

Stanford University Stanford Linear Accelerator Center

REPRESENTATIONS AND CERTIFICATIONS

(This solicitation is issued under Contract No. DE-AC02-76SFO0515 with the Department of Energy)

The following Representation & Certification solicitation provisions must be completed and this form must be signed and returned with the offeror's proposal. As used herein, the term "Contract" shall mean the Purchase Order or Subcontract resulting from this solicitation; the term "Contractor" shall mean the entity (hereinafter "Subcontractor") who shall enter into the Purchase Order or Subcontract with the University; the term "subcontract" shall mean the Subcontractor's subcontractor; and the terms "Government" and "Contracting Officer" shall mean the University. The term "Offer" includes "Bid," "Proposal," and "Quotation;" and the term "Offeror" includes "Bidder," "Proposer," "Quoter," and "Vendor" as may be applicable.

NOTICE: Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, small disadvantaged, HUBZone small, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to Sections 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references Section 8(d) for a definition of program eligibility, shall (1) be punished by imposition of a fine, imprisonment, or both; (2) be subject to administrative remedies including suspension and debarment; and (3) be ineligible for participation in programs conducted under the authority of the Act.

The Offeror represents and certifies as part of its offer that: *(Check or complete all applicable boxes or blocks.)*

1. TYPE OF ORGANIZATION.

It operates as an individual, a sole proprietorship, a partnership, a nonprofit organization, a professional corporation, or other corporation incorporated in the State of _____, or country _____, if a foreign country.

BIDDER/OFFEROR AFFILIATION AND IDENTIFYING DATA.

Taxpayer identification number (TIN) (26U.S.C. 6050M).

- (a) Taxpayer Identification Number (TIN).
- Offeror's TIN: _____
- TIN has been applied for.
- TIN is not required because:
- Offeror 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.;
- Offeror is an agency or instrumentality of a foreign government;
- Offeror is an agency or instrumentality of a Federal, state, or local government;
- Other. State basis. _____

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 or its outlying areas as defined in 48 CFR subpart 2.101. "Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR 121.

3. VETERAN-OWNED SMALL BUSINESS.

It is, is not a veteran-owned small business concern. "Veteran-owned small business concern" means a small business concern (a) not less than 51 percent of which is owned by one or more veterans, as defined at 38 U.S.C. 101(2), or, in the case of any publicly owned business, not less than 51 percent of the stock

of which is owned by one or more veterans; and (b) the management and daily business operations of which are controlled by one or more veterans.

4. SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS.

It is, is not a service-disabled veteran-owned small business concern. (a) "Service-disabled veteran-owned small business concern" means a small business concern (i) not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and (ii) the management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran. (b) "Service-disabled veteran" means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

5. HUBZone SMALL BUSINESS.

It is, is not a HUBZone small business concern appearing, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126.

6. SMALL DISADVANTAGED BUSINESS CONCERN.

It has, has not received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, subpart B, and, if it has:

(a) No material change in disadvantaged ownership and control has occurred since its certification;

(b) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.1 04(c)(2); and

(c) It is identified, on the date of this representation, as a certified small disadvantaged business concern in the Central Contractor Registration (CCR) database.

7. WOMEN-OWNED SMALL BUSINESS.

It is, is not a women-owned small business concern. "Women-owned small business concern" means a small business concern that (a) is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women, and (b) the management and daily business operations of which are controlled by one or more women.

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8. EQUAL OPPORTUNITY.

(Applicable if offer exceeds \$10,000)

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

(b) It has, has not filed all required compliance reports.

9. a. AFFIRMATIVE ACTION COMPLIANCE PROGRAM

(Not applicable to Construction Work)

The bidder/offeror represents that (a) it has developed and has on file, has not developed and does not have on file, at each establishment an affirmative action program as 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 written affirmative action program requirements of the rules and regulations of the Secretary of Labor.

b. EQUAL OPPORTUNITY COMPLIANCE (Applicable to all proposals exceeding \$1,000,000.)

The bidder/offeror represents:

- 1) That a full compliance review of the bidder/offeror's employment practices has , has not been conducted by an agency of the Federal Government.
- 2) If a full compliance review has been conducted by an agency of the Federal Government, the most recent compliance review was conducted on _____ by _____. (Date) (Federal Agency)
- 3) The proposed first-tier subcontractors which will be awarded subcontracts of \$1,000,000 or more are.

Any bidder/offeror and its known first-tier subcontractors which will be awarded subcontracts of \$1,000,000 or more will be subject to full, preaward equal opportunity compliance reviews before the award of the subcontract for the purpose of determining whether the proposer and its subcontractors are able to comply with the provisions of the Equal Opportunity clause.

