

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4236.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 4236, OMNIBUS PARKS AND PUBLIC LANDS MANAGEMENT ACT OF 1996

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical and conforming changes to the engrossment of the bill, H.R. 4236.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

VACATING ORDERING OF YEAS AND NAYS ON H.R. 4233, SAVINGS IN CONSTRUCTION ACT OF 1996

Mr. WALKER. Mr. Speaker, I ask unanimous consent to vacate the ordering of the yeas and nays on the motion to suspend the rules and pass the bill (H.R. 4233) to provide for appropriate implementation of the Metric Conversion Act of 1975 in Federal construction projects, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALKER] that the House suspend the rules and pass the bill, H.R. 4233.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENT TO H.R. 2799, SAVINGS IN CONSTRUCTION ACT OF 1996

Mr. WALKER. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2799) to provide for appropriate implementation of the Metric Conversion Act of 1975 in Federal construction projects, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Savings in Construction Act of 1996".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Metric Conversion Act of 1975 was enacted in order to set forth the policy of the United States to convert to the metric system. Section 3 of that Act requires that each Federal agency use the metric system of measurements in its procurement, grants, and other business-related activities, unless that use is likely to cause significant cost or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units.

(2) In accordance with that Act and Executive Order 12770, of July 25, 1991, Federal agencies increasingly construct new Federal buildings in round metric dimensions. As a result, companies that wish to bid on Federal construction projects increasingly are asked to supply materials or products in round metric dimensions.

(3) While the Metric Conversion Act of 1975 currently provides an exemption to metric usage when impractical or when such usage will cause economic inefficiencies, amendments are warranted to ensure that the use of specific metric components in metric construction projects do not increase the cost of Federal buildings to the taxpayers.

SEC. 3. DEFINITIONS.

Section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking "Commerce." in paragraph (4) and inserting "Commerce"; and

(3) by inserting after paragraph (4) the following:

"(5) 'full and open competition' has the same meaning as defined in section 403(6) of title 41, United States Code;

"(6) 'total installed price' means the price of purchasing a product or material, trimming or otherwise altering some or all of that product or material, if necessary to fit with other building components, and then installing that product or material into a Federal facility;

"(7) 'hard-metric' means measurement, design, and manufacture using the metric system of measurement, but does not include measurement, design, and manufacture using English system measurement units which are subsequently reexpressed in the metric system of measurement;

"(8) 'cost or pricing data or price analysis' has the meaning given such terms in section 304A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b); and

"(9) 'Federal facility' means any public building (as defined under section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612) and shall include any Federal building or construction project—

"(A) on lands in the public domain;

"(B) on lands used in connection with Federal programs for agriculture research, recreation, and conservation programs;

"(C) on or used in connection with river, harbor, flood control, reclamation, or power projects;

"(D) on or used in connection with housing and residential projects;

"(E) on military installations (including any fort, camp, post, naval training station, airfield, proving ground, military supply depot, military school, or any similar facility of the Department of Defense);

"(F) on installations of the Department of Veteran Affairs used for hospital or domiciliary purposes; or

"(G) on lands used in connection with Federal prisons,

but does not include (i) any Federal Building or construction project the exclusion of which the President deems to be justified in the public interest, or (ii) any construction project or build-

ing owned or controlled by a State government, local government, Indian tribe, or any private entity."

SEC. 4. IMPLEMENTATION IN ACQUISITION OF FEDERAL FACILITIES.

(a) The Metric Conversion Act of 1975 (15 U.S.C. 205 et sec.) is amended by inserting after section 13 the following new section:

"SEC. 14. IMPLEMENTATION IN ACQUISITION OF CONSTRUCTION SERVICES AND MATERIALS FOR FEDERAL FACILITIES.

"(a) IN GENERAL.—Construction services and materials for Federal facilities shall be procured in accordance with the policies and procedures set forth in chapter 137 of title 10, United States Code, section 2377 of title 10, United States Code, title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), and section 3(2) of this Act. Determination of a design method shall be based upon preliminary market research as required under section 2377(c) of title 10, United States Code, and section 314B(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 264b(c)). If the requirements of this Act conflict with the provisions of section 2377 of title 10, United States Code, or section 314B of the Federal Property and Administrative Services Act of 1949, then the provisions of 2377 or 314B shall take precedence.

