



Who We Are

The Employee-Owned Contractor Roundtable (ECR) is a coalition of federal government contractors that are organized as private subchapter S corporations wholly-owned through an employee stock ownership plan (ESOP). ECR member companies provide products and services for the U.S. Government, ranging from manufacturing engines and timing belts to developing some of the most advanced combat simulators and sonar detection technologies. ECR members can be located across the entire United States, playing critical roles in several sectors of the American economy.

Since employee-owned companies provide significant benefits to the U.S. economy and unique advantages to rank and file workers, the federal government has supported and promoted ESOPs for decades, through a variety of growth mechanisms, specifically through tax policy. ECR members believe it is time to modernize federal contracting regulations to align with existing federal pro-ESOP objectives by advancing policies to support and expand employee ownership within the federal contracting arena.

What is a Private, Subchapter S ESOP?

A Subchapter S corporation is a business entity that provides flow-through tax treatment to its shareholders. An ESOP is a qualified defined contribution plan that provides a company's workers with retirement savings through their investments in their employer's stock, at no cost to the worker. ESOPs are regulated by the Department of Labor under the Employee Retirement Income Security Act ("ERISA") just like pension funds, 401(k) plans, and other qualified retirement plans.

Congress authorized the S corporation ESOP ("S ESOP") structure over two decades ago to encourage and expand retirement savings by giving hundreds of thousands of American workers in all 50 states the opportunity to have equity in the companies where they work.

Why America Benefits from Supporting ESOP-Owned Companies

As employee ownership in America has grown employee-owned businesses have consistently provided the economy, their workers, and their customers with unique and tangible benefits. When a company is owned by its employees, important socioeconomic dynamics arise that benefit workers, the company, the community, and the national economy. Because ESOPs are regulated by a strict legal code that requires ownership to be broadly held across employees, from the mailroom to the boardroom, companies that are ESOP-owned – and particularly those that are majority or wholly ESOP-owned – consistently report better job growth, fewer job reductions during economic downturns, boosted employee savings, and strong protections against foreign acquisitions. Among the data points that underscore the specific value of ESOPs:

- Despite the financial stresses caused by the 2008/09 economic downturn and resulting great recession, **ESOP-**

Employee-Owner Income vs Non- Employee Owner Income (Ages 28 to 34)

MEDIAN WAGES FROM INCOME	EMPLOYEE-OWNERS	NON-EMPLOYEE-OWNERS
Overall	\$40,000	\$30,000
Single women	\$31,000	\$25,000
Single women of color	\$28,000	\$24,000
Workers of color	\$35,000	\$27,000
Child 0-8 in household	\$40,000	\$30,000
Families of color with young child	\$35,000	\$26,000
All parents	\$39,000	\$30,000
All single parents	\$33,000	\$23,000
Single mothers	\$28,000	\$21,000
Non-college graduates	\$35,000	\$25,000
Under 50k income from wages	\$30,000	\$25,000
Under 30k income from wages	\$22,000	\$18,000
Under 25k income from wages	\$17,160	\$14,000

Source: National Center for Employee Ownership

owned companies kept far more jobs than other private companies. According to a 2012 study by Alex Brill, employment among employee-owned firms increased more than 60% from 2001-2011, while the private sector had flat or negative growth in the same period.

- **ESOPs reduce wealth inequality in the American workforce.** A 2016 study by Jared Bernstein shows that by increasing wage-earning employees' share of their business capital, **ESOPs reduced the wealth concentration among the top 10 percent of employees by 2.5%.**
- Due to the work culture and structure of an ESOP business, contract officers (CO) and procurement managers (PM) prefer doing business with ESOP contractors because ESOPs can meet contracting deadlines in a more agile manner and reinvest in their company's technical abilities to meet the most challenging federal projects

National Defense Authorization Act (NDAA) FY22 Clears the Way for Contracting Officers to Work with 100% ESOPs

In the FY22 NDAA, Congress passed a provision to establish a five-year Department of Defense (DOD) pilot program to allow contracting officers (CO) the ability to sole-source the follow-on contracts of similar substance to 100% ESOPs. To qualify, ESOPs must possess the initial contract and completed the project at a "satisfactory" or above rating. These innovative first steps provide COs with greater choice in how to procure services from the contracting sector. Additionally, this program allows DOD more time to work with a 100% ESOP contractor that has a time-tested track record of fulfilling the needs of DOD.

Congress must now ensure that DOD implements this program and establishes the necessary data collection strategy, rules, and regulations to take advantage of this unique procurement strategy.

Modernizing Procurement Practices to Promote Subchapter S ESOP Contractors

While this follow-on provision is a strong first step, ECR members believe Congress can create more 100% ESOPs by incentivizing federal agencies to partner more regularly with ESOP companies with strong histories of completing projects in a timely and cost-effective manner. Procurement practices should leverage the unique benefits of the ESOP model to create a pathway for small businesses to grow by allowing small businesses the ability to become wholly owned through an ESOP and still compete for certain small business set-aside contracts. ECR is collaborating with Members of Congress to educate and engage on the following policy options:

- ***100% ESOP size-adjustment to provide growth opportunities for wholly-employed owned businesses***
 - o ***Barring competition for specific preference programs (i.e., women/veteran-owned, 8a, etc.)***
 - o ***Guardrails to protect very small businesses – no competition on receipt-based contracts under \$16.5 million***
 - o ***Graduation threshold for the wholly-owned ESOP business at 3 times the top NAICs code in both the headcount and receipts categories***
 - o ***Limit such benefits only to USA headquartered Subchapter S businesses that are wholly-owned through an ESOP***
- ***Amend SBA affiliation rules to allow companies to establish standalone businesses wholly-owned through an ESOP and enter into mentor-protegee protégé agreements with the new entity***
- ***Define businesses wholly-owned ESOPs as non-traditional for Other Transaction Authority (OTA) contracts***
- ***Eliminate recertification on certain task orders for businesses wholly-owned through an ESOP***

To that end, legislation will soon be introduced to achieve these goals. **Should you wish to learn more about ECR activities, please do not hesitate to contact Matthew Pearce at MPearce@vennstrategies.com, or Matt Scott at Mscott@vennstrategies.com**



Pilot Program Overview

Who We Are:

The Employee-Owned Contractor Roundtable (ECR) is a coalition of federal government contractors that are organized as private subchapter S corporations wholly-owned through an employee stock ownership plan (ESOP). ECR member companies provide products and services for the U.S. Government ranging from manufacturing engines and timing belts to developing some of the most advanced combat simulators and sonar detection technologies. ECR member companies can be found in the majority of states across the country and play critical roles in several sectors of the American economy.

