

Calendar No. 665

117TH CONGRESS
2^D SESSION**S. 4930****[Report No. 117–266]**

To prohibit Federal procurement from companies operating in the Russian Federation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2022

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

DECEMBER 15, 2022

Reported by Mr. PETERS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To prohibit Federal procurement from companies operating in the Russian Federation, 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 Contracting
5 for Peace and Security Act”.

1 **SEC. 2. FEDERAL CONTRACTING FOR PEACE AND SECU-**
2 **RITY.**

3 (a) **PURPOSE.**—It is the policy of the Federal Govern-
4 ment not to conduct business with companies that under-
5 mine United States national security interests by con-
6 tinuing to operate in the Russian Federation during its
7 ongoing war of aggression against Ukraine.

8 (b) **CONTRACTING PROHIBITION.**—

9 (1) **PROHIBITION.**—The head of an executive
10 agency may not enter into, extend, or renew a cov-
11 ered contract with a company that continues to con-
12 duct business operations in territory internationally
13 recognized as the Russian Federation during the
14 covered period.

15 (2) **EXCEPTIONS.**—

16 (A) **GOOD FAITH EXEMPTION.**—The Office
17 of Management and Budget, in consultation
18 with the General Services Administration, may
19 exempt a contractor from the prohibition in
20 paragraph (1) if the contractor has—

21 (i) pursued and continues to pursue
22 all reasonable steps in demonstrating a
23 good faith effort to comply with the re-
24 quirements of this Act; and

1 (ii) provided to the executive agency a
2 reasonable, written plan to achieve compli-
3 ance with such requirements.

4 (B) PERMISSIBLE OPERATIONS.—The pro-
5 hibition in paragraph (1) shall not apply to
6 business operations in Russia authorized by a
7 license issued by the Office of Foreign Assets
8 Control or the Bureau of Industry and Security
9 or is otherwise allowed to operate notwith-
10 standing the imposition of sanctions or export
11 controls.

12 (C) AMERICAN DIPLOMATIC MISSION IN
13 RUSSIA.—The prohibition in paragraph (1)
14 shall not apply to contracts related to the oper-
15 ation and maintenance of the United States
16 Government’s consular offices and diplomatic
17 posts in Russia.

18 (D) INDIVIDUAL CONTRACTS.—The prohi-
19 bition under paragraph (1) shall not apply to
20 any contract that is any of the following:

21 (i) For the benefit, either directly or
22 through the efforts of regional allies, of the
23 country of Ukraine.

24 (ii) For humanitarian purposes to
25 meet basic human needs.

1 (3) NATIONAL SECURITY AND PUBLIC INTER-
2 EST WAIVERS.—

3 (A) IN GENERAL.—The head of an execu-
4 tive agency is authorized to waive the prohibi-
5 tion under paragraph (1) with respect to a cov-
6 ered contract if the head of the agency certifies
7 in writing to the President that such waiver is
8 for the national security of the United States or
9 in the public interest of the United States, and
10 includes in such certification a justification for
11 the waiver and description of the contract to
12 which the waiver applies. The authority in this
13 subparagraph may not be delegated below the
14 level of the senior procurement executive of the
15 agency.

16 (B) CONGRESSIONAL NOTIFICATION.—The
17 head of an executive agency shall, not later
18 than 7 days before issuing a waiver described in
19 subparagraph (A), submit to the appropriate
20 congressional committees the certification de-
21 scribed in such subparagraph.

22 (4) EMERGENCY RULEMAKING AUTHORITY.—
23 Not later than 60 days after the date of the enact-
24 ment of this Act, the Director of the Office of Man-
25 agement and Budget, in consultation with the Ad-

1 administrator of General Services and the Secretary of
2 Defense, shall promulgate regulations for agency im-
3 plementation of this Act using emergency rule-
4 making procedures while considering public comment
5 to the greatest extent practicable, that includes the
6 following:

7 (A) A list of equipment, facilities, per-
8 sonnel, products, services, or other items or ac-
9 tivities, the engagement with which would be
10 considered business operations, subject to the
11 prohibition under paragraph (1).

