

# **FDIC Contractor Representations and Certifications**

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SUBMITTED BY

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CONTRACTOR NAME

# FDIC CONTRACTOR REPRESENTATIONS AND CERTIFICATIONS

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## **FDIC CONTRACTOR REPRESENTATIONS AND CERTIFICATIONS**

### **ESTIMATED REPORTING BURDEN**

Public reporting burden for this collection of information is estimated to average one-half hour per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Paper Reduction Act Clearance Officer, Legal Division, Federal Deposit Insurance Corporation, 550 17<sup>th</sup> Street, N.W., Washington, D.C. 20429; and to the Office of Management and Budget, Paperwork Reduction Project (3064-0072), Washington, D.C. 20503. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

### **PRIVACY ACT STATEMENT**

Collection of this information is authorized by the Federal Deposit Insurance Act, 12 U.S.C.) § 1819, 1821, and Executive Order 9397. This information will be primarily used to examine a contractor's compliance with FDIC contracting regulations for potential FDIC contract awards and the information provided may be disclosed to licensing authorities by the FDIC in so examining the contractor's compliance.

Information may also be disclosed to appropriate Federal, state, or local agencies for law enforcement purposes when a violation or possible violation of a civil or criminal law is apparent; to individuals involved in judicial or administrative proceedings; and to a Congressional office in response to an inquiry made at the individual's request. Information may also be disclosed in accordance with the other routine uses set forth in the FDIC's Financial Information System 30-64-0012. Furnishing the requested information, including your Social Security Number, is voluntary. However, failure to furnish all requested information may preclude you from receiving an FDIC contract.

## FDIC CONTRACTOR REPRESENTATIONS AND CERTIFICATIONS

The following representations and certifications shall be executed by an official authorized to bind the offeror, and shall be returned with its proposal. These representations and certifications concern matters within the jurisdiction of an agency of the United States, and the making of a false, fictitious, or fraudulent statement may render the maker subject to prosecution under 18 United States Code (U.S.C.) § 1001, 1007, and 1014. For purposes of these representations and certifications, the Federal Deposit Insurance Corporation (FDIC) is considered an agency of the United States only with respect to its rights and remedies under 18 U.S.C. The offeror shall provide immediate written notice to the Contracting Officer, if, at any time prior to contract award, the offeror learns that one or more of the representations or certifications was erroneous when submitted or has become erroneous by reason of changed circumstances.

### 1. CERTIFICATION OF REGISTRATION IN SYSTEM FOR AWARD MANAGEMENT (SAM)

- a. The offeror certifies that it is registered in the System for Award Management (SAM) at [www.sam.gov](http://www.sam.gov), and that all information in SAM is correct, including its socio-economic status.

Yes  No

An offeror that marks "No" must also complete the certification in paragraph b.

- b. The offeror certifies that it is in the process of registering in the System for Award Management (SAM) at [www.sam.gov](http://www.sam.gov), and will enter correct information in SAM, including its socio-economic status.

Yes  No

- c. The socio-economic groups in SAM are as follows:

Women-Owned Business  
Minority-Owned Business  
Small Disadvantaged Business

For Minority-Owned Businesses, the ethnic/racial categories are as follows:

Asian-Pacific American Owned  
Subcontinent Asian (Asian-Indian) American Owned  
Black American Owned  
Hispanic American Owned  
Native American Owned  
Other than one of the preceding

### 2. CERTIFICATE OF INDEPENDENT PRICE DETERMINATION

- a. The offer certifies that:

- (1) The prices in this proposal have been arrived at independently, without, for the purposes of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this proposal have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before contract award unless otherwise required by law; and
- (3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit a proposal for the purpose of restricting competition.

## FDIC CONTRACTOR REPRESENTATIONS AND CERTIFICATIONS

b. Each signature on the proposal is considered to be a certification by the signatory that the signatory:

(1) Is the person in the offeror's organization responsible within that organization for determining the prices being offered in this proposal, and that the signatory has not participated and will not participate in any action contrary to a.(1) through a.(3) above, or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs a.(1) through a.(3) above

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(insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this proposal, and the title of his or her position in the offeror's organization.);

(ii) As an authorized agent, certifies that the principals named in subdivision b.(2)(i) above have not participated, and will not participate I, in any action contrary to subparagraphs a.(1) through a.(3) above; and (iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs a.(1) through a.(3) above.