ECR is committed to policy solutions that sustain small businesses and help them to grow to mid-tier status. We are focused on creating and building retirement wealth for all employee-owners and helping small businesses thrive while working to modernize federal contracting policies to support all small businesses, not just ESOP small businesses.

Issue Background:

The Department of Defense (DOD) has noted on several occasions that industry consolidation has led to significant delays in the contracting process, creating real vulnerabilities in DOD's ability to procure needed equipment and technologies. To remedy this issue, a bipartisan and bicameral Congressional effort was undertaken to include in the FY22 National Defense Authorization Act a provision which would establish a five-year DOD pilot program to allow contracting officers the ability to sole-source the follow-on contracts of similar substance to 100% ESOPs. To qualify, ESOPs must possess the initial contract and completed the project at a "satisfactory" or above rating. These innovative first steps provide Contracting Officers with greater flexibility in how to procure services from the contracting sector. Additionally, this program allows DOD more time to work with 100% ESOP contractors that have time-tested track records of fulfilling DOD's needs.

Program Particulars:

- ✓ **Eligibility:** Ensures that only 100% employee-owned companies are eligible to participate in the pilot
 - To ensure compliance, ESOPs will provide key filing data to certify their status
- ✓ **Sole-Source Authority:** 100% ESOPs will be granted sole-source authority for follow-on contracts for work previously completed at a "satisfactory" or above level
- ✓ **Sunset:** The language includes safeguards allowing the pilot to expire after five years should it not meet expectations
- ✓ **Data Collection:** Ensures the government collects relevant data and reports to DOD on efficacy and usage

Should you have any questions or would like any additional information, please do not hesitate to contact our DC representatives **Matt Pearce** (mpearce@vennstrategies.com) or **Matt Scott** (msscott@vennstrategies.com).



EMPLOYEE-OWNED CONTRACTORS ROUNDTABLE

Employee-owned Contractor Roundtable (ECR) Membership List 2022

Applied Research Associates – Albuquerque, NM

ARA is a scientific research and engineering company that manufactures solutions for the national security, infrastructure, energy and environment, and health sectors. The company specializes in the areas of defense technologies, civil engineering, computer software and simulation, systems analysis, environmental technologies, and blast testing and measurement.

Avion Solutions, Inc. – Huntsville, AL

Avion is a professional product and engineering service company that specializes in the creation of technical and operational solutions through the application of research, analysis, computer and software technology. The company also offers several asset management solutions including Tool Room Management System, a software developed for the U.S. Army primarily for aviation tool accountability.

Burns & McDonnell – Kansas City, MO

Burns & McDonnell is a 100% employee-owned company and is a global provider of infrastructure and engineering solutions for projects ranging from energy transmission to aerospace to telecommunications. The company also provides manufacturing and facility services including oil and gas, power generation, process design, and program management.

CSS, Inc. – Fairfax, VA

CSS maintains a diverse portfolio of long-time customers in the public and private sectors, some of whom they have supported continuously for more than 30 years. For the federal sector, they have served as prime contractor to more than 20 agencies, and supported every Cabinet-level department. CSS became 100% employee owned in 2012. The diverse staff of employee-owners represent close to 70 distinct disciplines ranging from astronomy to zoology.

deciBel Research – Huntsville, AL

deciBel Research was founded in 2002 with core competencies including modeling and simulation analysis; sensor and system test and evaluation; algorithm development; intelligence, surveillance, and reconnaissance; and sensor and system engineering. deciBel Research is headquartered in Huntsville, Alabama, and has offices and personnel supporting customers in Dayton, Ohio; Colorado Springs, Colorado; Melbourne, Florida; and Wallops Island, Virginia.

EA Engineering – Hunt Valley, MD

EA is a 100% employee-owned public benefit corporation that provides environmental, compliance, natural resources, and infrastructure engineering and management solutions to a wide range of public and private sector clients. EA has earned a reputation for technical expertise, responsive service, and judicious use of client resources.

Integration Innovation, Inc (i3) – Huntsville, AL

Integration Innovation, Inc. (i3) is a national leader in providing innovative technical and engineering solutions to a broad customer base across the U.S. Department of Defense, specializing in engineering, training, analytical and technology development services for government and commercial customers. The company became 100% ESOP-owned in 2021 with 670 employee-owners across the country.

Jasper Engines & Transmissions – Jasper, IN

Jasper provides remanufactured gas engines, diesel engines, marine engines, transmissions and more for cars, trucks and boats. The company offers performance create engines, authentic custom engines, radiators, and installation kits; automatic and standard transmissions, transfer cases, authentic custom transmissions, and transmission coolers/radiators.

Life Cycle Engineering – Charleston, South Carolina

For more than 40 years, Life Cycle Engineering has provided engineering solutions that deliver lasting results for private industry, public entities, government organizations and the military. The quality, expertise, and dedication of its employees enables Life Cycle Engineering to serve as a trusted resource for reliable reliability consulting and services, information technology, engineering and technical services, integrated logistics support services, program support services, and education.

MTSI – Alexandria, VA

MTSI is a 100% employee-owned engineering services and technology solutions company delivering first-choice capabilities to solve problems of global importance in the critical mission areas of missile defense, cyber security, intelligence, unmanned/autonomous systems, aviation, space, and homeland security. MTSI's mission is to make important and lasting contributions to the nation's defense and security by providing leadership and best-value solutions to solve America's most technically challenging strategic problems.

PatchPlus Consulting- Medford, NJ

PatchPlus Consulting, Inc. is a Service-Disabled Veteran Owned and Woman Owned Small Business founded in 2002. PatchPlus provides highly trained, experienced Intelligence, command and control, Space and Cyber experts to support a wide variety of government and industry clients.

Pinnacle Solutions – Huntsville, AL

Pinnacle Solutions is an employee-owned company offering a broad range of services in Training Device Development, Modifications, Technical Publications and Engineering & Training Services. With proven cost, schedule, and technical performance on a number of successful contracts, Pinnacle has demonstrated the capability to successfully execute tasks in each of these four product/service lines.

Radiance Technologies, Inc. – Huntsville, AL

Radiance provides systems engineering, technology and prototype development, integration, testing, and operational support for the DoD, U.S. armed services, U.S. intelligence agencies, and other government organizations. Radiance also offers cyber solutions including cyber technology and assessments, foreign material exploitation, and modeling and simulation support.

Sonalysts, Inc. – Waterford, CT

Sonalysts offers extensive experience and strong qualifications in a wide variety of technical disciplines. Their multidisciplinary services organization includes approximately 400 engineers; scientists; computer scientists; and publication, media, and training specialists. Their main campus in Waterford, CT, consists of offices, research space, sound stages, video, animation, and audio production facilities, a construction shop and sensor fabrication lab.

