

AMENDMENT TO RULES COMMITTEE PRINT 118-

36

OFFERED BY MS. HOULAHAN OF PENNSYLVANIA

At the end of subtitle F of title VIII, insert the following new section:

1 **SEC. 8____. MODIFYING UNCONDITIONAL OWNERSHIP**
2 **AND CONTROL REQUIREMENTS FOR CERTAIN**
3 **EMPLOYEE-OWNED SMALL BUSINESS CON-**
4 **CERNS.**

5 (a) REPORT ON OWNERSHIP AND CONTROL
6 THROUGH AN EMPLOYEE STOCK OWNERSHIP PLAN OR
7 ELIGIBLE WORKER-OWNED COOPERATIVE RELATING TO
8 SET-ASIDE PROCUREMENT.—

9 (1) DEFINITIONS.—In this subsection—

10 (A) the term “Administrator” means the
11 Administrator of the Small Business Adminis-
12 tration;

13 (B) the term “budget justification mate-
14 rials” has the meaning given that term in sec-
15 tion 3(b)(2) of the Federal Funding Account-
16 ability and Transparency Act of 2006 (31
17 U.S.C. 6101 note);

1 (C) the term “eligible worker-owned coop-
2 erative” has the meaning given that term in
3 section 1042(c) of the Internal Revenue Code of
4 1986; and

5 (D) the term “employee stock ownership
6 plan” has the meaning given that term in sec-
7 tion 4975(e) of the Internal Revenue Code of
8 1986.

9 (2) SENSE OF CONGRESS.—It is the sense of
10 Congress that—

11 (A) employee stock ownership plans and el-
12 igible worker-owned cooperatives have unique
13 ownership structures that create barriers to ac-
14 cessing set-aside procurement programs due to
15 unconditional ownership and control require-
16 ments; and

17 (B) the ownership structures of an em-
18 ployee stock ownership plan or an eligible work-
19 er-owned cooperative should not prevent an oth-
20 erwise eligible entity from accessing set-aside
21 procurement programs.

22 (3) STUDY AND REPORT.—

23 (A) STUDY.—The Administrator, in coordi-
24 nation with stakeholders, including women-
25 owned small business third-party certifiers and

1 relevant Federal agencies, shall study and rec-
2 ommend alternatives to unconditional ownership
3 and control requirements for employee stock
4 ownership plans and eligible worker-owned co-
5 operatives that would enable access to set-aside
6 procurement programs.

7 (B) REPORT.—Not later than 180 days
8 after the date of enactment of this Act, the Ad-
9 ministrator shall submit to Congress the rec-
10 ommendations developed under subparagraph
11 (A) and a plan to implement the recommenda-
12 tions for all set-aside procurement programs.

13 (C) NECESSARY STATUTORY CHANGES.—
14 In the first budget justification materials sub-
15 mitted by the Administrator on or after the
16 date on which the Administrator submits the
17 report required under subparagraph (B), the
18 Administrator shall identify any applicable stat-
19 utory changes necessary to implement the rec-
20 ommendations developed under subparagraph
21 (A).

22 (b) RULEMAKING.—Not later than 180 days after the
23 submission of the report required under subsection
24 (a)(3)(B), the Administrator of the Small Business Ad-

1 ministration shall issue or revise any applicable rules to
2 carry out the recommendations formed in the report.

3 (c) GRACE PERIOD.—

4 (1) SMALL BUSINESS CONCERNS OWNED AND
5 CONTROLLED BY SOCIALLY AND ECONOMICALLY DIS-
6 ADVANTAGED INDIVIDUALS.—Section 8(a) of the
7 Small Business Act (15 U.S.C. 637(a)) is amended
8 by adding at the end the following:

9 “(22) CONCERNS OWNED BY EMPLOYEE STOCK
10 OWNERSHIP PLANS OR ELIGIBLE WORKER-OWNED
11 COOPERATIVES.—

12 “(A) IN GENERAL.—For the purposes of
13 determining ownership and control of a concern
14 under this subsection for award of a contract
15 through a competition restricted to small busi-
16 ness concerns owned and controlled by socially
17 and economically disadvantaged individuals, any
18 interest in such concern held by an employee
19 stock ownership plan or an eligible worker-
20 owned cooperative shall be treated in the same
21 manner as an interest held by the socially and
22 economically disadvantaged individuals upon
23 whom eligibility is based if—

