

117TH CONGRESS
2D SESSION

S. 3905

To prevent organizational conflicts of interest in Federal acquisition, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 23, 2022

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

A BILL

To prevent organizational conflicts of interest in Federal
acquisition, 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 “Preventing Organiza-
5 tional Conflicts of Interest in Federal Acquisition Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The Federal Government’s reliance on con-
9 tractors for mission support services can create the
10 potential for conflicts of interest related to impaired

1 objectivity or undue influence due to contractor busi-
2 ness relationships with regulated or other entities.

3 (2) Comptroller General bid protest decisions in
4 recent years have shown failures in proper identifica-
5 tion and mitigation of organizational conflicts of in-
6 terest. These decisions focus on the issue of “im-
7 paired objectivity” in contract support, or a situa-
8 tion in which a contractor is unable to provide im-
9 partial recommendations and advice to the Govern-
10 ment due to competing interests of the contractor.

11 (3) Prior efforts by the Administrator for Fed-
12 eral Procurement Policy and the Director of the Of-
13 fice of Government Ethics, undertaken pursuant to
14 the Duncan Hunter National Defense Authorization
15 Act for Fiscal Year 2009 (Public Law 110–417),
16 have determined that changes are needed to the
17 Federal Acquisition Regulation to prevent and miti-
18 gate conflicts of interest in Federal contracting.

19 (4) Protecting against conflicts of interest in
20 Federal acquisition is vital to the integrity of Gov-
21 ernment operations.

1 **SEC. 3. PREVENTING ORGANIZATIONAL CONFLICTS OF IN-**
2 **TEREST IN FEDERAL ACQUISITION.**

3 (a) IN GENERAL.—Not later than 18 months after
4 the date of the enactment of this Act, the Federal Acquisi-
5 tion Regulatory Council shall—

6 (1) identify contracting methods, types, and
7 services that raise heightened concerns for potential
8 organizational conflicts of interest beyond those cur-
9 rently addressed in the Federal Acquisition Regula-
10 tion; and

11 (2) revise the Federal Acquisition Regulation
12 to—

13 (A) address organizational conflicts of in-
14 terest with sufficiently rigorous, comprehensive,
15 and consistent governmentwide policy and guid-
16 ance to prevent or effectively mitigate such con-
17 flicts of interest in Federal acquisition;

18 (B) provide and update definitions related
19 to organizational conflicts of interest, to include
20 contractor relationships with public, private, do-
21 mestic, and foreign entities that may cause con-
22 tract support to be subject to potential conflicts
23 of interest, including undue influence;

24 (C) provide executive agencies with solici-
25 tation provisions and contract clauses that re-
26 quire contractors to disclose information rel-

1 evant to potential organizational conflicts of in-
2 terest and limit future contracting with respect
3 to potential conflicts of interest with the work
4 to be performed under the awarded contract,
5 for agency use as needed;

6 (D) require executive agencies to tailor the
7 solicitation and contract clauses described in
8 subparagraph (C) as necessary to provide spe-
9 cifics on information required to be disclosed
10 and limitations on future contracting based on
11 the potential for conflict with the work to be
12 performed under the awarded contract; and

13 (E) require executive agencies to establish
14 or update agency conflict of interest procedures
15 to implement the Federal Acquisition Regula-
16 tion revisions made under this section, and peri-
17 odically assess and update these agency proce-
18 dures as needed to address agency-specific con-
19 flict of interest issues.

20 (b) EXECUTIVE AGENCY DEFINED.—In this section,
21 the term “executive agency” has the meaning given the
22 term in section 133 of title 41, United States Code.

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