H. R. ______

To amend title 31, United States Code, to consolidate civilian agency suspension and debarment offices, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. ______ introduced the following bill; which was referred to the Committee on ____________________________

A BILL

To amend title 31, United States Code, to consolidate civilian agency suspension and debarment offices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Stop Unworthy Spending Act” or the “SUSPEND Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Consolidation of Civilian Agency Suspension and Debarment Offices.
Sec. 3. Single regulation for procurement and non-procurement programs.
Sec. 4. Government Accountability Office review.
Sec. 5. Coordination of remedies for fraud and corruption related to procurement and grant activities.
Sec. 6. Definitions.
Sec. 7. Transfer, predesignation, and amendment of other provisions of law relating to debarment and suspension.
Sec. 8. Effective date.

SEC. 2. CONSOLIDATION OF CIVILIAN AGENCY SUSPENSION AND DEBARMENT OFFICES.

(a) Establishment of Board of Civilian Suspension and Debarment.—Subtitle V of title 31, United States Code, is amended by inserting after chapter 63 the following new chapter:

“CHAPTER 64—SUSPENSION AND DEBARMENT

“Sec.
"6401. Board of Civilian Suspension and Debarment.

“§ 6401. Board of Civilian Suspension and Debarment

“(a) Establishment.—There is established in the General Services Administration a board for suspension and debarment to be known as the Board of Civilian Suspension and Debarment (in this section referred to as the ‘Board’).

“(b) Purposes.—The purposes of the Board are to serve as a centralized body to manage all civilian executive agency suspension and debarment activities and improve the suspension and debarment system through—
“(1) the transparent and efficient handling of cases;

“(2) the effective oversight of the database of Federal awardee information required by section 6403 of this title [note: this is former 41 U.S.C. 2323, transferred by section 7], including oversight to ensure receipt of information from other agencies;

“(3) the consistent and fair treatment of all persons and entities subject to suspension or debarment proceedings, including small businesses with limited resources; and

“(4) active engagement with Federal officers who award contracts, grants, or other Federal financial assistance for efficient referral of contractors, grantees, or other recipients of Federal financial assistance suspected of committing wrongful actions or repeatedly performing poorly.

“(c) MEMBERSHIP.—

“(1) APPOINTMENT.—

“(A) The Board shall consist of members appointed by the Administrator of General Services (in consultation with the Administrator for Federal Procurement Policy) from a register of applicants maintained by the Administrator of General Services, in accordance with rules
issued by the Administrator of General Services
(in consultation with the Administrator for
Federal Procurement Policy) for establishing
and maintaining a register of eligible applicants
and selecting members. The Administrator of
General Services shall appoint a member with-
out regard to political affiliation and solely on
the basis of the professional qualifications re-
quired to perform the duties and responsibilities
of a member.

“(B) Notwithstanding subparagraph (A),
any suspension or debarment employee serving
in a civilian agency suspension and debarment
office on the date of the enactment of this
chapter may serve as a member of the Board.

“(2) CHAIR.—The Administrator of General
Services shall designate one member of the Board to
serve as Chair of the Board. The position of Chair
of the Board shall be a Senior Executive Service po-
position (as defined by section 3132(a)(2) of title 5,
United States Code).

“(3) REMOVAL.—The Administrator of General
Services, with the consent of the Administrator for
Federal Procurement Policy, may remove the Chair
or any other member of the Board.
“(d) **Sharing of Resources.**—The Administrator of General Services shall, to the maximum extent practicable, provide to the Board such administrative resources as are necessary for the Board to carry out its functions. In carrying out this subsection, the Administrator may provide for the sharing of administrative resources of the Civilian Board of Contract Appeals, such as the Board’s case management system, legal resources, and facilities.

“(e) **Interagency Committee on Debarment and Suspension.**—The Chair of the Board shall serve as the Chair of the Interagency Committee on Debarment and Suspension. The Chair of the Board may combine the report required by subsection (g) with the report required by section 6404(a)(7) [Note: this is former section 873(a)(7) of Public Law 110–417 (31 U.S.C. 6101 note), which is transferred and redesignated as section 6404 by section 7 of this bill].

“(f) **Participation by Additional Entities.**—The Board may enter into an agreement with an entity other than a civilian executive agency to perform suspension and debarment activities on behalf of the entity.

“(g) **Annual Report to Congress.**—Not later than October 30 of each year, the Chair of the Board shall submit to the relevant congressional committees a report containing the following:
“(1) A summary of the activities and accomplishments of the Board in the Governmentwide suspension and debarment system.

“(2) Recommendations to improve the suspension and debarment system.

“(h) DEFINITIONS.—In this section:

“(1) CIVILIAN EXECUTIVE AGENCY.—The term ‘civilian executive agency’ has the meaning provided the term ‘executive agency’ in section 105 of title 5, except the term does not include the Department of Defense.

“(2) RELEVANT CONGRESSIONAL COMMITTEES.—The term ‘relevant congressional committees’ means each of the following:

“(A) The Committee on Oversight and Government Reform of the House of Representatives.