12 (B) A requirement for a contractor or of-
13 feror to represent whether such contractor or
14 offeror uses any of the items on the list de-
15 scribed in subparagraph (A).

16 (C) A description of the process for deter-
17 mining a good faith exemption described under
18 paragraph (2).

19 (5) DEFINITIONS.—In this section:

20 (A) APPROPRIATE CONGRESSIONAL COM-
21 MITTEES.—The term “appropriate congres-
22 sional committees” means the Committee on
23 Homeland Security and Governmental Affairs
24 of the Senate and the Committee on Oversight
25 and Reform of the House of Representatives.

1 (B) BUSINESS OPERATIONS.—

2 (i) IN GENERAL.—Except as provided
3 in clauses (ii) and (iii), the term “business
4 operations” means engaging in commerce
5 in any form, including acquiring, devel-
6 oping, selling, leasing, or operating equip-
7 ment, facilities, personnel, products, serv-
8 ices, personal property, real property, or
9 any other apparatus of business or com-
10 merce.

11 (ii) EXCEPTIONS.—The term “busi-
12 ness operations” does not include any of
13 the following:

14 (I) Action taken for the benefit
15 of the country of Ukraine.

16 (II) Action serving humanitarian
17 purposes to meet basic human needs,
18 including through a hospital, school,
19 or non-profit organization.

20 (III) The provision of products or
21 services for compliance with legal, re-
22 porting, or other requirements of the
23 laws or standards of countries other
24 than the Russian Federation.

1 (IV) Journalistic and publishing
2 activities, news reporting, or the gath-
3 ering and dissemination of informa-
4 tion, informational materials, related
5 services, or transactions ordinarily in-
6 cident to journalistic and publishing
7 activities.

8 (iii) EXCEPTION FOR SUSPENSION OR
9 TERMINATION ACTIONS.—The term “busi-
10 ness operations” does not include action
11 taken to support the suspension or termi-
12 nation of business operations (as described
13 in clause (i)) for the duration of the cov-
14 ered period, including—

15 (I) an action to secure or divest
16 from facilities, property, or equip-
17 ment;

18 (II) the provision of products or
19 services provided to reduce or elimi-
20 nate operations in territory inter-
21 nationally recognized as the Russian
22 Federation or to comply with sanc-
23 tions relating to the Russian Federa-
24 tion; and

1 (III) activities that are incident
2 to liquidating, dissolving, or winding
3 down a subsidiary or legal entity in
4 Russia through which operations had
5 been conducted.

6 (C) COVERED CONTRACT.—The term “cov-
7 ered contract” means a prime contract entered
8 into by an executive agency with a company
9 conducting business operations in territory
10 internationally recognized as the Russian Fed-
11 eration during the covered period.

12 (D) COVERED PERIOD.—The term “cov-
13 ered period” means the period of time begin-
14 ning 90 days after the date of the enactment of
15 this Act and ending on a date that is deter-
16 mined by the Secretary of State based on steps
17 taken by the Russian Federation to restore the
18 safety, sovereignty, and condition of the country
19 of Ukraine, or 10 years after the date of the
20 enactment of this Act, whichever is sooner.

21 (E) EXECUTIVE AGENCY.—The term “ex-
22 ecutive agency” has the meaning given the term
23 in section 133 of title 41, United States Code.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Federal Contracting for*
3 *Peace and Security Act”.*

4 **SEC. 2. FEDERAL CONTRACTING FOR PEACE AND SECU-**
5 **RITY.**

6 (a) *PURPOSE.*—*It is the policy of the Federal Govern-*
7 *ment not to contract with entities that undermine United*
8 *States interests by continuing to conduct business oper-*
9 *ations in the Russian Federation during its ongoing war*
10 *of aggression against Ukraine.*

11 (b) *CONTRACTING PROHIBITION.*—

12 (1) *PROHIBITION.*—*The head of an executive*
13 *agency may not enter into, extend, or renew a covered*
14 *contract with an entity that continues to conduct*
15 *business operations in the territory internationally*
16 *recognized as the Russian Federation during the cov-*
17 *ered period.*

