

110TH CONGRESS
1ST SESSION

H. R. 3033

To improve Federal agency awards and oversight of contracts and assistance and to strengthen accountability of the Government-wide suspension and debarment system.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2007

Mrs. MALONEY of New York (for herself and Mr. TOWNS) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To improve Federal agency awards and oversight of contracts and assistance and to strengthen accountability of the Government-wide suspension and debarment system.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Contractors and Fed-
5 eral Spending Accountability Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) NEED FOR DATABASE.—(A) By spending
9 over \$419,000,000,000 on procurement awards for

1 fiscal year 2006 and \$440,000,000,000 on grants
2 for fiscal year 2005 for goods and services, the Fed-
3 eral Government is the largest purchaser of goods
4 and services in the world.

5 (B) It is required by law and in the best inter-
6 est of the Federal Government and its taxpayers to
7 award contract and assistance to persons that are
8 responsible and have a suitable record of integrity
9 and business ethics.

10 (C) The Past Performance Information Re-
11 trieval System (PPIRS), the Excluded Parties List
12 System (EPLS), the Central Contracting Registra-
13 tion (CCR), the Federal Procurement Data System
14 (FPDS), and the Federal Assistance Award Data
15 System (FAADS) include records and data related
16 to contractors and Federal spending. However, there
17 is no centralized, comprehensive Government data-
18 base on judicial actions, consent decrees, administra-
19 tive agreements, terminations, or settlements with
20 respect to potential Federal contractors or assistance
21 participants.

22 (D) The lack of this information compromises
23 the Federal Government's ability to safeguard the
24 integrity of the Federal procurement and assistance
25 activities.

1 (E) It is in the best business interests of the
2 Federal Government to have all information possible
3 regarding potential contractors' and assistance par-
4 ticipants' performance and integrity records to as-
5 sure that persons with which the Government does
6 business are presently responsible.

7 (2) REALITY OF SUSPENSIONS AND
8 DEBARMENTS OF TOP 50 FEDERAL CONTRACTORS.—

9 (A) According to the Department of Jus-
10 tice, the Government recovered a record
11 \$3,100,000,000 in settlements and judgments
12 in cases involving allegations of fraud against
13 the Government in fiscal year 2006 and has re-
14 covered \$18,000,000,000 since 1996.

15 (B) According to the Project on Govern-
16 ment Oversight's Federal Contractor Mis-
17 conduct Database, since 1995, of the top 50
18 Federal contractors based on total contract dol-
19 lars received, 9 have a total of 12 resolved
20 criminal cases totaling \$161,000,000 in pen-
21 alties paid.

22 (C) According to the Project on Govern-
23 ment Oversight's Federal Contractor Mis-
24 conduct Database, since 1995, such 50 contrac-
25 tors have paid approximately \$12,000,000,000

1 in fines, penalties, restitution, and settlements,
2 and more than 350 instances of misconduct
3 have been identified.

4 (3) NEED FOR DATABASE NOT FULFILLED.—

5 (A) There is no centralized, comprehensive
6 Government listing of criminal or civil indict-
7 ments, convictions, fines, penalties, restitution,
8 administrative agreements, and settlement as-
9 sessments relating to contractors or assistance
10 participants.

11 (B) Prospective Federal contractors are re-
12 quired to have a satisfactory record of integrity
13 and business ethics pursuant to Federal Acqui-
14 sition Regulation subpart 9.104, and assistance
15 participants must be credible, but they are not
16 required to disclose all relevant criminal, civil,
17 or administrative rulings or resolutions during
18 the Federal procurement or assistance award
19 process.

20 (C) Without such a database or disclosure,
21 Federal contracting officers and suspension and
22 debarment officials lack important information
23 relevant to present responsibility.

1 **SEC. 3. DATABASE FOR CONTRACTING OFFICERS AND SUS-**
2 **PENSION AND DEBARMENT OFFICIALS.**

3 (a) IN GENERAL.—The Administrator of General
4 Services shall establish and maintain a database of infor-
5 mation regarding integrity and performance of Federal
6 contracts and assistance recipients for use by Federal con-
7 tracting officers, Federal officials having authority to sus-
8 pend or debar persons from Federal contracts or assist-
9 ance, and Federal officials having authority over grant as-
10 sistance.

11 (b) INFORMATION INCLUDED.—The database—

12 (1) shall consist of information regarding civil,
13 criminal, and administrative proceedings initiated or
14 concluded by the Federal Government and State
15 governments against Federal contractors or assist-
16 ance recipients; and

17 (2) shall include with respect to each person
18 awarded a Federal contract or assistance—

19 (A) information regarding all proceedings
20 referred to in paragraph (1) against that person
21 in at least the most recent 5-year period;

22 (B) with respect to each proceeding—

23 (i) a brief description of the pro-
24 ceeding; and

1 (ii) any amount paid by the person to
2 the Federal Government or a State govern-
3 ment;

4 (C) all Federal contracts and assistance
5 awarded to the person that were terminated in
6 such period due to default;

7 (D) all Federal suspensions and
8 debarments of the person in that period;

9 (E) all Federal suspension and debarment
10 show cause orders received by the person in
11 that period; and

12 (F) all administrative agreements signed
13 with such person in that period.

14 (c) INPUT OF DATA.—The Administrator shall design
15 and maintain the database in a manner that allows the
16 appropriate officials of each Federal agency to directly
17 input and update in the database information relating to
18 actions it has taken with regard to contractors or assist-
19 ance recipients.

20 (d) AVAILABILITY.—The Administrator shall make
21 the database available to all Federal agencies and to the
22 public by posting the database on the General Services Ad-
23 ministration website.

