

116TH CONGRESS
1ST SESSION

S. 1385

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

MAY 9, 2019

Mr. KENNEDY 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 2019”.

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 that the person does not have a
16 seriously 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 to be definitive proof that the offeror is not a responsible

1 source as defined in section 113 of title 41, United States
2 Code.

3 (c) DEBARMENT.—

4 (1) REQUIREMENT.—Except as provided in
5 paragraph (2), the head of an executive agency shall
6 initiate a suspension or debarment proceeding
7 against a person after receiving an offer for a con-
8 tract from such person if—

9 (A) such offer contains a certification (as
10 required under subsection (a)(1)) that such per-
11 son has a seriously delinquent tax debt; or

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

17 (2) WAIVER.—The head of an executive agency
18 may waive paragraph (1) with respect to a person
19 based upon a written finding of urgent and compel-
20 ling circumstances significantly affecting the inter-
21 ests of the United States. If the head of an executive
22 agency waives paragraph (1) for a person, the head
23 of the agency shall submit to Congress, within 30
24 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) **RELEASE OF INFORMATION.**—The Secretary of
4 the Treasury, in consultation with the Director of the Of-
5 fice of Management and Budget, shall make available to
6 all executive agencies a standard form for the authoriza-
7 tion described in subsection (a).

8 (e) **REVISION OF REGULATIONS.**—Not later than 270
9 days after the date of enactment of this subsection, the
10 Federal Acquisition Regulation shall be revised to incor-
11 porate the requirements of this section.

12 **SEC. 4. DISCLOSURE AND EVALUATION OF GRANT APPLI-**
13 **CATIONS FROM DELINQUENT FEDERAL**
14 **DEBTORS.**

15 (a) **IN GENERAL.**—The head of any executive agency
16 that offers a grant in excess of an amount equal to the
17 simplified acquisition threshold shall require each person
18 applying for a grant to submit with the grant application
19 a form—

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

22 (2) authorizing the Secretary of the Treasury to
23 disclose to the head of the executive agency informa-
24 tion limited to describing whether the person has a
25 seriously delinquent tax debt.

1 (b) IMPACT ON DETERMINATION OF FINANCIAL STA-
2 BILITY.—The head of any executive agency, in evaluating
3 any application for a grant offered by the agency, shall
4 consider a certification that the grant applicant has a seri-
5 ously delinquent tax debt to be definitive proof that the
6 applicant is high-risk and, if the applicant is awarded the
7 grant, shall take appropriate measures under guidelines
8 issued by the Office of Management and Budget for en-
9 hanced oversight of high-risk grantees.

10 (c) DEBARMENT.—

11 (1) REQUIREMENT.—Except as provided in
12 paragraph (2), the head of an executive agency shall
13 initiate a suspension or debarment proceeding
14 against a person after receiving a grant application
15 from such person if—

16 (A) such application contains a certifi-
17 cation (as required under subsection (a)(1))
18 that such person has a seriously delinquent tax
19 debt; or

20 (B) the head of the agency receives infor-
21 mation from the Secretary of the Treasury (as
22 authorized under subsection (a)(2)) dem-
23 onstrating that such a certification submitted
24 by such person is false.

1 (2) WAIVER.—The head of an executive agency
2 may waive paragraph (1) with respect to a person
3 based upon a written finding of urgent and compel-
4 ling circumstances significantly affecting the inter-
5 ests of the United States. If the head of an executive
6 agency waives paragraph (1) for a person, the head
7 of the agency shall submit to Congress, within 30
8 days after the waiver is made, a report containing
9 the rationale for the waiver and relevant information
10 supporting the waiver decision.

11 (d) RELEASE OF INFORMATION.—The Secretary of
12 the Treasury, in consultation with the Director of the Of-
13 fice of Management and Budget, shall make available to
14 all executive agencies a standard form for the authoriza-
15 tion described in subsection (a).

16 (e) REVISION OF REGULATIONS.—Not later than 270
17 days after the date of the enactment of this section, the
18 Director of the Office of Management and Budget shall
19 revise such regulations as necessary to incorporate the re-
20 quirements of this section.

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

22 For purposes of this Act:

23 (1) PERSON.—

24 (A) IN GENERAL.—The term “person” in-
25 cludes—

- 1 (i) an individual;
2 (ii) a partnership; and
3 (iii) a corporation.

4 (B) EXCLUSION.—The term “person” does
5 not include an individual seeking assistance
6 through a grant entitlement program.

7 (C) TREATMENT OF CERTAIN PARTNER-
8 SHIPS.—A partnership shall be treated as a
9 person with a seriously delinquent tax debt if
10 such partnership has a partner who—

- 11 (i) holds an ownership interest of 50
12 percent or more in that partnership; and
13 (ii) has a seriously delinquent tax
14 debt.

15 (D) TREATMENT OF CERTAIN CORPORA-
16 TIONS.—A corporation shall be treated as a
17 person with a seriously delinquent tax debt if
18 such corporation has an officer or a shareholder
19 who—

- 20 (i) holds 50 percent or more, or a con-
21 trolling interest that is less than 50 per-
22 cent, of the outstanding shares of cor-
23 porate stock in that corporation; and
24 (ii) has a seriously delinquent tax
25 debt.

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

4 (3) 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 **SEC. 6. EFFECTIVE DATE.**

8 This Act shall apply with respect to contracts and
9 grants awarded on or after the date occurring 270 days
10 after the date of the enactment of this Act.

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