18 (2) *EXCEPTIONS.*—

19 (A) *GOOD FAITH EXEMPTION.*—*The Office*
20 *of Management and Budget, in consultation with*
21 *the General Services Administration, may ex-*
22 *empt a contractor from the prohibition in para-*
23 *graph (1) if the contractor has—*

24 (i) *pursued and continues to pursue all*
25 *reasonable steps in demonstrating a good*

1 *faith effort to comply with the requirements*
2 *of this Act; and*

3 *(ii) provided to the executive agency a*
4 *reasonable, written plan to achieve compli-*
5 *ance with such requirements.*

6 *(B) PERMISSIBLE OPERATIONS.—The prohi-*
7 *bition in paragraph (1) shall not apply to busi-*
8 *ness operations in Russia authorized by a license*
9 *issued by the Office of Foreign Assets Control or*
10 *the Bureau of Industry and Security or is other-*
11 *wise allowed to operate notwithstanding the im-*
12 *position of sanctions or export controls.*

13 *(C) AMERICAN DIPLOMATIC MISSION IN*
14 *RUSSIA.—The prohibition in paragraph (1) shall*
15 *not apply to contracts related to the operation*
16 *and maintenance of the United States Govern-*
17 *ment’s consular offices and diplomatic posts in*
18 *Russia.*

19 *(D) INDIVIDUAL CONTRACTS.—The prohibi-*
20 *tion under paragraph (1) shall not apply to any*
21 *contract that is any of the following:*

22 *(i) For the benefit, either directly or*
23 *through the efforts of regional allies, of the*
24 *country of Ukraine.*

1 (ii) *For humanitarian purposes to*
2 *meet basic human needs.*

3 (3) *NATIONAL INTEREST AND PUBLIC INTEREST*
4 *WAIVERS.—*

5 (A) *IN GENERAL.—The head of an executive*
6 *agency is authorized to waive the prohibition*
7 *under paragraph (1) with respect to a covered*
8 *contract if the head of the agency certifies in*
9 *writing to the President that such waiver is for*
10 *the national interest of the United States or in*
11 *the public interest of the United States, and in-*
12 *cludes in such certification a justification for the*
13 *waiver and description of the contract to which*
14 *the waiver applies. The authority in this sub-*
15 *paragraph may not be delegated below the level*
16 *of the senior procurement executive of the agency.*

17 (B) *CONGRESSIONAL NOTIFICATION.—The*
18 *head of an executive agency shall, not later than*
19 *7 days before issuing a waiver described in sub-*
20 *paragraph (A), submit to the appropriate con-*
21 *gressional committees the certification described*
22 *in such subparagraph.*

23 (4) *EMERGENCY RULEMAKING AUTHORITY.—Not*
24 *later than 180 days after the date of the enactment*
25 *of this Act, the Director of the Office of Management*

1 *and Budget, in consultation with the Administrator*
2 *of General Services and the Secretary of Defense, shall*
3 *promulgate regulations for agency implementation of*
4 *this Act using emergency rulemaking procedures while*
5 *considering public comment to the greatest extent*
6 *practicable, that includes the following:*

7 *(A) A list of equipment, facilities, per-*
8 *sonnel, products, services, or other items or ac-*
9 *tivities, the engagement with which would be*
10 *considered business operations, subject to the pro-*
11 *hibition under paragraph (1).*

12 *(B) A requirement for a contractor or offer-*
13 *or to represent whether such contractor or offeror*
14 *uses any of the items, or is engaged in any of*
15 *the activities on the list, described in subpara-*
16 *graph (A).*

17 *(C) A description of the process for deter-*
18 *mining a good faith exemption described under*
19 *paragraph (2).*

20 (5) *DEFINITIONS.—In this section:*

21 *(A) APPROPRIATE CONGRESSIONAL COMMIT-*
22 *TEES.—The term “appropriate congressional*
23 *committees” means the Committee on Homeland*
24 *Security and Governmental Affairs of the Senate*

1 *and the Committee on Oversight and Reform of*
 2 *the House of Representatives.*

