

117TH CONGRESS
1ST SESSION

H. R. 4186

To amend titles 41 and 10, United States Code, to include new requirements for Federal contracts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2021

Ms. SCHAKOWSKY (for herself, Mr. DANNY K. DAVIS of Illinois, Ms. LEE of California, Ms. WILSON of Florida, Ms. PRESSLEY, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Oversight and Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend titles 41 and 10, United States Code, to include new requirements for Federal contracts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Patriotic Corporations
5 of America Act of 2021”.

1 **SEC. 2. FEDERAL PROCUREMENT REQUIREMENTS AND**
2 **PREFERENCES.**

3 (a) AMENDMENT.—Chapter 47 of division C of sub-
4 title I of title 41, United States Code, is amended by add-
5 ing at the end the following new sections:

6 **“§ 4715. Requirements for offerors**

7 “(a) LABOR.—The head of an executive agency may
8 not award a contract unless the following requirements are
9 met:

10 “(1) The offeror agrees for the duration of the
11 contract to pay each employee of the offeror a wage
12 of not less than the greater of—

13 “(A) \$15, increased on an annual basis
14 from such amount by the annual percentage in-
15 crease, if any, in the median hourly wage of all
16 employees as determined by the Bureau of
17 Labor Statistics; or

18 “(B) the amount equal to the sum of—

19 “(i) the wage rate in effect under sec-
20 tion 6(a)(1) of the Fair Labor Standards
21 Act of 1938 (29 U.S.C. 206(a)(1)); and

22 “(ii) the amount that is 10 percent of
23 such wage rate.

24 “(2) The offeror agrees to sign—

25 “(A) a neutrality agreement, effective dur-
26 ing the period of the contract, with respect to

1 efforts to form a labor organization (as defined
2 in section 2 of the National Labor Relations
3 Act (29 U.S.C. 152)); and

4 “(B) an agreement, effective during the
5 period of the contract, not to hire employees to
6 replace any employee engaged in any strike,
7 picketing, or other concerted refusal to work or
8 to close a business in response to such a strike,
9 picketing, or other refusal to work.

10 “(3) The head of the executive agency, in con-
11 sultation with the National Labor Relations Board,
12 determines that the offeror has not been found in
13 violation or settled a claim for a violation of the
14 right of an employee to organize under a law, includ-
15 ing regulations thereof, administered by the National
16 Labor Relations Board, or of a State regulation de-
17 termined relevant by the head of the executive agen-
18 cy, in consultation with the Secretary of Labor.

19 “(4) The offeror provides each employee at
20 least 7 days of paid sick leave, 7 days of paid family
21 and medical leave, and 7 days of paid vacation per
22 year.

23 “(5) No assessable payment has been imposed,
24 with respect to the offeror, under section 4980H of
25 the Internal Revenue Code of 1986, with respect to

1 any of the 12 months ending before the date on
2 which the contract is awarded.

3 “(6) The offeror submits to the head of the ex-
4 ecutive agency an actionable plan to address natural
5 disasters and health crises, including policies and
6 plans for—

7 “(A) the determination of essential employ-
8 ees;

9 “(B) increased essential employee pay and
10 quarantine pay;

11 “(C) paid family and medical leave;

12 “(D) temporary layoffs;

13 “(E) whistleblower protections; and

14 “(F) emergencies in the case of rapidly
15 changing circumstances.

16 “(7) The offeror submits to the head of the ex-
17 ecutive agency an actionable plan to recruit and pro-
18 mote people of color, women, LGBTQ+ people, peo-
19 ple with disabilities, and veterans.

20 “(b) ENVIRONMENTAL SUSTAINABILITY.—The head
21 of an executive agency may not award a contract unless
22 the head of the executive agency, in consultation with the
23 Administrator of the Environmental Protection Agency,
24 determines that the offeror has not, within the previous
25 5 years—

1 “(1) paid a penalty that is greater than
2 \$100,000 for a violation of a law, including regula-
3 tions thereof, administered by Environmental Pro-
4 tection Agency; or

5 “(2) settled a claim in connection with such a
6 violation for an amount that is greater than
7 \$100,000.

8 “(c) TAXES.—The head of an executive agency may
9 not award a contract unless the offeror—

10 “(1) maintains headquarters in the United
11 States;

12 “(2) has Federal income tax liability which ex-
13 ceeds the offeror’s Federal income tax credits (other
14 than such credits which constitute cash payments of
15 tax by the offeror);

16 “(3) is neither an expatriated entity (as defined
17 in subparagraph (A) of section 7874(a)(2) of the In-
18 ternal Revenue Code of 1986) nor a surrogate for-
19 eign corporation (as defined in subparagraph (B) of
20 such section); and

21 “(4) discloses financial performance and tax in-
22 formation on a country-by-country basis.

