

118TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To improve Federal technology procurement, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. PETERS (for himself and Mr. CRUZ) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To improve Federal technology procurement, 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 Improvement  
5 in Technology Procurement Act” or the “FIT Procure-  
6 ment Act”.

7 **SEC. 2. FINDINGS.**

8 Congress makes the following findings:

9 (1) The Government Accountability Office  
10 (GAO) has conducted a trend analysis of Govern-  
11 ment-wide contracting for each of the last several

1 fiscal years. These analyses show that the Federal  
2 dollars obligated through contracts has been steadily  
3 increasing.

4 (2) Contract spending accounts for more than  
5 80 percent of the Federal information technology  
6 budget.

7 (3) Spending on information security, software,  
8 cloud computing, data center solutions and services,  
9 software as a service, and artificial intelligence tech-  
10 nologies is projected to grow significantly.

11 (4) Rapid technological developments and in-  
12 creased Government demand create a need for a  
13 Federal acquisition workforce with an understanding  
14 of technology and related procurement consider-  
15 ations.

16 (5) Federal agencies are challenged to shorten  
17 the procurement cycle to meet agency technology re-  
18 quirements. Technology acquired through procure-  
19 ments that take years from requirements develop-  
20 ment to implementation may be obsolete by the time  
21 it is fielded.

22 (6) While Federal contracting dollars are in-  
23 creasing year over year, and the number of new  
24 business applications filed is at an all-time high, the  
25 number of Federal contractors receiving contract

1 awards is shrinking. This trend could impair the  
2 Federal Government's access to innovative commer-  
3 cial technologies.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) **ACQUISITION WORKFORCE.**—The term “ac-  
7 quisition workforce” means employees of an execu-  
8 tive agency who are responsible for procurement,  
9 contracting, program or project management that  
10 involves the performance of acquisition-related func-  
11 tions, or others as designated by the Chief Acquisi-  
12 tion Officer, senior procurement executive, or head  
13 of the contracting activity.

14 (2) **ADMINISTRATOR.**—The term “Adminis-  
15 trator” means the Administrator for Federal Pro-  
16 curement Policy.

17 (3) **CROSS-FUNCTIONAL.**—The term “cross-  
18 functional” means a structure in which individuals  
19 with different functional expertise or from different  
20 areas of an organization work together as a team.

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

24 (5) **EXPERIENTIAL LEARNING.**—The term “ex-  
25 periential learning” means on-the-job experiences or

1 simulations that serve to enhance workforce profes-  
2 sional skills.

3 (6) INFORMATION AND COMMUNICATIONS  
4 TECHNOLOGY.—The term “information and commu-  
5 nications technology”—

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

8 (B) includes information and communica-  
9 tions technologies covered by definitions con-  
10 tained in the Federal Acquisition Regulation,  
11 including definitions added after the date of the  
12 enactment of this Act by the Federal Acquisi-  
13 tion Regulatory Council pursuant to notice and  
14 comment.

15 (7) RELEVANT COMMITTEES OF CONGRESS.—  
16 The term “relevant committees of Congress” means  
17 the Committee on Homeland Security and Govern-  
18 mental Affairs of the Senate and the Committee on  
19 Oversight and Accountability of the House of Rep-  
20 resentatives.

21 **SEC. 4. ACQUISITION WORKFORCE.**

22 (a) EXPERIENTIAL LEARNING.—Not later than 18  
23 months after the date of the enactment of this Act, the  
24 Federal Acquisition Institute shall incorporate experiential  
25 learning into the Federal Credentials Program, the Fed-

1 eral Acquisition Certification-Contracting Officer's Rep-  
2 resentative (FAC-COR) Program, and the Federal Acqui-  
3 sition Certification for Program and Project Managers  
4 (FAC-P/PM) Program, or any successor programs.

5 (b) TRAINING ON INFORMATION AND COMMUNICA-  
6 TIONS TECHNOLOGY ACQUISITION.—

7 (1) IN GENERAL.—Not later than 18 months  
8 after the date of the enactment of this Act, the Fed-  
9 eral Acquisition Institute, in coordination with the  
10 Administrator, the Administrator of General Serv-  
11 ices, the Federal Chief Information Officer, the  
12 Chief Information Officers Council, and the United  
13 States Digital Service, and in consultation with oth-  
14 ers as determined to be appropriate by the Director  
15 of the Federal Acquisition Institute, shall develop  
16 and implement or otherwise provide a cross-func-  
17 tional information and communications technology  
18 acquisition training program for acquisition work-  
19 force members involved in acquiring information and  
20 communications technology. The training shall—