Torch Technologies – Huntsville, AL

Torch Technologies is a system engineering, applied science, modeling & simulation and information technology firm. Its primary customers are the United States Army Aviation and Missile Command (AMCOM) and the Missile Defense Agency, and it has contracts with other a variety of other DoD agencies including the Navy and the Air Force.

TSC – Arlington, VA

TSC (Technology Service Corporation) has supported Federal Government, commercial, and international customers for over 50 years. Government customers include the US Military, Defense Agencies, and the Federal Aviation Administration. TSC provides full life cycle support, from advanced concept development through operational support, for sensors and solutions related to land, sea, air, and space. TSC maintains offices at 11 locations nationwide.

Will-Burt Company – Orrville, OH

The Will-Burt Company is the world's premier manufacturer of mobile telescoping masts, towers, trailer systems, and pan and tilt positioners. They offer virtually every mobile payload elevation solution and full integration services for defense, government, first responders, telecommunications, energy production and other markets. Will-Burt also offers contract manufacturing, metal fabrication, powder-coating, and rapid prototyping services. The firm is based in Orrville, OH but has locations across the globe.

Supporter Members

Defense Systems Analysts, Inc (DSA) – Feasterville-Trevose, PA

Founded in 1963, Data Systems Analysts, Inc. (DSA) has been providing Defense and Federal Government customers' mission-driven information technology and consulting solutions and services for more than 50 years. DSA partnered with the U.S. Department of Defense in the 1960s to provide a secure and reliable messaging system for America's fighting forces and our allies. DSA's people excel in helping customers achieve sensitive, mission-critical business goals and objectives. DSA is a 100 percent employee-owned company.



EMPLOYEE-OWNED CONTRACTORS ROUNDTABLE

2022 Membership Tiers

ECR's Mission and Value Statement

The Employee-Owned Contractor Roundtable (ECR) is a coalition of federal government contractors that are organized as private subchapter S corporations wholly-owned through an employee stock ownership plan (ESOP). The Employee-Owned Contractors Roundtable is committed to policy solutions that modernize contracting practices that align with federal government goals of increasing employee ownership. ECR values are as follows:

- All small businesses-need a pathway to grow in order to thrive, and studies demonstrate the 100% ESOP structure is one of the best pathways to that growth.
- Creating and sustaining employee ownership is in the interest of businesses, workers, the American economy, and the federal government.
- It will strengthen the U.S. industrial base to encourage growth and prevent stagnation among small businesses.
- Creating and protecting retirement value for employee-owners by giving 100% ESOPs a pathway to growth will lead to a more equitable future.

Why Join?

ECR is the premier association for ESOP businesses that primarily work with the federal government, with a membership consisting of ESOP federal contractors that are either or intend to become, 100% employee-owned. ECR members are active in efforts to shape federal procurement policies that encourage the creation of more ESOP-owned federal contractors, leveraging the ESOP structure as a pathway for growth through small-business set asides and into the mid-tier, and communicating to Members of Congress about the unique benefits of employee-ownership from retirement wealth creation to quality services and products for the federal government.

Membership Options

ECR has two membership options to support ECR's goals and agenda allowing flexibility depending on your company's contracting experience, resources, and time. Both levels support ECR's overall objectives with Executive Council members having a direct say in the direct, scope, and overall strategy of ECR.

Executive Council (\$25,000/year)

- Serves as ECR's Board
- Drives overall ECR direction and policy priorities
- Participates in quarterly meetings
- Supports political giving and political engagement
- Participates in sole-source implementation
- Assists in Membership recruitment
- Access to monthly calls and intel

Supporter Level (\$10,000/year)

- Supports ECR political engagement through an annual DC lobby day
- Participates in the sole-source implementation
- Dues support ECR studies, data development, research, and other technical needs
- Access to monthly calls and intel

How To Join

Contact ECR staff, Matt Pearce at mpearce@vennstrategies.com, and Matt Scott at mScott@vennstrategies.com for more information, to request a membership application, or for any questions.



EMPLOYEE-OWNED CONTRACTORS ROUNDTABLE

MEMBERSHIP REQUEST FORM

Company
Name:

Date:

Website address:

PRIMARY CONTACT

Name:

Title:

Address:

City:

State:

ZIP Code:

Phone:

Fax:

Mobile:

E-mail:

SECONDARY CONTACT

Name:

Title:

Address:

City:

State:

ZIP Code:

Phone:

Fax:

Mobile:

E-mail:

ECR MEMBERSHIP LEVEL (CHECK ONE)

ECR EXECUTIVE ROUNDTABLE (\$25,000/annual) ☐

- Serves as ECR's Board and drives overall ECR direction and policy priorities;
- Participates in quarterly meetings;
- Supports political giving and political engagement;
- Participates in sole-source implementation;
- Assists in membership recruitment;
- Access to monthly calls and intel;

ECR SUPPORTERS LEVEL (\$10,000/annual) ☐

- Supports ECR political engagement through an annual DC lobby day;
- Participates in the sole-source implementation;
- Dues support ECR studies, data development, research, and other technical needs;
- Access to monthly update calls and intel;

Companies over 1,000 employee-owners excluded from joining at this level

COMPANY DESCRIPTION

(What the company does, company history, business type, etc.)

CURRENT LIST OF WORK BY NAICS CODE

FEDERAL AGENCIES SERVED
(please rank by percentage of work attributed to each agency)

Year Company
Established:

Year ESOP
Established:

My company is:

An S Corporation ☐

A C Corporation ☐

Total Employees:

Total Participants:

Total Active Participants:

ESTIMATED NUMBER OF PARTICIPANTS BY STATE

AK	DC	IL	ME	ND	OH	TN	WV
AL	DE	IN	MI	NE	OK	TX	WY
AR	FL	KS	MN	NH	OR	UT	
AZ	GA	KY	MO	NJ	PA	VA	
CA	HI	LA	MS	NM	RI	VT	
CO	IA	MA	MT	NV	SC	WA	
CT	ID	MD	NC	NY	SD	WI	

ESOP PERCENTAGE

What percentages of shares are owned by the ESOP? _____

**DOES YOUR COMPANY HAVE A POLITICAL ACTION COMMITTEE (PAC) OR ENGAGE IN
POLITICAL GIVING?**

**OTHER ORGANIZATIONS IS YOUR COMPANY IS A MEMBER IN
(trade groups, local commerce organizations, etc.)?**

HOW DID YOU LEARN ABOUT ECR? WHY ARE YOU INTERESTED IN JOINING?

