

Calendar No. 665

117TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 117-266

FEDERAL CONTRACTING FOR PEACE AND
SECURITY ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 4930

TO PROHIBIT FEDERAL PROCUREMENT FROM COMPANIES
OPERATING IN THE RUSSIAN FEDERATION, AND FOR OTHER
PURPOSES



DECEMBER 15, 2022.—Ordered to be printed

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Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 4930]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4930), to prohibit Federal procurement from entities conducting business operations in the Russian Federation, and for other purposes, having considered the same, reports favorably thereon with an amendment, in the nature of a substitute, and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 4930, the *Federal Contracting for Peace and Security Act*, would prohibit the federal government from entering into, extending, or renewing contracts with companies that continue to do business in the Russian Federation (Russia) during its war of aggression against Ukraine, with some exceptions. The prohibition would be implemented through changes to the Federal Acquisition Regulation (FAR) to be promulgated not later than 180 days after the date of the Act's enactment.

II. BACKGROUND AND NEED FOR THE LEGISLATION

The *Federal Contracting for Peace and Security Act* would establish that it is the policy of the United States government not to contract with companies that undermine United States national in-

terests by continuing to conduct business in Russia during its ongoing war against Ukraine. The bill would require FAR changes to prohibit federal agencies from entering into, extending, or renewing contracts with companies that continue to conduct business in Russia, with exceptions for products and services purchased for the benefit of Ukraine or to meet humanitarian needs. The bill would provide an executive agency waiver authority in cases of national or public interest of the United States.

Since the Russian invasion of Ukraine began, the death toll of Ukrainian civilians has surged and nearly 8 million refugees have fled Ukraine, causing a humanitarian crisis.¹ In response, many companies around the world have withdrawn their operations from Russia. However, other companies have refused to suspend their business operations in Russia or have only partially scaled back their operations or investments—including some United States federal contractors that benefit from taxpayer dollars.²

III. LEGISLATIVE HISTORY

Chairman Gary Peters (D–MI) introduced S. 4930, the *Federal Contracting for Peace and Security Act*, on September 22, 2022. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 4930 at a business meeting on September 28, 2022. During the business meeting, a modified substitute amendment was offered by Chairman Peters. The substitute amendment as modified clarifies both the purpose of the prohibition on contracting with entities that continue to conduct business operations in Russia during its war against Ukraine and the exceptions to the prohibition and the waiver requirements for agencies. The modified substitute amendment was adopted by voice vote.

The bill was ordered reported favorably by voice vote as amended by the Peters substitute amendment as modified, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Portman, Lankford, Romney, Scott, and Hawley present.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section provides that the Act may be cited as the “Federal Contracting for Peace and Security Act.”

Sec. 2. Federal contracting for peace and security

Subsection (a) of Section 2 identifies the purpose of the Act, to establish a policy of the federal government not to contract with entities that undermine United States interests by continuing to conduct business operations in the Russian Federation during its war with Ukraine.

Subsection (b) of Section 2 establishes a contracting prohibition on executive agencies so that they may not enter into, extend, or renew a covered contract with an entity that continues to conduct business operations in Russia during the covered period.

¹Operational Data Portal, Ukraine Refugee Situation (<https://data.unhcr.org/en/situations/ukraine>) (accessed Nov. 18, 2022).

²KSE Institute, Stop Doing Business with Russia (<https://leave-russia.org/?ft%5B147%5D%5B%5D%5B%5D=9057>) (accessed Nov. 18, 2022).

The subsection provides exceptions to the prohibition for good faith efforts of contractors to comply, licensed permissible operations, American diplomatic missions in Russia, and certain contracts for the benefit of Ukraine or for humanitarian purposes.

The subsection also provides executive agencies with waiver authority for contracts certified to be in the national or public interest of the United States, and requires congressional notification prior to issuance of such waivers.

The subsection requires the Director of the Office of Management and Budget, in consultation with the Administrator of General Services and the Secretary of Defense, to promulgate regulations to implement the prohibition within 180 days of enactment. These regulations must include a list of items and services that would be considered business operations subject to the prohibition, and a requirement for contractors to represent whether they use any items or engage in any activities falling under the prohibition.

Lastly, the subsection provides definitions of “appropriate congressional committees,” “business operations” with various inclusions and exceptions, “covered contract,” “covered period,” and “executive agency.”

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s (CBO) statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation would make no changes in existing law, within the meaning of clauses (a) and (b) of subparagraph 12 of rule XXVI of the Standing Rules of the Senate, because this legislation would not repeal or amend any provision of current law.