporation or partnership that does not have an office or a place of business in the U.S or personnel located in the U.S in furtherance of its trade or business.
- ☐ Other *(describe)*: _____

2. CERTIFICATION AND DISCLOSURE ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS

(Per FAR 52.203-11)

(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 the contract.

(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 the contract, 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 entering into the contract 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.

3. CERTIFICATION ON RESPONSIBILITY MATTERS

(Per FAR 52.209-5)

(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, voluntarily excluded, 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 (if Offeror checks "have", the Offeror shall also see 52.209-7, if included in this solicitation);

(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 the threshold at 9.104-5(a)(2) 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 cases where enforced collection action is precluded.

(2) Examples.

(i) The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(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 an 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 University Procurement Representative if, at any time prior to 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 University may render the Offeror 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 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 available remedies, the University may terminate the resulting contract for default.

4. REPRESENTATIONS BY CORPORATIONS REGARDING DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW

(Applies to Corporations only)

(a) The University at its discretion may withhold an award to 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 University; 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 further action is not necessary to protect the interests of the University.

(b) The Offeror certifies 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; and

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

NOTE: THESE REPRESENTATIONS ARE SIMILAR TO THOSE CONTAINED IN FAR 52.209-11 WITHOUT THE DISQUALIFICATION RESTRICTIONS.

5. INFORMATION REGARDING RESPONSIBILITY MATTERS

(Per FAR 52.209-7)

(a) Definitions. As used in this provision—

"Administrative proceeding" means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

"Federal contracts and grants with total value greater than $10,000,000" means—

(1) The total value of all current, active contracts and grants, including all priced options; and

(2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

"Principal" means an 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).

(b) The offeror **has** ☐ **does not have** ☐ current active Federal contracts and grants with total value greater than $10,000,000.

(c) If the offeror checked "has" in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in—

(A) The payment of a monetary fine or penalty of $5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of $100,000.

(C) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management database via https://www.acquisition.gov (see FAR 52.204-7).

6. CERTIFICATION REGARDING TAX MATTERS

(Per FAR 52.209-12)

(a) This provision implements section 523 of Division B of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts.

(b) If the Offeror is proposing a total contract price that will exceed $5,500,000 (including options), the Offeror shall certify that, to the best of its knowledge and belief, it

(1) **Has** ☐ **Has not** ☐ filed all Federal tax returns required during the three years preceding the certification;

(2) **Has** ☐ **Has not** ☐ been convicted of a criminal offense under the Internal Revenue Code of 1986; and

(3) **Has** ☐ **Has not** ☐, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

7. BUY AMERICAN ACT CERTIFICATION

NOTE: THIS CERTIFICATION IS SIMILAR TO THAT CONTAINED IN FAR 52.225-2 WITHOUT THE SPECIFIC DOMESTIC CONTENT THRESHOLD REQUIREMENT.

(a) (1) The Offeror certifies that each end product to be delivered or construction material to be incorporated into the work, except those listed in paragraph (b) of this provision, is a domestic end product or domestic construction material.

(2) The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed the threshold specified in FAR 52.225-1 or for Construction Material 52-225-9, except for those that are COTS items. If the percentage of the domestic content is unknown, select "no".

(3) The terms "commercially available off-the-shelf (COTS) item," "domestic end product," "end product," and "foreign end product" are defined in FAR 52.225-1. The term "domestic construction material" is defined in FAR 52.225-9.

(b) Foreign End Products or Construction Material:

Line Item No.	Country of Origin	Exceeds domestic content threshold specified in FAR 52.225-1 or for Construction Material 52-225-9 (yes/no)

NOTE: The University will consider applicable provisions of FAR Subpart 25.1 in evaluating offers for foreign end products or construction material.

8. REPRESENTATION OF LIMITED RIGHTS DATA AND RESTRICTED COMPUTER SOFTWARE

(Per FAR 52.227-15, and definitions in DEAR 927.409)
(Applies if data will be produced, furnished, or acquired)

(a) This solicitation sets forth the known requirements for data. Any data delivered under the resulting contract will be subject to the *Rights in Data-General* clause at FAR 52.227-14. Under that clause, data that qualifies as limited rights data or restricted computer may be withheld from delivery, with form, fit, and function data delivered in lieu thereof, or delivered as limited rights data or restricted computer software per Alternates II or III of the clause, provided it is marked with the appropriate limited rights or restricted rights notice. Use of Alternate V with the clause provides the University and DOE the right to inspect such data at the Subcontractor's facility.

