[DISCUSSION DRAFT]

118TH CONGRESS
2D SESSION

H. R. __

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

Ms. SCHAKOWSKY introduced the following bill; which was referred to the Committee on ______________

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patriotic Corporations of America Act of 2024".

SEC. 2. FEDERAL PROCUREMENT REQUIREMENTS AND PREFERENCES.

(a) AMENDMENT.—Chapter 47 of division C of subtitle I of title 41, United States Code, is amended by adding at the end the following new sections:

“§ 4715. Requirements for offerors

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

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

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

“(B) the amount equal to the sum of—

“(i) the wage rate in effect under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)); and

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

“(2) The offeror agrees to sign—

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

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

“(3) The head of the executive agency, in consultation with the National Labor Relations Board, determines that the offeror has not been found in violation or settled a claim for a violation of the right of an employee to organize under a law, including regulations thereof, administered by the National Labor

Relations Board, or of a State regulation determined relevant by the head of the executive agency, in consultation with the Secretary of Labor.

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

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

"(6) The offeror submits to the head of the executive agency confirmation of their compliance with standards promulgated pursuant to section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), and an actionable plan to address natural disasters and health crises, including policies and plans for the following:

"(A) The determination of essential employees.

"(B) Increased essential employee pay and quarantine pay.

"(C) Paid family and medical leave.

"(D) Temporary layoffs.

"(E) Whistleblower protections.

"(F) Emergencies in the case of rapidly changing circumstances, including the following:

"(i) An evacuation plan.

"(ii) Assessment and provision of personal protective equipment.

"(iii) Provision of medical services and first aid.

“(7) The offerer submits to the head of the executive agency an actionable plan to recruit and promote people of color, women, LGBTQ+ people, people with disabilities, and veterans.

“(8) In the case of a contract that is more than $100,000,000, the offeror submits a plan to meet the child care needs of their workforce.

“(9) In the case of a contract that exceeds $100,000, the offeror discloses publicly on the primary website of the offeror and submits to the Federal Acquisition Regulatory Council any political contribution, including to any Super PAC and 501(c)(4) organization.

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

“(1) paid a penalty that is greater than $100,000 for a violation of a law, including regulations thereof, administered by Environmental Protection Agency; or

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

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

“(1) maintains headquarters in the United States;

“(2) has Federal income tax liability which exceeds the offeror’s Federal income tax credits (other than such credits which constitute cash payments of tax by the offeror);

“(3) is neither an expatriated entity (as defined in subparagraph (A) of section 7874(a)(2) of the Internal Revenue Code of 1986) nor a surrogate foreign corporation (as defined in subparagraph (B) of such section); and

“(4) discloses financial performance and tax information on a country-by-country basis.

“(d) PRIVATE EQUITY OWNERSHIP.—In the case that a private equity firm holds a controlling interest in an offeror, the following requirements apply:

“(1) If the head of an executive agency determines, in consultation with the Secretary of Labor, the National Labor Relations Board, and the Administrator of the Environmental Protection Agency, that one company in which the private equity firm has a controlling interest violated subsection (a)(3) or (b), such head shall bar any company in which the private equity firm had a controlling interest at the time of violation from participation in a Federal contract for a period of 5 years.

“(2) The head of an executive agency may not award a contract unless—

“(A) the offeror discloses each parent company and controlling investor;

“(B) the offeror agrees for the duration of the contract to abstain from the following:

“(i) Dividend recapitalization.

“(ii) Payment of dividends that are in aggregate more than 10 percent of the amount of the debt load of the firm.

“(iii) Dividend payment while pensions are underfunded.

“(iv) Selling real estate assets and leasing them back.

“(v) The transfer of assets from the offering company to another company owned by a firm shareholder without the consent of the head of the agency.

“(3) The controlling private equity firm of the offeror agrees to abstain from charging management and monitoring fees to the offeror for the duration of the Federal contract.

“(e) MARKET SUSTAINABILITY.—

“(1) PREVENTION OF MARKET CONSOLIDATION.—The head of an executive agency shall ensure that Federal contract funds do not facilitate market consolidation.

