AMENDMENT TO RULES COMMITTEE PRINT
116-63
OFFERED BY MS. FINKENAUER OF IOWA

Page 9, after the item relating to section 12606, insert the following:

Sec. 12607. Labor Standards.

At the end of subtitle F, insert the following:

1 SEC. 12607 LABOR STANDARDS.

2 (a) IN GENERAL.—Notwithstanding any other provision of law, for fiscal year 2021 and each fiscal year thereafter, any construction or maintenance projects, including installation or removal of applicable infrastructure, assisted in whole or in part by funds appropriated under sections 1203, 1221, 1802, 1803, 1804, 1805, 2122, 2401, 2502, 2503, 2504, 2505, 2522, 2523, 2524, 2525, 2542, 2543, 2544, 2545, 2547, 2552, 2553, 2561, 3102, 3103, 3104, 3105, 3106, 3107, 3109, 3110, 3111, 3112, 3201, 4101, 4202, 5101, 5301, 5302, 5321, 5322, 5323, 5324, 5341, 5342, 6201, 6301, 6502, 6512, 7001, 8101, 8102, 8206, 8304, 9105, 9302, 9304, 10121, and 12401 of this Act and including 42 U.S.C. 17011 and 42 U.S.C.
istance provided under such section or part, shall comply
with labor standards under this section. Compliance with
labor standards under this section shall also apply to enti-
ties that are awarded permits, leases or enter into agree-
ments with the Federal Government under subtitle F of
Title II of this Act.

(b) CERTIFICATION OF QUALIFIED ENTITIES.—

(1) IN GENERAL.—The Secretary of Labor shall
establish a process for certifying entities that submit
an application under paragraph (2) as qualified enti-
ties with respect to construction and maintenance
projects funded in part or whole under sections
1203, 1221, 1802, 1803, 1804, 1805, 2122, 2401,
2502, 2503, 2504, 2505, 2522, 2523, 2524, 2525,
2542, 2543, 2544, 2545, 2547, 2552, 2553, 2561,
3102, 3103, 3104, 3105, 3106, 3107, 3109, 3110,
3111, 3112, 3201, 4101, 4202, 5101, 5301, 5302,
5321, 5322, 5323, 5324, 5341, 5342, 6201, 6301,
6502, 6512, 7001, 8101, 8102, 8206, 8304, 9105,
9302, 9304, 10121, and 12401 of this Act and in-

(2) APPLICATION PROCESS.—An entity seeking
certification as a qualified entity under this section
shall submit an application to the Secretary of
Labor at such time, in such manner, and containing
such information as the Secretary may reasonably require, including information to demonstrate compliance with the requirements under subsection (c).

(3) **Requests for Additional Information.**—Not later than 1 year after receiving an application from an entity under paragraph (2)—

(A) the Secretary of Labor may request additional information from the entity in order to determine whether the entity is in compliance with the requirements under subsection (c); and

(B) the entity shall provide such additional information within 30 days of the Secretary of Labor’s request under subparagraph (A).

(4) **Determination Deadline.**—The Secretary of Labor shall make a determination on whether to certify an entity under this section not later than—

(A) in a case in which the Secretary requests additional information described in paragraph (3), 1 year after the Secretary receives such additional information from the entity, or

(B) in a case that is not described in paragraph (3)(A), 1 year after the date on which the entity submits the application under paragraph (2).
(5) **Precertification Remedies.**—The Secretary shall consider any corrective actions taken by an entity seeking certification under this subsection to remedy an administrative merits determination, arbitral award or decision, or civil judgment identified under subsection (c)(3) and shall impose as a condition of certification any additional remedies necessary to avoid further or repeated violations.

(e) **Labor Standards Requirements.**—The Secretary of Labor shall require an entity, as a condition of certification under this section, to satisfy each of the following requirements:

1. The entity shall ensure that all laborers and mechanics employed by contractors and subcontractors in the performance of any construction or maintenance project shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”).

2. In the case of any construction or maintenance project, the cost of which exceeds $25,000,000, the entity shall be a party to, or require contractors and subcontractors in the perform-
ance of such construction or maintenance project to consent to, a covered project labor agreement.