(b) By completing the remainder of this paragraph, the Offeror represents that it has reviewed the requirements for data, including technical data and computer software, and states:

(check appropriate box)

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

☐ The following data proposed to be used for fulfilling the requirements for data will be withheld from delivery or delivered as limited rights data or restricted computer software:

_____

_____

_____

c) Any identification of limited rights data or restricted computer software in the Offeror's response is not determinative of the status of the data should a contract be awarded to the Offeror.

NOTE: The terms "data", "limited rights data", "restricted computer software", "computer software", "technical data", and "form, fit, and function data" are defined in DEAR 927.409.

9. EXPORT CONTROLLED ITEM CLASSIFICATION

(a) The Offeror must supply export control information for all products, including classification pertaining to the appropriate export regulations—the Export Administration Regulations (EAR), the International Traffic In Arms Regulations (ITAR) or the Nuclear Regulatory Commission (NRC)—for each product quoted that is export controlled. Because LBNL may export your product, or disclose technical data about your product to a foreign national (which is known as a "deemed export"), your assistance in furnishing an accurate classification is necessary to comply with export regulations.

(b) The Offeror certifies that:

(1) The export classification(s) for the item(s) being purchased are identified below. Please include for each item: 1) Manufacturer's Name; 2) Model Number; 3) Description of Item; 4) Export Authority (ITAR, EAR, or NRC); 5) (a) If an EAR classification, provide the applicable Export Control Classification Number (ECCN), 5(b) If an ITAR classification, provide USML category, 5(c) If an NRC classification, provide relevant NRC section. Attach an additional sheet if necessary:

_____

_____

_____

_____

(2) The Offeror represents that if an award is made for the quoted items, that the Offeror **will** ☐ **will not** ☐ be delivering export-controlled equipment user guides, installation/repair/maintenance documentation or software that is designated as proprietary and export controlled.

_____

_____

_____

10. REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

(PER FAR 52.204-24)

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at 52.204-26, Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at 52.212-3, Offeror Representations and Certifications-Commercial Products or Commercial Services. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at 52.204-26, or in paragraph (v)(2)(ii) of the provision at 52.212-3.

(a) Definitions. As used in this provision –

"Backhaul", "covered telecommunications equipment or services", "critical technology", "interconnection arrangements", "reasonable inquiry", "roaming", and "substantial or essential component" have the meanings provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) Prohibition.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) Procedures. The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (https://www.sam.gov) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(d) Representation. The Offeror represents that—

(1) It **will** ☐ **will not** ☐ provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds "will" in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It ☐ **does**, ☐ **does not** use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds "does" in paragraph (d)(2) of this section.

(e) Disclosures.

(1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded "will" in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision;

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

11. COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES-REPRESENTATION

(PER FAR 52.204-26)

(a) Definitions. As used in this provision, "covered telecommunications equipment or services" and "reasonable inquiry" have the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) Procedures. The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (https://www.sam.gov) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(c) (1) Representation. The Offeror represents that it ☐ **does** ☐ **does not** provide covered telecommunications equipment or services as a part of its offered products or services to the government in the performance of any contract, subcontract, or other contractual instrument.

(2) After conducting a reasonable inquiry for purposes of this representation, the Offeror represents that it ☐ **does** ☐ **does not** use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

12. BIOBASED PRODUCT AND RECOVERED MATERIAL CERTIFICATION

(PER FAR 52.223-1 and 52.223-4)

The Offeror certifies:

That biobased products (within categories of products listed by the United States Department of Agriculture in 7 CFR part 3201, subpart B) to be used or delivered in the performance of the subcontract, other than biobased products that are not purchased by the offeror as a direct result of this subcontract, will comply with the applicable specifications or other contractual requirements; and

The percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the subcontract will be at least the amount required by the applicable subcontract specifications or other contractual requirements.

13. SMALL BUSINESS PROGRAM REPRESENTATIONS

(Per FAR 52.219-1)

***Do Not Complete Section 16 if** Non-Profit or Not-For Profit (Applies if any performance will be in the U.S. or its outlying areas. If a Foreign Non-U.S. company, institution, or organization, with no place of business in the U.S. and that does not make a significant constrbution to the U.S. economy through payment of taxes and or use of American products, do not complete this section.)*

(a) Representations

(1) The Offeror represents as part of its offer that:

(i) It ☐ **is**, ☐ **is not**, a small business (SB) concern; or

(ii) It ☐ **is**, ☐ **is not**, a small business joint venture that complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b). [*The Offeror shall enter the name and unique identifier of each party to the joint venture:]*

_____.

[*Complete the following sections only if the Offeror represents in paragraph (b)(1) that it is a small business concern.*]

(2) It ☐ **is**, ☐ **is not**, a small disadvantaged business (SDB) concern, as defined in 13 CFR124.1001.

(3) It ☐ **is**, ☐ **is not**, a women-owned small business (WOSB) concern.

