

Opening Statement of Senator Susan M. Collins

Weeding Out Bad Contractors: Does the Government Have the Right Tools?

**Committee on Homeland Security
and Governmental Affairs
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Suspension and debarment are mechanisms by which the federal government protects taxpayers by avoiding the award of new contracts or grants to those individuals and businesses who have proven to be bad actors. Debarment is automatic upon conviction of certain crimes, but federal agencies also have the authority to suspend or debar an individual or business in cases where there hasn't been a conviction or an indictment, but there is, nevertheless, ample evidence of unethical behavior or incompetent performance.

The GAO has found that some agencies have failed for years to suspend or debar a single individual or business. For example, the GAO found that FEMA had no suspensions or debarments from 2006 to 2010, despite the fact that our Committee found numerous instances of contract waste, abuse, fraud, and non-performance in the aftermath of Hurricane Katrina.

In FEMA's disaster housing program alone, GAO identified approximately \$30 million in wasteful and potentially fraudulent payments to FEMA contractors in 2006 and 2007, which likely led to millions more in unnecessary spending beyond this period.

In another example, the Department of Justice suspended or debarred only eight contractors from 2006 to 2010. Making matters worse, a recent Inspector General audit reveals that, from 2005 to 2010, the Department actually issued 77 contracts and contract modifications to some of these same entities the Department itself had suspended or debarred. I join the Chairman in asking, "How could this possibly have happened?"

The vast majority of individuals and businesses who participate in the federal marketplace are honest and do their utmost to fulfill the terms of their federal contracts. It is not ethical or fair to competent government contractors when they lose government business to those who will not perform effectively and honestly.

Our goal here is not to punish, but rather to protect. Taxpayers deserve to know that federal contracts and grants are not awarded to those who have acted dishonestly, irresponsibly, or incompetently.

Having powerful suspension and debarment tools in the arsenal does little good if they are not being used. GAO found that civilian agencies with the highest numbers of suspensions and debarments shared certain characteristics. First, they dedicated staff full-time to the

suspension and debarment process. Second, they have detailed guidance in place. And finally, they have a robust case referral process.

GAO found that the U.S. Immigration and Customs Enforcement, the General Services Administration, the Navy, and the Defense Logistics Agency are actively protecting the federal government from unscrupulous and habitually non-performing contractors. On the other hand, as the Chairman pointed out, GAO found that FEMA, HHS, Commerce, State, Treasury, and Justice must improve.

The failure of agencies to use their suspension authority regrettably is not a new revelation. As the Chairman mentioned, thirty years ago, as the Staff Director of a subcommittee of this very Committee, I was extremely involved in oversight hearings on suspension and debarment. Reading over the transcript of those hearings, I was struck by the exact same problems highlighted in GAO's recent report, especially the reluctance on the part of some agencies to exercise their suspension and debarment authority.

Today, there is even less excuse than ever, given the new tools available to agencies. One such tool is the Excluded Parties List which allows for a real-time listing of all contractors who have been suspended or debarred. And, since that time, the suspension or debarment at one agency generally applies to all agencies. And since 1986, the Interagency Suspension and Debarment Committee has been established to facilitate the process of determining which agency should take the lead in suspending or debarring an unethical or incompetent entity that does business with more than one agency.

This GAO report must be a wake-up call to agencies who are failing to protect the interests of the taxpayers. Like the Chairman, I was pleased to see that the GAO report and this hearing prompted OMB to issue new direction to agencies to strengthen their suspension and debarment procedures. Let us hope that this time, it will make a difference and that, thirty years from now, this Committee is not holding yet another hearing examining why federal agencies are not acting more aggressively to protect taxpayers.

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