

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

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

S. 4066

To improve Federal technology procurement, 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 Improvement

5 in Technology Procurement Act” or the “FIT Procure-

6 ment Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) ACQUISITION WORKFORCE.—The term “ac-

10 quisition workforce” means employees of an execu-

11 tive agency who are responsible for procurement,

12 contracting, program or project management that

1 involves the performance of acquisition-related func-
2 tions, or others as designated by the Chief Acquisi-
3 tion Officer, senior procurement executive, or head
4 of the contracting activity.

5 (2) ADMINISTRATOR.—The term “Adminis-
6 trator” means the Administrator for Federal Pro-
7 curement Policy.

8 (3) CROSS-FUNCTIONAL.—The term “cross-
9 functional” means a structure in which individuals
10 with different functional expertise or from different
11 areas of an organization work together as a team.

12 (4) EXECUTIVE AGENCY.—The term “executive
13 agency” has the meaning given the term in section
14 133 of title 41, United States Code.

15 (5) EXPERIENTIAL LEARNING.—The term “ex-
16 periential learning” means on-the-job experiences or
17 simulations that serve to enhance workforce profes-
18 sional skills.

19 (6) INFORMATION AND COMMUNICATIONS
20 TECHNOLOGY.—The term “information and commu-
21 nications technology”—

22 (A) has the meaning given the term in sec-
23 tion 4713 of title 41, United States Code; and

24 (B) includes information and communica-
25 tions technologies covered by definitions con-

1 tained in the Federal Acquisition Regulation,
2 including definitions added after the date of the
3 enactment of this Act by the Federal Acquisi-
4 tion Regulatory Council pursuant to notice and
5 comment.

6 (7) **RELEVANT COMMITTEES OF CONGRESS.**—
7 The term “relevant committees of Congress” means
8 the Committee on Homeland Security and Govern-
9 mental Affairs of the Senate and the Committee on
10 Oversight and Accountability of the House of Rep-
11 resentatives.

12 (8) **SMALL BUSINESS.**—The term “small busi-
13 ness” has the meaning given the term “small busi-
14 ness concern” in section 3 of the Small Business Act
15 (15 U.S.C. 632).

16 **SEC. 3. ACQUISITION WORKFORCE.**

17 (a) **EXPERIENTIAL LEARNING.**—Not later than 18
18 months after the date of the enactment of this Act, the
19 Federal Acquisition Institute shall establish a pilot pro-
20 gram to consider the incorporation of experiential learning
21 into the Federal Credentials Program, the Federal Acqui-
22 sition Certification-Contracting Officer’s Representative
23 (FAC-COR) Program, and the Federal Acquisition Cer-
24 tification for Program and Project Managers (FAC-P/PM)
25 Program, or any successor programs.

1 (b) TRAINING ON INFORMATION AND COMMUNICA-
2 TIONS TECHNOLOGY ACQUISITION.—

3 (1) IN GENERAL.—Not later than 18 months
4 after the date of the enactment of this Act, the Fed-
5 eral Acquisition Institute, in coordination with the
6 Administrator, the Administrator of General Serv-
7 ices, the Administrator of the Office of Electronic
8 Government, the Chief Information Officers Council,
9 and the United States Digital Service, and in con-
10 sultation with others as determined to be appro-
11 priate by the Director of the Federal Acquisition In-
12 stitute, shall develop and implement or otherwise
13 provide a cross-functional information and commu-
14 nications technology acquisition training program for
15 acquisition workforce members involved in acquiring
16 information and communications technology. The
17 training shall—

18 (A) include learning objectives related to
19 market research, communicating with industry
20 and industry perspectives on the procurement
21 process, including how investment decisions are
22 impacted by Government communication and
23 engagement, developing requirements, acquisi-
24 tion planning, best practices for developing and
25 executing outcome-based contracts, and source

1 selection strategy, evaluating proposals, and
2 awarding and administering contracts for infor-
3 mation and communications technology;

4 (B) include learning objectives that provide
5 a basic understanding of key technologies Fed-
6 eral agencies need, such as cloud computing, ar-
7 tificial intelligence and artificial intelligence-en-
8 abled applications, and cybersecurity solutions;

9 (C) include learning objectives that encour-
10 age the use of commercial or commercially
11 available off-the-shelf (COTS) technologies to
12 the greatest extent practicable;

13 (D) include case studies of lessons learned
14 from Federal information and communications
15 technology procurements and contracts, and re-
16 lated matters as deemed relevant by the Direc-
17 tor of the Federal Acquisition Institute;

18 (E) include experiential learning opportu-
19 nities, and opportunities to practice acquisition
20 teaming involving collaboration of team mem-
21 bers with varied relevant domain expertise to
22 complete acquisition-related tasks, including
23 tasks with accelerated timelines;

24 (F) include continuous learning rec-
25 ommendations and resources to keep the skills

1 of acquisition workforce members current, in-
2 cluding tools that help adopt or adapt the use
3 of innovative acquisition practices or other flexi-
4 ble business practices commonly used in com-
5 mercial buys;