1 **SEC. 4. SUSPENSION AND DEBARMENT PRESUMPTION FOR**
2 **REPEAT VIOLATORS AND POOR PER-**
3 **FORMERS.**

4 (a) **IN GENERAL.**—Federal agency suspension and
5 debarment regulations shall be amended by no later than
6 180 days after the date of the enactment of this Act to
7 provide that a person shall be presumed nonresponsible
8 with respect to award of a Federal contract or assistance
9 if the person has rendered against the person twice within
10 any 3-year period a judgment or conviction for the same
11 offense, or similar offenses, if each conviction constitutes
12 a cause for debarment under the Government-wide debar-
13 ment system.

14 (b) **REBUTTAL.**—The presumption under subsection
15 (a) shall be rebutted only if the person demonstrates, by
16 clear and convincing evidence, that the person is presently
17 responsible and has corrected the conditions that gave rise
18 to the violations.

19 (c) **REPEAT VIOLATIONS.**—An agency suspension
20 and debarment official may deem evidence of repeat viola-
21 tions under subsection (a) as sufficient reason to find that
22 immediate action is necessary to suspend a person under
23 the regulations until the person fulfills the requirements
24 of subsection (b).

1 **SEC. 5. DISCLOSURE IN APPLICATIONS.**

2 Federal regulations shall be amended by no later than
3 180 days after the date of the enactment of this Act to
4 require that in applying for any Federal contract or assist-
5 ance, whether by submission of a proposal, any sollicita-
6 tion, bid, or other offer, a person shall disclose in writ-
7 ing—

8 (1) all Federal or State suspensions or
9 debarments of the person from contracts or assist-
10 ance in the 5-year period preceding the date of sub-
11 mission of the application;

12 (2) all suspension and debarment show cause
13 orders with respect to Federal contracts or assist-
14 ance that the person is implementing within 5 years
15 after the date of submission of the application.

16 (3) all civil, criminal, and administrative pro-
17 ceedings against the person by the Federal Govern-
18 ment or any State that occurred in the 5-year period
19 preceding the date of submission of the application;

20 (4) all administrative, civil, and criminal settle-
21 ments, agreements, consent decrees, enforcement ac-
22 tions, corrective actions, compelling reason waivers,
23 and other like judgments, orders, decisions, and final
24 dispositions with respect to Federal contracts or as-
25 sistance that the person is implementing within 5

1 years after the date of submission of the application;
2 and

3 (5) all Federal contracts and assistance award-
4 ed to the person that were terminated due to default
5 in the 5-year period preceding the date of submis-
6 sion of the application.

7 **SEC. 6. ROLE OF INTERAGENCY COMMITTEE.**

8 The Interagency Committee on Debarment and Sus-
9 pension shall—

10 (1) resolve issues regarding which of several
11 Federal agencies is the lead agency having responsi-
12 bility to initiate suspension or debarment pro-
13 ceedings;

14 (2) coordinate actions among interested agen-
15 cies with respect to such action;

16 (3) encourage and assist Federal agencies in
17 entering into cooperative efforts to pool resources
18 and achieve operational efficiencies in the govern-
19 mentwide suspension and debarment system;

20 (4) recommend to the Office of Management
21 and Budget changes to Government suspension and
22 debarment system and its rules, if such rec-
23 ommendations are approved by a majority of the
24 Interagency Committee;

1 (5) authorize the Office of Management and
2 Budget to issue guidelines that implement those rec-
3 ommendations;

4 (6) authorize the chair of the Committee to es-
5 tablish subcommittees as appropriate to best enable
6 the Interagency Committee to carry out its func-
7 tions; and

8 (7) submit to the Congress an annual report
9 on—

10 (A) the progress and efforts to improve the
11 suspension and debarment system;

12 (B) member agencies' active participation
13 in the committee's work; and

14 (C) a summary of each agency's activities
15 and accomplishments in the governmentwide de-
16 barment system.

17 **SEC. 7. AUTHORIZATION OF INDEPENDENT AGENCIES.**

18 Any agency, commission, or organization of the Fed-
19 eral Government to which Executive Order 12549 does not
20 apply is authorized to participate in the governmentwide
21 suspension and debarment system and may recognize the
22 suspension or debarment issued by an executive branch
23 agency in its own procurement or assistance activities.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to the Ad-
3 ministrator of General Services such funds as may be nec-
4 essary to establish the database for contracting officers
5 and suspension and debarment officials under section 3.

6 **SEC. 9. REPORT TO CONGRESS.**

7 (a) **REPORT REQUIRED.**—Not later than 180 days
8 after the date of the enactment of this Act, the Adminis-
9 trator of General Services shall submit to Congress a re-
10 port.

11 (b) **CONTENTS OF REPORT.**—The report shall con-
12 tain the following:

13 (1) A list of all databases that include informa-
14 tion about Federal contracting and Federal assist-
15 ance.

16 (2) Recommendations for further legislation or
17 administrative action that the Administrator con-
18 siders appropriate to create a centralized, com-
19 prehensive Federal contracting and Federal assist-
20 ance database.

21 **SEC. 10. DEFINITIONS.**

22 In this Act:

23 (1) **INTERAGENCY COMMITTEE.**—The term
24 “Interagency Committee on Debarment and Suspen-
25 sion” means such committee constituted under sec-
26 tions 4 and 5 and of Executive Order 12549.

1 (2) ASSISTANCE.—The term “assistance”
2 means Federal grants, cooperative agreements,
3 loans, loan guarantees, and other benefits included
4 as covered transactions under the governmentwide
5 nonprocurement suspension and debarment rules.

6 (3) CONTRACT.—The term “contract” means
7 those direct procurement transactions covered by
8 subpart 9.4 of the Federal Acquisition Regulation.

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