

Calendar No. 680

118TH CONGRESS
2D SESSION**S. 4631****[Report No. 118–277]**

To amend title 41, United States Code, to prohibit minimum education requirements for proposed contractor personnel in certain contract solicitations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 8, 2024

Mr. LANKFORD (for himself and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

DECEMBER 9, 2024

Reported by Mr. PETERS, with an amendment and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend title 41, United States Code, to prohibit minimum education requirements for proposed contractor personnel in certain contract solicitations, 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 “Allowing Contractors
3 to Choose Employees for Select Skills Act” or the “AC-
4 CESS Act”.

5 **SEC. 2. USE OF REQUIREMENTS REGARDING EXPERIENCE**
6 **AND EDUCATION OF CONTRACTOR PER-**
7 **SONNEL.**

8 (a) FLEXIBILITY IN CONTRACTOR EDUCATION RE-
9 QUIREMENTS.—Chapter 33 of title 41, United States
10 Code, is amended by adding at the end the following new
11 section:

12 **“§ 3313. Flexibility in contractor education require-**
13 **ments**

14 “(a) DEFINITIONS.—In this section:

15 “(1) EDUCATION REQUIREMENT.—The term
16 ‘education requirement’ includes a requirement that
17 can be met through—

18 “(A) education;

19 “(B) experience; or

20 “(C) a combination of education and expe-
21 rience.

22 “(2) EXECUTIVE AGENCY.—The term ‘executive
23 agency’ has the meaning given that term in section
24 133.

25 “(b) PROHIBITION.—A solicitation may not set forth
26 any minimum education requirement for proposed con-

1 tractor personnel in order for a bidder to be eligible for
 2 award of a contract unless the contracting officer includes
 3 in the solicitation a written justification that explains why
 4 the needs of the executive agency cannot be met without
 5 such requirement and clarifies how the requirement en-
 6 sures the needs are met.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 8 The table of sections for chapter 33 of title 41, United
 9 States Code, is amended by adding at the end the fol-
 10 lowing new item:

“Sec. 3313. Flexibility in contractor education requirements.”.

11 (c) OMB GUIDANCE.—Not later than 60 days after
 12 the date of the enactment of this Act, the Director of the
 13 Office of Management and Budget shall issue guidance to
 14 executive agencies for implementing the amendment made
 15 by subsection (a) that includes the following:

16 (1) Instructions for contracting officers on the
 17 manner in which the written justification require-
 18 ment of section 3313(b) of title 41, United States
 19 Code, as added by subsection (a), may be met, in-
 20 cluding a requirement that each use of an education
 21 requirement be separately determined, justified, and
 22 reviewed.

23 (2) In the case of a solicitation in which edu-
 24 cation requirements are included, instructions on
 25 how alternative certifications, industry-recognized

1 credentials, and work-based learning programs, in-
 2 cluding apprenticeships, may satisfy such require-
 3 ments.

4 (d) ~~APPLICABILITY.~~—The amendments made by this
 5 section shall apply with respect to solicitations issued on
 6 or after the date that is 180 days after the date of the
 7 enactment of this Act.

8 (e) ~~GAO REPORT.~~—Not later than 18 months after
 9 the date of the enactment of this Act, the Comptroller
 10 General shall submit to Congress an evaluation of execu-
 11 tive agency compliance with section 3313 of title 41,
 12 United States Code, as added by subsection (a).

13 (f) ~~DEFINITIONS.~~—In this section:

14 (1) ~~EDUCATION REQUIREMENT.~~—The term
 15 “education requirement” includes a requirement that
 16 can be met through—

17 (A) education;

18 (B) experience; or

19 (C) a combination of education and experi-
 20 ence.

