

116TH CONGRESS
2D SESSION

H. R. 8374

To amend the Public Health Service Act to provide for establishment of an Office of Minority and Women Inclusion within each covered agency of the Department of Health and Human Services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2020

Ms. DELAURO (for herself, Mr. GARCÍA of Illinois, Mrs. WATSON COLEMAN, Mr. GRIJALVA, Mr. COHEN, Mr. SAN NICOLAS, Mrs. HAYES, Mr. CARSON of Indiana, Ms. NORTON, Ms. JOHNSON of Texas, Ms. LEE of California, Mr. CÁRDENAS, Mr. LOWENTHAL, Mr. SMITH of Washington, Ms. ESCOBAR, Mr. KHANNA, Ms. CLARKE of New York, Ms. SEWELL of Alabama, Ms. JACKSON LEE, Ms. SCANLON, Ms. CLARK of Massachusetts, Mr. SIRES, Ms. VELÁZQUEZ, Mr. LAWSON of Florida, Mrs. BEATTY, Mr. RICHMOND, Ms. FUDGE, and Ms. MOORE) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Public Health Service Act to provide for establishment of an Office of Minority and Women Inclusion within each covered agency of the Department of Health and Human Services, 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 “Expanding Representen-
3 tation at HHS Act of 2020”.

4 **SEC. 2. OFFICE OF MINORITY AND WOMEN INCLUSION.**

5 Part A of title II of the Public Health Service Act
6 is amended by inserting after section 229 of such Act (42
7 U.S.C. 237a) the following new section:

8 **“SEC. 229A. OFFICE OF MINORITY AND WOMEN INCLUSION.**

9 “(a) OFFICE OF MINORITY AND WOMEN INCLU-
10 SION.—

11 “(1) ESTABLISHMENT.—Not later than the
12 date that is 6 months after the date of enactment
13 of the Expanding Representation at HHS Act of
14 2020, the agency administrator of each covered
15 agency shall establish an office to be known as the
16 Office of Minority and Women Inclusion (in this sec-
17 tion referred to as an ‘Office’) within the covered
18 agency to be responsible for all matters of the cov-
19 ered agency relating to diversity in the management,
20 employment, and business activities of the covered
21 agency.

22 “(2) TRANSFER OF RESPONSIBILITIES.—The
23 agency administrator of each covered agency that,
24 preceding the establishment of an Office pursuant to
25 paragraph (1) within the covered agency, assigned
26 the responsibilities described in paragraph (1) (or

1 comparable responsibilities) to an office other than
2 such Office shall ensure that such responsibilities
3 are transferred to such Office.

4 “(3) DUTIES WITH RESPECT TO CIVIL RIGHTS
5 LAWS.—The responsibilities described in paragraph
6 (1) do not include enforcement of statutes, regula-
7 tions, or Executive orders pertaining to civil rights,
8 except that the Director of each Office shall coordi-
9 nate with the agency administrator of the respective
10 covered agency regarding the design and implemen-
11 tation of any remedies resulting from violations of
12 such statutes, regulations, or Executive orders.

13 “(b) DIRECTOR.—

14 “(1) IN GENERAL.—The Office of a covered
15 agency shall be headed by a Director, who shall be
16 appointed by, and shall report directly to, the agency
17 administrator of the covered agency.

18 “(2) DESIGNATION.—The position of Director
19 shall be—

20 “(A) a career reserved position in the Sen-
21 ior Executive Service, as such terms are defined
22 in section 3132 of title 5, United States Code;
23 or

24 “(B) an equivalent position.

1 “(3) DUTIES.—The agency administrator of
2 each covered agency, in consultation with the Direc-
3 tor of the Office of the covered agency, shall develop
4 standards for—

5 “(A) developing and overseeing the imple-
6 mentation of standards for—

7 “(i) equal employment opportunity
8 and the racial, ethnic, and gender diversity
9 of the workforce and senior management
10 of the covered agency;

11 “(ii) increased participation of minor-
12 ity-led and women-led businesses in the
13 programs and contracts of the covered
14 agency, including standards for coordi-
15 nating technical assistance to such busi-
16 nesses; and

17 “(iii) assessing the diversity policies
18 and practices of entities receiving financial
19 assistance from the covered agency, except
20 that the agency administrator shall exempt
21 small entities from the assessment, as de-
22 termined to be appropriate by the agency
23 administrator; and

24 “(B) advising the agency administrator of
25 the covered agency on the impact of the policies

1 and regulations of the covered agency on minor-
2 ity-led and women-led grantees and sub-
3 grantees.

