

113TH CONGRESS
1ST SESSION

H. R. 2912

To provide authority for the Special Inspector General for Afghanistan Reconstruction to suspend and debar contractors under certain circumstances.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2013

Mr. CHAFFETZ (for himself, Mr. COFFMAN, Mr. TIERNEY, and Ms. SPEIER) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide authority for the Special Inspector General for Afghanistan Reconstruction to suspend and debar contractors under certain circumstances.

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 “Afghanistan Suspen-
5 sion and Debarment Reform Act”.

1 **SEC. 2. SUSPENSION AND DEBARMENT AUTHORITY FOR**
2 **SPECIAL INSPECTOR GENERAL FOR AFGHAN-**
3 **ISTAN RECONSTRUCTION UNDER CERTAIN**
4 **CIRCUMSTANCES.**

5 (a) SUSPENSION AND DEBARMENT PROCESS.—Sec-
6 tion 1229(g) of the National Defense Authorization Act
7 for Fiscal Year 2008 (Public Law 110–181; 5 U.S.C.
8 App.) is amended by adding at the end the following new
9 paragraph:

10 “(3) SUSPENSION AND DEBARMENT.—

11 “(A) REFERRAL OF CASE TO LEAD AGEN-
12 CY.—In carrying out the duties, responsibilities,
13 and authorities set forth under this section, the
14 Inspector General (or the Inspector General’s
15 designee) may refer a potential suspension or
16 debarment case described in subparagraph (B)
17 to the lead agency for that suspension or debar-
18 ment. If such a referral is made, the Inspector
19 General shall notify the Interagency Committee
20 on Debarment and Suspension and the congres-
21 sional committees described in subparagraph
22 (G) of the referral. If the Inspector General is
23 unable to determine which agency is the lead
24 agency for purposes of a referral under this
25 subparagraph, the Inspector General shall re-
26 quest the Interagency Committee to resolve the

1 issue of which agency is the lead agency, in ac-
2 cordance with section 873 of the Duncan Hun-
3 ter National Defense Authorization Act for Fis-
4 cal Year 2009 (Public Law 110–417; 31 U.S.C.
5 6101 note).

6 “(B) COVERED CASES.—

7 “(i) A potential suspension or debar-
8 ment case described in this subparagraph
9 is a case involving a person that is an Af-
10 ghan national or foreign national or for-
11 eign company operating in Afghanistan
12 that has received in the past, is receiving,
13 or may receive in the future, funds from
14 any—

15 “(I) covered prime contract; or

16 “(II) covered subcontract.

17 “(ii) In this subparagraph:

18 “(I) The term ‘covered prime
19 contract’ means a prime contract that
20 is a contract described in subsection
21 (i)(2).

22 “(II) The term ‘covered sub-
23 contract’ means a subcontract that is
24 a contract described in subsection
25 (i)(2) under a covered prime contract.

1 “(C) ACCEPTANCE OR DECLINATION OF
2 CASE.—Not later than 30 days after the date of
3 referral of a suspension or debarment case
4 under subparagraph (A), the lead agency
5 shall—

6 “(i) accept or decline the case; and

7 “(ii) submit to the Inspector General
8 and the Interagency Committee a written
9 notification and rationale for accepting or
10 declining the case.

11 “(D) DETERMINATION BY INTERAGENCY
12 COMMITTEE IF LEAD AGENCY DECLINES
13 CASE.—If the lead agency declines to accept a
14 suspension or debarment case referred under
15 subparagraph (A) or fails to respond to the re-
16 ferral, the Interagency Committee shall make a
17 determination, not later than 45 days after the
18 date of the referral of the case under subpara-
19 graph (A), regarding whether the Inspector
20 General shall act as lead agency in the case.
21 The Interagency Committee shall submit to the
22 congressional committees described in subpara-
23 graph (G) a written notification of the deter-
24 mination.

