

**Calendar No. 561**

117TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 117-209

AGILE PROCUREMENT ACT OF 2022

—  
R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 4623

TO ADVANCE GOVERNMENT INNOVATION THROUGH  
LEADING-EDGE PROCUREMENT CAPABILITY, AND FOR OTHER  
PURPOSES



NOVEMBER 17, 2022.—Ordered to be printed

—  
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AGILE PROCUREMENT ACT OF 2022

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Mr. PETERS, from the Committee on Homeland Security and  
Governmental Affairs, submitted the following

**R E P O R T**

[To accompany S. 4623]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4623) to advance Government innovation through leading-edge procurement capability, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 4623, the *Advancing Government Innovation with Leading-Edge Procurement Act of 2022* or the *AGILE Procurement Act of 2022*, addresses key issues in federal procurement, including the current deficit of qualified procurement professionals at federal agencies, the need for better training and guidance on procurement of technology, and the need to address barriers to entry into government contracting for businesses, including small and non-traditional businesses. To address these issues, the bill requires the Office of Federal Procurement Policy (OFPP) to establish a pilot program to bring more professionals into federal procurement from other fields, including veterans, military spouses, and private sec-

tor professionals. Additionally, the bill requires the Federal Acquisition Institute (FAI) to provide specific training for the acquisition workforce on planning for and buying technology in a timely manner. The bill also requires OFPP to convene a working group to reduce barriers to government contracting for businesses, including small businesses, and to implement the working group’s recommendations. The bill also enhances authorities for agencies to use streamlined methods for procurement of commercial technology; increases the threshold for mandatory use of the Cost Accounting Standards from \$7.5 million to \$15 million;<sup>1</sup> and allows for government-wide expansion of the Department of Defense (DoD) pilot authority to incentivize Employee Stock Ownership Plans.<sup>2</sup>

## II. BACKGROUND AND NEED FOR THE LEGISLATION

Recent Government Accountability Office (GAO) trend analyses of government-wide contracting show that the amount of federal dollars obligated through contracts has been steadily increasing.<sup>3</sup> Technology needs are growing and driving this trend; contract spending accounts for about 83% of the information technology budget. Cybersecurity, software, cloud computing, and artificial intelligence are all areas projected for strong spending growth.<sup>4</sup>

With increasing technology needs and contract spending on the rise, a trained and experienced procurement workforce is critical. Current methods of recruiting and retention, however, have not maintained a sufficient pipeline of qualified procurement staff.<sup>5</sup> A 2009 Homeland Security and Governmental Affairs Committee hearing entitled “Strengthening the Federal Acquisition Workforce: Government-wide Leadership and Initiatives” discussed similar issues.<sup>6</sup> This outlook has continued to worsen; while the 2009 hearing record showed that half of the acquisition workforce would be eligible for retirement within 8 years, a 2016 strategic plan for the DoD acquisition workforce calculated that 57% of the workforce is either retirement eligible or within 10 years of retirement.<sup>7</sup> This year, staffing challenges are expected as a large portion of the existing procurement workforce retires or moves out of public procurement.<sup>8</sup>

At the same time that the number of procurement professionals is shrinking, technology trends are rapidly accelerating, creating a need for more advanced understanding of technology and the considerations that must be taken into account for these types of pur-

<sup>1</sup> 41 U.S.C. 1502(b).

<sup>2</sup> Section 874, National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117–81.

<sup>3</sup> GAO WatchBlog, *A Snapshot of Government-Wide Contracting for FY 2020 (infographic)* (Jun. 22, 2021) ([www.gao.gov/blog/snapshot-government-wide-contracting-fy-2020-infographic](http://www.gao.gov/blog/snapshot-government-wide-contracting-fy-2020-infographic)). See also GAO WatchBlog, *A Snapshot of Government-Wide Contracting for FY 2018, 2019*.

<sup>4</sup> National Defense Magazine, *Strong Growth Expected in Federal IT Spending* (Jan. 29, 2022) ([www.nationaldefensemagazine.org/articles/2021/9/2/strong-growth-expected-in-federal-it-spending](http://www.nationaldefensemagazine.org/articles/2021/9/2/strong-growth-expected-in-federal-it-spending)).