Please e-mail completed form to Matt Pearce at mpearce@vennstrategies.com



June 9, 2022

Linda Neilson
Director, Defense Acquisition Regulations System
U.S. Department of Defense
3062 Defense Pentagon
Washington, DC 20301-3062

Subject: Early Engagement Opportunity to Provide Input Regarding Pilot Program to Incentivize Contracting with Employee-Owned Businesses authorized by Section 874 of the National Defense Authorization Act for Fiscal Year 2022

Dear Ms. Neilson,

On behalf of the community of employee-owned businesses and the primary trade associations and coalitions – the **Employee-Owned Contractor Roundtable (ECR)**, the **Employee-Owned S Corporations of America (ESCA)**, the **Employee Ownership Expansion Network (EOX)**, and **Ownership for America (OA)** – this letter is submitted in support of the Pilot Program to Incentivize Contracting with Businesses Wholly-Owned through an Employee Stock Ownership Plan (ESOP) authorized by Section 874 of the National Defense Authorization Act for Fiscal Year 2022. The signatories represent over 200 employee-owned companies, many of which are federal government contractors, servicing the government at large, including the Department of Defense (DoD).

In addition to providing DoD with tangible and innovative benefits, data from top economists has consistently shown businesses wholly-owned through an ESOP create significant value in the economy, and this value extends to all workers, particularly those who represent disadvantaged communities or who are the intended beneficiaries of federal preference programs. Congress recognized the innovative potential in encouraging businesses wholly-owned through an ESOP to work with DoD and authorized the Pilot Program to Incentivize Contracting with Employee-Owned Businesses in Section 874 of the National Defense Authorization Act for Fiscal Year 2022.

The signatories offer the following recommendations for implementation and rulemaking of the Pilot Program to Incentivize Contracting with Employee-Owned Businesses authorized by Section 874 of the National Defense Authorization Act for Fiscal Year 2022.

Section 874 provides authority for DoD to establish a pilot program to incentivize contracting with businesses wholly-owned through an ESOP for an award of a sole-source follow-on contract. The authorization is dependent on DoD establishing procedures for the business 1) to verify status (using existing Federal reporting mechanisms) and 2) to certify no more than 50% of the award will be expended on subcontracts. Additionally, DoD must have procedures and mechanisms to 1) record details on the follow-on contract and 2) collect and analyze data. The data must include developing and sharing best practices as well as contract data to include size of business, performance of the follow-on contract, and any other data determined necessary.

To achieve these statutory requirements, we recommend capturing the data in a one-page form submitted by the business wholly-owned through an ESOP with each of their proposals and at completion of each contract. This form would capture elements of the data strategy required by statute as well as additional data elements such as employee retention rate, total retirement plan value, and average per employee retirement savings (see attachment 1). These additional data elements would be useful for the statutory GAO report in highlighting the innovative potential of encouraging businesses wholly-owned through an ESOP to work with DoD.

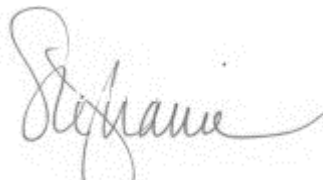
In implementing and rulemaking of the pilot program, Congress suggested DoD review Internal Revenue Service form “Schedule K-1 (Form 1120-S)” when looking to make a determination whether a business is wholly-owned through an ESOP. The signatories suggest DoD verify the status of the company as either 1) a qualified business wholly-owned through an ESOP for the purposes of this section by using the Internal Revenue Service Schedule K-1 (Form 1120-S) 2021, Part I, Lines A (Corporation’s employer identification number), and B (Corporation’s name, address, city, state, and ZIP code); and Part II, Lines E (Shareholder’s identifying number), F (Shareholder’s name, address, city, state, and ZIP code), and G (current year allocation percentage), or 2) a wholly-owned subsidiary, as demonstrated by Internal Revenue Service Form 1120-S (2021), Schedule B, Line 4a, of a qualified business wholly-owned through an ESOP based upon the Schedule K-1 documentation required by item 1). The signatories offer a draft proposed rule specifying these refinements and examples of the Internal Revenue Service Forms (attachments 2 and 3).

In summary, the signatories are encouraged by the recent recognition by Congress of the innovative potential of encouraging businesses wholly-owned through ESOPs to work with DoD and look forward to supporting DoD in their efforts to implement and conduct rulemaking of the Pilot Program to Incentivize Contracting with Employee-Owned Businesses authorized by Section 874 of the National Defense Authorization Act for Fiscal Year 2022.

Please consider us a resource on this issue and don’t hesitate to contact Matt Pearce at matt.pearce@ecrcoalition.com, 202-449-8366 (office), or 701-471-8391 (cell).



Matt Pearce
Senior Vice President
***Employee-Owned
Contractors Roundtable***



Stephanie Silverman
President and CEO
***Employee-Owned
S Corporations of America***



Steve Storkan
Executive Director
***Employee Ownership
Expansion Network***



Jack Moriarty
Founder and Executive Director
Ownership for America

Attachment 1: Recommended Draft Data Collection Strategy

Attachment 2: Recommended Draft Proposed Rule

Attachment 3: Sample IRS Forms to Verify Status

Attachment 4: Section 874 of the National Defense Authorization Act for Fiscal Year 2022 (P.L. 117-81)

Attachment 5: Joint Explanatory Statement to Accompany the National Defense Authorization Act for Fiscal Year 2022 (Conference Report Language)

Attachment 1:
Recommended Draft Data Collection Strategy

The signatories recommend DoD create a one-page form to require the business wholly-owned through an Employee Stock Ownership Plan (ESOP) to submit with each of their proposals and at contract completion the following data:

- Verify status of the company as either;
 - a qualified business wholly-owned through an Employee Stock Ownership Plan for the purposes of this section by using the Internal Revenue Service form Schedule K-1 (Form 1120-S) 2021, Part I, Lines A (Corporation's employer identification number), and B (Corporation's name, address, city, state, and ZIP code); and Part II, Lines E (Shareholder's identifying number), F (Shareholder's name, address, city, state, and ZIP code), and G (current year allocation percentage), or
 - a wholly-owned subsidiary, as demonstrated by Internal Revenue Service Form 1120-S (2021), Schedule B, Line 4a, of a qualified business wholly-owned through an Employee Stock Ownership Plan based upon the Schedule K-1 documentation required above;
- Verify performance of the qualified business wholly-owned through an Employee Stock Ownership Plan on the prior contract was rated as satisfactory (or the equivalent) or better in the applicable past performance database or through a signed letter from the contracting officer;
- Require certification from the company that not more than 50 percent of the amount paid under the contract will be expended on subcontracts, subject to any waivers prescribed by the Secretary;
- Collect data to include
 - date business became wholly-owned through an ESOP;
 - size of the business (for the follow-on contract);
 - performance of the current contract;
 - performance of the follow-on contract;
 - employee retention rate;
 - total ESOP retirement plan value (does not include individual 401(K) value);
 - average per employee ESOP retirement savings (does not include individual 401(K) value); and
 - best practices relating to the pilot program.

