

116TH CONGRESS  
2D SESSION

# S. 4374

To establish a Government-wide initiative to promote diversity and inclusion in the Federal workforce, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

JULY 30, 2020

Mr. MENENDEZ (for himself, Mrs. FEINSTEIN, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

---

## A BILL

To establish a Government-wide initiative to promote diversity and inclusion in the Federal workforce, 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 “Federal Jobs Act”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) AGENCY.—The term “agency”—

1 (A) has the meaning given the term “Exec-  
2 utive agency” in section 105 of title 5, United  
3 States Code; and

4 (B) includes the United States Postal  
5 Service and the Postal Regulatory Commission.

6 (2) AGENCY PLAN.—The term “agency plan”  
7 means the plan required under section 4(a)(1).

8 (3) APPROPRIATE CONGRESSIONAL COMMIT-  
9 TEES.—The term “appropriate congressional com-  
10 mittees” means—

11 (A) the Committee on Appropriations of  
12 the Senate;

13 (B) the Committee on Appropriations of  
14 the House of Representatives;

15 (C) the Committee on Finance of the Sen-  
16 ate; and

17 (D) the Committee on Ways and Means of  
18 the House of Representatives.

19 (4) DEPUTY DIRECTOR.—The term “Deputy  
20 Director” means the Deputy Director of Manage-  
21 ment of the Office of Management and Budget.

22 (5) DIRECTOR.—The term “Director” means  
23 the Director of the Office of Personnel Management.

24 (6) DIVERSITY.—The term “diversity” includes  
25 characteristics such as national origin, language,

1 race, color, disability, ethnicity, gender, age, religion,  
2 sexual orientation, gender identity, socioeconomic  
3 status, veteran status, and family structure.

4 (7) DIVERSITY PLAN.—The term “diversity  
5 plan” means the plan required under section  
6 3(a)(2).

7 (8) ECONOMICALLY AND SOCIALLY DISADVAN-  
8 TAGED BUSINESS.—The term “economically and so-  
9 cially disadvantaged business” has the meaning  
10 given the term “socially and economically disadvan-  
11 taged small business concern” in section 8(a)(4)(A)  
12 of the Small Business Act (15 U.S.C. 637(a)(4)(A)).

13 (9) EMPLOYMENT PRACTICES.—The term “em-  
14 ployment practices” means policies and practices of  
15 an agency concerning—

16 (A) the recruitment, hiring, promotion,  
17 and retention of employees; and

18 (B) professional development and training  
19 for employees.

20 (10) HUMAN CAPITAL OPERATING PLAN.—The  
21 term “human capital operating plan” means the  
22 plan required under section 250.205 of title 5, Code  
23 of Federal Regulations.

1           (11) PRIME CONTRACTOR.—The term “prime  
2 contractor” has the meaning given the term in sec-  
3 tion 8701 of title 41, United States Code.

4           (12) SUBCONTRACTOR.—The term “subcon-  
5 tractor” has the meaning given the term in section  
6 8701 of title 41, United States Code.

7 **SEC. 3. EXECUTIVE BRANCH DIVERSITY AND INCLUSION**  
8 **INITIATIVE AND STRATEGIC PLAN.**

9           (a) IN GENERAL.—The Director, in coordination with  
10 the Deputy Director, the President’s Management Coun-  
11 cil, and the Chair of the Equal Employment Opportunity  
12 Commission, shall—

13           (1) establish a coordinated initiative to promote  
14 diversity and inclusion in the workforce of agencies;

15           (2) not later than 90 days after the date of en-  
16 actment of this Act, develop and issue a strategic  
17 plan relating to diversity and inclusion for agencies  
18 that—

19           (A) focuses on—

20                   (i) workforce diversity;

21                   (ii) workplace inclusion; and

22                   (iii) agency accountability and leader-  
23 ship; and

24           (B) highlights comprehensive strategies for  
25 agencies to identify and remove barriers to

1 equal employment opportunity in employment  
2 practices;

3 (3) not less frequently than once every 4 years  
4 beginning after the date on which the diversity plan  
5 is issued under paragraph (2), update the diversity  
6 plan;

7 (4) not later than 90 days after the date of en-  
8 actment of this Act—

9 (A) review any agency directives relating to  
10 the development or submission of—

11 (i) the human capital operating plan;

12 and

13 (ii) other workforce plans and reports  
14 relating to employment practices;

15 (B) develop a strategy for consolidating  
16 the plans and reports described in subpara-  
17 graph (A), if the consolidation is appropriate  
18 and permitted by law; and

19 (C) provide guidance to agencies for devel-  
20 oping agency plans;

21 (5) identify appropriate practices to improve  
22 the effectiveness of the efforts of each agency to for-  
23 mulate employment practices that are consistent  
24 with merit system principles; and

1           (6) establish a system for regular reporting on  
2 the progress of agencies in implementing the agency  
3 plans of the agencies.

