

## REPRESENTATIONS AND CERTIFICATIONS

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### CERTIFICATIONS

The following Certifications are required from Subcontractors prior to issuing a subcontract:

1. Certification Regarding Responsibility Matters - AUG 2020. (FAR Reference 52.209-5).
2. Prohibition on Assistance to Drug Traffickers. (22 CFR Part 140).
3. Certification Regarding Terrorist Financing. (Implementation of Executive Order 13224).
4. Certification and Disclosure Regarding Payments to influence Certain Federal Transactions - SEPT 2007. (FAR Reference 52.203-11).
5. Anti-Kickback Procedures – JUN 2020. (FAR Reference 52.203-7). (If value is over \$250,000)
6. Federal Funding Accountability and Transparency Act (FSRS) Reporting Form (if value is over \$30,000)
7. Trafficking in Persons Certification (if value is over \$550,000)

### 1. CERTIFICATION REGARDING RESPONSIBILITY MATTERS.

#### **FAR Reference 52.209-5.**

As prescribed in 9.104-7(a), insert the following provision:

#### Certification Regarding Responsibility Matters (APR 2010)

(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 not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have not within a three-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; and

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(D) 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.

(1) 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.

(2) *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).
- (ii) The Offeror 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 Contractor 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 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 Contractor non responsible.
- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed 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.

## **2. KEY INDIVIDUAL CERTIFICATION NARCOTICS OFFENSES AND DRUG TRAFFICKING**

22 CFR Part 140, Prohibition on Assistance to Drug Traffickers.

*Note: This certification shall be filled by any key person proposed in the project.*

I hereby certify that within the last ten years:

1. I have not been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States or any other country concerning narcotic or psychotropic drugs or other controlled substances.
2. I am not and have not been an illicit trafficker in any such drug or controlled substance.
3. I am not and have not been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such drug or substance.

**NOTICE:**

1. You are required to sign this Certification under the provisions of 22 CFR Part 140, Prohibition on Assistance to Drug Traffickers. These regulations were issued by the Department of State and require that certain key individuals of organizations must sign this Certification.
2. If you make a false Certification you are subject to U.S. criminal prosecution under 18 U.S.C. 1001.
3. A false certification from a key person involved in the project, shall result in the termination of his/her contract with the operator.

**3. CERTIFICATION REGARDING TERRORIST FINANCING**

Implementation of Executive Order 13224

Certification Regarding Terrorist Financing, Implementing Executive Order 13224

The Recipient, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts, as that term is defined in paragraph (c).

(a) The following steps may enable the Recipient to comply with its obligations under paragraph (a)

- (1) Before providing any material support or resources to an individual or entity, the Recipient will verify that the individual or entity does not (i) appear on the master list of Specially Designated Nationals and Blocked Persons, which list is maintained by the U.S. Treasury's Office of Foreign Assets Control (OFAC) and is available online at OFAC's website: <http://www.treas.gov/offices/eotffc/ofac/sdn/t11sdn.pdf>, or (ii) is not included in any supplementary information concerning prohibited individuals or entities that may be provided by USAID to the Recipient.

- (2) Before providing any material support or resources to an individual or entity, the Recipient also will verify that the individual or entity has not been designated by the United Nations Security (UNSC) sanctions committee established under UNSC Resolution 1267 (1999) (the "1267 Committee") [individuals and entities linked to the Taliban, Usama bin Laden, or the Al Qaida Organization]. To determine whether there has been a published designation of an individual or entity by the 1267 Committee, the Recipient should refer to the consolidated list available online at the Committee's website: <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.
  - (3) Before providing any material support or resources to an individual or entity, the Recipient will consider all information about that individual or entity of which it is aware and all public information that is reasonably available to it or of which it should be aware.
  - (4) The Recipient also will implement reasonable monitoring and oversight procedures to safeguard against assistance being diverted to support terrorist activity.
- (b) For purposes of this Certification-
- (1) "Material support and resources" means currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials."
  - (2) "Terrorist act" means-
    - (i) an act prohibited pursuant to one of the 12 United Nations Conventions and Protocols related to terrorism (see UN terrorism conventions Internet site: <http://untreaty.un.org/English/Terrorism.asp>); or
    - (ii) an act of premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; or
    - (iii) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.
  - (3) "Entity" means a partnership, association, corporation, or other organization, group or subgroup.
  - (4) References in this Certification to the provision of material support and resources shall not be deemed to include the furnishing of USAID funds or USAID-financed commodities to the ultimate beneficiaries of USAID assistance, such as recipients of food, medical care, micro-enterprise loans, shelter, etc., unless the Recipient has reason to believe that one or more of these beneficiaries commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.
  - (5) The Recipient's obligations under paragraph (a) are not applicable to the procurement of goods and/or services by the Recipient that are acquired in the ordinary course of business through contract or purchase, e.g., utilities, rents, office supplies, gasoline, etc., unless the Recipient has reason to believe that a vendor or supplier of such goods and services

commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

This certification is an express term and condition of the agreement and any violation of it shall be grounds for unilateral termination of the agreement by USAID prior to the end of its term.”

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

##### **FAR Reference 52.203-11.**

As prescribed in 3.808(a), insert the following provision:

#### **Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (SEPT 2007)**

- (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 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 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.

