

AMENDMENT TO RULES COMMITTEE PRINT 119-8
OFFERED BY MR. DOGGETT OF TEXAS

At the end of subtitle A of title VIII, insert the following new section:

1 **SEC. 8___. REVIEW PANEL ON FAIR AND REASONABLE**
2 **PRICING AND CONTRACT OVERSIGHT.**

3 (a) ESTABLISHMENT.—Not later than 60 days after
4 the date of enactment of this section, the Secretary of De-
5 fense shall establish a review panel on fair and reasonable
6 pricing and contract oversight of sole-source contracts for
7 munitions and weapons systems contracts, including re-
8 lated contracts for services and spare parts.

9 (b) MEMBERSHIP.—

10 (1) IN GENERAL.—The review panel shall be
11 composed of the following six members:

12 (A) The Director Price, Cost, and Finance
13 of the Office of Defense Pricing and Con-
14 tracting of the Department of Defense.

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

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

1 (D) An individual from the Office of the
2 Inspector General of the Department of De-
3 fense.

4 (E) Two individuals appointed by the Sec-
5 retary of Defense with expertise in contract
6 pricing, contract negotiations, and contract
7 oversight.

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

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

15 (B) who, in the three-year period imme-
16 diately preceding such appointment—

17 (i) have not been employed by a con-
18 tractor of the Department of Defense; or

19 (ii) undertaken any actions on behalf
20 of such a contractor for which the indi-
21 vidual was compensated in any way.

22 (3) MEMBER EMPLOYMENT RESTRICTIONS.—In
23 addition to any other restriction imposed by law,
24 during the period beginning on the date an indi-
25 vidual is appointed as a member of the review panel

1 and ending on the date that is 3 years after such
2 individual ceases to be a member of the review
3 panel, such individual may not be employed by a
4 contractor of the Department of Defense or under-
5 take any actions on behalf of such a contractor for
6 which the individual is compensated in any way.

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

8 (1) Identify an extensive and representative
9 sample of all fixed price contracts and subcontracts,
10 including delivery and task orders, in excess of
11 \$10,000,000 awarded during a period determined by
12 the review panel, except that—

13 (A) the period determined by the review
14 panel shall include the 15-year period imme-
15 diately preceding the date of the enactment of
16 this Act; and

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

20 (2) Provide to the Secretary of Defense and the
21 Committees on Armed Services of the Senate and
22 the House of Representatives a comparison between
23 negotiated contract prices and actual cost outcomes
24 on the contracts and subcontracts included in the
25 sample identified under paragraph (1).

1 (3) Provide to the Secretary of Defense and the
2 Committees on Armed Services of the Senate and
3 the House of Representatives an analysis of the
4 sample identified under paragraph (1) to determine
5 if the pricing for the contracting in such sample ex-
6 ceeded fair and reasonable prices and, if so, whether
7 excessive pricing is widespread or unique to certain
8 weapons systems, sectors, or companies.

9 (4) Provide to the Secretary of Defense and the
10 Committees on Armed Services of the Senate and
11 the House of Representatives an analysis of the
12 sample identified under paragraph (1) that compares
13 initial price submitted by the contractor and subcon-
14 tractor in the proposal to actual cost outcomes in
15 order to determine the accuracy of contractor esti-
16 mating systems.

17 (5) Provide to the Secretary of Defense and the
18 Committees on Armed Services of the Senate and
19 the House of Representatives an analysis of the de-
20 gree of competition on spare parts contracts deter-
21 mined to be a commercial product (as defined in sec-
22 tion 103 of title 41, United States Code).

23 (6) Conduct a review and provide an analysis to
24 the Secretary of Defense and the Committees on
25 Armed Services of the Senate and the House of Rep-

1 representatives that determines the degree to which
2 contract prices for contracts and subcontracts for
3 spare parts that are subject to the submission of
4 certified cost and pricing data exceed fair and rea-
5 sonable prices in comparison to contracts and sub-
6 contracts for spare parts that do not require the
7 submission of certified cost and pricing data.

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

15 (d) ADMINISTRATIVE MATTERS.—

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

22 (2) SUBPOENA POWERS.—To the degree that
23 any company who has entered into a contract or
24 subcontract subject to the chapter 271 of title 10,
25 United States Code, and refuses to provide actual

1 cost information to include all internal estimates to
2 complete for unfinished work, the Inspector General
3 shall use its subpoena powers to compel the delivery
4 of the requested information.

5 (3) INAPPLICABILITY OF FACA.—Chapter 10 of
6 title 5, United States Code, shall not apply to the
7 review panel.

8 (e) REPORT.—

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

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

20 (3) INTERIM REPORTS.—(A) Not later than 8
21 months and 12 months after the date of the enact-
22 ment of this Act, the Secretary of Defense shall sub-
23 mit a report to, or brief, the congressional defense
24 committees on the interim findings of the review

1 panel with respect to the elements set forth in para-
2 graph (2).

3 (B) Not later than 4 months after the Sec-
4 retary submits a report to or briefs the congressional
5 defense committees under subparagraph (A), the
6 Secretary of Defense shall submit a second report
7 to, or provided a second briefing to, the congres-
8 sional defense committees on the interim findings of
9 the review panel with respect to the elements set
10 forth in paragraph (2).

11 (C) The panel shall provide regular updates to
12 the Secretary of Defense for purposes of providing
13 the interim reports required under this paragraph.

14 (4) FINAL REPORT.—Not later than 30 days
15 after receiving the final report of the review panel
16 under paragraph (1), the Secretary of Defense shall
17 transmit such final report, together with such com-
18 ments as the Secretary determines appropriate, to
19 the congressional defense committees.

20 (f) DEFENSE ACQUISITION WORKFORCE DEVELOP-
21 MENT FUND SUPPORT.—The Secretary of Defense may
22 use amounts available in the Department of Defense Ac-
23 quisition Workforce Development Account established
24 under section 1705 of title 10, United States Code, to sup-
25 port activities of the review panel under this section.

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