21 (A) include learning objectives related to  
22 market research, communicating with industry  
23 and industry perspectives on the procurement  
24 process, including how investment decisions are  
25 impacted by Government communication and

1 engagement, developing requirements, acquisi-  
2 tion planning, best practices for developing and  
3 executing outcome-based contracts, and source  
4 selection strategy, evaluating proposals, and  
5 awarding and administering contracts for infor-  
6 mation and communications technology;

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

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

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

21 (E) include experiential learning opportu-  
22 nities, and opportunities to practice acquisition  
23 teaming involving collaboration of team mem-  
24 bers with varied relevant domain expertise to

1 complete acquisition-related tasks, including  
2 tasks with accelerated timelines;

3 (F) include continuous learning rec-  
4 ommendations and resources to keep the skills  
5 of acquisition workforce members current, in-  
6 cluding tools that help adopt or adapt the use  
7 of innovative acquisition practices or other flexi-  
8 ble business practices commonly used in com-  
9 mercial buys;

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

15 (H) inform executive agencies about  
16 streamlined and alternative procurement meth-  
17 ods for procurement of information and com-  
18 munications technology, including—

19 (i) simplified procedures for certain  
20 commercial products and commercial serv-  
21 ices in accordance with subpart 13.5 of the  
22 Federal Acquisition Regulation, prize com-  
23 petitions under the America COMPETES  
24 Reauthorization Act of 2010 (Public Law  
25 111–358), commercial solutions opening

1 authorities as provided in section 5 of this  
2 Act or under separate authority, competi-  
3 tive programs that encourage businesses to  
4 engage in Federal research or research and  
5 development with the potential for com-  
6 mercialization, and joint venture partner-  
7 ships;

8 (ii) innovative procurement techniques  
9 designed to streamline the procurement  
10 process and lower barriers to entry, such  
11 as use of oral presentations and product  
12 demonstrations instead of lengthy written  
13 proposals, appropriately leveraging per-  
14 formance and outcomes-based contracting,  
15 and other techniques discussed on the  
16 Periodic Table of Acquisition Innovations  
17 or other similar successor knowledge man-  
18 agement portals; and

19 (iii) information on appropriate use,  
20 examples and templates, and any other in-  
21 formation determined relevant by the Ad-  
22 ministrator to assist contracting officers  
23 and other members of the acquisition  
24 workforce in using the procedures de-  
25 scribed in clauses (i) and (ii).



1           (2) REPORT.—Not later than 2 years after the  
2           date of the enactment of this Act, the Director of  
3           the Federal Acquisition Institute shall provide to the  
4           relevant committees of Congress, the Chief Acquisition  
5           Officers Council, and the Chief Information Officers  
6           Council—

7                   (A) a report on the Director’s progress in  
8                   developing and implementing or otherwise providing  
9                   the information and communications  
10                  technology acquisition training described in  
11                  paragraph (1); and

12                   (B) a list of any congressionally mandated  
13                   acquisition training that the Director determines  
14                   to be outdated or no longer necessary for  
15                   other reasons.

16           (3) DURATION.—The training program shall be  
17           updated as appropriate as technology advances, but  
18           at least every 2 years after implementation, and offered  
19           for a minimum of 7 years following the date  
20           of implementation of the training program.

21           (c) ACQUISITION WORKFORCE TRAINING FUND.—

22                   (1) FINDING.—Congress finds that the Acquisition  
23                   Workforce Training Fund should be utilized in  
24                   order to ensure that the Federal acquisition work-  
25                   force—

1 (A) continues to adapt to fundamental  
2 changes in Federal Government acquisition of  
3 property and services; and

4 (B) acquires new skills and knowledge to  
5 enable it to contribute effectively in the chang-  
6 ing environment of the 21st century.

7 (2) INCREASED CREDITS TO FUND.—Section  
8 1703(i)(3) of title 41, United States Code, is amend-  
9 ed by striking “Five percent” and inserting “Seven  
10 and a half percent”.