3 *(B) BUSINESS OPERATIONS.—*

4 *(i) IN GENERAL.—Except as provided*
 5 *in clauses (ii) and (iii), the term “business*
 6 *operations” means engaging in commerce in*
 7 *any form, including acquiring, developing,*
 8 *selling, leasing, or operating equipment, fa-*
 9 *cilities, personnel, products, services, per-*
 10 *sonal property, real property, or any other*
 11 *apparatus of business or commerce.*

12 *(ii) EXCEPTIONS.—The term “business*
 13 *operations” does not include any of the fol-*
 14 *lowing:*

15 *(I) Action taken for the benefit of*
 16 *the country of Ukraine.*

17 *(II) Activities to support humani-*
 18 *tarian projects to meet basic human*
 19 *needs in Ukraine or the Russian Fed-*
 20 *eration, including—*

21 *(aa) drought and flood relief;*

22 *(bb) food, nutrition, and*
 23 *medicine distribution;*

24 *(cc) the provision of health*
 25 *services;*

1 *(dd) assistance for vulnerable*
 2 *or displaced populations, includ-*
 3 *ing individuals with disabilities*
 4 *and the elderly; and*

5 *(ee) environmental programs.*

6 *(III) Activities to support edu-*
 7 *cation in Ukraine or the Russian Fed-*
 8 *eration, including combating illiteracy,*
 9 *increasing access to education, inter-*
 10 *national exchanges, and assisting edu-*
 11 *cation reform projects.*

12 *(IV) Activities to support non-*
 13 *commercial development projects di-*
 14 *rectly benefitting the people of Ukraine*
 15 *or the Russian Federation, including*
 16 *those related to health, food security,*
 17 *and water and sanitation.*

18 *(V) The provision of products or*
 19 *services for compliance with legal, re-*
 20 *porting, or other requirements of the*
 21 *laws or standards of countries other*
 22 *than the Russian Federation.*

23 *(VI) Journalistic and publishing*
 24 *activities, news reporting, or the gath-*
 25 *ering and dissemination of informa-*

1 *tion, informational materials, related*
2 *services, or transactions ordinarily in-*
3 *cident to journalistic and publishing*
4 *activities.*

5 *(VII) Research activities, includ-*
6 *ing medical research, for purposes of*
7 *benefit to the general public.*

8 *(iii) EXCEPTION FOR SUSPENSION OR*
9 *TERMINATION ACTIONS.—The term “busi-*
10 *ness operations” does not include action*
11 *taken to support the suspension or termi-*
12 *nation of business operations (as described*
13 *in clause (i)) for the duration of the covered*
14 *period, including—*

15 *(I) an action to secure or divest*
16 *from facilities, property, or equipment;*

17 *(II) the provision of products or*
18 *services provided to reduce or eliminate*
19 *operations in territory internationally*
20 *recognized as the Russian Federation*
21 *or to comply with sanctions relating to*
22 *the Russian Federation; and*

23 *(III) activities that are incident*
24 *to liquidating, dissolving, or winding*
25 *down a subsidiary or legal entity in*

1 *Russia through which operations had*
2 *been conducted, including actions re-*
3 *quired to meet any judicial or regu-*
4 *latory requirements or orders of the*
5 *Russian Federation.*

6 (C) *COVERED CONTRACT.*—*The term “cov-*
7 *ered contract” means a prime contract entered*
8 *into by an executive agency with a company*
9 *conducting business operations in territory inter-*
10 *nationally recognized as the Russian Federation*
11 *during the covered period.*

12 (D) *COVERED PERIOD.*—*The term “covered*
13 *period” means the period of time beginning 180*
14 *days after the date of the enactment of this Act*
15 *and ending on a date that is determined by the*
16 *Secretary of State based on steps taken by the*
17 *Russian Federation to restore the safety, sov-*
18 *ereignty, and condition of the country of*
19 *Ukraine, or 10 years after the date of the enact-*
20 *ment of this Act, whichever is sooner.*

21 (E) *EXECUTIVE AGENCY.*—*The term “execu-*
22 *tive agency” has the meaning given the term in*
23 *section 133 of title 41, United States Code.*

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A BILL

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