4 “(c) STAFF.—Each Office shall be staffed at the ap-
5 propriate levels to carry out the functions and responsibil-
6 ities of the Office under this section.

7 “(d) INCLUSION IN ALL LEVELS OF GRANTEE AND
8 SUBGRANTEE ACTIVITIES.—

9 “(1) IN GENERAL.—The agency administrator
10 of each covered agency, in consultation with the Di-
11 rector of the Office of the covered agency, shall de-
12 velop and implement standards and procedures to
13 ensure, to the maximum extent possible, the fair in-
14 clusion and utilization of minorities, women, and mi-
15 nority-led and women-led grantees and subgrantees
16 in all activities of the covered agency at all levels, in-
17 cluding in procurement, insurance, and all types of
18 contracts.

19 “(2) GRANTMAKING AND CONTRACTS.—The
20 procedures established by each covered agency for
21 review and evaluation of grant- and subgrant-mak-
22 ing and contract proposals and for hiring service
23 providers shall include, to the extent consistent with
24 applicable law, a component that gives consideration
25 to the diversity of the applicant. Such procedures

1 shall include a written statement, in a form and with
2 such content as the Director of the Office of the cov-
3 ered agency shall prescribe, that a grantee, sub-
4 grantee, or contractor shall ensure, to the maximum
5 extent possible, the fair inclusion of women and mi-
6 norities in the workforce of the grantee, subgrantee,
7 contractor, and subcontractors.

8 “(3) TERMINATION.—

9 “(A) DETERMINATION.—The standards
10 and procedures developed and implemented
11 under this subsection shall include a procedure
12 for the Director of the Office involved to deter-
13 mine whether a grantee, subgrantee, contractor,
14 or subcontractor of the covered agency has
15 failed to make a good faith effort to include mi-
16 norities and women in the workforce of the
17 grantee, subgrantee, contractor, or subcon-
18 tractor.

19 “(B) EFFECT OF DETERMINATION.—

20 “(i) RECOMMENDATION TO AGENCY
21 ADMINISTRATOR.—Upon a determination
22 under subparagraph (A) of a failure de-
23 scribed in such subparagraph, the Director
24 of the Office involved shall recommend to
25 the agency administrator of the covered

1 agency that the grant, subgrant, contract,
2 or subcontract, as applicable, be termi-
3 nated.

4 “(ii) ACTION BY AGENCY ADMINIS-
5 TRATOR.—Upon receipt of a recommenda-
6 tion under clause (i), the agency adminis-
7 trator of the covered agency may—

8 “(I) terminate the grant or con-
9 tract, or direct the grantee or con-
10 tractor to terminate the subgrant or
11 subcontract, as the case may be;

12 “(II) make a referral to the Of-
13 fice of Federal Contract Compliance
14 Programs of the Department of
15 Labor; or

16 “(III) take other appropriate ac-
17 tion.

18 “(e) APPLICABILITY.—This section applies with re-
19 spect to all grant agreements and other contracts of a cov-
20 ered agency, including for services of any kind, including
21 the services of adoption agencies, child welfare organiza-
22 tions, energy companies participating in the Low Income
23 Home Energy Assistance Program, legal service providers.
24 The grants, subgrants, contracts, and subcontracts re-
25 ferred to in this subsection include all contracts for all

1 business and activities of a covered agency, at all levels,
2 including grants, subgrants, contracts, and subcontracts
3 for the programs and services provided by Department of
4 Health and Human Services grantees, subgrantees, con-
5 tractors, and subcontractors.

6 “(f) REPORTS.—The agency administrator of each
7 covered agency, in consultation with the Director of the
8 Office of the covered agency, shall submit to the Congress
9 an annual report regarding the actions taken by the Office
10 and the respective covered agency pursuant to this section.