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

18 **SEC. 5. INNOVATIVE PROCUREMENT METHODS.**

19 (a) EXPANSION OF COMMERCIAL SOLUTIONS OPEN-  
20 ING AUTHORITY.—Section 880 of the National Defense  
21 Authorization Act for Fiscal Year 2017 (Public Law 114–  
22 328; 41 U.S.C. 3301 note) is amended—

23 (1) in the section heading, by striking “**PILOT**  
24 **PROGRAMS FOR AUTHORITY TO ACQUIRE IN-**  
25 **NOVATIVE COMMERCIAL PRODUCTS**” and insert-

1 ing “**PROGRAMS FOR AUTHORITY TO ACQUIRE**  
2 **INNOVATIVE COMMERCIAL PRODUCTS AND**  
3 **COMMERCIAL SERVICES**”;

4 (2) in subsection (a)—

5 (A) in paragraph (1), by inserting “and  
6 commercial services” after “commercial prod-  
7 ucts”;

8 (B) in paragraph (2), by adding at the end  
9 the following new subparagraph:

10 “(C) The head of an executive agency ap-  
11 proved for the program, on a temporary or per-  
12 manent basis, by the Director of the Office of  
13 Management and Budget.”; and

14 (C) in paragraph (3), by adding at the end  
15 the following new subparagraph:

16 “(C) An executive agency approved for the  
17 program by the Director of the Office of Man-  
18 agement and Budget.”;

19 (3) by amending subsection (d) to read as fol-  
20 lows:

21 “(d) **GUIDANCE.**—The head of an agency shall issue  
22 guidance for the implementation of the program under  
23 this section within that agency. Such guidance shall be  
24 issued in consultation with the Office of Management and  
25 Budget and shall be posted for access by the public. The

1 guidance shall also include requirements for each general  
2 solicitation to be posted publicly through a means that  
3 provides access to the notice of general solicitation  
4 through the System for Award Management or subsequent  
5 Government-wide point of entry, with classified solicita-  
6 tions posted to the appropriate Government portal.”;

7 (4) by amending subsection (e) to read as fol-  
8 lows:

9 “(e) REPORTING AND DATA COLLECTION.—The  
10 head of an agency shall report information on contracts  
11 made using procedures under this section to the Office of  
12 Management and Budget as determined by the Director  
13 of the Office of Management and Budget. The Adminis-  
14 trator for Federal Procurement Policy shall collect and  
15 analyze data on the use of the authority under this section  
16 for the purposes of—

17 “(1) developing and sharing best practices;

18 “(2) gathering information on the implementa-  
19 tion of the authority and related policy issues; and

20 “(3) informing the Committee on Homeland Se-  
21 curity and Governmental Affairs of the Senate and  
22 the Committee on Oversight and Accountability of  
23 the House of Representatives on the use of the au-  
24 thority.”;

25 (5) in subsection (f)—

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

3 (B) by redesignating paragraph (2) as  
4 paragraph (3); and

5 (C) by inserting after paragraph (1) the  
6 following new paragraph:

7 “(2) the term ‘executive agency’ has the mean-  
8 ing given the term in section 133 of title 41, United  
9 States Code; and”;

10 (6) by striking subsection (g); and

11 (7) by striking “pilot” each place it appears.

12 (b) CLERICAL AMENDMENT.—The table of contents  
13 in section 2(b) of such Act and the table of contents pre-  
14 ceding subtitle A of title VIII of such Act are each amend-  
15 ed by striking the item relating to section 880 and insert-  
16 ing the following new item:

“Sec. 880. Programs for authority to acquire innovative commercial products,  
commercial technologies, and commercial services using general  
solicitation competitive procedures.”.

17 (c) INCREASE IN SIMPLIFIED ACQUISITION THRESH-  
18 OLD.—

19 (1) FINDING.—Congress finds that the thresh-  
20 old under which agencies may use simplified acquisi-  
21 tion procedures to reduce costs, improve opportuni-  
22 ties for qualified businesses, promote efficiency and  
23 economy, and avoid unnecessary burdens for agen-  
24 cies and their contractors should be updated.

1 (2) AMENDMENT.—

2 (A) IN GENERAL.—Section 134 of title 41,  
3 United States Code, is amended by striking  
4 “\$250,000” and inserting “\$500,000”.

5 (B) AUTHORITY TO APPLY PROVISIONS  
6 BELOW THE THRESHOLD.—The Federal Acqui-  
7 sition Regulatory Council may apply a provision  
8 that would not otherwise be applicable below  
9 the threshold as amended by subparagraph (A)  
10 upon a written determination that it would not  
11 be in the best interest of the Federal Govern-  
12 ment to exempt contracts and subcontracts in  
13 amounts not greater than such amended thresh-  
14 old from such provision, such as for national se-  
15 curity reasons.

16 (d) MULTIPLE AWARD SCHEDULE PROGRAM COM-  
17 PETITIVE PROCEDURES.—

18 (1) FINDING.—Congress finds that the competi-  
19 tion standard established by the Administrator of  
20 General Services for the multiple award schedule  
21 program of the General Services Administration  
22 should be updated and made consistent with the  
23 competition standard for other procurement meth-  
24 ods, such as simplified acquisitions and negotiated  
25 procurements. The term “best value” is defined in

1 the Federal Acquisition Regulation as meaning the  
2 expected outcome of an acquisition that, in the Gov-  
3 ernment's estimation, provides the greatest overall  
4 benefit in response to the requirement.

