

116TH CONGRESS
1ST SESSION

H. R. 5073

To require a score of worker-friendliness of each employer before entering into a Federal contract, to establish a contracting preference for such score, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 2019

Ms. OCASIO-CORTEZ (for herself, Ms. MENG, Ms. GARCIA of Texas, Ms. TLAIB, Mrs. NAPOLITANO, Mr. GARCÍA of Illinois, and Ms. LEE of California) introduced the following bill; which was referred to the Committee on Oversight and Reform, and in addition to the Committee on Education and Labor, 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 require a score of worker-friendliness of each employer before entering into a Federal contract, to establish a contracting preference for such score, 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 “A Just Society: The
5 Uplift Our Workers Act”.

1 **SEC. 2. WORKER-FRIENDLINESS SCORES FOR FEDERAL**
2 **CONTRACTS.**

3 (a) SCORES REQUIRED.—With respect to any con-
4 tract or subcontract (at any tier) entered into on or after
5 the date on which the method for a score is developed pur-
6 suant to subsection (b), the head of the executive agency
7 shall—

8 (1) ensure that contracting officers consider the
9 score approximately equal in importance or signifi-
10 cantly more important than cost or price (as de-
11 scribed in section 3306 of title 41, United States
12 Code); and

13 (2) ensure that an offeror for a prime contract
14 does not subcontract with any entity that violates
15 the labor laws and executive orders listed in sub-
16 section (b).

17 (b) COMPONENTS OF SCORE.—Not later than 18
18 months after the date of enactment of this Act, the Sec-
19 retary of Labor, in coordination with the Director of the
20 Office of Management and Budget, shall—

21 (1) develop a method to assess and provide a
22 score with respect to the worker-friendliness of each
23 prospective contractor or subcontractor (at any tier)
24 that is an employer that submits a bid for a Federal
25 contract before entering into the contract which
26 takes into account—

1 (A) whether the employer is in compliance
2 with the applicable labor laws and executive or-
3 ders listed in subsection (c), including whether
4 the employer has been subject to any adminis-
5 trative or civil judgments or arbitral decisions
6 for any violations of such laws or orders;

7 (B) whether the employer guarantees that
8 the maximum amount of work that may be per-
9 formed under the contract by full-time workers
10 will be performed by such workers by working
11 40 hours per work week;

12 (C) whether the employer provides paid
13 overtime for any work that exceeds 40 hours
14 per work week;

15 (D) whether employers are paid at least
16 \$15 an hour, and wages are otherwise reflective
17 of the prevailing wage;

18 (E) whether the employer has a policy of
19 providing employees with guaranteed predictive
20 scheduling, the quality of which shall be as-
21 sessed by determining—

22 (i) whether the policy is crafted for
23 the purpose of ending unstable scheduling
24 and allows workers to effectively provide

1 for their families financially and emotion-
2 ally;

3 (ii) whether an employer has clear
4 consistent processes in place to provide all
5 employees with a good faith written esti-
6 mate of (1) how many shifts an employee
7 is scheduled to work per month, (2) the
8 days and hours these shifts will occur, and
9 (3) whether the employee will be expected
10 to work on-call shifts;

11 (iii) whether an employer provides em-
12 ployees with their final schedules not less
13 than two weeks in advance, including
14 whether such final schedules are written
15 and posted in the workplace, or posted on
16 an electronic portal easily accessed by all
17 employees;

18 (iv) whether an employer reports
19 changes to an employee's schedule within a
20 reasonable amount of time and com-
21 pensates employees when the employer
22 cancels or alters shifts;

23 (v) whether an employer limits "on
24 call" scheduling practices and provides rea-
25 sonable compensation, in addition to reg-

1 ular pay, to employees that are given less
2 than 24 hours notice before the start of a
3 scheduled work shift;

4 (vi) whether an employer reasonably
5 compensates each employee who reports to
6 work anticipating that the employee will
7 work a certain number of hours (deter-
8 mined by the employer) but is sent home
9 by the employer before such hours are
10 complete;

11 (vii) whether an employer guarantees
12 a reasonable rest period when employees
13 work consecutive shifts;

14 (viii) whether an employer consistently
15 offers any “extra” hours or shifts to exist-
16 ing employees before hiring new employees,
17 using a temp agency, or using contractors
18 or subcontractors;

19 (ix) whether an employer maintains
20 and utilizes an easily accessible and univer-
21 sally available voluntary standby list of
22 current employees willing to work addi-
23 tional hours due to unanticipated need or
24 unexpected absence;

1 (x) whether an employee avoids con-
2 sistent or systematic under-scheduling
3 which would result in employees consist-
4 ently working significantly more hours
5 than written in work schedule;

