

**FLEXIBLY-PRICED CONTRACT  
REPRESENTATIONS AND CERTIFICATIONS  
(COST-REIMBURSEMENT, TIME-AND-MATERIALS &  
LABOR-HOUR CONTRACTS)**

This Exhibit contains certifications and representations that are material representations of fact upon which MEDIMMUNE will rely in making awards to Contractor. By submitting its written offer, or providing oral offers/quotations at the request of MEDIMMUNE, or accepting any Contract, Contractor certifies to the representations and certifications as set forth below in this Exhibit. These certifications shall apply whenever these terms and conditions are incorporated by reference in any Contract, agreement, other contractual document or any quotation, request for quotation (oral or written), request for proposal or solicitation (oral or written), issued by MEDIMMUNE. Contractor shall immediately notify MEDIMMUNE of any change of status with regard to these certifications and representations.

This Contract is entered into by the parties in support of a U.S. Government contract. As used in the FAR clauses referenced below and otherwise in this Contract:

**“Commercial Item” means a Commercial Item as defined in FAR 2.101.**

**“Contract” means this contract.**

**“Contracting Officer” shall mean the U.S. Government Contracting Officer for MEDIMMUNE’s government prime contract under which this Contract is entered.**

**“Contractor” and “Offeror” means the SELLER, as defined in this contract, acting as the immediate (first tier) subcontractor to MEDIMMUNE.**

**“Prime Contract” means the contract between MEDIMMUNE and the U.S. Government or between MEDIMMUNE and its higher-tier contractor who has a contract with the U.S. Government.**

**“Subcontract” means any contract placed by the contractor or lower-tier subcontractors under this Contract.**

**I. 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Apr 1991).**

- (a) 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.

- (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 contract;
  - (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 Contracting Officer; 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.

## **II. 52.222-38 Compliance with Veterans' Employment Reporting Requirements (Dec 2001).**

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212(d) (*i.e.*, if it has any contract containing Federal Acquisition Regulation clause 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans), it has submitted the most recent VETS-100 Report required by that clause.

### **III. 52.227-6 Royalty Information (Apr 1984).**

- (a) *Cost or charges for royalties.* When the response to this solicitation contains costs or charges for royalties totaling more than \$250, the following information shall be included in the response relating to each separate item of royalty or license fee:
- (1) Name and address of licensor.
  - (2) Date of license agreement.
  - (3) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable.
  - (4) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable.
  - (5) Percentage or dollar rate of royalty per unit.
  - (6) Unit price of contract item.
  - (7) Number of units.
  - (8) Total dollar amount of royalties.
- (b) *Copies of current licenses.* In addition, if specifically requested by the Contracting Officer before execution of the contract, the offeror shall furnish a copy of the current license agreement and an identification of applicable claims of specific patents.

#### **Alternate I (Apr 1984)**

Substitute the following for the introductory portion of paragraph (a) of the basic clause: When the response to this solicitation covers charges for special construction or special assembly that contain costs or charges for royalties totaling more than \$250, the following information shall be included in the response relating to each separate item of royalty or license fee:

### **IV. 52.204-3 Taxpayer Identification (Oct 1998).**

- (a) *Definitions.*

“Common parent,” as used in this provision, 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.

“Taxpayer Identification Number (TIN),” as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

- (b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.
- (c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror’s relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR § 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror’s TIN.

(d) *Taxpayer Identification Number (TIN).*

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 United States and does not have an office or place of business or a fiscal paying agent in the United States.

Offeror is an agency or instrumentality of a foreign government.

Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

Sole proprietorship;

Partnership;

- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 CFR 1.6049-4;
- Other \_\_\_\_\_

(f) Common parent.

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

Name and TIN of common parent:

Name: \_\_\_\_\_

TIN: \_\_\_\_\_

**V. 52.204-5 Women-Owned Business (Other Than Small Business) (May 1999).**

- (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 (b)(1) of FAR § 52.219-1, Small Business Program Representations, of this solicitation.] The offeror represents that it  is a women-owned business concern.

**VI. 52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters (Dec 2001).**

- (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 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 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.