5 (2) AMENDMENTS.—

6 (A) CIVILIAN CONTRACTS.—Section  
7 152(3)(B) of title 41, United States Code, is  
8 amended to read as follows:

9 “(B) contracts and orders under such pro-  
10 gram result in the award of best value products  
11 and services for the Federal Government;”.

12 (B) DEFENSE CONTRACTS.—Section  
13 3012(3)(B) of title 10, United States Code, is  
14 amended to read as follows:

15 “(B) contracts and orders under such pro-  
16 gram result in the award of best value products  
17 and services for the Federal Government;”.

18 (3) GUIDANCE.—The Federal Acquisition Regu-  
19 latory Council shall provide guidance to Federal  
20 agencies on appropriate use of the best value com-  
21 petition standard for the multiple award schedule  
22 program as part of the implementing regulations  
23 promulgated in connection with the amendments  
24 made by paragraph (2).

1 (e) ADVANCES FOR COMMERCIAL TECHNOLOGY SUB-  
2 SCRIPTIONS AND TENANCY.—

3 (1) FINDING.—Congress finds that the author-  
4 ity to make advance payments should be updated for  
5 purposes of enabling the most cost-effective acquisi-  
6 tion of cloud computing, data center solutions and  
7 services, and other information and communications  
8 technology acquired on a subscription, reservation,  
9 or tenancy basis.

10 (2) AUTHORITY TO PAY ADVANCES.—Section  
11 3324(d) of title 31, United States Code, is amend-  
12 ed—

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

15 (B) in paragraph (2)—

16 (i) by inserting “or commercially  
17 available content” after “publication”; and

18 (ii) by striking the period at the end  
19 and inserting “; and”; and

20 (C) by adding at the end the following new  
21 paragraph:

22 “(3) charges for information and communica-  
23 tions technology subscriptions, reservations, or ten-  
24 ancy, which means the sharing of computing re-  
25 sources in a private or public environment, including



1 cloud environments, for which the ordering agency  
2 defines appropriate access and security standards.”.

3 **SEC. 6. INCREASING COMPETITION IN FEDERAL CON-**  
4 **TRACTING.**

5 (a) USE OF PAST PERFORMANCE.—Not later than  
6 1 year after the date of the enactment of this Act, the  
7 Administrator shall issue guidance, including examples  
8 and templates where appropriate, on—

9 (1) when a wider range of projects, such as  
10 commercial or non-government, as well as Govern-  
11 ment projects, should be accepted as relevant past  
12 performance, in order to have increased competition  
13 among eligible firms with capability to perform a re-  
14 quirement, such as a requirement without much  
15 precedent;

16 (2) a means by which an agency may validate  
17 non-government past performance references, such  
18 as by requiring an official of an entity providing  
19 past performance references to attest to their au-  
20 thenticity and by providing verifiable contact infor-  
21 mation for the references; and

22 (3) use of alternative evaluation methods other  
23 than past performance that may be appropriate for  
24 a requirement without much precedent, such as dem-

1       onstrations and testing of technologies as part of the  
2       proposal process.

3       (b) ENSURING A CAPABLE FEDERAL VENDOR  
4       BASE.—

5               (1) WORKING GROUP.—Not later than 90 days  
6       after the date of the enactment of this Act, the Ad-  
7       ministrator shall convene a working group or an ap-  
8       propriate existing body (in this section referred to as  
9       the “working group”), to make recommendations to  
10      address the Federal Government’s shrinking vendor  
11      base and related matters.

12              (2) MEMBERSHIP.—The working group con-  
13      vened under paragraph (1) shall be chaired by the  
14      Administrator or a designee of the Administrator  
15      and include, at a minimum, representatives from the  
16      following departments and agencies:

17                   (A) The General Services Administration.

18                   (B) The Department of Homeland Secu-  
19                   rity.

20                   (C) The Department of Commerce.

21                   (D) The Department of Defense.

22                   (E) The Department of Health and  
23                   Human Services.

24                   (F) The Small Business Administration.

1 (G) Any other agencies or organizations as  
2 determined appropriate by the Administrator.

3 (3) CONSULTATION.—The working group shall  
4 obtain input from the public, including from the  
5 APEX Accelerators program (formerly known as  
6 Procurement Technical Assistance Center (PTAC)  
7 network) and other contractor representatives, to  
8 identify Federal procurement policies and regula-  
9 tions that are obsolete, overly burdensome or restric-  
10 tive, not adequately harmonized, or otherwise serve  
11 to create barriers to participation in Federal con-  
12 tracting or unnecessarily increase bid and proposal  
13 costs.

