

AMENDMENT TO H.R. 5658, AS REPORTED
OFFERED BY MRS. MALONEY OF NEW YORK + MR. UDALL OF COLORADO

Page 353, after line 11, add the following new section:

1 **SEC. 849. DATABASE FOR FEDERAL AGENCY CONTRACTING**
2 **OFFICERS AND SUSPENSION AND DEBAR-**
3 **MENT OFFICIALS.**

4 (a) IN GENERAL.—Subject to the authority, direc-
5 tion, and control of the Director of the Office of Manage-
6 ment and Budget, the Administrator of General Services
7 shall establish, not later than one year after the date of
8 the enactment of this Act, a database of information re-
9 garding the integrity and performance of certain persons
10 awarded Federal agency contracts for use by Federal
11 agency officials having authority over contracts.

12 (b) PERSONS COVERED.—The database shall cover
13 the following:

14 (1) Any person awarded a Federal agency con-
15 tract in excess of \$500,000, if any information de-
16 scribed in subsection (c) exists with respect to such
17 person.

18 (2) Any person awarded such other category or
19 categories of Federal agency contract as the Federal

1 Acquisition Regulation may provide, if such informa-
2 tion exists with respect to such person.

3 (c) INFORMATION INCLUDED.—With respect to a
4 covered person the database shall include information (in
5 the form of a brief description) for the most recent 5-year
6 period regarding the following:

7 (1) Each civil or criminal proceeding, or any
8 administrative proceeding, in connection with the
9 award or performance of a contract with the Federal
10 Government with respect to the person during the
11 period to the extent that such proceeding results in
12 the following dispositions:

13 (A) In a criminal proceeding, a conviction.

14 (B) In a civil proceeding, a finding of li-
15 ability that results in the payment of a mone-
16 tary fine, penalty, reimbursement, restitution,
17 or damages of \$5,000 or more.

18 (C) In an administrative proceeding, a
19 finding of liability that results in—

20 (i) the payment of a monetary fine or
21 penalty of \$5,000 or more; or

22 (ii) the payment of a reimbursement,
23 restitution, or damages in excess of
24 \$100,000.

1 (D) In a criminal, civil, or administrative
2 proceeding, a disposition of the matter by con-
3 sent or compromise if the proceeding could have
4 led to any of the outcomes specified in subpara-
5 graph (A), (B), or (C).

6 (2) Each Federal contract and grant awarded
7 to the person that was terminated in such period
8 due to default.

9 (3) Each Federal suspension and debarment of
10 the person in that period.

11 (4) Each Federal administrative agreement en-
12 tered into by the person and the Federal Govern-
13 ment in that period to resolve a suspension or debar-
14 ment proceeding.

15 (5) Each final finding by a Federal official in
16 that period that the person has been determined not
17 to be a responsible source under section 4(7) of the
18 Office of Federal Procurement Policy Act (41 U.S.C.
19 403(7)).

20 (6) Such other information as shall be provided
21 for purposes of this section in the Federal Acquisi-
22 tion Regulation.

23 (7) To the maximum extent practical, informa-
24 tion similar to the information covered by para-
25 graphs (1) through (4) in connection with the award

1 or performance of a contract with a State govern-
2 ment.

3 (d) REQUIREMENTS RELATING TO INFORMATION IN
4 DATABASE.—

5 (1) DIRECT INPUT AND UPDATE.—The Admin-
6 istrator shall design and maintain the database in a
7 manner that allows the appropriate Federal agency
8 officials to directly input and update in the informa-
9 tion in the database relating to actions such officials
10 have taken with regard to contractors.

11 (2) TIMELINESS AND ACCURACY.—The Admin-
12 istrator shall develop policies to require—

13 (A) the timely and accurate input of infor-
14 mation into the database;

15 (B) notification of any covered person
16 when information relevant to the person is en-
17 tered into the database; and

18 (C) an opportunity for any covered person
19 to submit comments pertaining to information
20 about such person in the database.

21 (e) USE OF DATABASE.—

22 (1) AVAILABILITY TO GOVERNMENT OFFI-
23 CIALS.—The Administrator shall ensure that the
24 database is available to appropriate acquisition offi-
25 cials of Federal agencies, to such other government

1 officials as the Administrator determines appro-
2 priate, and to Congress.

3 (2) REVIEW AND ASSESSMENT OF DATA.—

4 (A) IN GENERAL.—Before awarding a con-
5 tract in excess of \$500,000, the Federal agency
6 official responsible for awarding the contract
7 shall review the database and shall consider in-
8 formation in the database with regard to any
9 offer, along with other past performance infor-
10 mation available with respect to that offeror, in
11 making any responsibility determination or past
12 performance evaluation for such offeror.

13 (B) DOCUMENTATION IN CONTRACT
14 FILE.—The contract file for each contract of a
15 Federal agency in excess of \$500,000 shall doc-
16 ument the manner in which the material in the
17 database was considered in any responsibility
18 determination or past performance evaluation.

19 (f) DISCLOSURE IN APPLICATIONS.—Not later than
20 one year after the date of the enactment of this Act, the
21 Federal Acquisition Regulation shall be amended to re-
22 quire that persons with Federal agency contracts valued
23 in total greater than \$10,000,000 shall—

24 (1) submit to the Administrator a report that
25 includes the information subject to inclusion in the

1 database as listed in paragraphs (1) through (7) of
2 subsection (c) current as of the date of submittal of
3 such report under this subsection; and

4 (2) update such report on a semiannual basis.

5 (g) RULEMAKING.—The Administrator shall promul-
6 gate such regulations as may be necessary to carry out
7 this section.

