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To require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2015

Mr. DUNCAN of Tennessee (for himself, Mr. HANNA, Mr. BENISHEK, Mr. STEWART, Mr. DUNCAN of South Carolina, Mr. MULVANEY, Mrs. BLACKBURN, Mrs. BLACK, Mr. SESSIONS, Mr. JOHNSON of Ohio, Mr. HUIZENGA of Michigan, Mr. KELLY of Pennsylvania, Mr. YOUNG of Alaska, Mr. GRAVES of Georgia, Mr. CRAMER, and Mr. BARR) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

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A BILL

To require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Freedom from Government Competition Act of 2015".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Private sector business concerns, which are free to respond to the private or public demands of the marketplace, constitute the strength of the United States economic system.

(2) Competitive private enterprises are the most productive, efficient, and effective sources of goods and services.

(3) Unfair Government competition with the private sector of the economy is detrimental to the United States economic system.

(4) Unfair Government competition with the private sector of the economy is at an unacceptably high level, both in scope and in dollar volume.

(5) Current law and policy have failed to address adequately the problem of unfair Government competition with the private sector of the economy.

(6) It is in the public interest that the Federal Government establish a consistent policy to rely on the private sector of the economy to provide goods and services necessary for or beneficial to the operation and management of Federal agencies and to avoid unfair Government competition with the private sector of the economy.

SEC. 3. DEFINITIONS.

In this Act, the term ''agency'' means—

(1) an executive department as defined by section 101 of title 5, United States Code;

(2) a military department as defined by section 102 of such title; and

(3) an independent establishment as defined by section 104(l) of such title.

SEC. 4. PROCUREMENT FROM PRIVATE SOURCES.

(a) POLICY.—In the process of governing, the Federal Government should not compete with its citizens. The competitive enterprise system, characterized by individual freedom and initiative, is the primary source of national economic strength. In recognition of this principle, it has been and continues to be the general policy of the Federal Government—

(1) to rely on commercial sources to supply the products and services the Government needs;

(2) to refrain from providing a product or service if the product or service can be procured more economically from a commercial source; and

(3) to utilize Federal employees to perform inherently governmental functions (as that term is defined in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 112 Stat. 2384)).

(b) GENERAL RULE.—Except as provided in subsection (c) and notwithstanding any other provision of law, each agency shall obtain all goods and services necessary for or beneficial to the accomplishment of its authorized functions by procurement from private sources.

(c) EXEMPTIONS.—Subsection (b) shall not apply to an agency with respect to goods or services if—

(1) the goods or services are required by law to be produced or performed, respectively, by the agency; or

(2) the head of the agency determines and certifies to Congress in accordance with regulations promulgated by the Director of the Office of Management and Budget that—

(A) Federal Government production, manufacture, or provision of a good or service is necessary for the national defense or homeland security;

(B) a good or service is so inherently governmental in nature that it is in the public interest to require production or performance, respectively, by Government employees; or

(C) there is no private source capable of providing the good or service.

(d) METHOD OF PROCUREMENT.—The provision of goods and services not exempt by subsection (c)(1) or (c)(2) shall be performed by an entity in the private sector through—

(1) the divestiture of Federal involvement in the provision of a good or service;

(2) the award of a contract to an entity in the private sector, using competitive procedures, as defined in section 152 of title 41, United States Code, and section 2302 of title 10, United States Code; or

(3) conducting a public-private competitive sourcing analysis in accordance with the procedures established by the Office of Management and Budget and determining that using the assets, facilities, and performance of the private sector is in the best interest of the United States and that production or performance, respectively, by the private sector provides the best value to the taxpayer.

(e) CONTRACTED ACTIVITIES.—The head of an agency may utilize Federal employees to provide goods or services previously provided by an entity in the private sector upon completion of a public-private competitive sourcing analysis described in subsection (d)(3), and after making a determination that the provision of such goods or serv-

ices by Federal employees provides the best value to the taxpayer.

(f) REGULATIONS.—The Director of the Office of Management and Budget shall promulgate such regulations as the Director considers necessary to carry out this section. In promulgating such regulations, the Director shall assure that any State or territory, or political subdivision of a State or territory, complies with the policy and implements the requirements of this section when expending Federal funds.

SEC. 5. STUDY AND REPORT.

The Director of the Office of Management and Budget, in conjunction with the Comptroller General of the United States, shall carry out a study to evaluate the activities carried out in each agency, including those identified as commercial and inherently governmental in nature in the inventory prepared pursuant to the Federal Activities Inventory Reform Act (Public Law 105–270; 31 U.S.C. 501 note) and shall transmit a report to the Congress prior to June 30 of each year. The report shall include—

(1) an evaluation of the justification for exempting activities pursuant to section 4(c); and

(2) a schedule for the transfer of commercial activities to the private sector, pursuant to section

4(d), to be completed within 5 years after the date on which such report is transmitted to the Congress.

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