"(b) CONCRETE MASONRY UNITS.—In carrying out the policy set forth in section 3 (with particular emphasis on the policy set forth in paragraph (2) of that section) a Federal agency may require that specifications for the acquisition of structures or systems of concrete masonry be expressed under the metric system of measurement, but may not incorporate specifications, that can only be satisfied by hard-metric versions of concrete masonry units, in a solicitation for design or construction of a Federal facility within the United States or its territories, or a portion of said Federal facility, unless the head of the agency determines in writing that—

"(1) hard-metric specifications are necessary in a contract for the repair or replacement of parts of Federal facilities in existence or under construction upon the effective date of the Savings in Construction Act of 1996; or

"(2) the following 2 criteria are met:

"(A) the application requires hard-metric concrete masonry units to coordinate dimensionally into 100 millimeter building modules; and

"(B) the total installed price of hard-metric concrete masonry units is estimated to be equal to or less than the total installed price of using non-hard-metric concrete masonry units. Total installed price estimates shall be based, to the extent available, on cost or pricing data or price analysis, using actual hard-metric and non-hard-metric offers received for comparable existing projects. The head of the agency shall include in the writing required in this subsection an explanation of the factors used to develop the price estimates.

"(c) RECESSED LIGHTING FIXTURES.—In carrying out the policy set forth in section 3 (with particular emphasis on the policy set forth in paragraph (2) of that section) a Federal agency may require that specifications for the acquisition of structures or systems of recessed lighting fixtures be expressed under the metric system of measurement, but may not incorporate specifications, that can only be satisfied by hard-metric versions of recessed lighting fixtures, in a solicitation for design or construction of a Federal facility within the United States or its territories unless the head of the agency determines in writing that—

"(1) the predominant voluntary industry consensus standards include the use of hard-metric for the items specified; or

"(2) hard-metric specifications are necessary in a contract for the repair or replacement of parts of Federal facilities in existence or under construction upon the effective date of the Savings in Construction Act of 1996; or

"(3) the following 2 criteria are met:

“(A) the application requires hard-metric recessed lighting fixtures to coordinate dimensionally into 100 millimeter building modules; and

“(B) the total installed price of hard-metric recessed lighting fixtures is estimated to be equal to or less than the total installed price of using non-hard-metric recessed lighting fixtures. Total installed price estimates shall be based, to the extent available, on cost or pricing data or price analysis, using actual hard-metric and non-hard-metric offers received for comparable existing projects. The head of the agency shall include in the writing required in this subsection an explanation of the factors used to develop the price estimates.

“(d) LIMITATION.—The provisions of subsections (b) and (c) of this section shall not apply to Federal contracts to acquire construction products for the construction of facilities outside of the United States and its territories.

“(e) EXPIRATION.—The provisions contained in subsections (b) and (c) of this section shall expire 10 years from the effective date of the Savings in Construction Act of 1996.”

SEC. 5. OMBUDSMAN.

Section 14 of the Metric Conversion Act of 1975, as added by section 4 of this Act, is further amended by adding at the end the following new subsection:

“(f) AGENCY OMBUDSMAN.—(1) The head of each executive agency that awards construction contracts within the United States and its territories shall designate a senior agency official to serve as a construction metrication ombudsman who shall be responsible for reviewing and responding to complaints from prospective bidders, subcontractors, suppliers, or their designated representatives related to—

“(A) guidance or regulations issued by the agency on the use of the metric system of measurement in contracts for the construction of Federal buildings; and

“(B) the use of the metric system of measurement for services and materials required for incorporation in individual projects to construct Federal buildings.

The construction metrication ombudsman shall be independent of the contracting officer for construction contracts.

“(2) The ombudsman shall be responsible for ensuring that the agency is not implementing the metric system of measurement in a manner that is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms in violation of the policy stated in section 3(2), or is otherwise inconsistent with guidance issued by the Secretary of Commerce in consultation with the Interagency Council on Metric Policy while ensuring that the goals of the Metric Conversion Act of 1975 are observed.

