

109TH CONGRESS
2^D SESSION

H. R. 5943

To amend the Homeland Security Act of 2002 to prevent waste, fraud, and abuse in emergency assistance programs administered by the Department of Homeland Security.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2006

Mr. McCAUL of Texas (for himself, Mr. KING of New York, Mr. ROGERS of Alabama, Mr. REICHERT, Mr. POE, and Mr. JINDAL) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, 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 amend the Homeland Security Act of 2002 to prevent waste, fraud, and abuse in emergency assistance programs administered by the Department of Homeland Security.

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 “Fraud Accountability
5 in Emergency Response Act of 2006”.

1 **SEC. 2. PREVENTING WASTE, FRAUD, AND ABUSE IN FED-**
 2 **ERAL EMERGENCY ASSISTANCE PROGRAMS.**

3 (a) TABLE OF CONTENTS.—The table of contents in
 4 section 1(b) of the Homeland Security Act of 2002 (116
 5 Stat. 2135) is amended by adding at the end of the items
 6 relating to title V the following:

“Sec. 512. Waste, fraud, and abuse controls.

“Sec. 513. System to record and track assistance.

“Sec. 514. Restrictions on debit cards.

“Sec. 515. Monitoring of Department contracting.

“Sec. 516. Small business database for Federal contracting related to major
 disaster and emergency assistance activities.

“Sec. 517. Fraud prevention training program.

“Sec. 518. Prenegotiated contracts for delivery of goods and services after
 emergencies.”.

7 (b) FEDERAL EMERGENCY ASSISTANCE PRO-
 8 GRAMS.—Title V of such Act (6 U.S.C. 311 et seq.) is
 9 amended by adding at the end the following:

10 **“SEC. 512. WASTE, FRAUD, AND ABUSE CONTROLS.**

11 “(a) IN GENERAL.—The Secretary, acting through
 12 the Director of the Federal Emergency Management
 13 Agency, shall ensure that—

14 “(1) all programs within the Agency admin-
 15 istering Federal assistance develop and maintain
 16 proper internal management controls to prevent and
 17 detect waste, fraud, and abuse;

18 “(2) application databases used by the Agency
 19 to collect information on eligible recipients must
 20 record disbursements;

1 “(3) such tracking is designed to highlight and
2 identify ineligible applications; and

3 “(4) the databases used to collect information
4 from applications for such assistance must be inte-
5 grated with the disbursements and payment records.

6 “(b) AUDITS AND REVIEWS REQUIRED.—The Sec-
7 retary shall ensure that any existing database or similar
8 application processing system in effect on the date of en-
9 actment of this section for Federal assistance programs
10 administered by the Department undergoes a review by
11 the Inspector General of the Department to determine the
12 existence and implementation of the internal controls re-
13 quired under this section, before the database application
14 may be used to determine eligibility and disbursement of
15 Federal assistance.

16 “(c) CERTIFICATION REQUIRED.—The Secretary,
17 acting through the Director of the Federal Emergency
18 Management Agency, shall certify to Congress on an an-
19 nual basis that the internal controls required under this
20 section are in place and operational before a database or
21 similar application processing system may be used to dis-
22 burse Federal assistance.

23 “(d) REPORT TO CONGRESS.—Recommendations or
24 findings that remain unresolved between program admin-
25 istrators and the Inspector General of the Department for

1 30 days must be immediately reported to Congress by the
2 Inspector General.

3 **“SEC. 513. SYSTEM TO RECORD AND TRACK ASSISTANCE.**

4 “(a) ESTABLISHMENT.—The Director of the Federal
5 Emergency Management Agency shall establish and imple-
6 ment a system for recording and tracking all monetary
7 and other benefits disbursed by the Agency to eligible per-
8 sons.

