

15. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
Waxman OF California, OR HIS
DESIGNEE, DEBATABLE FOR 20 MINUTES:

125
Rev
Rev

**AMENDMENT TO H.R. 5658, AS REPORTED
OFFERED BY MR. WAXMAN OF CALIFORNIA**

Add at the end of the bill the following new division:

**1 DIVISION D—GOVERNMENTWIDE
2 ACQUISITION IMPROVEMENTS**

Sec. 4001. Short title.

TITLE XLI—ENHANCED COMPETITION

- Sec. 4101. Minimizing sole-source contracts.
- Sec. 4102. Limitation on length of certain noncompetitive contracts.
- Sec. 4103. Requirement for purchase of property and services pursuant to multiple award contracts.

TITLE XLII—CURBING ABUSE-PRONE CONTRACTS

- Sec. 4201. Regulations to minimize the inappropriate use of cost-reimbursement contracts.
- Sec. 4202. Preventing abuse of interagency contracts.
- Sec. 4203. Prohibitions on the use of lead systems integrators.
- Sec. 4204. Regulations on excessive pass-through charges.
- Sec. 4205. Linking of award and incentive fees to acquisition outcomes.
- Sec. 4206. Minimizing abuse of commercial services item authority.

TITLE XLIII—ACQUISITION WORKFORCE

- Sec. 4301. Acquisition workforce development fund.
- Sec. 4302. Contingency contracting corps.

TITLE XLIV—ANTI-FRAUD PROVISIONS

- Sec. 4401. Protection for contractor employees from reprisal for disclosure of certain information.
- Sec. 4402. Mandatory Fraud Reporting.
- Sec. 4403. Access of General Accounting Office to Contractor Employees.
- Sec. 4404. Preventing conflicts of interest.

TITLE XLV—ENHANCED CONTRACT TRANSPARENCY

- Sec. 4501. Disclosure of CEO salaries.
- Sec. 4502. Database for contracting officers and suspension and debarment of officials.
- Sec. 4503. Review of database.
- Sec. 4504. Disclosure in applications.
- Sec. 4505. Role of interagency committee.

- Sec. 4506. Authorization of independent agencies.
- Sec. 4507. Authorization of appropriations.
- Sec. 4508. Report to Congress.
- Sec. 4509. Improvements to the Federal procurement data system.

1 **SEC. 4001. SHORT TITLE.**

2 This division may be cited as the “Clean Contracting
3 Act of 2008”.

4 **TITLE XLI—ENHANCED**
5 **COMPETITION**

6 **SEC. 4101. MINIMIZING SOLE-SOURCE CONTRACTS.**

7 (a) **PLANS REQUIRED.**—Subject to subsection (c),
8 the head of each executive agency covered by title III of
9 the Federal Property and Administrative Services Act of
10 1949 (41 U.S.C. 251 et seq.) or, in the case of the Depart-
11 ment of Defense, the Under Secretary of Defense for Ac-
12 quisition, Technology, and Logistics, shall develop and im-
13 plement a plan to minimize, to the maximum extent prac-
14 ticable, the use of contracts entered into using procedures
15 other than competitive procedures by the agency or de-
16 partment concerned. The plan shall contain measurable
17 goals and shall be completed and submitted to the Com-
18 mittee on Oversight and Government Reform of the House
19 of Representatives, the Committee on Homeland Security
20 and Governmental Affairs of the Senate, and the Commit-
21 tees on Appropriations of the House of Representatives
22 and the Senate and, in the case of the Department of De-
23 fense and the Department of Energy, the Committees on

1 Armed Services of the Senate and the House of Represent-
2 atives, with a copy provided to the Comptroller General,
3 not later than 1 year after the date of the enactment of
4 this Act.

5 (b) COMPTROLLER GENERAL REVIEW.—The Comp-
6 troller General shall review the plans provided under sub-
7 section (a) and submit a report to Congress on the plans
8 not later than 18 months after the date of the enactment
9 of this Act.

10 (c) REQUIREMENT LIMITED TO CERTAIN AGEN-
11 CIES.—The requirement of subsection (a) shall apply only
12 to those agencies that awarded contracts in a total amount
13 of at least \$1,000,000,000 in the fiscal year preceding the
14 fiscal year in which the report is submitted.

15 (d) CERTAIN CONTRACTS EXCLUDED.—The con-
16 tracts entered into under the authority of the Small Busi-
17 ness Act shall not be included in the plans developed and
18 implemented under subsection (a), except contracts that
19 are awarded pursuant to section 602 of Public Law 100-
20 656 (as amended by section 22 of Public Law 101-37
21 (103 Stat. 75), section 2 of title V of Public Law 101-
22 515 (104 Stat. 2140), section 205 of Public Law 101-
23 574 (104 Stat. 2819), and section 608 of Public Law 103-
24 403 (108 Stat. 4204)).

1 **SEC. 4102. LIMITATION ON LENGTH OF CERTAIN NON-**
2 **COMPETITIVE CONTRACTS.**

3 (a) **CIVILIAN AGENCY CONTRACTS.**—Section 303(d)
4 of the Federal Property and Administrative Services Act
5 of 1949 (41 U.S.C. 253(d)) is amended by adding at the
6 end the following new paragraph:

7 “(3)(A) The contract period of a contract de-
8 scribed in subparagraph (B) that is entered into by
9 an executive agency pursuant to the authority pro-
10 vided under subsection (e)(2)—

11 “(i) may not exceed the time necessary—

12 “(I) to meet the unusual and compel-
13 ling requirements of the work to be per-
14 formed under the contract; and

15 “(II) for the executive agency to enter
16 into another contract for the required
17 goods or services through the use of com-
18 petitive procedures; and

19 “(ii) may not exceed 270 days unless the
20 head of the executive agency entering into such
21 contract determines that exceptional cir-
22 cumstances apply.

23 “(B) This paragraph applies to any contract in
24 an amount greater than \$1,000,000.”

1 (b) DEFENSE CONTRACTS.—Section 2304(d) of title
2 10, United States Code, is amended by adding at the end
3 the following new paragraph:

4 “(3)(A) The contract period of a contract de-
5 scribed in subparagraph (B) that is entered into by
6 an agency pursuant to the authority provided under
7 subsection (c)(2)—

8 “(i) may not exceed the time necessary—

9 “(I) to meet the unusual and compel-
10 ling requirements of the work to be per-
11 formed under the contract; and

12 “(II) for the agency to enter into an-
13 other contract for the required goods or
14 services through the use of competitive
15 procedures; and

16 “(ii) may not exceed 270 days unless the
17 head of the agency entering into such contract
18 determines that exceptional circumstances
19 apply.

20 “(B) This paragraph applies to any contract in
21 an amount greater than \$1,000,000.”

1 **SEC. 4103. REQUIREMENT FOR PURCHASE OF PROPERTY**
2 **AND SERVICES PURSUANT TO MULTIPLE**
3 **AWARD CONTRACTS.**

4 (a) **REGULATIONS REQUIRED.**—Not later than 12
5 months after the date of the enactment of this Act, the
6 Federal Acquisition Regulation shall be amended to re-
7 quire enhanced competition in the purchase of property
8 and services by all executive agencies pursuant to multiple
9 award contracts.