The signatories recommend OSD identify an office in OSD (A&S) to collect the forms and provide to GAO to support the statutory report.

206.302-8. Pilot Program to Incentivize Contracting with Employee-Owned Business

206.302-80 Scope.

This implements the Pilot Program to Incentivize Contracting with Employee-Owned Business (hereafter referred to as the “Program”) established under section 874 of the National Defense Authorization Act for Fiscal Year 2022 (Pub. L. 117-81). The purpose of the Program is to provide incentives for DoD to leverage the innovative potential of businesses wholly-owned through an Employee Stock Ownership Plan (ESOP) to work with the Department of Defense and bolster the defense industrial base. The pilot program established under this section shall expire on December 27, 2026.

206.302-81 Policy.

Notwithstanding the requirements of section 2304 of title 10, United States Code, and with respect to a follow-on contract for the continued development, production, or provision of products or services that are the same as or substantially similar to the products or services procured by the Department of Defense under a prior contract held by a qualified business wholly-owned through an Employee Stock Ownership Plan, the products or services to be procured under the follow-on contract may be procured by the Department of Defense through procedures other than competitive procedures if the performance of the qualified business wholly-owned through an Employee Stock Ownership Plan on the prior contract was rated as satisfactory (or the equivalent) or better in the applicable past performance database.

A qualified business wholly-owned through an Employee Stock Ownership Plan may have a single opportunity for award of a sole-source follow-on contract, unless a senior contracting official (as defined in section 1737 of title 10, United States Code) approves a waiver of the requirements of this section.

The term “qualified businesses wholly-owned through an Employee Stock Ownership Plan” means an S corporation (as defined in section 1361(a)(1) of the Internal Revenue Code of 1986) for which 100 percent of the outstanding stock is held through an employee stock ownership plan (as defined in section 4975(e)(7) of such Code).

206.302-82 Procedures.

Contracting officers must –

- (a) Verify status of the company as either;
 - (1) a qualified business wholly-owned through an Employee Stock Ownership Plan for the purposes of this section by using the Internal Revenue Service form Schedule K-1 (Form 1120-S), Part I, Lines A (Corporation’s employer identification number), and B (Corporation’s name, address, city, state, and ZIP code); and Part II, Lines E (Shareholder’s identifying number), F (Shareholder’s name, address, city, state, and ZIP code), and G (current year allocation percentage), or
 - (2) a wholly-owned subsidiary, as demonstrated by Internal Revenue Service Form 1120-S, Schedule B, Line 4a, of a qualified business wholly-owned through an Employee Stock Ownership Plan based upon the documentation required by subsection (a)(1);
- (b) Verify performance of the qualified business wholly-owned through an Employee Stock Ownership Plan on the prior contract was rated as satisfactory (or the equivalent) or better in the applicable past performance database or through a signed letter from the contracting officer;

- (c) Require certification from the company that not more than 50 percent of the amount paid under the contract will be expended on subcontracts, subject to any waivers prescribed by the Secretary;
- (d) Collect data to include
 - (1) date business became wholly-owned through an ESOP;
 - (2) size of the business;
 - (3) performance of the current contract;
 - (4) performance of the follow-on contract;
 - (5) employee retention rate;
 - (6) total retirement plan value;
 - (7) average per employee retirement savings; and
 - (8) best practices relating to the pilot program;
- (e) Not require disclosure of any Internal Revenue Service forms or information on such forms other than those sections of those forms specified above.

Schedule K-1 (Form 1120-S) 2021 for DoD Implementation of Sec. 874, FY22 NDAA

671121

☐ Final K-1☐ Amended K-1

OMB No. 1545-0123

Schedule K-1 (Form 1120-S)

2021

Department of the Treasury
Internal Revenue Service

For calendar year 2021, or tax year

beginning / / 2021ending / /

Shareholder's Share of Income, Deductions, Credits, etc.

▶ See separate instructions.

Part I Information About the Corporation

A Corporation's employer identification number

B Corporation's name, address, city, state, and ZIP code

Name of company doing business with the government.

C IRS Center where corporation filed return

D Corporation's total number of shares

Beginning of tax year

End of tax year

Part II Information About the Shareholder

E Shareholder's identifying number

F Shareholder's name, address, city, state, and ZIP code

Name of employee stock ownership plan (ESOP).

G Current year allocation percentage **100%**

H Shareholder's number of shares

Beginning of tax year

End of tax year

I Loans from shareholder

Beginning of tax year \$

End of tax year \$

For IRS Use Only

Part III Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items

1	Ordinary business income (loss)	13	Credits
2	Net rental real estate income (loss)		
3	Other net rental income (loss)		
4	Interest income		
5a	Ordinary dividends		
5b	Qualified dividends	14	Schedule K-3 is attached if checked <input type="checkbox"/>
6	Royalties	15	Alternative minimum tax (AMT) items
7	Net short-term capital gain (loss)		
8a	Net long-term capital gain (loss)		
8b	Collectibles (28%) gain (loss)		
8c	Unrecaptured section 1250 gain		
9	Net section 1231 gain (loss)	16	Items affecting shareholder basis
10	Other income (loss)		
		17	Other information
11	Section 179 deduction		
12	Other deductions		
18	<input type="checkbox"/> More than one activity for at-risk purposes*		
19	<input type="checkbox"/> More than one activity for passive activity purposes*		

* See attached statement for additional information.

Form **1120-S****U.S. Income Tax Return for an S Corporation**

OMB No. 1545-0123

Department of the Treasury
Internal Revenue Service▶ Do not file this form unless the corporation has filed or
is attaching Form 2553 to elect to be an S corporation.▶ Go to www.irs.gov/Form1120S for instructions and the latest information.**2021**

For calendar year 2021 or tax year beginning , 2021, ending , 20

A S election effective date	TYPE OR PRINT	Name	D Employer identification number
B Business activity code number (see instructions)		Number, street, and room or suite no. If a P.O. box, see instructions.	E Date incorporated
C Check if Sch. M-3 attached <input type="checkbox"/>		City or town, state or province, country, and ZIP or foreign postal code	F Total assets (see instructions) \$

G Is the corporation electing to be an S corporation beginning with this tax year? See instructions. ☐ Yes ☐ No**H** Check if: (1) ☐ Final return (2) ☐ Name change (3) ☐ Address change (4) ☐ Amended return (5) ☐ S election termination**I** Enter the number of shareholders who were shareholders during any part of the tax year ▶**J** Check if corporation: (1) ☐ Aggregated activities for section 465 at-risk purposes (2) ☐ Grouped activities for section 469 passive activity purposes**Caution:** Include **only** trade or business income and expenses on lines 1a through 21. See the instructions for more information.

