FDIC
Integrity and Fitness Representations and Certifications

SUBMITTED BY

CONTRACTOR NAME

FDIC INTEGRITY AND FITNESS REPRESENTATIONS AND CERTIFICATIONS

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ESTIMATED REPORTING BURDEN

Public reporting burden for this collection of information is estimated to average one-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, 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. §§ 1891, 1821, and Executive Order 9397. This information will be primarily used to examine a contractor's eligibility for potential FDIC contract awards and the information provided may be disclosed to licensing authorities by the FDIC in examining the contractor's eligibility.

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 INTEGRITY AND FITNESS REPRESENTATIONS AND CERTIFICATIONS

I. *PREAMBLE*

The following representations and eligibility certifications shall be executed by an official authorized to bind the contractor, 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 certification may render the contractor and/or certifying official subject to prosecution under 18 United States Code (U.S.C.) § 1001, 1007, and 1014. For purposes of these 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 notice to the Contracting Officer within 10 business days or at any time prior to contract award, if the contractor learns that one or more of these certifications was erroneous when submitted or has become erroneous by reason of changed circumstances. In addition, any such misrepresentations or miscertifications may render the contractor and/or the certifying official subject to administrative remedies by the FDIC, to include suspension and/or exclusion from contracting, or termination of contract, (12 CFR 366.16; 12 CFR Part 367).

II. IDENTIFYING INFORMATION

1. Type of Organization

The contractor operates as ☐ an individual, ☐ a State or local agency, ☐ a partnership, ☐ a joint venture, ☐ a nonprofit organization, ☐ an educational institution, a corporation organized and existing under the laws of the state of _____.

2. Parent Information

The contractor ☐ is, ☐ is not, owned or controlled by a parent company. If it is, complete the blanks below and <u>include an organizational chart of parent company</u>:

NAME OF PARENT COMPANY		TAXPAYER IDENTIFICATION NUMBER (TIN)
ADDRESS		
CITY	STATE	ZIP CODE

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3. Joint Venture Information

The contractor ☐ is, ☐ is not, a joint venture. If contractor is a joint venture, complete the information below.

NAME OF JOINT VENTURE PARTNER		
JOINT VENTURE PARTNER'S TAXPAYER IDENTIFICATION NUMBER (TIN)		
JOINT VENTURE TAXPAYER IDENTIFICATION NUMBER (TIN) *(If different)*		
MAIN OFFICE ADDRESS		
CITY	STATE	ZIP CODE

Has a Joint Venture Agreement been executed? ☐ Yes, ☐ No *(If yes, attach Agreement.)*

4. Subcontractor Information

The contractor ☐ will, ☐ will not, use subcontractors in the performance of the contract. If it will, complete the information below.

NAME OF SUBCONTRACTOR	TAXPAYER IDENTIFICATION NUMBER (TIN)	
MAIN OFFICE ADDRESS		
CITY	STATE	ZIP CODE

NAME OF SUBCONTRACTOR	TAXPAYER IDENTIFICATION NUMBER (TIN)	
MAIN OFFICE ADDRESS		
CITY	STATE	ZIP CODE

NAME OF SUBCONTRACTOR	TAXPAYER IDENTIFICATION NUMBER (TIN)	
MAIN OFFICE ADDRESS		
CITY	STATE	ZIP CODE

(If additional space is necessary, attach separate sheets.)

FDIC INTEGRITY AND FITNESS REPRESENTATIONS AND CERTIFICATIONS

III. PART 366 INTEGRITY AND FITNESS

1. Unique Terms

Unique terms used in these representations and certifications are described in 12 CFR Part § 366, as follows:

(a) ***Conflict of interest*** occurs when a contractor, any entity that owns or controls a contractor, or any entity the contractor owns or controls:

(1) Has a personal, business, or financial interest or relationship that relates to the services performed under the contract; or

(2) Is a party to litigation against the FDIC, or represents a party that is; or

(3) Submits an offer to acquire an asset from FDIC for which services were performed during the past three years, unless the contract allows for the acquisition.

(b) ***Ownership or control***:

(1) The president or chief executive officer has control of an organization.

(2) A partner in a small law firm has ownership or control. A partner in a large multinational law firm may not have ownership or control.

(3) A general partner of a limited partnership has control. Ownership or control exists when there is an interest of twenty five percent (25%) or more in a limited partnership.

(4) Ownership or control is evidenced by the:

(i) Power to vote, directly or indirectly, 25% or more interest of any class of voting stock of a company;

(ii) Ability to direct in any manner the election of a majority of a company's directors or trustees; or

(iii) Ability to exercise a controlling influence over the company's management and policies.

(c) ***Default on a material obligation*** occurs when a loan or advance with an outstanding balance of more than $50,000 is or was delinquent for ninety (90) days or more.

(d) ***FDIC-insured depository institution*** includes any bank or savings association the deposits of which are insured by the FDIC.

