



REPRESENTATIONS & CERTIFICATIONS

For

Subcontracts/Purchase Orders

For the National Renewable Energy Laboratory
Managed and Operated by the Alliance for Sustainable Energy, LLC

The Alliance for Sustainable Energy, LLC is the Managing and Operating Contractor of the National Renewable Energy Laboratory (NREL) under U.S. Department of Energy contract number DE-AC36-08GO28308 and has its principal place of business in Golden, Colorado. The following representations and certifications must be completed, and this form must be signed and returned to the requesting NREL Subcontract Administrator.

1. Offeror Information

Required for all solicitations.

Company/Organization Name (*insert legal name of company*): The Pennsylvania State University

Company Address (*location*): 110 Technology Center

(*city, state, and zip code*): University Park, PA 16802-7000

Remit to Address (*location or PO Box*): Same

(*city, state, and zip code*): _____

Telephone Number: (814) 865-1372 Fax Number: (814) 865-3377

Email Address: osp@psu.edu Website Address: www.psu.edu

D-U-N-S Number: 00-340-3953

The Offeror represents that the following person(s) are authorized to negotiate on its behalf with NREL in connection with this request for proposals or quotations.

<u>AUTHORIZED NEGOTIATOR(S)</u>	<u>TITLE</u>	<u>EMAIL & PHONE NUMBER</u>
David W. Richardson	Associate Vice President for Research	osp@psu.edu (814) 865-1372
_____	_____	_____
_____	_____	_____

2. Congressional District and County

Required for all solicitations.

A. The Offeror's principal place of performance of the resulting subcontract is located in:

State of: PA County of: Centre Congressional District of: PA-005

B. If the Offeror's principal place of performance of the resulting subcontract is a foreign country, provide:

Country of: _____ Province (or other locale designation): _____

3. Taxpayer Identification (Derived from FAR 52.204-3 OCT 1998)

Required for all solicitations.

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 subcontract 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 percent reduction of payments otherwise due under the subcontract.
- C. The TIN may be used by the Government or NREL to collect and report on any delinquent amounts arising out of the Offeror's relationship with the Government or NREL (31 U.S.C. 7701(c)(3)). If the resulting subcontract 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: 24-6000376 ¹
- ☐ 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
- ☐ Other. State basis _____

E. Type of organization

- | | |
|--|--|
| <input type="checkbox"/> Sole proprietorship | <input type="checkbox"/> Government entity (Federal, State, or local) |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Foreign government |
| <input type="checkbox"/> Corporate entity (not tax-exempt) | <input type="checkbox"/> International organization per 26 CFR 1.6049-4 |
| <input type="checkbox"/> Corporate entity (tax-exempt) | <input checked="" type="checkbox"/> Other: State-Related Institution of Higher Education |

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 _____

4. **Small Business Program Representations** (Derived from FAR 52.219-1 MAY 2004)
Required for all solicitations.

- A. 1. If a North American Industry Classification System (NAICS) code for this acquisition has been established, it is identified in the NREL solicitation document (RFP, RFB, or LOI).
2. If a small business size standard for this acquisition has been established, it is identified in the NREL solicitation document (RFP, RFB, or LOI).
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.

(Complete 2, 3, and 4 below, as applicable, only if the Offeror represented itself as a small business concern in paragraph B.1. above.)

¹ If Offeror uses a SSN in place of a TIN, do not include SSN on this form. SSN should be inserted on the IRS form W-9 when requested.

An IRS form W-9 must be completed by all Offerors, identifying a TIN or SSN, and returned to NREL.

2. The Offeror represents, for general statistical purposes, that it ☐ is, ☒ is not, a small disadvantaged business concern as defined in 13 CFR 124.1002. (If so, also complete the Small Disadvantaged Business Status representation, Paragraph B.7.)
3. The Offeror represents as part of its offer that it ☐ is, ☒ is not a women-owned small business concern.
4. The Offeror represents as part of its offer that it ☐ is, ☒ is not a veteran-owned small business concern.
5. The Offeror represents as part of its offer that it ☐ is, ☒ is not a service-disabled veteran-owned small business concern.
6. The Offeror represents, as part of its offer, that—

- i. It ☐ is ☒ is not a HUBZone small business concern listed, (as of 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.

