

116TH CONGRESS
2D SESSION

S. 4374

To establish a Government-wide initiative to promote diversity and inclusion in the Federal workforce, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2020

Mr. MENENDEZ (for himself, Mrs. FEINSTEIN, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish a Government-wide initiative to promote diversity and inclusion in the Federal workforce, 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 “Federal Jobs Act”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) AGENCY.—The term “agency”—

1 (A) has the meaning given the term “Exec-
2 utive agency” in section 105 of title 5, United
3 States Code; and

4 (B) includes the United States Postal
5 Service and the Postal Regulatory Commission.

6 (2) AGENCY PLAN.—The term “agency plan”
7 means the plan required under section 4(a)(1).

8 (3) APPROPRIATE CONGRESSIONAL COMMIT-
9 TEES.—The term “appropriate congressional com-
10 mittees” means—

11 (A) the Committee on Appropriations of
12 the Senate;

13 (B) the Committee on Appropriations of
14 the House of Representatives;

15 (C) the Committee on Finance of the Sen-
16 ate; and

17 (D) the Committee on Ways and Means of
18 the House of Representatives.

19 (4) DEPUTY DIRECTOR.—The term “Deputy
20 Director” means the Deputy Director of Manage-
21 ment of the Office of Management and Budget.

22 (5) DIRECTOR.—The term “Director” means
23 the Director of the Office of Personnel Management.

24 (6) DIVERSITY.—The term “diversity” includes
25 characteristics such as national origin, language,

1 race, color, disability, ethnicity, gender, age, religion,
2 sexual orientation, gender identity, socioeconomic
3 status, veteran status, and family structure.

4 (7) DIVERSITY PLAN.—The term “diversity
5 plan” means the plan required under section
6 3(a)(2).

7 (8) ECONOMICALLY AND SOCIALLY DISADVAN-
8 TAGED BUSINESS.—The term “economically and so-
9 cially disadvantaged business” has the meaning
10 given the term “socially and economically disadvan-
11 taged small business concern” in section 8(a)(4)(A)
12 of the Small Business Act (15 U.S.C. 637(a)(4)(A)).

13 (9) EMPLOYMENT PRACTICES.—The term “em-
14 ployment practices” means policies and practices of
15 an agency concerning—

16 (A) the recruitment, hiring, promotion,
17 and retention of employees; and

18 (B) professional development and training
19 for employees.

20 (10) HUMAN CAPITAL OPERATING PLAN.—The
21 term “human capital operating plan” means the
22 plan required under section 250.205 of title 5, Code
23 of Federal Regulations.

1 (11) PRIME CONTRACTOR.—The term “prime
2 contractor” has the meaning given the term in sec-
3 tion 8701 of title 41, United States Code.

4 (12) SUBCONTRACTOR.—The term “subcon-
5 tractor” has the meaning given the term in section
6 8701 of title 41, United States Code.

7 **SEC. 3. EXECUTIVE BRANCH DIVERSITY AND INCLUSION**
8 **INITIATIVE AND STRATEGIC PLAN.**

9 (a) IN GENERAL.—The Director, in coordination with
10 the Deputy Director, the President’s Management Coun-
11 cil, and the Chair of the Equal Employment Opportunity
12 Commission, shall—

13 (1) establish a coordinated initiative to promote
14 diversity and inclusion in the workforce of agencies;

15 (2) not later than 90 days after the date of en-
16 actment of this Act, develop and issue a strategic
17 plan relating to diversity and inclusion for agencies
18 that—

19 (A) focuses on—

20 (i) workforce diversity;

21 (ii) workplace inclusion; and

22 (iii) agency accountability and leader-
23 ship; and

24 (B) highlights comprehensive strategies for
25 agencies to identify and remove barriers to

1 equal employment opportunity in employment
2 practices;

3 (3) not less frequently than once every 4 years
4 beginning after the date on which the diversity plan
5 is issued under paragraph (2), update the diversity
6 plan;

7 (4) not later than 90 days after the date of en-
8 actment of this Act—

9 (A) review any agency directives relating to
10 the development or submission of—

11 (i) the human capital operating plan;

12 and

13 (ii) other workforce plans and reports
14 relating to employment practices;

15 (B) develop a strategy for consolidating
16 the plans and reports described in subpara-
17 graph (A), if the consolidation is appropriate
18 and permitted by law; and

19 (C) provide guidance to agencies for devel-
20 oping agency plans;

21 (5) identify appropriate practices to improve
22 the effectiveness of the efforts of each agency to for-
23 mulate employment practices that are consistent
24 with merit system principles; and

1 (6) establish a system for regular reporting on
2 the progress of agencies in implementing the agency
3 plans of the agencies.

