

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.

S. 4930

To prohibit Federal procurement from entities conducting business operations in the Russian Federation, 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. 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 “Federal Contracting

5 for Peace and Security Act”.

6 **SEC. 2. FEDERAL CONTRACTING FOR PEACE AND SECU-**

7 **RITY.**

8 (a) PURPOSE.—It is the policy of the Federal Govern-

9 ment not to contract with entities that undermine United

10 States interests by continuing to conduct business oper-

1 ations in the Russian Federation during its ongoing war
2 of aggression against Ukraine.

3 (b) CONTRACTING PROHIBITION.—

4 (1) PROHIBITION.—The head of an executive
5 agency may not enter into, extend, or renew a cov-
6 ered contract with an entity that continues to con-
7 duct business operations in the territory internation-
8 ally recognized as the Russian Federation during the
9 covered period.

10 (2) EXCEPTIONS.—

11 (A) GOOD FAITH EXEMPTION.—The Office
12 of Management and Budget, in consultation
13 with the General Services Administration, may
14 exempt a contractor from the prohibition in
15 paragraph (1) if the contractor has—

16 (i) pursued and continues to pursue
17 all reasonable steps in demonstrating a
18 good faith effort to comply with the re-
19 quirements of this Act; and

20 (ii) provided to the executive agency a
21 reasonable, written plan to achieve compli-
22 ance with such requirements.

23 (B) PERMISSIBLE OPERATIONS.—The pro-
24 hibition in paragraph (1) shall not apply to
25 business operations in Russia authorized by a

1 license issued by the Office of Foreign Assets
2 Control or the Bureau of Industry and Security
3 or is otherwise allowed to operate notwith-
4 standing the imposition of sanctions or export
5 controls.

6 (C) AMERICAN DIPLOMATIC MISSION IN
7 RUSSIA.—The prohibition in paragraph (1)
8 shall not apply to contracts related to the oper-
9 ation and maintenance of the United States
10 Government’s consular offices and diplomatic
11 posts in Russia.

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

15 (i) For the benefit, either directly or
16 through the efforts of regional allies, of the
17 country of Ukraine.

18 (ii) For humanitarian purposes to
19 meet basic human needs.

20 (3) NATIONAL INTEREST AND PUBLIC INTER-
21 EST WAIVERS.—

22 (A) IN GENERAL.—The head of an execu-
23 tive agency is authorized to waive the prohibi-
24 tion under paragraph (1) with respect to a cov-
25 ered contract if the head of the agency certifies

1 in writing to the President that such waiver is
2 for the national interest of the United States or
3 in the public interest of the United States, and
4 includes in such certification a justification for
5 the waiver and description of the contract to
6 which the waiver applies. The authority in this
7 subparagraph may not be delegated below the
8 level of the senior procurement executive of the
9 agency.

10 (B) CONGRESSIONAL NOTIFICATION.—The
11 head of an executive agency shall, not later
12 than 7 days before issuing a waiver described in
13 subparagraph (A), submit to the appropriate
14 congressional committees the certification de-
15 scribed in such subparagraph.

16 (4) EMERGENCY RULEMAKING AUTHORITY.—
17 Not later than 180 days after the date of the enact-
18 ment of this Act, the Director of the Office of Man-
19 agement and Budget, in consultation with the Ad-
20 ministrator of General Services and the Secretary of
21 Defense, shall promulgate regulations for agency im-
22 plementation of this Act using emergency rule-
23 making procedures while considering public comment
24 to the greatest extent practicable, that includes the
25 following:

1 (A) A list of equipment, facilities, per-
2 sonnel, products, services, or other items or ac-
3 tivities, the engagement with which would be
4 considered business operations, subject to the
5 prohibition under paragraph (1).

6 (B) A requirement for a contractor or of-
7 feror to represent whether such contractor or
8 offeror uses any of the items, or is engaged in
9 any of the activities on the list, described in
10 subparagraph (A).

11 (C) A description of the process for deter-
12 mining a good faith exemption described under
13 paragraph (2).

14 (5) DEFINITIONS.—In this section:

15 (A) APPROPRIATE CONGRESSIONAL COM-
16 MITTEES.—The term “appropriate congres-
17 sional committees” means the Committee on
18 Homeland Security and Governmental Affairs
19 of the Senate and the Committee on Oversight
20 and Reform of the House of Representatives.

21 (B) BUSINESS OPERATIONS.—

22 (i) IN GENERAL.—Except as provided
23 in clauses (ii) and (iii), the term “business
24 operations” means engaging in commerce
25 in any form, including acquiring, devel-

1 (ee) environmental pro-
2 grams.

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

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

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

20 (VI) Journalistic and publishing
21 activities, news reporting, or the gath-
22 ering and dissemination of informa-
23 tion, informational materials, related
24 services, or transactions ordinarily in-

1 cident to journalistic and publishing
2 activities.

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

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

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

16 (II) the provision of products or
17 services provided to reduce or elimi-
18 nate operations in territory inter-
19 nationally recognized as the Russian
20 Federation or to comply with sanc-
21 tions relating to the Russian Federa-
22 tion; 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
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 180 days after the date of the enactment
15 of 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.