4           (b) RECRUITMENT.—The coordinated initiative es-  
5 tablished under subsection (a)(1) shall—

6           (1) include a plan to recruit qualified individ-  
7 uals for employment at agencies; and

8           (2) endeavor to—

9           (A) achieve a workforce from all segments  
10 of society; and

11           (B) avoid discrimination for or against any  
12 employee or applicant on the basis of race,  
13 color, religion, sex (including pregnancy or gen-  
14 der identity), national origin, age, disability,  
15 sexual orientation, veteran status, or any other  
16 prohibited basis.

17 **SEC. 4. RESPONSIBILITIES OF AGENCIES.**

18           (a) AGENCY REPORT.—

19           (1) IN GENERAL.—The head of each agency  
20 shall—

21           (A) not later than 120 days after the date  
22 on which the diversity plan is issued under sec-  
23 tion 3(a)(2) or updated under section 3(a)(3),  
24 develop or update a plan for the agency to cre-

1           ate employment practices that maintain a di-  
2           verse workforce, consistent with—

3                   (i) merit system principles;

4                   (ii) the overall strategic plan of the  
5           agency;

6                   (iii) the human capital operating plan  
7           of the agency; and

8                   (iv) any other applicable workforce  
9           planning strategies and initiatives;

10           (B) designate the Chief Human Capital  
11           Officer, the Director of Equal Employment Op-  
12           portunity, and the Chief Diversity Officer of the  
13           agency, if applicable, to—

14                   (i) be responsible for enhancing em-  
15           ployment and promotion opportunities  
16           within the agency; and

17                   (ii) develop and implement the agency  
18           plan; and

19           (C) incorporate the agency plan into the  
20           human capital operating plan of the agency.

21           (2) REVIEW.—The head of each agency shall  
22           submit the agency plan of the agency to the Director  
23           and the Deputy Director for review.

24           (b) ANNUAL UPDATES.—Not later than 90 days after  
25           the date of enactment of this Act, and annually thereafter,

1 the head of each agency, in consultation with the Director  
2 and the Deputy Director, shall publish a report on the  
3 public website of the agency that includes—

4 (1) disaggregated demographic data sorted by  
5 race, color, national origin, religion, sex, age, veteran  
6 status, and disability relating to the workforce of the  
7 agency;

8 (2) information on the status of diversity and  
9 inclusion efforts of the agency;

10 (3) an analysis of available data relating to the  
11 number of applications for employment received by  
12 the agency sorted by the race, color, national origin,  
13 religion, sex, age, veteran status, and disability of  
14 the applicant;

15 (4) disaggregated demographic data relating to  
16 each participating employee in professional develop-  
17 ment programs offered or sponsored by the agency;

18 (5) the rate of the placement of each partici-  
19 pating employee described in paragraph (4) into sen-  
20 ior positions in the agency;

21 (6) data relating to the employment of tradi-  
22 tionally underrepresented groups at the agency;

23 (7) the information reported under the system  
24 established under section 3(a)(6); and



1           (8) disaggregated salary data sorted by race,  
2           color, national origin, religion, sex, age, veteran sta-  
3           tus, and disability relating to the workforce of the  
4           agency.

5           (c) RETENTION AND EXIT INTERVIEWS OR SUR-  
6           VEYS.—

7           (1) DEPARTING EMPLOYEES.—

8                   (A) IN GENERAL.—The head of each agen-  
9                   cy shall provide each employee who leaves em-  
10                   ployment at the agency an opportunity to com-  
11                   plete an exit interview or survey.

12                   (B) PURPOSE.—The head of each agency  
13                   shall design the exit interview or survey de-  
14                   scribed in subparagraph (A) to help the agency  
15                   understand the reasoning for which an em-  
16                   ployee leaves employment at the agency.

