

111TH CONGRESS
2^D SESSION

S. 920

AN ACT

To amend section 11317 of title 40, United States Code, to improve the transparency of the status of information technology investments, to require greater accountability for cost overruns on Federal information technology investment projects, to improve the processes agencies implement to manage information technology investments, to reward excellence in information technology acquisition, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Information Tech-
5 nology (IT) Investment Oversight Enhancement and
6 Waste Prevention Act of 2009”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

9 (1) The effective deployment of information
10 technology can make the Federal Government more
11 efficient, effective, and transparent.

12 (2) Historically, the Federal Government has
13 struggled to properly plan, manage, and deliver in-
14 formation technology investments on time, on budg-
15 et, and performing as planned.

16 (3) The Office of Management and Budget has
17 made significant progress overseeing information
18 technology investments made by Federal agencies,
19 but continues to struggle to ensure that such invest-
20 ments meet cost, schedule, and performance expecta-
21 tions.

22 (4) Congress has limited knowledge of the ac-
23 tual cost, schedule, and performance of agency infor-
24 mation technology investments and has difficulty
25 providing the necessary oversight.

1 (5) In July 2008, an official of the Government
2 Accountability Office testified before the Sub-
3 committee on Federal Financial Management, Gov-
4 ernment Information, Federal Services, and Inter-
5 national Security of the Committee on Homeland
6 Security and Governmental Affairs of the Senate,
7 stating that—

8 (A) agencies self-report inaccurate and un-
9 reliable project management data to the Office
10 of Management and Budget and Congress; and

11 (B) the Office of Management and Budget
12 should establish a mechanism that would pro-
13 vide real-time project management information
14 and force agencies to improve the accuracy and
15 reliability of the information provided.

16 **SEC. 3. REAL-TIME TRANSPARENCY OF IT INVESTMENT**
17 **PROJECTS.**

18 Section 11302(c)(1) of title 40, United States Code,
19 is amended by striking the period at the end and inserting
20 the following: “, including ensuring the effective operation
21 of a Web site, updating the Web site, at a minimum, on
22 a quarterly basis, and including on the Web site, not later
23 than 90 days after the date of the enactment of the Infor-
24 mation Technology (IT) Investment Oversight Enhance-
25 ment and Waste Prevention Act of 2009—

1 “(1) the accurate cost, schedule, and perform-
2 ance information since the commencement of the
3 project of all major information technology invest-
4 ments reported in a manner consistent with policy
5 established by the Office of Management and Budg-
6 et on the use of earned-value management data,
7 which should be based on the ANSI–EIA–748–B
8 standard or another objective performance-based
9 management system approved by the E-Government
10 Administrator;

11 “(2) a graphical depiction of trend information,
12 to the extent practicable, since the commencement of
13 the major IT investment;

14 “(3) a clear delineation of major IT invest-
15 ments that have experienced cost, schedule, or per-
16 formance variance greater than 10 percent over the
17 life cycle of the investment, and the extent of the
18 variation;

19 “(4) an explanation of the reasons the invest-
20 ment deviated from the benchmark established at
21 the commencement of the project; and

22 “(5) the number of times investments were
23 rebaselined and the dates on which such rebaselines
24 occurred.”.

1 **SEC. 4. IT INVESTMENT PROJECTS.**

2 (a) SIGNIFICANT AND GROSS DEVIATIONS.—Section
3 11317 of title 40, United States Code, is amended to read
4 as follows:

5 **“SEC. 11317. SIGNIFICANT AND GROSS DEVIATIONS.**

6 “(a) DEFINITIONS.—In this subchapter:

7 “(1) AGENCY HEAD.—The term ‘Agency Head’
8 means the head of the Federal agency that is pri-
9 marily responsible for the IT investment project
10 under review.

11 “(2) ANSI EIA-748-B STANDARD.—The term
12 ‘ANSI EIA-748-B Standard’ means the measure-
13 ment tool jointly developed by the American Na-
14 tional Standards Institute and the Electronic Indus-
15 tries Alliance to analyze Earned Value Management
16 systems.

17 “(3) APPROPRIATE CONGRESSIONAL COMMIT-
18 TEES.—The term ‘appropriate congressional com-
19 mittees’ means—

20 “(A) the Committee on Homeland Security
21 and Governmental Affairs of the Senate;

22 “(B) the Committee on Oversight and Gov-
23 ernment Reform of the House of Representa-
24 tives;

25 “(C) the Committee on Appropriations of
26 the Senate;

1 “(D) the Committee on Appropriations of
2 the House of Representatives; and

3 “(E) any other relevant congressional com-
4 mittee with jurisdiction over an agency required
5 to take action under this section.