<sup>5</sup> Office of Personnel Management, *Acquisition Hiring Challenges Focus Group—Results Debriefing*. (Jan. 2020) ([www.fai.gov/sites/default/files/2020%20Acquisition%20Hiring%20Challenges%20and%20Recommendations.pdf](http://www.fai.gov/sites/default/files/2020%20Acquisition%20Hiring%20Challenges%20and%20Recommendations.pdf)).

<sup>6</sup> Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, *Strengthening the Federal Acquisition Workforce: Government-wide Leadership and Initiatives*, 111th Cong. (Aug. 5, 2009) (S. Hrg. 111–388).

<sup>7</sup> United States Army Acquisition Support Center, *Filling the Bathtub* (Mar. 24, 2022) (<https://asc.army.mil/web/news-filling-the-bathtub/>).

<sup>8</sup> Federal News Network, *Public procurement trends and outlook for 2022* (Apr. 26, 2022) (<https://federalnewsnetwork.com/commentary/2022/04/public-procurement-trends-land-outlook-for-2022/>).

chases. Training is important for the acquisition workforce as a whole, including for program managers and others involved in federal acquisition management, to ensure an understanding of both current technology trends and how best to acquire it.<sup>9</sup> Choice of procurement method is also key, with agencies challenged to work at the “speed of relevance” of the technology they buy.<sup>10</sup> Unlike in the past, procurements that take years from the requirements development to implementation stages will not be able to keep pace.<sup>11</sup>

While federal contracting dollars are increasing year over year, the pool of federal contractors is shrinking, particularly with regard to new and small companies. A GAO study of DoD contracting from fiscal years 2011 to 2020 found that, while DoD contracts with small businesses increased by 15%, the *number* of small businesses awarded DoD contracts decreased by almost half (43%). The number of large businesses receiving DoD contracts also fell by 7.3% per year during that time period.<sup>12</sup> GAO recently found in a separate study that, under the Category Management initiative launched in 2016, the number of small businesses receiving contract awards under the initiative decreased each year, even though small businesses received 30% or more each year of these enterprise-wide contract dollars.<sup>13</sup> GAO noted that some small businesses faced difficulties related to scalability and expensive certifications as barriers to their participation, as well as unclear public notice of contract opportunities for the “best in class” contracts under the Category Management initiative.<sup>14</sup>

The findings of a July 2021 Bipartisan Policy Center report echoed those of GAO, including the importance of small businesses to United States economic activity, and the barriers to entry to federal contracting that they face. These barriers ranged from arduous requirements and difficulty in navigating the federal procurement process, to mistreatment by prime contractors when performing as subcontractors, to some doubting the true commitment of the federal government to small business considerations.

The Bipartisan Policy Center report describes “robust usage of small businesses in procurement” as key to an “innovative and vibrant industrial base,” and new, small firms as critical to keeping our “competitive edge,” the resiliency of our supply chains, and con-

<sup>9</sup>National Security Commission on Artificial Intelligence, Final Report (Mar. 2021) ([www.nscai.gov/wp-content/uploads/2021/03/Full-Report-Digital-1.pdf](http://www.nscai.gov/wp-content/uploads/2021/03/Full-Report-Digital-1.pdf)).

<sup>10</sup>Department of Defense News, *DoD Restructures Acquisition, Technology Office to Improve Military Lethality, Speed* (Aug. 2, 2017) (<https://www.defense.gov/News/News-Stories/Article/Article/1265231/dod-restructures-acquisition-technology-office-to-improve-military-lethality-sp/#:~:text=%27The%20Speed%20of%20Relevance%27,emphasize%20management%20of%20business%20enterprises>).

