

***In the Senate of the United States,***

*September 28, 1996.*

*Resolved*, That the bill from the House of Representatives (H.R. 2779) entitled “An Act to provide for appropriate implementation of the Metric Conversion Act of 1975 in Federal construction projects, and for other purposes.”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Savings in Construction*  
3 *Act of 1996”.*

4 ***SEC. 2. FINDINGS.***

5 *The Congress finds the following:*

6 *(1) The Metric Conversion Act of 1975 was en-*  
7 *acted in order to set forth the policy of the United*  
8 *States to convert to the metric system. Section 3 of*  
9 *that Act requires that each Federal agency use the*  
10 *metric system of measurements in its procurement,*

1        *grants, and other business-related activities, unless*  
2        *that use is likely to cause significant cost or loss of*  
3        *markets to United States firms, such as when foreign*  
4        *competitors are producing competing products in*  
5        *non-metric units.*

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

13           *(3) While the Metric Conversion Act of 1975 cur-*  
14       *rently provides an exemption to metric usage when*  
15       *impractical or when such usage will cause economic*  
16       *inefficiencies, amendments are warranted to ensure*  
17       *that the use of specific metric components in metric*  
18       *construction projects do not increase the cost of Fed-*  
19       *eral buildings to the taxpayers.*

20       **SEC. 3. DEFINITIONS.**

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

23            *(1) by striking “and” at the end of paragraph*

24        *(3);*

1           (2) *by striking “Commerce.” in paragraph (4)*  
2 *and inserting “Commerce;”;* and

3           (3) *by inserting after paragraph (4) the follow-*  
4 *ing:*

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

8           “(6) ‘total installed price’ means the price of  
9 purchasing a product or material, trimming or other-  
10 wise altering some or all of that product or material,  
11 if necessary to fit with other building components,  
12 and then installing that product or material into a  
13 Federal facility;

14           “(7) ‘hard-metric’ means measurement, design,  
15 and manufacture using the metric system of measure-  
16 ment, but does not include measurement, design, and  
17 manufacture using English system measurement units  
18 which are subsequently reexpressed in the metric sys-  
19 tem of measurement;

20           “(8) ‘cost or pricing data or price analysis’ has  
21 the meaning given such terms in section 304A of the  
22 Federal Property and Administrative Services Act of  
23 1949 (41 U.S.C. 254b); and

24           “(9) ‘Federal facility’ means any public building  
25 (as defined under section 13 of the Public Buildings

1     *Act of 1959 (40 U.S.C. 612) and shall include any*  
2     *Federal building or construction project—*

3             “(A) *on lands in the public domain;*

4             “(B) *on lands used in connection with Fed-*  
5     *eral programs for agriculture research, recre-*  
6     *ation, and conservation programs;*

7             “(C) *on or used in connection with river,*  
8     *harbor, flood control, reclamation, or power*  
9     *projects;*

10            “(D) *on or used in connection with housing*  
11    *and residential projects;*

12            “(E) *on military installations (including*  
13    *any fort, camp, post, naval training station, air-*  
14    *field, proving ground, military supply depot,*  
15    *military school, or any similar facility of the*  
16    *Department of Defense);*

17            “(F) *on installations of the Department of*  
18    *Veteran Affairs used for hospital or domiciliary*  
19    *purposes; or*

20            “(G) *on lands used in connection with Fed-*  
21    *eral prisons,*

22    *but does not include (i) any Federal Building or con-*  
23    *struction project the exclusion of which the President*  
24    *deems to be justified in the public interest, or (ii) any*  
25    *construction project or building owned or controlled*



1 of 1949, then the provisions of 2377 or 314B shall take prec-  
2 edence.

3       “(b) *CONCRETE MASONRY UNITS.*—In carrying out  
4 the policy set forth in section 3 (with particular emphasis  
5 on the policy set forth in paragraph (2) of that section)  
6 a Federal agency may require that specifications for the  
7 acquisition of structures or systems of concrete masonry be  
8 expressed under the metric system of measurement, but may  
9 not incorporate specifications, that can only be satisfied by  
10 hard-metric versions of concrete masonry units, in a solici-  
11 tation for design or construction of a Federal facility within  
12 the United States or its territories, or a portion of said Fed-  
13 eral facility, unless the head of the agency determines in  
14 writing that—

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

20               “(2) the following 2 criteria are met:

21                       “(A) the application requires hard-metric  
22 concrete masonry units to coordinate dimension-  
23 ally into 100 millimeter building modules; and

24                       “(B) the total installed price of hard-metric  
25 concrete masonry units is estimated to be equal

1           to or less than the total installed price of using  
2           non-hard-metric concrete masonry units. Total  
3           installed price estimates shall be based, to the ex-  
4           tent available, on cost or pricing data or price  
5           analysis, using actual hard-metric and non-  
6           hard-metric offers received for comparable exist-  
7           ing projects. The head of the agency shall include  
8           in the writing required in this subsection an ex-  
9           planation of the factors used to develop the price  
10          estimates.