23 “(d) PRIVATE EQUITY FIRM APPLICABILITY.—In the
24 case that a private equity firm holds a controlling interest
25 in an offeror, if the head of an executive agency deter-

1 mines, in consultation with the Secretary of Labor, the
2 National Labor Relations Board, and the Administrator
3 of the Environmental Protection Agency, that one com-
4 pany in which the private equity firm has a controlling
5 interest violated subsection (a)(3) or (b), such head shall
6 bar any company in which the private equity firm had a
7 controlling interest at the time of violation from participa-
8 tion in a Federal contract for a period of 5 years.

9 “(e) EMPLOYEE DEFINED.—For the purposes of this
10 section, the term ‘employee’ includes an independent con-
11 tractor.

12 **“§ 4716. Contract preferences**

13 “(a) IN GENERAL.—There shall be a contract pref-
14 erence for an offeror that meets any of the following quali-
15 fications:

16 “(1) The offeror does not have a pay ratio of
17 more than 100 to 1.

18 “(2) The offeror does not outsource jobs out-
19 side of the United States.

20 “(3) If the offeror has a Board of Directors,
21 the offeror has at least one seat on such Board of
22 Directors for a representative elected by the employ-
23 ees.

1 “(4) The offeror contributes at least 5 percent
2 of the payroll to a portable pension fund for the em-
3 ployees.

4 “(5) The offeror provides at least 2 percent of
5 stock to their employees every year until the com-
6 pany is at least 20 percent owned by employees.

7 “(6) The offeror has a collective bargaining
8 agreement with employees.

9 “(7) Women and people of color make up at
10 least 40 percent of top executives and, if the offeror
11 has a Board of Directors, of the members of such
12 Board.

13 “(8) The offeror publicly discloses workforce
14 gender and racial composition and pay gaps.

15 “(9) The offeror provides an affirmative action
16 program (as defined in section 30.4 of title 29, Code
17 of Federal Regulations, or a successor regulation) to
18 ensure equal opportunity in apprenticeships.

19 “(10) The offeror documents that they have as-
20 sisted each individual with an intellectual or develop-
21 mental disability and other individual with a signifi-
22 cant disability employed by the employer under an
23 certificate under section 14(c) of the Fair Labor
24 Standards Act (29 U.S.C. 214(c)) to transition to
25 opportunities for competitive integrated employment

1 and that such individuals are employed in such op-
2 portunities for not less than 20 hours per week, on
3 average.

4 “(b) APPLICATION OF PREFERENCE.—The head of
5 an executive agency shall apply subsection (a) by providing
6 greater preference to an offeror that meets a greater num-
7 ber of the qualifications under paragraphs (1) through
8 (10) of such subsection.

9 “(c) DEFINITIONS.—For the purposes of this sec-
10 tion—

11 “(1) the terms ‘developmental disability’ and
12 ‘integrated’ have the meaning given the terms in
13 section 102 of the Developmental Disabilities Assist-
14 ance and Bill of Rights Act of 2000 (42 U.S.C.
15 15002);

16 “(2) the term ‘employee’ includes an inde-
17 pendent contractor; and

18 “(3) the term ‘pay ratio’ means the ratio de-
19 scribed in section 229.402(u)(1)(iii) of title 17, Code
20 of Federal Regulations (or any successor regulation),
21 except that if the highest compensated employee of
22 the corporation is not the principal executive officer,
23 the ratio shall be determined based on the com-
24 pensation of such highest compensated employee.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 2 The table of sections for chapter 47 of division C of sub-
 3 title I of title 41, United States Code, is amended by add-
 4 ing at the end the following new items:

“4715. Requirements for offerors.
 “4716. Contract preferences.”.

5 (c) APPLICABILITY.—The amendments made by this
 6 section shall apply to any Federal contract entered into
 7 on or after the date of the enactment of this Act.

