



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

MAR - 9 2012

In reply refer to  
DARS Tracking Number: 2012-O0007

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
COMMANDER, UNITED STATES TRANSPORTATION  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(PROCUREMENT)  
DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(ACQUISITION AND PROCUREMENT)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING)  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Class Deviation– Prohibition Against Contracting With Corporations That Have a  
Felony Conviction under Federal or State Law

Effective immediately, none of the funds made available by section 514 of Division H of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74) may be used to enter into a contract with any corporation that was convicted of a felony criminal violation under any Federal or State 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 further action is not necessary to protect the interests of the Government.


Contracting officers shall include the attached provision 252.209-7998 in all solicitations that will use funds made available by Division H of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74), including solicitations for acquisition of commercial items under FAR part 12, and shall apply the following restrictions:

In accordance with section 514 of Division H of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74), except as provided in the following paragraph of this memorandum, the contracting officer shall not award a contract to any corporation that provides an affirmative response to the representation in the provision at 252.209-7998 (attached) with regard to any felony criminal violation of Federal or State law within the preceding 24 months.

However, contracting officers may make an award despite these restrictions if the agency debarment and suspending official has considered suspension or debarment of the corporation and has made a written determination that this further action is not necessary to protect the interests

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

This class deviation is effective upon signature, and remains in effect until incorporated in the FAR or DFARS or otherwise rescinded. My point of contact is Amy Williams, who may be reached at 703-602-0328, or [amy.williams@osd.mil](mailto:amy.williams@osd.mil).



Richard Ginman  
Director, Defense Procurement  
and Acquisition Policy

Attachment:  
As stated

Deviation 2012-00007

Class Deviation-Additional Responsibility Matters When Using Fiscal Year 2012 Funds.

**252.209-7998 Representation Regarding Conviction of a Felony Criminal Violation under any Federal or State Law.**

REPRESENTATION REGARDING CONVICTION OF A FELONY CRIMINAL VIOLATION UNDER ANY FEDERAL OR STATE LAW (DEVIATION 2012-00007) (DATE 2012)

(a) In accordance with section 514 of Division H of the Consolidated Appropriations Act, 2012, none of the funds made available by that Act may be used to enter into a contract with any corporation that was convicted of a felony criminal violation under any Federal or State 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 further action is not necessary to protect the interests of the Government.

(b) The Offeror represents that it is  is not  a corporation that was convicted of a felony criminal violation under a Federal or State law within the preceding 24 months.

(End of provision)