6 “(4) CHIEF INFORMATION OFFICER.—The term
7 ‘Chief Information Officer’ means the Chief Infor-
8 mation Officer designated under section 3506(a)(2)
9 of title 44 of the Executive department (as defined
10 in section 101 of title 5) that is primarily respon-
11 sible for the IT investment project under review.

12 “(5) CORE IT INVESTMENT PROJECT.—The
13 terms ‘core IT investment project’ and ‘core project’
14 mean a mission critical IT investment project des-
15 ignated as such by the Chief Information Officer,
16 with approval by the Agency Head under subsection
17 (b).

18 “(6) DIRECTOR.—The term ‘Director’ means
19 the Director of the Office of Management and Budg-
20 et.

21 “(7) EARNED VALUE MANAGEMENT.—The term
22 ‘Earned Value Management’ means the cost, sched-
23 ule, and performance data used to determine project
24 status and developed in accordance with the ANSI
25 EIA-748-B Standard.

1 “(8) GROSSLY DEVIATED.—The term ‘grossly
2 deviated’ means cost, schedule, or performance vari-
3 ance that is at least 40 percent from the Original
4 Baseline.

5 “(9) INDEPENDENT COST ESTIMATE.—The
6 term ‘independent cost estimate’ means a pragmatic
7 and neutral analysis, assessment, and quantification
8 of all costs and risks associated with acquisitions re-
9 lated to an IT investment project, which—

10 “(A) is based on programmatic and tech-
11 nical specifications provided by the office within
12 the agency with primary responsibility for the
13 development, procurement, and delivery of the
14 project;

15 “(B) is formulated and provided by an en-
16 tity other than the office within the agency with
17 primary responsibility for the development, pro-
18 curement, and delivery of the project;

19 “(C) contains sufficient detail to inform
20 the selection of an Earned Value Management
21 baseline benchmark measure under the ANSI
22 EIA-748-B standard; and

23 “(D) accounts for the full life cycle cost
24 plus associated operations and maintenance ex-

1 penses over the usable life of the project’s
2 deliverables.

3 “(10) LIFE CYCLE COST.—The term ‘life cycle
4 cost’ means the total cost of an IT investment
5 project for planning, research and development,
6 modernization, enhancement, operation, and mainte-
7 nance.

8 “(11) MAJOR IT INVESTMENT PROJECT.—The
9 terms ‘major IT investment project’ and ‘project’
10 mean an information technology system or informa-
11 tion technology acquisition that—

12 “(A) requires special management atten-
13 tion because of its importance to the mission or
14 function of the agency, a component of the
15 agency, or another organization;

16 “(B) is for financial management and obli-
17 gates more than \$500,000 annually;

18 “(C) has significant program or policy im-
19 plications;

20 “(D) has high executive visibility;

21 “(E) has high development, operating, or
22 maintenance costs;

23 “(F) is funded through other than direct
24 appropriations; or

1 “(G) is defined as major by the agency’s
2 capital planning and investment control process.

3 “(12) ORIGINAL BASELINE.—

4 “(A) IN GENERAL.—Except as provided
5 under subparagraph (B), the term ‘Original
6 Baseline’ means the ANSI EIA-748-B Stand-
7 ard-compliant Earned Value Management
8 benchmark or an equivalent benchmark ap-
9 proved by the Office of Management and Budg-
10 et and established at the commencement of an
11 IT investment project.

12 “(B) GROSSLY DEVIATED PROJECT.—If an
13 IT investment project grossly deviates from its
14 Original Baseline (as defined in subparagraph
15 (A)), the term ‘Original Baseline’ means the
16 ANSI EIA-748-B Standard-compliant Earned
17 Value Management benchmark or an equivalent
18 benchmark approved by the Office of Manage-
19 ment and Budget and established under sub-
20 section (e)(3)(C).

21 “(13) SIGNIFICANTLY DEVIATED.—The term
22 ‘significantly deviated’ means cost, schedule, or per-
23 formance variance that is at least 20 percent from
24 the Original Baseline.