- (b) The Offeror shall provide immediate written notice to the Contracting Officer 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 a determination of the Offeror’s responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer 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 remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

**VII. 52.214-14 Place of Performance-Sealed Bidding (Apr 1985).**

- (a) The bidder, in the performance of any contract resulting from this solicitation  intends intends,  does not intend [*check applicable box*] to use one or more plants or facilities located at a different address from the address of the bidder as indicated in this bid.
- (b) If the bidder checks “intends” in paragraph (a) of this provision, it shall insert in the spaces provided below the required information:

Place Of Performance (Street Address, City, State, County, Zip Code)

Name And Address Of Owner And Operator Of The Plant Or Facility If Other Than Bidder

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**VIII. 52.215-6 Place of Performance (Oct 1997).**

- (a) The offeror or respondent, in the performance of any contract resulting from this solicitation,  intends,  does not intend [*check applicable block*] to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.
- (b) If the offeror or respondent checks “intends” in paragraph (a) of this provision, it shall insert in the following spaces the required information:

Place Of Performance (Street Address, City, State, County, Zip Code)

Name And Address Of Owner And Operator Of The Plant Or Facility If Other Than Offeror Or Respondent

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**IX. 52.219-1 Small Business Program Representations (May 2004).**

- (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 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



- (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, or 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.

(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 service-disabled 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:

- (3) 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
- (4) 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:

- (5) 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
- (6) 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.

**Alternate I (Apr 2002)**

As prescribed in 19.308(a)(2), add the following paragraph (b)(7) to the basic provision:

(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.

**X. 52.219-2 Equal Low Bids (Oct 1995).**

(a) This provision applies to small business concerns only.

(b) The bidder's status as a labor surplus area (LSA) concern may affect entitlement to award in case of tie bids. If the bidder wishes to be considered for this priority, the bidder must identify, in the following space, the LSA in which the costs to be incurred on account of manufacturing or production (by the bidder or the first-tier subcontractors) amount to more than 50 percent of the contract price.

\_\_\_\_\_  
\_\_\_\_\_

(c) Failure to identify the labor surplus areas as specified in paragraph (b) of this provision will preclude the bidder from receiving priority consideration. If the bidder is awarded a contract as a result of receiving priority consideration under this provision and would not have otherwise received award, the bidder shall perform the contract or cause the contract to be performed in accordance with the obligations of an LSA concern.

**XI. 52.219-19 Small Business Concern Representation for the Small Business Competitiveness Demonstration Program (Oct 2000).**

- (a) *Definition.* “Emerging small business” as used in this solicitation, means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the North American Industry Classification System (NAICS) code assigned to a contracting opportunity.
- (b) [Complete only if the Offeror has represented itself under the provision at 52.219-1 as a small business concern under the size standards of this solicitation.] The Offeror  is,  is not an emerging small business.
- (c) [Complete only if the Offeror is a small business or an emerging small business, indicating its size range.] Offeror’s number of employees for the past 12 months [check this column if size standard stated in solicitation is expressed in terms of number of employees] or Offeror’s average annual gross revenue for the last 3 fiscal years [check this column if size standard stated in solicitation is expressed in terms of annual receipts]. [Check one of the following.]

Number of Employees	Average Annual Gross Revenues
<input type="checkbox"/> __ 50 or fewer	<input type="checkbox"/> __ \$1 million or less
<input type="checkbox"/> __ 51-100	<input type="checkbox"/> __ \$1,000,001-\$2 million
<input type="checkbox"/> __ 101-250	<input type="checkbox"/> __ \$2,000,001-\$3.5 million
<input type="checkbox"/> __ 251-500	<input type="checkbox"/> __ \$3,500,001-\$5 million
<input type="checkbox"/> __ 501-750	<input type="checkbox"/> __ \$5,000,001-\$10 million
<input type="checkbox"/> __ 751-1,000	<input type="checkbox"/> __ \$10,000,001-\$17 million
<input type="checkbox"/> __ Over 1,000	<input type="checkbox"/> __ Over \$17 million

**XII. 52.219-21 Small Business Size Representation for Targeted Industry Categories under the Small Business Competitiveness Demonstration Program (May 1999).**

[Complete only if the Offeror has represented itself under the provision at 52.219-1 as a small business concern under the size standards of this solicitation.]