10 (b) **CONTENT OF REGULATIONS.**—

11 (1) **IN GENERAL.**—The regulations required by
12 subsection (a) shall provide, at a minimum, that
13 each individual purchase of property or services in
14 excess of the simplified acquisition threshold that is
15 made under a multiple award contract shall be made
16 on a competitive basis unless a contracting officer—

17 (A) waives the requirement on the basis of
18 a determination that—

19 (i) one of the circumstances described
20 in paragraphs (1) through (4) of section
21 303J(b) of the Federal Property and Ad-
22 ministrative Services Act of 1949 (41
23 U.S.C. 253j(b)) or section 2304c(b) of title
24 10, United States Code, applies to such in-
25 dividual purchase; or

1 (ii) a law expressly authorizes or re-
2 quires that the purchase be made from a
3 specified source; and

4 (B) justifies the determination in writing.

5 (2) COMPETITIVE BASIS PROCEDURES.—For
6 purposes of this subsection, an individual purchase
7 of property or services is made on a competitive
8 basis only if it is made pursuant to procedures
9 that—

10 (A) except as provided in paragraph (3),
11 require fair notice of the intent to make that
12 purchase (including a description of the work to
13 be performed and the basis on which the selec-
14 tion will be made) to be provided to all contrac-
15 tors offering such property or services under
16 the multiple award contract; and

17 (B) afford all contractors responding to
18 the notice a fair opportunity to make an offer
19 and have that offer fairly considered by the offi-
20 cial making the purchase.

21 (3) EXCEPTION TO NOTICE REQUIREMENT.—

22 (A) IN GENERAL.—Notwithstanding para-
23 graph (2), and subject to subparagraph (B), no-
24 tice may be provided to fewer than all contrac-
25 tors offering such property or services under a

1 multiple award contract as described in sub-
2 section (d)(2) if notice is provided to as many
3 contractors as practicable.

4 (B) LIMITATION ON EXCEPTION.—A pur-
5 chase may not be made pursuant to a notice
6 that is provided to fewer than all contractors
7 under subparagraph (A) unless—

8 (i) offers were received from at least
9 3 qualified contractors; or

10 (ii) a contracting officer of the execu-
11 tive agency determines in writing that no
12 additional qualified contractors were able
13 to be identified despite reasonable efforts
14 to do so.

15 (c) PUBLIC NOTICE REQUIREMENTS RELATED TO
16 SOLE SOURCE TASK OR DELIVERY ORDERS.—Not later
17 than 12 months after the date of the enactment of this
18 Act, the Federal Acquisition Regulation shall be amended
19 to require the head of each executive agency to publish
20 on—

21 (1) FedBizOpps notice of all sole source task or
22 delivery orders in excess of the simplified acquisition
23 threshold that are placed against multiple award
24 contracts not later than 14 days after such orders

1 are placed, except in the event of extraordinary cir-
2 cumstances or classified orders; and

3 (2) the website of the agency and through a
4 Governmentwide website selected by the Adminis-
5 trator for Federal Procurement Policy the deter-
6 minations required by (b)(1)(B) related to sole
7 source task or delivery orders placed against mul-
8 tiple award contracts not later than 14 days after
9 such orders are placed, except in the event of ex-
10 traordinary circumstances or classified orders.

11 (3) This subsection does not require the public
12 availability of information that is exempt from public
13 disclosure under section 552(b) of title 5, United
14 States Code.

15 (d) DEFINITIONS.—In this section:

16 (1) The term “individual purchase” means a
17 task order, delivery order, or other purchase.

18 (2) The term “multiple award contract”
19 means—

20 (A) a contract that is entered into by the
21 Administrator of General Services under the
22 multiple award schedule program referred to in
23 section 2302(2)(C) of title 10, United States
24 Code;

1 (B) a multiple award task order contract
2 that is entered into under the authority of sec-
3 tions 2304a through 2304d of title 10, United
4 States Code, or sections 303H through 303K of
5 the Federal Property and Administrative Serv-
6 ices Act of 1949 (41 U.S.C. 253h through
7 253k); and

8 (C) any other indefinite delivery, indefinite
9 quantity contract that is entered into by the
10 head of an executive agency with 2 or more
11 sources pursuant to the same solicitation.

12 (3) The term “sole source task or delivery
13 order” means any order that does not follow the
14 competitive base procedures in paragraphs (b)(2) or
15 (b)(3).

16 (e) APPLICABILITY.—The regulations required by
17 subsection (a) shall apply to all individual purchases of
18 property or services that are made under multiple award
19 contracts on or after such effective date, without regard
20 to whether the multiple award contracts were entered into
21 before, on, or after such effective date.

1 **TITLE XLII—CURBING ABUSE-**
2 **PRONE CONTRACTS**

3 **SEC. 4201. REGULATIONS TO MINIMIZE THE INAPPRO-**
4 **PRIATE USE OF COST-REIMBURSEMENT CON-**
5 **TRACTS.**

6 (a) **IN GENERAL.**—Not later than 12 months after
7 the date of the enactment of this Act, the Federal Acquisi-
8 tion Regulation shall be amended to minimize the inappro-
9 priate use of cost-reimbursement contracts and to ensure
10 the proper use of such contracts.

11 (b) **CONTENT.**—The regulations required under sub-
12 section (a) shall—

13 (1) identify, at a minimum—

14 (A) the circumstances under which cost re-
15 imbursement contracts or task or delivery or-
16 ders are appropriate;

17 (B) the acquisition plan facts necessary to
18 support a decision to use cost reimbursement
19 contracts;

20 (C) the acquisition workforce resources
21 necessary to award and manage cost reimburse-
22 ment contracts; and

23 (2) establish a requirement for each executive
24 agency to—

1 (A) annually assess its use of cost-reim-
2 bursement contracts;

3 (B) establish and implement metrics to
4 measure progress toward minimizing any inap-
5 propriate use of cost-reimbursement contracts
6 identified during the assessment process; and

7 (C) prepare and submit an annual report
8 to the Office of Management and Budget as-
9 ssuming progress in meeting the metrics estab-
10 lished in (B).

11 (c) COMPTROLLER GENERAL EVALUATIONS.—With-
12 in one year of the completion of the first annual reports
13 required by subsection (b)(2)(C), the Comptroller General
14 shall review the progress of agencies in implementing the
15 regulations required by (a).

16 (d) REPORT.—Subject to subsection (f), the Director
17 of the Office of Management and Budget shall submit an
18 annual report to Congressional committees identified in
19 subparagraph (e) and the Comptroller General on the use
20 of cost-reimbursement contracts and task or delivery or-
21 ders by all Federal agencies, including the Department of
22 Defense. The report shall be submitted no later than
23 March 1 and will cover the fiscal year ending September
24 30 of the prior year. The report shall include—

1 (1) the total number and value of contracts
2 awarded and orders issued during the covered fiscal
3 year;

4 (2) the number and value of cost-reimburse-
5 ment contracts awarded and orders issued during
6 the covered fiscal year;

7 (3) a list of contracts and task and delivery or-
8 ders identified in subparagraph (2) exceeding ten
9 million dollars (\$10,000,000), whose period of per-
10 formance, including options, exceeded three years;
11 the reasons why such contracts or orders could not
12 be priced or converted to a fixed-price basis; and the
13 actions being taken by the agency to do so;

14 (4) a certification by the contracting agency
15 that for each contract identified in subparagraph (3)
16 that an appropriate number of trained acquisition
17 personnel, consistent with the complexity and risk
18 associated with the contract or order, have been as-
19 signed to provide oversight of the contractor's per-
20 formance; and

21 (5) a description of each agency's actions to as-
22 sure the appropriate use of cost-reimbursement con-
23 tracts.

