July 7, 2023

Mr. Nik Marda
Chief of Staff, Tech Division
Office of Science and Technology Policy
Executive Office of the President
Eisenhower Executive Office Building
1650 Pennsylvania Avenue
Washington, D.C. 20504

VIA ELECTRONIC SUBMISSION

Re: Comments of Engine Advocacy and the Center for American Entrepreneurship in response to Request for Information on National Priorities for Artificial Intelligence

Mr. Marda:

Engine is a non-profit technology policy, research, and advocacy organization that bridges the gap between policymakers and startups. Engine works with government and a community of thousands of high-technology, growth-oriented startups across the nation to support a policy environment conducive to technology entrepreneurship. The Center for American Entrepreneurship (CAE) is a nonpartisan, Washington, D.C.-based 501(c)(3) research, policy, and advocacy organization that works with policymakers to pursue a comprehensive policy agenda intended to achieve a stronger, more resilient, and inclusive U.S. economy through thriving entrepreneurship.

Artificial intelligence (AI) is a truly revolutionary technology with the potential to transform virtually every aspect of human existence – how we work, play, learn, conduct research, produce, and innovate. Policymakers are correct to examine concerns about the impact AI will have on job creation, online discourse, consumer protections, and more. AI tools and systems must be designed, developed, and implemented in ways that are socially and economically responsible, that support and accelerate American innovation, that promote a more inclusive prosperity, and that consistently earn the trust and confidence of the American people. In addition, as artificial intelligence is increasingly used, developed, and deployed by startups, Engine and the Center for American Entrepreneurship have a strong interest in ensuring the National AI Strategy accounts for the needs, experiences, and interests of the nation's technology entrepreneurs.

I. Startups are key stakeholders in AI policymaking

Thriving entrepreneurship is essential to a strong and growing economy, making potential impacts on startup success a necessary consideration in many policy debates, including around AI. Repeated research has demonstrated that startups are disproportionately responsible for the innovations that drive productivity growth and economic growth, and account for virtually all net new job creation.[1]

Startups are already and will continue to play a leading role in the development and application of AI. Startups are also likely to out-innovate and outpace large incumbent technology companies when it comes to AI. But startups will only be able to succeed in the AI space if the U.S. pursues a balanced regulatory regime that bolsters startups and captures the benefits of AI, while mitigating risks and avoiding entrenching incumbents.

Developing AI can be incredibly resource intensive, and the National AI Strategy should bear this in mind. Acquiring training data, storing that data, and using it to train an AI model are all expensive processes,[2] meaning AI startups—already operating with few resources[3]—are likely to have to navigate increasingly lower-margin business models, which impacts their overall competitiveness.

To the extent that AI regulation is pursued as part of the National AI strategy, every effort should be made to avoid adding additional layers of cost to AI development. Large and incumbent firms have teams dedicated to navigating the regulatory environment and a larger base of revenue over which to absorb compliance costs. Early-stage startups have small teams that often fill multiple roles at once and few resources to direct away from core startup activities like product development or customer acquisition. If regulatory costs force startups to raise their prices, potential customers will turn to larger companies instead.[4] Unnecessarily high regulatory costs would therefore put AI development out of reach for many startups, decreasing competition and cementing existing market dynamics. These costs might also discourage startups looking to integrate third-party AI into their products and services from doing so, as acquiring these systems will become more expensive, thus harming valuable innovation by preventing startups from improving their offerings.

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[1] Ryan Decker et al., *The Role of Entrepreneurship in US Job Creation and Economic Dynamism*, 28 J. Econ. Persp. 3 (2014), http://econweb.umd.edu/~haltiwan/JEP_DHJM.pdf; John Haltiwanger et al., *High Growth Young Firms: Contribution to Job, Output and Productivity Growth*, U.S. Census Bureau Working Paper (2017), https://www.census.gov/content/dam/Census/library/working-papers/2017/adrm/carra-wp-2017-03.pdf.

