

115TH CONGRESS
1ST SESSION

H. R. 396

To prohibit the award of a contract or grant in excess of the simplified acquisition threshold to a potential contractor or grant applicant with a seriously delinquent tax debt, to amend title 5, United States Code, to provide that individuals having seriously delinquent tax debts shall be ineligible for Federal employment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 2017

Mr. CHAFFETZ introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To prohibit the award of a contract or grant in excess of the simplified acquisition threshold to a potential contractor or grant applicant with a seriously delinquent tax debt, to amend title 5, United States Code, to provide that individuals having seriously delinquent tax debts shall be ineligible for Federal employment, 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 “Tax Accountability Act
5 of 2017”.

1 **SEC. 2. PROHIBITION ON AWARD OF CONTRACT OR GRANT**
2 **IN EXCESS OF SIMPLIFIED ACQUISITION**
3 **THRESHOLD TO POTENTIAL CONTRACTOR**
4 **OR GRANT APPLICANT WITH SERIOUSLY DE-**
5 **LINQUENT TAX DEBT.**

6 (a) GOVERNMENTAL POLICY.—It is the policy of the
7 United States Government that no Government contracts
8 or grants should be awarded to individuals or companies
9 with seriously delinquent Federal tax debts.

10 (b) DISCLOSURE AND EVALUATION OF CONTRACT
11 OFFERS FROM DELINQUENT FEDERAL DEBTORS.—

12 (1) IN GENERAL.—The head of any executive
13 agency that issues a solicitation for bids or a request
14 for proposals for a contract in an amount greater
15 than the simplified acquisition threshold shall re-
16 quire each person that submits a bid or proposal to
17 submit with the bid or proposal a form—

18 (A) certifying whether such person has a
19 seriously delinquent tax debt; and

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

24 (2) IMPACT ON RESPONSIBILITY DETERMINA-
25 TION.—The head of any executive agency, in evalu-
26 ating any offer received in response to a solicitation

1 issued by the agency for bids or proposals for a con-
2 tract, shall consider a certification that the offeror
3 has a seriously delinquent tax debt to be definitive
4 proof that the offeror is not a responsible source as
5 defined in section 113 of title 41, United States
6 Code.

7 (3) DEBARMENT.—

8 (A) REQUIREMENT.—Except as provided
9 in subparagraph (B), the head of an executive
10 agency shall initiate a suspension or debarment
11 proceeding against a person after receiving an
12 offer for a contract from such person if—

13 (i) such offer contains a certification
14 (as required under paragraph (1)(A)) that
15 such person has a seriously delinquent tax
16 debt; or

17 (ii) the head of the agency receives in-
18 formation from the Secretary of the Treas-
19 ury (as authorized under paragraph
20 (1)(B)) demonstrating that such a certifi-
21 cation submitted by such person is false.

22 (B) WAIVER.—The head of an executive
23 agency may waive subparagraph (A) with re-
24 spect to a person based upon a written finding
25 of urgent and compelling circumstances signifi-

1 cantly affecting the interests of the United
2 States. If the head of an executive agency
3 waives subparagraph (A) for a person, the head
4 of the agency shall submit to the Committee on
5 Oversight and Government Reform of the
6 House of Representatives and the Committee
7 on Homeland Security and Governmental Af-
8 fairs of the Senate, within 30 days after the
9 waiver is made, a report containing the ration-
10 ale for the waiver and relevant information sup-
11 porting the waiver decision.

12 (4) RELEASE OF INFORMATION.—The Sec-
13 retary of the Treasury, in consultation with the Di-
14 rector of the Office of Management and Budget,
15 shall make available to all executive agencies a
16 standard form for the authorization described in
17 paragraph (1)(B).

18 (5) REVISION OF REGULATIONS.—Not later
19 than 270 days after the date of the enactment of
20 this Act, the Federal Acquisition Regulation shall be
21 revised to incorporate the requirements of this sec-
22 tion.