Income	1a Gross receipts or sales	1a	
	b Returns and allowances	1b	
	c Balance. Subtract line 1b from line 1a		1c
	2 Cost of goods sold (attach Form 1125-A)		2
	3 Gross profit. Subtract line 2 from line 1c		3
	4 Net gain (loss) from Form 4797, line 17 (attach Form 4797)		4
5 Other income (loss) (see instructions—attach statement)		5	
6 Total income (loss). Add lines 3 through 5 ▶		6	
Deductions (see instructions for limitations)	7 Compensation of officers (see instructions—attach Form 1125-E)		7
	8 Salaries and wages (less employment credits)		8
	9 Repairs and maintenance		9
	10 Bad debts		10
	11 Rents		11
	12 Taxes and licenses		12
	13 Interest (see instructions)		13
	14 Depreciation not claimed on Form 1125-A or elsewhere on return (attach Form 4562)		14
	15 Depletion (Do not deduct oil and gas depletion.)		15
	16 Advertising		16
	17 Pension, profit-sharing, etc., plans		17
	18 Employee benefit programs		18
	19 Other deductions (attach statement)		19
	20 Total deductions. Add lines 7 through 19 ▶		20
	21 Ordinary business income (loss). Subtract line 20 from line 6		21
Tax and Payments	22a Excess net passive income or LIFO recapture tax (see instructions)	22a	
	b Tax from Schedule D (Form 1120-S)	22b	
	c Add lines 22a and 22b (see instructions for additional taxes)		22c
	23a 2021 estimated tax payments and 2020 overpayment credited to 2021	23a	
	b Tax deposited with Form 7004	23b	
	c Credit for federal tax paid on fuels (attach Form 4136)	23c	
	d Add lines 23a through 23c		23d
	24 Estimated tax penalty (see instructions). Check if Form 2220 is attached ▶ <input type="checkbox"/>		24
	25 Amount owed. If line 23d is smaller than the total of lines 22c and 24, enter amount owed		25
	26 Overpayment. If line 23d is larger than the total of lines 22c and 24, enter amount overpaid		26
27 Enter amount from line 26: Credited to 2022 estimated tax ▶ Refunded ▶		27	

Sign Here Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer

Date

Title

May the IRS discuss this return
with the preparer shown below?
See instructions. ☐ Yes ☐ No**Paid
Preparer
Use Only**

Print/Type preparer's name

Preparer's signature

Date

Check ☐ if
self-employed

PTIN

Firm's name ▶

Firm's EIN ▶

Firm's address ▶

Phone no.

1	Check accounting method:	Yes	No																									
	a <input type="checkbox"/> Cash b <input type="checkbox"/> Accrual c <input type="checkbox"/> Other (specify) ▶ _____																											
2	See the instructions and enter the: a Business activity ▶ _____ b Product or service ▶ _____																											
3	At any time during the tax year, was any shareholder of the corporation a disregarded entity, a trust, an estate, or a nominee or similar person? If "Yes," attach Schedule B-1, Information on Certain Shareholders of an S Corporation . . .																											
4	At the end of the tax year, did the corporation:																											
a	Own directly 20% or more, or own, directly or indirectly, 50% or more of the total stock issued and outstanding of any foreign or domestic corporation? For rules of constructive ownership, see instructions. If "Yes," complete (i) through (v) below	X																										
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">(i) Name of Corporation</th><th style="width: 20%;">(ii) Employer Identification Number (if any)</th><th style="width: 20%;">(iii) Country of Incorporation</th><th style="width: 15%;">(iv) Percentage of Stock Owned</th><th style="width: 20%;">(v) If Percentage in (iv) Is 100%, Enter the Date (if applicable) a Qualified Subchapter S Subsidiary Election Was Made</th></tr> </thead> <tbody> <tr> <td></td><td></td><td></td><td style="text-align: center;">100%</td><td></td></tr> <tr><td> </td><td></td><td></td><td></td><td></td></tr> <tr><td> </td><td></td><td></td><td></td><td></td></tr> <tr><td> </td><td></td><td></td><td></td><td></td></tr> </tbody> </table>	(i) Name of Corporation	(ii) Employer Identification Number (if any)	(iii) Country of Incorporation	(iv) Percentage of Stock Owned	(v) If Percentage in (iv) Is 100%, Enter the Date (if applicable) a Qualified Subchapter S Subsidiary Election Was Made				100%																		
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b	Own directly an interest of 20% or more, or own, directly or indirectly, an interest of 50% or more in the profit, loss, or capital in any foreign or domestic partnership (including an entity treated as a partnership) or in the beneficial interest of a trust? For rules of constructive ownership, see instructions. If "Yes," complete (i) through (v) below																											
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5a	At the end of the tax year, did the corporation have any outstanding shares of restricted stock? If "Yes," complete lines (i) and (ii) below. (i) Total shares of restricted stock ▶ _____ (ii) Total shares of non-restricted stock ▶ _____																											
b	At the end of the tax year, did the corporation have any outstanding stock options, warrants, or similar instruments? If "Yes," complete lines (i) and (ii) below. (i) Total shares of stock outstanding at the end of the tax year ▶ _____ (ii) Total shares of stock outstanding if all instruments were executed ▶ _____																											
6	Has this corporation filed, or is it required to file, Form 8918 , Material Advisor Disclosure Statement, to provide information on any reportable transaction?																											
7	Check this box if the corporation issued publicly offered debt instruments with original issue discount <input type="checkbox"/> If checked, the corporation may have to file Form 8281 , Information Return for Publicly Offered Original Issue Discount Instruments.																											
8	If the corporation (a) was a C corporation before it elected to be an S corporation or the corporation acquired an asset with a basis determined by reference to the basis of the asset (or the basis of any other property) in the hands of a C corporation, and (b) has net unrealized built-in gain in excess of the net recognized built-in gain from prior years, enter the net unrealized built-in gain reduced by net recognized built-in gain from prior years. See instructions ▶ \$_____																											
9	Did the corporation have an election under section 163(j) for any real property trade or business or any farming business in effect during the tax year? See instructions																											
10	Does the corporation satisfy one or more of the following? See instructions																											
a	The corporation owns a pass-through entity with current, or prior year carryover, excess business interest expense.																											
b	The corporation's aggregate average annual gross receipts (determined under section 448(c)) for the 3 tax years preceding the current tax year are more than \$26 million and the corporation has business interest expense.																											
c	The corporation is a tax shelter and the corporation has business interest expense. If "Yes," complete and attach Form 8990.																											
11	Does the corporation satisfy both of the following conditions?																											
a	The corporation's total receipts (see instructions) for the tax year were less than \$250,000.																											
b	The corporation's total assets at the end of the tax year were less than \$250,000. If "Yes," the corporation is not required to complete Schedules L and M-1.																											