24 (e) CONGRESSIONAL COMMITTEES DEFINED.—The
25 report required by subsection (d) shall be submitted to the

1 Committee on Oversight and Government Reform of the
2 House of Representatives; the Committee on Homeland
3 Security and Governmental Affairs of the Senate; the
4 Committees on Appropriations of the House of Represent-
5 atives and the Senate; and, in the case of the Department
6 of Defense and the Department of Energy, the Commit-
7 tees on Armed Services of the Senate and the House of
8 Representatives.

9 (f) REQUIREMENTS LIMITED TO CERTAIN AGEN-
10 CIES.—The requirements of subsections (b) and (d) shall
11 apply only to those agencies that awarded contracts and
12 issued orders in a total amount of at least \$1,000,000,000
13 in the fiscal year proceeding the fiscal year in which the
14 assessments and reports are submitted.

15 **SEC. 4202. PREVENTING ABUSE OF INTERAGENCY CON-**
16 **TRACTS.**

17 (a) OFFICE OF MANAGEMENT AND BUDGET POLICY
18 GUIDANCE.—

19 (1) REPORT AND GUIDELINES.—Not later than
20 one year after the date of the enactment of this Act,
21 the Director of the Office of Management and Budg-
22 et shall—

23 (A) submit to Congress a comprehensive
24 report on interagency acquisitions, including

1 their frequency of use, management controls,
2 cost-effectiveness, and savings generated; and

3 (B) issue guidelines to assist the heads of
4 executive agencies in improving the manage-
5 ment of interagency acquisitions.

6 (2) MATTERS COVERED BY GUIDELINES.—For
7 purposes of paragraph (1)(B), the Director shall in-
8 clude guidelines on the following matters:

9 (A) Procedures for the use of interagency
10 acquisitions to maximize competition, deliver
11 best value to executive agencies, and minimize
12 waste, fraud, and abuse.

13 (B) Categories of contracting inappropriate
14 for interagency acquisition, due to high risk of
15 waste, fraud, or abuse.

16 (C) Requirements for training acquisition
17 workforce personnel in the proper use of inter-
18 agency acquisitions.

19 (b) REGULATIONS REQUIRED.—Not later than one
20 year after the date of the enactment of this Act, the Fed-
21 eral Acquisition Regulation shall be revised to require that
22 all interagency acquisitions—

23 (1) include a written agreement between the re-
24 questing agency and the servicing agency assigning

1 responsibility for the administration and manage-
2 ment of the contract;

3 (2) include a determination that an interagency
4 acquisition is the best procurement alternative; and

5 (3) include sufficient documentation to ensure
6 an adequate audit.

7 (c) AGENCY REPORTING REQUIREMENT.—The senior
8 procurement executive for each executive agency shall, as
9 directed by the Director of the Office of Management and
10 Budget, submit to the Director annual reports on the ac-
11 tions taken by the executive agency pursuant to the guide-
12 lines issued under subsection (a).

13 (d) DEFINITIONS.—In this section:

14 (1) The term “executive agency” has the mean-
15 ing given such term in section 4(1) of the Office of
16 Federal Procurement Policy Act (41 U.S.C. 403(1)).

17 (2) The term “head of executive agency” means
18 the head of an executive agency except that, in the
19 case of a military department, the term means the
20 Secretary of Defense.

21 (3) The term “interagency acquisition” means
22 a procedure by which an executive agency needing
23 supplies or services (the requesting agency) obtains
24 them from another executive agency (the servicing
25 agency). The term includes acquisitions under sec-

1 tion 1535 of title 31, United States Code (commonly
2 referred to as the “Economy Act”, Federal Supply
3 Schedules above \$500,000, and Governmentwide ac-
4 quisition contracts.

5 **SEC. 4203. PROHIBITIONS ON THE USE OF LEAD SYSTEMS**
6 **INTEGRATORS.**

7 (a) **PROHIBITION ON NEW LEAD SYSTEMS INTEGRA-**
8 **TORS.**—(1) Effective October 1, 2010, the head of an ex-
9 ecutive agency may not award a new contract for lead sys-
10 tems integrator functions in the acquisition of a major sys-
11 tem.

12 (2) **PROHIBITION ON LEAD SYSTEMS INTEGRATORS**
13 **BEYOND DEMONSTRATION LEVEL PHASE.**—Effective on
14 the date of the enactment of this Act, an executive agency
15 may award a new contract for lead systems integrator
16 functions in the acquisition of a major system only if—

17 (A) the contract for the major system does not
18 proceed beyond the demonstration phase-level; or

19 (B) the head of the agency determines in writ-
20 ing that it would not be practicable to carry out ac-
21 quisition without continuing to use a contractor to
22 perform lead systems integrator functions and that
23 doing so is in the best interest of the agency.

24 (3) **REQUIREMENTS RELATING TO DETERMINA-**
25 **TIONS.**—A determination under paragraph (2)(A)—

1 (A) shall specify the reasons why it would not
2 be practicable to carry out the acquisition continuing
3 to use a contractor to perform lead integrator func-
4 tions (including a discussion of alternatives, such as
5 the use of the agency workforce, or a system engi-
6 neering and technical assistance contractor);

7 (B) shall include a plan for phasing out the use
8 of contracted lead systems integrator functions over
9 the shortest period of time consistent with the inter-
10 est of the government;

11 (C) may not be delegated below the level of the
12 Chief Acquisition Officer; and

13 (D) shall be provided to the Committee on
14 Oversight and Government Reform in the House of
15 Representatives and the Committee on Homeland
16 Security and Governmental Affairs in the Senate at
17 least 45 days before the award of a contract pursu-
18 ant to the determination.

19 (b) ACQUISITION WORKFORCE.—

20 (1) REQUIREMENT.—The head of an executive
21 agency shall ensure that the acquisition workforce is
22 of the appropriate size and skill level necessary—

23 (A) to accomplish inherently governmental
24 functions related to acquisition of major sys-
25 tems; and

1 (B) to effectuate the purpose of subsection
2 (a) to minimize and eventually eliminate the use
3 of contractors to perform lead systems inte-
4 grator functions.

5 (2) REPORT.—The head of the agency shall an-
6 nually include an update on the progress made in
7 complying with paragraph (1) in the agency's Per-
8 formance and Accountability Report.

9 (c) EXCEPTION FOR CONTRACTS FOR OTHER MAN-
10 AGEMENT SERVICES.—The head of an executive agency
11 may continue to award contracts for the procurement of
12 services the primary purpose of which is to perform acqui-
13 sition support functions with respect to the development
14 or production of a major system, if the following condi-
15 tions are met with respect to each such contract:

16 (1) The contract prohibits the contractor from
17 performing inherently governmental functions.

18 (2) The head of the agency responsible for the
19 development or production of the major system en-
20 sures that Federal employees are responsible for de-
21 termining courses of action to be taken in the best
22 interest of the government.