#### **5. ANTI-KICKBACK PROCEDURES (Only required if subcontract value exceeds \$250,000)**

##### **FAR Reference 52.203-7.**

As prescribed in 3.502-3, insert the following clause:

## Anti-Kickback Procedures (OCT 2010)

**(a) Definitions.**

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor" as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause

- (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and
- (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

**(b) The Anti-Kickback Act of 1986 (41 U.S.C.51-58) (the Act), prohibits any person from-**

- (1) Providing or attempting to provide or offering to provide any kickback;
- (2) Soliciting, accepting, or attempting to accept any kickback; or
- (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

**(c)**



- (1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.
- (2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.
- (3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.
- (4) The Contracting Officer may
  - (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or
  - (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.
- (5) The Contractor agrees to incorporate the substance of this clause, including subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$150,000.

**6. FSRs CERTIFICATION FOR SUBCONTRACT REPORTING (Only required if subcontract value exceeds \$30,000)**

Company Name:	
Address:	
Address 2:	
City/State/ZIP:	
County:	
Country:	
UEI Number:	

**Section A.** Under the Federal Funding Accountability and Transparency Act (FSRS) or Transparency Act, Tetra Tech, as prime contractor of U.S. federal government awards, must collect UEI numbers for all subcontractors to be publicly available on a website. The second part of the provision requires Tetra Tech to report the sub recipient's compensation levels of the five most highly compensated subcontractor executives to the Federal Funding Accountability and Transparency Act Subaward Report System (FSRS) subject to the following criteria:



- The subcontractor must have generated at least 80 percent of its overall revenue in the preceding fiscal year from U.S. federal government contracts; AND
- The subcontractor must have generated at least USD 25 million in annual gross revenue in the preceding fiscal from U.S. federal government contracts; AND
- The subcontractor *must not* already publicly report executive compensation levels to System for Award Management (SAM.GOV), the Internal Revenue Service (IRS), the Securities and Exchange Commission (SEC), or as mandated by the subcontractor's status as a non-profit organization or publicly-traded company, respectively.

If any of the above *does not* apply to your firm, then Tetra Tech is exempt from reporting your executive compensation and you need not provide such information to Tetra Tech. Please skip to Section C to certify your status as exempt from reporting executive compensation levels.

**Section B.** If all of the criteria listed in Section A are true of your firm, then Tetra Tech is required to report the full compensation of your firm's five most highly compensated executives including, but not limited to: salary, stock options, benefits, and fringe. This information must be attested to by an employee at the Chief Financial Officer level or higher and will be made public at <http://www.fsrc.gov>.

Employee Name:	
Full Compensation:	

  

Employee Name:	
Full Compensation:	

  

Employee Name:	
Full Compensation:	

  

Name:	
Position:	
Date:	

  

Duly Authorized Company Signatory:	
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**Section C.** If you are exempt, please certify to your exemption below.

I hereby certify that Company Name is exempt from reporting executive compensation under Reporting Subawards and Executive Compensation provision (October 2010) for the following reason(s)(**check all that apply**).

- ☐ The subcontractor did not generate at least 80 percent of its overall revenue from U.S. federal government contracts in the preceding fiscal year.
- ☐ The subcontractor did not generate at least USD 25 million of annual gross revenue from U.S. federal government contracts in the preceding fiscal year.
- ☐ The subcontractor already publicly reports executive compensation levels to:
  - System for Award Management (SAM.GOV)
  - Internal Revenue Service (IRS)
  - Securities and Exchange Commission (SEC)

Name:	
Position:	
Date:	

Duly Authorized Company Signatory:	
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**7. CERTIFICATION REGARDING TRAFFICKING IN PERSONS COMPLIANCE PLAN (Only required if subcontract value exceeds \$550,000)**

The Subcontractor Certifies that:

(1) It has implemented a compliance plan to prevent any prohibited activities identified in paragraph (b) of the clause at 52.222–50, Combating Trafficking in Persons, and to monitor, detect, and terminate the contract with a subcontractor engaging in prohibited activities identified at paragraph (b) of the clause at 52.222–50, Combating Trafficking in Persons;

(2) After having conducted due diligence, either—

(i) To the best of the Offeror's/Subcontractor's knowledge and belief, neither it nor any of its proposed agents, subcontractors, or their agents is engaged in any such activities; or,

(ii) If abuses relating to any of the prohibited activities identified in 52.222– 50(b) have been found, the Offeror or proposed Subcontractor has taken the appropriate remedial and referral actions.

**NOTE:** The Subcontractor is required to recertify annually by signing this document one year from the date signed above and resending it to the Contractor.



## SIGNATURE

By signature hereon, or on an offer incorporating these Representations, Certifications, and Other Statements of Offerors, the Contractor certifies that they are accurate, current, and complete, and that the Contractor is aware of the penalty prescribed in 18 U.S.C. 1001 for making false statements in offers.

By signing below the subcontractor provides certifications for:

1. Certification Regarding Responsibility Matters - AUG 2020. (FAR Reference 52.209-5).
2. Prohibition on Assistance to Drug Traffickers. (22 CFR Part 140).
3. Certification Regarding Terrorist Financing. (Implementation of Executive Order 13224).
4. Certification and Disclosure Regarding Payments to influence Certain Federal Transactions - SEPT 2007. (FAR Reference 52.203-11).
5. Anti-Kickback Procedures – JUN 2020. (FAR Reference 52.203-7). (If value is over \$250,000)
6. Federal Funding Accountability and Transparency Act (FSRS) Reporting Form (if value is over \$30,000)
7. Trafficking in Persons Certification (if value is over \$550,000)

Subcontract #: \_\_\_\_\_

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

Project Title: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_