23 (c) DISCLOSURE AND EVALUATION OF GRANT APPLI-
24 CATIONS FROM DELINQUENT FEDERAL DEBTORS.—

1 (1) IN GENERAL.—The head of any executive
2 agency that offers a grant in excess of an amount
3 equal to the simplified acquisition threshold shall re-
4 quire each grant applicant to submit with the grant
5 application a form—

6 (A) certifying whether such applicant has a
7 seriously delinquent tax debt; and

8 (B) authorizing the Secretary of the Treas-
9 ury to disclose to the head of the agency infor-
10 mation limited to describing whether the appli-
11 cant has a seriously delinquent tax debt.

12 (2) IMPACT ON DETERMINATION OF FINANCIAL
13 STABILITY.—The head of any executive agency, in
14 evaluating any application for a grant offered by the
15 agency, shall consider a certification under para-
16 graph (1)(A) that the grant applicant has a seri-
17 ously delinquent tax debt to be definitive proof that
18 the applicant is high-risk and shall—

19 (A) decline the grant application;

20 (B) ensure that the applicant does not re-
21 ceive any future grant offered by the agency;
22 and

23 (C) in the case of an applicant that has, as
24 of the date on which the grant application is de-
25 nied under subparagraph (A), an existing grant

1 previously awarded by the agency, take appro-
2 priate measures under guidelines issued by the
3 Office of Management and Budget pursuant to
4 paragraph (5) for enhanced oversight of the ap-
5 plicant.

6 (3) DEBARMENT.—

7 (A) REQUIREMENT.—Except as provided
8 in subparagraph (B), the head of an executive
9 agency shall initiate a suspension or debarment
10 proceeding against a grant applicant after re-
11 ceiving a grant application from such applicant
12 if—

13 (i) such application contains a certifi-
14 cation (as required under paragraph
15 (1)(A)) that such applicant has a seriously
16 delinquent tax debt; or

17 (ii) the head of the agency receives in-
18 formation from the Secretary of the Treas-
19 ury (as authorized under paragraph
20 (1)(B)) demonstrating that such a certifi-
21 cation submitted by such applicant is false.

22 (B) WAIVER.—The head of an executive
23 agency may waive subparagraph (A) with re-
24 spect to an applicant based upon a written find-
25 ing of urgent and compelling circumstances sig-

1 significantly affecting the interests of the United
2 States. If the head of an executive agency
3 waives subparagraph (A) for an applicant, the
4 head of the agency shall submit to the Com-
5 mittee on Oversight and Government Reform of
6 the House of Representatives and the Com-
7 mittee on Homeland Security and Govern-
8 mental Affairs of the Senate, within 30 days
9 after the waiver is made, a report containing
10 the rationale for the waiver and relevant infor-
11 mation supporting the waiver decision.

12 (4) RELEASE OF INFORMATION.—The Sec-
13 retary of the Treasury, in consultation with the Di-
14 rector of the Office of Management and Budget,
15 shall make available to all executive agencies a
16 standard form for the authorization described in
17 paragraph (1)(B).

18 (5) REVISION OF REGULATIONS.—Not later
19 than 270 days after the date of the enactment of
20 this Act, the Director of the Office of Management
21 and Budget shall revise such regulations as nec-
22 essary to incorporate the requirements of this sec-
23 tion.

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

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

4 (2) SERIOUSLY DELINQUENT TAX DEBT.—

5 (A) IN GENERAL.—The term “seriously de-
6 linquent tax debt” means a Federal tax liability
7 that—

8 (i) has been assessed by the Secretary
9 of the Treasury under the Internal Rev-
10 enue Code of 1986; and

11 (ii) may be collected by the Secretary
12 by levy or by a proceeding in court.

13 (B) EXCEPTIONS.—Such term does not in-
14 clude—

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

18 (ii) a debt with respect to which a col-
19 lection due process hearing under section
20 6330 of such Code, or relief under sub-
21 section (a), (b), or (f) of section 6015 of
22 such Code, is requested or pending;

23 (iii) a debt with respect to which a
24 continuous levy has been issued under sec-
25 tion 6331 of such Code (or, in the case of

1 an applicant for employment, a debt with
2 respect to which the applicant agrees to be
3 subject to such a levy); and

4 (iv) a debt with respect to which such
5 a levy is released under section
6 6343(a)(1)(D) of such Code.