Schedule B Other Information (see instructions) (continued)		Yes	No
12	During the tax year, did the corporation have any non-shareholder debt that was canceled, was forgiven, or had the terms modified so as to reduce the principal amount of the debt?		
	If "Yes," enter the amount of principal reduction ▶ \$		
13	During the tax year, was a qualified subchapter S subsidiary election terminated or revoked? If "Yes," see instructions		
14a	Did the corporation make any payments in 2021 that would require it to file Form(s) 1099?		
b	If "Yes," did the corporation file or will it file required Form(s) 1099?		
15	Is the corporation attaching Form 8996 to certify as a Qualified Opportunity Fund?		
	If "Yes," enter the amount from Form 8996, line 15 ▶ \$		

Schedule K Shareholders' Pro Rata Share Items		Total amount	
Income (Loss)	1 Ordinary business income (loss) (page 1, line 21)	1	
	2 Net rental real estate income (loss) (attach Form 8825)	2	
	3a Other gross rental income (loss) 3a		
	b Expenses from other rental activities (attach statement) 3b		
	c Other net rental income (loss). Subtract line 3b from line 3a	3c	
	4 Interest income	4	
	5 Dividends: a Ordinary dividends 5a		
	b Qualified dividends 5b		
	6 Royalties	6	
	7 Net short-term capital gain (loss) (attach Schedule D (Form 1120-S))	7	
8a Net long-term capital gain (loss) (attach Schedule D (Form 1120-S))	8a		
b Collectibles (28%) gain (loss) 8b			
c Unrecaptured section 1250 gain (attach statement) 8c			
9 Net section 1231 gain (loss) (attach Form 4797)	9		
10 Other income (loss) (see instructions) Type ▶	10		
Deductions	11 Section 179 deduction (attach Form 4562)	11	
	12a Charitable contributions	12a	
	b Investment interest expense	12b	
	c Section 59(e)(2) expenditures Type ▶	12c	
d Other deductions (see instructions) Type ▶	12d		
Credits	13a Low-income housing credit (section 42(j)(5))	13a	
	b Low-income housing credit (other)	13b	
	c Qualified rehabilitation expenditures (rental real estate) (attach Form 3468, if applicable)	13c	
	d Other rental real estate credits (see instructions) Type ▶	13d	
	e Other rental credits (see instructions) Type ▶	13e	
	f Biofuel producer credit (attach Form 6478)	13f	
	g Other credits (see instructions) Type ▶	13g	
International Transactions	14 Attach Schedule K-2 (Form 1120-S), Shareholders' Pro Rata Share Items—International, and check this box to indicate you are reporting items of international tax relevance ▶ <input type="checkbox"/>		
Alternative Minimum Tax (AMT) Items	15a Post-1986 depreciation adjustment	15a	
	b Adjusted gain or loss	15b	
	c Depletion (other than oil and gas)	15c	
	d Oil, gas, and geothermal properties—gross income	15d	
	e Oil, gas, and geothermal properties—deductions	15e	
	f Other AMT items (attach statement)	15f	
Items Affecting Shareholder Basis	16a Tax-exempt interest income	16a	
	b Other tax-exempt income	16b	
	c Nondeductible expenses	16c	
	d Distributions (attach statement if required) (see instructions)	16d	
	e Repayment of loans from shareholders	16e	
	f Foreign taxes paid or accrued	16f	

Schedule K		Shareholders' Pro Rata Share Items (continued)	Total amount	
Other Information	17a	Investment income	17a	
	b	Investment expenses	17b	
	c	Dividend distributions paid from accumulated earnings and profits	17c	
	d	Other items and amounts (attach statement)		
Reconciliation	18	Income (loss) reconciliation. Combine the amounts on lines 1 through 10 in the far right column. From the result, subtract the sum of the amounts on lines 11 through 12d and 16f .	18	

Schedule L		Balance Sheets per Books		Beginning of tax year		End of tax year	
		(a)	(b)	(c)	(d)		
Assets							
1	Cash						
2a	Trade notes and accounts receivable						
b	Less allowance for bad debts	()		()			
3	Inventories						
4	U.S. government obligations						
5	Tax-exempt securities (see instructions)						
6	Other current assets (attach statement)						
7	Loans to shareholders						
8	Mortgage and real estate loans						
9	Other investments (attach statement)						
10a	Buildings and other depreciable assets						
b	Less accumulated depreciation	()		()			
11a	Depletable assets						
b	Less accumulated depletion	()		()			
12	Land (net of any amortization)						
13a	Intangible assets (amortizable only)						
b	Less accumulated amortization	()		()			
14	Other assets (attach statement)						
15	Total assets						
Liabilities and Shareholders' Equity							
16	Accounts payable						
17	Mortgages, notes, bonds payable in less than 1 year						
18	Other current liabilities (attach statement)						
19	Loans from shareholders						
20	Mortgages, notes, bonds payable in 1 year or more						
21	Other liabilities (attach statement)						
22	Capital stock						
23	Additional paid-in capital						
24	Retained earnings						
25	Adjustments to shareholders' equity (attach statement)						
26	Less cost of treasury stock		()		()		
27	Total liabilities and shareholders' equity						

Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return**Note:** The corporation may be required to file Schedule M-3. See instructions.

