II

118TH CONGRESS
2D SESSION

S. 5530

To support and fund the Federal procurement of clean energy products, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2024

Ms. WARREN (for herself and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To support and fund the Federal procurement of clean energy products, 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 "Buy Green Act of 2024".

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Environment and Public Works of the Senate;

(C) the Committee on Transportation and Infrastructure of the House of Representatives; and

(D) the Committee on Energy and Commerce of the House of Representatives.

(2) CLEAN POWER.—The term ''clean power'' means power derived from a renewable energy source.

(3) COVERED PRODUCT.—

(A) IN GENERAL.—The term ''covered product'' means—

(i) energy—

(I) used to power a facility; and

(II) the production of which comes from a renewable energy source; and

(ii) a product that—

(I) is produced or manufactured—

(aa) in the United States (including the territories of the United States);

(bb) in accordance with all relevant energy efficiency, environmental preference, and safety designations; and

(cc) by an entity that complies with the labor requirements under section 6; and

(II) reduces energy usage during the lifecycle of the product by—

(aa) minimizing energy, water, or material resources associated with the product;

(bb) increasing opportunities for reuse and recycling due to the durability or repairability of the product; and

(cc) improving environmental and human health impacts, including by encouraging a shift away from more energy-intensive or resource-extraction-intensive products.

(B) INCLUSIONS.—The term "covered product" includes a product described in subparagraph (A)(ii) that—

(i) is a nonmotorized alternative mode of transportation;

(ii) is a zero-emission vehicle;

(iii) is a zero-emission form of public transportation, including high-speed rail;

(iv) is a product or low-carbon material used to design, construct, or retrofit buildings, including a product bearing the Green Seal certification;

(v) improves the energy efficiency measures of facilities to make facilities environmentally responsible;

(vi) is a product used to maintain or clean buildings;

(vii) is an appliance certified under the Energy Star program established under section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a);

(viii) is an electronics product bearing the Electronic Product Environmental Assessment Tool certification; or

(ix) is an energy storage technology.

(4) COVERED SMALL BUSINESS.—The term "covered small business" means—

(A) a small business concern owned and controlled by socially and economically disadvantaged individuals (as defined in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)));

(B) a small business concern owned and controlled by women (as defined in section 3 of that Act (15 U.S.C. 632)); and

(C) a small business concern owned and controlled by veterans (as defined in section 3 of that Act (15 U.S.C. 632)).

(5) ELIGIBLE MATERIAL.—The term "eligible material" means a material for which the Secretary establishes a maximum global warming potential under section 4(b).

(6) ENVIRONMENTALLY RESPONSIBLE.—The term "environmentally responsible", with respect to a facility or manufacturing capability, means that—

(A) the facility or manufacturing capability is in compliance with, or carried out in accordance with, as applicable, all relevant energy efficiency, environmental preference, and safety designations; and

(B) in the case of a facility, the facility is built or retrofitted with materials that minimize the use of—

(i) energy;

(ii) water;

(iii) waste; and

(iv) material resources that produce pollutants or toxins, as determined by the Secretary.

(7) FEDERAL BUILDING.—The term "Federal building" has the meaning given the term in section 551 of the National Energy Conservation Policy Act (42 U.S.C. 8259).

(8) FRONTLINE, VULNERABLE, AND DISADVANTAGED COMMUNITY.—The term "frontline, vulnerable, and disadvantaged community" means a community—

(A) in an area described in section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(a));

(B) in which climate change, pollution, or environmental destruction has exacerbated systemic racial, regional, social, environmental, gender, and economic injustices by disproportionately affecting Black, Brown, and Indigenous peoples, other communities of color, migrant communities, deindustrialized communities, depopulated rural communities, the poor, low-income workers, women, the elderly, the unhoused, people with disabilities, or youth;

(C) eligible for assistance under the Justice40 Initiative described in section 223 of Executive Order 14008 (42 U.S.C. 4321 note; relating to tackling the climate crisis at home and abroad); or

(D) located in a census tract that has a high energy burden.

(9) FUND.—The term ''Fund'' means the Clean Energy Fund established under section 3(a).

(10) GLOBAL WARMING POTENTIAL.—The term ''global warming potential'', with respect to an eligible material, means a measure that indicates how much energy the emissions of 1 ton of gases associated with the life cycle of that eligible material, including the manufacture, use, and disposal of that eligible material, will absorb, on average, over a given period of time, relative to the emissions of 1 ton of carbon dioxide.

(11) OVERSIGHT ADVISORY BOARD.—The term ''Oversight Advisory Board'' means the Green Pro-

curement Oversight Advisory Board established under section 7.

(12) RENEWABLE ENERGY SOURCE.—The term "renewable energy source" means energy generated from a renewable source, including the following renewable energy sources:

(A) Solar, including electricity.

(B) Wind.

(C) Ocean, including tidal, wave, current, and thermal.

(D) Geothermal, including electricity and heat pumps.

(E) Hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project that was placed in service on or after January 1, 1999.

(F) Hydrogen derived from a renewable source of energy.

(G) Thermal energy generated by any of the sources described in subparagraphs (A) through (F).

(13) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(14) SMALL BUSINESS.—The term ‘‘small business’’ has the meaning given the term ‘‘small business concern’’ in section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 3. ESTABLISHMENT OF CLEAN ENERGY FUND.

(a) IN GENERAL.—Not later than January 1, 2026, the Secretary shall establish a fund in the Department of Energy, to be known as the ‘‘Clean Energy Fund’’.

(b) USE OF FUND.—

(1) IN GENERAL.—The Secretary shall—

(A) use amounts in the Fund—

(i) to purchase covered products for use by the Secretary, including covered products relating to information technology and general supplies and services, in accordance with subsection (g) and section 5;

(ii) to establish and carry out the grant programs under subsections (c) and (d); and

(iii) to carry out the Federal building activities described in subsection (e); and

(B) transfer amounts from the Fund—

(i) to 1 or more Federal agencies (excluding the Department of Defense)—

(I) to purchase covered products for use by the Federal agency, in accordance with subsection (g) and section 5; and

(II) to carry out the Federal building activities described in subsection (e); and

(ii) to the Administrator of General Services to carry out subsection (f).

(2) PURCHASES FROM SMALL BUSINESSES.—Of the amounts from the Fund made available to a Federal agency in a fiscal year, the head of the Federal agency shall ensure that not less than 20 percent is used to purchase covered products from small businesses and covered small businesses.

(c) STATE, TRIBAL, AND LOCAL GOVERNMENT GRANT PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 2026, the Secretary, in coordination with the Secretary of the Treasury, shall establish a green procurement grant program under which the Secretary shall provide grants on a competitive basis to States, Indian Tribes, and units of local government to purchase covered products for use by the State, Indian Tribe, or unit of local government, as applicable, in

accordance with subsection (g), section 5, and the labor requirements under section 6.

(2) SELECTION OF GRANT RECIPIENTS.—The Secretary shall—

(A) share with the Oversight Advisory Board applications received under the grant program established under paragraph (1); and

(B) in coordination with the Secretary of the Treasury, select grant recipients under that program after receiving the recommendations of the Oversight Advisory Board relating to grant recipients.

(3) DISTRIBUTION OF GRANTS.—Of the amounts available in the Fund in a fiscal year to carry out the program under paragraph (1), the Secretary shall ensure that—

(A) not less than 60 percent, but not more than 65 percent, of the amount of a grant awarded to a State, Indian Tribe, or unit of local government shall be used to purchase covered products for use in urban areas located in or under the jurisdiction of the State, Indian Tribe, or unit of local government, as applicable;

(B) not less than 40 percent of the amount of a grant awarded to a State, Indian Tribe, or unit of local government shall be used to purchase covered products for use in frontline, vulnerable, and disadvantaged communities located in or under the jurisdiction of the State, Indian Tribe, or unit of local government, as applicable; and

(C) not less than 20 percent of the amount of a grant awarded to a State, Indian Tribe, or unit of local government shall be used to purchase covered products from small businesses and covered small businesses.

(4) PRIORITY FOR SCHOOL BUS ELECTRIFICATION.—In providing grants under paragraph (1), the Secretary shall give priority to States, Indian Tribes, and units of local government that will use the grant for the electrification of school buses in frontline, vulnerable, and disadvantaged communities and subsequently in all other communities located in or under the jurisdiction of the State, Indian Tribe, or unit of local government, as applicable.

(5) DURATION OF GRANT.—Funds provided under a grant under paragraph (1) shall be available to the State, Indian Tribe, or unit of local govern-

ment receiving the grant for not less than 3 years after the date on which the funds are provided.

(d) INDUSTRY GRANTS.—

(1) DEFINITIONS.—In this subsection:

(A) ELIGIBLE ENTITY.—

(i) IN GENERAL.—The term ‘‘eligible entity’’ means a company that—

(I) is organized under the laws of the United States or any jurisdiction within the United States; or

(II) is otherwise subject to the jurisdiction of the United States.

(ii) EXCLUSION.—The term ‘‘eligible entity’’ does not include a foreign branch of a company described in clause (i).

(B) GREENHOUSE GAS EMISSIONS.—The term ‘‘greenhouse gas emissions’’ means emissions of any of the following gases:

(i) Carbon dioxide.

(ii) Methane.

(iii) Nitrous oxide.

(iv) Hydrofluorocarbons.

(v) Perfluorocarbons.

(vi) Sulfur hexafluoride.

(vii) Nitrogen trifluoride.

(2) ESTABLISHMENT.—Not later than January 1, 2026, the Secretary shall establish a program under which the Secretary shall provide grants, on a competitive basis, to eligible entities—

(A) to retrofit or otherwise upgrade facilities that produce covered products, including to make those facilities environmentally responsible; and

(B) for the development of environmentally responsible manufacturing capabilities to bolster the production of covered products, including by—

(i) constructing new environmentally responsible facilities in the United States for the production of covered products; and

(ii) retrofitting or otherwise upgrading existing facilities in the United States—

(I) to produce covered products; and

(II) to make those facilities environmentally responsible.

(3) SELECTION OF GRANT RECIPIENTS.—In providing grants under paragraph (2), the Secretary shall—

(A) share grant applications with the Oversight Advisory Board;

(B) select grant recipients after receiving the recommendations of the Oversight Advisory Board relating to grant recipients;

(C) consider—

(i) any labor, health or safety, or discrimination charges filed against the eligible entity in the preceding 2 years;

(ii) any violations of the National Labor Relations Act (29 U.S.C. 151 et seq.) reported to the National Labor Relations Board in the preceding 2 years;

(iii) as applicable, whether wages and benefits for auto workers are not less than the industry standards for wages and benefits for auto workers who are represented by a labor organization;

(iv) whether jobs created for purposes of activities supported through the grant will be permanent positions, rather than temporary or contingent positions;

(v) whether training required under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) will be provided for employees, including any safety supervisors;

(vi) the policy of the eligible entity with respect to coverage of workers' compensation; and

(vii) whether the work sites that will be used for activities supported through the grant have independent health and safety monitoring policies; and

(D) prioritize applications that specify that the eligible entity—

(i) participates or will participate in a registered apprenticeship program; or

(ii) prioritizes the employment of individuals trained and certified by labor organizations, or joint labor-management organizations, that promote a skilled workforce with high standards for quality and safety.

(4) REQUIREMENT.—An eligible entity receiving a grant under paragraph (2) shall comply with the labor requirements under section 6 with respect to the activities carried out using, or otherwise supported by, the grant.

(5) SUBMISSION OF ENVIRONMENTAL PRODUCT DECLARATION.—The Secretary shall require each el-

igible entity to which the Secretary awards a grant under paragraph (2) to submit to the Secretary, for each eligible material proposed to be used in the applicable project—

(A) a current, facility-specific, Type III environmental product declaration (as defined by the International Organization for Standardization standard 14025); or

(B) a declaration made under a similarly robust life cycle assessment method that has—

(i) uniform standards in data collection consistent with that standard;

(ii) industry acceptance; and

(iii) integrity.

(6) CERTIFICATIONS.—The Secretary shall require that any application for a grant under paragraph (2) shall include a certification that the facility-specific global warming potential for any eligible material proposed to be used in that project does not exceed the maximum acceptable global warming potential established under paragraph (1) of section 4(b) (as adjusted under paragraph (2)(A)(ii) of that section, if applicable) for that eligible material.

(7) GOAL.—In carrying out this subsection, the Secretary shall strive to achieve a continuous reduction of greenhouse gas emissions over time.

(8) PURCHASES FROM SMALL BUSINESSES.—Of the amounts made available under subsection (j) in a fiscal year to carry out the grant program established under paragraph (2), the Secretary shall ensure that not less than 20 percent is used to provide grants under that program to eligible entities that are small businesses or covered small businesses.

(9) REPORT ON IMPLEMENTATION AND EFFECTIVENESS.—Not later than January 1, 2026, the Secretary shall submit to the appropriate committees of Congress and the Oversight Advisory Board a report describing—

(A) any obstacles to the implementation of the grant program established under this subsection;

(B) the effectiveness of the grant program in reducing—

(i) greenhouse gas emissions; and

(ii) the global warming potential for eligible materials; and

(C) the effectiveness of the grant program in—

(i) creating and maintaining jobs in the United States that comply with the labor requirements under section 6; and

(ii) protecting the rights of workers in the United States, including the right of certain workers to organize and bargain collectively.

(e) FEDERAL BUILDING ACTIVITIES.—The Federal building activities referred to in subsection (b) are, with respect to a Federal agency, activities—

(1) to construct new, modern Federal buildings of that Federal agency, including new hospitals, medical centers, and clinics in the case of the Department of Veterans Affairs, that are sustainable and resilient, including through the purchase of low-carbon materials for that construction; and

(2) to modernize, and improve the sustainability and resilience of, Federal buildings of that Federal agency, including hospitals, medical centers, and clinics in the case of the Department of Veterans Affairs, including through—

(A) the purchase of low-carbon materials for retrofitting, remodeling, or otherwise improving Federal buildings; and

(B) the purchase of clean power for Federal buildings.

(f) Replacement of Federal Fleet.—Using amounts from the Fund, the Administrator of General Services shall purchase zero-emission vehicles to replace the existing Federal fleet (as defined by the term ''fleet'' in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) so that by the end of fiscal year 2033 the entire Federal fleet consists of zero-emission vehicles.

(g) Priority for Purchasing Covered Products.—A Federal agency, State, Indian Tribe, or unit of local government purchasing covered products pursuant to this section shall give priority to purchasing covered products that—

(1) are made from renewable and recycled resources (including biobased products);

(2) have lower lifecycle emissions than comparable products; and

(3) are designed for—

(A) reducing environmental impacts; and

(B) recycling.

(h) Buy American.—

(1) In general.—Chapter 83 of title 41, United States Code, shall apply with respect to pur-

chases of covered products made pursuant to this section—

(A) by a Federal agency; and

(B) in the case of purchases by a non-Federal entity, in the same manner in which that chapter applies to the Federal Government.

(2) EXCEPTIONS AND WAIVERS.—The Secretary shall, to the maximum extent practicable, minimize the number of exceptions and waivers granted under chapter 83 of title 41, United States Code, with respect to purchases of covered products made pursuant to this section.

(i) REPORT.—Not less frequently than once each fiscal year, the Secretary shall submit to the appropriate committees of Congress and the Oversight Advisory Board a report that—

(1) describes the activities carried out using amounts in the Fund, including data on the clean power purchased under subsection (e)(2)(B);

(2) includes data on the covered products purchased pursuant to those activities; and

(3) includes data on compliance with subsection (h).

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund

$1,500,000,000,000 for the period of fiscal years 2026 through 2035, to remain available until January 1, 2045, of which not less than—

(1) $750,000,000,000 shall be used to carry out the grant program established under subsection (c); and

(2) $250,000,000,000 shall be used to carry out the grant program established under subsection (d).

SEC. 4. PROCUREMENT PRACTICES FOR THE DEPARTMENT OF ENERGY.

(a) SENIOR PROCUREMENT OFFICER.—The Secretary shall—

(1) be designated as the senior procurement officer for the Department of Energy; and

(2) coordinate with the Director of the Office of Management and Budget in carrying out procurement for the Department of Energy.

(b) MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL OF ELIGIBLE MATERIALS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Not later than January 1, 2025, the Secretary shall establish, and publish in the Federal Register—

(i) an initial list of materials for which the Secretary shall establish a maximum acceptable global warming potential under this subsection; and

(ii) the maximum acceptable global warming potential for each material identified on that list, as determined in accordance with subparagraph (B).

(B) REQUIREMENTS.—

(i) INDUSTRY AVERAGE.—

(I) IN GENERAL.—The maximum acceptable global warming potential for an eligible material under subparagraph (A) shall be expressed as a number that is equal to the industry average of facility-specific global warming potential emissions for that eligible material, as determined under subclause (II).

(II) DETERMINATION.—The Secretary shall determine the industry average described in subclause (I) for an eligible material by consulting nationally or internationally recognized databases of environmental product declarations.

(ii) CONSISTENCY WITH ENVIRONMENTAL PRODUCT DECLARATION.—Each maximum acceptable global warming potential established under subparagraph (A) shall be established in a manner that is consistent with the requirements of an environmental product declaration.

(C) REPORT.—Not later than January 1, 2026, the Secretary shall submit to the appropriate committees of Congress and the Oversight Advisory Board a report that describes the method that the Secretary used to develop the maximum global warming potential for each eligible material under subparagraph (A).

(2) REVIEW AND ADJUSTMENT.—

(A) IN GENERAL.—Not later than January 1, 2029, and every 3 years thereafter through 2045, the Secretary—

(i) shall review the maximum acceptable global warming potential established under paragraph (1) for each eligible material; and

(ii) may adjust that maximum acceptable global warming potential for an eligible material downward to reflect industry improvements if the Secretary, based on the process described in paragraph (1)(B)(i)(II), determines that the industry average has changed.

(B) PUBLICATION.—If the Secretary adjusts the maximum acceptable global warming potential of an eligible material downward under subparagraph (A)(ii), the Secretary shall publish the updated maximum global warming potential in the Federal Register.

(C) PROHIBITION.—After establishing the maximum acceptable global warming potential for an eligible material under paragraph (1), the Secretary may not adjust that maximum acceptable global warming potential upward.

SEC. 5. REQUIREMENTS FOR PROCUREMENT OF COVERED PRODUCTS.

An entity procuring a covered product pursuant to this Act shall ensure that the procurement—

(1) is conducted in compliance with all applicable laws regarding fair and open competition in contracting;

(2) is subject to appropriate cost controls;

(3) provides for whistleblower protections for employees of contractors and subcontractors;

(4) requires contractors and subcontractors to retain records pertinent to contract performance;

(5) requires contractors to submit to the entity audited financial statements covering the contract performance period; and

(6) is conducted in compliance with section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act") and other applicable open records laws.

SEC. 6. LABOR REQUIREMENTS.

(a) DEFINITIONS.—In this section:

(1) COVERED ACTIVITIES.—The term "covered activities" means—

(A) with respect to a covered entity described in subparagraph (A) of paragraph (2), activities involving producing or manufacturing a covered product; or

(B) with respect to a covered entity described in subparagraph (B) of such paragraph, activities supported by the grant described in such subparagraph.

(2) COVERED ENTITY.—The term "covered entity" means—

(A) an entity producing or manufacturing a covered product; or

(B) an entity receiving a grant under this Act.

(b) REQUIREMENTS.—The labor requirements under this section with respect to a covered entity are each of the following:

(1) MINIMUM WAGE.—

(A) IN GENERAL.—All employees employed in the performance of covered activities shall be paid at a rate of not less than—

(i) $17.00 an hour, beginning on the date of enactment of this Act; and

(ii) beginning on the date that is 1 year after such date of enactment, and annually thereafter, the amount in effect under this subparagraph for the preceding year, increased by the annual percentage increase, if any, in the median hourly wage of all employees as determined by the Bureau of Labor Statistics and rounded up to the nearest multiple of $0.05 (if not otherwise a multiple of $0.05).

(B) CALCULATION.—In calculating the annual percentage increase in the median hourly wage of all employees for purposes of subparagraph (A)(ii), the Secretary of Labor, through the Bureau of Labor Statistics, shall—

(i) compile data on the hourly wages of all employees to determine such a median hourly wage; and

(ii) compare such median hourly wage for the most recent year for which data are available with the median hourly wage determined for the preceding year.

(C) PREVAILING WAGES FOR LABORERS AND MECHANICS.—

(i) IN GENERAL.—All laborers and mechanics employed by a covered entity in the performance of construction, alteration, or repair work carried out with respect to covered activities shall be paid wages at rates not less than the greater of—

(I) the rates prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code; or

(II) the rate required under subparagraph (A).

(ii) AUTHORITIES.—With respect to the labor standards specified in clause (i)(I), the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(D) REQUIREMENTS APPLICABLE TO VEHICLE PRODUCTION.—

(i) DEFINITIONS.—In this subparagraph:

(I) COVERED PRODUCTION WORKER.—The term ‘‘covered production worker’’ means a worker who—

(aa) is employed by an establishment in the Motor Vehicle Manufacturing industry (Code 3361 of the North American Industry Classification System);

(bb) is directly involved in the production of a vehicle; and

(cc) is not a manager, engineer, or involved in research and development, or does not have a skilled trade.

(II) INDUSTRY STANDARD WAGE RATE.—The term "industry standard wage rate", with respect to covered production workers, means the median wage rate for all covered production workers, as determined by the Secretary of Labor in accordance with clause (iv).

(III) TOP EARNING WAGE RATE.—The term "top earning wage rate" means the value of the wage rate for which 75 percent of covered production workers earn less, as determined by the Secretary of Labor in accordance with clause (iv).

(ii) MINIMUM WAGE RATE.—Notwithstanding any other requirement in this section, the covered entity shall ensure that—

(I) the average rate of pay for all covered production workers employed, directly by a manufacturer or through a subcontractor or employment services agency, in the performance of covered activities is not less than the industry standard wage rate for covered production workers; and

(II) all covered production workers described in subclause (I) are paid not less than the rate in effect under subparagraph (A).

(iii) PATHWAY TO TOP EARNING WAGE RATE.—The covered entity shall ensure that all covered production workers employed, directly by a manufacturer or through a subcontractor or employment services agency, in the performance of covered activities, are covered by a policy determined in a labor organization contract or a written company policy that provides, to the extent practicable, a pathway for such workers to earn the top earning wage rate not later than 7 years after beginning such employment.

(iv) DETERMINING WAGES OF WORKERS IN THE INDUSTRY.—For purposes of this subparagraph, in determining for a year the industry standard wage rate and the top earning wage rate, the Secretary of Labor shall use the National Industry-Specific Occupational Employment and Wage Estimates, for the preceding year, for the Motor Vehicle Manufacturing industry (Code 3361 of the North American Industry Classification System) for the occupation of Assemblers and Fabricators (Occupational Code 51–2000 of the Occupational Employment Statistics of the Bureau of Labor Statistics).

(2) EMPLOYEE PROTECTIVE ARRANGEMENTS.—The covered entity shall ensure the interests of employees employed in the performance of covered activities shall be protected under arrangements the Secretary of Labor concludes are fair and equitable in accordance with section 5333(b) of title 49, United States Code, and meet the requirements of such section. Any solicitation for a grant under this Act shall specify the arrangements.

(3) NEUTRALITY TOWARD ORGANIZED LABOR.—The covered entity shall have—

(A) an explicit policy of neutrality with regard to—

(i) labor organizing for the employees of the covered entity employed in the performance of covered activities; and

(ii) such employees' choice to form and join labor organizations; and

(B) policies that require—

(i) the posting and maintenance of notices in the workplace to such employees of their rights under the National Labor Relations Act (29 U.S.C. 151 et seq.); and

(ii) that such employees are, at the beginning of their employment in the performance of covered activities, provided notice and information regarding the employees' rights under such Act.

(4) PAID FAMILY AND MEDICAL LEAVE.—The covered entity shall have an explicit policy providing all employees employed in the performance of any covered activity not less than 12 workweeks of paid leave in a 12-month period for any purpose described in section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)), in accordance with regulations promulgated by the Secretary of Labor.

(5) FAIR SCHEDULING.—

(A) IN GENERAL.—The covered entity shall have an explicit policy for fair scheduling for employees employed in the performance of any covered activity, which shall include—

(i) an opportunity for the employee to request—

(I) an adjustment in the number of hours, work location, or times of the employee's work schedule;

(II) a change in the amount of notification provided to the employee regarding the work schedule; or

(III) the minimizing of fluctuations in the number of hours the employee is scheduled to work on a daily, weekly, or monthly basis; and

(ii) a timely, good faith interactive process through which the covered entity and employee discuss the employee's request under clause (i) and the covered entity grants the request or suggests any alternatives that might meet the employee's needs.