[2] *See, e.g.*, Ivy Nguyen, *Could data costs kill your AI startup?*, VentureBeat (Nov. 10, 2018), https://venturebeat.com/2018/11/10/could-data-costs-kill-your-ai-startup/.

[3] *See, e.g.*, *the State of the Startup Ecosystem*, Engine 5-9, 16-19, (Apr. 2021) https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/60819983b7f8be1a2a99972d/1619106194054/The+State+of+the+Startup+Ecosystem.pdf.

[4] *See Hearing on Opportunities and Challenges for Trade Policy in the Digital Economy Before the Subcomm. on Int'l Trade, Customs, and Glob. Competitiveness* (statement of PILOT Inc.) https://engine.is/s/Statement-for-the-record-Ben-Brooks-PILOT.pdf, ("Larger competitors are better positioned to absorb these compliance costs."); *Startup Ecosystem*, *supra* note 17, (finding that the average seed-stage startup operates with only about $55,000 a month of capital).

If only large incumbents are able to comfortably afford to develop these systems, the U.S. will lose out on the novel uses of AI currently being developed by startups, including to improve water quality,[5] reduce energy waste,[6] improve equity,[7] create better health outcomes,[8] and more.[9]

Among the ways to help ensure that regulatory costs do not become overly burdensome is to tailor regulations proportionally to the level of risk posed by an AI system, where only truly high-risk uses of AI are encumbered by regulation. Doing so would allow regulators to protect against legitimate harms without forcing every AI developer and user to clear regulatory hurdles that are not appropriate or necessary in a particular context. For example, low-risk uses like facial recognition AI to facilitate digital glasses fittings should not need to clear the same compliance regime as potentially higher-risk uses like facial recognition AI for law enforcement.[10] Disproportionate regulation of this sort could deter the development and use of many low-risk but high-utility AI systems, handicapping the many companies and individuals that now or will soon rely on them and chilling innovation.

Given its likely outsize impacts on startups and their competitiveness, the U.S. should avoid ex-ante regulation that creates barriers to market. The idea of a mandatory certification or licensing scheme for AI has been suggested,[11] but such a system is likely to create a "regulatory moat" bolstering the position and power of large companies that are already established in the AI ecosystem, while making it hard for startups to contest their market share. If the U.S. does indeed decide to pursue auditing, assessment, or certification requirements, these assessments must be structured appropriately to ensure that regulatory costs are kept at an appropriate level to permit competition. A useful approach to any audit or quality assurance certification systems would be voluntary participation that offers a 'safe harbor' to incentivize adoption. Safe harbors found in other areas of the law, like privacy[12] and cybersecurity[13] work well to incentivize best practices while avoiding burdensome mandates.

Experience with past privacy, content moderation, and proposed AI regulations in the European Union emphasizes the need for considering startups as important stakeholders and exercising caution to avoid entrenching incumbents and stifling competition. Europe's data protection law, the

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[5] *See, e.g.*, Varuna, https://varuna.city/.
[6] *See, e.g.*, COI Energy, https://www.coienergy.com/.
[7] *#StartupsEverywhere Profile: Kenneth Salas, Co-Founder & COO, Camino Financial*, Engine (May 20, 2022), https://www.engine.is/news/startupseverywhere-losangeles-ca-caminofinancial.
[8] *#StartupsEverywhere Profile: Noelle Acosta, Founder & CEO, Noula Health*, Engine (Oct. 28, 2022), https://www.engine.is/news/startupseverywhere-newyork-ny-noulahealth.
[9] *See, e.g.*, #StartupsEverywhere profile: James Silva, Founder & CEO, ConciergeBot (Aug. 6, 2021), https://www.engine.is/news/startupseverywhere-sanfrancisco-ca-conciergebot.
[10] *See related*, Stewart Baker, *The Flawed Claims About Bias in Facial Recognition*, Lawfare (Feb. 2, 2022), https://www.lawfareblog.com/flawed-claims-about-bias-facial-recognition.
[11] Sindhu Sundar, *Sam Altman says a government agency should license AI companies — and punish them if they do wrong*, Business Insider (May 16, 2023), https://www.businessinsider.com/sam-altman-openai-chatgpt-government-agency-should-license-ai-work-2023-5.
[12] *See, e.g.*, Federal Trade Commission, COPPA Safe Harbor Program, https://www.ftc.gov/enforcement/coppa-safe-harbor-program.
[13] *See, e.g.*, U.S. Dept. of Health & Human Services, Guidance Portal: Breach Safe Harbor, https://www.hhs.gov/guidance/document/breach-safe-harbor; Ohio Rev. Code §1354 (2018) https://codes.ohio.gov/ohio-revised-code/section-1354.02.

