

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:

1 **SEC. 835. REVIEW OF FEDERAL ACQUISITION REGULA-**
2 **TIONS ON COMMERCIAL PRODUCTS, COM-**
3 **MERCIAL SERVICES, AND COMMERCIALY**
4 **AVAILABLE OFF-THE-SHELF ITEMS.**

5 (a) REVIEW OF DETERMINATIONS NOT TO EXEMPT
6 CONTRACTS FOR COMMERCIAL PRODUCTS, COMMERCIAL
7 SERVICES, AND COMMERCIALY AVAILABLE OFF-THE-
8 SHELF ITEMS FROM CERTAIN LAWS AND REGULA-
9 TIONS.—Not later than one year after the date of the en-
10 actment of this Act, the Federal Acquisition Regulatory
11 Council shall—

12 (1) review each determination of the Federal
13 Acquisition Regulatory Council pursuant to section
14 1906(b)(2), section 1906(c)(3), or section
15 1907(a)(2) of title 41, United States Code, not to
16 exempt contracts or subcontracts from laws which
17 such contracts and subcontracts would otherwise be

1 exempt from under section 1906(d) of title 41,
2 United States Code; and

3 (2) propose revisions to the Federal Acquisition
4 Regulation to provide an exemption from each law
5 subject to such determination unless the Council de-
6 termines that there is a specific reason not to pro-
7 vide the exemptions pursuant to section 1906 of
8 such title or the Administrator for Federal Procure-
9 ment Policy determines there is a specific reason not
10 to provide the exemption pursuant to section 1907
11 of such title.

12 (b) REVIEW OF CERTAIN CONTRACT CLAUSE RE-
13 QUIREMENTS APPLICABLE TO COMMERCIAL PRODUCTS
14 AND COMMERCIAL SERVICES CONTRACTS.—Not later
15 than one year after the date of the enactment of this Act,
16 the Federal Acquisition Regulatory Council shall—

17 (1) review the Federal Acquisition Regulation
18 to assess all regulations that require a specific con-
19 tract clause for a contract using commercial product
20 or commercial services acquisition procedures under
21 part 12 of the Federal Acquisition Regulation, ex-
22 cept for regulations required by law or Executive
23 order; and

24 (2) propose revisions to the Federal Acquisition
25 Regulation to eliminate regulations reviewed under

1 paragraph (1) unless the Federal Acquisition Regu-
2 latory Council determines on a case-by-case basis
3 that there is a specific reason not to eliminate the
4 regulation.

5 (c) ELIMINATION OF CERTAIN CONTRACT CLAUSE
6 REGULATIONS APPLICABLE TO COMMERCIALY AVAIL-
7 ABLE OFF-THE-SHELF ITEM SUBCONTRACTS.—Not later
8 than one year after the date of the enactment of this Act,
9 the Federal Acquisition Regulatory Council shall—

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

16 (2) propose revisions to the Federal Acquisition
17 Regulation to eliminate regulations reviewed under
18 paragraph (1) unless the Federal Acquisition Regu-
19 latory Council determines on a case-by-case basis
20 that there is a specific reason not to eliminate the
21 regulation.

At the end of title VIII (page 404, after line 21),
add the following new sections:

1 **SEC. 881. PROMOTION OF THE USE OF GOVERNMENT-WIDE**
2 **AND OTHER INTERAGENCY CONTRACTS.**

3 Section 865(b)(1) of the Duncan Hunter National
4 Defense Authorization Act for Fiscal Year 2009 (Public
5 Law 110-417; 31 U.S.C. 1535 note) is amended—

6 (1) by striking “that all interagency acquisi-
7 tions—” and inserting “that—”;

8 (2) in subparagraph (A)—

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

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

12 (3) by striking subparagraph (B); and

13 (4) by redesignating subparagraph (C) as sub-
14 paragraph (B), and in that subparagraph by insert-
15 ing “all interagency assisted acquisitions” before
16 “include”.

17 **SEC. 882. INCREASING COMPETITION AT THE TASK ORDER**
18 **LEVEL.**

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

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

24 (2) by adding at the end the following new
25 paragraphs:

1 “(3) EXCEPTIONS FOR CERTAIN INDEFINITE
2 DELIVERY, INDEFINITE QUANTITY MULTIPLE-AWARD
3 CONTRACTS AND CERTAIN FEDERAL SUPPLY SCHED-
4 ULE CONTRACTS FOR SERVICES ACQUIRED ON AN
5 HOURLY RATE.—If an executive agency issues a so-
6 licitation for one or more contracts for services to be
7 acquired on an hourly rate basis under the authority
8 of sections 4103 and 4106 of this title or section
9 152(3) of this title and section 501(b) of title 40
10 and the executive agency intends to make a contract
11 award to each qualifying offeror and the contract or
12 contracts will feature individually competed task or
13 delivery orders based on hourly rates—

14 “(A) the contracting officer need not con-
15 sider price as an evaluation factor for contract
16 award; and

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

20 “(i) the disclosure requirement of sub-
21 paragraph (C) of paragraph (1) shall not
22 apply; and

23 “(ii) cost or price to the Federal Gov-
24 ernment shall be considered in conjunction
25 with the issuance pursuant to sections

1 4106(c) and 152(3) of this title of any
2 task or delivery order under any contract
3 resulting from the solicitation.

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

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

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

10 “(C) meets all technical requirements; and

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

