



## The Problem

The Project On Government Oversight (POGO) has found that anonymous companies have been involved in a wide variety of [illicit activities](#), ranging from “public corruption to government and defense contract fraud, organized crime, intellectual property theft, money laundering, terrorism financing, and the opioid crisis.”

### **The U.S. and other governments cannot effectively sanction or cease business with Russian political leaders, businesses, and oligarchs if those entities can hide assets in companies with anonymous ownership structures.**

As part of the fiscal year 2021 National Defense Authorization Act, Congress enacted a beneficial ownership provision to enable government officials and the public to learn more about the true owners of companies ([Sect. 885](#)). The Section 885 disclosure provision requires that the identity of beneficial owners, [defined by regulation](#) as any person who directly or indirectly holds “voting power” or “investment power” at the company, be entered into an existing contractor responsibility database for government contract, grant, and suspension and debarment officials. This in turn would help officials ensure that [taxpayer dollars are going to law-abiding contractors, grantees, and subrecipients](#), rather than to companies engaging in fraud, posing national security risks, or supporting a war against a sovereign nation. The provision would act as a necessary shield to keep kleptocrats, sanctioned individuals, and other corrupt actors from secretly benefiting from our economy.

However, to accomplish this, the provision needs to be revised slightly.

## The Solution

As currently written, the language in the provision provides too much discretion to corporations on when to comply. As it applies to corporate information, the law ([41 U.S.C. § 2313\(d\)\(3\)](#)) includes a “to the extent practicable” condition that creates a major gap, which will allow contractors and grantees to conceal their beneficial owners. That provision must be removed.

Additionally, the beneficial ownership identification provision must be fully incorporated into current law to close all regulatory loopholes. It must be referenced in multiple sections related to the corporate information included in the contractor responsibility database and the semiannual disclosures that the entities are required to submit to the government.

Another provision that should be amended is the self-disclosure requirement, which directs certain entities to report their beneficial ownership information. Currently, it only applies to contractors and grantees receiving more than \$10 million in federal funding. That threshold should be lowered to \$500,000 to coincide with the requirement that the database apply to any entity with a federal contract or grant more than \$500,000. Moreover, lowering the threshold

from \$10 million to \$500,000 would mean that government officials and the public obtain ownership information from a larger number of corporations, and would therefore be better able to ensure that the federal government only does business with responsible entities.

Remedies to hold corporations accountable for not identifying their beneficial owners are also missing from the law. A provision establishing penalties would help encourage compliance because it is commonplace for contractors to violate existing spending transparency reporting rules.

### ***Proposed Amendment***

[Section 2313 of title 41, United States Code](#), is amended—

- (1) by striking “to the extent practicable,” in paragraph (d)(3);
- (2) in paragraph (f)(1), by striking “subsection (c)” and inserting “subsections (c) and (d)”;
- (3) by striking “\$10,000,000” in paragraph (f) and inserting “\$500,000”; and
- (4) by adding at the end of paragraph (f) the following new paragraph:
  - “(3) A knowing failure to disclose or update company information in accordance with paragraphs (d)(3) and (f) of this section can result in—
    - (A) entry of the violation in the database described by this section;
    - (B) imprisonment for not more than 5 years or a fine under title 18, United States Code, or both;
    - (C) a civil fine of not more than \$200,000, depending on the extent and gravity of the violation;
    - (D) liability pursuant to Section 3729 title 31, United States Code; or suspension or debarment.”.

### **Additional Context**

Information in the contractor responsibility database — the Federal Awardee Performance and Integrity Information System ([FAPIIS](#)) — is generally publicly accessible, except for past performance reviews. Given that ownership information does not involve past performance, we expect that the beneficial ownership information will be public. The public deserves to know if corrupt companies or war-mongering governments, leaders, or those who support them receive a dime of U.S. money.

Making the identities of beneficial owners public is consistent with how other company information has been made publicly available in the FAPIIS database, including parent companies, subsidiaries, successor entities, and even immediate and highest-level owners, as required by the law and [acquisition regulations](#).

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