7 (e) **EFFECTIVE DATE.**—This section shall apply with
8 respect to contracts and grants awarded on or after the
9 date occurring 270 days after the date of the enactment
10 of this Act.

11 **SEC. 3. INELIGIBILITY OF NONCOMPLIANT TAXPAYERS FOR**
12 **FEDERAL EMPLOYMENT.**

13 (a) **IN GENERAL.**—Chapter 73 of title 5, United
14 States Code, is amended by adding at the end the fol-
15 lowing:

16 “SUBCHAPTER VIII—INELIGIBILITY OF NON-
17 COMPLIANT TAXPAYERS FOR FEDERAL EM-
18 PLOYMENT

19 “§ 7381. **Definitions**

20 “For purposes of this subchapter—

21 “(1) The term ‘seriously delinquent tax debt’
22 means a Federal tax liability that has been assessed
23 by the Secretary of the Treasury under the Internal
24 Revenue Code of 1986 and may be collected by the

1 Secretary by levy or by a proceeding in court, except
2 that such term does not include—

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

6 “(B) a debt with respect to which a collec-
7 tion due process hearing under section 6330 of
8 such Code, or relief under subsection (a), (b),
9 or (f) of section 6015 of such Code, is re-
10 quested or pending;

11 “(C) a debt with respect to which a contin-
12 uous levy has been issued under section 6331 of
13 such Code (or, in the case of an applicant for
14 employment, a debt with respect to which the
15 applicant agrees to be subject to such a levy);
16 and

17 “(D) a debt with respect to which such a
18 levy is released under section 6343(a)(1)(D) of
19 such Code;

20 “(2) the term ‘employee’ means an employee in
21 or under an agency, including an individual de-
22 scribed in sections 2104(b) and 2105(e); and

23 “(3) the term ‘agency’ means—

24 “(A) an Executive agency;

25 “(B) the United States Postal Service;

1 “(C) the Postal Regulatory Commission;
2 and

3 “(D) an employing authority in the legisla-
4 tive branch.

5 **“§ 7382. Ineligibility for employment**

6 “(a) IN GENERAL.—Subject to subsection (c), an in-
7 dividual is ineligible to be appointed or to continue serving
8 as an employee if such individual—

9 “(1) has a seriously delinquent tax debt;

10 “(2) does not submit the certification required
11 under subsection (b); or

12 “(3) does not submit an authorization form re-
13 quested under section 7383(b)(1).

14 “(b) DISCLOSURE REQUIREMENT.—The head of each
15 agency shall take appropriate measures to ensure that
16 each individual applying for employment with such agency
17 shall be required to submit (as part of the application for
18 employment) certification that such individual does not
19 have any seriously delinquent tax debt.

20 “(c) REGULATIONS.—The Office of Personnel Man-
21 agement, in consultation with the Internal Revenue Serv-
22 ice, shall, for purposes of carrying out this section with
23 respect to the executive branch, promulgate any regula-
24 tions which the Office considers necessary, except that
25 such regulations shall provide for the following:

1 “(1) All applicable due process rights, afforded
2 by chapter 75 and any other provision of law, shall
3 apply with respect to a determination under this sec-
4 tion that an applicant is ineligible to be appointed
5 or that an employee is ineligible to continue serving.

6 “(2) Before any such determination is given ef-
7 fect with respect to an individual, the individual
8 shall be afforded 180 days to demonstrate that such
9 individual’s debt is one described in subparagraph
10 (A), (B), (C), or (D) of section 7381(1).

11 “(3) An employee may continue to serve, in a
12 situation involving financial hardship, if the contin-
13 ued service of such employee is in the best interests
14 of the United States, as determined on a case-by-
15 case basis and certified as such by the head of the
16 agency.