<sup>11</sup>Department of Defense, *Report to Congress Restructuring the Department of Defense Acquisition, Technology and Logistics Organization and Chief Management Officer Organization, In Response to Section 901 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328)* (Aug. 2017) (<https://dod.defense.gov/Portals/1/Documents/pubs/Section-901-FY-2017-NDAA-Report.pdf>). See also The New York Times, *Government Tech Moves Too Slowly* (July 7, 2021) ([www.nytimes.com/2021/07/07/technology/jedi-government-tech.html](http://www.nytimes.com/2021/07/07/technology/jedi-government-tech.html)).

<sup>12</sup>Government Accountability Office, *Small Business Contracting: Actions Needed to Implement and Monitor DOD’s Small Business Strategy* (GAO-22-104621) (Oct. 14, 2021).

<sup>13</sup>Government Accountability Office, *FEDERAL BUYING POWER, OMB Can Further Advance Category Management Initiative by Focusing on Requirements, Data, and Training* (GAO-21-40) (Nov. 2020); “Category Management” is buying common products and services as an organized enterprise across government in order to increase efficiency and value, and achieve savings. Categories of spend include office supplies, pharmaceuticals, body armor and ammunition, information technology, training solutions, and many more products and services.

<sup>14</sup>Government Accountability Office, *FEDERAL BUYING POWER, OMB Can Further Advance Category Management Initiative by Focusing on Requirements, Data, and Training* (GAO-21-40) (Nov. 2020).

tinuous job creation. Despite the importance of small businesses to national security and the economy as a whole, as well as local communities, annual small business goals are often unmet, and significant barriers to entry to federal contracting remain.<sup>15</sup>

Reducing the barriers to entry into government contracting for businesses, as well as acquisition of commercial technology where available, are also key to the federal government having access to the latest, most innovative solutions. A recent industry letter urged OMB to hold agencies to the long-standing requirement to consider commercial items first in order to realize greater efficiency and cost savings in acquisition of technology.<sup>16</sup> Use of special procurement authorities such as “Commercial Solutions Opening,” a streamlined method for acquiring innovative commercial technologies, can ensure robust competition while also reducing the burden for businesses offering their products and services. This procurement method is often used to attract start-up companies to provide technology to the government in support of agency operations and national security.<sup>17</sup>

### III. LEGISLATIVE HISTORY

Chairman Gary Peters (D–MI) introduced S. 4623, the *AGILE Procurement Act of 2022*, on July 26, 2022, with Senator Joni Ernst (R–IA). The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senator Thomas Carper (D–DE) later joined as a cosponsor on August 2, 2022.

The Committee considered S. 4623 at a business meeting on August 3, 2022. The bill was ordered reported favorably by voice vote *en bloc* with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Romney, Scott, and Hawley present.

### IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

#### *Section 1. Short title*

This section provides that the Act may be cited as the “Advancing Government Innovation with Leading-Edge Procurement Act of 2022” or the “AGILE Procurement Act of 2022.”

#### *Sec. 2. Findings*

This section identifies congressional findings related to the Act, including findings related to federal government contract spend, technology and acquisition workforce needs, and shrinking industrial base.

#### *Sec. 3. Definitions*

This section provides definitions for the terms “Acquisition Workforce,” “Administrator,” “Cross-functional,” “Executive Agency,” “Experiential Learning,” “Information and Communications Technology,” “Qualified Business Wholly-Owned Through an Employee

<sup>15</sup> Bipartisan Policy Center, *Supporting Small Business and Strengthening the Economy Through Procurement Reform* (Jul. 2021) ([https://bipartisanpolicy.org/download/?file=wp-content/uploads/2021/06/Small-Business-Report\\_RV1-FINAL.pdf](https://bipartisanpolicy.org/download/?file=wp-content/uploads/2021/06/Small-Business-Report_RV1-FINAL.pdf)).

<sup>16</sup> Federal News Network, *Buy vs. build debate for software heats back up with letter to White House* (May 27, 2021) (<https://federalnewsnetwork.com/acquisition-policy/2021/05/buy-vs-build-debate-for-software-heats-back-up-with-letter-to-white-house/>).

<sup>17</sup> Federal Acquisition Institute, *Commercial Solutions Opening* (Dec. 12, 2020) ([www.fai.gov/content/commercial-solutions-opening](http://www.fai.gov/content/commercial-solutions-opening)).