21 (2) ~~EXECUTIVE AGENCY.~~—The term “executive
 22 agency” has the meaning given that term in section
 23 133 of title 41, United States Code.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Allowing Contractors*
 3 *to Choose Employees for Select Skills Act” or the “ACCESS*
 4 *Act”.*

5 **SEC. 2. USE OF REQUIREMENTS REGARDING EDUCATION**
 6 **OF CONTRACTOR PERSONNEL.**

7 (a) *FLEXIBILITY IN CONTRACTOR EDUCATION RE-*
 8 *QUIREMENTS.—Chapter 33 of title 41, United States Code,*
 9 *is amended by adding at the end the following new section:*
 10 **“§ 3313. Flexibility in contractor education require-**
 11 **ments**

12 “(a) *PROHIBITION.—A solicitation may not set forth*
 13 *any minimum education requirement for proposed con-*
 14 *tractor personnel in order for a bidder to be eligible for*
 15 *award of a contract unless the contracting officer includes*
 16 *in the solicitation a written justification that explains why*
 17 *the needs of the executive agency cannot be met without any*
 18 *such requirement and clarifies how the requirement ensures*
 19 *the needs are met.*

20 “(b) *EXECUTIVE AGENCY DEFINED.—In this section,*
 21 *the term ‘executive agency’ has the meaning given that term*
 22 *in section 133.”.*

23 (b) *TECHNICAL AND CONFORMING AMENDMENT.—The*
 24 *table of sections for chapter 33 of title 41, United States*

1 *Code, is amended by adding at the end the following new*
 2 *item:*

“3313. Flexibility in contractor education requirements.”.

3 *(c) OMB GUIDANCE.—Not later than 180 days after*
 4 *the date of the enactment of this Act, the Director of the*
 5 *Office of Management and Budget shall issue guidance to*
 6 *the heads of executive agencies for implementing the amend-*
 7 *ment made by subsection (a) that includes the following:*

8 *(1) Instructions for contracting officers for the*
 9 *justifications under section 3313(a) of title 41, United*
 10 *States Code, as added by subsection (a), including a*
 11 *requirement that each use of an education require-*
 12 *ment be determined, justified, and reviewed.*

13 *(2) Instructions for contracting officers that en-*
 14 *courages the use of alternatives to education require-*
 15 *ments.*

16 *(d) APPLICABILITY.—The amendments made by this*
 17 *section shall apply with respect to solicitations issued on*
 18 *or after the date that is 15 months after the date of the*
 19 *enactment of this Act.*

20 *(e) REPEAL.—Section 813 of the Floyd D. Spence Na-*
 21 *tional Defense Authorization Act for Fiscal Year 2001 (Pub-*
 22 *lic Law 106–398; 114 Stat. 1654A-214), as implemented*
 23 *in subpart 39.104 of the Federal Acquisition Regulation,*
 24 *as in effect on July 1, 2024, is repealed as of the date that*
 25 *the guidance required by subsection (c) becomes effective.*

1 (f) *GAO REPORT.*—Not later than 36 months after the
 2 date of the enactment of this Act, the Comptroller General
 3 shall submit to Congress an evaluation of executive agency
 4 compliance with section 3313 of title 41, United States
 5 Code, as added by subsection (a).

6 (g) *DEFINITIONS.*—In this section:

7 (1) *EDUCATION.*—The term “education” means
 8 an associate, baccalaureate, graduate, or professional
 9 degree, specified coursework, or other form of edu-
 10 cational attainment awarded by a junior or commu-
 11 nity college, college, or university that is accredited as
 12 a collegiate institution by a recognized accrediting
 13 agency or approved by the appropriate State edu-
 14 cation authority under State law to grant associate
 15 or higher degrees.

16 (2) *EDUCATION REQUIREMENT.*—The term “edu-
 17 cation requirement” includes a requirement that can
 18 be met either through—

19 (A) education alone;

20 (B) education or experience; or

21 (C) a combination of education and experi-
 22 ence.

23 (3) *EXECUTIVE AGENCY.*—The term “executive
 24 agency” has the meaning given that term in section
 25 133 of title 41, United States Code.

Amend the title so as to read: “A bill to amend title 41, United States Code, to prohibit minimum educational requirements for proposed contractor personnel in certain contract solicitations, and for other purposes.”.

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