1 “(b) CORE IT INVESTMENT PROJECTS DESIGNA-
2 TION.—Each Chief Information Officer, with approval by
3 the Agency Head, shall—

4 “(1) identify the major IT investments that are
5 the most critical to the agency; and

6 “(2) designate any project as a ‘core IT invest-
7 ment project’ or a ‘core project’, upon determining
8 that the project is a mission critical IT investment
9 project that—

10 “(A) represents a significant high dollar
11 value relative to the average IT investment
12 project in the agency’s portfolio;

13 “(B) delivers a capability critical to the
14 successful completion of the agency mission, or
15 a portion of such mission;

16 “(C) incorporates unproven or previously
17 undeveloped technology to meet primary project
18 technical requirements; or

19 “(D) would have a significant negative im-
20 pact on the successful completion of the agency
21 mission if the project experienced significant
22 cost, schedule, or performance deviations.

23 “(c) COST, SCHEDULE, AND PERFORMANCE RE-
24 PORTS.—

1 “(1) QUARTERLY REPORTS.—Not later than 14
2 days after the end of each fiscal quarter, the project
3 manager designated by the Agency Head for an IT
4 investment project shall submit information to the
5 Chief Information Officer that includes, as of the
6 last day of the applicable quarter—

7 “(A) a description of the cost, schedule,
8 and performance of all projects under the
9 project manager’s supervision;

10 “(B) the original and current project cost,
11 schedule, and performance benchmarks for each
12 project under the project manager’s supervision;

13 “(C) the quarterly and cumulative cost,
14 schedule, and performance variance related to
15 each IT investment project under the project
16 manager’s supervision since the commencement
17 of the project;

18 “(D) for each project under the project
19 manager’s supervision, any known, expected, or
20 anticipated changes to project schedule mile-
21 stones or project performance benchmarks in-
22 cluded as part of the original or current base-
23 line description;

24 “(E) the current cost, schedule, and per-
25 formance status of all projects under super-

1 vision that were previously identified as signifi-
2 cantly deviated or grossly deviated; and

3 “(F) any corrective actions taken to ad-
4 dress problems discovered under subparagraphs
5 (C) through (E).

6 “(2) INTERIM REPORTS.—If the project man-
7 ager for an IT investment project determines that
8 there is reasonable cause to believe that an IT in-
9 vestment project has significantly deviated or grossly
10 deviated since the issuance of the latest quarterly re-
11 port, the project manager shall submit to the Chief
12 Information Officer, not later than 21 days after
13 such determination, information on the project that
14 includes, as of the date of the report—

15 “(A) a description of the original and cur-
16 rent program cost, schedule, and performance
17 benchmarks;

18 “(B) the cost, schedule, or performance
19 variance related to the IT investment project
20 since the commencement of the project;

21 “(C) any known, expected, or anticipated
22 changes to the project schedule milestones or
23 project performance benchmarks included as
24 part of the original or current baseline descrip-
25 tion;

1 “(D) the major reasons underlying the sig-
2 nificant or gross deviation of the project; and

3 “(E) a corrective action plan to correct
4 such deviations.

5 “(d) DETERMINATION OF SIGNIFICANT DEVI-
6 ATION.—

7 “(1) CHIEF INFORMATION OFFICER.—Upon re-
8 ceiving information under subsection (c), the Chief
9 Information Officer shall—

10 “(A) determine if any IT investment
11 project has significantly deviated; and

12 “(B) report such determination to the
13 Agency Head.

14 “(2) CONGRESSIONAL NOTIFICATION.—If the
15 Chief Information Officer determines under para-
16 graph (1) that an IT investment project has signifi-
17 cantly deviated and the Agency Head has not sub-
18 mitted information to the appropriate congressional
19 committees of a significant deviation for that project
20 under this section since the project was last required
21 to be rebaselined under this section, the Agency
22 Head shall submit information to the appropriate
23 congressional committees, the Director, and the Gov-
24 ernment Accountability Office that includes—

25 “(A) notification of such determination;

1 “(B) the date on which such determination
2 was made;

3 “(C) the amount of the cost increases and
4 the extent of the schedule delays with respect to
5 such project;

6 “(D) any requirements that—

7 “(i) were added subsequent to the
8 original baseline; or

9 “(ii) were originally contracted for,
10 but were changed by deferment or deletion
11 from the original baseline, or were other-
12 wise no longer included in the require-
13 ments contracted for;

14 “(E) an explanation of the differences be-
15 tween—

16 “(i) the estimate at completion be-
17 tween the project manager, any contractor,
18 and any independent analysis; and

19 “(ii) the original budget at comple-
20 tion;

21 “(F) a statement of the reasons underlying
22 the project’s significant deviation; and

23 “(G) a summary of the plan of action to
24 remedy the significant deviation.

