**Background Paper on**

**DFARS 270.1**

**DoD Pilot Program to Incentivize Contracting**

**with Employee-Owned Businesses**

**Summary:** Congress and the Department of Defense (DoD) are concerned about the shrinking defense industrial base. Employee-owned companies have shown resistance to acquisitions by larger companies. Congress authorized the DoD to conduct a pilot program that allows a contracting officer to award a sole-source follow-on contract to 100% S-Corp Employee Stock Ownership Plan (ESOP) companies. This law is codified in the Defense Federal Acquisition Regulations (DFARS) 270.1 and is effective 25 Nov 2024.

**Background:
1.** Sec 874 of the FY22 National Defense Authorization Act (NDAA) authorized the DoD to conduct a 5-year pilot program, allowing contracting officers to award a sole-source follow-on contract to S-Corp companies that are 100% ESOPs and are performing well. The Office of the Secretary of Defense Pricing and Contracting (OSD/DPC) team quickly implemented this language using a DFAR Class Deviation on 8 November 2022 and limited the authority to nine uses. All nine authorities were used, showing the viability of the pilot program.

**2.** Sec 872 of the FY24 NDAA, passed in December 2023, refined the original language, and provided five improvements:

 **a.** Clarifies Sec 874 can be used once per contract

 **b.** Allows Sec 874 to be used by GSA for DoD contracts

 **c.** Extends the pilot program to eight years (now 7 Dec 2029)

 **d.** Clarifies subcontracting limitations

 **e.** Encourages the DoD to prescribe rule making

**3.** OSD/DPC issued the final rule on 10 Oct 2024. The final rule can be found [here](https://www.federalregister.gov/documents/2024/10/10/2024-23226/defense-federal-acquisition-regulation-supplement-pilot-program-to-incentivize-contracting-with?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov). The rule, now DFARS 270.1, became effective 25 Nov 2024.

**4.** This authority may be used on any type of contract for a follow-on award if the “contract is for the continued development, production, or provision of products or services that are the same or substantially similar to those procured under the prior contract awarded to the contractor by or for DoD.”

**5.** The point of contact at OSD/DPC is Ms. Adeline Maissonet, who can be reached at osd.pentagon.ousd-a-smbx.dpc-cp@mail.mil.

6. Refer to the OSD/DPC 5 Dec 24 memo for the sample form and directions to apply for use of this authority (<https://www.acq.osd.mil/dpap/policy/policyvault/USA002576-24-DPCAP.pdf>).

7. MTSI qualifies as a 100% employee-owned S-Corp ESOP (since 2017).