

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 265

To prohibit the awarding of a contract or grant in excess of the simplified acquisition threshold unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that the contractor or grantee has no seriously delinquent tax debts, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 15, 2009

Mrs. MCCASKILL (for herself and Mr. CORKER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To prohibit the awarding of a contract or grant in excess of the simplified acquisition threshold unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that the contractor or grantee has no seriously delinquent tax debts, and for other purposes.

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 “Contracting and Tax  
5       Accountability Act of 2009”.

1 **SEC. 2. GOVERNMENTAL POLICY.**

2 It is the policy of the United States Government that  
3 no Government contracts or grants should be awarded to  
4 individuals or companies with seriously delinquent Federal  
5 tax debts.

6 **SEC. 3. PROHIBITION ON AWARDING OF CONTRACTS TO**  
7 **DELINQUENT FEDERAL DEBTORS.**

8 Section 3720B of title 31, United States Code, is  
9 amended—

10 (1) in the section heading, by adding at the end  
11 **“OR CONTRACTS”**;

12 (2) by adding at the end the following:

13 “(c)(1) Unless this subsection is waived by the head  
14 of a Federal agency, a person who has a seriously delin-  
15 quent tax debt shall be proposed for debarment from any  
16 contract awarded by the Federal government pursuant to  
17 procedures established by regulation by the Administrator  
18 for Federal Procurement Policy.

19 “(2) The head of any Federal agency that issues an  
20 invitation for bids or a request for proposals for a nego-  
21 tiated acquisition shall require each person that submits  
22 a bid or proposal to submit with the bid or proposal a  
23 form—

24 “(A) certifying that the person does not have a  
25 seriously delinquent tax debt; and

1           “(B) authorizing the Secretary of the Treasury  
2           to disclose to the head of the agency information  
3           limited to describing whether the person has a seri-  
4           ously delinquent tax debt.

5           “(3) The Secretary shall develop and make available  
6           to all Federal agencies a standard form for the certifi-  
7           cation and authorization described in paragraph (2).

8           “(4) Not later than 270 days after the date of enact-  
9           ment of this subsection, the Administrator for Federal  
10          Procurement Policy shall issue revised regulations to in-  
11          corporate the requirements of this subsection.

12          “(5) For purposes of this subsection:

13                 “(A) The term ‘contract’ means a binding  
14                 agreement entered into by a Federal agency for the  
15                 purpose of obtaining property or services, but does  
16                 not include—

17                         “(i) a contract designated by the head of  
18                         the agency as assisting the agency in the per-  
19                         formance of disaster relief authorities; or

20                         “(ii) a contract designated by the head of  
21                         the agency as necessary to the national security  
22                         of the United States.

23                 “(B)(i) The term ‘person’ includes—

24                         “(I) an individual;

25                         “(II) a partnership; and

1                   “(III) a corporation.

2                   “(ii) A partnership shall be treated as a person  
3 with a seriously delinquent tax debt if such partner-  
4 ship has a partner who—

5                   “(I) holds an ownership interest of 50 per-  
6 cent or more in that partnership; and

7                   “(II) who has a seriously delinquent tax  
8 debt.

9                   “(iii) A corporation shall be treated as a person  
10 with a seriously delinquent tax debt if such corpora-  
11 tion has an officer or a shareholder who—

12                   “(I) holds 50 percent or more, or a con-  
13 trolling interest that is less than 50 percent, of  
14 the outstanding shares of corporate stock in  
15 that corporation; and

16                   “(II) who has a seriously delinquent tax  
17 debt.

18                   “(C)(i) The term ‘seriously delinquent tax debt’  
19 means an outstanding debt under the Internal Rev-  
20 enue Code of 1986 for which a notice of lien has  
21 been filed in public records pursuant to section 6323  
22 of such Code.

23                   “(ii) Such term does not include—

1           “(I) a debt that is being paid in a timely  
2           manner pursuant to an agreement under sec-  
3           tion 6159 or section 7122 of such Code; and

4           “(II) a debt with respect to which a collec-  
5           tion due process hearing under section 6330 of  
6           such Code, or relief under subsection (a), (b),  
7           or (f) of section 6015, is requested or pend-  
8           ing.”.

9   **SEC. 4. PROHIBITION ON AWARDING OF GRANTS TO DELIN-**  
10                           **QUENT FEDERAL DEBTORS.**

11           (a) **IN GENERAL.**—The head of any Executive agency  
12           that offers a grant in excess of an amount equal to the  
13           simplified acquisition threshold (as defined in section  
14           4(11) of the Office of Federal Procurement Policy Act (41  
15           U.S.C. 401(11)) may not award such grant to any person  
16           unless such person submits with the application for such  
17           grant a form—

18                   (1) certifying that the person does not have a  
19                   seriously delinquent tax debt; and

20                   (2) authorizing the Secretary of the Treasury to  
21                   disclose to the head of the Executive agency infor-  
22                   mation limited to describing whether the person has  
23                   a seriously delinquent tax debt.

24           (b) **RELEASE OF INFORMATION.**—The Secretary  
25           shall develop and make available to all Executive agencies

1 a standard form for the certification and authorization de-  
2 scribed in subsection (a)(2).

3 (c) REVISION OF REGULATIONS.—Not later than 270  
4 days after the date of the enactment of this section, the  
5 Director of the Office of Management and Budget shall  
6 revise such regulations as necessary to incorporate the re-  
7 quirements of this section.

8 (d) DEFINITIONS AND SPECIAL RULES.—For pur-  
9 poses of this section:

10 (1) PERSON.—

11 (A) IN GENERAL.—The term “person” in-  
12 cludes—

- 13 (i) an individual;  
14 (ii) a partnership; and  
15 (iii) a corporation.

16 (B) TREATMENT OF CERTAIN PARTNER-  
17 SHIPS.—A partnership shall be treated as a  
18 person with a seriously delinquent tax debt if  
19 such partnership has a partner who—

- 20 (i) holds an ownership interest of 50  
21 percent or more in that partnership; and  
22 (ii) who has a seriously delinquent tax  
23 debt.

24 (C) TREATMENT OF CERTAIN CORPORA-  
25 TIONS.—A corporation shall be treated as a

1 person with a seriously delinquent tax debt if  
 2 such corporation has an officer or a shareholder  
 3 who—

4 (i) holds 50 percent or more, or a con-  
 5 trolling interest that is less than 50 per-  
 6 cent, of the outstanding shares of cor-  
 7 porate stock in that corporation; and

8 (ii) who has a seriously delinquent tax  
 9 debt.

10 (2) EXECUTIVE AGENCY.—The term “executive  
 11 agency” has the meaning given such term in section  
 12 4 of the Office of Federal Procurement Policy Act  
 13 (41 U.S.C. 403).

14 (3) SERIOUSLY DELINQUENT TAX DEBT.—

15 (A) IN GENERAL.—The term “seriously de-  
 16 linquent tax debt” means an outstanding debt  
 17 under the Internal Revenue Code of 1986 for  
 18 which a notice of lien has been filed in public  
 19 records pursuant to section 6323 of such Code.

20 (B) EXCEPTIONS.—Such term does not in-  
 21 clude—

22 (i) a debt that is being paid in a time-  
 23 ly manner pursuant to an agreement under  
 24 section 6159 or section 7122 of such Code;  
 25 and

1                   (ii) a debt with respect to which a col-  
2                   lection due process hearing under section  
3                   6330 of such Code, or relief under sub-  
4                   section (a), (b), or (f) of section 6015, is  
5                   requested or pending.

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