

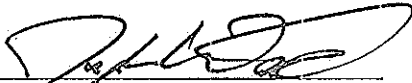
**CLASS DEVIATION  
FINDINGS AND DETERMINATION  
CERTIFICATIONS REGARDING RESPONSIBILITY MATTERS  
FAR 52.209-5**


Findings

1. Division B, Title V, Section 504 of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74) (Act), and similar prohibitions in subsequent appropriations acts, prohibit Federal agencies from using funds made available under the acts to enter into a contract with a corporation that was convicted (or had an officer or agent of such corporation acting on behalf of the corporation) of a felony criminal conviction under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation, or such officer or agent, and determines that further action is unnecessary to protect the interests of the government. (Note: this requirement is carried forward in section 502 of the Consolidated Appropriations Act, 2014, Pub. L. No. 113-76, but the FY14 act prohibition does not cover “an officer or agent of such corporation acting on behalf of the corporation.”)
2. Section 505 of the Act, and similar prohibitions in subsequent appropriations acts, prohibit Federal agencies from using funds made available under the acts to enter into a contract with any corporation that has any unpaid Federal tax liability that has been assessed and is not being paid in a timely manner under 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 further action is not necessary to protect the interests of the Government. (Note: this requirement is carried forward in section 503 of the Consolidated Appropriations Act, 2014, Pub. L. No. 113-76.)
3. The above prohibitions apply to any Federal agency, which includes the Department of Energy.
4. The Civilian Agency Acquisition Council (CAAC) issued Civilian Agency Acquisition Letter 2012-02 on January 27, 2012, encouraging covered agencies to approve the issuance of a Class Deviation to implement the requirements of the Act until such time as the FAR is formally amended. CAAC Civilian Agency Acquisition Letter 2014-01 (issued November 21, 2013) discussed the continuation of the sections 504 and 505 requirements in subsequent appropriations acts and encouraged agencies to approve open ended class deviations applicable “until further notice, covering similar prohibitions in subsequent appropriations acts.” This class deviation provides a solicitation provision that addresses felony convictions under any Federal law and unpaid Federal tax liabilities.

Determination

It is hereby determined that a class deviation from FAR 52.209-5 is appropriate to implement the prohibitions contained in sections 504 and 505 of the Consolidated Appropriations Act, 2012, and similar prohibitions in subsequent appropriations acts.

  
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May 1, 2014  
Effective Date

Attachments: CAAC Letters 2012-02, and 2014-01  
Solicitation Provisions