

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.

S. 4631

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

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. LANKFORD (for himself and Mr.
PETERS)

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Allowing Contractors
5 to Choose Employees for Select Skills Act” or the “AC-
6 CESS Act”.

7 **SEC. 2. USE OF REQUIREMENTS REGARDING EDUCATION**
8 **OF CONTRACTOR PERSONNEL.**

9 (a) FLEXIBILITY IN CONTRACTOR EDUCATION RE-
10 QUIREMENTS.—Chapter 33 of title 41, United States

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

3 **“§ 3313. Flexibility in contractor education require-**
4 **ments**

5 “(a) PROHIBITION.—A solicitation may not set forth
6 any minimum education requirement for proposed con-
7 tractor personnel in order for a bidder to be eligible for
8 award of a contract unless the contracting officer includes
9 in the solicitation a written justification that explains why
10 the needs of the executive agency cannot be met without
11 any such requirement and clarifies how the requirement
12 ensures the needs are met.

13 “(b) EXECUTIVE AGENCY DEFINED.—In this sec-
14 tion, the term ‘executive agency’ has the meaning given
15 that term in section 133.”.

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

“3313. Flexibility in contractor education requirements.”.

20 (c) OMB GUIDANCE.—Not later than 180 days after
21 the date of the enactment of this Act, the Director of the
22 Office of Management and Budget shall issue guidance to
23 the heads of executive agencies for implementing the
24 amendment made by subsection (a) that includes the fol-
25 lowing:

1 (1) Instructions for contracting officers for the
2 justifications under section 3313(a) of title 41,
3 United States Code, as added by subsection (a), in-
4 cluding a requirement that each use of an education
5 requirement be determined, justified, and reviewed.

6 (2) Instructions for contracting officers that en-
7 courages the use of alternatives to education require-
8 ments.

9 (d) APPLICABILITY.—The amendments made by this
10 section shall apply with respect to solicitations issued on
11 or after the date that is 15 months after the date of the
12 enactment of this Act.

13 (e) REPEAL.—Section 813 of the Floyd D. Spence
14 National Defense Authorization Act for Fiscal Year 2001
15 (Public Law 106–398; 114 Stat. 1654A-214), as imple-
16 mented in subpart 39.104 of the Federal Acquisition Reg-
17 ulation, as in effect on July 1, 2024, is repealed as of
18 the date that the guidance required by subsection (c) be-
19 comes effective.

20 (f) GAO REPORT.—Not later than 36 months after
21 the date of the enactment of this Act, the Comptroller
22 General shall submit to Congress an evaluation of execu-
23 tive agency compliance with section 3313 of title 41,
24 United States Code, as added by subsection (a).

25 (g) DEFINITIONS.—In this section:

1 (1) EDUCATION.—The term “education” means
2 an associate, baccalaureate, graduate, or profes-
3 sional degree, specified coursework, or other form of
4 educational attainment awarded by a junior or com-
5 munity college, college, or university that is accred-
6 ited as a collegiate institution by a recognized ac-
7 crediting agency or approved by the appropriate
8 State education authority under State law to grant
9 associate or higher degrees.

10 (2) EDUCATION REQUIREMENT.—The term
11 “education requirement” includes a requirement that
12 can be met either through—

13 (A) education alone;

14 (B) education or experience; or

15 (C) a combination of education and experi-
16 ence.

17 (3) EXECUTIVE AGENCY.—The term “executive
18 agency” has the meaning given that term in section
19 133 of title 41, United States Code.

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