

SECTION K
ORAU REPRESENTATIONS AND CERTIFICATIONS (LONG)
(Applicable to procurement actions which are anticipated to exceed the Simplified Acquisition Threshold)

Section K—Representations, Certifications, and Other Statements of Offerors, (CDC-NIOSH Rev. 0; 11-02)

SUPPLIER/OFFEROR REPRESENTS AND CERTIFIES AS PART OF ITS OFFER THAT:
(Check or complete all applicable boxes or blocks.)

K-1 TAXPAYER IDENTIFICATION

a. Definitions.

“Common parent,” as used herein, 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 Offeror is a member.

“Corporate status,” as used herein, means a designation as to whether the Offeror is a corporate entity, an unincorporated entity, (e.g., sole proprietorship or partnership), or a corporation providing mental and health care services.

“Taxpayer Identification Number (TIN),” as used herein, means the number required by the IRS to be used by the Offeror in reporting income tax and other returns.

b. All Offerors are required to submit the information required in paragraphs c. through e. of this subparagraph.

c. Taxpayer Identification Number (TIN) : _____

d. Type of organization.

- Sole proprietorship;
- Partnership;
- Corporate entity (not tax-exempt) incorporated under the laws of the State of _____
- Corporate entity (tax-exempt) incorporated under the laws of the State of _____
- Government entity (Federal, State, or local)
- Nonprofit organization
- Individual
- Other: _____

e. Common Parent.

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

Name and TIN of common parent:

Name of Parent: _____

Street Address of Parent: _____

TIN of Parent: _____

K-2 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

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

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

(A) Are are not 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 a 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 subdivision (a)(1)(i)(B) of this provision.

(ii) The Offeror has has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

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- (2) Principals, for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions). This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under section 1001, Title 18, United States Code.
- b. The Offeror shall provide immediate written notice to the ORAU Contract Specialist if, at any time prior to contract 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 the a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the ORAU Contract Specialist may render the Offeror non-responsible.
- 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 in making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to the other remedies available to ORAU, the ORAU Contract Specialist may terminate any resulting contract for default.

K-3 SMALL BUSINESS PROGRAM REPRESENTATIONS

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is _____ *[insert NAICS 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 offeror represents as part of its offer that it is, is not a small business concern.

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

(4) *[Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.]* The offeror represents as part of its offer that it is, is not a veteran-owned small business concern.

(5) *[Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.]* The offeror represents as part of its offer that it is, is not a service-disabled veteran-owned small business concern.

(6) *[Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.]* The offeror 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 office of ownership, or

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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)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror 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.

**(7) [Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.]
The offeror 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.* As used in this provision-

"Service-disabled veteran-owned small business concern"-

(1) 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.

(2) 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).

"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 part 121 and the size standard in paragraph (a) of this provision.

"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.

"Women-owned small business concern" means a small business concern-

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- (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.

(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, HUBZone 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.

K-4 SMALL DISADVANTAGED BUSINESS STATUS

a. General. This provision is used to assess an offeror's small disadvantaged business status for the purpose of obtaining a benefit on this solicitation. Status as a small business and status as a small disadvantaged business for general statistical purposes is covered by the provision at paragraph K-2, Small Business Program Representation.

b. Representations.

(1) General. The offeror represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either--

(i) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

(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 124.104(c)(2); and

(C) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net); or

(ii) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(2) For Joint Ventures. The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements at 13 CFR 124.1002(f) and that the representation in paragraph (b)(1) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: _____.]

c. Penalties and Remedies. Anyone who misrepresents any aspects of the disadvantaged status of a concern for the purposes of securing a contract or subcontract 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 Small Business Act.

K-5 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS

The Offeror represents that -

a. It has, has not participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation;

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- b. It has, has not, filed all required compliance reports; and
- c. Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

K-6 WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS)

- a. Definition. Women-owned business concern, as used in this provision, means a concern 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 its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.
- b. Representation. [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph K-3 b. (1) Small Business Program Representations, of this solicitation.] The offeror represents that it is a women-owned business concern.

K-7 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION

- a. The Offeror certifies that -
 - (1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offeror, or (iii) the methods or factors used to calculate the prices offered;
 - (2) The prices in this offer have not been and will not knowingly be disclosed by the Offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
 - (3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not submit an offer for the purpose of restricting competition.
- b. Each signature on the offer is considered to be a certification by the signatory that the signatory -
 - (1) Is the person in the Offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
 - (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above:

Full Name	Title
_____	_____
_____	_____

- (insert full name of person(s) in the Offeror's organization responsible for determining prices offered in this bid or proposal, and the title of his or her position in the Offeror's organization);
- (ii) As an authorized agent, does certify that the principals named in subparagraph (b)(2)(i) above have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; and
- (iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

- c. If the Offeror deletes or modifies subparagraph (a)(2) above, the Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

K-8 CERTIFICATE AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS

- a. The definitions and prohibitions contained in the clause at FAR 52.203-12, Limitations on Payments to Influence Certain Federal Transactions, are incorporated by reference in paragraph (b) of this certification.