General Data Protection Regulation, negatively impacts startup competitiveness through high compliance burdens, "penalize[s] smaller companies within technology markets" and has led the E.U. to fall behind in the "global tech race."[14] The Digital Services Act requires startups to undertake actions that today's incumbent firms first did when they were worth hundreds of billions of dollars, threatening to entrench those large companies by burdening startups with unproportionate costs and reducing incentives to invest in startups operating in those sectors.[15] Members of the startup ecosystem expect similarly negative consequences to the E.U. AI Act, with over 100 European startups and VCs predicting that its regulations will slow AI innovation.[16] These examples illustrate the need for startups at the core of policy conversations and the overall National AI Strategy, and the importance of carefully tailoring AI rules to avoid unintended and unnecessary consequences for the competitiveness of the AI market.

II. Public policy around AI should begin with existing law and guidance.

Existing law, including privacy, civil rights, consumer protection law, for example, speaks to many of the concerns raised around AI by policymakers and the broader public. Agencies of jurisdiction should evaluate how AI interacts with the laws and regulations they are responsible for enforcing and disseminate proactive guidance to ensure companies understand their obligations as they develop new technologies using AI. Building potential AI rules with existing law in mind is additionally critical to avoiding overlaps or contradictions that will create additional and unnecessary layers of cost and confusion which would overwhelming weigh on startups.

Public and private entities and standard setting bodies have created standards and other tools for mitigating AI risk. These (often collaborative) efforts are critical to creating useful, balanced resources to guide AI development and broader public policy considerations around AI, including the National AI Strategy. The National Institute of Standards and Technology's AI Risk Management Framework provides a useful resource for mitigating AI risk. It also provides a glossary of AI terms, which can be critical as part of fostering a uniform, consistent environment in any potential future regulatory framework.[17] Uniform regulatory environments are critical for startup success as fractured, "patchworks" of regulation add to burdens that sap already limited startup resources.[18]

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[14] Adam Thierer, *GDPR & European Innovation Culture: What the Evidence Shows*, MEDIUM (Feb. 5, 2023), https://medium.com/@AdamThierer/gdrp-european-innovation-culture-what-the-economic-evidence-shows-b19d2309de07.

[15] *E.g.*, Daphne Keller, *The EU's new Digital Services Act and the Rest of the World*, Verfassungsblog (Nov. 22, 2022), https://verfassungsblog.de/dsa-rest-of-world/, ("The other predictable global harm will be to competition. The DSA burdens even very small platforms with obligations that today's incumbents never shouldered, or else took on only much later in their development.)

[16] *AI Act Impact Survey*, German AI Association (2022), https://ki-verband.de/en/elementor-10015/.

[17] Phil Malone, *Comments of Engine Advocacy in the matter of AI Accountability Policy Request for Comment*, Juelsgaard IP & Inno. Clinic §V (June 12, 2023), https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/648c9bd7f30e4c7f7f212ea2/1686936536156/Engine+Comment+AI+Accountability+FINAL.pdf.