23 (3) The contract requires that the prime con-
24 tractor for the contract may not advise or rec-
25 ommend the award of a contract or subcontract for

1 the development or production of the major system
2 to an entity owned in whole or in part by the prime
3 contractor.

4 (d) DEFINITIONS.—In this section:

5 (1) LEAD SYSTEMS INTEGRATOR.—The term
6 “lead systems integrator” means—

7 (A) a prime contractor for the development
8 or production of a major system, if the prime
9 contractor is not expected at the time of award
10 to perform a substantial portion of the work on
11 the system and the major subsystems; or

12 (B) a prime contractor under a contract
13 for procurement of services the primary purpose
14 of which to perform acquisition functions closely
15 associated with inherently governmental func-
16 tions with respect to the development or pro-
17 duction of a major system.

18 (2) MAJOR SYSTEM.—The term “major system”
19 has the meaning given such term in section 2302d
20 of title 10, United States Code.

21 (3) DEMONSTRATION PHASE LEVEL.—For pur-
22 poses of this section, the term “demonstration phase
23 level” means—

1 (A) work performed prior to first article
2 testing and approval (as defined in part 9.3 of
3 the Federal Acquisition Regulation; or

4 (B) a level comparable to the level identi-
5 fied in subparagraph (A) which the FAR Coun-
6 cil determines, by regulation, after consider-
7 ation of the definition of low-rate initial produc-
8 tion (as defined in section 2400 of title 10,
9 United States Code.

10 (e) INAPPLICABILITY TO DEPARTMENT OF DE-
11 FENSE.—This section does not apply to the Department
12 of Defense.

13 **SEC. 4204. REGULATIONS ON EXCESSIVE PASS-THROUGH**
14 **CHARGES.**

15 (a) REGULATIONS REQUIRED.—

16 (1) Not later than 180 days after the date of
17 enactment of this Act, the Federal Acquisition Regu-
18 lation shall be amended ensure that excessive pass-
19 through charges on contracts or (or task or delivery
20 orders) are not paid by the Federal Government.

21 (2) SCOPE OF REGULATIONS.—The regulations
22 prescribed under this subsection—

23 (A) shall not apply to any firm, fixed-price
24 contract or subcontract (or task or delivery
25 order) that is—

1 (i) awarded on the basis of adequate
2 price competition; or

3 (ii) for the acquisition of a commercial
4 item, as defined in section 4(12) of the Of-
5 fice of Federal Procurement Policy Act (41
6 U.S.C. 403(12)); and

7 (B) may include such additional exceptions
8 as the Federal Acquisition Regulation Council
9 determines to be necessary in the interest of the
10 government.

11 (3) DEFINITION.—In this section, the term “ex-
12 cessive pass-through charge” means a charge to the
13 Government by the contractor or subcontractor that
14 is for overhead or profit on work performed by a
15 lower-tier contractor or subcontractor (other than
16 charges for the direct costs of managing lower-tier
17 contracts and subcontracts and overhead and profit
18 based on such direct costs) and for which the con-
19 tractor or subcontractor adds no, or negligible, value
20 to a contract or subcontract.

21 (b) INAPPLICABILITY TO DEPARTMENT OF DE-
22 FENSE.—This section does not apply to the Department
23 of Defense.

1 **SEC. 4205. LINKING OF AWARD AND INCENTIVE FEES TO**
2 **ACQUISITION OUTCOMES.**

3 (a) GUIDANCE ON LINKING OF AWARD AND INCEN-
4 TIVE FEES TO ACQUISITION OUTCOMES.—Not later than
5 12 months after the date of the enactment of this Act,
6 the Federal Acquisition Regulation shall be amended to
7 provide executive agencies with instructions, including
8 definitions, on the appropriate use of award and incentive
9 fees in Federal acquisition programs.

10 (b) ELEMENTS.—The regulations under subsection
11 (a) shall—

12 (1) ensure that all new contracts using award
13 fees link such fees to acquisition outcomes (which
14 shall be defined in terms of program cost, schedule,
15 and performance);

16 (2) establish standards for identifying the ap-
17 propriate level of officials authorized to approve the
18 use of award and incentive fees in new contracts;

19 (3) provide guidance on the circumstances in
20 which contractor performance may be judged to be
21 “excellent” or “superior” and the percentage of the
22 available award fee which contractors should be paid
23 for such performance;

24 (4) establish standards for determining the per-
25 centage of the available award fee, if any, which con-
26 tractors should be paid for performance that is

1 judged to be “acceptable”, “average”, “expected”,
2 “good”, or “satisfactory”;

3 (5) ensure that no award fee may be paid for
4 contractor performance that is judged to be below
5 satisfactory performance or performance that does
6 not meet the basic requirements of the contract;

7 (6) provide specific direction on the cir-
8 cumstances, if any, in which it may be appropriate
9 to roll over award fees that are not earned in one
10 award fee period to a subsequent award fee period
11 or periods;

12 (7) ensure consistent use of guidelines and defi-
13 nitions relating to award and incentive fees across
14 the Federal Government;

15 (8) ensure that each executive agency—

16 (A) collects relevant data on award and in-
17 centive fees paid to contractors; and

18 (B) has mechanisms in place to evaluate
19 such data on a regular basis;

20 (9) include performance measures to evaluate
21 the effectiveness of award and incentive fees as a
22 tool for improving contractor performance and
23 achieving desired program outcomes; and

24 (10) provide mechanisms for sharing proven in-
25 centive strategies for the acquisition of different

1 types of products and services among contracting
2 and program management officials.

3 **SEC. 4206. MINIMIZING ABUSE OF COMMERCIAL SERVICES**

4 **ITEM AUTHORITY.**

5 (a) **REGULATIONS REQUIRED.**—Not later than 180
6 days after the date of the enactment of this Act, the Fed-
7 eral Acquisition Regulation shall be amended for the pro-
8 curement of commercial services.

9 (b) **APPLICABILITY OF COMMERCIAL PROCE-**
10 **DURES.**—

11 (1) **SERVICES OF A TYPE SOLD IN MARKET-**
12 **PLACE.**—The regulations modified pursuant to sub-
13 section (a) shall ensure that services that are not of-
14 fered and sold competitively in substantial quantities
15 in the commercial marketplace, but are of a type of-
16 fered and sold competitively in substantial quantities
17 in the commercial marketplace, may be treated as
18 commercial items for purposes of section 254b of
19 title 41, United States Code (relating to truth in ne-
20 gotiations), only if the contracting officer determines
21 in writing that the offeror has submitted sufficient
22 information to evaluate, through price analysis, the
23 reasonableness of the price for such services.

24 (2) **INFORMATION SUBMITTED.**—To the extent
25 necessary to make a determination under paragraph

1 (1), the contracting officer may request the offeror
2 to submit—

3 (A) prices paid for the same or similar
4 commercial items under comparable terms and
5 conditions by both government and commercial
6 customers; and

7 (B) if the contracting officer determines
8 that the information described in subparagraph
9 (A) is not sufficient to determine the reason-
10 ableness of price, other relevant information re-
11 garding the basis for price or cost, including in-
12 formation on labor costs, material costs, and
13 overhead rates.