“(2) TIME LIMIT ON ACQUISITION OF COMPETITORS.—The head of an executive agency may not award a contract unless—

“(A) the offeror signs an agreement that the offeror will not acquire a competitor or rival where the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly, for one year following the close of a Federal contract; and

“(B) in the case of a private equity firm that holds a controlling interest in an offeror, the offeror signs an agreement that the offeror will not acquire a competitor or rival where the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly, for two years following the close of a Federal contract.

“(3) VIOLATION.—A violation of this subsection—

“(A) shall be determined by the head of the relevant executive agency, in consultation with the Federal Trade Commission and the Attorney General; and

“(B) shall bar the offeror from participation in a Federal contract for a period of 5 years.

“(f) EMPLOYEE DEFINED.—In this section, the term ‘employee’ includes an independent contractor.

“§ 4716. Contract preferences

“(a) IN GENERAL.—There shall be a contract preference for an offeror that meets any of the following qualifications:

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

“(2) The offeror does not outsource jobs outside of the United States.

“(3) If the offeror has a Board of Directors, the offeror has at least one seat on such Board of Directors for a representative elected by the employees.

“(4) The offeror contributes at least 5 percent of the payroll to a portable pension fund for the employees.

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

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

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

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

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

“(10) The offeror documents that they have assisted each individual with an intellectual or developmental disability and other individual with a significant disability employed by the employer under an certificate under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) to transition to opportunities for competitive integrated employment and that such individuals are employed in such opportunities for not less than 20 hours per week, on average.

“(11) The offeror agrees to forgo all stock buybacks for a period of 5 years beginning on the date on which the contract begins.

“(12) The offeror submits a plan to meet the childcare needs of their workforce.

“(13) The offeror submits a climate impact assessment of the operations of the offeror and has implemented methods for reducing negative climate impacts.

“(14) The offeror, in a clear and conspicuous manner, labels any content generated with artificial intelligence.

“(15) The offeror has internal controls to ensure that any artificial intelligence tool or product the offeror develops is not used, either by employees or external users, to generate content that spreads misinformation about a Federal, State, or local election, or a candidate in such election.

“(16) The offeror has internal controls to ensure that any artificial intelligence tool or product the offeror develops is not used, either by employees or external users, to generate sexual material about an individual without their express affirmative consent.

“(17) The offeror has internal controls to ensure that any artificial intelligence tool or product the offeror develops is not used, either by the offeror or another company using the tool or product of the offeror, for workplace surveillance of employees.

“(18) The offeror has ensured that any artificial intelligence tool or product developed or used by the offeror is in compliance with the National Institute for Standards and Technology Artificial Intelligence Risk Management Framework.

“(b) APPLICATION OF PREFERENCE.—The head of an executive agency shall apply subsection (a) by providing greater preference to an offeror that meets a greater number of the qualifications under paragraphs (1) through (18) of such subsection.

“(c) DEFINITIONS.—For the purposes of this section—

“(1) the terms ‘developmental disability’ and ‘integrated’ have the meaning given the terms in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002);

“(2) the term ‘employee’ includes an independent contractor; and

“(3) the term ‘pay ratio’ means the ratio described in section 229.402(u)(1)(iii) of title 17, Code of Federal Regulations (or any successor regulation), except that if the highest compensated employee of the corporation is not the principal executive officer, the ratio shall be determined based on the compensation of such highest compensated employee.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of division C of subtitle I of title 41, United States Code, is amended by adding at the end the following new items:

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

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

SEC. 3. ADDITIONAL REQUIREMENTS FOR DEPARTMENT OF DEFENSE CONTRACTS.

(a) ADDITIONAL REQUIREMENTS FOR DEPARTMENT OF DEFENSE CONTRACTS.—Chapter 241 of title 10, United States Code, is amended by adding at the end the following new sections:

“§ 3310. Additional requirements for Department of Defense contracts

“(a) LABOR REQUIREMENTS FOR CONTRACTS.—The Secretary of Defense may not award a contract unless the following requirements are met:

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

“(A) $15, increased annually by the amount of any annual percentage increase of the median hourly wage of all employees, as determined by the Bureau of Labor Statistics; or

“(B) the amount equal to the sum of—

“(i) the wage rate in effect under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)); and

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

“(2) The offeror agrees to sign—

“(A) a neutrality agreement, effective for the duration of the contract, with respect to efforts to form a labor organization (as defined in section 2 of the National Labor Relations Act (29 U.S.C. 152)); and

“(B) an agreement, effective for the duration of the contract—

“(i) not to hire employees to replace any employee engaged in any strike, picketing, or other concerted refusal to work; or “(ii) not to close an entity of such offeror in response to such a strike, picketing, or other refusal to work.