[18] *Id.*; *See also e.g., Privacy Patchwork Problem*, Engine (Mar. 2023), https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/6414a45f5001941e519492ff/1679074400513/Pri

The National AI Strategy should encourage the use and dissemination of the NIST AI RMF. Startups routinely look to expert resources like Risk Management Frameworks developed by NIST, including those around cybersecurity, privacy, and now artificial intelligence.[19] NIST has distilled its earlier RMFs into digestible resources that make it easier for startups to get started and implement best practices. NIST should do likewise with the AI RMF to make the framework more accessible and increase uptake by startups. To encourage adoption, the synthesized resources should be developed in collaboration with startups, small innovators, and intermediaries like incubators and accelerators that understand the needs of the startups who rely on these educational materials and can help ensure the best fit for those needs.[20]

Existing intellectual property frameworks work well and can and should be applied to AI. For copyright and AI, in the interest of promoting progress and innovation, it would be best that the National AI Strategy support legal interpretations that establish that AI use of content is lawful because it is a noninfringing use.[21] The alternative, fair use, is decided on a case-by-case basis. Proceeding through litigation to establish that a specific use is fair is costly and not dispositive for all future (even similar) uses of data. So while it is a fair use for AI to ingest and process data, it is more efficient to conclude that such uses are not even infringing. The National AI Strategy should seek to streamline innovation and must avoid endorsing changes to the law that will entrench incumbent entities and industries.

Similarly, current law around patent eligibility is critical to ensure only truly novel inventions are patentable, and to avoid bad faith litigation that arises from low-quality patents. The National AI Strategy should be mindful of the need for a balanced patent system in technological innovation.[22] Section 101 of the Patent Act defines what is and is not eligible for patent protection. Currently, abstract ideas, laws of nature, and natural phenomena cannot be patented —[23]so a company cannot patent and seek to own, e.g., the idea of scheduling medical appointments using a computer;[24] the

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vacy+Patchwork+Problem+Report.pdf; Jennifer Weinhart, *State Policy Update: the tax implications of remote work*, Engine (Oct. 20, 2022), https://engineadvocacyfoundation.medium.com/state-policy-update-the-tax-implications-of-remote-work-23579bf89e69.

[19] *NIST AI RMF Playbook*, NIST, https://airc.nist.gov/AI_RMF_Knowledge_Base/Playbook.

[20] *See generally* Malone, *supra* note 17 at §VII.

[21] *See Comments of Engine Advocacy in Response to Request for Comments on Intellectual Property Protection for Artificial Intelligence Innovation*, Engine (Jan. 10, 2020), https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/5e1c9b95bf2cc11b00b9e944/1578933141931/2020.01.10_Comments+to+Docket+PTO+C+2019+0038.pdf.

[22] *See, e.g.*, Tyler Robbins & Phil Malone, *Comments of Engine Advocacy & The Electronic Frontier Foundation in the matter of Request for Comments on Patenting Artificial Intelligence Inventions*, Juelsgaard IP & Inno. Clinic (Nov. 8, 2019), https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/5dd4520517a6ae540f87faca/1574195725987/Comments+of+Engine+Advocacy+and+The+Electronic+Frontier+Foundation.pdf.

[23] 35 U.S.C. § 101 https://www.law.cornell.edu/uscode/text/35/101.

[24] *Am. Well Corp. v. Teladoc, Inc.*, 191 F. Supp. 3d 135 (D. Mass. 2016), https://casetext.com/case/am-well-corp-v-teladoc-inc-1.

process of collecting, analyzing, and displaying data;[25] the idea of filtering e-mail;[26] or a human gene.[27] As the Supreme Court made clear in *Alice Corp. v. CLS Bank International*, merely performing an abstract idea using a computer does not make it patent eligible, and the same principle does and should apply for AI.[28] Barring patents on abstract ideas means no one company may own those basic concepts of running a business or creating new innovation and limits the existence of low quality patents that patent assertion entities often assert in frivolous, abusive cases.[29]

III. Startups are using AI to advance equity

The National AI Strategy must recognize and seek to capture the beneficial uses, especially those that advance equity and counteract historic discrimination and societal biases. At its core, innovation is about identifying and solving a problem for a user, customer, or client. Many underrepresented startup founders—women, people of color, immigrants, and LGBTQ+ individuals—encounter problems specific to their communities that are not solved, or perhaps are even ignored, by existing products on the market, so they innovate to create solutions. These startup founders are often seeking to correct historical inequities faced by their communities and are innovating in critical areas like health, finance, and business services, often leveraging AI as part of their offerings.