6 (G) be made available to acquisition work-
7 force members designated by a Chief Acquisi-
8 tion Officer, senior procurement executive, or
9 head of the contracting activity to participate in
10 the training program; and

11 (H) inform executive agencies about
12 streamlined and alternative procurement meth-
13 ods for procurement of information and com-
14 munications technology, including—

15 (i) simplified procedures for certain
16 commercial products and commercial serv-
17 ices in accordance with subpart 13.5 of the
18 Federal Acquisition Regulation, prize com-
19 petitions under the America COMPETES
20 Reauthorization Act of 2010 (Public Law
21 111–358), competitive programs that en-
22 courage businesses to engage in Federal
23 research or research and development with
24 the potential for commercialization, and
25 joint venture partnerships;

1 (ii) innovative procurement techniques
2 designed to streamline the procurement
3 process and lower barriers to entry, such
4 as use of oral presentations and product
5 demonstrations instead of lengthy written
6 proposals, appropriately leveraging per-
7 formance and outcomes-based contracting,
8 and other techniques discussed on the
9 Periodic Table of Acquisition Innovations
10 or other similar successor knowledge man-
11 agement portals; and

12 (iii) information on appropriate use,
13 examples and templates, and any other in-
14 formation determined relevant by the Ad-
15 ministrator to assist contracting officers
16 and other members of the acquisition
17 workforce in using the procedures de-
18 scribed in clauses (i) and (ii).

19 (I) includes ethical procurement practices
20 as a core component of trainings and provides
21 a mechanism for feedback from program par-
22 ticipants to ensure trainings cover ethical pro-
23 curement practices that are aligned with the
24 evolving landscape of technology and procure-
25 ment;

1 (J) incorporates learning objectives for
2 workforce members to identify and mitigate
3 wasteful practices and unethical behaviors in
4 procurement processes, with a focus on prac-
5 tical applications rather than theoretical knowl-
6 edge; and

7 (K) incorporates learning objectives on pri-
8 vacy protection and civil liberties safeguards,
9 ensuring that all acquisition workforce members
10 understand the importance of integrating these
11 considerations into the procurement process.

12 (2) REPORT.—Not later than 2 years after the
13 date of the enactment of this Act, the Director of
14 the Federal Acquisition Institute shall provide to the
15 relevant committees of Congress, the Chief Acquisi-
16 tion Officers Council, and the Chief Information Of-
17 ficers Council—

18 (A) a report on the Director’s progress in
19 developing and implementing or otherwise pro-
20 viding the information and communications
21 technology acquisition training described in
22 paragraph (1); and

23 (B) a list of any acquisition training that
24 the Director determines to be outdated or no
25 longer necessary for other reasons.

1 (3) DURATION.—The training program shall be
2 updated as appropriate as technology advances, but
3 at least every 2 years after implementation, and of-
4 fered for a minimum of 5 years following the date
5 of implementation of the training program.

6 (c) ACQUISITION WORKFORCE TRAINING FUND.—
7 Section 1703(i)(3) of title 41, United States Code, is
8 amended by striking “Five percent” and inserting “Seven
9 and a half percent”.

10 (d) HARMONIZATION OF ACQUISITION WORKFORCE
11 TRAINING REQUIREMENTS.—The responsibility for the re-
12 quirement in subsection (b)(1) of section 2 of the AI
13 Training Act (Public Law 117–207; 41 U.S.C. 1703 note)
14 is reassigned from the Director of the Office of Manage-
15 ment and Budget to the Administrator of General Serv-
16 ices.

17 **SEC. 4. INNOVATIVE PROCUREMENT METHODS.**

18 (a) INCREASE IN SIMPLIFIED ACQUISITION THRESH-
19 OLD.—Section 134 of title 41, United States Code, is
20 amended by striking “\$250,000” and inserting
21 “\$500,000”.

22 (b) ADVANCES FOR COMMERCIAL TECHNOLOGY SUB-
23 SCRIPTIONS AND TENANCY.—Section 3324(d) of title 31,
24 United States Code, is amended—

1 (1) in paragraph (1)(C), by striking “; and”
2 and inserting a semicolon;

3 (2) in paragraph (2)—

4 (A) by inserting “or commercially available
5 content” after “publication”; and

6 (B) by striking the period at the end and
7 inserting “; and”; and

8 (3) by adding at the end the following new
9 paragraph:

10 “(3) charges for information and communica-
11 tions technology subscriptions, reservations, or ten-
12 ancy, which means the sharing of computing re-
13 sources in a private or public environment, including
14 cloud environments, for which the ordering agency
15 defines appropriate access and security standards.”.

