

AMENDMENT TO RULES COMMITTEE PRINT 118-

36

OFFERED BY MR. DOGGETT OF TEXAS

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

1 **SEC. 8___. AMENDMENTS TO COST AND COMPARISON RE-**
2 **QUIREMENTS.**

3 Title 10, United States Code, is amended—

4 (1) in section 3703—

5 (A) in subsection (d)—

6 (i) in paragraph (1), by inserting “,
7 but is not required to presume,” after
8 “may presume”;

9 (ii) in paragraph (2), by striking “by
10 the head of the contracting activity” and
11 insert “by the direct supervisor of the con-
12 tracting officer”; and

13 (iii) in paragraph (3), by striking “the
14 head of a contracting activity” and insert-
15 ing “the reviewing official”; and

16 (B) in subsection (f), by adding at the end
17 the following: “Any such determination of a
18 prime contractor is subject to review and ap-

1 proval by the contracting officer, as determined
2 appropriate in the sole discretion of the con-
3 tracting officer.”;

4 (2) in section 3705—

5 (A) in subsection (a)—

6 (i) by inserting “, including the terms
7 and conditions of such sales,” after “pre-
8 viously been sold”;

9 (ii) by inserting “, terms, and condi-
10 tions” after “sufficient information on
11 prices”;

12 (iii) by striking “the contracting offi-
13 cer shall require the” and all that follows
14 through “approaches, and” and inserting
15 “the offeror shall, at the request of the
16 contracting officer, submit to the con-
17 tracting officer”; and

18 (iv) by inserting after “reasonable
19 price” the following: “(including labor and
20 material costs and overhead rates for each
21 item or service described in subsection
22 (d))”; and

23 (B) by adding at the end the following new
24 subsection:

1 “(d) OTHER PRICING INFORMATION.—An item or
2 service described in this section is an item or service being
3 procured under a contract or subcontract with respect to
4 which an offeror is subject to subsection (a), other than
5 an item or service—

6 “(1) that is—

7 “(A) a commercial products or commercial
8 service; or

9 “(B) a product or service proposed to be a
10 commercial product or commercial service, re-
11 spectively; and

12 “(2) for which the relevant sales data for deter-
13 mining a fair and reasonable price under subsection
14 (a) is—

15 “(A) from within the immediately pre-
16 ceding 12 months; and

17 “(B) not solely sales to the Federal Gov-
18 ernment.”; and

19 (3) in section 3455(d)(1)(C)—

20 (A) by inserting after “a price analysis”
21 the following: “, all sales for the comparable
22 commercial product are either also solely sales
23 to the Federal Government or not within the
24 past year,”; and

1 (B) by inserting “for the items being ac-
2 quired” after “overhead rates”.

