

117TH CONGRESS
1ST SESSION

S. 1729

To amend title 10, United States Code, to require contracting officers to consider information regarding domestic employment before awarding a Federal defense contract, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 20, 2021

Mr. MURPHY introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to require contracting officers to consider information regarding domestic employment before awarding a Federal defense contract, 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 “American Jobs Matter
5 Act of 2021”.

1 **SEC. 2. CONSIDERATION AND VERIFICATION OF INFORMA-**
 2 **TION RELATING TO EFFECT ON DOMESTIC**
 3 **EMPLOYMENT OF AWARD OF FEDERAL DE-**
 4 **FENSE CONTRACTS.**

5 (a) IN GENERAL.—Section 3206(c) of title 10,
 6 United States Code, as transferred and redesignated by
 7 section 1811(e) of the William M. (Mac) Thornberry Na-
 8 tional Defense Authorization Act for Fiscal Year 2021
 9 (Public Law 116–283), is amended by adding at the end
 10 the following new paragraph:

11 “(6) CONSIDERATION AND VERIFICATION OF
 12 INFORMATION RELATING TO EFFECT ON DOMESTIC
 13 EMPLOYMENT.—(A) In prescribing the evaluation
 14 factors to be included in each solicitation for com-
 15 petitive proposals for covered contracts, an agency
 16 shall include the effects on employment within the
 17 United States of the contract as an evaluation factor
 18 that must be considered in the evaluation of pro-
 19 posals.

20 “(B) In this paragraph, the term ‘covered con-
 21 tract’ means—

22 “(i) a contract in excess of \$1,000,000 for
 23 the procurement of manufactured goods;

24 “(ii) a contract in excess of \$1,000,000 for
 25 the procurement of goods or services listed in

1 the report of industrial base capabilities re-
2 quired by section 4814 of this title; and

3 “(iii) a contract in excess of \$1,000,000
4 for the procurement of any item procured as
5 part of a major defense acquisition program.

6 “(C) The head of an agency, in issuing a solici-
7 tation for competitive proposals, shall state in the
8 solicitation that the agency may consider, and in the
9 case of a covered contract will consider as an evalua-
10 tion factor under paragraph (1), information (in this
11 subparagraph referred to as a ‘jobs impact state-
12 ment’) that the offeror includes in its offer related
13 to the effects on employment within the United
14 States of the contract if it is awarded to the offeror.

15 “(D) The information that may be included in
16 a jobs impact statement may include the following:

17 “(i) The number of jobs expected to be
18 created or retained in the United States if the
19 contract is awarded to the offeror.

20 “(ii) The number of jobs created or re-
21 tained in the United States by the subcontract-
22 tors expected to be used by the offeror in the
23 performance of the contract.

24 “(iii) A guarantee from the offeror that
25 jobs created or retained in the United States

1 will not be moved outside the United States
2 after award of the contract unless doing so is
3 required to provide the goods or services stipu-
4 lated in the contract or is in the best interest
5 of the Federal Government.

6 “(E) The contracting officer may consider, and
7 in the case of a covered contract will consider, the
8 information in the jobs impact statement in the eval-
9 uation of the offer and may request further informa-
10 tion from the offeror in order to verify the accuracy
11 of any such information submitted.

12 “(F) In the case of a contract awarded to an
13 offeror that submitted a jobs impact statement with
14 the offer for the contract, the agency shall, not later
15 than one year after the award of the contract and
16 annually thereafter for the duration of the contract
17 or contract extension, assess the accuracy of the jobs
18 impact statement.

19 “(G) The Secretary of Defense shall submit to
20 Congress an annual report on the frequency of use
21 within the Department of Defense of jobs impact
22 statements in the evaluation of competitive pro-
23 posals.

24 “(H)(i) In any contract awarded to an offeror
25 that submitted a jobs impact statement with its

1 offer in response to the solicitation for proposals for
2 the contract, the agency shall track the number of
3 jobs created or retained during the performance of
4 the contract.

5 “(ii) If the number of jobs that the agency esti-
6 mates will be created (by using the jobs impact
7 statement) significantly exceeds the number of jobs
8 created or retained, then the agency may consider
9 this as a factor that affects a contractor’s past per-
10 formance in the award of future contracts.

11 “(iii) Contractors shall be provided an oppor-
12 tunity to explain any differences between their origi-
13 nal jobs impact statement and the actual amount of
14 jobs created or retained before the discrepancy af-
15 fects the agency’s assessment of the contractor’s
16 past performance.”.

17 (b) REVISION OF FEDERAL ACQUISITION REGULA-
18 TION.—The Department of Defense Supplement to the
19 Federal Acquisition Regulation shall be revised to imple-
20 ment the amendment made by subsection (a).

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