



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

NOV -8 2010

In reply refer to DARS Tracking Number:
2011-O0003

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 & LOGISTICS MANAGEMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DOD FIELD ACTIVITIES

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

Effective immediately, Department of Defense (DoD) contracting officers shall not use or apply the evaluation factor and subfactor in FAR 19.12 and DFARS 219.12, Small Business Participation Program. Contracting officers shall modify existing solicitations in accordance with FAR 1.108(d). This class deviation remains in effect until incorporated in the FAR and DFARS or otherwise rescinded. This action conforms to the final judgment entered in *Rothe Development Corp. v U.S. Department of Defense, et al.*, No.SA-98-CV-1011XR (WD. TX) (February 26, 2009).

An interim DFARS rule will be published. We will consider comments received within two weeks after the date of this deviation in the formulation of the interim rule. Comments received after this period of time will be considered in the formulation of the final rule.

My staff point of contact for this matter is Ms. Cassandra R. Freeman, 703-602-8383 or cassandra.freeman@osd.mil.

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

cc:
DoD Small Business Program Directors