“(B) The Committee on Homeland Security and Governmental Affairs of the Senate.

“(3) INTERAGENCY COMMITTEE ON DEBARMENT AND SUSPENSION.—The term ‘Interagency Committee on Debarment and Suspension’ means such committee constituted under sections 4 and 5 of Executive Order No. 12549.”
(b) **Termination of Civilian Agency Suspension and Debarment Offices.**—Effective on October 1, 2014, the suspension and debarment office or function in each civilian executive agency shall terminate.

(c) **Guidance.**—Within 6 months after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Chief Acquisition Officers Council, shall issue guidance addressing the scope and operation of the Board of Civilian Suspension and Debarment (hereafter in this subsection referred to as the “Board”). The guidance shall address, at a minimum, the following:

1. The size, structure, and organization of the Board to efficiently manage all civilian executive agency suspension and debarment actions.

2. Procedures for appointment of the Chair of the Board, including appropriate instructions to appoint without regard to political affiliation and solely on the basis of the professional qualifications required to perform the duties and responsibilities of the Chair of the Board.

3. Procedures for handing new and existing suspension and debarment cases to accomplish timely transfer of all functions to the Board.
(4) Procedures for transparent handling of all cases, including public availability of—

   (A) the status and the outcome of all cases; and

   (B) the administrative agreements entered into by the Government in order to resolve a suspension or debarment proceeding.

(5) Procedures to strengthen timely referral of cases by agency contracting and grant offices to the Board.

(6) The assignment of accountability to the Board to ensure currency and completeness of the database of Federal awardee information required under section 6403 of title 31, United States Code.

(7) Procedures to ensure consistent standards and procedures that treat all alleged violators fairly and expeditiously, including small businesses with limited legal resources.

(8) Procedures to strengthen suspension or debarment by identifying contractors and grantees that repeatedly fail to perform.

(9) Procedures for an expedited review process to handle contract or grant fraud in a non-traditional or time-sensitive environment, either in a military or non-military setting.
(10) Procedures to maintain agency participation, both formal and informal, as an integral part of a suspension or debarment proceeding.

SEC. 3. SINGLE REGULATION FOR PROCUREMENT AND NON-PROCUREMENT PROGRAMS.

(a) SINGLE REGULATION REQUIRED.—

(1) IN GENERAL.—Chapter 64 of title 31, United States Code, as inserted by section 2(a) of this Act, is further amended by adding at the end the following new section:

“§ 6402. Single regulation for suspension and debarment for procurement and nonprocurement programs

“(a) SINGLE REGULATION.—The Director of the Office of Management and Budget shall maintain one generally applicable regulation on suspension and debarment for procurement and nonprocurement programs.

“(b) REQUIREMENTS.—The regulation maintained pursuant to subsection (a) shall provide, at a minimum, that—

“(1) the determination by the Board of Civilian Suspension and Debarment on whether or not to debar or suspend a contractor, grantee, or other recipient of Federal financial assistance is conclusive on a Governmentwide basis;
“(2) no other agency may take a contrary action with respect to the same contractor, grantee, or other recipient based on the facts and circumstances in the administrative record considered by the Board; and

“(3) in considering any new or additional evidence of non-responsibility of a contractor, grantee, or other recipient of Federal financial assistance not previously considered by the Board, an agency, in determining whether to award another grant or contract or other Federal financial assistance to such contractor, grantee, or other recipient, may consider the cumulative effect of the facts and circumstances previously considered by the Board.”.

(2) Clerical Amendment.—The table of sections at the beginning of chapter 64 of title 31, United States Code, as inserted by section 2(a) of this Act, is amended by inserting the following item after the item relating to section 6401:

“6402. Single regulation for suspension and debarment for procurement and nonprocurement programs.”.

(b) Requirement and Deadline to Combine Regulations.—Not later than 1 year after the date of the enactment of this Act, the Director of the Office of Management and Budget shall combine the separate suspension and debarment regulations for procurement and
non-procurement programs into one generally applicable regulation.

SEC. 4. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.

(a) REVIEW.—The Comptroller General of the United States shall review and assess the effectiveness of the Board of Civilian Suspension and Debarment in meeting the requirements of this Act and the amendments made by this Act.

(b) REPORT.—Not later than 2 years after the establishment of the Board of Civilian Suspension and Debarment, the Comptroller General shall submit to the relevant congressional committees a report containing—

(1) the findings of the review and assessment required by subsection (a); and

(2) recommendations to improve the Governmentwide suspension and debarment system, including identification and elimination of agency-specific requirements that are unnecessary or inconsistent with the Governmentwide system.

SEC. 5. COORDINATION OF REMEDIES FOR FRAUD AND CORRUPTION RELATED TO PROCUREMENT AND GRANT ACTIVITIES.

(a) GUIDANCE REQUIRED.—Within 6 months after the date of the enactment of this Act, the head of each civilian executive agency shall issue guidance that estab-
lishes policies, procedures, and responsibilities for the agency-wide coordination of criminal, civil, contractual, and administrative remedies stemming from investigations of fraud or corruption related to procurement and grant activities.