“(3) The ombudsman shall respond to each complaint in writing within 60 days and make a recommendation to the head of the executive agency for an appropriate resolution thereto. In such a recommendation, the ombudsman shall consider—

“(A) whether the agency is adequately applying the policies and procedures in this section;

“(B) whether the availability of hard-metric products and services from United States firms is sufficient to ensure full and open competition; and

“(C) the total installed price to the Federal Government.

“(4) After the head of the agency has rendered a decision regarding a recommendation of the ombudsman, the ombudsman shall be responsible for communicating the decision to all appropriate policy, design, planning, procurement, and notifying personnel in the agency. The ombudsman shall conduct appropriate monitoring as required to ensure the decision is implemented, and may submit further recommendations, as needed. The head of the agency's decision on the ombudsman's recommendations, and any supporting documentation, shall be provided to affected parties and made available to the public in a timely manner.

“(5) Nothing in this section shall be construed to supersede the bid protest process established under subchapter V of chapter 35 of title 31, United States Code.”

SEC. 6. EFFECTIVE DATE AND MISCELLANEOUS PROVISIONS.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect 90 days after the date of enactment of this Act.

(b) SAVINGS PROVISIONS.—This Act shall not apply to contracts awarded and solicitations issued on or before the effective date of this Act, unless the head of a Federal agency makes a written determination in his or her sole discretion that it would be in the public interest to apply one or more provisions of this Act or its amendments to these existing contracts or solicitations.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. WALKER] and the gentleman from California [Mr. BROWN] will each control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we will be very brief on this. Mr. Speaker, this particular bill is exactly the same as the one that the House just passed by voice vote that we considered earlier today, but the bill that we have before us in this form passed the Senate this afternoon with the same language. This is the final clearance of the bill to send it to the President. This has been cleared by the minority, and I know of no controversy in handling it this way.

Mr. BROWN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur in the remarks of the gentleman from Pennsylvania [Mr. WALKER] and I urge that we pass this bill for the third or fourth time. It is identical to what we have passed before.

Mr. Speaker, I yield back the balance of my time.

Mr. WALKER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALKER] that the House suspend the rules and concur in the Senate amendment to H.R. 2779.

The question was taken; and (two-thirds of those having voted in favor therefore) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 3610, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997, AND PASSAGE OF H.R. 4278, OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that it be in order to consider the conference report to accompany the bill (H.R. 3610) making appropriations for the Department of

Defense for the fiscal year ending September 30, 1997, and for other purposes; that all points of order against the conference report and against its consideration be waived; that the conference report be considered as read, and upon adoption of the conference report, notwithstanding any rule of the House to the contrary, the bill, H.R. 4278, making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes, be considered as passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

FUNDING FOR TV MARTI IN OMNIBUS APPROPRIATIONS BILL

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, given the business just concluded, we will be taking up shortly a bill that includes essentially an omnibus appropriations bill for the next fiscal year. It will come as no surprise that some things have survived in this pending omnibus spending bill which are an absolute, total, and incredible waste of money. At the top of that list is continued funding for TV Marti.

Mr. Speaker, this program is a fraud on the taxpayers. It purports to broadcast news about Cuba to Cuba from south Florida. But the travesty is that no one, absolutely no one, sees these broadcasts because of jamming by the Castro regime.

Even though the Committee on Appropriations agreed on a 2 to 1 bipartisan vote in the House to kill this boondoggle, it is back. After throwing away some \$100 million over the last several years on this failed experiment, we are about to blow another \$12 million or \$15 million next year.

Mr. Speaker, this program continues in spite of all evidence, three or four independent investigations, that it is a total flop. It is a shame, Mr. Speaker, that this travesty continues.

□ 1845

RECESS

The SPEAKER pro tempore (Mr. BURTON of Indiana). Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 7 p.m.

Accordingly (at 6 o'clock and 45 minutes p.m.), the House stood in recess until approximately 7 p.m.

□ 1902

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WALKER] at 7 o'clock and 2 minutes p.m.