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/Concerns, 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 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 or NREL subcontracts, 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—

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.

5. **Historically Black College or University and Minority Institution Representation** (Derived from FAR 52.226-2 OCT 2008)
Required for all solicitations.

A. *Definitions.* As used in this provision—

1. "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.
2. "Minority institution" means an institution of higher education meeting the requirements of Section 365(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 502(a) of the Act (20 U.S.C. 1101a).

B. *Representation.* The offeror represents that it—

1. ☐ is ☒ is not a historically black college or university;
2. ☐ is ☒ is not a minority institution.

6. **Buy American Act Certificate** (Derived from FAR 52.225-2 FEB 2009)
Required for all solicitations that exceed \$10,000.

- A. The Offeror certifies that each end product, except those listed in Paragraph B. of this provision, is a domestic end product and that for other than COTS items, 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, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product." The terms "commercially available off-the-shelf (COTS) item," "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:

<u>Line Item No.</u>	<u>Country of Origin</u>
N/A	

- C. NREL will evaluate Offers in accordance with the policies and procedures of Part 25 of the FAR.

7. **Affirmative Action Compliance** (Derived from FAR 52.222-25 APR 1984)
Required for all solicitations.

The Offeror represents that—

- ☒ Offeror 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
- ☐ Offeror has not previously had contracts/subcontracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

8. **Previous Contracts/Subcontracts and Compliance Reports** (Derived from FAR 52.222-22 FEB 1999)
Required for all solicitations.

The offeror represents that—

☒ Has ☐ Has Not Participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

☒ Has ☐ Has Not Filed all required compliance reports; and

Representations indicating submission of required compliance reports, signed by proposed lower-tier subcontractors, will be obtained before lower-tier subcontract awards.

9. Compliance with Veterans' Employment Reporting Requirements (Derived from FAR 52.222-38 DEC 2001)
Required for all solicitations that exceed \$100,000.

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 (FAR) 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.

10. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Derived from FAR 52.203-11 SEP 2007)
Required for all solicitations that exceed \$100,000.

- A. Definitions. As used in this provision—"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).
- B. Prohibition. The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.
- C. Certification. The Offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this subcontract.
- D. Disclosure. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the Offeror with respect to this contract, the Offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The Offeror need not report regularly employed officers or employees of the Offeror to whom payments of reasonable compensation were made.
- E. Penalty. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

11. Certification Regarding Responsibility Matters (Derived from FAR 52.209-5 DEC 2008)
Required for all solicitations that exceed \$100,000.

A. The Offeror certifies, to the best of its knowledge and belief, that—

1. The Offeror and/or any of its Principals—

- ☐ are ☒ are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
- ☐ have ☒ have not within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
- ☐ 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.a.ii. of this provision;
- ☐ have ☒ have not within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

a. Federal taxes are considered delinquent if both of the following criteria apply:

- i. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

- ii. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
- b. Examples.
 - i. The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.
 - ii. The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.
 - iii. The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.
 - iv. The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).
- c. The Offeror ☐ has ☒ has not within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.
- 2. "Principal," for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a 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 NREL Subcontract Administrator 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.
- 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 NREL Subcontract Administrator 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 or NREL, the NREL Subcontract Administrator may terminate the subcontract resulting from this solicitation for default.

12. Prohibition on Conducting Restricted Business Operations in Sudan—Certification (Derived from FAR 52.225-20 AUG 2009) Required for all solicitations.

A. Definitions. As used in this provision—

"Business operations" means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

"Marginalized populations of Sudan" means—

- 1. Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109-344) (50 U.S.C. 1701 note); and
- 2. Marginalized areas in Northern Sudan described in section 4(9) of such Act.

"Restricted business operations" means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

1. Are conducted under contract directly and exclusively with the regional government of southern Sudan;
 2. Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
 3. Consist of providing goods or services to marginalized populations of Sudan;
 4. Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
 5. Consist of providing goods or services that are used only to promote health or education; or
 6. Have been voluntarily suspended.
- B. Certification. By submission of its offer, the Offeror certifies that the Offeror does not conduct any restricted business operations in Sudan.

13. Certification of Toxic Chemical Release Reporting (Derived from FAR 52.223-13 AUG 2003)
Required in all solicitations that exceed \$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 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 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.

