AMENDMENT

TO RULES COMMITTEE PRINT 115–70

OFFERED BY MR. MITCHELL OF MICHIGAN

At the end of subtitle C of title VIII (page 355, after line 2) add the following new section:

SEC. 835. REVIEW OF FEDERAL ACQUISITION REGULATIONS ON COMMERCIAL PRODUCTS, COMMERCIAL SERVICES, AND COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS.

(a) Review of Determinations Not to Exempt Contracts for Commercial Products, Commercial Services, and Commercially Available Off-the-Shelf Items From Certain Laws and Regulations.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall—

(1) review each determination of the Federal Acquisition Regulatory Council pursuant to section 1906(b)(2), section 1906(c)(3), or section 1907(a)(2) of title 41, United States Code, not to exempt contracts or subcontracts from laws which such contracts and subcontracts would otherwise be
exempt from under section 1906(d) of title 41, United States Code; and

(2) propose revisions to the Federal Acquisition Regulation to provide an exemption from each law subject to such determination unless the Council determines that there is a specific reason not to provide the exemptions pursuant to section 1906 of such title or the Administrator for Federal Procurement Policy determines there is a specific reason not to provide the exemption pursuant to section 1907 of such title.

(b) Review of Certain Contract Clause Requirements Applicable to Commercial Products and Commercial Services Contracts.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall—

(1) review the Federal Acquisition Regulation to assess all regulations that require a specific contract clause for a contract using commercial product or commercial services acquisition procedures under part 12 of the Federal Acquisition Regulation, except for regulations required by law or Executive order; and

(2) propose revisions to the Federal Acquisition Regulation to eliminate regulations reviewed under
paragraph (1) unless the Federal Acquisition Regulatory Council determines on a case-by-case basis that there is a specific reason not to eliminate the regulation.

(c) Elimination of Certain Contract Clause Regulations Applicable to Commercially Available Off-the-shelf Item Subcontracts.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall—

(1) review the Federal Acquisition Regulation to assess all regulations that require a prime contractor to include a specific contract clause in a sub-contract for commercially available off-the-shelf items unless the inclusion of such clause is required by law or Executive order; and

(2) propose revisions to the Federal Acquisition Regulation to eliminate regulations reviewed under paragraph (1) unless the Federal Acquisition Regulatory Council determines on a case-by-case basis that there is a specific reason not to eliminate the regulation.

At the end of title VIII (page 404, after line 21), add the following new sections:
SEC. 881. PROMOTION OF THE USE OF GOVERNMENT-WIDE AND OTHER INTERAGENCY CONTRACTS.


(1) by striking “that all interagency acquisitions—” and inserting “that—”; 

(2) in subparagraph (A)—

(A) by inserting “all interagency assisted acquisitions” before “include”; and 

(B) by inserting “and” after the semicolon; 

(3) by striking subparagraph (B); and 

(4) by redesignating subparagraph (C) as subparagraph (B), and in that subparagraph by inserting “all interagency assisted acquisitions” before “include”.

SEC. 882. INCREASING COMPETITION AT THE TASK ORDER LEVEL.

Section 3306(c) of title 41, United States Code, is amended—

(1) in paragraph (1), by inserting “except as provided in paragraph (3),” in subparagraphs (B) and (C) after the subparagraph designation; and 

(2) by adding at the end the following new paragraphs:
“(3) EXCEPTIONS FOR CERTAIN INDEFINITE DELIVERY, INDEFINITE QUANTITY MULTIPLE-AWARD CONTRACTS AND CERTAIN FEDERAL SUPPLY SCHEDULE CONTRACTS FOR SERVICES ACQUIRED ON AN HOURLY RATE.—If an executive agency issues a solicitation for one or more contracts for services to be acquired on an hourly rate basis under the authority of sections 4103 and 4106 of this title or section 152(3) of this title and section 501(b) of title 40 and the executive agency intends to make a contract award to each qualifying offeror and the contract or contracts will feature individually competed task or delivery orders based on hourly rates—

“(A) the contracting officer need not consider price as an evaluation factor for contract award; and

“(B) if, pursuant to subparagraph (A), price is not considered as an evaluation factor for contract award—

“(i) the disclosure requirement of subparagraph (C) of paragraph (1) shall not apply; and

“(ii) cost or price to the Federal Government shall be considered in conjunction with the issuance pursuant to sections
4106(c) and 152(3) of this title of any task or delivery order under any contract resulting from the solicitation.

“(4) DEFINITION.—In paragraph (3), the term ‘qualifying offeror’ means an offeror that—

“(A) is determined to be a responsible source;

“(B) submits a proposal that conforms to the requirements of the solicitation;

“(C) meets all technical requirements; and

“(D) is otherwise eligible for award.”.