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) prohibits Federal agencies from using funds made available under the Act 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.

2. Section 505 of the Act prohibits Federal agencies from using funds made available under the Act 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.

3. The above prohibitions apply to any Federal agency, which includes the Department of Energy.

4. The Civilian Agency Acquisition Council 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. 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.

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Paul Bosco, Director
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May 3,2012
Effective Date

Attachments: CAAC Letter 2012-02
Solicitation Provision