14 (c) TIME-AND-MATERIALS CONTRACTS.—

15 (1) COMMERCIAL ITEM ACQUISITIONS.—The
16 regulations pursuant to subsection (a) shall ensure
17 that procedures applicable to time-and-materials
18 contracts and labor-hour contracts for commercial
19 item acquisitions may be used only for the following:

20 (A) Services procured for support of a
21 commercial item, as described in section
22 4(12)(E) of the Office Federal Procurement
23 Policy Act (41 U.S.C. 403(12)(E)).

24 (B) Emergency repair services.

1 (C) Any other commercial services only to
2 the extent that the head of the agency con-
3 cerned approves a determination in writing by
4 the contracting officer that—

5 (i) the services to be acquired are
6 commercial services as defined in section
7 4(12)(F) of the Office of Federal Procure-
8 ment Policy Act (41 U.S.C. 403(12)(F));

9 (ii) if the services to be acquired are
10 subject to subsection (b), the offeror of the
11 services has submitted sufficient informa-
12 tion in accordance with that subsection;

13 (iii) such services are commonly sold
14 to the general public through use of time-
15 and-materials or labor-hour contracts; and

16 (iv) the use of a time-and-materials or
17 labor-hour contract type is in the best in-
18 terest of the Government.

19 (2) NON-COMMERCIAL ITEM ACQUISITIONS.—

20 Nothing in this subsection shall be construed to pre-
21 clude the use of procedures applicable to time-and-
22 materials contracts and labor-hour contracts for
23 non-commercial item acquisitions for the acquisition
24 of any category of services.

1 **TITLE XLIII—ACQUISITION**
2 **WORKFORCE**

3 **SEC. 4301. ACQUISITION WORKFORCE DEVELOPMENT**
4 **FUND.**

5 (a) **PURPOSE.**—The purpose of this section is to en-
6 sure that there are resources available to recruit, hire,
7 educate, train and retain members of the Federal acquisi-
8 tion workforce with the requisite competencies and skills
9 to ensure that the government receives best value property
10 and services in its acquisitions.

11 (b) **ESTABLISHMENT OF FUND.**—Title III of the
12 Federal Property and Administrative Services Act of 1949
13 (40 U.S.C. 101, et seq) is amended by adding at the end
14 the following new section:

15 **“SEC. 324. ACQUISITION WORKFORCE DEVELOPMENT**
16 **FUND.**

17 “(a) The Administrator of General Services shall es-
18 tablish an acquisition workforce development fund.

19 “(1) The Administrator shall manage the fund
20 through the Federal Acquisition Institute to recruit,
21 hire, educate, train and retain members of the acqui-
22 sition workforce of the executive agencies other than
23 the Department of Defense.

24 “(2) The Administrator, in consultation with
25 the Administrator for Federal Procurement Policy

1 and the Chief Acquisition Officers or Senior Pro-
2 curement Executives, as appropriate, of the execu-
3 tive agencies, other than the Department of Defense,
4 shall issue detailed guidance for the administration
5 and use of the Fund. Such guidance shall include
6 provisions—

7 “(A) requiring agencies to identify mem-
8 bers of their acquisition workforce consistent
9 with section 433(i) of title 41.

10 “(B) identifying areas of need in the acqui-
11 sition workforce for which amounts in the Fund
12 may be used, including—

13 “(i) changes to the types of skills
14 needed;

15 “(ii) incentives to retain qualified, ex-
16 perience personnel; and

17 “(iii) incentives for attracting new,
18 high-quality personnel;

19 “(C) describing the manner and timing for
20 applications for amounts in the Fund to be sub-
21 mitted;

22 “(D) describing the evaluation criteria to
23 be used for approving or prioritizing applica-
24 tions for amounts in the Fund in any fiscal
25 year; and

1 “(E) describing measurable objectives of
2 performance for determining whether amounts
3 in the Fund are being used in compliance with
4 this section.

5 “(3) The Director of the Office of Management
6 and Budget shall be the approving official for any
7 disbursements from the Fund.

8 “(4) The costs of administering the fund, in-
9 cluding the direct and indirect costs of those employ-
10 ees, not to exceed 5 percent per annum, shall be
11 paid out of the fund.

12 “(5) Amounts in the fund may not be used to
13 pay the base salary of any full-time equivalent posi-
14 tion currently filled as of date of enactment of the
15 Clean Contracting Act of 2008.

16 “(b) There shall be credited to the acquisition work-
17 force development fund the following percentages of the
18 value of funds expended by executive agencies for service
19 contracts, other than services relating to research and de-
20 velopment and services relating to construction:

21 “(1) for fiscal year 2009, 0.5 percent.

22 “(2) for fiscal year 2010, 1 percent.

23 “(3) for fiscal year 2011, 1.5 percent.

24 “(4) for any fiscal year after fiscal year 2011,
25 2 percent.

1 “(c) The Director of the Office and Management and
2 Budget may reduce the amount to be credited upon a de-
3 termination that the funds being credited are excess to
4 the needs of the acquisition workforce development fund.
5 In no event shall the Director of the Office of Management
6 Budget reduce the percentage for any fiscal year below
7 a percentage that results in the deposit in a fiscal year
8 of an amount equal to the following

9 “(1) for fiscal year 2009, 75,000,000.

10 “(2) for fiscal year 2010, 100,000,000.

11 “(3) for fiscal year 2011, 125,000,000.

12 “(4) for an fiscal year after 2011, 150,000,000.

13 “(d) Not later than 30 days after the end of fiscal
14 year 2008, and 30 days after the end of each fiscal year
15 quarter thereafter, the head of each executive agency shall
16 remit to the General Services Administration the amount
17 required to be credited to the fund with respect to the
18 contracts, leases, task and delivery order described in sub-
19 section (b).

20 “(e) The Administrator of General Services, through
21 the Office of the Chief Acquisition Officer, shall ensure
22 that funds collected under this section are not used for
23 any purposes other than the purposes specified in sub-
24 section (a).

1 “(f) Amounts credited to the fund shall be in addition
2 to funds requested and appropriated for salaries, benefits,
3 education and training for all current acquisition work-
4 force members.

5 “(g) Amounts credited to the fund shall remain avail-
6 able until expended.

7 “(h) Not later than 60 days after the end of each
8 fiscal year beginning with fiscal year 2008, the Adminis-
9 trator of General Services shall submit to the congres-
10 sional committees identified in subsection (i) a report on
11 the operation of the fund during such fiscal year. Each
12 report shall include, for the fiscal year covered by such
13 report, the following:

14 “(1) A statement of the amounts remitted to
15 the Administrator for crediting to the Fund for such
16 fiscal year by each executive agency and a statement
17 of the amounts credited to the Fund.

18 “(2) A description of the expenditures made
19 from the Fund, including the purpose of such ex-
20 penditures.

21 “(3) A description and assessment of improve-
22 ments in the Federal acquisition workforce resulting
23 from such expenditures, including the extent to
24 which the fund has been used to increase the num-
25 ber of individuals in the acquisition workforce rel-

1 ative to the number of individuals in the acquisition
2 workforce as of the date of enactment.

3 “(4) Recommendations for additional authori-
4 ties to fulfill the purpose of the Fund.

5 “(5) A statement of the balance remaining in
6 the Fund at the end of such fiscal year.

7 “(i) The report required by subsection (h) shall be
8 submitted to the Committee on Oversight and Government
9 Reform of the House of Representatives; the Committee
10 on Homeland Security and Governmental Affairs of the
11 Senate; and the Committees on Appropriations of the
12 House of Representatives and the Senate.