Offeror’s number of employees for the past 12 months [check this column if size standard stated in solicitation is expressed in terms of number of employees] or Offeror’s

average annual gross revenue for the last 3 fiscal years [check this column if size standard stated in solicitation is expressed in terms of annual receipts]. [*Check one of the following.*]

Number of Employees	Average Annual Gross Revenues
<input type="checkbox"/> __ 50 or fewer	<input type="checkbox"/> __ \$1 million or less
<input type="checkbox"/> __ 51-100	<input type="checkbox"/> __ \$1,000,001-\$2 million
<input type="checkbox"/> __ 101-250	<input type="checkbox"/> __ \$2,000,001-\$3.5 million
<input type="checkbox"/> __ 251-500	<input type="checkbox"/> __ \$3,500,001-\$5 million
<input type="checkbox"/> __ 501-750	<input type="checkbox"/> __ \$5,000,001-\$10 million
<input type="checkbox"/> __ 751-1,000	<input type="checkbox"/> __ \$10,000,001-\$17 million
<input type="checkbox"/> __ Over 1,000	<input type="checkbox"/> __ Over \$17 million

**XIII. 52.219-22 Small Disadvantaged Business Status (Oct 1999).**

- (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 FAR § 52.219-1, 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.

#### **Alternate I (Oct 1998)**

As prescribed in 19.308(b), add the following paragraph (b)(3) to the basic provision:

- (3) *Address.* The offeror represents that its address  is,  is not in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at

<http://www.arnet.gov/References/sdbadjustments.htm>. The offeror shall use the list in effect on the date of this solicitation. "Address," as used in this provision, means the address of the offeror as listed on the Small Business Administration's register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR Part 124, subpart B. For joint ventures, "address" refers to the address of the small disadvantaged business concern that is participating in the joint venture.

**XIV. 52.222-18 Certification Regarding Knowledge of Child Labor for Listed End Products (Feb 2001).**

(a) Definition:

"Forced or indentured child labor" means all work or service:

- (1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or
- (2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

(b) *Listed end products.* The following end product(s) being acquired under this solicitation is (are) included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, identified by their country of origin. There is a reasonable basis to believe that listed end products from the listed countries of origin may have been mined, produced, or manufactured by forced or indentured child labor.

Listed End Products

Listed Countries of Origin

\_\_\_\_\_

\_\_\_\_\_

(c) *Certification.* The Government will not make award to an offeror unless the offeror, by checking the appropriate block, certifies to either paragraph (c)(1) or paragraph (c)(2) of this provision.

- (1)  The offeror will not supply any end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in a corresponding country as listed for that end product.

- (2)  The offeror may supply an end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture such end product. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

**XV. 52.222-22 Previous Contracts and Compliance Reports (Feb 1999).**

The offeror represents that:

- (a) It  has It  has not participated in a previous contract or subcontract subject the Equal Opportunity clause of this solicitation;
- (b) It  has It  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.

**XVI. 52.222-25 Affirmative Action Compliance (Apr 1984).**

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 contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

**XVII. 52.222-48 Exemption from Application of Service Contract Act Provisions—Contractor Certification.**

- (a) The following certification shall be checked:

Certification

The offeror certifies  does not certify  that :

- (1) The items of equipment to be serviced under this contract are Commercial Items which are used regularly for other than Government purposes, and are sold or traded by the Contractor in



substantial quantities to the general public in the course of normal business operations;

- (2) The contract services are furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, and/or repair of certain information technology, scientific and medical and/or office and business equipment. An “established catalog price” is a price (including discount price) recorded in a catalog, price list, schedule, or other verifiable and established record that is regularly maintained by the manufacturer or the Contractor and is either published or otherwise available for inspection by customers. An “established market price” is a current price, established in the course of ordinary and usual trade between buyers and sellers free to bargain, which can be substantiated by data from sources independent of the manufacturer or Contractor; and
  - (3) The Contractor utilizes the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract as the Contractor uses for equivalent employees servicing the same equipment of commercial customers.
- (b) If a negative certification is made and a Service Contract Act wage determination is not attached to the solicitation, the Contractor shall notify the Contracting Officer as soon as possible.
  - (c) Failure to execute the certification in paragraph (a) of this clause or to contact the Contracting Officer as required in paragraph (b) of this clause may render the bid or offer nonresponsive

**XVIII. 52.223-4 Recovered Material Certification (Oct 1997).**

As required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(c)(3)(A)(i)), the offeror certifies, by signing this offer, that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by the applicable contract specifications.

