

1 **SEC. 823. EXCLUSION OF CERTAIN FACTORS IN CONSIDER-**  
2 **ATION OF COST ADVANTAGES OF OFFERS**  
3 **FOR CERTAIN DEPARTMENT OF DEFENSE**  
4 **CONTRACTS.**

5 Not later than 90 days after the date of the enact-  
6 ment of this Act, the Department of Defense Supplement  
7 to the Federal Acquisition Regulation shall be revised to  
8 ensure that, in any competition for a contract with a value  
9 in excess of \$10,000,000, an offeror does not receive an  
10 advantage for a proposal that would reduce costs for the  
11 Department of Defense as a consequence of any corporate  
12 structure a principal purpose of which is to enable the of-  
13 feror to avoid the payment of taxes to the Federal Govern-  
14 ment or any State government, including taxes imposed  
15 under subtitle C of the Internal Revenue Code of 1986  
16 and any similar taxes imposed by a State government, for  
17 or on behalf of employees of the offeror or any subsidiary  
18 or affiliate of the offeror.

19 **Subtitle D—Department of Defense**  
20 **Contractor Matters**

21 **SEC. 831. DATABASE FOR DEPARTMENT OF DEFENSE CON-**  
22 **TRACTING OFFICERS AND SUSPENSION AND**  
23 **DEBARMENT OFFICIALS.**

24 (a) IN GENERAL.—Subject to the authority, direc-  
25 tion, and control of the Secretary of Defense, the Under  
26 Secretary of Defense for Acquisition, Technology, and Lo-

1 gistics shall establish and maintain a database of informa-  
2 tion regarding integrity and performance of certain per-  
3 sons awarded Department of Defense contracts for use by  
4 Department of Defense officials having authority over con-  
5 tracts.

6 (b) PERSONS COVERED.—The database shall cover  
7 any person awarded a Department of Defense contract in  
8 excess of \$500,000 if any information described in sub-  
9 section (c) exists with respect to such person.

10 (c) INFORMATION INCLUDED.—With respect to a  
11 person awarded a Department of Defense contract, the  
12 database shall include information (in the form of a brief  
13 description) for at least the most recent 5-year period re-  
14 garding the following:

15 (1) Each civil or criminal proceeding, or any  
16 administrative proceeding, in connection with the  
17 award or performance of a contract with the Federal  
18 Government or, to the maximum extent practicable,  
19 a State government with respect to the person dur-  
20 ing the period to the extent that such proceeding re-  
21 sults in the following dispositions:

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

23 (B) In a civil proceeding, a finding of li-  
24 ability that results in the payment of a mone-

1           tary fine, penalty, reimbursement, restitution,  
2           or damages of \$5,000 or more.

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

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

7                   (ii) the payment of a reimbursement,  
8                   restitution, or damages in excess of  
9                   \$100,000.

10          (D) In a civil or administrative proceeding,  
11          a disposition of the matter by consent or com-  
12          promise if the proceeding could have led to any  
13          of the outcomes specified in subparagraph (A),  
14          (B), or (C).

15          (2) Each Federal contract and grant awarded  
16          to the person that was terminated in such period  
17          due to default.

18          (3) Each Federal suspension and debarment of  
19          the person in that period.

20          (4) Each Federal administrative agreement en-  
21          tered into by the person and the Federal Govern-  
22          ment in that period to resolve a suspension or debar-  
23          ment proceeding and, to the maximum extent prac-  
24          ticable, each agreement involving a suspension or de-

1       barment proceeding entered into by the person and  
2       a State government in that period.

3               (5) Each final finding by a Federal official in  
4       that period that the person has been determined not  
5       to be a responsible source under either subparagraph  
6       (C) or (D) of section 4(7) of the Office of Federal  
7       Procurement Policy Act (41 U.S.C. 403(7)).

8       (d) REQUIREMENTS RELATING TO INFORMATION IN  
9       DATABASE.—

10              (1) DIRECT INPUT AND UPDATE.—The Under  
11       Secretary shall design and maintain the database in  
12       a manner that allows the appropriate officials of the  
13       Department of Defense to directly input and update  
14       in the information in the database relating to ac-  
15       tions such officials have taken with regard to con-  
16       tractors.

17              (2) TIMELINESS AND ACCURACY.—The Under  
18       Secretary shall develop policies to require—

19                      (A) the timely and accurate input of infor-  
20       mation into the database;

21                      (B) notification of any covered person  
22       when information relevant to the person is en-  
23       tered into the database; and

1 (C) an opportunity for any covered person  
2 to submit comments pertaining to information  
3 about such person in the database.

4 (e) USE OF DATABASE.—

5 (1) AVAILABILITY TO GOVERNMENT OFFI-  
6 CIALS.—The Under Secretary shall ensure that the  
7 database is available to all acquisition professionals  
8 of the Department of Defense and to Congress. This  
9 subsection does not limit the availability of the data-  
10 base to other Department of Defense officials or to  
11 government officials outside the Department of De-  
12 fense that the Under Secretary determines warrant  
13 access.

14 (2) REVIEW AND ASSESSMENT OF DATA.—

15 (A) IN GENERAL.—Before awarding a con-  
16 tract in excess of \$500,000, the Department of  
17 Defense official responsible for awarding the  
18 contract shall review the database and shall  
19 consider information in the database with re-  
20 gard to any offer, along with other past per-  
21 formance information available with respect to  
22 that offeror, in making any responsibility deter-  
23 mination or past performance evaluation for  
24 such offeror.

1 (B) DOCUMENTATION IN CONTRACT  
2 FILE.—The contract file for each contract of  
3 the Department of Defense in excess of  
4 \$500,000 shall document the manner in which  
5 the material in the database was considered in  
6 any responsibility determination or past per-  
7 formance evaluation.

8 (f) DISCLOSURE IN APPLICATIONS.—Not later than  
9 180 days after the date of the enactment of this Act, the  
10 Defense Supplement to the Federal Acquisition Regula-  
11 tion shall be amended to require that persons with Depart-  
12 ment of Defense contracts valued in total greater than  
13 \$10,000,000 must semiannually submit to the Under Sec-  
14 retary a report that includes the information subject to  
15 inclusion in the database as listed in paragraphs (1)  
16 through (5) of subsection (c).

17 **SEC. 832. ETHICS SAFEGUARDS FOR EMPLOYEES UNDER**  
18 **CERTAIN CONTRACTS FOR THE PERFORM-**  
19 **ANCE OF ACQUISITION FUNCTIONS CLOSELY**  
20 **ASSOCIATED WITH INHERENTLY GOVERN-**  
21 **MENTAL FUNCTIONS.**

22 (a) CONTRACT CLAUSE REQUIRED.—Each contract  
23 (or task or delivery order) in excess of \$500,000 that calls  
24 for the performance of acquisition functions closely associ-  
25 ated with inherently governmental functions for or on be-