(e) ***Management official*** includes any shareholder, employee, or partner who controls a company and any individual who directs the day-to-day operations of a company. With respect to a partnership whose management committee or executive committee has responsibility for the day-to-day operations of the partnership, management official includes a member of such a committee but, if no such committee exists, management official includes each of the general partners.

(f) ***Pattern or practice of defalcation regarding obligations***:

A pattern or practice of defalcation under 12 CFR section 366.3(c) exists when the contractor, any person that owns or controls the contractor, or any entity the contractor owns or controls has a legal responsibility for the payment on at least two obligations that are:

(1) To one or more FDIC-insured depository institutions;

(2) More than ninety (90) days delinquent in the payment of principal, interest, or a combination thereof; and

Unique Terms (Continued)

(3) More than $50,000 each.

(g) ***Person*** includes an individual, corporation, partnership or other entity with a legally independent existence.

(h) ***Substantial loss to Federal deposit insurance fund***:

A substantial loss to a Federal deposit insurance fund under 12 CFR section 366.3(d) exists when the contractor, or any person that owns or controls the contractor, or any entity the contractor owns or controls has:

(1) An obligation to us that is delinquent for ninety (90) days or more and on which there is an outstanding balance of principal, interest, or a combination thereof of more than $50,000;

(2) An unpaid final judgment in our favor that is in excess of $50,000, regardless of whether it becomes discharged in whole or in part in a bankruptcy proceeding;

(3) A deficiency balance following foreclosure of collateral on an obligation owed to us that is in excess of $50,000, regardless of whether it becomes discharged in whole or in part in a bankruptcy proceeding; or

(4) A loss to us that is in excess of $50,000 that we report on IRS Form 1099-C, Information Reporting for Discharge of Indebtedness.

2. Representations as to Eligibility (12 CFR 366.3)

To the best of the contractor's knowledge:

(a) Has the contractor been convicted of a felony?

☐ Yes ☐ No *(If yes, explain below.)*

(b) Has the contractor been removed from or prohibited from participating in the affairs of an FDIC-insured depository institution because of a Federal banking agency action?

☐ Yes ☐ No *(If yes, explain below.)*

(c) Has the contractor demonstrated a pattern or practice of defalcation regarding obligations?

☐ Yes ☐ No *(If yes, explain below.)*

(d) Is the contractor responsible for a substantial loss to a Federal deposit insurance fund?

☐ Yes ☐ No *(if yes, explain below.)*

As used herein, "pattern or practice of defalcation" is described in 12 CFR 366.4 and "a substantial loss to a Federal deposit insurance fund" is described in 12 CFR 366.5 both are reproduced in Part III of these representations and certifications for your convenience.

3. Representations as to Conflicts of Interest (12 CFR 366.10)

Answers to the following four (4) questions regarding conflicts of interest are provided for the contractor, any persons that own or control the contractor or you own or control; and any officers, management officials, employees, agents, or subcontractors who will perform services under the contract:

(a) Do any such person(s) have a personal, business, or financial interest or relationship that relates to the services you perform under the contract?

☐ Yes ☐ No *(if yes, explain below.)*

(b) Are any such person(s) a party to litigation against us, or represents a party that is?

☐ Yes ☐ No *(if yes, explain below.)*

(c) Are any such person(s) submitting an offer to acquire an asset from us for which services were performed during the past three years, unless the contract allows for the acquisition?

☐ Yes ☐ No *(if yes, explain below.)*

(d) Does the contractor recognize that it generally may not later purchase assets it will manage under this contract and performance of this contract may disqualify the contractor from follow-up work where information obtained in the performance of the contract gives the contractor an unfair competitive advantage?

☐ Yes ☐ No *(if no, explain below.)*

If the contractor cannot certify that there are no conflicts of interest, it may describe the circumstances of any conflicts and request a waiver in accordance with CFR 366.10 or propose a method for the elimination of the conflict.

4. Representations as to Defaults (12 CFR 366.14(b))

Has the contractor or any company under the contractor's control defaulted on a material obligation during the five (5) years proceeding the submission of this offer?

☐ Yes ☐ No *(If yes, attach a description of all such instances.)*

A "default on a material obligation" occurs when a loan or advance with an outstanding balance of more than $50,000 is or was delinquent for ninety (90) days or more.

5. Representations as to Employees and Subcontractors (12 CFR 366.14(d))

Does the contractor agree that without a waiver, it will employ only persons who meet the requirements of 12 CFR part 366 to perform services on behalf of FDIC?

☐ Yes ☐ No *(If no, explain below.)*

IV. 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 proposal. The contractor 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 change for any answer contained within these representations and certifications. Such notification shall contain a detailed description of the condition and may include a statement of how the contractor 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 examination of the contractor's eligibility for potential contract awards.

SOLICITATION NUMBER		
NAME OF CONTRACTOR *(Please print or type)*	CONTRACTOR'S TAX IDENTIFICATION NUMBER (TIN)	
TITLE	CONTRACTOR'S TELEPHONE NUMBER	
OFFICE ADDRESS		
CITY	STATE	ZIP CODE
SIGNATURE		DATE SIGNED