(b) MATTERS COVERED.—

(1) COORDINATION AND MONITORING.—For each significant investigation of fraud or corruption related to procurement or grant activities affecting the agency, the guidance under subsection (a) shall require that there be timely, central coordination and monitoring of the investigation from its inception. The monitoring shall ensure that all relevant contracting and grant officials, officials of the Office of Inspector General of the agency, and officials of the Department of Justice are kept informed about all possible criminal, civil, contractual, and administrative remedies, and that appropriate remedies (including simultaneous legal and administrative actions) are pursued expeditiously.

(2) REVIEW FOR RECOVERY OF FUNDS.—The guidance under subsection (a) shall require that all investigations of fraud or corruption related to procurement or grant activities affecting the agency be reviewed to determine and implement the appro-
appropriate contractual and administrative actions that
are necessary to expeditiously recover funds lost
through fraud or corruption.

(3) **Contractual or Administrative Remedies.**—The guidance under subsection (a) shall re-
quire that, in appropriate cases of fraud or corrup-
tion related to procurement or grant activities affect-
ing the agency, and with advance notice to all nec-
essary officials, contractual or administrative rem-
edies be taken before final resolution of any criminal
or civil case.

**SEC. 6. DEFINITIONS.**

In this Act:

(1) **Civilian Executive Agency.**—The term
“civilian executive agency” has the meaning pro-
vided the term “executive agency” in section 105 of
title 5, United States Code, except the term does not
include the Department of Defense.

(2) **Relevant Congressional Committees.**—The term “relevant congressional commit-
tees” means each of the following:

(A) The Committee on Oversight and Gov-
ernment Reform of the House of Representa-
tives.
(B) The Committee on Homeland Security and Governmental Affairs of the Senate.

SEC. 7. TRANSFER, REDESIGNATION, AND AMENDMENT OF OTHER PROVISIONS OF LAW RELATING TO DEBARMENT AND SUSPENSION.

(a) TRANSFER, REDESIGNATION, AND AMENDMENT OF SECTION 2313 OF TITLE 41.—

(1) IN GENERAL.—Section 2313 of title 41, United States Code, is hereby—

(A) transferred to the end of chapter 64 of title 31, United States Code, as inserted by section 2(a) of this Act;

(B) redesignated as section 6403; and

(C) amended by adding at the end the following new subsection:

“(h) DEFINITIONS.—The definitions that apply in subtitle I and division B of title 41, as set forth in sections 101 to 134 of such title 41, apply in this section.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 23 of title 41, United States Code, is amended by striking the item relating to section 2313.

(b) TRANSFER, REDESIGNATION, AND AMENDMENT OF SECTION 873 OF PUBLIC LAW 110–417.—
(1) IN GENERAL.—Section 873 of Public Law 110–417 (31 U.S.C. 6101 note) is hereby—

(A) transferred to the end of chapter 64 of title 31, United States Code, as inserted by section 2(a) of this Act and amended by subsection (a) of this section;

(B) redesignated as section 6404; and

(C) amended by striking “and” after “sections 4 and 5” in subsection (b).

(2) CLERICAL AMENDMENTS.—Section 6404 of title 31, United States Code, as transferred by paragraph (1), is amended—

(A) in the enumerator, by striking “SEC.” and inserting “§”; and

(B) in the section heading—

(i) by striking the period at the end;

and

(ii) by conforming the typeface and typestyle, including capitalization, to the typeface and typestyle as used in the section heading of section 6403 of such title.

(c) TRANSFER, REDESIGNATION, AND AMENDMENT OF SECTION 2455 OF PUBLIC LAW 103–355.—

(1) IN GENERAL.—Section 2455 of Public Law 103–355 (31 U.S.C. 6101 note) is hereby—
(A) transferred to the end of chapter 64 of title 31, United States Code, as inserted by section 2(a) of this Act and amended by subsections (a) and (b) of this section;

(B) redesignated as section 6405; and

(C) amended—

(i) in subsection (c)(1), by striking “section 35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c))” and inserting “section 104 of title 41”; and

(ii) in subsection (c)(3), by striking “title 5, United States Code” and inserting “title 5”.

(2) Clerical Amendments.—Section 6405 of title 31, United States Code, as transferred by paragraph (1), is amended—

(A) in the enumerator, by striking “SEC.” and inserting “§”; and

(B) in the section heading—

(i) by striking the period at the end; and

(ii) by conforming the typeface and typestyle, including capitalization, to the
typeface and typestyle as used in the section heading of section 6403 of such title.

(d) ADDITIONAL CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 64 of title 31, United States Code, as inserted by section 2(a) of this Act, is amended by inserting the following items after the item relating to section 6402:

“6403. Database for Federal agency contract and grant officers and suspension and debarment officials.

“6404. Role of Interagency Committee on Debarment and Suspension.

“6405. Uniform suspension, debarment, or exclusion from procurement or non-procurement activity.”.

SEC. 8. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on October 1, 2013.