9 “(b) ELEMENTS.—In establishing the system, the Di-
10 rector shall ensure that—

11 “(1) each person applying to the Agency for
12 monetary or other benefits is assigned a permanent
13 and traceable registration number;

14 “(2) the registration number of the person is
15 maintained by the Agency in a database that records
16 and tracks all monetary and other benefits disbursed
17 by the Agency to the person; and

18 “(3) the database is designed to detect and re-
19 ject, as appropriate, requests by the person to the
20 Agency for—

21 “(A) duplicate disbursement of monetary
22 or other benefits; and

23 “(B) disbursement of monetary or other
24 benefits for which the person is not eligible.

1 **“SEC. 514. RESTRICTIONS ON DEBIT CARDS.**

2 “(a) IN GENERAL.—If the Director of the Federal
3 Emergency Management Agency uses debit cards as a
4 means of distributing major disaster and emergency as-
5 sistance to persons, the Director shall ensure that the
6 cards are equipped with an electronic feature based on
7 current technology that prohibits the use of the cards for
8 ineligible expenses, as designated by the Director.

9 “(b) INELIGIBLE EXPENSES.—Ineligible expenses to
10 be designated by the Director under subsection (a) shall
11 include the purchase of alcohol and cigarettes and the pur-
12 chase of any good or service from a commercial establish-
13 ment engaged in adult entertainment, gambling, or the
14 sale of pawned goods.

15 **“SEC. 515. MONITORING OF DEPARTMENT CONTRACTING.**

16 “To the extent practicable, the Inspector General of
17 the Department shall continue to monitor, and make rec-
18 ommendations relating to, the contracting process of the
19 Department to prevent waste, fraud, and abuse.

20 **“SEC. 516. SMALL BUSINESS DATABASE FOR FEDERAL CON-**
21 **TRACTING RELATED TO MAJOR DISASTER**
22 **AND EMERGENCY ASSISTANCE ACTIVITIES.**

23 “(a) ESTABLISHMENT OF DATABASE.—The Sec-
24 retary, acting through the Director of the Federal Emer-
25 gency Management Agency, shall establish and maintain
26 a database that contains information about small business

1 entities for purposes of Federal contracting relating to as-
2 sistance activities conducted in response to and recovery
3 from acts of terrorism, natural disasters, and other emer-
4 gencies.

5 “(b) INCLUDED INFORMATION.—The database under
6 subsection (a) shall include the following information
7 about each small business entity included in the database:

8 “(1) The name of the small business entity.

9 “(2) The location of the small business entity.

10 “(3) The area served by the small business enti-
11 ty.

12 “(4) The type of good or service provided by
13 the small business entity.

14 “(5) Whether the small business entity is—

15 “(A) a small business entity owned and
16 controlled by socially and economically dis-
17 advantaged individuals;

18 “(B) a small business entity owned and
19 controlled by women; or

20 “(C) a small business entity owned and
21 controlled by service-disabled veterans.

22 “(c) SOURCE OF INFORMATION.—

23 “(1) SUBMISSION.—The database may only
24 contain such information about a small business en-
25 tity as is submitted by the small business entity.

1 “(2) ATTESTATION.—Each small business enti-
2 ty submitting information to the database shall sub-
3 mit—

4 “(A) an attestation that the information
5 submitted is true; and

6 “(B) documentation supporting such attes-
7 tation.

8 “(3) VERIFICATION.—The Secretary shall verify
9 only that the documentation submitted by each small
10 business entity supports the information submitted
11 by that small business entity.

12 “(d) AVAILABILITY OF DATABASE.—The Secretary
13 shall make the database generally available on the Internet
14 website of the Department.

15 “(e) CONSULTATION OF DATABASE.—Before award-
16 ing a Federal contract for a disaster-related activity, a
17 component of the Department shall consult the database
18 established under this section.

19 “(f) DATABASE INTEGRATION.—The Secretary shall
20 integrate the database established under this section into
21 any other procurement-related database maintained by the
22 Secretary.