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

c. A proposal will not be considered for award where a.(1), a.(3) or b. above has been deleted or modified. If the offeror deleted or modifies a.(2) above, the offeror must furnish with its proposal a signed statement setting forth in detail the circumstances of the disclosure.

### 3. CONTINGENT FEE REPRESENTATION

*Not applicable to proposals below \$100,000 or for the acquisition of commercial items.*

The offeror represents that except for full-time bona fide employees working solely for the offeror, the offeror (a)  has  has not employed or retained any person or company to solicit or obtain this contract; and (b)  has  has not paid or agreed to pay any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract. The offeror agrees to provide information relating to this Representation as requested by the Contracting Officer when either (a) or (b) herein is answered affirmatively. As used herein, "bona fide employee" means a person employed by an offeror or contractor and subject to the offeror's or the contractor's supervision and control as to time, place and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain FDIC contracts nor holds out as being able to obtain any FDIC contract or contracts through improper influence.

4. **EQUAL OPPORTUNITY CERTIFICATION**

The offeror represents that:

- a. It  has  has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;
- b. It  has  has not filed all required compliance reports; and
- c. Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

The offeror also represents that:

- d. 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
- e. It  has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

5. **CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS**

*Applicable to contracts exceeding \$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 clause 7.3.2-58 entitled “Limitation on Payments to Influence Certain Federal Transactions.”
- b. **Prohibition.** The prohibition and exceptions contained in clause 7.3.2-58 entitled “Limitation on Payments to Influence Certain Federal Transactions” 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 contract.
- 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.

6. **REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID DELINQUENT FEDERAL TAX LIABILITY**

- a. FDIC may not enter into a contract with any corporation that -

Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government.

- b. The Offeror represents that –

It is  is not  a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

(Authority: Section 744 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235)).

## 7. CERTIFICATION REGARDING FAIR INCLUSION OF MINORITIES AND WOMEN

- a. The Contractor certifies to the following:  Yes  No

- (1) It is committed to equal opportunity in employment and contracting.
- (2) It has made and will continue to make, or will make during the course of this contract, a good faith effort to ensure, to the maximum extent possible, the fair inclusion of minorities and women in its workforce and in the workforces of its applicable subcontractors.
- (3) For purposes of this certification,  
“Minority” shall have the meaning set forth in Section 342 (g) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010); and  
“Applicable Subcontractor” refers to all tiers of subcontractors under this contract whose subcontract exceeds \$100,000 in value; and  
“Good faith effort,” may include actions by the contractor intended to identify and, if present, remove barriers to minority and women within its workforce or expand employment opportunities for minorities and women within its workforce. Efforts to remove such barriers or expand employment opportunities may include, but are not limited to, recruiting minorities and women, providing job-related training, or other activity that could lead to those results.

- b. If the Contractor answers “No” to paragraph (a) above, an explanation must be provided:

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## FDIC CONTRACTOR REPRESENTATIONS AND CERTIFICATIONS

### 8. SIGNATURE

By signature hereto, the offeror certifies that all of the representations and certifications contained in its proposal are complete and accurate as required by this solicitation, and that it is aware of the penalty prescribed in 18 U.S.C. § 1001 for making false statements in proposals. The offeror also agrees to notify the FDIC in writing, within 10 days, after discovering that it or any person performing services under an FDIC contract has any of the disqualifying conditions contained within the representations and certifications. Such notification shall contain a detailed description of the disqualifying condition and may include a statement of how the offeror intends to resolve such condition. Further, the offeror by signature hereto gives express authorization and consent to the FDIC for the FDIC to release information contained herein to licensing authorities in the FDIC's examination of the contractor's compliance with FDIC non-ethics contracting regulations.

SOLICITATION NUMBER		
NAME OF OFFEROR <i>(Please print or type)</i>	OFFEROR'S DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER	
TITLE		
NAME OF OFFEROR'S FIRM	OFFEROR'S TELEPHONE NUMBER (    )	
OFFICE ADDRESS		
CITY	STATE	ZIP CODE
SIGNATURE		DATE SIGNED