Stock Ownership Plan,” “Relevant Committees of Congress,” and “Small Business.”

*Sec. 4. Acquisition workforce*

Subsection (a) of Section 4 directs OFPP, in coordination with FAI and the Office of Personnel Management (OPM), to pilot a program, within 1 year of enactment, for entry of junior and mid-career professionals to the General Schedule Contracting series (GS-1102) workforce. When creating this program, OFPP must consider the inclusion of program participants from other job series and fields, including veterans, military spouses, and private sector procurement professionals. The program must provide alternatives to education and training requirements for entry into the GS-1102 workforce, such as allowing for use of educational credits in a technical discipline relevant to agency procurement. The program must also provide pathways to reciprocity or fulfillment of certification requirements for Department of Defense professional contracting certification holders and commercial sector acquisition certification holders, such as certified professional contract managers and certified federal contract managers. Finally, the program must provide a capstone class or experience and relevant mentorship opportunities.

This subsection also requires OFPP to brief relevant committees of Congress on implementation of the pilot program not later than 2 years from enactment.

This subsection requires that the duration of the pilot program shall be not less than 5 years from enactment.

Subsection (b) directs FAI to incorporate experiential learning into the training framework for GS-1102s.

Subsection (c) of Section 4 directs FAI, in coordination with OFPP, the General Services Administration (GSA), the Chief Information Officers Council, and the United States Digital Service, to provide a cross-functional information and communications technology acquisition training program to acquisition workforce members involved in acquiring information and communications technology. The training must include learning objectives related to market research and communicating with industry, developing requirements, acquisition planning, and awarding and administering contracts for information and communications technology. It must also include learning objectives that encourage the use of small business programs to acquire information and communications technology, as well as learning objectives that encourage the use of commercial or commercially available off-the-shelf (COTS) technologies to the greatest extent practicable. The training must include case studies of lessons learned from federal information and communications technology procurements and contracts, experiential learning opportunities, and continuous learning recommendations and resources to keep skills current. Finally, the training must be made available to acquisition workforce members designated by their agency acquisition leadership to participate in the training program.

This subsection also requires FAI, within 18 months of enactment, to provide a briefing to the relevant committees of Congress, the Chief Acquisition Officers Council, and the Chief Information Officers Council on FAI’s progress towards providing the informa-

tion and communications technology acquisition training and a list of any congressionally mandated acquisition trainings that the Director determines to be outdated or no longer necessary for other reasons.

This subsection requires the training program to be offered for a minimum of 5 years.

*Sec. 5. Innovative procurement methods*

Subsection (a) directs OFPP to issue guidance within 1 year of enactment to inform agencies on the availability of streamlined and alternative methods for procurement of information and communications technology, and provide information on appropriate use, examples, and templates to assist the workforce in utilizing these methods.

Subsection (b) amends Section 880 of the National Defense Authorization Act for Fiscal Year 2017 to make the GSA and Department of Homeland Security (DHS) Commercial Solutions Opening authorities permanent, increase the threshold, and provide authority to additional agencies besides DHS and GSA to use Commercial Solutions Opening authority where approved by the Office of Management and Budget.

*Sec. 6. Addressing barriers to entry in federal contracting*

Subsection (a) directs OFPP, within 1 year of enactment, to provide guidance on when a wider range of projects should be accepted as relevant past performance in order to permit access to a wider pool of eligible firms with capability to perform. OFPP must also provide guidance on alternative evaluation methods that may be appropriate for a requirement without much precedent.

Subsection (b) directs OFPP, within 90 days of enactment, to convene a working group or use an appropriate existing body to address barriers to entry for new contractors. The Addressing Barriers to Entry working group shall obtain input from the public, including from industry, on ways in which federal procurement policies and regulations are obsolete, overly burdensome or restrictive, serve to create barriers to participation in Federal contracting, or unnecessarily increase bid and proposal costs. The working group must then consider the input obtained from the public (and any other information determined to be appropriate by OFPP) to identify legislative, regulatory, and other actions to foster more resilient supply chains, provide access to a wider pool of qualified vendors, and increase opportunities for participation of new, small, and nontraditional businesses in the procurement process.

