AMENDMENT TO
RULES COMMITTEE PRINT 118–10
OFFERED BY MR. DOGGETT OF TEXAS

At the appropriate place in subtitle A of title VIII, insert the following:

SEC. 8. REVIEW PANEL ON FAIR AND REASONABLE PRICING AND CONTRACT OVERSIGHT.

(a) Establishment.—Not later than 60 days after the date of enactment of this Act, the Secretary of Defense shall establish a review panel on fair and reasonable pricing and contract oversight of sole-source contracts for munitions and weapons systems contracts, including related contracts for services and spare parts.

(b) Membership.—

(1) In general.—The review panel shall be composed of the following six members:


(B) The Director of the Defense Contract Audit Agency.

(C) The Director of the Defense Contract Management Agency.

(E) Two individuals appointed by the Secretary of Defense with expertise in contract pricing, contract negotiations, and contract oversight.

(2) EXPERT APPOINTMENT CRITERIA.—When appointing individuals described in paragraph (1)(E) to the review panel, the Secretary of Defense shall appoint only individuals—

(A) that have extensive experience in both the public and private (including defense and commercial experience) sectors; and

(B) who, in the three-year period immediately preceding such appointment—

(i) have not been employed by a contractor of the Department of Defense; or

(ii) undertaken any actions on behalf of such a contractor for which the individual was compensated in any way.

(3) MEMBER EMPLOYMENT RESTRICTIONS.—In addition to any other restriction imposed by law, during the period beginning on the date an individual is appointed as a member of the review panel
and ending on the date that is 3 years after such individual ceases to be a member of the review panel, such individual may not be employed by a contractor of the Department of Defense or undertake any actions on behalf of such a contractor for which the individual is compensated in any way.

(e) DUTIES.—The review panel shall do the following:

(1) Identify an extensive and representative sample of all fixed price contracts and subcontracts, including delivery and task orders, in excess of $10,000,000 awarded during a period determined by the review panel, except that—

(A) the period determined by the review panel shall include the 15-year period immediately preceding the date of the enactment of this Act; and

(B) the sample shall include contracts the performance of which is at least 75 percent complete.

(2) Provide to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a comparison between negotiated contract prices and actual cost outcomes on the contracts and subcontracts included in the sample identified under paragraph (1).
(3) Provide to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives an analysis of the sample identified under paragraph (1) to determine if the pricing for the contracting in such sample exceeded fair and reasonable prices and, if so, whether excessive pricing is widespread or unique to certain weapons systems, sectors, or companies.

(4) Provide to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives an analysis of the sample identified under paragraph (1) that compares initial price submitted by the contractor and subcontractor in the proposal to actual cost outcomes in order to determine the accuracy of contractor estimating systems.

(5) Provide to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives an analysis of the degree of competition on spare parts contracts determined to be a commercial product (as defined in section 103 of title 41, United States Code).

(6) Conduct a review and provide an analysis to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Rep-
resentatives that determines the degree to which
contract prices for contracts and subcontracts for
spare parts that are subject to the submission of
certified cost and pricing data exceed fair and rea-
sonable prices in comparison to contracts and sub-
contracts for spare parts that do not require the
submission of certified cost and pricing data.

(7) Provide to the Secretary of Defense and the
Committees on Armed Services of the Senate and
the House of Representatives an analysis of the ade-
quacy and degree of contractor oversight by the De-
partment of Defense, including the sufficiency of
post-contract award audits for compliance with
chapter 271 of title 10, United States Code.

(d) ADMINISTRATIVE MATTERS.—

(1) IN GENERAL.—The Secretary of Defense
shall provide the review panel with timely access to
appropriate information, data, resources, and anal-
ysis so that the review panel may conduct a thor-
ough and independent assessment as required by
this section.

(2) SUBPOENA POWERS.—To the degree that
any company who has entered into a contract or
subcontract subject to the chapter 271 of title 10,
United States Code, and refuses to provide actual
cost information to include all internal estimates to complete for unfinished work, the Inspector General shall use its subpoena powers to compel the delivery of the requested information.

(3) INAPPLICABILITY OF FACA.—The requirements of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the review panel.

(e) REPORT.—

(1) REVIEW PANEL REPORT.—Not later than one year after the date on which the Secretary of Defense establishes the review panel, the panel shall transmit a final report to the Secretary.

(2) ELEMENTS.—The final report shall contain a detailed statement of the findings and conclusions of the review panel, including all analyses required by this section as well as recommendations regarding the adherence to fair and reasonable pricing for contracts and subcontracts and improvements related to contractor oversight.

(3) INTERIM REPORTS.—

(A) IN GENERAL.—Not later than 8 months and 12 months after the date of the enactment of this Act, the Secretary of Defense shall submit a report to, or brief, the congressional defense committees on the interim find-
ings of the review panel with respect to the elements set forth in paragraph (2).

(B) SECOND REPORT.—Not later than 4 months after the Secretary submits a report to or briefs the congressional defense committees under subparagraph (A), the Secretary of Defense shall submit a second report to, or provided a second briefing to, the congressional defense committees on the interim findings of the review panel with respect to the elements set forth in paragraph (2).

(C) REVIEW PANEL UPDATE REQUIREMENT.—The panel shall provide regular updates to the Secretary of Defense for purposes of providing the interim reports required under this paragraph.

(4) FINAL REPORT.—Not later than 30 days after receiving the final report of the review panel under paragraph (1), the Secretary of Defense shall transmit such final report, together with such comments as the Secretary determines appropriate, to the congressional defense committees.

(f) DEFENSE ACQUISITION WORKFORCE DEVELOPMENT FUND SUPPORT.—The Secretary of Defense may use amounts available in the Department of Defense Ac-
quisition Workforce Development Fund established under section 1705 of title 10, United States Code, to support activities of the review panel under this section.

(g) REVIEW PANEL DEFINED.—In this section, the term “review panel” means the review panel established under subsection (a).