25 “(3) DEADLINE.—

1 “(A) NOTIFICATION BASED ON QUARTERLY
2 REPORT.—If the determination of significant
3 deviation is based on information submitted
4 under subsection (c)(1), the Agency Head shall
5 notify Congress and the Director in accordance
6 with paragraph (2) not later than 21 days after
7 the end of the quarter upon which such infor-
8 mation is based.

9 “(B) NOTIFICATION BASED ON INTERIM
10 REPORT.—If the determination of significant
11 deviation is based on information submitted
12 under subsection (c)(2), the Agency Head shall
13 notify Congress and the Director in accordance
14 with paragraph (2) not later than 21 days after
15 the submission of such information.

16 “(e) DETERMINATION OF GROSS DEVIATION.—

17 “(1) CHIEF INFORMATION OFFICER.—Upon re-
18 ceiving information under subsection (c), the Chief
19 Information Officer shall—

20 “(A) determine if any IT investment
21 project has grossly deviated; and

22 “(B) report any such determination to the
23 Agency Head.

24 “(2) CONGRESSIONAL NOTIFICATION.—If the
25 Chief Information Officer determines under para-

1 graph (1) that an IT investment project has grossly
2 deviated and the Agency Head has not submitted in-
3 formation to the appropriate congressional commit-
4 tees of a gross deviation for that project under this
5 section since the project was last required to be
6 rebaselined under this section, the Agency Head
7 shall submit information to the appropriate congress-
8 sional committees, the Director, and the Government
9 Accountability Office that includes—

10 “(A) notification of such determination,
11 which—

12 “(i) identifies the date on which such
13 determination was made; and

14 “(ii) indicates whether or not the
15 project has been previously reported as a
16 significant or gross deviation by the Chief
17 Information Officer, and the date of any
18 such report;

19 “(B) incorporations by reference of all
20 prior reports to Congress on the project re-
21 quired under this section;

22 “(C) updated accounts of the items de-
23 scribed in subparagraphs (C) through (G) of
24 subsection (d)(2);

1 “(D) the original estimate at completion
2 for the project manager, any contractor, and
3 any independent analysis;

4 “(E) a graphical depiction that shows
5 monthly planned expenditures against actual
6 expenditures since the commencement of the
7 project;

8 “(F) the amount, if any, of incentive or
9 award fees any contractor has received since the
10 commencement of the contract and the reasons
11 for receiving such incentive or award fees;

12 “(G) the project manager’s estimated cost
13 at completion and estimated completion date for
14 the project if current requirements are not
15 modified;

16 “(H) the project manager’s estimated cost
17 at completion and estimated completion date for
18 the project based on reasonable modification of
19 such requirements;

20 “(I) an explanation of the most significant
21 occurrence contributing to the variance identi-
22 fied, including cost, schedule, and performance
23 variances, and the effect such occurrence will
24 have on future project costs and program
25 schedule;

1 “(J) a statement regarding previous or an-
2 ticipated rebaselining or replanning of the
3 project and the names of the individuals respon-
4 sible for approval;

5 “(K) the original life cycle cost of the in-
6 vestment and the expected life cycle cost of the
7 investment expressed in constant base year dol-
8 lars and in current dollars; and

9 “(L) a comprehensive plan of action to
10 remedy the gross deviation, and milestones es-
11 tablished to control future cost, schedule, and
12 performance deviations in the future.

13 “(3) REMEDIAL ACTION.—

14 “(A) IN GENERAL.—If the Chief Informa-
15 tion Officer determines under paragraph (1)(A)
16 that an IT investment project has grossly devi-
17 ated, the Agency Head, in consultation with the
18 Chief Information Officer and the appropriate
19 project manager, shall develop and implement a
20 remedial action plan that includes—

21 “(i) a report that—

22 “(I) describes the primary busi-
23 ness case and key functional require-
24 ments for the project;

1 “(II) describes any portions of
2 the project that have technical re-
3 quirements of sufficient clarity that
4 such portions may be feasibly pro-
5 cured under fixed-price contracts;

6 “(III) includes a certification by
7 the Agency Head, after consultation
8 with the Chief Information Officer,
9 that all technical and business re-
10 quirements have been reviewed and
11 validated to ensure alignment with the
12 reported business case;