4 (b) RECRUITMENT.—The coordinated initiative es-
5 tablished under subsection (a)(1) shall—

6 (1) include a plan to recruit qualified individ-
7 uals for employment at agencies; and

8 (2) endeavor to—

9 (A) achieve a workforce from all segments
10 of society; and

11 (B) avoid discrimination for or against any
12 employee or applicant on the basis of race,
13 color, religion, sex (including pregnancy or gen-
14 der identity), national origin, age, disability,
15 sexual orientation, veteran status, or any other
16 prohibited basis.

17 **SEC. 4. RESPONSIBILITIES OF AGENCIES.**

18 (a) AGENCY REPORT.—

19 (1) IN GENERAL.—The head of each agency
20 shall—

21 (A) not later than 120 days after the date
22 on which the diversity plan is issued under sec-
23 tion 3(a)(2) or updated under section 3(a)(3),
24 develop or update a plan for the agency to cre-

1 ate employment practices that maintain a di-
2 verse workforce, consistent with—

3 (i) merit system principles;

4 (ii) the overall strategic plan of the
5 agency;

6 (iii) the human capital operating plan
7 of the agency; and

8 (iv) any other applicable workforce
9 planning strategies and initiatives;

10 (B) designate the Chief Human Capital
11 Officer, the Director of Equal Employment Op-
12 portunity, and the Chief Diversity Officer of the
13 agency, if applicable, to—

14 (i) be responsible for enhancing em-
15 ployment and promotion opportunities
16 within the agency; and

17 (ii) develop and implement the agency
18 plan; and

19 (C) incorporate the agency plan into the
20 human capital operating plan of the agency.

21 (2) REVIEW.—The head of each agency shall
22 submit the agency plan of the agency to the Director
23 and the Deputy Director for review.

24 (b) ANNUAL UPDATES.—Not later than 90 days after
25 the date of enactment of this Act, and annually thereafter,

1 the head of each agency, in consultation with the Director
2 and the Deputy Director, shall publish a report on the
3 public website of the agency that includes—

4 (1) disaggregated demographic data sorted by
5 race, color, national origin, religion, sex, age, veteran
6 status, and disability relating to the workforce of the
7 agency;

8 (2) information on the status of diversity and
9 inclusion efforts of the agency;

10 (3) an analysis of available data relating to the
11 number of applications for employment received by
12 the agency sorted by the race, color, national origin,
13 religion, sex, age, veteran status, and disability of
14 the applicant;

15 (4) disaggregated demographic data relating to
16 each participating employee in professional develop-
17 ment programs offered or sponsored by the agency;

18 (5) the rate of the placement of each partici-
19 pating employee described in paragraph (4) into sen-
20 ior positions in the agency;

21 (6) data relating to the employment of tradi-
22 tionally underrepresented groups at the agency;

23 (7) the information reported under the system
24 established under section 3(a)(6); and

1 (8) disaggregated salary data sorted by race,
2 color, national origin, religion, sex, age, veteran sta-
3 tus, and disability relating to the workforce of the
4 agency.

5 (c) RETENTION AND EXIT INTERVIEWS OR SUR-
6 VEYS.—

7 (1) DEPARTING EMPLOYEES.—

8 (A) IN GENERAL.—The head of each agen-
9 cy shall provide each employee who leaves em-
10 ployment at the agency an opportunity to com-
11 plete an exit interview or survey.

12 (B) PURPOSE.—The head of each agency
13 shall design the exit interview or survey de-
14 scribed in subparagraph (A) to help the agency
15 understand the reasoning for which an em-
16 ployee leaves employment at the agency.

17 (2) USE OF ANALYSIS FROM INTERVIEWS AND
18 SURVEYS.—The head of each agency shall analyze
19 the demographic data and other information ob-
20 tained through the interviews or surveys described in
21 paragraph (1) to determine—

22 (A) if and how the diversity of participants
23 in the interviews or surveys impacts the results
24 of the interviews or surveys; and

1 (B) whether to implement any policy
2 changes.

