

115TH CONGRESS  
2D SESSION

# H. R. 7206

To amend titles 41 and 10 of the United States Code to establish certain procurement procedures with respect to businesses wholly-owned through an ESOP, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 30, 2018

Mr. BUCSHON introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend titles 41 and 10 of the United States Code to establish certain procurement procedures with respect to businesses wholly-owned through an ESOP, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be referred to as the “ESOP Business  
5 Act of 2018”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) Businesses wholly-owned through an  
2       ESOP—

3           (A) offer unique benefits to the United  
4       States and to customers of such businesses;

5           (B) provide better retirement security,  
6       work culture, and wage growth for workers; and

7           (C) reduce wealth inequality among man-  
8       agers and employees.

9           (2) Current Federal contracting laws may inad-  
10       vertently exclude businesses wholly-owned through  
11       an ESOP from key projects.

12           (3) The growth of the number businesses whol-  
13       ly-owned through an ESOP benefits employees of  
14       such businesses.

15 **SEC. 3. SENSE OF CONGRESS.**

16       It is the sense of Congress that—

17           (1) businesses wholly-owned through an ESOP  
18       are beneficial to the economy;

19           (2) Congress should provide incentives for busi-  
20       nesses to become businesses wholly-owned through  
21       an ESOP; and

22           (3) businesses wholly-owned through an ESOP  
23       should be rewarded through the Federal contracting  
24       process for the benefits that such businesses provide.

1 **SEC. 4. FULL AND OPEN CONTRACT COMPETITION FOR**  
2 **BUSINESSES WHOLLY-OWNED THROUGH AN**  
3 **ESOP.**

4 (a) FULL AND OPEN CONTRACT COMPETITION.—  
5 Section 3301 of title 41, United States Code, is amend-  
6 ed—

7 (1) in subsection (a), by inserting “in sub-  
8 section (d) and” before “in sections 3303, 3304(a),  
9 and 3305”; and

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

11 “(d) BUSINESSES WHOLLY-OWNED THROUGH AN  
12 ESOP.—A business wholly-owned through an ESOP may  
13 submit a bid to an executive agency conducting a procure-  
14 ment for property or services under section 3303, 3304(a),  
15 or 3305.”.

16 (b) USE OF NONCOMPETITIVE PROCEDURES.—Sec-  
17 tion 3304(b) of title 41, United States Code, is amended—

18 (1) in paragraph (1), by striking “or” after  
19 “procurement;”;

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

22 (3) by adding at the end the following:

23 “(3) a follow-on contract for a contract award-  
24 ed to a business wholly-owned through an ESOP if  
25 the executive agency rates the performance of such  
26 business on the original contract as satisfactory or

1 better in the Contractor Performance Assessment  
2 Reporting System (or a successor system).”.

3 (c) DEFINITION OF BUSINESS WHOLLY-OWNED  
4 THROUGH AN ESOP.—

5 (1) TITLE 10.—Section 2302 of title 10,  
6 United States Code, is amended by adding at the  
7 end the following:

8 “(10) The term ‘business wholly-owned through  
9 an ESOP’ has the meaning given the term in section  
10 117 of title 41.”.

11 (2) TITLE 41.—Chapter 1 of title 41, United  
12 States Code, is amended by adding after section 116  
13 the following new section:

14 **“§ 117. Business wholly-owned through an ESOP**

15 “In this subtitle, the term ‘business wholly-owned  
16 through an ESOP’ means a business for which 100 per-  
17 cent of the outstanding stock is held through an employee  
18 stock ownership plan (as defined in section 4795(e)(7) of  
19 title 26).”.

20 (d) PRICING PREFERENCE.—Section 2304 of title  
21 10, United States Code, is amended by adding at the end  
22 the following:

23 “(m) For a contract awarded pursuant to this sec-  
24 tion, the head of the agency may enter into a contract  
25 with a business wholly-owned through an ESOP using a

1 price evaluation preference not in excess of 10 percent  
2 when evaluating an offer received from such a business.”.

3 (e) INCLUSION IN CONTRACT GOALS.—Section  
4 2323(a) of title 10, United States Code, is amended by  
5 adding at the end the following:

6 “(4) For the purposes of this subsection, a  
7 business wholly-owned through an ESOP shall be  
8 considered a small business concern.”.

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