This subsection requires OFPP, not later than 2 years after enactment, to implement the regulatory and other non-legislative actions identified by the working group, and brief the relevant committees of Congress on the actions implemented as well as potential legislative actions identified by the working group.

Subsection (c) raises the Cost Accounting Standards mandatory use threshold to \$15 million.

*Sec. 7. Incentivizing employee stock ownership plans for business growth*

Subsection (a) allows OFPP to expand the Employee Stock Ownership Plan (ESOP) incentive program authorized by Section 874 of



the National Defense Authorization Act for Fiscal Year 2022 for use government-wide. The ESOP pilot program provides authority for a non-competitive follow-on contract to a qualified ESOP if the performance of the ESOP on the prior contract was rated as satisfactory or better. This authority may be used for a single follow-on opportunity, unless the senior procurement executive at an agency or equivalent official waives the limitation.

Subsection (b) requires OFPP to create verification and reporting procedures if a pilot program is established, including a requirement for a qualified business ESOP to certify that not more than 50 percent of the amount paid under the contract will be expended on subcontracts, subject to necessary and reasonable waivers.

Subsection (c) sunsets any pilot program established by OFPP 5 years after enactment.

#### V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's (CBO) statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

#### VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 9, 2022.*

Hon. GARY C. PETERS,  
*Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed table summarizing estimated budgetary effects and mandates information for some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 117th Congress.

If you wish further details, we will be pleased to provide them. The CBO staff contact for each estimate is listed on the enclosed table.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

#### SUMMARY ESTIMATES OF LEGISLATION ORDERED REPORTED

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of

some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 117th Congress. The legislation listed in this table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provides information about the legislation's estimated effects on spending subject to appropriation and on intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

**ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION**

Bill Number	Title	Status	Last Action	Budget Function	Direct Spending, 2023-2032	Revenues, 2023-2032	Spending Subject to Appropriation, 2023-2027	Pay-As-You-Go Procedures Apply?	Increases On-Budget Deficits Beginning in 2033?	Mandates	Contact
S. 4623	AGILE Procurement Act of 2022	Ordered reported	08/03/22	800	Between zero and \$500,000	0	Not estimated	Yes	No	No	Matthew Pickford

S. 4623 would amend federal recruitment, training, and retention policies to expand the pool of applicants for procurement and acquisition positions, establish a pilot program to hire and train staff to procure information and communications technology, and establish a working group to study the barriers private entities face when seeking to do business with the federal government. CBO estimates that enacting S. 4623 would have an insignificant effect on direct spending and no effect on revenues over the 2023-2032 period. CBO has not estimated the discretionary costs of implementing the bill. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**UNITED STATES CODE**

\* \* \* \* \*

**TITLE 41—PUBLIC CONTRACTS**

\* \* \* \* \*

**Subtitle I—Federal Procurement Policy**

\* \* \* \* \*

**DIVISION C—PROCUREMENT**

\* \* \* \* \*

**CHAPTER 15—COST ACCOUNTING STANDARDS**

\* \* \* \* \*

**SEC. 1502. COST ACCOUNTING STANDARDS.**

(a) \* \* \*

(b) **MANDATORY USE OF STANDARDS.—**

(1) **SUBCONTRACT.—**

(A) **DEFINITION.—**In this paragraph, the term “subcontract” includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor.

(B) **WHEN STANDARDS ARE TO BE USED.—**Cost accounting standards prescribed under this chapter are mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing and administration of, and settlement of disputes concerning, all negotiated prime contract and subcontract procurements with the Federal Government in excess of [the amount set forth in section 2306a(a)(1)(A)(i) of title 10 as the amount is adjusted in accordance with applicable requirements of law] *\$15,000,000.*

(C) **NONAPPLICATION OF STANDARDS.—**Subparagraph (B) does not apply to—

(i) a contract or subcontract for the acquisition of a commercial item;

(ii) a contract or subcontract where the price negotiated is based on a price set by law or regulation[;]  
; *or*

(iii) a firm, fixed-price contract or subcontract awarded on the basis of adequate price competition

without submission of certified cost or pricing data[; or].