Take, for instance, Noula Health, a New York City-based company solving poor quality of care encountered by women and Spanish-speaking patients. The company offers basic at-home hormone testing and one-on-one coaching with health professionals at a relatively low cost. As the company explains on its website:

> "Noula was born out of a shared frustration with a healthcare system that has failed us repeatedly and in different ways. The more we talked to friends and family the more obvious it became that every woman and person with a uterus has experienced feeling dismissed, ignored, or disbelieved by our doctors. Instead of receiving care, we stopped trusting our providers, and worse, we started doubting ourselves."[30]

And as founder Noelle Acosta told Engine,[31] one of the company's goals is to reach users who

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[25] *Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350, 119 U.S.P.Q.2d (BNA) 1739 (Fed. Cir. 2016) https://cafc.uscourts.gov/opinions-orders/15-1778.opinion.7-28-2016.1.pdf.
[26] *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307 (2016) https://www.bitlaw.com/source/cases/patent/IV-Symantec.html
[27] *Assn. for Molecular Pathology v. Myriad Genetics*, 132 S. Ct. 1794 (2012) https://www.supremecourt.gov/opinions/12pdf/12-398_1b7d.pdf
[28] *Alice Corp. v. CLS Bank International*, 573 U.S. 208, 134 S. Ct. 2347 (2014) https://www.supremecourt.gov/opinions/boundvolumes/573BV.pdf.
[29] *See, e.g.*, *Startups & the U.S. Patent System: Prioritizing Quality and Balance to Promote Innovation*, Engine (July 2021), https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/60f8579bae6a2d324b7440a2/1626888093336/Engine+Patent+Quality+Booklet+2021+7.21.pdf. *See generally Resources,* Patent Quality Week, https://patentqualityweek.engine.is/.
[30] *See About*, Noula, https://noula.com/about.
[31] *#StartupsEverywhere Profile: Noelle Acosta*, *supra* note 8.

belong to groups that are traditionally underserved by the medical industry, especially Spanish-speaking patients, which is why the company is planning to launch its service in Spanish. According to studies, Latina women suffer disproportionately in key reproductive health measures, including higher rates of maternal mortality and higher mortality rates from breast and cervical cancer, and they are less likely to receive regular mammograms and pap tests.[32] The company uses AI to recommend tailored healthcare information to each user based on their medical data that can improve the conversations they have with their providers and ultimately improve health outcomes.[33]

Likewise, startups like Camino Financial are using novel data-driven AI models to give overlooked entrepreneurs access to the capital they need to build and grow their businesses.[34] A big segment of Camino Financial's clients are shut out from most opportunities to access credit because they don't have a credit score, so the company built a credit model that works for this population to ensure they have access to the capital they need and deserve. As Co-Founder Kenneth Salas explains:

> "Twenty-eight percent of our borrowers do not have a credit score, such as a FICO score, and 50 percent of our historic borrowers were undocumented, but they are taxpayers with a tax identification number. Overall, our borrowers have about $2,000 in their cash balance when they get a loan from us and our average loan size is $20,000. We're leveraging what they have in their bank account by 10 times because we've built an AI system that can make a very accurate mathematical guess on what the real income of their business is based on information provided in our application and larger data sets we've built over time.
>
> "We use Plaid to download the last six months of an applicant's transaction data, and we now have about 18 million rows of this data in our AI system. All of this data enables our model to see the borrower in a more holistic picture and make loans to entrepreneurs that other institutions turn away. Going forward, we want to try to develop a member score for our existing accounts so we can better serve them and even lower their rates.
>
> "Our AI models enable a willingness to bet against the traditional ways of evaluating a borrower's ability to pay. We find this approach works well in making sure that we're serving both of these segments as well as we can and controlling for potential bias."[35]

Startups like these are building innovative AI models that counteract and correct historical biases.