6 (xi) whether an employer allows em-
7 ployees to request not to be scheduled for
8 work shifts during certain times or at cer-
9 tain locations, and to identify preferences
10 for the hours or locations of work; and

11 (xii) whether an employer guarantees
12 its employees will not be subject to infor-
13 mal or formal retaliation (such a demotion,
14 reduction in hours, harassment, or termi-
15 nation) for requesting predictable sched-
16 ules;

17 (F) whether the employer has a policy of
18 guaranteeing access to paid sick leave, the qual-
19 ity of which shall be assessed by determining—

20 (i) whether an employer guarantees a
21 minimum of 56 hours paid sick leave annu-
22 ally for all employees;

23 (ii) in the case of an employer with 10
24 or more employees, whether the employer

1 guarantees more than 56 hours of paid
2 sick leave annually for all employees;

3 (iii) whether this paid sick leave is
4 distinct from time accrued as part of a
5 paid time off policy;

6 (iv) whether an employer provides
7 leave as an upfront allocation at the start
8 of employment and the start of subsequent
9 year of employment as opposed to requir-
10 ing that employees accrue paid sick leave;

11 (v) whether an employer allows paid
12 sick leave to be used by its employees to
13 recover from illness, injury, medical condi-
14 tion as well as to seek medical diagnosis,
15 preventive care, and other medical reasons;

16 (vi) whether an employer allows this
17 paid sick leave to also be used to aid, care
18 for, or attend medical appointments with
19 an employee's family (including the em-
20 ployee's child, parent, legal guardian or
21 ward, sibling, grandparent, grandchild,
22 spouse, registered domestic partner under
23 any State or local law, or other person rea-
24 sonably designated as family);

1 (vii) whether an employer ensures
2 that any verification requirements or policy
3 around use of paid sick leave is reasonable
4 and in no way onerous; and

5 (viii) whether an employer allows em-
6 ployees to use paid sick leave to recover
7 from or seek assistance in the aftermath of
8 domestic violence, sexual assault, sexual vi-
9 olence, or stalking;

10 (G) whether the employer has a policy of
11 providing employees access with paid parental
12 and family leave, the quality of which shall be
13 assessed by determining—

14 (i) whether an employer guarantees
15 12 weeks or more paid family or parental
16 leave annually after birth of a child, adop-
17 tion of a child, foster placement, or serious
18 illness of the employee or the employee's
19 family member serious illness (as defined
20 in section 101 of the Family and Medical
21 Leave Act of 1993 (29 U.S.C. 2611));

22 (ii) whether an employer provides
23 leave as an upfront allocation at the start
24 of employment as opposed to requiring

1 that employees accrue or earn paid family
2 leave;

3 (iii) whether an employer guarantees
4 such leave for both full-time and part-time
5 employees;

6 (iv) whether an employer guarantees
7 full or significant wage replacement during
8 the course of this leave;

9 (v) whether an employer guarantees a
10 high weekly benefit cap or no such cap;

11 (vi) whether the employer's paid fam-
12 ily leave policy include job protection for
13 all employees;

14 (vii) whether such leave may be used
15 when an employee's child, parent, legal
16 guardian or ward, sibling, grandparent,
17 grandchild, spouse, registered domestic
18 partner under any State or local law, or
19 other person reasonably designated as fam-
20 ily is deployed abroad on active military
21 service; and

22 (viii) whether such policy allows for
23 flexible hours once an employee returns to
24 work following paid family and medical
25 leave;

1 (H) whether the employer has a policy to
2 employ individuals who are represented by a
3 labor organization that has entered into a col-
4 lective bargaining agreement on the behalf of
5 such individuals, the quality of which shall be
6 assessed by determining—

7 (i) whether an employer has policies
8 guaranteeing the employees' right to be
9 represented by a labor organization and
10 has committed to engage in timely good
11 faith negotiations with the such labor orga-
12 nization;

13 (ii) whether an employer has policies
14 that recognize labor organizations formed
15 as a result of an election or use of author-
16 ization cards;

17 (iii) whether an employer has policies
18 guaranteeing its employees right to strike;
19 and

20 (iv) whether an employer has policies
21 guaranteeing that an employee will not be
22 subject to informal or formal retaliation
23 (such a demotion, reduction in hour, har-
24 assment, or termination) for joining or at-

1 tempting to be represented by a labor or-
2 ganization;

3 (I) whether the employer provides high-
4 quality healthcare that is subsidized by the em-
5 ployer;

6 (J) whether the employees have an oppor-
7 tunity to form a worker or employment coopera-
8 tive;