24 “(i) such concern was a small busi-
25 ness concern owned and controlled by so-

1 cially and economically disadvantaged indi-
2 viduals prior to the sale to an employee
3 stock ownership plan or an eligible worker-
4 owned cooperative;

5 “(ii) the chief executive officer, or
6 equivalent, of the concern is a socially and
7 economically disadvantaged individual; and

8 “(iii)(I) for a concern that is a cor-
9 poration or other similar entity organized
10 under the laws of any State, the District of
11 Columbia, or any commonwealth, territory,
12 or possession of the United States, a ma-
13 jority of the board of directors (through
14 actual numbers or weighted voting) of such
15 concern are socially and economically dis-
16 advantaged individuals; or

17 “(II) for a concern other than a con-
18 cern described in subclause (I), there is
19 control of the concern by socially and eco-
20 nomically disadvantaged individuals that is
21 equivalent to the requirement under sub-
22 clause (I) and demonstrates that socially
23 and economically disadvantaged individuals
24 exercise control over all decisions of the
25 concern.

1 “(B) APPLICABILITY.—The requirements
2 of subparagraph (A) shall apply for the 2-year
3 period beginning on the date on which the ma-
4 jority of the stock of such concern was acquired
5 by an employee stock ownership plan or eligible
6 worker-owned cooperative.”.

7 (2) SMALL BUSINESS CONCERNS OWNED AND
8 CONTROLLED BY WOMEN.—Section 8(m) of the
9 Small Business Act (15 U.S.C. 637(m)) is amended
10 by adding at the end the following:

11 “(9) CONCERNS OWNED BY EMPLOYEE STOCK
12 OWNERSHIP PLANS OR ELIGIBLE WORKER-OWNED
13 COOPERATIVES.—

14 “(A) IN GENERAL.—Notwithstanding any
15 other provision of law, for the purposes of de-
16 termining ownership and control of a concern
17 under this subsection for award of a contract
18 through a competition restricted to small busi-
19 ness concerns owned and controlled by women,
20 any interest in such concern held by an em-
21 ployee stock ownership plan or an eligible work-
22 er-owned cooperative shall be treated in the
23 same manner as an interest held by the women
24 upon whom eligibility is based if—

1 “(i) such concern was a small busi-
2 ness concern owned and controlled by
3 women prior to the sale to an employee
4 stock ownership plan or an eligible worker-
5 owned cooperative;

6 “(ii) the chief executive officer, or
7 equivalent, of the concern is a woman; and

8 “(iii)(I) for a concern that is a cor-
9 poration or other similar entity organized
10 under the laws of any State, the District of
11 Columbia, or any commonwealth, territory,
12 or possession of the United States, a ma-
13 jority of the board of directors (through
14 actual numbers or weighted voting) of such
15 concern are women; or

16 “(II) for a concern other than a con-
17 cern described in subclause (I), there is
18 control of the concern by women that is
19 equivalent to the requirement under sub-
20 clause (I) and demonstrates that women
21 exercise control over all decisions of the
22 concern.

23 “(B) APPLICABILITY.—The requirements
24 of subparagraph (A) shall apply for the 2-year
25 period beginning on the date on which the ma-

1 jority of the stock of such concern was acquired
2 by an employee stock ownership plan or eligible
3 worker-owned cooperative.”.

4 (3) SMALL BUSINESS CONCERNS OWNED AND
5 CONTROLLED BY SERVICE-DISABLED VETERANS.—
6 Section 36 of the Small Business Act (15 U.S.C.
7 657f) by adding at the end the following:

8 “(j) CONCERNS OWNED BY EMPLOYEE STOCK OWN-
9 ERSHIP PLANS OR ELIGIBLE WORKER-OWNED COOPERA-
10 TIVES.—

11 “(1) IN GENERAL.—Notwithstanding any other
12 provision of law, for the purposes of determining
13 ownership and control of a concern under this sec-
14 tion for award of a contract through a competition
15 restricted to small business concerns owned and con-
16 trolled by service-disabled veterans, any interest in
17 such concern held by an employee stock ownership
18 plan or an eligible worker-owned cooperative shall be
19 treated in the same manner as an interest held by
20 the service-disabled veterans upon whom eligibility is
21 based, if—