16 **SEC. 5. INCREASING COMPETITION IN FEDERAL CON-**
17 **TRACTING.**

18 (a) USE OF PAST PERFORMANCE.—

19 (1) IN GENERAL.—Not later than 1 year after
20 the date of the enactment of this Act, the Adminis-
21 trator shall issue guidance, including examples and
22 templates where appropriate, on—

23 (A) when a wider range of projects, such
24 as commercial or non-government, as well as
25 Government projects, should be accepted as rel-

1 evant past performance, in order to have in-
2 creased competition among eligible firms with
3 capability to perform a requirement, such as a
4 requirement without much precedent;

5 (B) a means by which an agency may vali-
6 date non-government past performance ref-
7 erences, such as by requiring an official of an
8 entity providing past performance references to
9 attest to their authenticity and by providing
10 verifiable contact information for the references;
11 and

12 (C) use of alternative evaluation methods
13 other than past performance that may be ap-
14 propriate for a requirement without much
15 precedent, such as demonstrations and testing
16 of technologies as part of the proposal process.

17 (2) SUPPLEMENT NOT SUPPLANT.—The guid-
18 ance issued under paragraph (1) shall supplement,
19 not replace, existing Federal and agency policy and
20 procedures for consideration of past performance
21 and other evaluation factors and methods.

22 (b) ENHANCING COMPETITION IN FEDERAL PRO-
23 CUREMENT.—

24 (1) COUNCIL RECOMMENDATIONS.—Not later
25 than 90 days after the date of the enactment of this

1 Act, the Administrator shall convene the Chief Ac-
2 quisition Officers' Council (in this section referred to
3 as the "Council"), to make recommendations to
4 identify and eliminate specific, unnecessary proce-
5 dural barriers that disproportionately affect the abil-
6 ity of small businesses to compete for Federal con-
7 tracts, with a focus on streamlining documentation
8 and qualification requirements unrelated to the pro-
9 tection of privacy and civil liberties, and related mat-
10 ters.

11 (2) CONSULTATION.—The Council shall obtain
12 input from the public, including from the APEX Ac-
13 celerators program (formerly known as Procurement
14 Technical Assistance Center (PTAC) network) and
15 other contractor representatives, to identify Federal
16 procurement policies and regulations that are obso-
17 lete, overly burdensome or restrictive, not adequately
18 harmonized, or otherwise serve to create barriers to
19 small business participation in Federal contracting
20 or unnecessarily increase bid and proposal costs.

21 (3) EXAMINATION OF ACTIONS.—The Council
22 shall consider the input obtained under paragraph
23 (3) and any other information determined to be rel-
24 evant by the Council to identify legislative, regu-
25 latory, and other actions to increase competition and

1 remove barriers to small business participation in
2 the procurement process.

3 (4) IMPLEMENTATION.—Not later than 2 years
4 after the date of the enactment of this Act, the Ad-
5 ministrator shall, in consultation with the Federal
6 Acquisition Regulatory Council, the Chief Acquisi-
7 tion Officers Council, and other agencies as appro-
8 priate, implement the regulatory and other non-legis-
9 lative actions identified under paragraph (4), as de-
10 termined necessary by the Administrator, to remove
11 barriers to entry for small businesses seeking to par-
12 ticipate in Federal Government procurement.

13 (5) BRIEFING.—Not later than 2 years after
14 the date of the enactment of this Act, the Adminis-
15 trator shall brief the relevant committees of Con-
16 gress on the legislative actions identified under para-
17 graph (4), and the actions implemented under para-
18 graph (5).

19 (c) CONSIDERATION OF COST-EFFICIENCY AND
20 QUALITY.—The Administrator shall advocate for and
21 prioritize contracting policies that ensure that cost-effi-
22 ciency and quality of goods and services are key deter-
23 mining factors in awarding Federal contracts.

1 **SEC. 6. COMPTROLLER GENERAL ASSESSMENT OF SMALL**
2 **BUSINESS PARTICIPATION IN FEDERAL PRO-**
3 **CUREMENT.**

4 Not later than 18 months after the date of the enact-
5 ment of this Act, the Comptroller General of the United
6 States shall submit to Congress and make publicly avail-
7 able a report that—

8 (1) assesses the current level of small business
9 participation in Federal procurement, identifying
10 barriers, opportunities, and the impact of existing
11 policies on the ability of small businesses to compete
12 in Federal procurement;

13 (2) catalogs and evaluates the effectiveness of
14 programs intended to support small business partici-
15 pation in Federal procurement; and

16 (3) analyzes trends in small business involve-
17 ment in Federal technology projects, including data
18 on contract awards, the diversity of sectors rep-
19 resented, and the geographic distribution of small
20 business contractors.

21 **SEC. 7. CONFLICT OF INTEREST PROCEDURES.**

22 The Federal Acquisition Regulatory Council and the
23 Administrator shall update the Federal Acquisition Regu-
24 lation as necessary to provide additional guidance to Fed-
25 eral agencies to address personal and organizational con-

1 flicts of interest involving members of the acquisition
2 workforce.

3 **SEC. 8. NO ADDITIONAL FUNDING.**

4 No additional funds are authorized to be appro-
5 priated for the purpose of carrying out this Act.