

Alternative Capability Based Pricing: An Expert Analysis of Section 306 of the FoRGED Act

Key Points:

- Section 306 of the FoRGED Act introduces "Alternative Capability Based Pricing" for commercial products and services from non-traditional defense contractors.
- This approach allows for price reasonableness determination based on factors beyond traditional cost data.
- The provision aims to incentivize innovation and engagement with non-traditional vendors.
- Careful implementation and consideration of potential negative impacts are crucial for its success.

History of the Recommendation:

The evolution of defense acquisition has seen a growing recognition of the need to adapt pricing strategies, particularly when engaging with non-traditional defense contractors¹. Traditional cost-based pricing models, often rooted in the requirements of the Truth in Negotiations Act (TINA) of 1962, can present significant hurdles for these entities¹. TINA was enacted to ensure the Department of Defense (DoD) possesses the necessary information to negotiate fair prices with contractors, especially in situations where competition is limited¹. However, its emphasis on certified cost or pricing data can be a barrier for non-traditional contractors, which may include commercial technology companies and startups that do not operate with traditional government accounting systems or are hesitant to disclose proprietary financial details³. This creates a situation where the very regulations intended to protect the government might inadvertently hinder its access to innovative solutions offered by these non-traditional players.

Recognizing these challenges, the DoD and Congress have explored alternative acquisition and pricing mechanisms. Pilot programs such as the FY 2019 NDAA Section 890 Pilot Program to Accelerate Contracting and Pricing Processes, as well as the Alternative Capabilities-Based Pricing Pilot for Nontraditional Defense Contractors, signify an increasing interest in moving beyond traditional cost-plus models¹. These initiatives aimed to test more flexible approaches to contracting and pricing, particularly with entities new to the defense sector. The Defense Innovation Board (DIB) has also played a crucial role in advocating for changes in the acquisition system. The DIB has emphasized the necessity of enhancing the system's risk tolerance and effectively utilizing existing authorities and contract mechanisms

tailored for non-traditional vendors ⁴. This reflects a broader strategic understanding that leveraging innovation from outside the traditional defense industrial base is vital for maintaining a technological advantage. The DIB's recommendations underscore the need for a shift in mindset within the DoD, one that embraces different risk profiles and acquisition approaches when partnering with non-traditional entities.

Furthermore, the inclusion of Section 864 in the FY2025 NDAA, which establishes a pilot program allowing contracting officers to employ alternative capability-based analysis for determining price reasonableness for commercial products and services from non-traditional defense contractors, suggests a growing consensus on this issue ⁵. This indicates that Section 306 of the FoRGED Act likely builds upon or is inspired by such recent legislative efforts. The underlying history also involves the fundamental recognition that the traditional defense industrial base is no longer the sole source of critical technological advancements ². The rapid pace of innovation in the commercial sector, particularly in areas like artificial intelligence, software, and autonomous systems, necessitates that the DoD actively engage with commercial tech disruptors and startups. This engagement requires adapting traditional acquisition methods to accommodate the unique characteristics and pricing models of these non-traditional contractors.

Desired Effect of the Recommendation:

Section 306 of the FoRGED Act is designed to achieve several key objectives aimed at modernizing defense acquisition and fostering innovation.

- **Desired Effect 1: Facilitating Engagement with Non-Traditional Defense Contractors:** A primary goal of Section 306 is to reduce the barriers that non-traditional defense contractors face when seeking to do business with the DoD ¹. By permitting alternative methods for determining fair and reasonable pricing, the provision addresses the potential lack of traditional cost accounting systems or the reluctance of these companies to share proprietary financial data ³. This shift away from a strict cost-based analysis allows the DoD to tap into a wider spectrum of innovative commercial solutions that might have previously been inaccessible due to complex procurement regulations. Non-traditional contractors, often characterized by their agility and focus on cutting-edge technologies, may not operate under the same cost-plus models as traditional defense firms. Capability-based pricing enables the DoD to assess the value of their offerings based on the actual capability provided rather than solely on the cost of inputs, thereby making DoD contracts more appealing to these innovative entities.