23 “(g) DEFINITIONS.—For purposes of this section, the
24 terms ‘small business entity’, ‘small business entity owned
25 and controlled by socially and economically disadvantaged

1 individuals’, ‘small business entity owned and controlled
2 by women’, and ‘small business entity owned and con-
3 trolled by service-disabled veterans’ shall have the mean-
4 ings given the terms ‘small business concern’, ‘small busi-
5 ness concern owned and controlled by socially and eco-
6 nomically disadvantaged individuals’, ‘small business con-
7 cern owned and controlled by women’, and ‘small business
8 concern owned and controlled by service-disabled veterans’
9 respectively under the Small Business Act (15 U.S.C. 631
10 et seq.).

11 **“SEC. 517. FRAUD PREVENTION TRAINING PROGRAM.**

12 “(a) TRAINING PROGRAM REQUIRED.—The Sec-
13 retary, acting through the Director of the Federal Emer-
14 gency Management Agency, shall develop and implement
15 a program to provide training on the prevention of waste,
16 fraud, and abuse of Federal assistance funds and services
17 during the response to or recovery from acts of terrorism,
18 natural disasters, or other emergencies and ways to iden-
19 tify such potential waste, fraud, and abuse.

20 “(b) INDIVIDUALS ELIGIBLE FOR TRAINING.—Under
21 the training program required under subsection (a), the
22 Secretary may provide training to—

23 “(1) employees, contractors, and volunteers of
24 the Federal Government;

1 “(b) NECESSARY GOODS AND SERVICES.—The nec-
2 essary goods and services referred to in subsection (a) in-
3 clude the following:

4 “(1) Debris removal and other disaster clean-up
5 needs.

6 “(2) The provision of food, water, ice, and first
7 aid supplies.

8 “(3) Meals-ready-to-eat.

9 “(c) PREFERENCE FOR CONTRACTS WITH SMALL
10 BUSINESSES.—To the greatest extent practicable, in en-
11 tering into a contract under subsection (a), the Director
12 shall give a preference to a small business entity, as that
13 term is defined in section 516.

14 “(d) COMPETITIVE PROCEDURES.—In entering into
15 a contract under this section, the Director shall use com-
16 petitive procedures, to the maximum extent practicable,
17 except as otherwise provided by law.

18 “(e) CONSULTATION WITH OTHER FEDERAL DE-
19 PARTMENTS AND AGENCIES.—The Director shall consult
20 with the head of a Federal department or agency with re-
21 spect to any contract entered into by the head of such
22 department or agency using funds made available for pre-
23 paredness, mitigation, response, and recovery with respect
24 to acts of terrorism, natural disasters, and other emer-
25 gencies.”.

1 **SEC. 3. ASSESSMENT AND REPORT REGARDING UTILIZA-**
2 **TION OF INDEPENDENT PRIVATE SECTOR IN-**
3 **SPECTORS GENERAL.**

4 (a) **IN GENERAL.**—The Director of the Federal
5 Emergency Management Agency, in consultation with the
6 Under Secretary for Management, shall—

7 (1) assess the role that independent private sec-
8 tor inspectors general (popularly known as
9 “IPSIGs”) played in preventing waste, fraud, and
10 abuse in contracts for goods or services purchased or
11 commissioned after the terrorist attacks on the
12 World Trade Center in New York City on September
13 11, 2001; and

14 (2) report the findings of such assessment to
15 Congress by not later than one year after the date
16 of enactment of this Act and post the report on the
17 primary agency public access website.

18 (b) **UTILIZATION OF IPSIGS TO MONITOR AND PRO-**
19 **VIDE GREATER ACCOUNTABILITY.**—Such assessment
20 shall include examination of how IPSIGs may be utilized
21 to monitor and provide greater accountability for contracts
22 using Federal funding provided in response to a terrorist
23 attack, natural disaster, or other national emergency, in-
24 cluding contracts for debris removal and the repair or re-
25 construction of damaged infrastructure.

