

113TH CONGRESS
2D SESSION

S. 2247

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.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2014

Mrs. MCCASKILL introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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 2014”.

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. DISCLOSURE AND EVALUATION OF CONTRACT OF-**
7 **FERS FROM DELINQUENT FEDERAL DEBT-**
8 **ORS.**

9 (a) IN GENERAL.—The head of any executive agency
10 that issues an invitation for bids or a request for proposals
11 for a contract in an amount greater than the simplified
12 acquisition threshold shall require each person that sub-
13 mits a bid or proposal to submit with the bid or proposal
14 a form—

15 (1) certifying whether the person has a seri-
16 ously delinquent tax debt; and

17 (2) authorizing the Secretary of the Treasury to
18 disclose to the head of the agency information lim-
19 ited to describing whether the person has a seriously
20 delinquent tax debt.

21 (b) IMPACT ON RESPONSIBILITY DETERMINATION.—
22 The head of any executive agency, in evaluating any offer
23 received in response to a solicitation issued by the agency
24 for bids or proposals for a contract, shall consider a certifi-
25 cation that the offeror has a seriously delinquent tax debt,
26 or a certification that the offeror does not have a seriously

1 delinquent tax debt that is demonstrated to be false by
2 information received from the Secretary of the Treasury
3 (as authorized under subsection (a)(2)), to be definitive
4 proof that the offeror is not a responsible source as de-
5 fined in section 113 of title 41, United States Code.

6 (c) SUSPENSION.—

7 (1) REQUIREMENT.—Except as provided in
8 paragraph (2), the head of an executive agency shall
9 propose a person for suspension under subpart 9.4
10 of the Federal Acquisition Regulation after receiving
11 an offer for a contract from such person if such
12 offer contains a certification (as required under sub-
13 section (a)(1)) that such person has a seriously de-
14 linquent tax debt.

15 (2) WAIVER.—The head of an executive agency
16 may waive paragraph (1) with respect to a person
17 based upon a written finding of urgent and compel-
18 ling circumstances significantly affecting the inter-
19 ests of the United States. If the head of an executive
20 agency waives paragraph (1) for a person, the head
21 of the agency shall submit to Congress, within 30
22 days after the waiver is made, a report containing
23 the rationale for the waiver and relevant information
24 supporting the waiver decision.

25 (d) DEBARMENT.—

1 (1) REQUIREMENT.—Except as provided in
2 paragraph (2), the head of an executive agency shall
3 propose a person for debarment after receiving an
4 offer for a contract from such person if—

5 (A) such offer contains a certification (as
6 required under subsection (a)(1)) that such per-
7 son does not have a seriously delinquent tax
8 debt; and

9 (B) the head of the agency receives infor-
10 mation from the Secretary of the Treasury (as
11 authorized under subsection (a)(2)) dem-
12 onstrating that the certification submitted by
13 such person is false.

14 (2) WAIVER.—The head of an executive agency
15 may waive paragraph (1) with respect to a person
16 based upon a written finding of urgent and compel-
17 ling circumstances significantly affecting the inter-
18 ests of the United States. If the head of an executive
19 agency waives paragraph (1) for a person, the head
20 of the agency shall submit to Congress, within 30
21 days after the waiver is made, a report containing
22 the rationale for the waiver and relevant information
23 supporting the waiver decision.

24 (e) RELEASE OF INFORMATION.—The Secretary of
25 the Treasury shall make available to all executive agencies

1 a standard form for the authorization described in sub-
 2 section (a).

3 (f) REVISION OF REGULATIONS.—Not later than 270
 4 days after the date of enactment of this subsection, the
 5 Federal Acquisition Regulation shall be revised to incor-
 6 porate the requirements of this section.

7 **SEC. 4. DISCLOSURE AND EVALUATION OF GRANT APPLI-**
 8 **CATIONS FROM DELINQUENT FEDERAL**
 9 **DEBTORS.**

10 (a) IN GENERAL.—The head of any executive agency
 11 that offers a grant in excess of an amount equal to the
 12 simplified acquisition threshold shall require each person
 13 applying for a grant to submit with the grant application
 14 a form—

15 (1) certifying whether the person has a seri-
 16 ously delinquent tax debt; and

17 (2) authorizing the Secretary of the Treasury to
 18 disclose to the head of the executive agency informa-
 19 tion limited to describing whether the person has a
 20 seriously delinquent tax debt.

21 (b) IMPACT ON DETERMINATION OF FINANCIAL STA-
 22 BILITY.—The head of any executive agency, in evaluating
 23 any application for a grant offered by the agency, shall
 24 consider a certification that the grant applicant has a seri-
 25 ously delinquent tax debt, or a certification that the offer-

1 or does not have a seriously delinquent tax debt that is
2 demonstrated to be false by information received from the
3 Secretary of the Treasury (as authorized under subsection
4 (a)(2)), to be definitive proof that the applicant is high-
5 risk and, if the applicant is awarded the grant, shall take
6 appropriate measures under guidelines issued by the Of-
7 fice of Management and Budget for enhanced oversight
8 of high-risk grantees.