- **Desired Effect 2: Promoting Innovation and Access to Cutting-Edge Technologies:** By explicitly considering the "unique nature of technical expertise" and "non-Federal resources expended" in the pricing analysis, Section 306 seeks to incentivize companies that have developed innovative solutions outside of traditional defense funding streams to offer these advancements to the DoD ². This approach acknowledges the significant value of internally funded research and development, encouraging innovation that might not align perfectly with the DoD's traditional requirements processes. Many non-traditional companies invest heavily in research and development using their own capital, often leading to breakthroughs in critical and emerging technologies. Capability-based pricing recognizes this self-funded risk and allows the DoD to procure these advanced technologies without imposing the same level of detailed cost transparency typically required from traditional contractors.
- **Desired Effect 3: Achieving Cost Avoidance and Increased Capacity:** Element (4) of the definition of "alternative capability-based analysis" directly emphasizes the potential for "estimated total cost avoidance or increased capacity" compared to current and future costs of programs with similar capabilities ⁷. This clearly indicates a desired effect of achieving greater efficiency and improved performance through the adoption of solutions offered by non-traditional contractors. The provision is intended to drive value-based procurement, where the price is justified not just by the initial cost but by the tangible benefits and efficiencies gained by the DoD over the long term. Capability-based pricing encourages contractors to demonstrate the return on investment their solutions can provide, such as reducing maintenance costs, improving operational tempo, or increasing overall throughput, thereby shifting the focus from the initial price tag to the comprehensive value proposition.
- **Desired Effect 4: Incorporating User Feedback and Value Assessment:** Element (5) highlights the importance of "input from the military user on the potential value added by the improved capabilities or production processes" ⁷. This user-centric approach aims to ensure that procurement decisions are closely aligned with the actual needs and operational impact as assessed by the individuals who will ultimately utilize the products or services. Direct feedback from military personnel provides a crucial perspective on the real-world value and effectiveness of a proposed capability. By explicitly incorporating this input into the pricing determination process under the alternative framework, Section 306 aims to make acquisition decisions more relevant and impactful for the end-users.
- **Desired Effect 5: Enhancing Competition within Defined Budgets:** Element (6) of the definition allows for "an analysis of competitive capabilities offered within a fixed budget or price set by the government in a solicitation" ⁷. This introduces a

mechanism for fostering competition even when engaging with non-traditional vendors who might not directly compete on traditional cost metrics. By establishing a fixed budget for a particular capability and evaluating proposals based on the value and fitness of the solutions offered, the DoD can encourage innovative approaches that fit within fiscal constraints. This allows the government to maximize the value obtained for a specific investment, even if the pricing structures of the competing non-traditional vendors differ significantly from traditional bids.

Potential Negative Impacts of the Recommendations:

While Section 306 offers promising avenues for enhancing defense acquisition, its implementation also carries potential risks that need careful consideration.

- **Potential Negative Impact 1: Challenges in Consistent Application and Subjectivity:** The criteria outlined for "alternative capability-based analysis" in Section 306 are intentionally broad to accommodate the diverse business models of non-traditional contractors⁷. However, this breadth could also lead to challenges in ensuring consistent application across different agencies, contracting officers, and procurement scenarios³. The terms used, such as "fitness," "unique nature of expertise," and "potential value added," can be subjective and open to varying interpretations. This subjectivity might foster disputes between the government and contractors and could lead to a perceived lack of transparency in pricing decisions. Without clear and standardized guidance, ensuring fair and equitable treatment of all potential contractors utilizing this alternative pricing mechanism could prove difficult.
- **Potential Negative Impact 2: Risk of Inflated Pricing and Lack of Cost Transparency:** A significant concern associated with moving away from traditional cost data requirements is the potential for inflated pricing by non-traditional contractors¹. This risk is particularly pronounced in sole-source or limited competition environments where the government has fewer options. Without the detailed cost breakdowns typically required under TINA, it becomes more challenging for the government to ascertain the true reasonableness of the proposed price. While the focus shifts to capability and value, the absence of cost transparency could hinder the government's ability to negotiate effectively and ensure it is receiving fair value for its investment. This situation could be exacerbated if contracting officers lack the necessary expertise to effectively evaluate the proposed value and financial projections of these non-traditional entities.
- **Potential Negative Impact 3: Potential Disadvantage to Traditional Defense**