1 **SEC. 4. ENHANCED ACCOUNTABILITY FOR FEDERAL AS-**
2 **SISTANCE.**

3 (a) IN GENERAL.—The Homeland Security Act of
4 2002 is amended by inserting after section 856 (6 U.S.C.
5 426) the following:

6 **“SEC. 856a. ENHANCED ACCOUNTABILITY FOR FEDERAL AS-**
7 **SISTANCE.**

8 “(a) RECIPIENTS OF FEDERAL ASSISTANCE.—

9 “(1) IN GENERAL.—Each State, local, tribal,
10 and nonprofit entity that receives Federal assistance
11 funds in response to acts of terrorism, natural disas-
12 ters, or other emergencies shall report to the perti-
13 nent Federal agency 6 months after the initial dis-
14 bursement of resources regarding the expenditure of
15 such funds.

16 “(2) CONTENTS.—The report shall include a
17 description of—

18 “(A) the projects or programs that re-
19 ceived Federal assistance;

20 “(B) the entity administering the program
21 or project; and

22 “(C) the dates and amounts disbursed, al-
23 located, and expended.

24 “(3) MINIMIZING REPORTING BURDEN.—The
25 Director of the Federal Emergency Management
26 Agency shall determine whether the requirement to

1 report under this section is duplicative of or can be
2 combined with other reporting requirements and, if
3 so, the Director shall combine such requirements
4 and eliminate such duplication.

5 “(b) FEDERAL ASSISTANCE DISBURSING AGEN-
6 CIES.—

7 “(1) IN GENERAL.—Each Federal agency that
8 disburses Federal assistance funds in response to an
9 act of terrorism, natural disaster, or other emer-
10 gency shall submit to the Inspector General of the
11 Department, acting in the Inspector General’s role
12 as chairman of the President’s Council on Integrity
13 and Efficiency Homeland Security Roundtable, a re-
14 port on the expenditure of such funds.

15 “(2) CONTENTS.—Each report required under
16 paragraph (1) shall include—

17 “(A) names and addresses of recipient
18 agencies;

19 “(B) the purpose for which resources were
20 provided;

21 “(C) the amounts disbursed, allocated, and
22 expended; and

23 “(D) the status of reporting by agencies
24 that received disbursements (as set forth under
25 subparagraph (A)).

1 acts of terrorism, natural disasters, or other emergencies
2 shall make reasonable efforts to confirm the identity and
3 eligibility of the applicant for such assistance without plac-
4 ing undue burden on the applicant.

5 “(b) CONSENT TO ACCESS.—

6 “(1) INCLUSION ON APPLICATION MATE-
7 RIALS.—The Federal, State, local, or tribal agency
8 may include provisions on application materials for
9 grants, loans, services, and other assistance that
10 would allow access to Internal Revenue Service in-
11 formation (IRS Form 8821 Tax Information Au-
12 thorization) and other relevant Federal databases, to
13 allow government agencies to share information and
14 enhance the accuracy and expedite the delivery of
15 assistance to applicants.

16 “(2) CONSENT NOT REQUIRED.—Any applicant
17 who declines to consent to the sharing of such infor-
18 mation shall not be denied assistance or otherwise
19 penalized for that reason.”

20 (b) CLERICAL AMENDMENT.—The table of contents
21 in section 1(b) of such Act is further amended by inserting
22 after the item related to section 856a the following:

“Sec. 856b. Enhanced information sharing among Federal agencies to prevent
waste, fraud, and abuse.”

1 **SEC. 6. DEPUTY INSPECTOR GENERAL FOR RESPONSE AND**
2 **RECOVERY.**

3 (a) IN GENERAL.—Subtitle B of title VIII of the
4 Homeland Security Act of 2002 (6 U.S.C. 371) is amend-
5 ed by adding at the end the following:

6 **“SEC. 813. DEPUTY INSPECTOR GENERAL FOR RESPONSE**
7 **AND RECOVERY.**

8 “(a) ESTABLISHMENT.—There is established the po-
9 sition of Deputy Inspector General for Response and Re-
10 covery within the Office of the Inspector General of the
11 Department.