13 “(IV) describes any changes to
14 the primary business case or key func-
15 tional requirements which have oc-
16 curred since project inception; and

17 “(V) includes an independent
18 government cost estimate for the
19 project conducted by an entity ap-
20 proved by the Director;

21 “(ii) an analysis that—

22 “(I) describes agency business
23 goals that the project was originally
24 designed to address;

1 “(II) includes a gap analysis of
2 what project deliverables remain in
3 order for the agency to accomplish the
4 business goals referred to in subclause
5 (I);

6 “(III) identifies the 3 most cost-
7 effective alternative approaches to the
8 project which would achieve the busi-
9 ness goals referred to in subclause (I);
10 and

11 “(IV) includes a cost-benefit
12 analysis, which compares—

13 “(aa) the completion of the
14 project with the completion of
15 each alternative approach, after
16 factoring in future costs associ-
17 ated with the termination of the
18 project; and

19 “(bb) the termination of the
20 project without pursuit of alter-
21 natives, after factoring in fore-
22 gone benefits; and

23 “(iii) a new baseline of the project is
24 established that is consistent with the inde-

1 pendent government cost estimate required
2 under clause (i)(V); and

3 “(iv) the project is designated as a
4 core IT investment project and subjected
5 to the requirements under subsection (f).

6 “(B) SUBMISSION TO CONGRESS.—The re-
7 medial action plan and all corresponding re-
8 ports, analyses, and actions under this para-
9 graph shall be submitted to the appropriate
10 congressional committees and the Director.

11 “(C) REPORTING AND ANALYSIS EXEMP-
12 TIONS.—

13 “(i) IN GENERAL.—The Chief Infor-
14 mation Officer, in coordination with the
15 Agency Head and the Director, may forego
16 the completion of any element of a report
17 or analysis under clause (i) or (ii) of sub-
18 paragraph (A) if the Chief Information Of-
19 ficer determines that such element is not
20 relevant to the understanding of the chal-
21 lenges facing the project or that such ele-
22 ment does not further the remedial steps
23 necessary to ensure that the project is
24 completed in a timely and cost-efficient
25 manner.

1 “(ii) IDENTIFICATION OF REASONS.—
2 The Chief Information Officer shall include
3 the reasons for not including any element
4 referred to in clause (i) in the report sub-
5 mitted to Congress under subparagraph
6 (B).

7 “(4) DEADLINE AND FUNDING CONTIN-
8 GENCY.—

9 “(A) NOTIFICATION AND REMEDIAL AC-
10 TION BASED ON QUARTERLY REPORT.—

11 “(i) IN GENERAL.—If the determina-
12 tion of gross deviation is based on a report
13 submitted under subsection (c)(1), the
14 Agency Head shall—

15 “(I) not later than 45 days after
16 the end of the quarter upon which
17 such report is based, notify the appro-
18 priate congressional committees and
19 the Director in accordance with para-
20 graph (2); and

21 “(II) not later than 180 days
22 after the end of the quarter upon
23 which such report is based, ensure the
24 completion of remedial action under
25 paragraph (3).

1 “(ii) FAILURE TO MEET DEAD-
2 LINES.—If the Agency Head fails to meet
3 the deadline described in clause (i)(II), ad-
4 ditional funds may not be obligated to sup-
5 port expenditures associated with the
6 project until the requirements of this sub-
7 section have been fulfilled, except for ex-
8 penditures to address reporting notifica-
9 tions, remedial actions, and other require-
10 ments under this Act.

11 “(B) NOTIFICATION AND REMEDIAL AC-
12 TION BASED ON INTERIM REPORT.—

13 “(i) IN GENERAL.—If the determina-
14 tion of gross deviation is based on a report
15 submitted under subsection (c)(2), the
16 Agency Head shall—

17 “(I) not later than 45 days after
18 the submission of such report, notify
19 the appropriate congressional commit-
20 tees in accordance with paragraph (2);
21 and

22 “(II) not later than 180 days
23 after the submission of such report,
24 ensure the completion of remedial ac-
25 tion in accordance with paragraph (3).

1 “(ii) FAILURE TO MEET DEAD-
2 LINES.—If the Agency Head fails to meet
3 the deadline described in clause (i)(II), ad-
4 ditional funds may not be obligated to sup-
5 port expenditures associated with the
6 project until the requirements of this sub-
7 section have been fulfilled, except for ex-
8 penditures to address reporting notifica-
9 tions, remedial actions, and other require-
10 ments under this Act.

