

118TH CONGRESS
1ST SESSION

S. 3008

To provide back pay to Federal contractors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 3, 2023

Ms. SMITH (for herself, Mr. BROWN, Mr. KAINE, Mr. WARNER, Mr. CARDIN, Mr. VAN HOLLEN, Mr. SCHATZ, Mr. FETTERMAN, Ms. CORTEZ MASTO, Ms. WARREN, Ms. DUCKWORTH, Mr. WYDEN, Mr. LUJÁN, Mr. SANDERS, Mr. MARKEY, Mr. BLUMENTHAL, Ms. HIRONO, Ms. STABENOW, Mr. CASEY, Mr. DURBIN, Mr. KING, Ms. KLOBUCHAR, Mr. WELCH, Mr. PADILLA, Mr. MERKLEY, Mr. HEINRICH, Ms. CANTWELL, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide back pay to Federal contractors, 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 “Fair Pay for Federal
5 Contractors Act of 2023”.

6 **SEC. 2. APPROPRIATION.**

7 There is hereby appropriated, out of any money in
8 the Treasury not otherwise appropriated, for the fiscal

1 year ending September 30, 2023, such sums as may be
2 necessary for each Federal agency subject to the lapse in
3 appropriations that began on or about October 1, 2023,
4 and any subsequent lapse in appropriations occurring dur-
5 ing fiscal year 2024 for adjustments in the price of con-
6 tracts of such agency under section 3: *Provided that*, such
7 sums shall be available for such purposes until December
8 31, 2024.

9 **SEC. 3. BACK COMPENSATION FOR EMPLOYEES OF GOV-**
10 **ERNMENT CONTRACTORS IN CONNECTION**
11 **WITH THE LAPSE IN APPROPRIATIONS.**

12 (a) BACK COMPENSATION.—

13 (1) IN GENERAL.—Each Federal agency subject
14 to the lapse in appropriations shall adjust the price
15 of any contract of such agency for which the con-
16 tractor suspended, delayed, or interrupted all or part
17 of the work of such contract, or stopped all or any
18 part of the work called for in such contract, as a re-
19 sult of the lapse in appropriations to compensate the
20 contractor for reasonable costs incurred—

21 (A) to provide compensation, at an employ-
22 ee's standard rate of compensation, to any em-
23 ployee who was furloughed or laid off, or who
24 was not working, who experienced a reduction
25 of hours, or who experienced a reduction in

1 compensation, as a result of the lapse in appro-
2 priations (for the period of the lapse); or

3 (B) to restore paid leave taken by any em-
4 ployee during the lapse in appropriations, if the
5 contractor required or permitted employees to
6 use paid leave as a result of the lapse in appro-
7 priations.

8 (2) ADJUSTMENT NOTWITHSTANDING CON-
9 TRACT TERMS.—An adjustment may be made under
10 this subsection for costs incurred as described in
11 paragraph (1) regardless of whether the contract
12 concerned provides for, or otherwise prohibits, the
13 contractor to incur such costs or receive such an ad-
14 justment for incurring such costs.

15 (b) LIMITATION ON AMOUNT OF WEEKLY COM-
16 PENSATION COVERED BY ADJUSTMENT.—The maximum
17 amount of weekly compensation of an employee for which
18 an adjustment may be made under subsection (a) may not
19 exceed the lesser of—

20 (1) the employee's actual weekly compensation;

21 or

22 (2) \$1,442 (or an appropriate lesser amount
23 pro-rated for an employee who works less than 40
24 hours per week).

25 (c) SCOPE OF ADJUSTMENT AUTHORITY.—

1 (1) ADJUSTMENT ONLY FOR COSTS ACTUALLY
2 INCURRED.—An adjustment may be made under
3 subsection (a) only for costs actually incurred by a
4 contractor as described in paragraph (1) of that sub-
5 section.

6 (2) PROOF OF PROVISION OF COMPENSATION.—
7 A contractor seeking an adjustment under sub-
8 section (a) shall provide the head of the Federal
9 agency concerned such evidence of the costs incurred
10 by the contractor as described in paragraph (1) of
11 that subsection as the head of the agency, in con-
12 sultation with the Administrator of the Office of
13 Federal Procurement Policy, considers appropriate.

14 (d) TIMING OF ADJUSTMENTS.—The adjustments re-
15 quired by subsection (a) shall be made as soon as prac-
16 ticable after the date of the enactment of this Act.

17 (e) REPORT.—

18 (1) IN GENERAL.—Not later than one year
19 after the date of the enactment of this Act, the Ad-
20 ministrator of the Office of Federal Procurement
21 Policy shall submit to the appropriate committees of
22 Congress and make publicly available a report on the
23 adjustments made under subsection (a).

24 (2) ELEMENTS.—The report required by para-
25 graph (1) shall set forth the following:

1 (A) Each Federal agency described in
2 paragraph (1) of subsection (a) that made ad-
3 justments required by that subsection.

4 (B) For each agency, the following:

5 (i) The total number of contractor
6 and subcontractor employees working for
7 such agency as of the commencement of
8 the lapse in appropriations described in
9 subsection (a)(1).

10 (ii) The total number of contractor
11 employees covered by clause (i) who were
12 furloughed, laid off, or did not work as a
13 result of the lapse in appropriations.

14 (iii) The total number, if any, of em-
15 ployees covered by clause (ii) who received
16 back compensation in connection with the
17 furlough, lay off, or cessation of work.

18 (iv) The total number, if any, of em-
19 ployees covered by clause (ii) who were re-
20 quired or permitted to use paid leave in
21 place of the furlough, lay off, or cessation
22 of work.

23 (v) The total number, if any, of em-
24 ployees covered by clause (ii) who received
25 back compensation equal to such employ-

ees’ actual weekly compensation in connection with the furlough, lay off, or cessation of work.

(vi) The total number, if any, of employees covered by clause (ii) who received back compensation that was subject to the limitation in subsection (b).

(f) DEFINITIONS.—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Accountability of the House of Representatives.

(2) The term “compensation” has the meaning given that term in section 6701 of title 41, United States Code.

(3) The term “employee” means the following:

(A) A “service employee” as that term is defined in section 6701(3) of title 41, United States Code, except that the term also includes service employees described in subparagraph (B) or (C) of that section notwithstanding such subparagraph.

1 (B) A “laborer or mechanic” covered by
2 section 3142 of title 40, United States Code.

3 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated such sums
5 as may be necessary for each Federal agency subject to
6 a lapse in appropriations for adjustments in the price of
7 contracts of such agency under section 3.

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