AMENDMENT TO
RULES COMMITTEE PRINT 116-17
OFFERED BY MR. SMITH OF NEW JERSEY

At the end of the bill (before the short title) insert the following:

DIVISION _____—PROTECT OUR WORKERS

SECTION 1. SHORT TITLE.
This division may be cited as the “Protect Our Workers Act”.

SEC. 2. FINDINGS.
The Congress finds the following:
(1) The Davis-Bacon Act of 1931 (40 U.S.C. 3141 et seq.) requires that contractors and subcontractors on certain government projects pay construction workers locally prevailing wages as determined by the Department of Labor.
(2) Locally prevailing wages vary by job classification and consist of a basic hourly rate of pay and benefits.
(3) Generally, the Davis-Bacon Act applies to projects that meet three criteria—
(A) there is a contract for construction in excess of $2,000;

(B) the United States or the District of Columbia is a party to the contract; and

(C) the contract is for construction, alteration, or repair.

(4) Under the Davis-Bacon Act, the Government may terminate a contract if locally prevailing wages have not been paid to employees working on the project.

(5) For close to 90 years, this law has helped ensure quality craftsmanship on Federal projects, protected the standard of living of skilled and trained blue-collar construction workers, improved workplace safety by discouraging low-road contractors from bidding, and stimulated the economy.

(6) The Wage and Hour Division of the Department of Labor administers the Davis-Bacon Act by, among other things, determining prevailing wage rates and prescribing regulations and standards to be observed by contracting agencies.

(7) Contracting agencies, such as the Corps of Engineers, however, have the primary day-to-day responsibility for enforcement of the Davis-Bacon Act and its labor standards requirements. See, e.g., sub-
parts 22.406 and 22.407 of the Federal Acquisition
Regulation.

(8) Some irresponsible contractors and sub-
contractors often avoid their prevailing wage obliga-
tions by, among other things, engaging in craft and
independent contractor misclassification.

(9) Craft misclassification refers to the practice
in which contractors misclassify high-skilled workers
as general laborers or other classifications in order
to avoid paying the higher prevailing wage rate ap-
licable to the high-skilled work actually performed.

(10) Independent contractor misclassification
refers to the practice in which contractors
misclassify employees as independent contractors to
avoid paying prevailing wages, reduce labor costs,
and avoid State and Federal taxes.

(11) This practice denies workers access to fed-
erally prescribed prevailing wages for the work done
and related benefits. Communities also suffer be-
cause misclassification results in lower tax revenues
for Federal, State, and local governments.

(12) In 2000, the Department of Labor com-
missioned a study to determine the extent of
misclassification, and found that up to 30 percent of
audited firms had employees misclassified as independent contractors.

(13) In light of the intended Federal investment for military construction projects for fiscal year 2020, it is appropriate to investigate the compliance of the Corps of Engineers with the requirements of the Davis-Bacon Act.

SEC. 3. GAO STUDY.

(a) Study Required.—The Comptroller General of the United States shall conduct a study on the contracting practices of the Corps of Engineers, with a specific focus on how the Corps of Engineers complies with and enforces the requirement to pay prevailing wages on federally financed construction jobs, as required by subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act). The study shall consider the following:

(1) Any programs or protocols the Corps of Engineers has in place for the purpose of carrying out its Davis-Bacon Act enforcement obligations as set forth in the Federal Acquisition Regulation.

(2) Any programs or protocols the Corps of Engineers has in place for the purpose of identifying and addressing independent contractor
misclassification on projects subject to the Davis-Bacon Act.

(3) The frequency with which the Corps of Engineers conducts site visits on each covered project to monitor Davis-Bacon Act compliance.

(4) The frequency with which the Corps of Engineers monitors certified payroll reports submitted by contractors and subcontractors on each covered project.

(5) Whether the Corps of Engineers accepts and investigates complaints of Davis-Bacon Act violations submitted by third parties, such as contractors and workers’ rights organizations.

(6) Whether the Corps of Engineers maintains a database listing all contractors and subcontractors who have, in one way or another, violated the Davis-Bacon Act and whether the Corps consults this database as part of its contract award process.

(7) The frequency, over the last five years, with which the Corps of Engineers penalized, disqualified, terminated, or moved for debarment of a contractor for Davis-Bacon violations.

(8) How the Corps of Engineers verifies that the contractors it hires for its projects are properly licensed.
(b) **Report to Congress.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Education and Labor, the Committee on Armed Services, and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Health, Education, Labor, and Pensions, the Committee on Armed Services, and the Committee on Commerce, Science, and Transportation of the Senate a report that summarizes the results of the study required under subsection (a), together with any recommendations for legislative or regulatory action that would improve the efforts of enforcing the requirement to pay prevailing wages on federally financed construction jobs.