

12/29/10

POLICY ALERT

No. 10-47

Class Deviation to the Federal Acquisition Regulation – Cessation of the Use of Evaluation Factor and Subfactor for Small Disadvantaged Businesses

REFERENCE: [DPAP Memorandum dated November 8, 2010, DARS Tracking Number: 2010-O0003](#)

TYPE OF ACTION: Class Deviation

EFFECTIVE DATE: November 8, 2010

SUMMARY: This class deviation conforms to the final judgment entered in *Rothe Development Corp. v US. Department of Defense, et al.*, No.SA-98-CV-1011XR (WD. TX) (February 26, 2009). Contracting Officers shall not use or apply the evaluation factor or subfactor in Federal Acquisition Regulation (FAR) Subpart [19.12](#) and Defense Federal Acquisition Regulation Supplement (DFARS) Subpart [219.12](#), Small Business Participation Program. Additionally, Contracting Officers shall modify existing solicitations in accordance with FAR 1.108(d).

This class deviation remains in effect until incorporated into FAR and DFARS or otherwise rescinded. It is the intention of the Defense Acquisition Regulation Council to publish an interim rule.

ACTION REQUIRED: Contracting Officers are required to modify, in accordance with FAR 1.108(d), existing solicitations to remove evaluation factor or subfactor in FAR 19.12 and DFARS 219.12. Additionally, do not included the evaluation factor or subfactor in new solicitations.

This Policy Alert is effective on the date indicated above, and remains in effect until incorporated into FAR and DFARS or otherwise rescinded.

You may direct comments/questions on this Policy Alert to the Contract Policy and Pricing Branch at 303-676-3985.

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