13 “(j) No expired balances appropriated prior to the
14 date of the enactment of the Clean Contracting Act of
15 2008 may be used to make any payment to the Acquisition
16 Workforce Development Fund.”.

17 (c) EXCEPTION.—This section and the amendments
18 made by this section shall not apply to the acquisition
19 workforce of the Department of Defense.

20 **SEC. 4302. CONTINGENCY CONTRACTING CORPS.**

21 The Office of Federal Procurement Policy Act (41
22 U.S.C. 403 et seq.), as amended by section 102, is further
23 amended by adding at the end the following new section:

1 **“SEC. 44. CONTINGENCY CONTRACTING CORPS.**

2 “(a) **ESTABLISHMENT.**—The Administrator of Gen-
3 eral Services in consultation with the Director of the Of-
4 fice of Management and Budget, the Secretary of Defense
5 and the Secretary of Homeland Security, shall establish
6 a Governmentwide Contingency Contracting Corps (in this
7 section, referred to as the ‘Corps’). The members of the
8 Corps shall be available for deployment in responding to
9 an emergency or major disaster, or a contingency oper-
10 ation, within or outside the continental United States.

11 “(b) **APPLICABILITY.**—The authorities provided in
12 this section apply with respect to any procurement of
13 property or services by or for an executive agency that,
14 as determined by the head of such executive agency, are
15 to be used—

16 “(1) in support of a contingency operation as
17 defined in section 101(a)(13) of title 10, United
18 States Code; or

19 “(2) to respond to an emergency or major dis-
20 aster as defined in section 5122 of title 41, United
21 States Code.

22 “(c) **MEMBERSHIP.**—Membership in the Corps shall
23 be voluntary and open to all Federal employees and uni-
24 formed members of the Armed Services, who are currently
25 members of the Federal acquisition workforce. As a condi-
26 tion precedent to membership in the Corps, each volunteer

1 will execute a mobility agreement consistent with the pro-
2 visions included in sections 3371 through 3375 of title 5,
3 United States Code.

4 “(d) EDUCATION AND TRAINING.—The Director of
5 the Federal Acquisition Institute, in consultation with the
6 Chief Acquisition Officers Council shall establish edu-
7 cational and training requirements for members of the
8 Corps, and shall pay for these additional requirements
9 from funds available in the acquisition workforce develop-
10 ment fund or the Department of Defense Acquisition
11 Workforce Development Fund.

12 “(e) CLOTHING AND EQUIPMENT.—The Adminis-
13 trator shall identify any necessary clothing and equipment
14 requirements, and shall pay for this clothing and equip-
15 ment from funds available in the acquisition workforce de-
16 velopment fund or the Department of Defense Acquisition
17 Workforce Development Fund.

18 “(f) SALARY.—The salaries for members of the Corps
19 shall be paid by their parent agencies out of funds avail-
20 able.

21 “(g) AUTHORITY TO DEPLOY THE CORPS.—The Di-
22 rector of the Office of Management and Budget shall have
23 the authority to determine when members of the Corps
24 shall be deployed, in consultation with the head of the
25 agency or agencies employing the members to be deployed.

1 “(h) ANNUAL REPORT.—

2 “(1) IN GENERAL.—The Administrator of Gen-
3 eral Services shall provide to the Committee on
4 Homeland Security and Governmental Affairs and
5 the Committee on Armed Services of the Senate and
6 the Committee on Oversight and Government Re-
7 form and the Committee on Armed Services of the
8 House of Representatives an annual report on the
9 status of the Contingency Contracting Corps as of
10 September 30 of each fiscal year.

11 “(2) CONTENT.—At a minimum, each report
12 under paragraph (1) shall include the number of
13 members of the Contingency Contracting Corps, the
14 total cost of operating the program, the number of
15 deployments of members of the program, and the
16 performance of members of the program in deploy-
17 ment.”.

18 **TITLE XLIV—ANTI-FRAUD**
19 **PROVISIONS**

20 **SEC. 4401. PROTECTION FOR CONTRACTOR EMPLOYEES**
21 **FROM REPRISAL FOR DISCLOSURE OF CER-**
22 **TAIN INFORMATION.**

23 (a) INCREASED PROTECTION FROM REPRISAL.—
24 Subsection (a) of section 315 of the Federal Property and

1 Administrative Services Act of 1949 (41 U.S.C. 265(a),
2 is amended—

3 (1) by striking “disclosing to a Member of Con-
4 gress” and inserting “disclosing to a Member of
5 Congress, a representative of a committee of Con-
6 gress, an Inspector General, the Government Ac-
7 countability Office, an employee of an executive
8 agency responsible for contract oversight or manage-
9 ment,”; and

10 (2) by striking “information relating to a sub-
11 stantial violation of law related to a contract (includ-
12 ing the competition for or negotiation of a con-
13 tract)” and inserting “information that the employee
14 reasonably believes is evidence of gross mismanage-
15 ment of an executive agency contract or grant, a
16 gross waste of executive agency funds, a substantial
17 and specific danger to public health or safety, or a
18 violation of law related to an executive agency con-
19 tract (including the competition for or negotiation of
20 a contract) or grant”.

21 (b) CLARIFICATION OF INSPECTOR GENERAL DE-
22 TERMINATION.—Subsection (b) of such section is amend-
23 ed—

24 (1) by inserting “(1)” after “INVESTIGATION
25 OF COMPLAINTS.—” and

1 (2) by adding at the end the following new
2 paragraph:

3 “(2)(A) Except as provided under subparagraph (B),
4 the Inspector General shall make a determination that a
5 complaint is frivolous or submit a report under paragraph
6 (1) within 180 days after receiving the complaint.

7 “(B) If the Inspector General is unable to complete
8 an investigation in time to submit a report within the 180-
9 day period specified in subparagraph (A) and the person
10 submitting the complaint agrees to an extension of time,
11 the Inspector General shall submit a report under para-
12 graph (1) within such additional period of time as shall
13 be agreed upon between the Inspector General and the
14 person submitting the complaint.”.

15 (c) ACCELERATION OF SCHEDULE FOR DENYING RE-
16 LIEF OR PROVIDING REMEDY.—Subsection (c) of such
17 section is amended in paragraph (1), by striking “If the
18 head of an executive agency determines that a contractor
19 has subjected a person to a reprisal prohibited by sub-
20 section (a), the head of the agency may” and inserting
21 after “(1)” the following: “Not later than 30 days after
22 receiving an Inspector General report pursuant to sub-
23 section (b), the head of an executive agency concerned
24 shall determine whether there is sufficient basis to con-
25 clude that the contractor concerned has subjected the com-

1 plainant to a reprisal prohibited by subsection (a) and
2 shall either issue an order denying relief or shall”.

3 (d) DEFINITIONS.—Subsection (e) of such section is
4 amended in paragraph (2), by inserting “or a grant” after
5 “a contract”.

6 **SEC. 4402. MANDATORY FRAUD REPORTING.**

7 (a) AMENDMENT OF FEDERAL ACQUISITION REGU-
8 LATION.—The Federal Acquisition Regulation shall be
9 amended within 180 days after the date of the enactment
10 of this Act pursuant to FAR Case 2007-006 (as published
11 at 72 Fed Reg. 64019, November 14, 2007) or any follow-
12 on FAR case to include provisions that require timely noti-
13 fication by Federal contractors of violations of Federal
14 criminal law or overpayments in connection with the
15 award or performance of covered contracts or sub-
16 contracts, including those performed outside the United
17 States and those for commercial items.