Contractors: Traditional defense contractors, who have long operated under the established framework of cost-based pricing and stringent reporting requirements, might perceive the alternative approach outlined in Section 306 as creating an uneven playing field¹. These established players have often made significant investments in systems and processes to comply with existing regulations. The introduction of a different pricing model for a subset of contractors, particularly non-traditional ones, could be viewed as preferential treatment. This perception might lead to resentment within the traditional defense industrial base and potentially result in lobbying efforts against the broader adoption or expansion of capability-based pricing. Concerns might also arise regarding the fairness of competing for the same DoD needs under different pricing methodologies.

- **Potential Negative Impact 4: Increased Administrative Burden and Training Requirements:** The successful implementation of alternative capability-based pricing as envisioned in Section 306 will likely place new demands on the DoD acquisition workforce⁶. Contracting officers, in particular, will need to develop new skills and expertise beyond traditional cost analysis. This will involve learning how to evaluate non-traditional business models, scrutinize financial projections, and effectively assess the value proposition of proposed capabilities. This shift in responsibilities could initially increase the administrative burden on contracting personnel and necessitate the development and delivery of specialized training programs to equip them with the necessary knowledge and tools. Understanding technology roadmaps, conducting market analyses for non-traditional sectors, and incorporating user needs into pricing decisions will require a different skillset than simply reviewing cost data.
- **Potential Negative Impact 5: Difficulty in Measuring Effectiveness and Return on Investment:** Assessing the success and overall effectiveness of capability-based pricing might prove more complex than tracking cost savings achieved under traditional acquisition models³. While traditional metrics often focus on cost adherence and potential savings against established benchmarks, evaluating the "value" of a capability can be more qualitative and challenging to quantify in direct financial terms. This will necessitate the development of new metrics and evaluation frameworks that go beyond simple cost comparisons. Measuring the impact of a new capability on operational effectiveness, mission success rates, or long-term strategic advantages might require sophisticated analysis and data collection, potentially adding complexity to performance evaluation efforts.

Mitigations the Organization Will Take to Diminish the Negative Impacts:

To mitigate the potential negative impacts associated with the implementation of Section 306, the DoD should proactively adopt several key strategies.

- **Mitigation of Negative Impact 1: Develop Clear and Standardized Guidance and Training:** To ensure consistent application of alternative capability-based analysis, the DoD must develop comprehensive and detailed guidance, including standardized templates and clear evaluation criteria. Robust training programs for contracting officers, program managers, and other relevant personnel are essential. These programs should incorporate case studies, best practices, and a structured framework for documenting the rationale behind pricing decisions made using this alternative approach. This will help to reduce subjectivity and promote fairness across different acquisitions.
- **Mitigation of Negative Impact 2: Implement Robust Evaluation and Negotiation Strategies:** The DoD should establish dedicated evaluation teams comprising experts in technology, finance, and military operations to rigorously assess the value proposition and financial projections of non-traditional contractors. Negotiation strategies should emphasize benchmarking against commercial market prices for similar capabilities and focusing on clearly defined performance metrics and deliverables. Thorough due diligence and a strong understanding of the non-traditional vendor's industry and market position will be crucial in ensuring price reasonableness without traditional cost data.
- **Mitigation of Negative Impact 3: Ensure Transparency and Communication with Traditional Contractors:** The DoD should maintain open and transparent communication with traditional defense contractors regarding the rationale and scope of Section 306. Emphasizing that this alternative approach is specifically targeted at accessing innovation from non-traditional sources that might otherwise be unavailable can help alleviate concerns about an uneven playing field. Exploring opportunities for collaboration and partnership between traditional and non-traditional contractors could also foster a more cooperative environment.
- **Mitigation of Negative Impact 4: Invest in Acquisition Workforce Development:** A critical step in mitigating the increased administrative burden and ensuring effective implementation is to invest significantly in the development of the acquisition workforce. This includes providing specialized training to contracting officers on evaluating non-traditional business models, understanding venture capital and startup financing, and assessing the value of emerging technologies. The DoD might also consider hiring or assigning personnel with