[(iv) a contract or subcontract with a value of less than \$7,500,000 if, when the contract or subcontract is entered into, the segment of the contractor or subcontractor that will perform the work has not been awarded at least one contract or subcontract with a value of more than \$7,500,000 that is covered by the standards.]

\* \* \* \* \*

**CHAPTER 33—PLANNING AND SOLICITATION**

\* \* \* \* \*

**SEC. 3301. FULL AND OPEN COMPETITION**

\* \* \* \* \*

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

\* \* \* \* \*

**[PILOT PROGRAMS] PROGRAMS FOR AUTHORITY TO ACQUIRE INNOVATIVE COMMERCIAL ITEMS USING GENERAL SOLICITATION COMPETITIVE PROCEDURES.**

(a) **AUTHORITY.**—

(1) \* \* \*

(2) **HEAD OF AN AGENCY.**—In this section, the term ‘head of an agency’ means the following:

(A) The Secretary of Homeland Security.

(B) The Administrator of General Services.

(C) *The head of an executive agency approved for the program, on a pilot or permanent basis, by the Director of the Office of Management and Budget.*

(3) **APPLICABILITY OF SECTION.** Section applies to the following agencies:

(A) The Department of Homeland Security.

(B) The General Services Administration.

(C) *An executive agency approved for the program by the Director of the Office of Management and Budget.*

(b) **TREATMENT AS COMPETITIVE PROCEDURES.**—Use of general solicitation competitive procedures for the [pilot] program under subsection (a) shall be considered, in the case of the Department of Homeland Security and the General Services Administration, to be use of competitive procedures for purposes of division C of title 41, United States Code (as defined in section 152 of such title).

(c) **LIMITATION.**—The head of an agency may not enter into a contract under the [pilot] program for an amount in excess of **[\$10,000,000] \$25,000,000**.

(d) **GUIDANCE.**—The head of an agency shall issue guidance for the implementation of the [pilot] program under this section within that agency. Such guidance shall be issued in consultation with the Office of Management and Budget and shall be posted for access by the public.

(e) **[REPORT REQUIRED.]**—

**[(1) IN GENERAL.**—Not later than three years after the date of the enactment of this Act, the head of an agency shall sub-

mit to the congressional committees specified in paragraph (3) a report on the activities the agency carried out under the pilot program.

[(2) ELEMENTS OF REPORT.—Each report under this subsection shall include the following:

[(A) An assessment of the impact of the pilot program on competition.

[(B) A comparison of acquisition timelines for—

[(i) procurements made using the pilot program; and

[(ii) procurements made using other competitive procedures that do not use general solicitations.

[(C) A recommendation on whether the authority for the pilot program should be made permanent.

[(3) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees specified in this paragraph are the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives.]

*REPORTING AND DATA COLLECTION.—The head of an agency shall report information on contracts made using procedures under this section to the Office of Management and Budget as determined by the Office of Management and Budget. The Administrator shall collect and analyze data on the use of the authority under this section for the purposes of—*

*(1) developing and sharing best practices;*

*(2) gathering information on the implementation of the authority and related policy issues; and*

*(3) informing the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives on the use of the authority.*

(f) [INNOVATIVE DEFINED.—In this section, the term ‘innovative’ means—

[(1) any new technology, process, or method, including research and development; or

[(2) any new application of an existing technology, process, or method.]

*DEFINITIONS.—In this section—*

*(1) the term ‘commercial product’ includes a commercial product or a commercial service, as those terms are defined in sections 103 and 103a, respectively, of title 41, United States Code; and*

*(2) the term ‘innovative’ means—*

*(A) any new technology, process, or method, including research and development; or*

*(B) any new application of an existing technology, process, or method.*

[(g) TERMINATION.—The authority to enter into a contract under a pilot program under this section terminates on September 30, 2022.]

\* \* \* \* \*