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[32] *See, e.g.*, Blanca Ramos et. al, *Latina Women: Health and Healthcare Disparities*, 258-271 Social Work in Public Health 25:3-4 (2010), https://www.tandfonline.com/doi/full/10.1080/19371910903240605.
[33] *Supra* note 8.
[34] *#StartupsEverywhere Profile: Kenneth Salas*, *supra* note 9.
[35] *Id.*

Similar models could be used to help correct biases in other areas of lending, housing,[36] health, or employment, and with smart policies to mitigate risks,[37] are the types of innovations that we should want to advance. The National AI Strategy should account for and encourage these innovations through a conducive regulatory framework, the provision of resources, and consistent attention to the needs of startups.

IV. AI will help to create new and better jobs

Technology entrepreneurs stand at the fore of innovation and drive economic growth, developing and deploying beneficial new technologies.[38] This is true today and throughout the economic history of the U.S. Most jobs that exist today did not exist prior to the Second World War.[39] Upheaval in the types of jobs and job functions is to be expected as the result of technological progress, but it should not be feared. Jobs we have now—and quality of life—are improved by technology.[40] AI is and will continue to be a part of technological progress and the U.S. must harness AI-driven boosts to productivity and economic growth—which should be a North Star of the National AI Strategy.

Upskilling, workforce training, and reskilling are needed to bolster AI development and ensure that benefits of AI accrue to society. Currently, STEM talent is in short supply and is needed to fill critical roles in the technology sector and at startups.[41] As AI development and adoption continues to accelerate, demand for high-skilled engineering talent is likely to increase further. Workforce development is critical to addressing these shortages. Upskilling and reskilling is additionally needed to help workers incorporate AI into their roles to handle the most mundane tasks and transition to new roles as well.

The National AI Strategy should adopt an 'all of the above' approach to workforce development, leveraging traditional STEM education, private sector incentives, government resources, and realigning existing education strategies. The workforce programs additionally should place particular emphasis on the nexus to technology and ensuring that all can equitably participate.

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[36] *See e.g.*, Steve Gaenzler, *Will AI solve the problem of appraisal bias?*, HousingWire (May 20, 2021), https://www.housingwire.com/articles/appraisal-bias-ai-solution/; Brian Brackeen, Twitter (Aug. 18, 2022), https://twitter.com/BrianBrackeen/status/1560315857724743680?s=20&t=tYZbOXmhzUkSbEa2t8MOPQ (discussing a desire to invest in AI appraisal startups to mitigate human bias in home appraisal).

[37] *See generally supra* at §II; Malone, *supra* note 17 at §IV-VI.

[38] *Supra* at §I.

[39] David Autor et al., *New Frontiers: The Origins and Content of New Work, 1940–2018*, NBER Working Paper (Aug. 2022), https://blueprintcdn.com/wp-content/uploads/2022/08/Blueprint_Discussion-Paper-2022.13-Autor-Et-Al..pdf.

[40] *See, e.g.*, Rob Atkinson & Daniel Castro, *Digital Quality of Life: Understanding the Personal and Social Benefits of the Information Technology Revolution* (Oct. 2, 2008), https://ssrn.com/abstract=1278185.

[41] Startups have reported taking advantage of layoffs of high-skill talent by large technology firms to build their own teams, but this is a short term phenomenon and merely obscures a long-standing need. *See, e.g.*, *Growing the Innovation Economy: A Policy Roadmap for Supporting Startups Everywhere*, 2-11 Engine (2022), https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/62fbb0a039956b0d96fef653/1660661921600/Growing+the+Innovation+Economy+Recover+Paper+2022.pdf.

