AMENDMENT NO. ________ Calendar No. _______
Purpose: To establish a suspension and debarment program.


H. R. 2825

To amend the Homeland Security Act of 2002 to make certain improvements in the laws administered by the Secretary of Homeland Security, and for other purposes.

Referred to the Committee on ________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mrs. McCaskill

Viz:

1 At the end of subtitle B of title II, add the following:

2 SEC. 1225. SUSPENSION AND DEBARMENT PROGRAM AND PAST PERFORMANCE.

3 (a) DEFINITIONS.—In this section—

4 (1) the term “congressional homeland security committees” has the meaning given the term in section 2 of the Homeland Security Act of 2002, as amended by this Act;

5 (2) the term “Department” means the Department of Homeland Security; and

6 (3) the term “Secretary” means the Secretary of Homeland Security.
(b) Establishment.—

(1) In general.—The Secretary shall establish a suspension and debarment program that ensures the Department and each of the components of the Department comply with the laws, regulations, and guidance related to the suspension, debarment, and ineligibility of contractors.

(2) Requirements.—The program required to be established under paragraph (1) shall include policies and processes for—

(A) tracking, reviewing, and documenting suspension and debarment decisions, including those related to poor performance, fraud, national security considerations, and other criteria determined appropriate by the Secretary;

(B) ensuring consideration of and referral for suspension, debarment, or other necessary actions that protect the interests of the Federal Government;

(C) managing and sharing relevant documents and information on contractors for use across the Department;

(D) requiring timely reporting into departmental and Government-wide databases by the suspension and debarment officials of con-
tractor suspensions, debarments, determinations of ineligibility, or other relevant information; and

(E) issuing guidance to implement these policies and for the timely implementation of agreed upon recommendations from the Inspector General of the Department or the Comptroller General of the United States.

(3) ADDITIONAL REQUIREMENTS.—The program required to be established under subsection (b)(1) shall—

(A) require that any referral made by a contracting official for consideration of actions to protect the interest of the Federal Government be evaluated by the Suspension and Debarment Official in writing in accordance with applicable regulations; and

(B) develop and require training for all contracting officials of the Department on the causes for suspension and debarment and complying with departmental and Government-wide policies and processes.

(e) PAST PERFORMANCE REVIEW.—

(1) IN GENERAL.—The Chief Procurement Officer of the Department shall require for any solicita-
tion for a competitive contract by a component of the Department that the head of contracting activity for the component shall include past performance as an evaluation factor in the solicitation, consistent with applicable laws and regulations and policies established by the Chief Procurement Officer.

(2) REQUIREMENTS.—In carrying out the requirements of paragraph (1), the Chief Procurement Officer shall establish departmental policies and procedures, consistent with applicable laws and regulations, to assess the past performance of contractors and relevant subcontractors (including contracts performed at the State or local level) as part of the source selection process.

(3) WAIVERS.—

(A) IN GENERAL.—The Chief Procurement Officer of the Department may waive a requirement under paragraph (1) with respect to a solicitation if the Chief Procurement Officer determines that the waiver is in the best interest of the Government.

(B) NOTIFICATION.—Not later than 30 days after the date on which the Chief Procurement Officer issues a waiver under subparagraph (A), the Secretary shall submit to the
congressional homeland security committees
written notice of the waiver, which shall include
a description of the reasons for the waiver.