direct experience in these areas to provide the necessary expertise.

- **Mitigation of Negative Impact 5: Establish Comprehensive Metrics and Evaluation Frameworks:** To effectively measure the success and return on investment of capability-based pricing, the DoD must develop specific, measurable, achievable, relevant, and time-bound (SMART) metrics. These metrics should go beyond traditional cost savings and focus on factors such as the number of non-traditional contractors engaged, the speed of technology adoption, the achievement of desired operational capabilities, and long-term cost avoidance. Establishing clear evaluation frameworks that incorporate both quantitative and qualitative data will be essential for assessing the overall effectiveness of Section 306.

DoD Personnel Most Affected:

The implementation of Section 306 will have a direct impact on various roles within the Department of Defense.

- **Contracting Officers:** These individuals will be at the forefront of implementing Section 306. They will need to acquire new skills and apply different evaluation techniques to determine the fairness and reasonableness of prices proposed by non-traditional defense contractors ⁶. This will involve understanding diverse business models, assessing the value of capabilities based on the criteria outlined in the section, and negotiating pricing in the absence of traditional cost data. The initial workload for contracting officers might increase as they navigate the learning curve associated with these new responsibilities and the potentially more intricate nature of these evaluations.
- **Program Managers:** Program managers will play a crucial role in defining the specific capability requirements for their programs and in assessing the fitness of the solutions offered by non-traditional contractors. Their insights into the potential value added by improved capabilities or production processes, as stipulated in Element (5) of Section 306's definition, will be a critical input in the pricing determination process ⁷. Effective collaboration between program managers and contracting officers will be essential to ensure that the procured capabilities meet the operational needs of the DoD.
- **Technical Experts and Engineers:** Personnel with specialized technical expertise will be indispensable in evaluating the "unique nature of technical expertise required to produce or provide" the commercial products or services, as well as in assessing the "fitness of the product or service for the particular purpose" ⁷. They will need to analyze the technological maturity, innovation potential, and overall suitability of offerings from non-traditional contractors,

providing critical assessments to inform the pricing analysis.

- **Financial Analysts:** Financial analysts within the DoD will need to develop expertise in analyzing the business models and financial projections of non-traditional contractors. This includes evaluating elements such as self-funded risk, expenditure rates, financial forecasts, and market potential, as outlined in Element (3) of Section 306 ⁷. Their ability to assess the financial viability and potential return on investment associated with these non-traditional vendors will be crucial for informed decision-making under this alternative pricing framework.
- **Military Users:** The ultimate beneficiaries and operators of the acquired products and services, military users, will also be significantly affected. Their input on the operational value and impact of the proposed capabilities, as highlighted in Element (5), will directly influence the pricing considerations under Section 306 ⁷. Their feedback will provide real-world context and ensure that the pricing reflects the actual value and utility of the procured items in a military operational setting.

Stakeholders Opposed and Rationale for Opposition:

Several stakeholders might express opposition to Section 306 of the FoRGED Act due to various concerns.