8 **SEC. 3. DEPARTMENT OF DEFENSE CONTRACTS.**

9 (a) ADDITIONAL REQUIREMENTS FOR DEPARTMENT
 10 OF DEFENSE CONTRACTS.—

11 (1) IN GENERAL.—Chapter 241 of title 10,
 12 United States Code (as added by section 1816 of the
 13 William M. (Mac) Thornberry National Defense Au-
 14 thorization Act for Fiscal Year 2021 (Public Law
 15 116–283)), is amended by adding at the end the fol-
 16 lowing new section:

17 **“§ 3310. Additional requirements for Department of**
 18 **Defense contracts**

19 “(a) LABOR.—The Secretary of Defense may not
 20 award a contract unless the following requirements are
 21 met:

22 “(1) The offeror agrees for the duration of the
 23 contract to pay each employee of the offeror a wage
 24 of not less than the greater of—

1 “(A) \$15, increased on an annual basis
2 from such amount by the annual percentage in-
3 crease, if any, in the median hourly wage of all
4 employees as determined by the Bureau of
5 Labor Statistics; or

6 “(B) the amount equal to the sum of—

7 “(i) the wage rate in effect under sec-
8 tion 6(a)(1) of the Fair Labor Standards
9 Act of 1938 (29 U.S.C. 206(a)(1)); and

10 “(ii) the amount that is 10 percent of
11 such wage rate.

12 “(2) The offeror agrees to sign—

13 “(A) a neutrality agreement, effective dur-
14 ing the period of the contract, with respect to
15 efforts to form a labor organization (as defined
16 in section 2 of the National Labor Relations
17 Act (29 U.S.C. 152)); and

18 “(B) an agreement, effective during the
19 period of the contract, not to hire employees to
20 replace any employee engaged in any strike,
21 picketing, or other concerted refusal to work or
22 to close a business in response to such a strike,
23 picketing, or other refusal to work.

24 “(3) The Secretary of Defense, in consultation
25 with the National Labor Relations Board, deter-

1 mines that the offeror has not been found in viola-
2 tion or settled a claim for a violation of the right of
3 an employee to organize under a law, including regu-
4 lations thereof, administered by the National Labor
5 Relations Board, or of a State regulation determined
6 relevant by the Secretary of Defense, in consultation
7 with the Secretary of Labor.

8 “(4) The offeror provides each employee at
9 least seven days of paid sick leave, seven days of
10 paid family and medical leave, and seven days of
11 paid vacation per year.

12 “(5) No assessable payment has been imposed,
13 with respect to the offeror, under section 4980H of
14 the Internal Revenue Code of 1986, with respect to
15 any of the 12 months ending before the date on
16 which the contract is awarded.

17 “(6) The offeror submits to the Secretary of
18 Defense an actionable plan to address natural disas-
19 ters and health crises, including policies and plans
20 for—

21 “(A) the determination of essential employ-
22 ees;

23 “(B) increased essential employee pay and
24 quarantine pay;

25 “(C) paid family and medical leave;

1 “(D) temporary layoffs;

2 “(E) whistleblower protections; and

3 “(F) emergencies in the case of rapidly
4 changing circumstances.

5 “(7) The offerer submits to the Secretary of
6 Defense an actionable plan to recruit and promote
7 people of color, women, LGBTQ+ people, people
8 with disabilities, and veterans.

9 “(b) ENVIRONMENTAL SUSTAINABILITY.—The Sec-
10 retary of Defense may not award a contract unless the
11 Secretary, in consultation with the Administrator of the
12 Environmental Protection Agency, determines that the of-
13 feror has not, within the previous 5 years—

14 “(1) paid a penalty that is greater than
15 \$100,000 for a violation of a law, including regula-
16 tions thereof, administered by Environmental Pro-
17 tection Agency; or

18 “(2) settled a claim in connection with such a
19 violation for an amount that is greater than
20 \$100,000.

21 “(c) TAXES.—The head of an executive agency may
22 not award a contract unless the offeror—

23 “(1) maintains headquarters in the United
24 States;

1 “(2) has Federal income tax liability which ex-
2 ceeds the offeror’s Federal income tax credits (other
3 than such credits which constitute cash payments of
4 tax by the offeror);

5 “(3) is neither an expatriated entity (as defined
6 in subparagraph (A) of section 7874(a)(2) of the In-
7 ternal Revenue Code of 1986) nor a surrogate for-
8 eign corporation (as defined in subparagraph (B) of
9 such section); and

10 “(4) discloses financial performance and tax in-
11 formation on a country-by-country basis.

12 “(d) PRIVATE EQUITY FIRM APPLICABILITY.—In the
13 case that a private equity firm holds a controlling interest
14 in an offeror, if the Secretary of Defense determines, in
15 consultation with the Secretary of Labor, the National
16 Labor Relations Board, and the Administrator of the En-
17 vironmental Protection Agency, that one company in
18 which the private equity firm has a controlling interest
19 violated subsection (a)(3) or (b), the Secretary shall bar
20 any company in which the private equity firm had a con-
21 trolling interest at the time of violation from contracting
22 with the Department of Defense for a period of 5 years.

23 “(e) EMPLOYEE DEFINED.—For the purposes of this
24 section, the term ‘employee’ includes an independent con-
25 tractor.”.