17 “(d) REPORTS TO CONGRESS.—The Director of the
18 Office of Personnel Management shall report annually to
19 the Committee on Oversight and Government Reform of
20 the House of Representatives and the Committee on
21 Homeland Security and Governmental Affairs of the Sen-
22 ate on the number of exemptions requested and the num-
23 ber of exemptions granted under subsection (c)(3).

1 **“§ 7383. Review of public records**

2 “(a) IN GENERAL.—Each agency shall provide for
3 such reviews of public records as the head of such agency
4 considers appropriate to determine if a notice of lien has
5 been filed pursuant to section 6323 of the Internal Rev-
6 enue Code of 1986 with respect to an employee of or an
7 applicant for employment with such agency.

8 “(b) ADDITIONAL REQUESTS.—If a notice of lien is
9 discovered under subsection (a) with respect to an em-
10 ployee or applicant for employment, the agency may—

11 “(1) request that the employee or applicant exe-
12 cute and submit a form authorizing the Secretary of
13 the Treasury to disclose to the head of the agency
14 information limited to describing whether—

15 “(A) the employee or applicant has a seri-
16 ously delinquent tax debt; or

17 “(B) there is a final administrative or judi-
18 cial determination that such employee or appli-
19 cant committed any act described under section
20 7385(b); and

21 “(2) request that the Secretary of the Treasury
22 disclose any information so authorized to be dis-
23 closed.

24 “(c) AUTHORIZATION FORM.—The Secretary of the
25 Treasury shall make available to all agencies a standard
26 form for the authorization described in subsection (b)(1).

1 **“§ 7384. Confidentiality**

2 “Neither the head nor any other employee of an agen-
3 cy may—

4 “(1) use any information furnished under the
5 provisions of this subchapter for any purpose other
6 than the administration of this subchapter;

7 “(2) make any publication whereby the infor-
8 mation furnished by or with respect to any par-
9 ticular individual under this subchapter can be iden-
10 tified; or

11 “(3) permit anyone who is not an employee of
12 such agency to examine or otherwise have access to
13 any such information.

14 **“§ 7385. Adverse actions for employees who under-
15 state taxes or fail to file**

16 “(a) IN GENERAL.—

17 “(1) IN GENERAL.—Subject to subsection (c)
18 and paragraph (2) of this subsection, the head of an
19 agency may take any personnel action against an
20 employee of such agency if there is a final adminis-
21 trative or judicial determination that such employee
22 committed any act described under subsection (b).

23 “(2) PERSONNEL ACTIONS.—In paragraph (1),
24 the term ‘personnel action’ includes separation but
25 does not include administrative leave or any other
26 type of paid leave without duty or charge to leave.

1 “(b) ACTS.—The acts referred to under subsection
2 (a)(1) are—

3 “(1) willful failure to file any return of tax re-
4 quired under the Internal Revenue Code of 1986,
5 unless such failure is due to reasonable cause and
6 not to willful neglect; or

7 “(2) willful understatement of Federal tax li-
8 ability, unless such understatement is due to reason-
9 able cause and not to willful neglect.

10 “(c) PROCEDURE.—Under regulations prescribed by
11 the Office of Personnel Management, an employee subject
12 to a personnel action under this section shall be entitled
13 to the procedures provided under sections 7513 or 7543,
14 as applicable.”.

15 (b) CLERICAL AMENDMENT.—The analysis for chap-
16 ter 73 of title 5, United States Code, is amended by add-
17 ing at the end the following:

“SUBCHAPTER VIII—INELIGIBILITY OF NONCOMPLIANT
TAXPAYERS FOR FEDERAL EMPLOYMENT

“7381. Definitions.

“7382. Ineligibility for employment.

“7383. Review of public records.

“7384. Confidentiality.

“7385. Adverse actions for employees who understate taxes or fail to file.”.

18 (c) EFFECTIVE DATE.—This section, and the amend-
19 ments made by this section, shall take effect 270 days
20 after the date of the enactment of this Act.

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