11          “(c) *RECESSED LIGHTING FIXTURES.*—In carrying  
12          out the policy set forth in section 3 (with particular empha-  
13          sis on the policy set forth in paragraph (2) of that section)  
14          a Federal agency may require that specifications for the  
15          acquisition of structures or systems of recessed lighting fix-  
16          tures be expressed under the metric system of measurement,  
17          but may not incorporate specifications, that can only be  
18          satisfied by hard-metric versions of recessed lighting fix-  
19          tures, in a solicitation for design or construction of a Fed-  
20          eral facility within the United States or its territories un-  
21          less the head of the agency determines in writing that—

22                 “(1) the predominant voluntary industry consen-  
23                 sus standards include the use of hard-metric for the  
24                 items specified; or

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

6           “(3) *the following 2 criteria are met:*

7           “(A) *the application requires hard-metric*  
8 *recessed lighting fixtures to coordinate dimen-*  
9 *sionally into 100 millimeter building modules;*  
10 *and*

11           “(B) *the total installed price of hard-metric*  
12 *recessed lighting fixtures is estimated to be equal*  
13 *to or less than the total installed price of using*  
14 *non-hard-metric recessed lighting fixtures. Total*  
15 *installed price estimates shall be based, to the ex-*  
16 *tent available, on cost or pricing data or price*  
17 *analysis, using actual hard-metric and non-*  
18 *hard-metric offers received for comparable exist-*  
19 *ing projects. The head of the agency shall include*  
20 *in the writing required in this subsection an ex-*  
21 *planation of the factors used to develop the price*  
22 *estimates.*

23           “(d) *LIMITATION.—The provisions of subsections (b)*  
24 *and (c) of this section shall not apply to Federal contracts*

1 *to acquire construction products for the construction of fa-*  
2 *cilities outside of the United States and its territories.*

3 “(e) *EXPIRATION.*—*The provisions contained in sub-*  
4 *sections (b) and (c) of this section shall expire 10 years from*  
5 *the effective date of the Savings in Construction Act of*  
6 *1996.”.*

7 **SEC. 5. OMBUDSMAN.**

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

11 “(f) *AGENCY OMBUDSMAN.*—(1) *The head of each exec-*  
12 *utive agency that awards construction contracts within the*  
13 *United States and its territories shall designate a senior*  
14 *agency official to serve as a construction metrication om-*  
15 *budsman who shall be responsible for reviewing and re-*  
16 *sponding to complaints from prospective bidders, sub-*  
17 *contractors, suppliers, or their designated representatives*  
18 *related to—*

19 “(A) *guidance or regulations issued by the agen-*  
20 *cy on the use of the metric system of measurement in*  
21 *contracts for the construction of Federal buildings;*  
22 *and*

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

1 *The construction metrication ombudsman shall be inde-*  
2 *pendent of the contracting officer for construction contracts.*

3       “(2) *The ombudsman shall be responsible for ensuring*  
4 *that the agency is not implementing the metric system of*  
5 *measurement in a manner that is impractical or is likely*  
6 *to cause significant inefficiencies or loss of markets to Unit-*  
7 *ed States firms in violation of the policy stated in section*  
8 *3(2), or is otherwise inconsistent with guidance issued by*  
9 *the Secretary of Commerce in consultation with the Inter-*  
10 *agency Council on Metric Policy while ensuring that the*  
11 *goals of the Metric Conversion Act of 1975 are observed.*

12       “(3) *The ombudsman shall respond to each complaint*  
13 *in writing within 60 days and make a recommendation to*  
14 *the head of the executive agency for an appropriate resolu-*  
15 *tion thereto. In such a recommendation, the ombudsman*  
16 *shall consider—*

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

19               “(B) *whether the availability of hard-metric*  
20 *products and services from United States firms is suf-*  
21 *ficient to ensure full and open competition; and*

22               “(C) *the total installed price to the Federal Gov-*  
23 *ernment.*

24       “(4) *After the head of the agency has rendered a deci-*  
25 *sion regarding a recommendation of the ombudsman, the*

1 *ombudsman shall be responsible for communicating the de-*  
2 *cision to all appropriate policy, design, planning, procure-*  
3 *ment, and notifying personnel in the agency. The ombuds-*  
4 *man shall conduct appropriate monitoring as required to*  
5 *ensure the decision is implemented, and may submit further*  
6 *recommendations, as needed. The head of the agency's deci-*  
7 *sion on the ombudsman's recommendations, and any sup-*  
8 *porting documentation, shall be provided to affected parties*  
9 *and made available to the public in a timely manner.*

10       “(5) *Nothing in this section shall be construed to su-*  
11 *persede the bid protest process established under subchapter*  
12 *V of chapter 35 of title 31, United States Code.*”.

13 **SEC. 6. EFFECTIVE DATE AND MISCELLANEOUS PROVI-**  
14 **SIONS.**

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

18       (b) *SAVINGS PROVISIONS.*—*This Act shall not apply*  
19 *to contracts awarded and solicitations issued on or before*  
20 *the effective date of this Act, unless the head of a Federal*  
21 *agency makes a written determination in his or her sole*  
22 *discretion that it would be in the public interest to apply*

- 1 *one or more provisions of this Act or its amendments to*
- 2 *these existing contracts or solicitations.*

Attest:

*Secretary.*

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 2779**

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**AMENDMENT**