- **Traditional Defense Contractors:** These established players in the defense industry are likely to be concerned about the potential for an uneven playing field ¹. They operate under a well-defined system of cost accounting and reporting requirements, and they might view the alternative approach for non-traditional contractors as a form of preferential treatment. Their rationale for opposition could stem from the perception that non-traditional contractors will not be held to the same level of financial scrutiny, potentially leading to unfair competition and the risk of the government paying higher prices in the long run. They might argue that the lack of traditional cost transparency could disadvantage companies that have invested heavily in compliance with existing regulations.
- **Government Oversight Bodies (e.g., GAO):** While generally supportive of efforts to foster innovation and streamline acquisition processes, government oversight bodies such as the Government Accountability Office (GAO) might raise concerns about the potential for increased risk of fraud, waste, and abuse ³. Their opposition could be based on the less transparent nature of capability-based pricing compared to traditional cost-based models. They might advocate for the establishment of robust oversight mechanisms, clear accountability measures, and rigorous evaluation processes to ensure that the government is obtaining fair value and that taxpayer funds are being used effectively under this alternative

pricing approach.

- **Taxpayer Advocacy Groups:** Groups focused on responsible government spending and taxpayer interests might also express opposition to Section 306. Their concerns could center on the lack of traditional cost transparency and the potential for the government to overpay for goods and services acquired through capability-based pricing. They might argue that without detailed cost breakdowns, it is difficult to ensure that the prices are fair and reasonable, potentially leading to a waste of taxpayer money. These groups are likely to demand clear justifications for pricing decisions made under this alternative approach and demonstrable evidence of value for money.

Additional Resources:

Successful implementation of Section 306 will likely necessitate the allocation of additional resources within the Department of Defense.

- **Specialized Training Programs:** Comprehensive and specialized training programs will be crucial for equipping the acquisition workforce with the necessary skills to effectively implement alternative capability-based pricing⁶. This training should target contracting officers, program managers, financial analysts, and technical experts, focusing on areas such as evaluating non-traditional business models, technology valuation, and capability-based assessment methodologies.
- **Dedicated Personnel with Expertise in Non-Traditional Business:** The DoD might need to recruit or assign personnel with specific expertise in areas relevant to non-traditional businesses, such as venture capital, startup funding, and commercial technology markets. These individuals could provide valuable insights and guidance in evaluating the financial viability and potential of non-traditional contractors and their offerings.
- **Development of New Evaluation Tools and Frameworks:** The traditional tools and frameworks used for cost-based pricing analysis might not be directly applicable to capability-based pricing. The DoD may need to invest in developing new tools and frameworks specifically designed for assessing the value and fitness of capabilities, analyzing financial projections from non-traditional entities, and benchmarking against commercial market prices for comparable solutions.
- **Increased Funding for Pilot Programs and Experimentation:** To effectively test and refine the implementation of alternative capability-based pricing in various acquisition contexts, allocating additional funding for pilot programs and experimentation will be essential. This will allow the DoD to gather data, identify

best practices, and adapt the approach based on real-world experience before wider adoption.

- **Enhanced Data Analytics Capabilities:** Robust data analytics capabilities will be required to track the outcomes of contracts awarded using capability-based pricing. This includes monitoring the participation of non-traditional contractors, the speed of technology adoption, the achievement of desired capabilities, and the overall return on investment. Effective data analysis will be critical for measuring the success of Section 306 and identifying areas for continuous improvement.

Measures of Success:

The success and effectiveness of implementing Section 306 can be evaluated through several key measures.

- **Increased Participation of Non-Traditional Defense Contractors:** A primary indicator of success will be a demonstrable increase in the number of non-traditional defense contractors actively bidding on and being awarded DoD contracts for commercial products and services. This will signify that the alternative pricing approach is indeed lowering barriers to entry for these innovative companies.
- **Faster Adoption of Innovative Technologies:** Success can also be measured by the speed at which innovative technologies originating from non-traditional sources are integrated into DoD systems and deployed to the warfighter. A reduction in the time it takes to transition these technologies from the commercial sector to military use will be a significant positive outcome.
- **Demonstrable Cost Avoidance or Increased Capacity:** Tracking the actual cost savings or increases in operational capacity achieved through the utilization of capability-based pricing compared to traditional acquisition methods will be a critical measure of its effectiveness in delivering value to the DoD.
- **Positive Feedback from Military Users:** Gathering feedback from military personnel who are the end-users of the capabilities acquired through this alternative pricing approach will be essential. Positive feedback regarding the value, effectiveness, and impact of these capabilities on mission readiness and success will indicate a successful implementation.
- **Successful Completion of Pilot Programs and Expansion of the Approach:** The successful execution of initial pilot programs utilizing capability-based pricing and the subsequent expansion of this approach to a wider range of relevant acquisitions will be a strong indicator of its overall effectiveness and acceptance within the DoD.

- **Competitive Pricing Outcomes:** While the focus shifts from solely cost-based analysis, the DoD should still monitor pricing outcomes to ensure that the government is receiving fair and reasonable value for its investments when utilizing capability-based pricing, even in the absence of traditional cost data.

Alternative Approaches:

While Section 306 proposes a specific mechanism for alternative capability-based pricing, other existing or potential approaches could also achieve similar objectives of engaging with non-traditional defense contractors and fostering innovation.

- **Expanded Use of Other Transaction Authority (OTA):** Other Transaction Authority already provides the DoD with significant flexibility in contracting with non-traditional vendors for research, prototyping, and even production ¹¹. Leveraging and potentially expanding the use of OTAs could achieve similar goals of engaging with innovative companies without the need for a new pricing mechanism under traditional Federal Acquisition Regulation (FAR)-based contracts ³. However, concerns regarding oversight, intellectual property rights, and the transition to follow-on production would need to be carefully addressed.
- **Commercial Solutions Openings (CSO):** Commercial Solutions Openings offer a streamlined and competitive approach for soliciting innovative commercial solutions to address specific DoD needs ¹¹. Enhancing the CSO process to more explicitly incorporate a capability-based evaluation framework, where proposals are assessed based on their technical merit, potential impact, and overall value rather than solely on price, could be an alternative strategy.
- **Prize Challenges and Innovation Accelerators:** Utilizing prize challenges and supporting innovation accelerators can be effective ways to attract non-traditional innovators and provide a pathway for transitioning successful solutions into procurement ¹⁴. These mechanisms can incentivize the development of novel capabilities and offer the DoD an opportunity to acquire these solutions without relying solely on traditional contracting methods or the specific approach outlined in Section 306.
- **Modified FAR Clauses for Non-Traditional Contractors:** Instead of implementing a completely alternative pricing analysis, the Federal Acquisition Regulation could be amended to include specific clauses or exemptions tailored to the unique circumstances of non-traditional contractors ³. This could involve streamlining cost data submission requirements or offering alternative documentation standards for these entities while still operating within the broader FAR framework.
- **Focus on Performance-Based Contracting:** Increasing the use of

performance-based contracts, where payment is directly linked to the achievement of specific, measurable outcomes or capabilities, could align incentives and value the delivered capability regardless of the contractor's traditional status or cost structure. This approach shifts the focus from the inputs and costs to the actual results and value provided to the DoD.

Section Specific Question 1: What types of "Alternative Capability Based Pricing" arrangements are described or authorized in Section 306, and under what circumstances should Contracting Officers consider proposing or accepting such pricing structures?

