AMENDMENT TO H.R. 6395
OFFERED BY MR. COX OF CALIFORNIA

At the appropriate place in title VIII, add the following new section:

1 SEC. 8 ___. FOLLOW-ON CONTRACTS FOR A WHOLLY-OWNED ESOP.

(a) USE OF NONCOMPETITIVE PROCEDURES DEFENSE CONTRACTS.—Section 2304(d) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)(ii), by striking “and” at the end;

(B) in subparagraph (B)(ii), by striking the period and inserting “; and”;

(C) by adding at the end the following new subparagraph:

“(C) in the case of a follow-on contract for goods or services that are the same as or substantially similar to the goods or services procured under a prior contract awarded to a wholly-owned ESOP—

“(i) such goods or service may be deemed to be available from such wholly-owned ESOP if the Secretary rated the performance of such
wholly-owned ESOP on the prior contract as satisfactory or better (or the equivalent) in the applicable past performance database; and

“(ii) such wholly-owned ESOP shall be deemed to be a small business concern.”; and

(2) by adding at the end the following new paragraph:

“(4) WHOLLY-OWNED ESOP DEFINED.—In this subsection, the term ‘wholly-owned ESOP’ means any corporation all of the stock of which is owned by an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1986).”.

(b) USE OF NONCOMPETITIVE PROCEDURES FOR CIVILIAN CONTRACTS.—Section 3304 of title 41, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “or” at the end;

(B) in paragraph (2)(B), by striking the period and inserting “; or”; and

(C) by adding at the end the following new paragraph:

“(3) a follow-on contract for goods or services that are the same as or substantially similar to the
goods or services procured under a prior contract
awarded to a wholly-owned ESOP—

“(A) such goods or services may be deemed
to be available from such wholly-owned ESOP
if the Secretary rated the performance of such
wholly-owned ESOP on the prior contract as
satisfactory or better (or the equivalent) in the
applicable past performance database; and

“(B) such wholly-owned ESOP shall be
deemed to be a small business concern (as de-
defined under section 3 of the Small Business
Act).”; and

(2) by adding at the end the following new sub-
section:

“(g) WHOLLY-OWNED ESOP DEFINED.—In this sec-
tion, the term ‘wholly-owned ESOP’ means any corpora-
tion all of the stock of which is owned by an employee
stock ownership plan (as defined in section 4975(e)(7) of
the Internal Revenue Code of 1986).”.

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