(3) The entity, and all contractors and subcontractors in performance of any construction or maintenance project, shall represent in the application submitted under subsection (b)(2) (and periodically thereafter during the performance of the construction or maintenance project as the Secretary of Labor may require) whether there has been any administrative merits determination, arbitral award or decision, or civil judgment, as defined in guidance issued by the Secretary of Labor, rendered against the entity in the preceding 3 years (or, in the case of disclosures after the initial disclosure, during such period as the Secretary of Labor may provide) for violations of—

(A) the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.);  
(B) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);  
(C) the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.);  
(D) the National Labor Relations Act (29 U.S.C. 151 et seq.);
(E) subchapter IV of chapter 31 of title 40, United States Code (commonly known as the ‘‘Davis-Bacon Act’’);

(F) chapter 67 of title 41, United States Code (commonly known as the ‘‘Service Contract Act’’);

(G) Executive Order 11246, as amended (relating to equal employment opportunity);

(H) section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793);

(I) section 4212 of title 38, United States Code;

(J) the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.);

(K) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

(L) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(M) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.);

(N) Executive Order 13658, dated February 2014, (entitled ‘‘Establishing a Minimum Wage for Contractors’’); or

(O) equivalent State laws, as defined in guidance issued by the Secretary of Labor.
(4) The entity, and all contractors and subcontractors in the performance of construction or maintenance project, shall not require arbitration for any dispute involving an employee described in paragraph (5) engaged in a service for the entity or any contractor and subcontractor, or enter into any agreement with such employee requiring arbitration of any such dispute, unless such employee is covered by a collective bargaining agreement that provides otherwise.

(5) For purposes of compliance with the National Labor Relations Act (29 U.S.C. 151 et seq.), the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), and the requirements under this section, the entity, and all contractors and subcontractors in the performance of any construction or maintenance project, shall consider an individual performing any service in such performance as an employee (and not an independent contractor) of the entity, contractor, or subcontractor, respectively, unless—

(A) the individual is free from control and direction in connection with the performance of the service, both under the contract for the performance of the service and in fact;
(B) the service is performed outside the usual course of the business of the entity, contractor, or subcontractor, respectively; and

(C) the individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in such service.

(6) The entity shall prohibit all contractors and subcontractors in the performance of any construction or maintenance project from hiring employees through a temporary staffing agency unless the relevant State workforce agency certifies that temporary employees are necessary to address an acute, short-term labor demand.

(7) The entity shall require all contractors, subcontractors, successors in interest of the entity, and other entities that may acquire the entity, in the performance or acquisition of any construction or maintenance project, to have and abide by an explicit neutrality policy on any issue involving the exercise by employees of the entity as described in paragraph (5), and of all contractors and subcontractors in the performance of any construction or maintenance project, of the right to organize and
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bargain collectively through representatives of their own choosing.

(8) The entity shall require all contractors and subcontractors to participate in a registered apprenticeship program for each skilled craft employed on any construction or maintenance project.

(9) The entity, and all contractors and subcontractors in the performance of any construction or maintenance project, shall not request or otherwise consider the criminal history of an applicant for employment before extending a conditional offer to the applicant, unless—

(A) a background check is otherwise required by law;

(B) the position is for a Federal law enforcement officer (as defined in section 115(c)(1) of title 18, United States Code) position; or

(C) the Secretary of Labor, after consultation with the Secretary of Energy, certifies that precluding criminal history prior to the conditional offer would pose a threat to national security.

(d) **Davis-Bacon Act.**—The Secretary of Labor shall have, with respect to the labor standards described

(e) Period of Validity for Certifications.—A certification made under this section shall be in effect for a period of 5 years. An entity may reapply to the Secretary of Labor for an additional certification under this section in accordance with the application process under subsection (b)(2).

(f) Revocation of Qualified Entity Status.—The Secretary of Labor may revoke the certification of an entity under this section as a qualified entity at any time in which the Secretary reasonably determines the entity is no longer in compliance with the requirements of subsection (e).

(g) Certification May Cover More Than 1 Substantially Similar Project.—The Secretary of Labor may make certifications under this section which apply with respect to more than 1 project if the projects to which such certification apply are substantially similar projects which meet the requirements of this section. Such projects shall be treated as a specific construction or maintenance project for purposes of subsection (h)(2).

(h) Definitions.—In this section:
(1) Covered Project Labor Agreement.—

The term “covered project labor agreement” means a project labor agreement that—

(A) binds all contractors and subcontractors on the construction project through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents;

(B) allows all contractors and subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise a party to a collective bargaining agreement;

(C) contains guarantees against strikes, lockouts, and other similar job disruptions;

(D) sets forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the covered project labor agreement; and

(E) provides other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health.

(2) Project Labor Agreement.—The term “project labor agreement” means a pre-hire collective bargaining agreement with one or more labor
organizations that establishes the terms and conditions of employment for a specific construction project and is described in section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)).

(3) QUALIFIED ENTITY.—The term “qualified entity” means an applicant for certification under subsection (b) that the Secretary of Labor certifies as a qualified entity in accordance with subsection (b).

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this such sums as necessary for fiscal year 2020 and each fiscal year thereafter.