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- 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 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 awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;
 - (2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, an employee of a Member of Congress on his or her behalf in connection with this offer, the Offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the ORAU Contract Specialist; 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.

K-9 AFFIRMATIVE ACTION COMPLIANCE

The offeror represents that -

- a. It has developed and has on file, has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or,
- b. It has not previously had subcontracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

K-10 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING

- a. Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.
- 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 contract 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 contract 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 contract 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 under section 313(c) of EPCRA, 42 U.S.C. 11023(c);
- (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);

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- (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 Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or
- (v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

K-11 UNCLASSIFIED FOREIGN VISITS AND ASSIGNMENTS (FV&A) CERTIFICATION

This certification is required if work under any resulting subcontract will require subcontractor employees to work onsite either on DOE or CDC-NIOSH property or in facilities where DOE or CDC-NIOSH work is being performed.

a. Definitions.

“Foreign national,” as used herein, means any person who is not a U.S. citizen, including permanent resident aliens. Foreign nationals may include, but are not limited to, the following:

- (1) Officials or other personnel employed by foreign governments or other foreign institutions, who may or may not be involved in cooperation under international agreements.
- (2) Foreign students at U.S. institutions.
- (3) Employees of DOE, CDC-NIOSH or other U.S. government agencies or their contractors or subcontractors at any tier, of universities, of companies (professional or service staff), or of other institutions.
- (4) Prospective employees of DOE or DOE contractors or subcontractors at any tier or prospective employees of CDC-NIOSH or CDC-NIOSH contractors or subcontractors at any tier.

“U.S. Citizen,” as used herein, means a citizen of the U.S., including naturalized citizens.

b. All Offerors are required to submit the information required in paragraph (c) of this subparagraph.

c. The Offeror must certify the following:

- (1) All personnel employed by the Offeror who will be assigned to work under the proposed subcontract are U.S. Citizens; or
- (2) A list of foreign nationals employed by the Offeror who will be assigned to work under the proposed subcontract are listed below:

<u>Name of Foreign National</u>	<u>Country of Citizenship</u>	<u>Country of Birth</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

d. If it is determined that foreign nationals are required in the performance of work under this Agreement, additional information may be requested. Up to 45 days may be required to obtain the necessary approvals for those listed in paragraph (c) above.

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K-12 TECHNICAL DATA CERTIFICATION

a. The Offeror certifies that it has not delivered or is not obligated to deliver to ORAU or the Government under any contract or subcontract the same or substantially the same technical data included in its offer, except as set forth below:

- none
- Contract No. (and Subcontract No., if applicable): _____

Agency name and place of delivery: _____

b. The work to be performed and the known requirements for technical data as set forth in the solicitation have been reviewed. To the best of my knowledge:

- There will be no technical data withheld from delivery as being proprietary data.
- The technical data listed on page ____ of the proposal will likely be used in conjunction with the performance of the work under the contract and is represented as being proprietary data to be protected from unauthorized use and disclosure and therefore to be withheld from delivery in a report not having a restrictive legend.

K-13 CONTRACT COMPLIANCE CONDITIONS

The undersigned certifies that information and data in connection with any resulting award and any amendments thereto will only be used for performance of the contract requirements related to the contract and that it will be treated in confidence except to the extent that the information is available to the general public without restriction as to its use from any source, including ORAU and CDC-NIOSH. Further, seller agrees to comply with any notice or restriction placed on the information or data provided in connection with this contract. Upon completion of the contract, seller shall return all copies of all information or data as directed by the ORAU Technical Contact. Seller shall not contact any other party having knowledge or interest concerning any aspect of the work performed under this contract except as directed by the ORAU Contact.

K-14 CONFIDENTIALITY OF INFORMATION AND DATA

CDC-NIOSH and Oak Ridge Associated Universities receive and generate materials containing privileged and proprietary information and data in confidence and are responsible for protecting the confidentiality of their contents. For this reason, seller shall not copy, quote, or otherwise use material evolving from this contract effort.

All materials pertinent to this contract are privileged information for use only by persons having a need to know for contract compliance. The undersigned agrees not to copy, quote, or otherwise use or release materials evolving from this contract effort without the express approval and direction of the ORAU Technical Contact.

Certification of Individual Performing Work under the Contract

Typed Name: _____

Title: _____

Date Certified: _____

(Required for EACH Individual Performing Work under the Contract)

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K-15 SIGNATURE AND CERTIFICATION

The Offeror certifies that these representations and certification are accurate, current, and complete at the time of submission of offer and that the undersigned is aware of the penalty prescribe in 18 U.S.C. 1001 for making false statements in offers. The Offeror further certifies that it will notify the ORAU Contract Specialist of any changes to these representations and certifications subsequent to execution of this document and during performance of any resultant subcontract.

(Name of Organization)

(Address)

Signature of Authorized Official:

Typed Name:

Title:

Date Executed:
