

118TH CONGRESS
1ST SESSION

H. R. 5810

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2023

Ms. PRESSLEY (for herself, Ms. NORTON, Mr. NORCROSS, Mr. BEYER, Ms. BALINT, Ms. BLUNT ROCHESTER, Ms. BROWN, Ms. BUSH, Mr. CARSON, Mr. CARTER of Louisiana, Mr. CASAR, Mr. CASTEN, Mr. CONNOLLY, Ms. DELBENE, Mr. EVANS, Ms. LOIS FRANKEL of Florida, Mr. GOTTHEIMER, Mrs. HAYES, Mr. JACKSON of Illinois, Ms. JACKSON LEE, Ms. JACOBS, Mr. JOHNSON of Georgia, Mr. KIM of New Jersey, Ms. KUSTER, Ms. LEE of California, Ms. LEE of Nevada, Mr. LYNCH, Ms. McCLELLAN, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. MOULTON, Mr. NADLER, Ms. OCASIO-CORTEZ, Ms. PINGREE, Ms. PLASKETT, Mr. POCAN, Mr. RASKIN, Mr. RUIZ, Mr. SARBANES, Ms. SCHAKOWSKY, Mr. SCOTT of Virginia, Mr. SOTO, Ms. SPANBERGER, Ms. STANSBURY, Mr. THANEDAR, Ms. TLAIB, Mr. TONKO, Mr. TRONE, Ms. VELÁZQUEZ, Mrs. WATSON COLEMAN, Ms. WEXTON, Ms. WILLIAMS of Georgia, Ms. WILSON of Florida, Mr. TAKANO, Ms. BONAMICI, Ms. TOKUDA, Ms. UNDERWOOD, and Ms. STRICKLAND) introduced the following bill; which was referred to the Committee on Appropriations, and in addition to the Committee on Oversight and Accountability, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fair Pay for Federal
3 Contractors Act of 2023”.

4 **SEC. 2. APPROPRIATION.**

5 There is hereby appropriated, out of any money in
6 the Treasury not otherwise appropriated, for the fiscal
7 year ending September 30, 2023, such sums as may be
8 necessary for each Federal agency subject to the lapse in
9 appropriations that began on or about October 1, 2023,
10 and any subsequent lapse in appropriations occurring dur-
11 ing fiscal year 2024 for adjustments in the price of con-
12 tracts of such agency under section 3: *Provided that*, such
13 sums shall be available for such purposes until December
14 31, 2024.

15 **SEC. 3. BACK COMPENSATION FOR EMPLOYEES OF GOV-
16 ERNMENT CONTRACTORS IN CONNECTION
17 WITH THE LAPSE IN APPROPRIATIONS.**

18 (a) BACK COMPENSATION.—

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

1 (A) to provide compensation, at an employ-
2 ee's standard rate of compensation, to any em-
3 ployee who was furloughed or laid off, or who
4 was not working, who experienced a reduction
5 of hours, or who experienced a reduction in
6 compensation, as a result of the lapse in appro-
7 priations (for the period of the lapse); or

8 (B) to restore paid leave taken by any em-
9 ployee during the lapse in appropriations, if the
10 contractor required or permitted employees to
11 use paid leave as a result of the lapse in appro-
12 priations.

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

20 (b) LIMITATION ON AMOUNT OF WEEKLY COM-
21 PENSATION COVERED BY ADJUSTMENT.—The maximum
22 amount of weekly compensation of an employee for which
23 an adjustment may be made under subsection (a) may not
24 exceed the lesser of—

1 (1) the employee's actual weekly compensation;
2 or

3 (2) \$1,442 (or an appropriate lesser amount
4 pro-rated for an employee who works less than 40
5 hours per week).

6 (c) SCOPE OF ADJUSTMENT AUTHORITY.—

7 (1) ADJUSTMENT ONLY FOR COSTS ACTUALLY
8 INCURRED.—An adjustment may be made under
9 subsection (a) only for costs actually incurred by a
10 contractor as described in paragraph (1) of that sub-
11 section.

12 (2) PROOF OF PROVISION OF COMPENSATION.—

13 A contractor seeking an adjustment under sub-
14 section (a) shall provide the head of the Federal
15 agency concerned such evidence of the costs incurred
16 by the contractor as described in paragraph (1) of
17 that subsection as the head of the agency, in con-
18 sultation with the Administrator of the Office of
19 Federal Procurement Policy, considers appropriate.

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

23 (e) REPORT.—

24 (1) IN GENERAL.—Not later than one year
25 after the date of the enactment of this Act, the Ad-

1 administrator of the Office of Federal Procurement
2 Policy shall submit to the appropriate committees of
3 Congress and make publicly available a report on the
4 adjustments made under subsection (a).

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

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

10 (B) For each agency, the following:

11 (i) The total number of contractor
12 and subcontractor employees working for
13 such agency as of the commencement of
14 the lapse in appropriations described in
15 subsection (a)(1).

16 (ii) The total number of contractor
17 employees covered by clause (i) who were
18 furloughed, laid off, or did not work as a
19 result of the lapse in appropriations.

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

24 (iv) The total number, if any, of em-
25 ployees covered by clause (ii) who were re-

1 required or permitted to use paid leave in
2 place of the furlough, lay off, or cessation
3 of work.

4 (v) The total number, if any, of em-
5 ployees covered by clause (ii) who received
6 back compensation equal to such employ-
7 ees' actual weekly compensation in connec-
8 tion with the furlough, lay off, or cessation
9 of work.

10 (vi) The total number, if any, of em-
11 ployees covered by clause (ii) who received
12 back compensation that was subject to the
13 limitation in subsection (b).

14 (f) DEFINITIONS.—In this section:

15 (1) The term “appropriate committees of Con-
16 gress” means—

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

19 (B) the Committee on Oversight and Ac-
20 countability of the House of Representatives.

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

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

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

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

9 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated such sums
11 as may be necessary for each Federal agency subject to
12 a lapse in appropriations for adjustments in the price of
13 contracts of such agency under section 3.

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