(B) EXCEPTION.—Subparagraph (A) shall not apply to any employee covered by a valid collective bargaining agreement if—

(i) the terms of the collective bargaining agreement include terms that govern work scheduling practices; and

(ii) the provisions of such subparagraph are expressly waived in such collective bargaining agreement.

(6) PREFERENCES IN HIRING.—The covered entity shall have explicit policies that provide—

(A) a preference for local hiring for all covered activities, consistent with applicable Federal law and subject to rules issued by the Secretary of Labor; and

(B) a preference for the hiring of individuals from frontline, vulnerable, or disadvantaged communities for covered activities.

(7) REQUIREMENT REGARDING SUBCONTRACTORS.—The covered entity shall require that each subcontractor of the covered entity for covered activities comply with the requirements of this subsection with respect to all employees of the subcontractor employed in the performance of the covered activities.

(c) DETERMINING EMPLOYMENT RELATIONSHIP.—For purposes of this section, an individual performing any service in the performance of covered activities for a covered entity shall be considered an employee, and not an independent contractor, of that covered entity, unless—

(1) the individual is free from control and direction in connection with the performance of the service, both under the contract for the performance of service and in fact;

(2) the service is performed outside the usual course of the business of the covered entity; and

(3) the individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed.

SEC. 7. GREEN PROCUREMENT OVERSIGHT ADVISORY BOARD.

(a) IN GENERAL.—There is established a Green Procurement Oversight Advisory Board within the Department of Energy.

(b) COORDINATION.—The Oversight Advisory Board shall carry out its activities in coordination with the Office of Federal Sustainability and the Office of Management and Budget.

(c) MEMBERSHIP.—The members of the Oversight Advisory Board shall—

(1) be appointed by the Secretary of Energy; and

(2) consist of—

(A) experts on procurement and clean energy, including scientists, from Federal and State agencies;

(B) 1 or more representatives from—

(i) each of—

(I) the Office of Science and Technology Policy;

(II) the General Services Administration; and

(III) the Council on Environmental Quality;

(ii) environmental justice organizations; and

(iii) unionized labor groups; and

(C) chief financial officers of private companies.

(d) FUNCTIONS.—The Oversight Advisory Board shall—

(1) oversee the procurement of covered products by Federal agencies pursuant to this Act, including to ensure that procurement of those products is carried out—

(A) efficiently and in accordance with relevant contracting and labor laws, including open competition requirements;

(B) in compliance with relevant conflict of interest requirements;

(C) in a manner that—

(i) promotes open competition; and

(ii) prevents frauds; and

(D) by Federal agency personnel sufficiently trained to ensure responsible procurement practices pursuant to this Act and the goals of this Act;

(2) offer recommendations relating to the selection of recipients of grants under the grant programs established under this Act, with the goal of ensuring that grant recipients will use the grant funds—

(A) efficiently and in accordance with relevant contracting and labor laws, including open competition requirements;

(B) in compliance with relevant conflict of interest requirements;

(C) in a manner that—

(i) promotes open competition; and

(ii) prevents frauds; and

(D) by personnel sufficiently trained to ensure responsible procurement practices pursuant to this Act and the goals of this Act; and

(3) submit an annual report to the Comptroller General of the United States, Congress, and the President describing—

(A) the procurement of covered products by Federal agencies pursuant to this Act; and

(B) the recommendations made by the Oversight Advisory Board under paragraph (2).

(e) AUTHORITIES.—The Oversight Advisory Board—

(1) shall have the authority to issue subpoenas; and

(2) may refer parties that engage in fraud in connection with a procurement contract entered into by a Federal agency pursuant to this Act to the appropriate Federal law enforcement authority.

(f) TREATMENT AS ADVISORY COMMITTEE.—The Oversight Advisory Board is an advisory committee (as defined in section 1001 of title 5, United States Code).

SEC. 8. OVERSIGHT BY COMPTROLLER GENERAL.

The Comptroller General of the United States shall—

(1) conduct oversight of the funds appropriated under this Act to ensure transparency and compliance with all applicable requirements; and

(2) shall make publicly available an annual report that—

(A) evaluates the efficacy of the programs established under this Act; and

(B) makes recommendations for any improvements to those programs.

○