14 (4) EXAMINATION OF ACTIONS.—The working  
15 group shall consider the input obtained under para-  
16 graph (3) and any other information determined to  
17 be relevant by the working group to identify legisla-  
18 tive, regulatory, and other actions to remove barriers  
19 to qualified vendors in the procurement process, in  
20 order to build the Federal vendor base, increase  
21 competition, and address related matters.

22 (5) IMPLEMENTATION.—Not later than 2 years  
23 after the date of the enactment of this Act, the Ad-  
24 ministrator shall, in consultation with the Federal  
25 Acquisition Regulatory Council, the Chief Acquisi-

1        tion Officers Council, the working group, and other  
2        agencies as appropriate, implement the regulatory  
3        and other non-legislative actions identified under  
4        paragraph (4), as determined necessary by the Ad-  
5        ministrator, to remove barriers to entry for those  
6        seeking to participate in Federal Government pro-  
7        curement.

8            (6) BRIEFING.—Not later than 2 years after  
9        the date of the enactment of this Act, the Adminis-  
10       trator shall brief the relevant committees of Con-  
11       gress on the legislative actions identified under para-  
12       graph (4), and the actions implemented under para-  
13       graph (5).

14 **SEC. 7. INCENTIVIZING EMPLOYEE STOCK OWNERSHIP**  
15 **PLANS FOR BUSINESS GROWTH.**

16        (a) PILOT PROGRAM TO USE NONCOMPETITIVE PRO-  
17       CEDURES FOR CERTAIN FOLLOW-ON CONTRACTS TO  
18       QUALIFIED BUSINESSES WHOLLY-OWNED THROUGH AN  
19       EMPLOYEE STOCK OWNERSHIP PLAN (ESOP).—

20            (1) ESTABLISHMENT.—The Administrator may  
21        expand the pilot program authorized by section 874  
22        of the National Defense Authorization Act for Fiscal  
23        Year 2022 (Public Law 117–81; 10 U.S.C. 3204  
24        note) for Government-wide use, including by coordi-  
25        nating as necessary with the Federal Acquisition

1 Regulatory Council to make related amendments to  
2 the Federal Acquisition Regulation.

3 (2) FOLLOW-ON CONTRACTS.—Notwithstanding  
4 the requirements of section 3301 of title 41, United  
5 States Code, for purposes of carrying out a Govern-  
6 ment-wide ESOP pilot program established under  
7 paragraph (1), the products or services to be pro-  
8 cured by an executive agency under a follow-on con-  
9 tract with a qualified business wholly-owned through  
10 an ESOP for the continued development, production,  
11 or provision of products or services that are the  
12 same as or substantially similar to the products or  
13 services procured under a prior contract may be pro-  
14 cured through procedures other than competitive  
15 procedures if the performance of the qualified busi-  
16 ness on the prior contract was rated as satisfactory  
17 (or the equivalent) or better.

18 (3) LIMITATION.—A qualified business wholly-  
19 owned through an ESOP may have a single oppor-  
20 tunity for award of a sole-source follow-on contract  
21 under this subsection, unless the senior procurement  
22 executive of the executive agency awarding the con-  
23 tract approves a waiver of such limitation.

24 (b) VERIFICATION AND REPORTING OF QUALIFIED  
25 BUSINESSES WHOLLY-OWNED THROUGH AN EMPLOYEE

1 STOCK OWNERSHIP PLAN.—Under a pilot program estab-  
2 lished under this section, the Administrator shall establish  
3 procedures—

4 (1) for businesses to verify status as a qualified  
5 business wholly-owned through an ESOP for the  
6 purposes of this section by using existing Federal re-  
7 porting mechanisms;

8 (2) for a qualified businesses wholly-owned  
9 through an ESOP to certify that not more than 50  
10 percent of the amount paid under the contract will  
11 be expended on subcontracts, including similarly sit-  
12 uated ESOPs if determined appropriate by the Ad-  
13 ministrator, subject to such necessary and reason-  
14 able waivers as the implementing guidance or regu-  
15 lations may prescribe; and

16 (3) to record and provide to relevant commit-  
17 tees of Congress upon request information on each  
18 follow-on contract awarded under authority of this  
19 subsection, including details relevant to the nature  
20 of such contract and the qualified business wholly-  
21 owned through an ESOP that received the contract.

22 (c) SUNSET.—A pilot program established under this  
23 section shall expire on the date that is 5 years after the  
24 date of the enactment of this Act.