22 “(A) such concern was a small business
23 concern owned and controlled by service-dis-
24 abled veterans prior to the sale to an employee

1 stock ownership plan or an eligible worker-
2 owned cooperative;

3 “(B) the chief executive officer, or equiva-
4 lent, of the concern is a service-disabled vet-
5 eran; and

6 “(C)(i) for a concern that is a corporation
7 or other similar entity organized under the laws
8 of any State, the District of Columbia, or any
9 commonwealth, territory, or possession of the
10 United States, a majority of the board of direc-
11 tors (through actual numbers or weighted vot-
12 ing) of such concern are service-disabled vet-
13 erans; or

14 “(ii) for a concern other than a concern
15 described in clause (i), there is control of the
16 concern by service-disabled veterans that is
17 equivalent to the requirement under clause (i)
18 and demonstrates that service-disabled veterans
19 exercise control over all decisions of the con-
20 cern.

21 “(2) APPLICABILITY.—The requirements of
22 paragraph (1) shall apply for the 2-year period be-
23 ginning on the date on which the majority of the
24 stock of such concern was acquired by an employee

1 stock ownership plan or eligible worker-owned coop-
2 erative.”.

3 (4) SMALL BUSINESS CONCERNS OWNED AND
4 CONTROLLED BY VETERANS.—Section 36A of the
5 Small Business Act (15 U.S.C. 657f–1) is amended
6 by adding at the end the following:

7 “(c) CONCERNS OWNED BY EMPLOYEE STOCK OWN-
8 ERSHIP PLANS OR ELIGIBLE WORKER-OWNED COOPERA-
9 TIVES.—

10 “(1) IN GENERAL.—Notwithstanding any other
11 provision of law, for the purposes of determining
12 ownership and control of a concern under this sec-
13 tion for certifying or recertifying the concern as a
14 small business concern owned and controlled by vet-
15 erans, any interest in such concern held by an em-
16 ployee stock ownership plan or an eligible worker-
17 owned cooperative shall be treated in the same man-
18 ner as an interest held by the veterans upon whom
19 eligibility is based if—

20 “(A) such concern was a small business
21 concern owned and controlled by veterans prior
22 to the sale to an employee stock ownership plan
23 or an eligible worker-owned cooperative;

24 “(B) the chief executive officer, or equiva-
25 lent, of the concern is a veteran; and

1 “(C)(i) for a concern that is a corporation
2 or other similar entity organized under the laws
3 of any State, the District of Columbia, or any
4 commonwealth, territory, or possession of the
5 United States, a majority of the board of direc-
6 tors (through actual numbers or weighted vot-
7 ing) of such concern are veterans; or

8 “(ii) for a concern other than a concern
9 described in clause (i), there is control of the
10 concern by veterans that is equivalent to the re-
11 quirement under clause (i) and demonstrates
12 that exercise control over all decisions of the
13 concern.

14 “(2) APPLICABILITY.—The requirements of
15 paragraph (1) shall apply for the 2-year period be-
16 ginning on the date on which the majority of the
17 stock of such concern was acquired by an employee
18 stock ownership plan or eligible worker-owned coop-
19 erative.”.

20 (d) DEFINITIONS.—Section 3 of the Small Business
21 Act (15 U.S.C. 632) is amended—

22 (1) in subsection (q)—

23 (A) in paragraph (2), by striking “(not in-
24 cluding any stock owned by an ESOP)” each
25 place it appears;

1 (B) by striking paragraph (6); and

2 (C) by redesignating paragraph (7) as
3 paragraph (6); and

4 (2) by adding at the end the following:

5 “(gg) EMPLOYEE STOCK OWNERSHIP PLAN.—In this
6 Act, the term ‘employee stock ownership plan’ has the
7 meaning given that term in section 4975(e)(7) of the In-
8 ternal Revenue Code of 1986 (26 U.S.C. 4975(e)(7)).

9 “(hh) ELIGIBLE WORKER-OWNED COOPERATIVE.—
10 In this Act, the term ‘eligible worker-owned cooperative’
11 has the meaning given that term in section 1042(c) of the
12 Internal Revenue Code of 1986.”.