**XIX. 52.223-9 Estimate of Percentage of Recovered Material Content for EPA-Designated Products.**

- (a) *Definitions.* As used in this clause

“Postconsumer material” means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of “recovered material.”

“Recovered material” means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

- (b) The Contractor, on completion of this contract, shall
  - (1) Estimate the percentage of the total recovered material used in contract performance, including, if applicable, the percentage of postconsumer material content; and
  - (2) Submit this estimate to \_\_\_\_\_ [*Contracting Officer complete in accordance with agency procedures*].
  - (3) nor

#### **Alternate I (Aug 2000)**

As prescribed in 23.406(b), redesignate paragraph (b) of the basic clause as paragraph (c) and add the following paragraph (b) to the basic clause:

(b) The Contractor shall execute the following certification required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(i)(2)(C)):

#### **Certification**

I, \_\_\_\_\_, (name of certifier), am an officer or employee responsible for the performance of this contract and hereby certify that the percentage of recovered material content for EPA-designated products met the applicable contract specifications.

*[Signature of the Officer or Employee]*

*[Typed Name of the Officer or Employee]*

*[Title]*

*[Name of Company, Firm, or Organization]*

*[Date]*

#### **XX. 52.223-13 Certification of Toxic Chemical Release Reporting (Aug 2003).**

- (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 contract 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 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 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.

**XXI. 52.225-2 Buy American Act Certificate (June 2003).**

(a) The offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. The terms “component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act—Supplies.”

(b) Foreign End Products.

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____
_____	_____

[List as necessary]

(c) The Government will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation.

**XXII. 52.226-2 Historically Black College or University and Minority Institution Representation (May 2001).**

(a) *Definitions.* As used in this provision:

“Historically black college or university” means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard, the term also includes any nonprofit

research institution that was an integral part of such a college or university before November 14, 1986.

“Minority institution” means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k, including a Hispanic-serving institution of higher education, as defined in Section 316(b)(1) of the Act (20 U.S.C. 1101a)).

(b) *Representation.* The offeror represents that it:

is  is not a historically black college or university;

is  is not a minority institution.

**XXIII. 52.227-15 Representation of Limited Rights Data and Restricted Computer Software (May 1999).**

- (a) This solicitation sets forth the work to be performed if a contract award results, and the Government’s known delivery requirements for data (as defined in FAR 27.401). Any resulting contract may also provide the Government the option to order additional data under the Additional Data Requirements clause at 52.227-16 of the FAR, if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data—General clause at 52.227-14 that is to be included in this contract. Under the latter clause, a Contractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data in lieu thereof. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides the Government the right to inspect such data at the Contractor’s facility.
- (b) As an aid in determining the Government’s need to include Alternate II or Alternate III in the clause at 52.227-14, Rights in Data—General, the offeror shall complete paragraph (c) of this provision to either state that none of the data qualify as limited rights data or restricted computer software, or identify, to the extent feasible, which of the data qualifies as limited rights data or restricted computer software. Any identification of limited rights data or restricted computer software in the offeror’s response is not determinative of the status of such data should a contract be awarded to the offeror.

(c) The offeror has reviewed the requirements for the delivery of data or software and states [*offeror check appropriate block*]:

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

Data proposed for fulfilling such requirements qualify as limited rights data or restricted computer software and are identified as follows:

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NOTE: “Limited rights data” and “Restricted computer software” are defined in the contract clause entitled “Rights in Data—General.”

**XXIV. Authorized Signature.**

All Offerors must sign and complete this form. By signing below, the Offeror hereby certifies all the foregoing representations and certifications are current, accurate, and complete.

Company  
Name \_\_\_\_\_

Authorized Representative Signature  
\_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Phone Number \_\_\_\_\_

Submitted in response to Solicitation Number  
or Contract Number:  
\_\_\_\_\_

