

116TH CONGRESS
2D SESSION

S. _____

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

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on _____

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”—

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

1 (B) includes the United States Postal
2 Service and the Postal Regulatory Commission.

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

5 (3) APPROPRIATE CONGRESSIONAL COMMIT-
6 TEES.—The term “appropriate congressional com-
7 mittees” means—

8 (A) the Committee on Appropriations of
9 the Senate;

10 (B) the Committee on Appropriations of
11 the House of Representatives;

12 (C) the Committee on Finance of the Sen-
13 ate; and

14 (D) the Committee on Ways and Means of
15 the House of Representatives.

16 (4) DEPUTY DIRECTOR.—The term “Deputy
17 Director” means the Deputy Director of Manage-
18 ment of the Office of Management and Budget.

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

21 (6) DIVERSITY.—The term “diversity” includes
22 characteristics such as national origin, language,
23 race, color, disability, ethnicity, gender, age, religion,
24 sexual orientation, gender identity, socioeconomic
25 status, veteran status, and family structure.

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

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

10 (9) EMPLOYMENT PRACTICES.—The term “em-
11 ployment practices” means policies and practices of
12 an agency concerning—

13 (A) the recruitment, hiring, promotion,
14 and retention of employees; and

15 (B) professional development and training
16 for employees.

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

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

1 (12) SUBCONTRACTOR.—The term “subcon-
2 tractor” has the meaning given the term in section
3 8701 of title 41, United States Code.

4 **SEC. 3. EXECUTIVE BRANCH DIVERSITY AND INCLUSION**
5 **INITIATIVE AND STRATEGIC PLAN.**

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

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

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

16 (A) focuses on—

17 (i) workforce diversity;

18 (ii) workplace inclusion; and

19 (iii) agency accountability and leader-
20 ship; and

21 (B) highlights comprehensive strategies for
22 agencies to identify and remove barriers to
23 equal employment opportunity in employment
24 practices;

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

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

7 (A) review any agency directives relating to
8 the development or submission of—

9 (i) the human capital operating plan;

10 and

11 (ii) other workforce plans and reports
12 relating to employment practices;

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

17 (C) provide guidance to agencies for devel-
18 oping agency plans;

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

23 (6) establish a system for regular reporting on
24 the progress of agencies in implementing the agency
25 plans of the agencies.

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

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

5 (2) endeavor to—

6 (A) achieve a workforce from all segments
7 of society; and

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

14 **SEC. 4. RESPONSIBILITIES OF AGENCIES.**

15 (a) AGENCY REPORT.—

16 (1) IN GENERAL.—The head of each agency
17 shall—

18 (A) not later than 120 days after the date
19 on which the diversity plan is issued under sec-
20 tion 3(a)(2) or updated under section 3(a)(3),
21 develop or update a plan for the agency to cre-
22 ate employment practices that maintain a di-
23 verse workforce, consistent with—

24 (i) merit system principles;

1 (ii) the overall strategic plan of the
2 agency;

3 (iii) the human capital operating plan
4 of the agency; and

5 (iv) any other applicable workforce
6 planning strategies and initiatives;

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

11 (i) be responsible for enhancing em-
12 ployment and promotion opportunities
13 within the agency; and

14 (ii) develop and implement the agency
15 plan; and

16 (C) incorporate the agency plan into the
17 human capital operating plan of the agency.

18 (2) REVIEW.—The head of each agency shall
19 submit the agency plan of the agency to the Director
20 and the Deputy Director for review.

21 (b) ANNUAL UPDATES.—Not later than 90 days after
22 the date of enactment of this Act, and annually thereafter,
23 the head of each agency, in consultation with the Director
24 and the Deputy Director, shall publish a report on the
25 public website of the agency that includes—

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

5 (2) information on the status of diversity and
6 inclusion efforts of the agency;

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

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

15 (5) the rate of the placement of each partici-
16 pating employee described in paragraph (4) into sen-
17 ior positions in the agency;

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

20 (7) the information reported under the system
21 established under section 3(a)(6); and

22 (8) disaggregated salary data sorted by race,
23 color, national origin, religion, sex, age, veteran sta-
24 tus, and disability relating to the workforce of the
25 agency.