17           (2) USE OF ANALYSIS FROM INTERVIEWS AND  
18           SURVEYS.—The head of each agency shall analyze  
19           the demographic data and other information ob-  
20           tained through the interviews or surveys described in  
21           paragraph (1) to determine—

22                   (A) if and how the diversity of participants  
23                   in the interviews or surveys impacts the results  
24                   of the interviews or surveys; and

1 (B) whether to implement any policy  
2 changes.

3 (3) TRACKING DATA.—The head of each agency  
4 shall—

5 (A) track demographic data relating to—

6 (i) each participating employee in pro-  
7 fessional development programs offered or  
8 sponsored by the agency; and

9 (ii) the rate of the placement of each  
10 participating employee described in clause

11 (i) into senior positions in the agency;

12 (B) annually evaluate the data described in  
13 subparagraph (A)—

14 (i) to identify ways to improve out-  
15 reach and recruitment for professional de-  
16 velopment programs offered or sponsored  
17 by the agency, consistent with merit sys-  
18 tem principles; and

19 (ii) to understand how participation in  
20 any professional development program of-  
21 fered or sponsored by the agency under  
22 subparagraph (A) differs among the demo-  
23 graphic categories of the workforce of the  
24 agency; and

1           (C) actively encourage participation in pro-  
2           fessional development programs offered and  
3           sponsored by the agency from a range of demo-  
4           graphic categories of the workforce of the agen-  
5           cy, especially from demographic categories with  
6           consistently low participation.

7 **SEC. 5. LEGISLATIVE AND JUDICIAL BRANCHES.**

8           (a) **LEGISLATIVE BRANCH.**—Each office treated as  
9           an employing office under the Congressional Account-  
10          ability Act of 1995 (2 U.S.C. 1301 et seq.) shall, to the  
11          greatest extent practicable, carry out the requirements of  
12          sections 3 and 4 with respect to the legislative branch of  
13          Government.

14          (b) **JUDICIAL BRANCH.**—The Director of the Admin-  
15          istrative Office of the United States Courts shall, to the  
16          greatest extent practicable, carry out the requirements of  
17          sections 3 and 4 with respect to the judicial branch of  
18          Government.

19 **SEC. 6. DIVERSITY IN GOVERNMENT PROCUREMENT AND**  
20 **GRANTMAKING.**

21          (a) **REPORTS ON CONTRACTING.**—

22                (1) **PRIME CONTRACTOR REPORTS.**—Not later  
23                than 120 days after the date of enactment of this  
24                Act, and annually thereafter, each prime contractor  
25                that has a contract with an agency shall submit to

1 the head of each agency with which the prime con-  
2 tractor has a contract a report that includes—

3 (A) a list of subcontractors—

4 (i) with which the prime contractor  
5 has a contract relating to the contract of  
6 the prime contractor with the agency; and

7 (ii) that are economically and socially  
8 disadvantaged businesses; and

9 (B) the amounts the subcontractors de-  
10 scribed in paragraph (1) receive from the prime  
11 contractor.

12 (2) AGENCY REPORTS.—Not later than 1 year  
13 after the date of enactment of this Act, and annually  
14 thereafter, the head of each agency shall submit to  
15 the appropriate congressional committees a report  
16 that includes—

17 (A) a list of prime contractors—

18 (i) with which the agency has a con-  
19 tract; and

20 (ii) that are economically and socially  
21 disadvantaged businesses;

22 (B) the amounts the prime contractors de-  
23 scribed in subparagraph (A) receive from the  
24 agency; and

1 (C) the information contained in the prime  
2 contractor reports received by the head of the  
3 agency under paragraph (1).

4 (b) ANNUAL REPORTS.—

5 (1) IN GENERAL.—Not later than 1 year after  
6 the date of enactment of this Act, and annually  
7 thereafter, the head of each agency shall submit to  
8 the appropriate congressional committees a com-  
9 prehensive report on activities the agency is imple-  
10 menting to increase procurement from, and grant  
11 making to, economically and socially disadvantaged  
12 businesses.

13 (2) CONTENT.—The report required under  
14 paragraph (1) shall include a description of the ef-  
15 forts of the agency to—

16 (A) list, describe, and evaluate the activi-  
17 ties the agency is implementing to increase the  
18 capacity of minority-led small nongovernmental  
19 organizations and civil society organizations  
20 to—

- 21 (i) win bids;  
22 (ii) obtain contracts and grants; and  
23 (iii) serve as subcontractors; and

24 (B) review any impact the restrictions  
25 under part 19 of the Federal Acquisition Regu-

- 1 lation have had on economically and socially
- 2 disadvantaged businesses.

○