3 (3) TRACKING DATA.—The head of each agency
4 shall—

5 (A) track demographic data relating to—

6 (i) each participating employee in pro-
7 fessional development programs offered or
8 sponsored by the agency; and

9 (ii) the rate of the placement of each
10 participating employee described in clause

11 (i) into senior positions in the agency;

12 (B) annually evaluate the data described in
13 subparagraph (A)—

14 (i) to identify ways to improve out-
15 reach and recruitment for professional de-
16 velopment programs offered or sponsored
17 by the agency, consistent with merit sys-
18 tem principles; and

19 (ii) to understand how participation in
20 any professional development program of-
21 fered or sponsored by the agency under
22 subparagraph (A) differs among the demo-
23 graphic categories of the workforce of the
24 agency; and

1 (C) actively encourage participation in pro-
2 fessional development programs offered and
3 sponsored by the agency from a range of demo-
4 graphic categories of the workforce of the agen-
5 cy, especially from demographic categories with
6 consistently low participation.

7 **SEC. 5. LEGISLATIVE AND JUDICIAL BRANCHES.**

8 (a) **LEGISLATIVE BRANCH.**—Each office treated as
9 an employing office under the Congressional Account-
10 ability Act of 1995 (2 U.S.C. 1301 et seq.) shall, to the
11 greatest extent practicable, carry out the requirements of
12 sections 3 and 4 with respect to the legislative branch of
13 Government.

14 (b) **JUDICIAL BRANCH.**—The Director of the Admin-
15 istrative Office of the United States Courts shall, to the
16 greatest extent practicable, carry out the requirements of
17 sections 3 and 4 with respect to the judicial branch of
18 Government.

19 **SEC. 6. DIVERSITY IN GOVERNMENT PROCUREMENT AND**
20 **GRANTMAKING.**

21 (a) **REPORTS ON CONTRACTING.**—

22 (1) **PRIME CONTRACTOR REPORTS.**—Not later
23 than 120 days after the date of enactment of this
24 Act, and annually thereafter, each prime contractor
25 that has a contract with an agency shall submit to

1 the head of each agency with which the prime con-
2 tractor has a contract a report that includes—

3 (A) a list of subcontractors—

4 (i) with which the prime contractor
5 has a contract relating to the contract of
6 the prime contractor with the agency; and

7 (ii) that are economically and socially
8 disadvantaged businesses; and

9 (B) the amounts the subcontractors de-
10 scribed in paragraph (1) receive from the prime
11 contractor.

12 (2) AGENCY REPORTS.—Not later than 1 year
13 after the date of enactment of this Act, and annually
14 thereafter, the head of each agency shall submit to
15 the appropriate congressional committees a report
16 that includes—

17 (A) a list of prime contractors—

18 (i) with which the agency has a con-
19 tract; and

20 (ii) that are economically and socially
21 disadvantaged businesses;

22 (B) the amounts the prime contractors de-
23 scribed in subparagraph (A) receive from the
24 agency; and

1 (C) the information contained in the prime
2 contractor reports received by the head of the
3 agency under paragraph (1).

4 (b) ANNUAL REPORTS.—

5 (1) IN GENERAL.—Not later than 1 year after
6 the date of enactment of this Act, and annually
7 thereafter, the head of each agency shall submit to
8 the appropriate congressional committees a com-
9 prehensive report on activities the agency is imple-
10 menting to increase procurement from, and grant
11 making to, economically and socially disadvantaged
12 businesses.

13 (2) CONTENT.—The report required under
14 paragraph (1) shall include a description of the ef-
15 forts of the agency to—

16 (A) list, describe, and evaluate the activi-
17 ties the agency is implementing to increase the
18 capacity of minority-led small nongovernmental
19 organizations and civil society organizations
20 to—

- 21 (i) win bids;
22 (ii) obtain contracts and grants; and
23 (iii) serve as subcontractors; and

24 (B) review any impact the restrictions
25 under part 19 of the Federal Acquisition Regu-

- 1 lation have had on economically and socially
- 2 disadvantaged businesses.

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