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GSA Office of Governmentwide Acquisition Policy

CIVILIAN AGENCY ACQUISITION LETTER 2012-02

January 27, 2012

MEMORANDUM FOR CIVILIAN AGENCIES OTHER THAN NASA

FROM: for LAURA AULETTA
CHAIR
CIVILIAN AGENCY ACQUISITION COUNCIL (CAAC)

SUBJECT: Class Deviation from the Federal Acquisition Regulation (FAR) to Implement Appropriations Provisions Related to Suspension and Debarment

The Consolidated Appropriations Act, 2012 (Pub. L. 112-74), and the Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112-55), prohibit covered agencies from using funds to enter into a contract with a corporation that has unpaid federal tax delinquencies or certain felony convictions unless the corporation has been considered for suspension or debarment and the agency determines that further action is unnecessary to protect the interests of the government. The prohibition applies to many, but not all, federal agencies.

Covered agencies are encouraged to approve a class deviation from the Federal Acquisition Regulation (FAR) to implement their appropriations statute. Each agency is cautioned to work closely with its Office of General Counsel and its Suspending and Debarring Official as the statutory requirements vary by agency. The Department of Defense has approved a class deviation, which is available at http://www.acq.osd.mil/dpap/dars/class_deviations.html.

This letter constitutes the consultation with the Chair of the CAAC required for a class deviation by FAR section 1.404(a)(1). Agencies are reminded that FAR section 1.404 requires agencies to furnish a copy of each approved class deviation to the FAR Secretariat, General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street, NE., 7th Floor, Washington, DC 20417 or by FAX: (202) 501-4067. 0

If you have questions or require additional information regarding this memorandum, please contact Patricia Corrigan at (202) 208-1963, or by email at patricia.corrigan@gsa.gov.

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Solicitation Provision

CERTIFICATION REGARDING A FELONY CONVICTION UNDER ANY FEDERAL LAW OR AN UNPAID FEDERAL TAX LIABILITY (APRIL 2012)

(a) In accordance with sections 504 and 505, Division B, Title V of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74) (the Act), none of the funds made available by the Act may be used to enter into a contract with any corporation that -

(1) Was convicted (or had an officer or agent of such corporation acting on behalf of the corporation convicted) of a felony criminal violation 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 made a determination that this further action is not necessary to protect the interests of the Government;

(2) 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 certifies that -

(1) It is [] is not []a corporation that was convicted (or had an officer or agent of such corporation acting on behalf of the corporation convicted) of a felony criminal violation under any Federal law within the preceding 24 months;

(2) 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.

(End of provision)