United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

FEB 24 2012

TAKE PRIDE IN AMERICA

Department of the Interior Acquisition Policy Release (DIAPR) 2012-05

Subject: **Class Deviation – Limitation with Respect to Felony Criminal Convictions and Delinquent Tax Debts**

References: Consolidated Appropriations Act, 2012 (Pub. L. 112-74);
Memorandum for Civilian Agencies Other Than NASA, Class Deviation from the Federal Acquisition Regulation (FAR) to Implement Appropriations Provisions Related to Suspension and Debarment, issued January 27, 2012

1. **Purpose:**

This DIAPR establishes a deviation from the FAR to implement provisions of the Department of the Interior (DOI) appropriations statute that prohibit contracting with corporations with felony criminal convictions under Federal law or unpaid Federal tax liabilities, unless DOI has considered suspension or debarment of the corporation.

2. **Effective Date:**

Upon signature.

3. **Expiration Date:**

This DIAPR will remain in effect until incorporated into the FAR or otherwise rescinded.

4. **Background and Explanation:**

Sections 433 and 434 of Division E of the Consolidated Appropriations Act, 2012 (Publ. L. 112-74), which covers DOI among other agencies, prohibit the use of funds made available by the Act to enter into a contract with any corporation with a felony criminal conviction under Federal law, or with any unpaid Federal tax liability, unless the agency has considered suspension and debarment of the corporation, or unless the DOI Suspension and Debarment Official has determined that further action is not necessary to protect the interests of the Government. The FAR may be amended to implement this provision and similar provisions covering other agencies, but until such time, this DIAPR establishes a FAR deviation providing a procedure and solicitation certification regarding felony convictions under Federal law and unpaid tax liabilities.

5. **Action Required:**

Contracting officers (COs) must include the attached provision in all solicitations on which funds made available by Division E of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74) are used, including solicitations for commercial items under FAR Part 12.

The CO must not award a contract to any corporation providing an affirmative response to the certification in the attached provision without first consulting with the DOI Senior Debarment Program Manager, David Sims, at David_Sims@ios.doi.gov or (202) 254-5551. If the Senior Debarment Program Manager confirms that DOI has considered suspension or debarment of the corporation and determined that further action is not necessary to protect the interests of the Government, the CO may proceed with award.

Additionally, if the contract award at issue includes appropriated funds from another agency, the CO must consult with procurement officials of that other agency as to whether and to what extent the two provisions appear in that agency's FY 12 appropriation and whether the Suspension and Debarment Official for that agency has considered suspension or debarment and has determined such actions not necessary.

Please disseminate this guidance within your bureau. It will also be available on the web at http://www.doi.gov/pam/diapr.html. Please contact Tiffany Schermerhorn of PAM at Tiffany_Schermerhorn@ios.doi.gov if you have any questions regarding this policy issuance.

Debra E. Sonderman

Debra E. Sonderman, Director
Office of Acquisition and Property Management

Attachment

Solicitation Provision

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

(a) In accordance with sections 433 and 434 of Division E of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74), 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)