Enclosure 2

PROCUREMENT AND PROPERTY MANAGEMENT DIVISION **BROOKHAVEN NATIONAL LABORATORY** **Managed by Brookhaven Science Associates, LLC** **under contract to the U.S. Department of Energy** **ACQUISITION MANAGEMENT SYSTEM FORM**	Form No. **AMS-Form-009** Revision No. 6.0 **APPROVED BY:** L. McKnight / 9/24/2020 PPM Manager/Date

Representations and Certifications – Procurement Specific

Solicitation Number: VC391774
Company Name: _____
Certifying Official:_____,_____
NAICS Number:_____
DUNS No.:_____

I Annual Representations and Certifications

The offeror has:

(1) ☐ Submitted to the BSA's Procurement and Property Management Division annual representations and certifications AMS-Form-010, dated _____ that are incorporated herein by reference, and are current, accurate, and complete as of the date of this proposal, except as follows:

(2) ☐ Enclosed its annual representations and certifications.

(3) ☐ AMS-Form-010, Annual Representations and Certifications will be completed prior to award of any contract or purchase order.

II Reporting Executive Compensation and First Tier Subcontract Awards

For any award valued at $30,000 or more and in accordance with FAR 52.204-10 (June 2020)and the Article of the BSA General Terms and Conditions of this Contract/Purchase Order entitled "Reporting Executive Compensation", the offeror shall provide information relative to total executive compensation if the source of annual gross revenue at the thresholds indicated in section (1) below are attained.

1) ☐

80 percent or more of its annual gross revenues is received from Federal contracts (and subcontracts), loans, grans (and subgrants) and cooperative agreements, and other forms of Federal financial assistance, and

☐

$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grans (and subgrants) and cooperative agreements, and other forms of Federal financial assistance, and

☐ The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(1)

2) If all blocks are checked in section (1), then the Offeror shall report to PPM the names and total compensation of each of the five most highly compensated executives for the offeror's preceding completed fiscal year. Total compensation is defined as:
   a) Salary and bonus
   b) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board's Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation
   c) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
   d) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
   e) Above-market earnings on deferred compensation with is not tax-qualified.
   f) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.
3) This information shall be provided to the cognizant Buyer/Contracts Specialist by separate letter.

III Buy American-Supplies

(1) The offeror certifies that each end product, except those listed in paragraph (2) of this section, is a domestic end product as defined under FAR 52.225-1 for items with added FAR 52.225-9 for Construction Material, 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.

(2) Foreign End Products:

Line Item No.	Country of Origin

IV Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters

(1) (a) 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.

(b) "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.

(2) The Offeror shall provide immediate written notice to BSA's Contractual Representative 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.

(3) 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 BSA's Contractual Representative may render the Offeror nonresponsible.

(4) 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.

(5) 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 BSA and the Government, BSA's Contractual Representative may terminate the contract resulting from this solicitation for default.

V Place of Performance

(1) The performance of any purchase orders or contracts resulting from this solicitation will be performed outside the United States and for which no recruitment of workers within the United States is involved, ☐ True or ☐ False, if True please advance to Section VI.. If False continue.

(2) The offeror in the performance of any contract resulting from this solicitation, ☐ intends, ☐ does not intend to use one or more plants or facilities located at a different address from the address of the offeror as indicated in this proposal or response to request for information.

(3) If the offeror checks "intends" in paragraph (2) 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

VI Previous Contracts and Compliance Reports

The offeror represents that-

(1) It ☐ has, ☐ has not participated in a previous contract, or subcontract, subject to FAR 52.222-26, Equal Opportunity, and if so:

(2) It ☐ has, ☐ has not filed all required compliance reports; and

(3) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

VII Affirmative Action Compliance

The offeror represents that-

(1) 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

(2) It ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

The following Representations and Certifications are required for all Non Commercial Procurements

VIII Property

The offeror represents that-

(1) Government-owned property ☐ is or ☐ is not contemplated under this contract. If yes: ☐ Government-Furnished Property or ☐ Contractor Acquired Property.

(2) It ☐ does have or ☐ does not have a property control system.

(3) This system ☐ has or ☐ has not been approved by a Government or Brookhaven official. If it has been approved list the name and address of the approving official:

IX Rights to Proposal Data (Technical)

Except for data contained on pages _____, it is agreed that as a condition of award of a contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the "Rights in Data-General" clause contained in the contract) in and to the technical data contained in the proposal dated _____, upon which the contract is based.