14. Former Government Employee or Consultant or Former NREL Employee, Leased Worker, or Consultant
Required for all solicitations.

- A. The Offeror represents that it—
- ☐ was ☒ was not a former employee (officer, employee, elected official) or former consultant under contract to the executive or legislative branches of the United States Government or the District of Columbia.
1. If Offeror is a former employee with the United States Government, complete the following:

Name of Department, Agency, Bureau, Office: _____

Address, City, State, and Zip: _____

Position/Title: _____

Position Level (SES, GS, etc.): _____

Date of Employment: _____ through _____

2. If Offeror is a consultant under contract to the executive or legislative branches of the United States Government or the District of Columbia, complete the following:

Firm Name and Address: _____

Address, City, State, and Zip: _____

Contract Number: _____

Period of Performance: _____ through _____

Position/Title: _____

B. Certification of Former Government Employee or Former Government Consultant under contract.

The Offeror certifies that—

1. All matters stated and intended within the scope of the proposed Statement of Work (Appendix A) have been considered in the context of my former Government service and each of the following statements is true to the best of my knowledge:
 - a. During my government service, I did not participate personally and substantially in any matter stated and intended within the scope of the proposed Statement of Work: (i) in which the United States or the District of Columbia is a party or has a direct and substantial interest or (ii) that involves a specific party or specific parties; and
 - b. During my final year of Government service, I did not have any official responsibility (direct administrative or operating authority to approve, disapprove, or otherwise direct Government action) for any matter stated and intended within the scope of the proposed Statement of Work: (i) in which the United States or the District of Columbia is a party or has a direct and substantial interest; (ii) that I know (or reasonably should know) was actually pending under my official responsibility; or (iii) that involves a specific party or specific parties.
2. I have requested legal advice from the cognizant Ethics/Legal representative of the United States Government regarding any post employment restrictions that may apply to the matters stated and intended within the scope of the proposed Statement of Work. I agree to provide a copy of the legal advice provided in response to my request to the NREL Subcontract Administrator prior to the award of the resulting Subcontract with NREL.

C. Representation of Former NREL Employee, Former NREL Leased Worker, or Former NREL Consultant.

The Offeror represents that it—

☐ was ☒ was not a former employee, former leased worker, or former consultant of NREL.

1. If Offeror was a former employee with NREL (regular/part-time), complete the following:

Name of Center/Office: _____

Position/Title: _____

Position Level: _____

Date of Employment: _____ through _____

2. If Offeror was a leased worker or consultant to NREL, complete the following:

Firm Name and Address: _____

Address, City, State, and Zip: _____

Subcontract Number: _____

Period of Performance: _____ through _____

Center/Office Name: _____

Position/Title: _____

15. Facilities Capital Cost of Money (Derived from FAR 52.215-16 JUN 2003)

Required in all solicitations that are subject to cost type subcontract awards.

The Offeror ☐ includes ☒ does not include facilities capital cost of money as an allowable cost under a resulting subcontract, provided that the criteria for allowability are met.

16. Cost Accounting Standards Notices and Certification (Derived from FAR 52.230-1 OCT 2008)

Required in all solicitations that are subject to Cost Accounting Standards.

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the Offeror is an educational institution, Part II does not apply unless the contemplated subcontract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. DISCLOSURE STATEMENT—COST ACCOUNTING PRACTICES AND CERTIFICATION

- A. Any subcontract in excess of \$650,000 resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts which are exempt as specified in 48 CFR 9903.201-1.
- B. Any Offeror submitting a proposal which, if accepted, will result in a subcontract subject to the requirements of 48 CFR Chapter 99 must, as a condition of subcontracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the Offeror's proposal under this solicitation unless the Offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the Offeror may satisfy the requirement for submission by providing the information requested in Paragraph C. of Part I of this provision.

CAUTION: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting subcontract performance cost data.

- C. Check the appropriate box below:

- ☐ 1. Certificate of Concurrent Submission of Disclosure Statement. The Offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows:
- a. Original and one copy to the cognizant DOE Contracting Officer or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable; and
 - b. One copy to the cognizant Federal auditor.

(Disclosure must be on Form No. CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the loose-leaf version of the FAR.)