10. NOTICE OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES.

a. Offerors and Bidders are cautioned as follows: By signing this bid/offer, the bidder/offeror will be deemed to have signed and agreed to the provisions of the "Certification of Nonsegregated Facilities" in this solicitation set out below. The certification provides that the offeror does not maintain or provide for its employees facilities which are segregated on a basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a defacto basis. The certification also provides that it will not maintain such segregated facilities. Failure of a bidder/offeror to agree to the Certification of Nonsegregated Facilities will render its offer nonresponsible to the terms of solicitations involving awards of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause.

b. Certification of Nonsegregated Facilities: The bidder/offeror (hereinafter called the "Subcontractor") certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in the Subcontract or Order for which this offer is submitted. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating

areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. The Subcontractor further agrees that (except where the proposed subcontractors have submitted identical certifications for specific time periods), it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that it will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods).

c. Notice to Prospective Subcontractors of Requirement for Certifications on Nonsegregated Facilities: A Certification of Nonsegregated Facilities, as required by the May 9, 1967, order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, annually).

11. REGULAR DEALER-MANUFACTURER

(Applicable only to supply contracts exceeding \$10,000.) It is a _____ regular dealer in _____ manufacturer of, the supplies offered.

12. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS.

(Applicable if offer exceeds \$25,000.)

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that:

(i) The Offeror and/or any of its Principals:

(A) Are, are not 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, tax evasion, or receiving stolen property; and

(C) Are, are not at present 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 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.

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(b) The Offeror shall provide immediate written notice to the University 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.

13. 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 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 this subcontract;

(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 University; 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.

14. TOXIC CHEMICAL RELEASE REPORTING.

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

(a) Executive Order 13148, of April 21, 2000, Greening the Government through Leadership in Environmental Management, requires submission of this certification as a prerequisite for subcontract award.

(b) By signing this offer, the Offeror certifies that –

(1) As the owner or operator of facilities that will be used in the performance of this subcontract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the Offeror will file and continue to file for such facilities for the life of the subcontract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this subcontract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: *[Check each block that is applicable.]*

(i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

(ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

(iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(iv) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

- (A) Major group code 10 (except 1011, 1081, and 1094).
- (B) Major group code 12 (except 1241).
- (C) Major group codes 20 through 39.
- (D) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).
- (E) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, et seq.), or 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

(v) The facility is not located in the United States or its outlying areas.

15. ANTI-KICKBACK.

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

16. BUY AMERICAN CERTIFICATE.

The bidder/offeror hereby certifies that each end product, except the end products listed below, is a domestic source end product (as defined in the provision 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

17. PERCENT OF FOREIGN CONTENT

The bidder/offer will represent (as an estimate), herein, before the award of a purchase order or subcontract, the percent of the foreign content of the item or service being procured expressed as a percent of the subcontract award price (accuracy within plus or minus 5 percent is acceptable). Percent of Foreign Content: _____.

18. PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(a) "Segregated Facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

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(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

19. EMPLOYEE-VENDOR RELATIONSHIP CERTIFICATION

An affirmative response in the following certification will require the University to evaluate your offer to determine whether a conflict of interest exists. A determination that a conflict of interest exist may necessitate rejection of your offer. The fact that an employee or former employee of Stanford University, or near relative of an employee owns, controls, or has a significant financial interest in your organization will not, in and of itself, necessarily be cause for rejection of your offer.

Definitions:

Employee: Any individual who is presently employed by any entity of Stanford University, including the Stanford Linear Accelerator Center.

Former Employee: An individual who has retired or separated from Stanford University, was dismissed, or was otherwise formerly employed by the University.

Near Relative: The employee's spouse, child, parent, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of a Stanford University employee, and step-relatives in the same relationship. Near relative also includes the domestic partner of a University employee and a relative of the domestic partner in one of the foregoing relationships.

Control: Having some right to direct or transfer property (even though there exists no actual title to the property, such as trusteeship, power of appointment, or contract) that could be the basis for influence upon the selection or decisions of an organization's management personnel.

Significant Final Interest: Owning or controlling more than 10 percent of the organization.

Certification:

To the best of my knowledge and belief, an employee or former employee of Stanford University or a near relative of an employee [] does [] does not own, control, or have significant financial interest in the Offeror's organization.

If an employee or former employee of Stanford University or near relative thereof does own, control, or have significant financial interest in the Offeror's Organization, identify the employees and the Stanford University entity where that person is employed

Signature

Name

Title

Date

Company Name

Address

City, State, Zip Code

Telephone Number