9 (K) whether the employer has policies in
10 places to proactively manage the ethical, social,
11 and environmental risks in the supply chain;
12 and

13 (L) any other relevant requirements as de-
14 termined by the Secretary and the Director;

15 (2) provide the head of each executive agency
16 with recommendations on how to evaluate such a
17 score in making contracting decisions, and ensure
18 that such recommendations will result in a pref-
19 erence for an employer that has higher scores with
20 respect to worker-friendliness;

21 (3) identify best practices for the implementa-
22 tion of the scoring process described in paragraph
23 (1), including best practices to—

24 (A) ensure that contracting officers con-
25 sider this score approximately equal in impor-

1 tance or significantly more important than cost
2 or price (as described in section 3306 of title
3 41, United States Code); and

4 (B) ensure that an offeror for a prime con-
5 tract does not subcontract with any entity that
6 violates the labor laws and executive orders list-
7 ed in subsection (c);

8 (4) maintain such scores in a database that is
9 publicly accessible, which may be an existing data-
10 base or a new database developed and maintained by
11 the Secretary of Labor;

12 (5) create a process for an employer to appeal
13 a score, including by submitting additional data or
14 requesting a new score due to changes to employee
15 policy;

16 (6) review each score every 5 years to ensure
17 that such score is up-to-date; and

18 (7) enable employers that are not Federal con-
19 tractors to request such a score for purposes of pro-
20 moting worker-friendly policies.

21 (c) LABOR LAWS AND EXECUTIVE ORDERS.—The
22 laws and executive orders listed in this subsection are as
23 follows:

24 (1) The Fair Labor Standards Act of 1938 (29
25 U.S.C. 201 et seq.).

1 (2) The Occupational Safety and Health Act of
2 1970 (29 U.S.C. 652 et seq.).

3 (3) The Migrant and Seasonal Agricultural
4 Worker Protection Act (29 U.S.C. 1801 et seq.).

5 (4) The National Labor Relations Act (29
6 U.S.C. 151 et seq.).

7 (5) Subchapter IV of chapter 31, of title 40,
8 United States Code (commonly referred to as the
9 “Davis-Bacon Act”).

10 (6) Chapter 67 of title 41, United States Code
11 (commonly referred to as the “Service Contract
12 Act”).

13 (7) Executive Order 11246 of September 24,
14 1965 (Equal Employment Opportunity).

15 (8) Section 503 of the Rehabilitation Act of
16 1973 (29 U.S.C. 793).

17 (9) The Family and Medical Leave Act of 1993
18 (29 U.S.C. 2601 et seq.).

19 (10) Title VII of the Civil Rights Act of 1964
20 (42 U.S.C. 2000e et seq.).

21 (11) The Americans with Disabilities Act of
22 1990 (42 U.S.C. 12101 et seq.).

23 (12) The Age Discrimination in Employment
24 Act of 1967 (29 U.S.C. 621 et seq.).

1 (13) Chapter 43 of title 38, United States Code
2 (commonly known as the “Uniformed Services Em-
3 ployment and Reemployment Rights Act of 1994”).

4 (14) Executive Order 13658 dated February
5 12, 2014.

6 (15) State laws comparable to the laws and ex-
7 ecutive orders listed in paragraphs (1) through (14).

8 (d) BI-YEARLY REPORT.—Not later than 12 months
9 after the date of enactment of this Act and every 6 months
10 thereafter until the method described in section 2(b)(1)
11 is developed, the Secretary shall submit to Congress a re-
12 port that includes—

13 (1) the status of developing the method de-
14 scribed in section 2(b)(1);

15 (2) the factors described in section 2(b)(1)
16 being taken into account in providing a score and
17 how each such factor is being weighted;

18 (3) the stakeholders consulted in developing the
19 method described in section 2(b)(1); and

20 (4) how the Secretary is meeting the require-
21 ments of the Secretary under this section.

22 (e) UPDATE OF FAR.—Not later than 18 months
23 after the date of enactment of this Act, the Federal Acqui-
24 sition Regulation shall be amended to carry out this Act.

25 (f) DEFINITIONS.—In this section:

1 (1) CONTRACT.—The term “contract” does not
2 include a contract with the Federal Prison Indus-
3 tries.

4 (2) DIRECTOR.—The term “Director” means
5 the Director of the Office of Management and Budg-
6 et.

7 (3) EXECUTIVE AGENCY.—The term “executive
8 agency” has the meaning given that term in section
9 133 of title 41, United States Code.

10 (4) SECRETARY.—The term “Secretary” means
11 the Secretary of Labor.

○