Section 306 does not explicitly define specific "types" of alternative capability-based pricing arrangements. Instead, it provides a framework by outlining the elements that an "alternative capability-based analysis" can consider when determining if the proposed price or fee for a commercial product or commercial service offered by a non-traditional defense contractor is fair and reasonable ⁷. These elements include:

1. **Fitness for the particular purpose:** This implies that the pricing can reflect how well the proposed product or service meets the specific operational needs and requirements defined by the government.
2. **Unique technical expertise and non-Federal resources expended:** This allows for the consideration of the specialized knowledge and investment made by the non-traditional contractor using their own resources, which might not be captured in traditional cost accounting.
3. **Business model or financial projections:** This enables an assessment of the contractor's overall business viability, their self-funded risk, their projected growth, and other financial and management data relevant to the scale of potential DoD investment.
4. **Estimated total cost avoidance or increased capacity:** The potential value derived from the offering in terms of reducing future costs or enhancing operational capabilities compared to existing solutions can be factored into the pricing analysis.
5. **Input from the military user:** Feedback from the end-users regarding the potential added value and impact of the improved capabilities or production processes can influence the pricing determination.
6. **Analysis of competitive capabilities within a fixed budget:** This allows for evaluating the proposed price in the context of other available options and the government's budgetary constraints for a specific capability.

Contracting Officers should consider proposing or accepting such pricing structures

specifically when dealing with **non-traditional defense contractors** offering **commercial products or commercial services**⁷. Specific circumstances warranting the consideration of alternative capability-based pricing include:

- When the non-traditional contractor offers a truly innovative or unique capability that provides significant value to the DoD but is not readily available from traditional defense contractors.
- When the non-traditional contractor is either unwilling or unable to provide traditional certified cost or pricing data due to their commercial business model, proprietary technology concerns, or lack of traditional government accounting systems.
- When the value of the capability to the DoD, in terms of enhanced performance, increased efficiency, or significant cost avoidance, can be clearly and convincingly demonstrated and outweighs the absence of traditional cost data.
- When engaging with small businesses or startup companies that may lack the resources or infrastructure to comply with the stringent cost accounting and reporting requirements typically associated with traditional defense contracts.
- When the acquisition objective is to rapidly acquire and field emerging technologies where speed and access to innovation are paramount, and a more flexible pricing approach can facilitate quicker engagement with non-traditional innovators.

Section Specific Question 2:

This question is empty and requires no specific research.

Summary:

Section 306 of the FoRGED Act represents a strategic effort to modernize defense acquisition by introducing "Alternative Capability Based Pricing" for commercial products and services from non-traditional defense contractors. This provision acknowledges the limitations of traditional cost-based pricing models when engaging with companies operating outside the established defense industrial base and aims to stimulate innovation and broaden the DoD's access to cutting-edge technologies. The potential benefits of this approach include increased engagement with non-traditional vendors, the promotion of innovation, the potential for cost avoidance, the incorporation of valuable user feedback, and enhanced competition within defined budgetary constraints. However, the implementation of Section 306 also presents potential challenges, such as ensuring consistent application, mitigating the risk of inflated pricing, addressing potential disadvantages to traditional contractors, managing increased administrative burdens, and developing effective metrics for

measuring success. To effectively address these challenges, the DoD should prioritize the development of clear guidance and training, implement robust evaluation and negotiation strategies, foster transparent communication with traditional contractors, invest in workforce development, and establish comprehensive metrics for success. The implementation of Section 306 will directly affect various DoD personnel, particularly contracting officers, program managers, technical experts, financial analysts, and military users. Opposition to this provision may arise from traditional defense contractors and government oversight bodies concerned about fairness and transparency. Successful implementation will require the allocation of additional resources, including specialized training programs, personnel with relevant expertise in non-traditional business models, and the development of new evaluation tools and frameworks. Measuring the success of Section 306 will involve tracking the participation of non-traditional contractors, the speed of technology adoption, demonstrable cost avoidance, positive user feedback, and the successful execution of pilot programs. While Section 306 offers a specific pathway, alternative approaches such as the expanded use of OTAs and CSOs, modified FAR clauses, and a greater emphasis on performance-based contracting could also contribute to achieving similar objectives. Ultimately, Section 306 signifies a critical adaptation of defense acquisition practices to the evolving landscape of technological innovation, emphasizing the value of the capability delivered rather than solely relying on traditional cost-based pricing methodologies.

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