



**United States Senate**  
**Committee on Homeland Security and Governmental Affairs**  
Chairman Joseph I. Lieberman, ID-Conn.

Opening Statement of Chairman Joseph Lieberman  
“Weeding Out Bad Contractors: Does the Government Have the Right Tools?”  
Homeland Security and Governmental Affairs Committee  
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**As Prepared for Delivery**

Good morning, the hearing will come to order. Today we ask two vexing questions about federal contract spending.

One: Why are contractors known to be poor performers or who have engaged in fraud or other misconduct not being put on the Excluded Parties List, which would bar them from receiving federal contracts?

And two: Why are some contractors who have been placed on the list of banned contractors still taking in millions of dollars from the federal government?

As we shall hear this morning, the answers to both of these questions are unacceptable and costly for taxpayers and that has to stop.

Woody Allen said 90 percent of life is showing up and sometimes I think that one of the most effective things we do in the Committee is to hold hearings that generate attention. Perhaps it was a coincidence, but I was very glad to hear yesterday the Director of OMB indicate that the Office of Federal Procurement Policy (OFFP) was issuing new guidelines to protect taxpayer dollars from waste, fraud, and abuse by federal contractors and I look forward to learning more about those guidelines during this hearing.

Let me give some examples that motivated this hearing.

A report issued by the Department of Defense just last month shows that over a 10-year period, DOD awarded \$255 million to contractors who were convicted of criminal fraud; and almost \$574 billion to contractors involved in civil fraud cases that resulted in a settlement or judgment against the contractor.

Last year, the Department of Homeland Security’s Inspector General found 23 cases where the Department had cancelled a contract because of poor performance, but in none of those cases did DHS suspend or debar the contractor.

That means that not only were other DHS component agencies at risk of entering contracts with these poor performers, but agencies across the government might obviously do the same.

After Hurricane Katrina, the Department of Justice found it necessary to set up a whole task force devoted to Katrina fraud. And yet FEMA, over at least a five-year period, never sent one name to the Excluded Parties List for suspension or debarment.

How is that possible?

Federal Acquisition Regulation gives federal agencies broad discretion under suspension and debarment procedures to prohibit new contracts from going to companies or individuals who perform poorly, engage in fraudulent behavior, or otherwise act irresponsibly.

But it is a tool that is used all too rarely and that enables millions—perhaps billions—of dollars of waste, fraud or abuse to continue.

The Government Accountability Office issued a report last month that found that over a five year period, the Departments of Health and Human Services, Commerce and Labor, Education, Housing and Urban

Development, as well as FEMA and Office of Personnel Management initiated no suspensions or debarment actions against a contractor – zero!

Most other federal agencies sent 20 or fewer contractors to the Excluded Parties List.

To me, it strains the imagination to think that these agencies have not encountered more companies that have overbilled the government, engaged in fraud, or failed to perform or carry out their obligations.

But, as I said earlier, even getting on the list doesn't seem to guarantee that bad contractors are banned from receiving federal contracts. For example, The U.S. Navy suspended a company after one of its employees sabotaged the repairs of steam pipes on an aircraft carrier.

But less than a month later, that same company was awarded three new contracts because the Navy contracting officer failed to check the Excluded Parties List.

Just last month, the IG at the Department of Justice reported that over a six-year period, that Department had issued 77 contracts, or modifications to contracts, to six separate suspended or debarred parties.

Following the GAO report that I mentioned, Senator Collins and I sent letters to the agencies identified by GAO as lacking the best practices that are common to those agencies that do make effective use of suspension and debarment and we intend to monitor the response of those agencies.

Today we will hear from a panel of witnesses who are strong advocates of more active and aggressive use of suspension and debarment programs as a way of ensuring American taxpayers are getting their money's worth from these federal contractors.

This isn't the first time this problem has been looked at. In 1981, the Subcommittee on Oversight of Government Management of this Committee, then the Governmental Affairs Committee, chaired by then Senator William Cohen of Maine, held a series of hearings on suspension and debarment and in words that still ring true today, said:

“In this time of economic crisis and huge Government deficits, when both Congress and the administration are looking for equitable ways to reduce Government spending, we certainly welcome this opportunity to evaluate and propose mechanisms by which the Government can protect itself from dealing with proven irresponsible firms.

“We have to insure that the Government's investment in hundreds of millions of dollars in Federal contracts is not jeopardized because of the failure to debar undesirable contractors.”

Very well said by Senator Cohen. I think as I approach my retirement I will be quoting former senators more often. Those words were prescient and well-spoken, but not surprising, because as some of you may know Senator Cohen was blessed with an extremely talented staff director, who has remained steadfast in her commitment to see that the government takes every action necessary to protect taxpayer dollars. And I now turn to that former staff director, the current Senator from Maine, Susan Collins.