18 (b) COVERED CONTRACT DEFINED.—In this section,
19 the term “covered contract” means any contract in an
20 amount greater than \$5,000,000 and more than 120 days
21 in duration.

22 **SEC. 4403. ACCESS OF GENERAL ACCOUNTING OFFICE TO**
23 **CONTRACTOR EMPLOYEES.**

24 (a) CIVILIAN AGENCIES.—Section 304C of the Fed-
25 eral Property and Administrative Services Act of 1949 (41

1 U.S.C. 254d) is amended in subsection (c)(1) by inserting
2 after “records” “, or interview any employee,”.

3 (b) DEFENSE AGENCIES.—Section 2313 of title 10,
4 United States Code, is amended in subsection (c)(1) by
5 inserting after “records” “, or interview any employee,”.

6 **SEC. 4404. PREVENTING CONFLICTS OF INTEREST.**

7 (a) ORGANIZATIONAL CONFLICTS OF INTEREST.—
8 Not later than 12 months after the date of the enactment
9 of this Act, the Administrator of the Office of Federal
10 Procurement Policy shall review the Federal Acquisition
11 Regulation to determine whether it contains sufficiently
12 rigorous, comprehensive, and uniform Governmentwide
13 policies to prevent and mitigate organizational conflicts of
14 interest in Federal contracting. In reviewing such regula-
15 tions, the Administrator and the Federal Acquisition Reg-
16 ulatory Council, in consultation with the Office of Govern-
17 ment Ethics, shall, at a minimum, make appropriate revi-
18 sions to the regulations to—

19 (1) establish a standard organizational conflict
20 of interest clause, or a set of standard organizational
21 conflict of interest clauses, for inclusion in solicita-
22 tions and contracts that set forth the contractor’s
23 responsibilities with respect to its employees, sub-
24 contractors, partners, and any other affiliated orga-
25 nizations or individuals;

1 (2) address conflicts that may arise in the con-
2 text of developing requirements and statements of
3 work, the selection process, and contract administra-
4 tion;

5 (3) ensure that adequate organizational conflict
6 of interest safeguards are enacted in situations in
7 which contractors are employed by the Federal Gov-
8 ernment to oversee other contractors or are hired to
9 assist in the acquisition process; and

10 (4) ensure that any policies or clauses developed
11 address conflicts of interest that may arise from fi-
12 nancial interests, unfair competitive advantages, and
13 impaired objectivity.

14 (b) **PERSONAL CONFLICTS OF INTEREST.**—Not later
15 than 12 months after the date of the enactment of this
16 Act, the Federal Acquisition Regulation shall be amended
17 to establish uniform, Governmentwide policies to prevent
18 personal conflicts of interest by contractor employees in
19 Federal contracting. In developing such regulations, the
20 Federal Acquisition Regulatory Council, in consultation
21 with the Office of Government Ethics, shall, at a min-
22 imum—

23 (1) develop a standard contractor employee per-
24 sonal conflicts of interest clause or a set of standard
25 clauses for inclusion in solicitations and contracts

1 that set forth the contractor's responsibility to en-
2 sure that employees who are performing contracted
3 services for the Federal Government are free of per-
4 sonal conflicts of interest;

5 (2) identify the contracting methods, types and
6 services that raise heightened concerns for potential
7 conflicts of interest; and

8 (3) establish specified principles, examples, a
9 definition of personal conflicts of interest relevant to
10 contractor employees working on Federal Govern-
11 ment contracts, specific prohibitions, and where ap-
12 plicable, greater disclosure for certain contractor em-
13 ployees, that will accomplish the end objective of eth-
14 ical behavior.

15 (c) BEST PRACTICES.—The Administrator of the Of-
16 fice of Federal Procurement Policy, in consultation with
17 the Office of Governmentwide Ethics, shall develop and
18 maintain a repository of best practices relating to the pre-
19 vention and mitigation of organizational and personal con-
20 flicts of interest.

21 **TITLE XLV—ENHANCED**
22 **CONTRACT TRANSPARENCY**

23 **SEC. 4501. DISCLOSURE OF CEO SALARIES.**

24 (a) DISCLOSURE REQUIREMENTS.—Section 2(b)(1)
25 of the Federal Funding Accountability and Transparency

1 Act (Public Law 109-282; 31 U.S.C. 6101 note) is
2 amended—

3 (1) by striking “and” at the end of subpara-
4 graph (E);

5 (2) by redesignating subparagraph (F) as sub-
6 paragraph (G); and

7 (3) by inserting after subparagraph (E) the fol-
8 lowing new subparagraph:

9 “(F) the names and total compensation of
10 the five most highly compensated officers of the
11 entity if—

12 “(i) the entity in the preceding fiscal
13 year received—

14 “(I) 80 percent or more of its an-
15 nual gross revenues in Federal
16 awards; and

17 “(II) \$25,000,000 or more in an-
18 nual gross revenues from Federal
19 awards; and

20 “(ii) the public does not have access
21 to information about the compensation of
22 the senior executives of the entity through
23 periodic reports filed under section 13(a)
24 or 15(d) of the Securities Exchange Act of
25 1934 (15 U.S.C. 78m(a), 78o(d)) or sec-

1 tion 6104 of the Internal Revenue Code of
2 1986.”.

3 (b) REGULATIONS REQUIRED.—The Director of the
4 Office of Management and Budget shall promulgate regu-
5 lations to implement the amendment made by this title.
6 Such regulations shall include a definition of “total com-
7 pensation” that is consistent with regulations of the Secu-
8 rities and Exchange Commission at section 402 of part
9 229 of title 17 of the Code of Federal Regulations (or any
10 subsequent regulation).

11 **SEC. 4502. DATABASE FOR CONTRACTING OFFICERS AND**
12 **SUSPENSION AND DEBARMENT OFFICIALS.**

13 (a) IN GENERAL.—Subject to the authority, direc-
14 tion, and control of the Director of the Office of Manage-
15 ment and Budget, the Administrator of General Services
16 shall establish and maintain a database of information re-
17 garding integrity and performance of persons awarded
18 Federal contracts and grants for use by Federal officials
19 having authority over contracts and grants.

20 (b) PERSONS COVERED.—The database shall cover
21 any person awarded a Federal contract or grant if any
22 information described in subsection (c) exists with respect
23 to such person.

24 (c) INFORMATION INCLUDED.—With respect to a
25 person awarded a Federal contract or grant, the database

1 shall include information (in the form of a brief descrip-
2 tion) for at least the most recent 5-year period regard-
3 ing—

4 (1) any civil or criminal proceeding, or any ad-
5 ministrative proceeding to the extent that such pro-
6 ceeding results in both a finding of fault on the part
7 of the person and the payment of restitution to a
8 government of \$5,000 or more, concluded by the
9 Federal Government or any State government
10 against the person, and any amount paid by the per-
11 son to the Federal Government or a State govern-
12 ment;

13 (2) all Federal contracts and grants awarded to
14 the person that were terminated in such period due
15 to default;

16 (3) all Federal suspensions and debarments of
17 the person in that period;

18 (4) all Federal administrative agreements en-
19 tered into by the person and the Federal Govern-
20 ment in that period to resolve a suspension or debar-
21 ment proceeding and, to the maximum extent prac-
22 ticable, agreements involving a suspension or debar-
23 ment proceeding entered into by the person and a
24 State government in that period; and

1 (5) all final findings by a Federal official in
2 that period that the person has been determined not
3 to be a responsible source under either subparagraph
4 (C) or (D) of section 4(7) of the Office of Federal
5 Procurement Policy Act (41 U.S.C. 403(7)).