9 (c) SUSPENSION.—

10 (1) REQUIREMENT.—Except as provided in
11 paragraph (2), the head of an executive agency shall
12 propose a person for suspension under part 180 of
13 title 2, Code of Federal Regulations, after receiving
14 an offer for a grant from such person if such offer
15 contains a certification (as required under subsection
16 (a)(1)) that such person has a seriously delinquent
17 tax debt.

18 (2) WAIVER.—The head of an executive agency
19 may waive paragraph (1) with respect to a person
20 based upon a written finding of urgent and compel-
21 ling circumstances significantly affecting the inter-
22 ests of the United States. If the head of an executive
23 agency waives paragraph (1) for a person, the head
24 of the agency shall submit to Congress, within 30
25 days after the waiver is made, a report containing

1 the rationale for the waiver and relevant information
2 supporting the waiver decision.

3 (d) DEBARMENT.—

4 (1) REQUIREMENT.—Except as provided in
5 paragraph (2), the head of an executive agency shall
6 propose a person for debarment under part 180 of
7 title 2, Code of Federal Regulations, after receiving
8 a grant application from such person if—

9 (A) such application contains a certifi-
10 cation (as required under subsection (a)(1))
11 that such person does not have a seriously de-
12 linquent tax debt; and

13 (B) the head of the agency receives infor-
14 mation from the Secretary of the Treasury (as
15 authorized under subsection (a)(2)) dem-
16 onstrating that the certification submitted by
17 such person is false.

18 (2) WAIVER.—The head of an executive agency
19 may waive paragraph (1) with respect to a person
20 based upon a written finding of urgent and compel-
21 ling circumstances significantly affecting the inter-
22 ests of the United States. If the head of an executive
23 agency waives paragraph (1) for a person, the head
24 of the agency shall submit to the appropriate con-
25 gressional committees, within 30 days after the

1 waiver is made, a report containing the rationale for
2 the waiver and relevant information supporting the
3 waiver decision.

4 (e) RELEASE OF INFORMATION.—The Secretary of
5 the Treasury shall make available to all executive agencies
6 a standard form for the authorization described in sub-
7 section (a).

8 (f) REVISION OF REGULATIONS.—Not later than 270
9 days after the date of the enactment of this section, the
10 Director of the Office of Management and Budget shall
11 revise such regulations as necessary to incorporate the re-
12 quirements of this section.

13 **SEC. 5. DEFINITIONS AND SPECIAL RULES.**

14 For purposes of this Act:

15 (1) APPROPRIATE CONGRESSIONAL COMMIT-
16 TEES.—The term “appropriate congressional com-
17 mittees” means—

18 (A) the Committee on Homeland Security
19 and Governmental Affairs of the Senate;

20 (B) the Committee on Oversight and Gov-
21 ernment Reform of the House of Representa-
22 tives; and

23 (C) the committees of the Senate and the
24 House of Representatives with jurisdiction over

1 the agency granting the waiver under section
2 4(c)(2).

3 (2) EXECUTIVE AGENCY.—The term “executive
4 agency” has the meaning given such term in section
5 133 of title 41, United States Code.

6 (3) PERSON.—

7 (A) IN GENERAL.—The term “person” in-
8 cludes—

- 9 (i) an individual;
10 (ii) a partnership; and
11 (iii) a corporation.

12 (B) EXCLUSION.—The term “person” does
13 not include an individual seeking assistance
14 through a grant entitlement program.

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

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

23 (D) TREATMENT OF CERTAIN CORPORA-
24 TIONS.—A corporation shall be treated as a
25 person with a seriously delinquent tax debt if

1 such corporation has an officer or a shareholder
2 who—

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

7 (ii) has a seriously delinquent tax
8 debt.

9 (4) SERIOUSLY DELINQUENT TAX DEBT.—

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

15 (B) EXCEPTIONS.—Such term does not in-
16 clude—

17 (i) a debt that is being paid in a time-
18 ly manner pursuant to an agreement under
19 section 6159 or section 7122 of such Code;
20 and

21 (ii) a debt with respect to which a col-
22 lection due process hearing under section
23 6330 of such Code, or relief under sub-
24 section (a), (b), or (f) of section 6015 of
25 such Code, is requested or pending.

1 **SEC. 6. EFFECTIVE DATE.**

2 This Act shall apply with respect to contracts and
3 grants awarded on or after the date occurring 270 days
4 after the date of the enactment of this Act.