1 “(E) DETERMINATION BY LEAD AGENCY
2 IF LEAD AGENCY ACCEPTS CASE.—If the lead
3 agency accepts a suspension or debarment case
4 referred under subparagraph (A), the agency
5 shall make a determination, not later than 60
6 days after the date of the referral of the case
7 under subparagraph (A), to either suspend or
8 debar the person that is the subject of the case
9 or decline to suspend or debar the person. If
10 the lead agency declines to suspend or debar
11 the person, the lead agency shall, not later than
12 15 days after the determination, submit to the
13 congressional committees described in subpara-
14 graph (G) a written notification and rationale
15 for the determination to decline to suspend or
16 debar the person.

17 “(F) SUSPENSION AND DEBARMENT AU-
18 THORITY OF INSPECTOR GENERAL.—

19 “(i) IN GENERAL.—If the Interagency
20 Committee determines under subparagraph
21 (D) that the Inspector General may act as
22 lead agency in a suspension or debarment
23 case referred under subparagraph (A),
24 then the Inspector General (or the Inspec-
25 tor General’s designee) may suspend or

1 debar a person from procurement or non-
2 procurement activities of the Federal Gov-
3 ernment in accordance with regulations im-
4 plementing the suspension and debarment
5 system of the Federal Government, includ-
6 ing the Federal Acquisition Regulation and
7 the Office of Management and Budget
8 guidelines to agencies on governmentwide
9 debarment and suspension (nonprocure-
10 ment) in part 180 of title 2 of the Code of
11 Federal Regulations.

12 “(ii) EXCEPTION.—In exercising the
13 authority provided under clause (i), the In-
14 specter General (or the Inspector General’s
15 designee) may, with respect to a particular
16 contract, grant, or other procurement or
17 nonprocurement activity, grant an excep-
18 tion that permits a person debarred or sus-
19 pended pursuant to clause (i) to submit an
20 offer for or be awarded the contract, grant,
21 or other activity. If such an exception is
22 granted, the Inspector General shall sub-
23 mit to the congressional committees de-
24 scribed in subparagraph (G) a written no-
25 tification and rationale for the exception.

1 “(G) COMMITTEES DESCRIBED.—The com-
 2 mittees described in this subparagraph are the
 3 following:

4 “(i) The Committees on Foreign Af-
 5 fairs and on Oversight and Government
 6 Reform of the House of Representatives.

7 “(ii) The Committees on Foreign Re-
 8 lations and on Homeland Security and
 9 Governmental Affairs of the Senate.”.

10 (b) DEFINITION OF INTERAGENCY COMMITTEE.—
 11 Section 1229(m) of such Act (Public Law 110–181; 5
 12 U.S.C. App.) is amended by adding at the end the fol-
 13 lowing new paragraph:

14 “(3) INTERAGENCY COMMITTEE ON DEBAR-
 15 MENT AND SUSPENSION.—The term ‘Interagency
 16 Committee on Debarment and Suspension’ or ‘Inter-
 17 agency Committee’ means the committee constituted
 18 under sections 4 and 5 of Executive Order No.
 19 12549.”.

20 (c) DEADLINE FOR PUBLICATION OF RULES.—The
 21 Director of the Office of Management and Budget shall
 22 publish any interim final rules submitted to the Office to
 23 implement the amendments made by this Act in the Fed-
 24 eral Register within 30 days after the date of submission.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act.

4 **SEC. 3. COMPTROLLER GENERAL STUDY AND REPORT.**

5 (a) STUDY.—After the termination of the Office of
6 Special Inspector General for Afghanistan Reconstruction
7 under section 1229(o)(1) of the National Defense Author-
8 ization Act for Fiscal Year 2008 (Public Law 110–181;
9 122 Stat. 380; 5 U.S.C. App.), the Comptroller General
10 of the United States shall conduct a study on the authority
11 and process provided under section 1229(g)(3) of such Act
12 (as added by section 2 of this Act).

13 (b) REPORT.—Not later than 1 year after the date
14 of the enactment of this Act, the Comptroller General shall
15 submit to Congress a report on the study carried out
16 under subsection (a), with such recommendations as the
17 Comptroller General considers appropriate with respect to
18 the suspension and debarment system of the Federal Gov-
19 ernment.

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