DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

Acquisition Bulletin (AB)
No. 14-01 revision 2
May 7, 2014

MEMORANDUM FOR BUREAU CHIEF PROCUREMENT OFFICERS

FROM: Iris B. Cooper,
Senior Procurement Executive

SUBJECT: **Class Deviation, Federal Acquisition Regulation (FAR) 52.209-5, Certifications Regarding Responsibility Matters**

Purpose: This revision 2 to Acquisition Bulletin (AB) 14-01 implements Section 622 and 623 of Consolidated Appropriations Act, 2014 (PL 113-76). Similar to provisions in earlier acts, these sections prohibit the use of appropriated funds to enter into a contract with an entity that has an unpaid federal tax liability or federal felony conviction, unless the suspension and debarment official has considered suspending or debarring the corporation and determines that further action to protect the interests of the government is not required.

Effective Date: Upon issuance

Expiration Date: When canceled or superseded

Background: Division E Title VI of the Consolidated Appropriations Act, 2014

SEC. 622. None of the funds made available by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any 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, where the awarding agency is aware of the unpaid tax liability, unless the Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

SEC. 623. None of the funds made available by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that 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 Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

Required Bureau Action:

1. Contracting Officers shall insert the following text into all solicitations that will use funds made available by Division E of the Consolidated Appropriations Act, 2014 (Pub. L. 113-76), including solicitations for acquisition of commercial items under FAR part 12:

> **Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction under Federal Law (FEB 2012)**
>
> (1) The offeror, does [] does not [ ] have 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.
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> (2) The offeror, has[] has not[] been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

2. No Treasury employee shall use funds provided under the Consolidated Appropriations Act to award a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that provides an affirmative response to the above representations, except pursuant to a determination under paragraph 4, below.

3. No Treasury employee shall use funds provided under the Consolidated Appropriations Act to award a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any offeror or applicant that that has an affirmative listing in the System for Awards Management (SAM) of an outstanding federal debt without a review by the Suspension and Debarment Official. Please refer this to Suspension and Debarment for review.

4. Contracting officers and other Treasury employees that receive information indicating the existence of a felony criminal violation under a federal law within the preceding 24 months or an unpaid federal tax liability, which all judicial and administrative remedies have been exhausted or have lapsed, shall refer the matter to Suspension and Debarment or relevant Inspector General. No award shall be made or agreement entered into unless the Suspension and Debarment Official makes a determination in writing that further action is not necessary to protect the interests of the Government.

5. Contracting officers and other Treasury employees that receive information indicating the existence of an outstanding federal debt through the use of SAM will provide all relevant information available from the entity overview page in SAM.gov to Suspension and Debarment at the contact below or at:

http://www.treasury.gov/services/report-fwa/Pages/Report-Fraud-or-Misconduct-Related-to-Government-Contracts-or-Grants.aspx

6. Contracting officers, grants officers, and ordering officers may also want to consider inclusion of a similar clause as in paragraph 1 above in contracts, grants and orders that use non-appropriated funds.

Additional Information: Questions about this AB may be directed to Suspension and Debarment at TreasuryS&D@treasury.gov or call (202) 622-5666