

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**
2 **ESOP.**

3 (a) USE OF NONCOMPETITIVE PROCEDURES DE-
4 FENSE CONTRACTS.—Section 2304(d) of title 10, United
5 States Code, is amended—

6 (1) in paragraph (1)—

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

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

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

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

17 “(i) such goods or service may be deemed
18 to be available from such wholly-owned ESOP
19 if the Secretary rated the performance of such

1 wholly-owned ESOP on the prior contract as
2 satisfactory or better (or the equivalent) in the
3 applicable past performance database; and

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

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

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

13 (b) USE OF NONCOMPETITIVE PROCEDURES FOR CI-
14 VILIAN CONTRACTS.—Section 3304 of title 41, United
15 States Code, is amended—

16 (1) in subsection (b)—

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

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

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

23 “(3) a follow-on contract for goods or services
24 that are the same as or substantially similar to the

1 goods or services procured under a prior contract
2 awarded to a wholly-owned ESOP—

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

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

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

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