11 Each such report shall include—

12 “(1) a statement of the total amounts paid by
13 the covered agency to grantees and contractors, and
14 the total amounts paid by grantees and contractors
15 to subgrantees and subcontractors, during the 12-
16 month covered reporting period;

17 “(2) the percentage of the amounts described in
18 paragraph (1) that were paid to minority-led or
19 women-led grantees, subgrantees, contractors, and
20 subcontractors, disaggregated by race, ethnicity, and
21 gender;

22 “(3) the successes achieved and challenges
23 faced by the covered agency in operating minority
24 and women outreach programs;

1 “(4) the challenges the covered agency has ex-
2 perienced during the 12-month covered reporting pe-
3 riod in hiring qualified minority and women employ-
4 ees and awarding grants and contracting with quali-
5 fied minority-led and women-led grantees, sub-
6 grantees, contractors, and subcontractors; and

7 “(5) any other information, findings, conclu-
8 sions, and recommendations for legislative or agency
9 action, as the agency administrator determines ap-
10 propriate.

11 “(g) DIVERSITY IN COVERED AGENCY WORK-
12 FORCE.—The agency administrator of each covered agen-
13 cy shall take affirmative steps to seek diversity in the
14 workforce of the covered agency at all levels of the covered
15 agency in a manner consistent with applicable law. Such
16 steps shall include—

17 “(1) recruiting at historically Black colleges
18 and universities, Hispanic-serving institutions, wom-
19 en’s colleges, and other colleges and universities at
20 which a majority of the students are members of mi-
21 nority populations;

22 “(2) sponsoring and recruiting at job fairs in
23 high-poverty communities;

24 “(3) placing employment advertisements in
25 newspapers, magazines, and technologically appro-

1 piate mediums, such as the internet or online job
2 boards oriented toward minorities and women;

3 “(4) partnering with organizations that are fo-
4 cused on developing opportunities for minorities and
5 women to place talented young minorities and
6 women in industry internships, summer employment,
7 and full-time positions; and

8 “(5) any other mass media communications
9 that the agency administrator of the covered agency
10 determines necessary.

11 “(h) DEFINITIONS.—For purposes of this section:

12 “(1) AGENCY ADMINISTRATOR.—The term
13 ‘agency administrator’ means the head of an agency.

14 “(2) COVERED AGENCY.—The term ‘covered
15 agency’—

16 “(A) means an agency or office of the De-
17 partment of Health and Human Services with
18 the authority to award grants or other financial
19 assistance; and

20 “(B) includes—

21 “(i) the Office of the Secretary;

22 “(ii) the Administration for Children
23 and Families;

24 “(iii) the Agency for Healthcare Re-
25 search and Quality;

1 “(iv) the Office of the Assistant Sec-
2 retary for Health;

3 “(v) the Office of the Assistant Sec-
4 retary for Preparedness and Response;

5 “(vi) the Center for Faith and Oppor-
6 tunity Initiatives;

7 “(vii) the Centers for Disease Control
8 and Prevention;

9 “(viii) the Centers for Medicare &
10 Medicaid Services;

11 “(ix) the Food and Drug Administra-
12 tion;

13 “(x) the Health Resources and Serv-
14 ices Administration;

15 “(xi) the National Institutes of
16 Health;

17 “(xii) the Office of Global Affairs;

18 “(xiii) the Office of the National Co-
19 ordinator for Health Information Tech-
20 nology; and

21 “(xiv) the Substance Abuse and Men-
22 tal Health Services Administration.

23 “(3) MINORITY.—The term ‘minority’ means
24 any Black American, Native American, Hispanic
25 American, or Asian American.

1 “(4) MINORITY-LED.—The term ‘ minority-led’
2 means—

3 “(A) more than 50 percent of the leader-
4 ship, control, or ownership of which is held by
5 one or more minority individuals;

6 “(B) a significant percentage of senior
7 management or leadership positions of which
8 are held by minority individuals; and

9 “(C) in the case of a for-profit entity, more
10 than 50 percent of the net profit or loss of
11 which accrues to one or more minority individ-
12 uals.

13 “(5) OFFICE.—The term ‘Office’ means the Of-
14 fice of Minority and Women Inclusion established by
15 a covered agency pursuant to subsection (a).

16 “(6) WOMEN-LED.—The term ‘women-led’
17 means—

18 “(A) more than 50 percent of the owner-
19 ship or control of which is held by one or more
20 women;

21 “(B) a significant percentage of senior
22 management or leadership positions of which
23 are held by one or more women; and

1 “(C) in the case of a for-profit entity, more
2 than 50 percent of the net profit or loss of
3 which accrues to one or more women.”.

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