Date of Disclosure Statement: _____

Name and Address of DOE Contracting Officer/Federal Official or cognizant Federal auditor Where Filed: _____

The Offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

- ☒ 2. Certificate of Previously Submitted Disclosure Statement. The Offeror hereby certifies that the required Disclosure Statement was filed as follows:

Date of Disclosure Statement: 11/4/1996 / last revision 3/9/2006

Name and Address of DOE Contracting Officer/Federal Official or cognizant Federal Auditor Where Filed: ONR / Chicago Reginal Office

The Offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

- ☐ 3. Certificate of Monetary Exemption. The Offeror hereby certifies that the Offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling \$50 million or more in the cost accounting period immediately preceding the period in which this proposal was submitted. The Offeror further certifies that if such status changes before an award resulting from this proposal, the Offeror will advise the NREL Subcontract Administrator immediately.
- ☐ 4. Certificate of Interim Exemption. The Offeror hereby certifies that: (i) the Offeror first exceeded the monetary exemption for disclosure, as defined in 3. of this Subsection, in the cost accounting period immediately preceding the period in which this offer was submitted; and (ii) in accordance with 48 CFR 9903.202-1, the Offeror is not yet required to submit a Disclosure Statement. The Offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the Offeror will immediately submit a revised certificate to the NREL Subcontract Administrator, in the form specified under Paragraph C.1. or C.2. of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

Caution: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or lower-tier subcontract of \$50 million or more in the current cost accounting period may not claim this exemption. Further, the exemption

applies only in connection with proposals submitted before expiration of the 90 day period following the cost accounting period in which the monetary exemption was exceeded.

- ☐ 5. Certificate of Disclosure Statement Due Date by Educational Institution. If the Offeror is an educational institution that, under the transition provisions of 48 CFR 9903.202-1(f), is or will be required to submit a Disclosure Statement after receipt of this award, the Offeror hereby certifies that (check one and complete):
- ☐ A Disclosure Statement Filing Date of _____ has been established with the cognizant Federal agency
- ☐ The Disclosure Statement will be submitted within the 6 month period ending _____ months after receipt of this award.

II. COST ACCOUNTING STANDARDS—ELIGIBILITY FOR MODIFIED CONTRACT COVERAGE

If the Offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the Offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant subcontract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

- ☐ The Offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the Offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the Offeror received less than \$50 million in awards of CAS-covered prime contracts and subcontracts. The Offeror further certifies that if such status changes before an award resulting from this proposal, the Offeror will advise the NREL Subcontract Administrator immediately.

Caution: An Offeror may not claim the above eligibility for modified subcontract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$50 million or more or if, during its current cost accounting period, the Offeror has been awarded a single CAS-covered prime contract or subcontract of \$50 million or more.

III. ADDITIONAL COST ACCOUNTING STANDARDS APPLICABLE TO EXISTING CONTRACTS

The Offeror shall indicate below whether award of the contemplated subcontract would, in accordance with Paragraph A.3. of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing Government contracts and NREL subcontracts and lower-tier subcontracts.

☐ Yes ☒ No

17. Intellectual Property

Required for all solicitations that are subject to Intellectual Property (IP) Rights.

A. Patent Rights.

The Offeror is:

- ☒ A University or other institution of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 USC 501(c)) and exempt from taxation under Section 501(a) of the Internal Revenue Code (26 USC 501(a)); or
- ☐ A nonprofit scientific or educational organization qualified under a State nonprofit organization statute. Please identify the Statute _____.
- ☐ A small business concern as defined at Section 2 of Public Law 85-536 (15 USC 632) and implementing regulations of the Administrator of the Small Business Administration;
- ☐ None of the above.
- Subcontractors who have checked NONE OF THE ABOVE have the right to request, in advance of or within 30 days after execution of the subcontract, in accordance with applicable statutes and DEAR 952.227-84, a waiver of all or any part of the rights of the United States in Subject Inventions. If the Subcontractor intends to request a waiver to such invention rights pursuant to DEAR 952.227-84, please indicate:
- ☐ I intend to request an advance waiver in accordance with DEAR 952.227-84
- ☐ I do not intend to request an advance waiver

