

Calendar No. 506

114TH CONGRESS
2D SESSION**S. 795****[Report No. 114–270]**

To enhance whistleblower protection for contractor and grantee employees.

IN THE SENATE OF THE UNITED STATES

MARCH 18, 2015

Mrs. McCASKILL (for herself and Mr. JOHNSON) introduced the following bill;
which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

JUNE 7, 2016

Reported by Mr. JOHNSON, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To enhance whistleblower protection for contractor and
grantee employees.

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

1 **SECTION 1. ENHANCEMENT OF WHISTLEBLOWER PROTEC-**
 2 **TION FOR CONTRACTOR AND GRANTEE EM-**
 3 **PLOYEES.**

4 (a) PROTECTION FOR EMPLOYEES OF GRANTEES
 5 AND SUBGRANTEES.—

6 (1) DEFENSE GRANTS.—Section 2409(a)(1) of
 7 title 10, United States Code, is amended by striking
 8 “or subcontractor” and inserting “; personal services
 9 contractor, subcontractor, grantee, or subgrantee”.

10 (2) CIVILIAN GRANTS.—Section 4712(a)(1) of
 11 title 41, United States Code, is amended by striking
 12 “or grantee” and inserting “personal services con-
 13 tractor, grantee, or subgrantee”.

14 (b) PROHIBITION ON REIMBURSEMENT FOR LEGAL
 15 FEES ACCRUED IN DEFENSE AGAINST REPRISAL
 16 CLAIMS.—

17 (1) DEFENSE CONTRACTS.—Section 2324(k) of
 18 title 10, United States Code, is amended—

19 (A) by inserting “or subcontractor” after
 20 “contractor” each place it appears;

21 (B) by inserting “or subcontract” after
 22 “contract” each place it appears; and

23 (C) in paragraph (1), by inserting “or to
 24 any other activity described in subparagraphs
 25 (A) through (C) of section 2409(a)(1) of this
 26 title” after “statute or regulation”.

1 (2) CIVILIAN CONTRACTS.—

2 (A) IN GENERAL.—Section 4310 of title
3 41, United States Code, is amended—

4 (i) by inserting “or subcontractor”
5 after “contractor” each place it appears;

6 (ii) by inserting “or subcontract”
7 after “contract” each place it appears; and

8 (iii) in subsection (b)(1), by inserting
9 “or to any other activity described in sec-
10 tion 4712(a)(1) of this title” after “statute
11 or regulation”.

12 (B) CONFORMING AMENDMENT.—Section
13 4304(a)(15) of title 41, United States Code, is
14 amended by inserting “or subcontractor” after
15 “contractor”.

16 (c) INCLUSION OF CONTRACT CLAUSE IN CONTRACTS
17 AWARDED BEFORE EFFECTIVE DATE.—At the time of
18 any major modification to a contract that was awarded
19 before the date of the enactment of this Act, the head of
20 the contracting agency shall include in the contract a con-
21 tract clause providing for the applicability of the amend-
22 ments made by this section and section 827 of the Na-
23 tional Defense Authorization Act for Fiscal Year 2013
24 (Public Law 112–239; 126 Stat. 1833).

1 **SECTION 1. ENHANCEMENT OF WHISTLEBLOWER PROTEC-**
 2 **TION FOR CONTRACTOR AND GRANTEE EM-**
 3 **PLOYEES.**

4 (a) *PROTECTION FOR EMPLOYEES OF GRANTEES AND*
 5 *SUBGRANTEES.*—

6 (1) *DEFENSE GRANTS.*—Section 2409(a)(1) of
 7 title 10, United States Code, is amended by inserting
 8 “or personal services contractor” after “subgrantee”.

9 (2) *CIVILIAN GRANTS.*—Section 4712(a)(1) of
 10 title 41, United States Code, is amended by striking
 11 “or grantee” and inserting “grantee, or subgrantee or
 12 personal services contractor”.

13 (3) *PERMANENT EXTENSION OF PILOT PROGRAM*
 14 *FOR ENHANCEMENT OF CONTRACTOR PROTECTION*
 15 *FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFOR-*
 16 *MATION.*—

17 (A) *IN GENERAL.*—Section 4712 of title 41,
 18 United States Code, is amended—

19 (i) in the section heading by striking
 20 “**Pilot program for enhancement**”
 21 and inserting “**Enhancement**”; and

22 (ii) by striking subsection (i).

23 (B) *CLERICAL AMENDMENT.*—The table of
 24 sections at the beginning of chapter 47 of title
 25 41, United States Code, is amended by striking

1 *the item relating to section 4712 and inserting*
 2 *the following new item:*

“4712. Enhancement of contractor protection from reprisal for disclosure of certain information.”.

3 **(b) PROHIBITION ON REIMBURSEMENT FOR LEGAL**
 4 **FEES ACCRUED IN DEFENSE AGAINST REPRISAL**
 5 **CLAIMS.—**

6 **(1) DEFENSE CONTRACTS.—***Section 2324(k) of*
 7 *title 10, United States Code, is amended—*

8 **(A)** *by inserting “or subcontractor, or per-*
 9 *sonal services contractor” after “contractor” each*
 10 *place it appears;*

11 **(B)** *by inserting “, subcontract, or personal*
 12 *services contract” after “contract” each place it*
 13 *appears; and*

14 **(C)** *in paragraph (1), by inserting “or to*
 15 *any other activity described in subparagraphs*
 16 *(A) through (C) of section 2409(a)(1) of this*
 17 *title” after “statute or regulation”.*

18 **(2) CIVILIAN CONTRACTS.—**

19 **(A) IN GENERAL.—***Section 4310 of title 41,*
 20 *United States Code, is amended—*

21 **(i)** *by inserting “, subcontractor, or*
 22 *personal services contractor” after “con-*
 23 *tractor” each place it appears;*

(ii) by inserting “, subcontract, or personal services contract” after “contract” each place it appears; and

(iii) in subsection (b)(1), by inserting “or to any other activity described in section 4712(a)(1) of this title” after “statute or regulation”.

(B) CONFORMING AMENDMENT.—Section 4304(a)(15) of title 41, United States Code, is amended by inserting “or subcontractor, or personal service contractor” after “contractor”.

(c) INCLUSION OF CONTRACT CLAUSE IN CONTRACTS AWARDED BEFORE EFFECTIVE DATE.—At the time of any major modification to a contract that was awarded before the date of the enactment of this Act, the head of the contracting agency shall make best efforts to include in the contract a contract clause providing for the applicability of the amendments made by this section and section 827 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 126 Stat. 1833).

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