1 (c) RETENTION AND EXIT INTERVIEWS OR SUR-
2 VEYS.—

3 (1) DEPARTING EMPLOYEES.—

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

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

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

18 (A) if and how the diversity of participants
19 in the interviews or surveys impacts the results
20 of the interviews or surveys; and

21 (B) whether to implement any policy
22 changes.

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

25 (A) track demographic data relating to—

1 (i) each participating employee in pro-
2 fessional development programs offered or
3 sponsored by the agency; and

4 (ii) the rate of the placement of each
5 participating employee described in clause
6 (i) into senior positions in the agency;

7 (B) annually evaluate the data described in
8 subparagraph (A)—

9 (i) to identify ways to improve out-
10 reach and recruitment for professional de-
11 velopment programs offered or sponsored
12 by the agency, consistent with merit sys-
13 tem principles; and

14 (ii) to understand how participation in
15 any professional development program of-
16 fered or sponsored by the agency under
17 subparagraph (A) differs among the demo-
18 graphic categories of the workforce of the
19 agency; and

20 (C) actively encourage participation in pro-
21 fessional development programs offered and
22 sponsored by the agency from a range of demo-
23 graphic categories of the workforce of the agen-
24 cy, especially from demographic categories with
25 consistently low participation.

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

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

8 (b) JUDICIAL BRANCH.—The Director of the Admin-
9 istrative Office of the United States Courts shall, to the
10 greatest extent practicable, carry out the requirements of
11 sections 3 and 4 with respect to the judicial branch of
12 Government.

13 **SEC. 6. DIVERSITY IN GOVERNMENT PROCUREMENT AND**
14 **GRANTMAKING.**

15 (a) REPORTS ON CONTRACTING.—

16 (1) PRIME CONTRACTOR REPORTS.—Not later
17 than 120 days after the date of enactment of this
18 Act, and annually thereafter, each prime contractor
19 that has a contract with an agency shall submit to
20 the head of each agency with which the prime con-
21 tractor has a contract a report that includes—

22 (A) a list of subcontractors—

23 (i) with which the prime contractor
24 has a contract relating to the contract of
25 the prime contractor with the agency; and

1 (ii) that are economically and socially
2 disadvantaged businesses; and

3 (B) the amounts the subcontractors de-
4 scribed in paragraph (1) receive from the prime
5 contractor.

6 (2) AGENCY REPORTS.—Not later than 1 year
7 after the date of enactment of this Act, and annually
8 thereafter, the head of each agency shall submit to
9 the appropriate congressional committees a report
10 that includes—

11 (A) a list of prime contractors—

12 (i) with which the agency has a con-
13 tract; and

14 (ii) that are economically and socially
15 disadvantaged businesses;

16 (B) the amounts the prime contractors de-
17 scribed in subparagraph (A) receive from the
18 agency; and

19 (C) the information contained in the prime
20 contractor reports received by the head of the
21 agency under paragraph (1).

22 (b) ANNUAL REPORTS.—

23 (1) IN GENERAL.—Not later than 1 year after
24 the date of enactment of this Act, and annually
25 thereafter, the head of each agency shall submit to

1 the appropriate congressional committees a com-
2 prehensive report on activities the agency is imple-
3 menting to increase procurement from, and grant
4 making to, economically and socially disadvantaged
5 businesses.

6 (2) CONTENT.—The report required under
7 paragraph (1) shall include a description of the ef-
8 forts of the agency to—

9 (A) list, describe, and evaluate the activi-
10 ties the agency is implementing to increase the
11 capacity of minority-led small nongovernmental
12 organizations and civil society organizations
13 to—

- 14 (i) win bids;
15 (ii) obtain contracts and grants; and
16 (iii) serve as subcontractors; and

17 (B) review any impact the restrictions
18 under part 19 of the Federal Acquisition Regu-
19 lation have had on economically and socially
20 disadvantaged businesses.