B. Rights In Proposal Data.

It is DOE policy for a subcontract award based on a proposal that, in consideration of the award, the Government and NREL shall obtain unlimited rights in the technical data contained in the proposal unless the Offeror marks those portions of the technical information as "proprietary data" or specifies those portions of such technical data that are not directly related to or will not be utilized in the work to be funded under the subcontract. Accordingly, please indicate:

- ☒ No restriction on Government or NREL rights in the proposal technical data; or
- ☐ The following identified technical data is proprietary or is not directly related to or will not be utilized in the work to be funded

under the subcontract: _____

C. Identification of Technical Data That Is Proprietary.

The Rights in Technical Data clause proposed to be used for this subcontract may not permit the utilization of proprietary data in the subcontract work or, if the use of proprietary data is permitted, may not be adequate to meet programmatic requirements. Use of data which is proprietary may prevent the Offeror from meeting the data requirements of the subcontract (including delivery of data). **Your attention is particularly drawn to the use of LICENSED COMPUTER SOFTWARE. As used in this representation, "LICENSED COMPUTER SOFTWARE" means software in which you own proprietary rights AND which you license to others.**

Please indicate that you have reviewed the requirements in the technical scope of work and to the best of your knowledge:

1. PROPRIETARY DATA

- ☒ No proprietary data will be utilized in the subcontract work.
- ☐ Proprietary data as follows will be utilized in the performance of the subcontract work, and will be delivered in accordance with the requirements of the Statement of Work (please provide comprehensive, non-proprietary description of the data to be delivered): _____
- ☐ Proprietary data will be utilized in the performance of the subcontract work but will NOT be delivered (Do NOT provide a description of the proprietary data to be used.)

2. COMPUTER SOFTWARE (Does NOT include off-the-shelf commercial software)

- ☒ No LICENSED COMPUTER SOFTWARE will be utilized in the subcontract work.
- ☐ LICENSED COMPUTER SOFTWARE as follows will be utilized in the subcontract work _____.

18. **Royalty Information** (Derived from FAR 52.227-6 APR 1984)

Required for solicitations where awards may result with royalty information or if royalty information is desired.

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 subcontract item.
7. Number of units.
8. Total dollar amount of royalties.

B. Copies of current licenses. In addition, if specifically requested by the Subcontract Administrator before execution of the subcontract, the Offeror shall furnish a copy of the current license agreement and an identification of applicable claims of specific patents.

19. **Representation of Limited Rights Data and Restricted Computer Software** (Derived from FAR 52.227-15 DEC 2007)

Required for solicitations where limited rights data or restricted computer software are likely to be used in meeting the data delivery requirements set forth in the solicitation.

- A. This solicitation sets forth the NREL/Government's known delivery requirements for data (as defined in the clause at 52.227-14, Rights in Data—General). Any resulting contract may also provide the Government or NREL the option to order additional data under the Additional Data Requirements clause at 52.227-16, if included in the contract. Any data delivered under the resulting subcontract will be subject to the Rights in Data—General clause at 52.227-14 included in this subcontract. Under the latter clause, a Subcontractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data instead. 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 or NREL the right to inspect such data at the Subcontractor's facility.
- B. By completing the remainder of this paragraph, the Offeror represents that it has reviewed the requirements for the delivery of technical data or computer software and states [Offeror check appropriate block]—

- ☒ None of the data proposed for fulfilling the data delivery requirements qualifies as limited rights data or restricted computer software; or
- ☐ Data proposed for fulfilling the data delivery requirements qualify as limited rights data or restricted computer software

and are identified as follows: _____

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

Complete Certification (#20.) on following page or below. The information for #20 should not be split between pages.

20. Certification

Required for all solicitations.

A person authorized to make legally binding commitments on behalf of the Offeror must sign below. By signing below, the Offeror certifies, under penalty of law, that these representations and certifications are accurate, current, and complete.

Company/Organization Name:	<u>The Pennsylvania State University</u>
Signature:	<u>David W. Richardson</u>
Signer's Name (Printed):	<u>David W. Richardson</u>
Title:	<u>Associate Vice President for Research</u>
Date:	<u>11/11/2010</u>
Telephone Number:	<u>(814) 865-1372</u>
Fax Number:	<u>(814) 865-3377</u>
Email Address:	<u>osp@psu.edu</u>