“(3) The Secretary of Defense, in consultation with the National Labor Relations Board, determines that the offeror has not been found in violation, or settled a claim for a violation, of the right of an employee to organize—

“(A) under a law or regulation administered by the National Labor Relations Board; or

“(B) under a State regulation determined relevant by the Secretary of Defense, in consultation with the Secretary of Labor.

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

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

“(6) The offeror submits to the Secretary of Defense confirmation of compliance with standards issued pursuant to section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) and an actionable plan to address natural disasters and health crises, including policies and plans for—

“(A) the determination of essential employees;

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

“(C) paid family and medical leave in addition to such leave provided under paragraph (4);

“(D) temporary layoffs;

“(E) whistleblower protections during such a natural disaster or health crisis; and

“(F) emergencies in the case of rapidly changing circumstances, including—

“(i) an evacuation plan;

“(ii) an assessment of, and the provision of, personal protective equipment; and

“(iii) the provision of medical services and first aid.

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

“(8) In the case of a contract with a proposed value greater than $100,000,000, the offeror submits a plan to meet the child care needs of their workforce.

“(9) In the case of a contract a proposed value greater than $100,000, the offeror discloses publicly on the primary website of the offeror and submits to the Federal Acquisition Regulatory Council any political contribution, including to any super PAC (as defined by the Federal Election Commission) or any organization that is described in section 501(c)(4) of the Internal Revenue Code of 1986 and that is exempt from taxation under section 501(a) of such Code.

“(b) ENVIRONMENTAL SUSTAINABILITY REQUIREMENTS FOR CONTRACTS.—The Secretary of Defense may not award a contract unless the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines that the offeror has not, within the five-year period preceding the proposed date of such award—

“(1) paid a penalty that is greater than $100,000 for a violation of a law, including regulations thereof, administered by Environmental Protection Agency; or

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

“(c) TAX REQUIREMENTS FOR CONTRACTS.—The Secretary of Defense may not award a contract unless the offeror—

“(1) maintains headquarters in the United States;

“(2) has Federal income tax liability which exceeds the offeror’s Federal income tax credits (other than such credits which constitute cash payments of tax by the offeror);

“(3) is neither an expatriated entity (as defined in subparagraph (A) of section 7874(a)(2) of the Internal Revenue Code of 1986) nor a surrogate foreign corporation (as defined in subparagraph (B) of such section); and

“(4) discloses financial performance and tax information on a country-by-country basis.

“(d) PRIVATE EQUITY OWNERSHIP REQUIREMENTS FOR CONTRACTS.— (1) With respect to an offeror for which a private equity firm has a controlling interest, if such private equity firm has violated subsection (a)(3) or (b) (as determined by the Secretary of Defense in consultation with the Secretary of Labor, the National Labor Relations Board, and the Administrator of the Environmental Protection Agency), the Secretary of Defense may not award a contract to such offeror for the five-year period beginning on the date of such violation.

“(2) With respect to an offeror for which a private equity firm has a controlling interest, the Secretary of Defense may not award a contract to such offeror unless—

“(A) the offeror discloses any parent companies and controlling investors;

“(B) the offeror agrees for the duration of the contract to—

“(i) abstain from dividend recapitalizations;

"(ii) abstain from payment of dividends that are in aggregate more than ten percent of the amount of the offeror's debt load;

"(iii) abstain from payment of dividends if the offeror determines pensions of the offeror are underfunded;

"(iv) abstain from selling real estate assets and leasing such assets back; and

"(v) abstain from transferring assets of the offeror to a parent company of the offeror, or any other entity with such parent company, without consent from the Secretary of Defense.

"(3) The controlling private equity firm of the offeror agrees to abstain from charging management and monitoring fees to the offeror for the duration of the contract.

"(e) MARKET SUSTAINABILITY REQUIREMENTS FOR CONTRACTS.— (1) The Secretary of Defense shall ensure that funds from a contract awarded under this section do not facilitate market consolidation.