1 (2) TECHNICAL AND CONFORMING AMEND-
 2 MENT.—The table of sections at the beginning of
 3 such chapter is amended by adding at the end the
 4 following new item:

“3310. Additional requirements for Department of Defense contracts.”.

5 (b) PREFERENCE FOR CONTRACTS WITH CERTAIN
 6 LABOR REQUIREMENTS.—

7 (1) IN GENERAL.—Chapter 242 of title 10,
 8 United States Code (as added by section 1817 of the
 9 William M. (Mac) Thornberry National Defense Au-
 10 thorization Act for Fiscal Year 2021 (Public Law
 11 116–283)), is amended by adding at the end the fol-
 12 lowing new section:

13 **“§ 3325. Preference for contracts from offerors that**
 14 **meet certain labor requirements**

15 “(a) IN GENERAL.—The Secretary of Defense shall
 16 establish a preference for contracting with an offeror that
 17 meets any of the following qualifications:

18 “(1) The offeror does not have a pay ratio of
 19 more than 100 to 1.

20 “(2) The offeror does not outsource jobs out-
 21 side of the United States.

22 “(3) If the offeror has a Board of Directors,
 23 the offeror has at least one seat on such Board of
 24 Directors for a representative elected by the employ-
 25 ees of the offeror.

1 “(4) The offeror contributes at least 5 percent
2 of the payroll to a portable pension fund for employ-
3 ees of the offeror.

4 “(5) The offeror provides at least 2 percent of
5 stock to employees of the offeror every year until the
6 company is at least 20 percent owned such employ-
7 ees.

8 “(6) The offeror has a collective bargaining
9 agreement with employees of the offeror.

10 “(7) Women and people of color make up at
11 least 40 percent of top executives of the offeror and,
12 if the offeror has a Board of Directors, of the mem-
13 bers of such Board.

14 “(8) The offeror publicly discloses the gender
15 and racial composition, and any pay gaps that exist,
16 of the employees of the offeror.

17 “(9) The offeror provides an affirmative action
18 program (as defined in section 30.4 of title 29, Code
19 of Federal Regulations, or a successor regulation) to
20 ensure equal opportunity in apprenticeships.

21 “(10) The offeror documents assistance pro-
22 vided to each individual with an intellectual or devel-
23 opmental disability and any other individual with a
24 significant disability employed by the offeror under
25 an certificate under section 14(c) of the Fair Labor

1 Standards Act (29 U.S.C. 214(c)) to transition to
2 opportunities for competitive integrated employment,
3 and that such individuals are employed in such op-
4 portunities for not less than 20 hours per week, on
5 average.

6 “(b) APPLICATION OF PREFERENCE.—The Secretary
7 of Defense shall apply subsection (a) by providing greater
8 preference to an offeror that meets a greater number of
9 the qualifications under paragraphs (1) through (10) of
10 such subsection.

11 “(c) DEFINITIONS.—For the purposes of this sec-
12 tion—

13 “(1) the terms ‘developmental disability’ and
14 ‘integrated’ have the meaning given the terms in
15 section 102 of the Developmental Disabilities Assist-
16 ance and Bill of Rights Act of 2000 (42 U.S.C.
17 15002);

18 “(2) the term ‘employee’ includes an inde-
19 pendent contractor; and

20 “(3) the term ‘pay ratio’ means the ratio de-
21 scribed in section 229.402(u)(1)(iii) of title 17, Code
22 of Federal Regulations (or any successor regulation),
23 except that if the highest compensated employee of
24 the corporation is not the principal executive officer,

1 the ratio shall be determined based on the com-
 2 pensation of such highest compensated employee.”.

3 (2) TECHNICAL AND CONFORMING AMEND-
 4 MENT.—The table of sections for chapter 242 title
 5 10, United States Code, is amended by adding at
 6 the end the following new item:

“3325. Preference for contracts from offerors that meet certain labor re-
 quirements.”.

7 (c) EFFECTIVE DATE.—Sections 3310 and 3325 of
 8 title 10, United States Code, as added by subsections (a)
 9 and (b), respectively, shall take effect on January 1, 2022.

10 (d) APPLICABILITY.—This section and the amend-
 11 ments made by this section shall apply to any Federal con-
 12 tract entered into on or after the effective date of this
 13 section.

14 (e) REFERENCES; SAVING PROVISION; RULE OF
 15 CONSTRUCTION.—Sections 1883 through 1885 of the Wil-
 16 liam M. (Mac) Thornberry National Defense Authoriza-
 17 tion Act for Fiscal Year 2021 (Public Law 116–283) shall
 18 apply with respect to the amendments made by this sec-
 19 tion as if such amendments were made under title XVIII
 20 of such Act.

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