

Statement for the Record
Federal Contracting Oversight and Reform Act of 2010
Senator Russ Feingold

Mr. President, today I introduced the bipartisan Federal Contracting and Oversight Act. Every year millions of taxpayer dollars are awarded to contractors with a history of poor performance and misconduct because our federal contracting oversight regime, though well-intentioned, is broken.

The problems in our contracting oversight regime were first brought to my attention by my constituents in Wisconsin, several of whom are small businesses that have suffered as a result of misconduct by a federal contractor. In one case, a federal contractor that has received over six million dollars in federal contracts failed to pay small businesses in Wisconsin that worked as subcontractors. Several years later, the Army finally barred the contractor from receiving federal dollars, finding that the contractor had "a documented history of failing to pay subcontractors for services rendered pursuant to government contracts." We must ensure that these records of poor performance and misconduct are identified before federal contracts are awarded to contractors, not years later after the damage has already been done.

As I studied the issue further, I learned that similar problems were widespread and well documented. The Government Accountability Office has documented numerous instances of suspended and debarred companies continuing to receive federal contracts. In one case, a company that had been debarred for attempting to ship nuclear bomb parts to North Korea continued to receive millions of dollars on an Army contract. In another case, a contractor that had been suspended after one of its employees was found to have sabotaged repairs on an aircraft carrier was awarded three new contracts a month after the incident.

We must act to ensure that these incidents do not repeat themselves. American taxpayer dollars should be spent responsibly and the flaws of our contracting process should never be allowed to affect our security.

Our federal contracting process is in urgent need of reform and greater oversight. To that end, I am introducing the Federal Contracting and Oversight Act, which is an important step to prevent the continued federal patronage of private companies unworthy of our taxpayers' hard-earned dollars.

I am encouraged that Senator Coburn has also taken note of the flaws of the federal contracting process and has joined me in this effort as an original co-sponsor. This bill also has the support of experts that closely track our federal contracting process, including the Project on Government Oversight, the Center for American Progress, Taxpayers for Common Sense, and OMB Watch.

This bill will protect the hard-earned dollars of American taxpayers by improving the federal contracting system in three ways:

First, this bill will make the system more transparent.

Sunshine continues to be the best disinfectant; unfortunately, some of the most important data concerning contractor performance and misconduct is shielded from the scrutiny of the full Congress and American people.

This bill will broaden access to the new Federal Awardee Performance and Integrity Information System (FAPIIS) database, which contains a comprehensive picture of the records of federal contractors including details of criminal, civil, and administrative proceedings, contract defaults, suspension and debarments, and other violations of federal acquisition laws.

Under my bill, every member of Congress will be able to access the database in order to review the records of contractors. This is an important step towards greater transparency in our contracting oversight system. Each member of Congress has an interest in monitoring how the taxpayer dollars of their constituents are being spent.

Second, this bill will empower our contracting officers by giving them the tools and resources they need to adequately vet companies seeking federal dollars.

Contracting officers currently make award decisions with only on a limited set of information that is insufficient to support an informed decision. These contracting officers often lack the information they need to adequately review a company's contracting history.

This bill helps ensure that these officers have a more comprehensive picture of a company's contracting history before they make an award decision. Under this bill, the information available to them will include information on a broader range of misconduct, such as that occurring over five years ago, pertaining to a wider range of contracts or resulting in a more inclusive list of legal proceedings. This bill also requires companies vying for federal dollars to self-report essential details about their past performance before they can receive a contract award. Together, these provisions will help ensure that those officials entrusted with awarding federal contract dollars have all the resources they need to make an informed decision.

Third, this bill will strengthen the current oversight regime by fixing loopholes and shortcomings that have undermined its effectiveness. An oversight regime can only be effective if it is used, and used properly. It is unacceptable that taxpayer dollars continue

to go to companies that have already been suspended or debarred, just because contracting officers have failed to either record or check their status.

Accordingly, this bill tasks the Comptroller General with producing an annual report on the extent to which companies that have been suspended and debarred continue to receive federal contracts or waivers to receive federal contracts. This is an important step towards ensuring that the problems in our contracting process receive the congressional and public scrutiny they deserve. This bill also requires the Inspectors General of each federal agency involved in the procurement process to conduct an annual audit to ensure that contracting officials are appropriately considering the past performance and misconduct of contractors.

The source of the oversight regime's ineffectiveness also lies in its design, which is in need of both consolidation and modernization.

When contracting officials begin to review a company's contracting history, the information they need is spread across numerous databases. They have to navigate an unorganized array of databases, including: the Excluded Parties List System (EPLS), Central Contractor Registry (CCR), Contractor Performance Assessment Reporting System (CPARS), Federal Assistance Award Data System (FAADS), Federal Awardee Performance and Integrity Information System (FAPIIS), Federal Business Opportunities Database (FBO), Federal Procurement Data System-Next Generation (FPDS-NG), Past Performance Information Retrieval System (PPIRS), and USAspending.gov, among others.

We must integrate these databases to ensure that contracting officials have a one-stop source for relevant contracting information. I am pleased that the General Services Administration has taken some positive steps in this direction, but any consolidation must be comprehensive. Accordingly, this bill requires the Office of Management and Budget to develop and submit a plan to integrate and consolidate the nine most important databases into a single searchable and linked network.

Another reason why suspended and debarred companies continue to receive federal contracts in error is because the unique identification system used to track companies is ineffective and in need of modernization. The Government Accountability Office has documented that the current identification system fails to adequately track subsidiaries, spin-offs, shell companies, and other related entities. This weak tracking system permits some suspended and debarred companies from accessing federal dollars to which they are not legally entitled.

To that end, this bill requires the Inspector General of the General Services Administration to determine whether the existing system of identifying numbers for

contractors is adequately tracking federal contractors, and develop a plan for developing and adopting a new and more robust identification system.

I urge my colleagues to support this bill. The American people entrust us with their hard-earned tax dollars, and we have a responsibility to ensure that their money is being spent appropriately.