

**AMENDMENT TO THE RULES COMMITTEE PRINT
FOR H.R. 4909
OFFERED BY MR. GRAVES OF MISSOURI**

At the end of title VIII, add the following new section:

1 SEC. 843. DESIGN-BUILD EFFICIENCY AND JOBS.

2 (a) IMPROVEMENTS TO THE DESIGN-BUILD CON-
3 STRUCTION PROCESS FOR CIVILIAN CONTRACTS.—Sec-
4 tion 3309 of title 41, United States Code, is amended—

5 (1) by amending subsection (b) to read as fol-
6 lows:

7 “(b) CRITERIA FOR USE.—

8 “(1) CONTRACTS WITH A VALUE OF AT LEAST
9 \$750,000.—Two-phase selection procedures shall be
10 used for entering into a contract for the design and
11 construction of a public building, facility, or work
12 when a contracting officer determines that the con-
13 tract has a value of \$750,000 or greater.

14 “(2) CONTRACTS WITH A VALUE LESS THAN
15 \$750,000.—For projects that a contracting officer de-
16 termines have a value of less than \$750,000, the
17 contracting officer shall make a determination
18 whether two-phase selection procedures are appro-

1 appropriate for use for entering into a contract for the de-
2 sign and construction of a public building, facility,
3 or work when—

4 “(A) the contracting officer anticipates
5 that 3 or more offers will be received for the
6 contract;

7 “(B) design work must be performed be-
8 fore an offeror can develop a price or cost pro-
9 posal for the contract;

10 “(C) the offeror will incur a substantial
11 amount of expense in preparing the offer; and

12 “(D) the contracting officer has considered
13 information such as—

14 “(i) the extent to which the project re-
15 quirements have been adequately defined;

16 “(ii) the time constraints for delivery
17 of the project;

18 “(iii) the capability and experience of
19 potential contractors;

20 “(iv) the suitability of the project for
21 use of the two-phase selection procedures;

22 “(v) the capability of the agency to
23 manage the two-phase selection process;

24 and

1 “(vi) other criteria established by the
2 agency.”;

3 (2) by striking the second sentence in sub-
4 section (d) and inserting the following: “The max-
5 imum number specified in the solicitation shall not
6 be greater than 5 unless the head of the contracting
7 activity (or a designee of the head who is in a posi-
8 tion not lower than the supervisor of the contracting
9 officer) approves the contracting officer’s justifica-
10 tion with respect to an individual solicitation that a
11 specified number greater than 5 is in the Federal
12 Government’s interest. The contracting officer shall
13 provide written documentation of how a maximum
14 number greater than 5 is consistent with the pur-
15 poses and objectives of the two-phase selection pro-
16 cedures.”; and

17 (3) by adding at the end the following new sub-
18 section:

19 “(f) ANNUAL REPORTS.—

20 “(1) IN GENERAL.—Not later than November
21 30 of each of the years 2016 through 2020, the head
22 of each agency shall submit to the Director of the
23 Office of Management and Budget an annual report
24 containing each instance in which the agency award-
25 ed a design-build contract pursuant to section 3309

1 of this title, during the preceding fiscal year in
2 which—

3 “(A) more than 5 finalists were selected
4 for phase-two requests for proposals; or

5 “(B) the contract was awarded without
6 using two-phase selection procedures.

7 “(2) PUBLIC AVAILABILITY.—The Director of
8 the Office of Management and Budget shall make
9 available to the public, including on the Internet, the
10 annual reports described in paragraph (1), and pub-
11 lish a notice of the availability of each report in the
12 Federal Register.”.

13 (b) IMPROVEMENTS TO THE DESIGN-BUILD CON-
14 STRUCTION PROCESS FOR DEFENSE CONTRACTS.—Sec-
15 tion 2305a of title 10, United States Code, is amended—

16 (1) by amending subsection (b) to read as fol-
17 lows:

18 “(b) CRITERIA FOR USE.—

19 “(1) CONTRACTS WITH A VALUE OF AT LEAST
20 \$750,000.—Two-phase selection procedures shall be
21 used for entering into a contract for the design and
22 construction of a public building, facility, or work
23 when a contracting officer determines that the con-
24 tract has a value of \$750,000 or greater.

1 “(2) CONTRACTS WITH A VALUE LESS THAN
2 \$750,000.—For projects that a contracting officer de-
3 termines have a value of less than \$750,000, the
4 contracting officer shall make a determination
5 whether two-phase selection procedures are appro-
6 priate for use for entering into a contract for the de-
7 sign and construction of a public building, facility,
8 or work when—

9 “(A) the contracting officer anticipates
10 that 3 or more offers will be received for the
11 contract;

12 “(B) design work must be performed be-
13 fore an offeror can develop a price or cost pro-
14 posal for the contract;

15 “(C) the offeror will incur a substantial
16 amount of expense in preparing the offer; and

17 “(D) the contracting officer has considered
18 information such as—

19 “(i) the extent to which the project re-
20 quirements have been adequately defined;

21 “(ii) the time constraints for delivery
22 of the project;

23 “(iii) the capability and experience of
24 potential contractors;

1 “(iv) the suitability of the project for
2 use of the two-phase selection procedures;

3 “(v) the capability of the agency to
4 manage the two-phase selection process;
5 and

6 “(vi) other criteria established by the
7 agency.”;

8 (2) by striking the second sentence in sub-
9 section (d) and inserting the following: “The max-
10 imum number specified in the solicitation shall not
11 be greater than 5 unless the head of the contracting
12 activity (or a designee of the head who is in a posi-
13 tion not lower than the supervisor of the contracting
14 officer) approves the contracting officer’s justifica-
15 tion with respect to an individual solicitation that a
16 specified number greater than 5 is in the Federal
17 Government’s interest.”; and

18 (3) by adding at the end the following new sub-
19 section:

20 “(g) ANNUAL REPORTS.—

21 “(1) IN GENERAL.—Not later than November
22 30 of each of the years 2016 through 2020, the Sec-
23 retary of Defense shall submit to the Director of the
24 Office of Management and Budget an annual report
25 containing each instance in which the agency award-

1 ed a design-build contract pursuant to section 2305a
2 of this title, during the preceding fiscal year in
3 which—

4 “(A) more than 5 finalists were selected
5 for phase-two requests for proposals; or

6 “(B) the contract was awarded without
7 using two-phase selection procedures.

8 “(2) PUBLIC AVAILABILITY.—The Director of
9 the Office of Management and Budget shall make
10 available to the public, including on the Internet, the
11 annual reports described in paragraph (1), and pub-
12 lish a notice of the availability of each report in the
13 Federal Register.”.

14 (c) GOVERNMENT ACCOUNTABILITY OFFICE RE-
15 PORT.—Not later than 270 days after November 30,
16 2020, the Comptroller General of the United States shall
17 issue a report analyzing the compliance of the various
18 Federal agencies with the requirements of subsection (g)
19 of section 2305a of title 10, United States Code (as added
20 by subsection (b)(3)) and subsection (f) of section 3309
21 of title 41, United States Code (as added by subsection
22 (a)(3)).