12 “(b) APPOINTMENT.—The Deputy Inspector General
13 shall be appointed—

14 “(1) by the Inspector General of the Depart-
15 ment; and

16 “(2) solely on the basis of integrity and dem-
17 onstrated ability in accounting, auditing, financial
18 analysis, law, management analysis, public adminis-
19 tration, or investigations.

20 “(c) REPORTING AND STATUS AS SES POSITION.—
21 The Deputy Inspector General shall—

22 “(1) report to, and be under the direct author-
23 ity and supervision of, the Inspector General; and

24 “(2) serve as a career member of the Senior
25 Executive Service.

26 “(d) DUTIES.—

1 “(1) AUDITS AND INVESTIGATIONS.—The Dep-
2 puty Inspector General shall, in coordination with In-
3 spectors General of other departments, as appro-
4 priate, conduct, supervise, and coordinate audits and
5 investigations of the treatment, handling, and ex-
6 penditure of amounts appropriated or otherwise
7 made available for response to and recovery from an
8 act of terrorism, natural disaster, or other emer-
9 gency by the Federal Government, and of the pro-
10 grams, operations, and contracts carried out uti-
11 lizing such funds, including—

12 “(A) the oversight and accounting of the
13 obligation and expenditure of such funds;

14 “(B) the monitoring and review of recon-
15 struction activities funded by such funds;

16 “(C) the monitoring and review of con-
17 tracts by such funds;

18 “(D) the monitoring and review of the
19 transfer of such funds and associated informa-
20 tion between and among departments, agencies,
21 and entities of the United States, and private
22 nongovernmental entities; and

23 “(E) the maintenance of records on the
24 use of such funds to facilitate future audits and
25 investigations of such funds.

1 “(2) FRAUD TIP LINE.—The Deputy Inspector
2 General shall ensure that not more than 48 hours
3 after a terrorist attack, natural disaster, or other
4 national emergency, the Office of the Inspector Gen-
5 eral institutes and publicizes a fraud tip line to fa-
6 cilitate the collection of allegations of waste, fraud,
7 and abuse of Federal assistance funds.

8 “(3) AVOIDANCE OF DUPLICATION.—The Dep-
9 uty Inspector General shall ensure, to the greatest
10 extent possible, that the activities of the Deputy In-
11 spector General do not duplicate audits and inves-
12 tigations of Inspectors General and other auditors of
13 Federal departments and agencies, and State and
14 local government entities.

15 “(4) COORDINATION WITH FBI.—The Deputy
16 Inspector General shall ensure that investigative ac-
17 tivities under this section are coordinated with the
18 Federal Bureau of Investigation.

19 “(e) FINANCIAL MANAGEMENT MATTERS.—In order
20 to assist the Deputy Inspector General for the purposes
21 of carrying out this section, all agencies receiving or dis-
22 tributing Federal funds to respond to acts of terrorism,
23 natural disasters, or other emergencies shall establish and
24 maintain budgetary procedures to distinguish funds re-

1 lated to response and relief efforts from other agency
2 funds.

3 “(f) FUNDING.—There is authorized to be appro-
4 priated for operations of the Office of the Deputy Inspec-
5 tor General \$11,000,000 for each fiscal year.”.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 in section 1(b) of such Act is amended by inserting after
8 the item related to section 812 the following:

“Sec. 813. Deputy Inspector General for Response and Recovery.”.

9 (c) DEADLINE FOR APPOINTMENT.—The Inspector
10 General of the Department of Homeland Security shall ap-
11 point the Deputy Inspector General under this section not
12 later than 60 days after the date of enactment of this Act.

○