From: Sineath CIV John
To: Anderson LtCol Michael S; Bellota MSgt Rodolfo M; Bergman CIV Alan D; Brunson CIV Janet C; Carroll Maj George T; Cerka CIV Frances C; Corcoran LtCol Eric M; Crawford Civ Dale A; Drury CIV Deborah A; Gaylor CIV Sherry F; Gubitti Civ Cynthia A; Henley CIV June R; Higa CIV Sakura K; Hughes CIV Sandra K; Humphrey CIV Sharon E; Ingle Capt Steven L; Lemmond CIV Barbara G; Long Capt Eric J; Lovett-Black Civ JoAnna; Matthews CIV Layton D; Michael Maj Ronnie D; Miller MSgt Tara N; Mullen CIV Melvin T; Payne CIV Mark H; Pendley CIV Larry F; Pockette CIV Michael D; Polesnak Maj Stephanie M RC (SW) II MEF FWD G4 OCS Branch Head; Powell CIV Hollis H; Rabassi Maj Christopher E; Rego CIV Arthur J; Rivers GySgt Timothy L; Schmid LtCol Steven J; Stahl Maj Scott A; Stroh CIV Linda L; Washington CIV Connie A; Wichmann CIV Wanda S; Young Capt Wynndee M;
cc: Beckner CIV Linda; Donahue Maj Kimberly A; Faughnan CIV Kevin; Fernandez CIV Kimberly F; Haines CIV John; Harper CIV Twana E; Keys CIV John; Lerma MGySgt Maricela G; Mckellop SSgt Jessycca E; Reier CIV Susan; Robinson LtCol Macon R; Sineath CIV John; Sullivan SES Frances L; Uher CIV Lauren; Romano CIV Mark; Oliver CIV R. Kaye; Daise CIV Stanley C; Shah, Sejal [USA];
Subject: APM 12-06 Class Deviation - Prohibition against Contracting with Certain Corporations
Date: Thursday, February 09, 2012 8:55:24
Attachments: CLASS DEVIATION PROHIBITION AGAINST AWARDS .pdf

All,

BACKGROUND:

DPAP issued a class deviation to implement Sections 8124 and 8125, Division A of the Consolidated Appropriations Act for FY 2012. These provisions generally prohibit the use of any funds appropriated by Division A of the Act to enter into a contract with any corporation which has an unpaid tax liability or a felony criminal violation under any Federal law within the preceding 24 months.

POLICY:

a. Effective Immediately Contracting Officers will assure none of the funds made available by Division A of the Consolidated Appropriations Act, 2012 (Pub. L. 112.74) may be used to enter into a contract with any corporation which -

. 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 action is not necessary to protect the interests of the Government; or

. Was 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 and made a determination that this action is not necessary to protect the interests of the Government.

b. The only exception is if the agency debarring and suspending official has considered suspension or debarment of the corporation and has made a written determination that this action is not necessary to protect the interests of the Government.

c. The class deviation is effective immediately and remains in effect until incorporated into the DFARS or otherwise rescinded.

PROCEDURES:

a. Contracting officers shall include the attached provision 252.209-7999 in all solicitations that will use funds made available by Division A of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74), including solicitations for acquisition of commercial items under FAR part 12.

b. Contracting officers shall not award a contract to any corporation that provides an affirmative response to the representation in the provision at 252.209-7999 (see attachment) of this deviation, with regard to 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 or with regard to conviction or a felony criminal violation of Federal law within the preceding 24 months.

c. Upon receipt of an affirmative response to the representation, contracting officers shall consult with the agency debarring and suspending official.

d. The contract file should be documented to reflect the inclusion of the clause at DFARS 252.209-7999. If consultation with the agency debarring and suspending official is necessary and award will be made despite these restrictions, file documentation will include the required written determination that this action is necessary to protect the interests of the Government.

Please ensure this guidance is provided to all appropriate acquisition personnel.

John (Jack) Sineath
Headquarters United States Marine Corps
Installations and Logistics (Contracts)
Ofc: 703-604-4145
john.sineath@usmc.mil