"(2) The Secretary of Defense may not award a contract unless—

"(A) the offeror signs an agreement that they will not acquire a competitor or rival where the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly, during the one-year period beginning on the last day of performance of the contract; and

"(B) with respect to an offeror for which a private equity firm holds a controlling interest, the offeror signs an agreement that they will not acquire a competitor or rival where the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly, during the two-year period beginning on the last day of performance of the contract.

“(3) The Secretary of Defense, in consultation with the Federal Trade Commission and the Attorney General, shall determine a violation of this subsection. A person that violates this subsection may not submit an offer for a contract under this section for a period of five years beginning on the date of such violation.

“(f) EMPLOYEE DEFINED.—In this section, the term ‘employee’ includes an independent contractor.

“§ 3311. Preference for contracts from offerors that meet certain requirements

“(a) IN GENERAL.—The Secretary of Defense shall establish a preference for contracting with an offeror that meets any of the following qualifications:**[**How does this preference interact with existing preferences for contracting in law?**]**

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

“(2) The offeror does not outsource jobs outside of the United States.

“(3) If the offeror has a board of directors, the offeror has at least one seat on such board for a representative elected by the employees of the offeror.

“(4) The offeror contributes at least five percent of the payroll to a portable pension fund for employees of the offeror.

“(5) The offeror provides assurances that the offeror will provide at least two percent of stock to employees of the offeror every year until the company is at least 20 percent owned such employees.

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

“(7) Women and people of color make up at least 40 percent of top executives of the offeror and, if the offeror has a board of directors, of the members of such board.

“(8) The offeror publicly discloses any pay gaps that exist between employees of the offeror that identifies the gender and race of such employees.

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

“(10) The offeror documents assistance provided to each individual with an intellectual or developmental disability and any other individual with a significant disability employed by the offeror under an certificate under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) to transition to competitive integrated employment (as defined in section 7(5) of the Rehabilitation Act of 1973 (29 U.S.C. 705(5))) and that such individuals are employed in such opportunities for not less than 20 hours per week, on average.

“(11) The offeror agrees to forgo all stock buybacks for a period of five years beginning on the date on which the contract begins.

“(12) The offeror submits a plan to meet the childcare needs of their workforce.

“(13) The offeror submits a climate impact assessment of the operations of the offerors and has implemented methods for reducing negative climate impacts.

“(14) The offeror discloses, in a clear and conspicuous manner, all content generated by artificial intelligence for the performance of the contract, including by identifying content as being generated by artificial intelligence, identifying the tool and version used to create the content, stating the date and time the content was created, and, to the extent technically feasible, ensure that the disclosures are permanent and unable to be removed or tampered with.

“(15) The offeror has internal controls to ensure that any artificial intelligence tool or product developed by the offeror is not used, either by employees or external users,

“(A) to generate content that spreads misinformation about a Federal, State, or local election, or a candidate in such election;

“(B) to generate sexual material about an individual without express affirmative consent of such individual; or

“(C) for workplace surveillance of employees of the offeror.

“(16) The offeror has ensured that any artificial intelligence tool or product developed or used by the offeror is in compliance with the National Institute for Standards and Technology Artificial Intelligence Risk Management Framework.

“(b) APPLICATION OF PREFERENCE.—The Secretary of Defense shall apply subsection (a) by providing greater preference to an offeror that meets a greater number of the qualifications under paragraphs (1) through (16) of such subsection.

“(c) DEFINITIONS.—In this section:

“(1) The terms ‘developmental disability’ and ‘integrated’ have the meaning given such terms, respectively, in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002).

“(2) The term ‘employee’ includes an independent contractor.

“(3) The term ‘pay ratio’ means the ratio described in section 229.402(u)(1)(iii) of title 17, Code of Federal Regulations (or any successor regulation), except that if the highest compensated employee of the corporation is not the principal executive officer, the ratio shall be determined based on the compensation of such highest compensated employee.”.

(b) EFFECTIVE DATE.—Sections 3310 and 3311 of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 2025.

(c) APPLICABILITY.—This section and the amendments made by this section shall apply to any contract entered into by the Secretary of Defense on or after the effective date of this section.