

FLYSHEET R101 - SOLICITATION PROVISIONS

A. NONSEGREGATED FACILITIES REQUIREMENTS

1. NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES

A. Certification of Nonsegregated Facilities must be submitted before the award of a subcontract under which the subcontractor will be subject to Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

2. CERTIFICATION OF NONSEGREGATED FACILITIES

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, or national origin because of habit, local custom, or otherwise.

b. By the submission of this offer, the offeror certifies 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 offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the order.

c. The offeror further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will –

- 1) Obtain identical certification from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause.
- 2) Retain the certifications in the files; and
- 3) Forward the notice appearing in paragraph 1 above to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods).

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001

B. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS

The offeror represents that –

1. IT HAS IT HAS NOT participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation, the clause originally contained in Section 301 of Executive Order No. 10925, or the clause contained in section 201 of Executive Order No. 11114;
2. IT HAS IT HAS NOT filed all required compliance reports; and
3. By submission of this offer all required compliance reports will be completed and filed in accordance with Executive Order requirements before subcontract award.

C. AFFIRMATIVE ACTION COMPLIANCE (Applicable to orders of \$50,000 or more if offeror has 50 or more employees)

The offeror represents that –

1. IT HAS developed and has on file
2. IT 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
3. IT HAS NOT previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

If either C2 or C3 is marked then offeror represents, by submission of this offer, that it will develop and have on file, at each establishment, a written affirmative action compliance program within 120 days from the commencement of its first Government contract or subcontract of more than \$50,000.

D. EQUAL EMPLOYMENT OPPORTUNITY REPORTING REQUIREMENTS (Applicable unless specifically exempted by law, regulation or Executive Order, to orders amounting to \$50,000 or more if offeror has 50 or more employees).

The offeror represents that –

1. it has filed Report EEO-1 for this annual period; or
2. it will file Report EEO-1 within 30 days following an award under this solicitation.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

E. PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE REVIEW

An award in the amount of \$10 million or more will not be made under this solicitation unless the offeror is found, on the basis of a compliance review, to be in compliance with the provisions of the Equal Opportunity clause of this solicitation.

F. CLEAN AIR AND WATER CERTIFICATION (Applicable to orders in excess of \$100, 000)

The offeror certifies that --

1. Any facility to be utilized in the performance of this proposed order IS NOT listed on the Environmental Protection Agency List of Violating Facilities;
2. The offeror will immediately notify Buyer, before award, of the receipt of any communication from the Administrator or designee of the Environmental Protection Agency, indicating that any facility that the offeror proposes to use for the performance of the order is under consideration to be listed on the EPA List of Violating Facilities; and
3. the offeror will insert a certification substantially the same as this certification, including this paragraph 3, in every nonexempt subcontract as defined in FAR 23.104.

G. CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (Applicable to awards in excess of \$100, 000)

1. The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.
2. The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief as of December 23, 1989 --
 - a. 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 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;
 - b. 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; and

- c. 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.
3. Submission of the above 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 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.

H. PROTECTING THE GOVERNMENT'S INTEREST WHEN SUB-CONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT
(Applicable to orders in excess of \$25,000)

FAR 52.20M provides that, a Contractor shall not enter into any subcontract in excess of \$25,000 with a Contractor that has been debarred, suspended, or proposed for debarment unless there is a compelling reason to do so. The proposed first-tier subcontractor has the further obligation to disclose to Contractor, in writing, if it or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government, as of the time of award of the subcontract.

1. The Offeror certifies, to the best of its knowledge and belief, that the Offeror and/or any of its Principals:
 - a. are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.
 - b. have not, within a three (3) 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, or receiving stolen property, and
 - c. are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in 1.(b) above, of this provision.
2. The Offeror has not, within a three (3) year period preceding this offer, had one or more contracts terminated for default by any Federal agency.
3. The Offeror further certifies that it shall provide immediate written notice to the Buyer if, at any time prior to or after contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. If the Offeror cannot certify that all of the items in paragraph 1. of this provision are true, it will not necessarily result in withholding of an award under this solicitation. However, the lack of verification 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 Buyer may render the Offeror nonresponsive.
5. The certification in paragraph 1. of this provision is a continuing material representation of fact upon which reliance will be placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to the other remedies available to Buyer, the Buyer may terminate the contract resulting from this solicitation for default.

I. PROGRESS PAYMENTS FOR SMALL BUSINESS CONCERNS

If the offeror is a small business concern, progress payments will be made available by Buyer, if desired by offeror, in conformity with the standards for customary progress payments stated in subsection 32.502-1 of the Federal Acquisition Regulation, as in effect on the date of any resulting order.

J. BUSINESS STATUS

The offeror represents, pursuant to the noted government regulation, that it is-(Check the applicable box or boxes).

- a small business concern (FAR 19.001)
- a small disadvantaged business concern (FAR 52.219-2(b))
- an Indian organization/indian-owned economic enterprise (FAR 52.226.1)
- a woman-owned business concern (FAR 52.219-13(a))
- a rural area small business concern (NASA FAR SUPP 18-52.219-74)
- a Historically Black College or University (34 CFR 608.2)
- a Minority Institution (34 CFR 607.2)

K. NOTICE OF PENALTIES AND REMEDIES FOR MISREPRESENTATIONS OF BUSINESS STATUS

The offer or is hereby notified that under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals (inclusive of all the categories identified in section J, above) 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:

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.

L. Signature below applies to paragraphs A through K.

Company: _____

Name: _____
(Print or Type)

Title: _____

Signature: _____

Date: _____