1 Net income (loss) per books		5 Income recorded on books this year not included on Schedule K, lines 1 through 10 (itemize):	
2 Income included on Schedule K, lines 1, 2, 3c, 4, 5a, 6, 7, 8a, 9, and 10, not recorded on books this year (itemize) _____		a Tax-exempt interest \$ _____	
3 Expenses recorded on books this year not included on Schedule K, lines 1 through 12 and 16f (itemize):		6 Deductions included on Schedule K, lines 1 through 12 and 16f, not charged against book income this year (itemize):	
a Depreciation \$ _____		a Depreciation \$ _____	
b Travel and entertainment \$ _____		7 Add lines 5 and 6	
4 Add lines 1 through 3		8 Income (loss) (Schedule K, line 18). Subtract line 7 from line 4	

Schedule M-2 Analysis of Accumulated Adjustments Account, Shareholders' Undistributed Taxable Income Previously Taxed, Accumulated Earnings and Profits, and Other Adjustments Account
(see instructions)

	(a) Accumulated adjustments account	(b) Shareholders' undistributed taxable income previously taxed	(c) Accumulated earnings and profits	(d) Other adjustments account
1 Balance at beginning of tax year				
2 Ordinary income from page 1, line 21				
3 Other additions				
4 Loss from page 1, line 21	()			
5 Other reductions	()			()
6 Combine lines 1 through 5				
7 Distributions				
8 Balance at end of tax year. Subtract line 7 from line 6				

Attachment 4:
Section 874 of the National Defense Authorization Act for Fiscal Year 2022
(P.L. 117-81)

SEC. 874. PILOT PROGRAM TO INCENTIVIZE CONTRACTING WITH EMPLOYEE-OWNED BUSINESSES.

(a) Qualified Business Wholly-owned Through an Employee Stock Ownership Plan Defined.--The term ``qualified businesses wholly-owned through an Employee Stock Ownership Plan'' means an S corporation (as defined in section 1361(a)(1) of the Internal Revenue Code of 1986) for which 100 percent of the outstanding stock is held through an employee stock ownership plan (as defined in section 4975(e)(7) of such Code).

(b) Pilot Program to Use Noncompetitive Procedures for Certain Follow-on Contracts to Qualified Businesses Wholly-Owned Through an Employee Stock Ownership Plan.--

(1) Establishment.--The Secretary of Defense may establish a pilot program to carry out the requirements of this section.

(2) Follow-on contracts.--Notwithstanding the requirements of section 2304 of title 10, United States Code, and with respect to a follow-on contract for the continued development, production, or provision of products or services that are the same as or substantially similar to the products or services procured by the Department of Defense under a prior contract held by a qualified business wholly-owned through an Employee Stock Ownership Plan, the products or services to be procured under the follow-on contract may be procured by the Department of Defense through procedures other than competitive procedures if the performance of the qualified business wholly-owned through an Employee Stock Ownership Plan on the prior contract was rated as satisfactory (or the equivalent) or better in the applicable past performance database.

(3) Limitation.--A qualified business wholly-owned through an Employee Stock Ownership Plan may have a single opportunity for award of a sole-source follow-on contract under this section, unless a senior contracting official (as defined in section 1737 of title 10, United States Code) approves a waiver of the requirements of this section.

(c) Verification and Reporting of Qualified Businesses Wholly-owned Through an Employee Stock Ownership Plan. <> --Under a pilot program established under this section, the Secretary of Defense shall establish procedures--

(1) for businesses to verify status as a qualified businesses wholly-owned through an Employee Stock Ownership Plan for the purposes of this section by using existing Federal reporting mechanisms;

(2) for a qualified businesses wholly-owned through an Employee Stock Ownership Plan to certify that not more than 50 percent of the amount paid under the contract will be expended on subcontracts, subject to such necessary and reasonable waivers as the Secretary may prescribe; and

(3) to record information on each follow-on contract awarded under subsection (b), including details relevant to the nature of such contract and the qualified business wholly-owned through an Employee Stock Ownership Plan that received such contract, and to provide such information to the Comptroller General of the United States.

(d) Data.--

(1) In general.--If the Secretary of Defense establishes a pilot program under this section, the Secretary shall establish mechanisms to collect and analyze data on the pilot program for the purposes of--

(A) developing and sharing best practices relating to the pilot program;

(B) providing information to leadership and the congressional defense committees on the pilot program, including with respect to each qualified business wholly-owned through an Employee Stock Ownership Plan that received a follow-on contract under this section--

(i) the size of such business;

(ii) performance of the follow-on contract;

and

(iii) other information as determined

necessary; and

(C) providing information to leadership and the congressional defense committees on policy issues related to the pilot program.

(2) Limitation.--The Secretary of Defense may not carry out the pilot program under this section before--

(A) completing a data collection and reporting strategy and plan to meet the requirements of this subsection; and

(B) submitting the strategy and plan to the congressional defense committees.

(e) Sunset.--Any pilot program established under this section shall expire on the date that is five years after the date of the enactment of this Act.

(f) Comptroller General Report.--

(1) In general.--Not later than three years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on any individual and aggregate uses of the authority under a pilot program established under this section.

(2) Elements.--The report under paragraph (1) shall include the following elements:

(A) An assessment of the frequency and nature of the use of the authority under the pilot program.

(B) An assessment of the impact of the pilot program in supporting the national defense strategy required under section 113(g) of title 10, United States Code.

(C) The number of businesses that became qualified businesses wholly-owned through an Employee Stock Ownership Plan in order to benefit from the pilot program and the factors that influenced that decision.

(D) Acquisition authorities that could incentivize businesses to become qualified businesses wholly-owned through an Employee Stock Ownership Plan, including an extension of the pilot program.

(E) Any related matters the Comptroller General considers appropriate.

Attachment 5:
Joint Explanatory Statement to Accompany the National Defense Authorization Act for Fiscal Year
2022
(Conference Report Language)

Pilot program to incentivize contracting with employee-owned businesses (sec. 874)

The Senate amendment contained a provision (sec. 843) that would permit the Secretary of Defense to carry out a 5-year pilot program that allows for the use of noncompetitive procedures for follow-on contracts to qualified businesses wholly owned by an employee stock ownership plan (ESOP). The provision would also require the Comptroller General of the United States to submit a report to the Committees on Armed Services of the Senate and the House of Representatives on the Department of Defense's use of the pilot not later than 3 years after the date of the enactment of this Act.

The House bill contained no similar provision.

The agreement includes the Senate provision with an amendment that would limit the follow-on opportunity. We recognize the innovative potential in encouraging non-traditional companies, like businesses wholly owned by an ESOP, to work with the Department of Defense. While there are many companies that have a level of employee ownership, a business wholly owned by an ESOP is different. We are aware of concerns regarding correctly identifying businesses wholly owned through an ESOP, and suggest the Department review Internal Revenue Service form "Schedule K-1 (Form 1120-S)" when looking to make that determination. Additionally, while we aim to bolster the defense industrial base with the provision, we do not intend to make it possible for a business other than a small business to receive the award of a contract that would have otherwise been set aside for small businesses under the requirements of Federal Acquisition Regulation Subpart 19.502.