X Representation of Limited Rights Data and Restricted Computer Software

(1) The statement of work sets forth the work to be performed if a contract award results, and BSA's known delivery requirements for data (as defined in FAR 27.401). Any resulting contract may also provide BSA 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 modified in accordance with DEAR 927.409(a) and including Alternate V. Other modifications (e.g., Alternates II through IV of that clause or using "Special Works" at FAR 52.227-17 may be made with prior written approval of the BSA Patent Counsel. The Contractor shall not acquire rights in a subcontractor's limited rights data or restricted computer software, except through the use of Alternates II or III, respectively, without prior written approval. The clause at FAR

52.227-16, Additional Data Requirements, shall be included in subcontracts in accordance with DEAR 927.409(h). In subcontracts, including subcontracts for related support services, involving the design or operation of any plants or facilities or specially designed equipment for such plants or facilities that are managed or operated under its contract with DOE, the Contractor shall instead use the "Rights in Data-Facilities" clause at DEAR 970.5227-1.

(2) As an aid in determining BSA'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 (3) 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.

(3) The offeror has reviewed the requirements for the delivery of data or software and states-
☐ 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:

Note: "Limited rights data" and "Restricted computer software" are defined in the contract clause entitled "Rights in Data-General."

The following Representations and Certifications are required for all Procurements expected to be greater than $150,000

XI Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions

(1) 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-

(a) No Federal appropriated funds have been paid, or will be paid, to any person for influencing, or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(b) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the BSA Procurement and Property Management Division; and

(c) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards expected to be greater than $150,000 shall certify and disclose accordingly.

The following Representations and Certifications are required for all Procurements greater than $100,000 that are competitively awarded

XII Certification of Toxic Chemical Release Reporting

(1) By signing this offer, the offeror certifies that-

As the owner or operator of facilities that will be used in the performance of this contract acknowledges that Federal facilities are required to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (**42 U.S.C. 11001-11050**), and the Pollution Prevention Act of 1990 (PPA) (**42 U.S.C. 13101-13109**).

As applicable, the Contractor shall provide all information needed by the Federal facility to comply with the following:

(1) The emergency planning reporting requirements of Section 302 of EPCRA.

(2) The emergency notice requirements of Section 304 of EPCRA.

(3) The list of Material Safety Data Sheets, required by Section 311 of EPCRA.

(4) The emergency and hazardous chemical inventory forms of Section 312 of EPCRA.

(5) The toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA.

(6) The toxic chemical and hazardous substance release and use reduction goals of section 2(e) of Executive Order 13423 and of Executive Order 13514.

(7) The environmental management system as described in section 3(b) of E.O. 13423 and 2(j) of E.O. 13514.

(i) ☐ The facility is not located in the United States or its outlying areas.

The following Representations and Certifications are required for all Procurements greater than $250,000 that result in a Firm Fixed Price (FFP) Contract

XIII Certificate of Independent Price Determination

(1) The offeror certifies that-

(a) The prices in this offer have been arrived at independently, without, for the purpose 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.

(b) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(c) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(2) Each signature on the offer is considered to be a certification by the signatory that the signatory-

(a) (i) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (1)(a) through (1)(c) of this provision; or

(b) (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 paragraphs (1)(a) through (1)(c) of this provision _____ [insert full name of person(s) in the offeror's organization responsible for

determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (2)(b)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (1)(a) through (1)(c) of this provision; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (1)(a) through (1)(c) of this provision.

(3) If the offeror deletes or modifies paragraph (1)(b) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

The following Representations and Certifications are required for all Procurements greater than $750,000

XIV Cost Accounting Standards Notices and Certification

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by numbers 1 through 3.

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 B does not apply unless the contemplated contract 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.

(1) Disclosure Statement-Cost Accounting Practices and Certification

(a) Any contract in excess of $750,000 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 contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, 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 1 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 contract performance cost data.

(c) Check the appropriate box below:

(i) ☐ 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 Administrative Contracting Officer (ACO) 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 cognizant ACO or Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement:
Name and Address of Cognizant ACO or Federal Official 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.

(ii) ☐ Certificate of Previously Submitted Disclosure Statement. The offeror hereby certifies that the required Disclosure Statement was filed as follows:
Date of Disclosure Statement:
Name and Address of Cognizant ACO or Federal Official 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 applicable Disclosure Statement.

(iii) ☐ 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 BSA's Procurement and Property Management Division immediately.

(iv) ☐ Certificate of Interim Exemption. The offeror hereby certifies that

(A) the offeror first exceeded the monetary exemption for disclosure, as defined in (iii) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and

(B) 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 BSA's Procurement and Property Management Division, in the form specified under paragraph (c)(i) or (c)(ii) of Part 1 of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

(d) ☐ 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):

(i) ☐ A Disclosure Statement Filing Due Date of _____ has been established with the cognizant Federal agency.

(ii) ☐ The Disclosure Statement will be submitted within the 6-month period ending _____ months after receipt of this award.

Name and Address of Cognizant ACO or Federal Official Where Disclosure Statement is to be Filed:

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

(2) 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 contract 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 Contracting Officer immediately.

Caution: An offeror may not claim the above eligibility for modified contract 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.

(3) Additional Cost Accounting Standards Applicable to Existing Contracts

The offeror shall indicate below whether award of the contemplated contract would, in accordance with paragraph (1)(c) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts. ☐ yes ☐ no