(4) It ☐ **is**, ☐ **is not,** a women-owned small business (WOSB) joint venture eligible under the WOSB Programthat complies with the requirements of 13 CFR 127.506(a) through (c). [*The Offeror shall enter the name and unique identifier of each party to the joint venture:]*

_____.

(5) It ☐ **is**, ☐ **is not**, an economically disadvantaged women-owned small business (EDWOSB) joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The Offeror shall enter the name and unique identifier of each party to the joint venture:]*

_____.

(6) It ☐ **is**, ☐ **is not**, a veteran-owned small business (VOSB) concern.

(7) (i) It ☐ **is**, ☐ **is not**, a service-disabled veteran-owned small business (SDVOSB) concern pursuant to the definition at 13 CFR 128.200(b); or

(ii) It ☐ is, ☐ is not, a service-disabled veteran-owned joint venture that complies with the requirements of 13 CFR 128.402. [The Offeror shall enter the name and unique identifier of each party to the joint venture:]

_____.

Each service-disabled veteran-owned small business concern participating in the joint venture shall provide representation of its service-disabled veteran-owned small business concern status.

(8) It ☐ is, ☐ is not, an 8(a) concern listed, on the date of this representation, on the list of qualified 8(a) concerns maintained by the Small Business Administration, and it continues to meet all eligibility criteria of 13 CFR 124, Subpart A for 8(a) business development program participation.

(9) It ☐ is, ☐ is not, a protégé, participating in a federal Mentor-Protégé Program.

If participating in a federal Mentor-Protégé Program, indicate the approving federal agency here_ _____ and indicate the Mentor-Protégé Program Agreement's expiration date here_ _____.

(10) (i) It ☐ is, ☐ is not, a HUBZone small business concern listed, on the date of this representation, as having been certified by SBA as a HUBZone small business concern in the Dynamic Small Business Search and SAM, and will attempt to maintain an employment rate of HUBZone residents of 35 percent of its employees during performance of a HUBZone contract (see 13 CFR 126.200; and

(ii) It ☐ **is**, ☐ **is not,** a HUBZone joint venture that complieswith the requirements of 13 CFR 126.616(a) through (c).

[*The Offeror shall enter the name and unique identifier of each party to the joint venture:]*

_____.

Each HUBZone small business concern participating in the HUBZone joint venture shall provide representation of its HUBZone status.

(b) Notice.

Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a business concern that is small, HUBZone small, small disadvantaged, service-disabled veteran-owned small, economically disadvantaged women-owned small, or women-owned small eligible under the WOSB Program in order to obtain a contract to be awarded under the preference programs established pursuant to section 8, 9, 15, 31, and 36 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. (i) Be punished by imposition of fine, imprisonment, or both;

ii. (ii) Be subject to administrative remedies, including suspension and debarment; and

iii. (iii) Be ineligible for participation in programs conducted under the authority of the Act.

(c) Definitions. As used in this provision-

(1) *"Small business concern"* means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (b) of this provision.

(2) *"Affiliates*", as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties' control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

"*Small disadvantaged business concern*", consistent with 13 CFR 124.1001, means a small business concern under the size standard applicable to the acquisition, that

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by-

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the *United States*, and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13 CFR 124.106) by individuals who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

"Women-owned small business concern" means a small business concern (1) 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 (2) whose management and daily business operations are controlled by one or more women.

"Women-owned small business (WOSB) concern eligible under the WOSB Program" (in accordance with 13 CFR part 127) means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300.

"Economically disadvantaged women-owned small business (EDWOSB) concern" means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300. It automatically qualifies as a women-owned small business concern eligible under the WOSB Program.

"Veteran-owned small business concern" means a small business concern (1) 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 (2) the management and daily business operations of which are controlled by one or more veterans.

"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).

"Service-disabled veteran-owned small business concern" means a small business concern: (1) 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

(2) 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.

(d) (1)The North American Industry Classification System (NAICS) code for this acquisition, per the solicitation, is:
332999, All Other Miscellaneous Fabricated Metal Product

(2)The small business size standard, per the solicitation, is:
750 or fewer employees

SOLICITATION NUMBER MG-06152026

Date	Signature	Company	Title

NOTE: The size standard for a concern submitting an offer in its own name for other than construction or services, but which proposes to furnish a product which itself did not manufacture, is 500 employees, or 150 employees for *information technology* value-added resellers under NAICS code 541519, if the *acquisition*—

(i) Is set aside for small business and has a value above the *simplified acquisition threshold*;

(ii) Uses the *HUBZone* price evaluation preference regardless of dollar value, unless the *offeror* waives the price evaluation preference; or

(iii) Is an 8(a), *HUBZone*, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.