6 (d) REQUIREMENTS RELATING TO INFORMATION IN
7 DATABASE.—

8 (1) DIRECT INPUT AND UPDATE.—The Admin-
9 istrator shall design and maintain the database in a
10 manner that allows the appropriate officials of each
11 Federal agency to directly input and update in the
12 database information relating to actions it has taken
13 with regard to contractors or grant recipients.

14 (2) TIMELINESS AND ACCURACY.—The Admin-
15 istrator shall develop policies to require—

16 (A) the timely and accurate input of infor-
17 mation into the database;

18 (B) notification of any covered person
19 when information relevant to the person is en-
20 tered into the database; and

21 (C) an opportunity for any covered person
22 to append comments to information about such
23 person in the database.

24 (e) AVAILABILITY.—

1 (1) AVAILABILITY TO ALL FEDERAL AGEN-
2 CIES.—The Administrator shall make the database
3 available to all Federal agencies.

4 (2) AVAILABILITY TO THE PUBLIC.—The Ad-
5 ministrator shall make the database available to the
6 public by posting the database on the General Serv-
7 ices Administration website.

8 (3) LIMITATION.—This subsection does not re-
9 quire the public availability of information that is
10 exempt from public disclosure under section 552(b)
11 of title 5, United States Code.

12 **SEC. 4503. REVIEW OF DATABASE.**

13 (a) REQUIREMENT TO REVIEW DATABASE.—Prior to
14 the award of a contract or grant, an official responsible
15 for awarding a contract or grant shall review the database
16 established under section 2.

17 (b) REQUIREMENT TO DOCUMENT PRESENT RE-
18 SPONSIBILITY.—In the case of a prospective awardee of
19 a contract or grant against which a judgment or conviction
20 has been rendered more than once within any 3-year pe-
21 riod for the same or similar offences, if each judgment
22 or conviction is a cause for debarment, the official respon-
23 sible for awarding the contract or grant shall document
24 why the prospective awardee is considered presently re-
25 sponsible.

1 **SEC. 4504. DISCLOSURE IN APPLICATIONS.**

2 (a) **REQUIREMENT.**—Not later than 180 days after
3 the date of the enactment of this Act, Federal regulations
4 shall be amended to require that in applying for any Fed-
5 eral grant or submitting a proposal or bid for any Federal
6 contract a person shall disclose in writing information de-
7 scribed in section 2(c).

8 (b) **COVERED CONTRACTS AND GRANTS.**—This sec-
9 tion shall apply only to contracts and grants in an amount
10 greater than the simplified acquisition threshold, as de-
11 fined in section 4(11) of the Office of Federal Procure-
12 ment Policy Act (41 U.S.C. 401(11)).

13 **SEC. 4505. ROLE OF INTERAGENCY COMMITTEE.**

14 (a) **REQUIREMENT.**—The Interagency Committee on
15 Debarment and Suspension shall—

16 (1) resolve issues regarding which of several
17 Federal agencies is the lead agency having responsi-
18 bility to initiate suspension or debarment pro-
19 ceedings;

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

22 (3) encourage and assist Federal agencies in
23 entering into cooperative efforts to pool resources
24 and achieve operational efficiencies in the Govern-
25 mentwide suspension and debarment system;

1 (4) recommend to the Office of Management
2 and Budget changes to Government suspension and
3 debarment system and its rules, if such rec-
4 ommendations are approved by a majority of the
5 Interagency Committee;

6 (5) authorize the Office of Management and
7 Budget to issue guidelines that implement those rec-
8 ommendations;

9 (6) authorize the chair of the Committee to es-
10 tablish subcommittees as appropriate to best enable
11 the Interagency Committee to carry out its func-
12 tions; and

13 (7) submit to the Congress an annual report
14 on—

15 (A) the progress and efforts to improve the
16 suspension and debarment system;

17 (B) member agencies' active participation
18 in the committee's work; and

19 (C) a summary of each agency's activities
20 and accomplishments in the Governmentwide
21 debarment system.

22 (b) DEFINITION.—The term “Interagency Committee
23 on Debarment and Suspension” means such committee
24 constituted under sections 4 and 5 and of Executive Order
25 12549.

1 **SEC. 4506. AUTHORIZATION OF INDEPENDENT AGENCIES.**

2 Any agency, commission, or organization of the Fed-
3 eral Government to which Executive Order 12549 does not
4 apply is authorized to participate in the Governmentwide
5 suspension and debarment system and may recognize the
6 suspension or debarment issued by an executive branch
7 agency in its own procurement or assistance activities.

8 **SEC. 4507. AUTHORIZATION OF APPROPRIATIONS.**

9 There are authorized to be appropriated to the Ad-
10 ministrator of General Services such funds as may be nec-
11 essary to establish the database described in section 2.

12 **SEC. 4508. REPORT TO CONGRESS.**

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

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

19 (1) A list of all databases that include informa-
20 tion about Federal contracting and Federal grants.

21 (2) Recommendations for further legislation or
22 administrative action that the Administrator con-
23 siders appropriate to create a centralized, com-
24 prehensive Federal contracting and Federal grant
25 database.

1 **SEC. 4509. IMPROVEMENTS TO THE FEDERAL PROCURE-**
2 **MENT DATA SYSTEM.**

3 (a) ENHANCED TRANSPARENCY ON INTERAGENCY
4 CONTRACTING AND OTHER TRANSACTIONS.—Not later
5 than 12 months after the date of the enactment of this
6 Act, the Director of the Office of Management and Budget
7 shall direct appropriate revisions to the Federal Procure-
8 ment Data System or any successor system to facilitate
9 the collection of complete, timely, and reliable data on
10 interagency contracting actions and on transactions other
11 than contracts, grants, and cooperative agreements issued
12 pursuant to section 2371 of title 10, United States Code,
13 or similar authorities. The Director shall ensure that data,
14 consistent with what is collected for contract actions, is
15 obtained on—

16 (1) interagency contracting actions, including
17 data at the task or delivery-order level; and

18 (2) other transactions, including the initial
19 award and any subsequent modifications awarded or
20 orders issued.

21 (b) AMENDMENT:—Subsection (d) of section 19 of
22 the Office of Federal Procurement Policy Act (41 U.S.C.
23 417(d)) is amended to read as follows:

24 “(d) TRANSMISSION AND DATA ENTRY OF INFORMA-
25 TION.—The head of each executive agency shall ensure the
26 accuracy of the information included in the record estab-

1 lished and maintained by such agency under subsection
2 (a) and shall timely transmit such information to the Gen-
3 eral Services Administration for entry into the Federal
4 Procurement Data System referred to in section 6(d)(4),
5 or any successor system.”