Developing STEM talent in traditional university settings is important but not sufficient. Policymakers should create incentives for the private sector to upskill and reskill their workforces. Reskilling later in life is likely to occur outside of a traditional university setting, for which public and private credentials and training programs can play a useful role. Accreditation agencies should consider new categories of accreditation to help individuals recognize the programs worthwhile of their time and resources, and to help employers understand the qualifications of prospective employees. Incentives can also be used to encourage hiring of reskilled, talented individuals trained through such programs that might not possess training through traditional channels. Government resources—particularly those tailored toward AI-related education, like the contemplated National AI Research Resource can and must also play a critical role.[42]

V. Government should work with startups to harness AI to improve public services

Startups also create innovative technologies that can improve government and the provision of public services. Too often, however, startups find it extremely difficult to work with the government. Lengthy contracting processes, challenges navigating government bureaucracy, and a general concern that incumbent companies are favored to succeed, all hinder startups and their ability to participate in the federal contracting process and secure contracts.[43] In addition to facing these routine challenges of working with government, AI startups are likely to face headwinds as the result of legitimate concerns about mitigating risks of errors.

To solve both of these issues, the National AI Strategy should create a pathway for AI startups and a government to cooperatively work through prospective issues while speeding the time to contracting with the government. One option is to create a dedicated startup pilot program outside of the regular contracting process that combines the concept of a regulatory sandbox[44] with government contracting, where AI startups with demonstrated technologies are able to work with government agencies to create solutions for agency needs. Within the program, a startup would be able to access and build solutions with government data, giving them the chance to build and demonstrate their product while working with the agency to mitigate identifiable risks before the technology is put into regular use.

A critical component of helping startups to work with the government is to ensure they have the resources they need to succeed. The National AI Strategy must include building the NAIRR and

[42] *Infra* note 45.
[43] *Growing the Innovation Economy, supra* note 41 at 11-15.
[44] The National AI Strategy should contemplate a regulatory sandbox outside of government contracting. That idea is further explored in Engine's recent NTIA comments: *See* Malone, *supra* note 17 at §VI.

ensuring that startups have access to the resources made available through it.[45] Securing funding from Congress to fully build the NAIRR must be a part of the National AI Strategy.[46]

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Engine and the Center for American Entrepreneurship greatly appreciate the Administration's attention to artificial intelligence, and appreciate the chance to provide comment as the Administration develops the National AI Strategy. The needs and perspectives of the nation's startups and technology entrepreneurs must be top of mind in the Strategy, and we are always available to be a resource as the Administration continues to develop technology policy.

Sincerely,

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[45] Engine, startups, and many others weighed in as part of the NAIRR Task Force process. *See, e.g.*, *RFI Response: National AI Research Resource (NAIRR)*, Engine (Sept. 1, 2021), https://engineis.squarespace.com/s/NAIRR-RFI.pdf; *Request for Information (RFI) on an Implementation Plan for a National Artificial Intelligence Research Resource*, BeeHero (Sept. 30, 2021), https://www.ai.gov/rfi/2021/86-FR-39081/BeeHero-NAIRR-RFI-2021.pdf; *Request for Information (RFI) on an Implementation Plan for a National Artificial Intelligence Research Resource*, Infiltron Software Suite (Sept. 21, 2021), https://www.ai.gov/rfi/2021/86-FR-39081/Infiltron-NAIRR-RFI-2021.pdf; *Request for Information (RFI) on Implementing Initial Findings and Recommendations of the National Artificial Intelligence Research Resource Task Force*, Engine (June 30, 2022), https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/62bde08a6fa3b73464617580/1656610954290/NAIRR+TF+Draft+report+RFI.pdf.

[46] Members of Congress have recently indicated the NAIRR might not receive full funding but instead be conceived as a pilot program. The NAIRR has been contemplated as part of a robust and stakeholder involved process and should be implemented fully, not redesigned. *See* Mohar Chaterjee & Brendan Bordelon, *White House proposal for AI infrastructure faces Hill pushback*, PoliticoPRO, (June 29, 2023), https://subscriber.politicopro.com/article/2023/06/white-house-proposal-for-ai-infrastructure-faces-hill-pushback-00104210.