SEC. ___. INNOVATION SET ASIDE PILOT PROGRAM.

(a) IN GENERAL.—The Director of the Office of Management and Budget may, in consultation with the Administrator of the Small Business Administration, conduct a pilot program to increase the participation of new, innovative entities in Federal contracting through the use of innovation set-asides.

(b) AUTHORITY.— (1) Notwithstanding the competition requirements in chapter 33 of title 41, United States Code, and the set-aside requirements in section 15 of the Small Business Act (15 U.S.C. 644), a Federal agency, with the concurrence of the Director, may set aside a contract award to one or more new entrant contractors. The Director shall consult with the Administrator prior to providing concurrence.

(2) Notwithstanding any law addressing compliance requirements for Federal contracts—

(A) except as provided in subparagraph (B), a contract award to a new entrant contractor under the pilot program shall be subject to the same relief afforded under section 1905 of title 41, United States Code, to contracts the value of which is not greater than the simplified acquisition threshold; and

(B) for up to five pilots, the Director may authorize an agency to make an award to a new entrant contractor subject to the same compliance requirements that apply to a contractor receiving an award from the Secretary of Defense under section 2371 of title 10 United States Code.

(c) CONDITIONS FOR USE.—The authority provided in subsection (b) may be used under the following conditions:

(1)(A) The agency has a requirement for new methods, processes, or technologies, which may include research and development, or new applications of existing methods, processes or technologies, to improve quality, reduce costs, or both; or

(B) Based on market research, the agency has determined that the requirement cannot be easily provided through an existing Federal contract;

(2) The agency intends either to make an award to a small business concern or to give special consideration to a small business concern before making an award to other than a small business; and

(3) The length of the resulting contract will not exceed 2 years.

(d) NUMBER OF PILOTS.—The Director may authorize the use of up to 25 innovation set-asides acquisitions.

(e) AWARD AMOUNT.—

(1) Except as provided in paragraph (2), the amount of an award under the pilot program under this section may not exceed $2,000,000 (including any options).

(2) The Director may authorize not more than 5 set-asides with an award amount greater than $2,000,000 but not greater than $5,000,000 (including any options).

(f) GUIDANCE AND REPORTING.—

(1) The Director shall issue guidance, as necessary, to implement the pilot program under this section.

(2) Within 3 years after the date of the enactment of this Act, the Director, in consultation with the Administrator shall submit to Congress a report on the pilot program under this section. The report shall include the following:

(A) The number of awards (or orders under the Schedule) made under the authority of this section.

(B) For each award (or order)—

(i) the agency that made the award (or order);

(ii) the amount of the award (or order); and

(iii) a brief description of the award (or order), including the nature of the requirement and the innovation produced from the award (or expected if contract performance is not completed).

(g) SUNSET.—The authority to award an innovation set-aside under this section shall terminate on December 31, 2020.

(h) DEFINITION.—For purposes of this section, the term "new entrant contractor", with respect to any contract under the program, means an entity that has not been awarded a Federal contract within the 5-year period ending on the date on which a solicitation for that contract is issued under the program.

Section-by-Section Analysis

This proposal would implement a recommendation in the President's FY 2016 Budget to help reduce the complexity new entrant contractors face doing business with the Federal Government by establishing a pilot program that creates an easier pathway into the federal marketplace. The pilot would authorize use of an innovation set-aside, where an agency may limit competition, or make an award without competition, to firms with limited or no experience selling to the government but who can deliver innovation needed by federal customers, such as new technologies or ways of solving problems. Relief from government-unique compliance requirements would also be provided.

A key goal of a strong acquisition system is the ability to drive innovation and productivity in the delivery of service to the taxpayer. While many existing federal contractors – small and large – provide innovative solutions to meet the government's needs, agencies can face significant challenges gaining access to innovative technologies when they are not available under existing contracts or from existing federal contractors. In addition, agencies may find themselves in need of specialized support, perhaps to augment existing capacity within the

federal marketplace, such as for modern digital product design or product management support to help carry out the President's Smarter Information Technology Delivery Initiative.

Significant potential exists in companies who are quite small and for whom government contracting is an enigma. While these entities may have proven their capabilities doing business with other private sector firms, current statutory competition requirements make it difficult for these entities to prove themselves to federal agencies without competing against experienced government contractors who are much more skilled on how to win a competition for a federal agency requirement. In some cases, the compliance requirements associated with receiving work, which can number in the dozens, create additional barriers for entities which lack the resources to simultaneously provide technical support and learn the intricacies of numerous government-unique record-keeping and reporting requirements.

This proposal would authorize a modest pilot to allow Defense and civilian agencies to test – for a small number of acquisitions – a process where consideration is limited to one or more start-up companies and companies that are established but have not done business with the government but who can provide a needed innovation. The proposal anticipates that awards would generally be made to small businesses. However, in recognition of the fact that solutions may be offered by a large entity that has not previously done business with the government, the proposal would authorize awards to entities of any size after giving special consideration to a small business concern.

Innovation set-asides would supplement, not replace, the important tools that currently exist as pathways into the federal marketplace – including subcontracting, the Small Business Innovation Research program, the Small Business Administration's 8(a) business development program for small-disadvantaged businesses, and the mentor-protégé program where small business protégés serve as prime contractors that are mentored by experienced large businesses. Nor would the pilot substitute for incentives, such as value engineering, that may be used to encourage incumbent federal contractors to work with their agencies to identify innovative measures to reduce costs and increase quality. Instead, the innovation set-aside would provide an alternative when those tools don't easily allow agencies to reach new entrants offering the types of solutions needed to meet their requirements.

Budgetary Implications: There would be no budgetary impact as a result of these legislative changes because the proposal is only an authorization and would not increase the overall budget requirements of the Department or any other federal agency.

Changes to Existing Law: This proposal would not change the text of existing law.