11 “(f) ADDITIONAL REQUIREMENTS FOR CORE IT IN-
12 VESTMENT PROJECT REPORTS.—

13 “(1) INITIAL REPORT.—If a remedial action
14 plan described in subsection (e)(3)(A) has not been
15 submitted for a core IT investment project, the
16 Agency Head, in coordination with the Chief Infor-
17 mation Officer and responsible program managers,
18 shall prepare an initial report for inclusion in the
19 first budget submitted to Congress under section
20 1105(a) of title 31, United States Code, after the
21 designation of a project as a core IT investment
22 project, which includes—

23 “(A) a description of the primary business
24 case and key functional requirements for the
25 project;

1 “(B) an identification and description of
2 any portions of the project that have technical
3 requirements of sufficient clarity that such por-
4 tions may be feasibly procured under fixed-price
5 contracts;

6 “(C) an independent cost estimate for the
7 project;

8 “(D) certification by the Chief Information
9 Officer that all technical and business require-
10 ments have been reviewed and validated to en-
11 sure alignment with the reported business case;
12 and

13 “(E) any changes to the primary business
14 case or key functional requirements which have
15 occurred since project inception.

16 “(2) QUARTERLY REVIEW OF BUSINESS
17 CASE.—The Agency Head, in coordination with the
18 Chief Information Officer and responsible program
19 managers, shall—

20 “(A) monitor the primary business case
21 and core functionality requirements reported to
22 Congress and the Director for designated core
23 IT investment projects; and

24 “(B) if changes to the primary business
25 case or key functional requirements for a core

1 IT investment project occur in any fiscal quar-
2 ter, submit a report to Congress and the Direc-
3 tor not later than 14 days after the end of such
4 quarter that details the changes and describes
5 the impact the changes will have on the cost
6 and ultimate effectiveness of the project.

7 “(3) ALTERNATIVE SIGNIFICANT DEVIATION
8 DETERMINATION.—If the Chief Information Officer
9 determines, subsequent to a change in the primary
10 business case or key functional requirements, that
11 without such change the project would have signifi-
12 cantly deviated—

13 “(A) the Chief Information Officer shall
14 notify the Agency Head of the significant devi-
15 ation; and

16 “(B) the Agency Head shall fulfill the re-
17 quirements under subsection (d)(2) in accord-
18 ance with the deadlines under subsection (d)(3).

19 “(4) ALTERNATIVE GROSS DEVIATION DETER-
20 MINATION.—If the Chief Information Officer deter-
21 mines, subsequent to a change in the primary busi-
22 ness case or key functional requirements, that with-
23 out such change the project would have grossly devi-
24 ated—

1 “(A) the Chief Information Officer shall
2 notify the Agency Head of the gross deviation;
3 and

4 “(B) the Agency Head shall fulfill the re-
5 quirements under subsections (e)(2) and (e)(3)
6 in accordance with subsection (e)(4).

7 “(g) METHOD OF DELIVERY.—Reports and other in-
8 formation required under this section may be submitted
9 through the Web site established under section
10 11302(c)(1) in a manner consistent with guidance from
11 the Office of Management and Budget to satisfy reporting
12 requirements and to reduce paperwork.

13 “(h) DEPARTMENT OF DEFENSE ACQUISITIONS.—
14 The requirements of section 2445a of title 10, United
15 States Code, shall apply to the information technology in-
16 vestment projects of the Department of Defense instead
17 of the requirements under this section.”.

18 (b) INCLUSION IN THE BUDGET SUBMITTED TO CON-
19 GRESS.—Section 1105(a) of title 31, United States Code,
20 is amended—

21 (1) in the matter preceding paragraph (1), by
22 striking “include in each budget the following:” and
23 inserting “include in each budget—”;

1 (2) by redesignating the second paragraph (33)
2 (as added by section 889(a) of Public Law 107–296)
3 as paragraph (35);

4 (3) in each of paragraphs (1) through (34), by
5 striking the period at the end and inserting a semi-
6 colon;

7 (4) in paragraph (35), as redesignated by para-
8 graph (2), by striking the period at the end and in-
9 serting “; and”; and

10 (5) by adding at the end the following:

11 “(36) the reports prepared under section
12 11317(f) of title 40, United States Code, relating to
13 the core IT investment projects of the agency.”.

14 (c) IMPROVEMENT OF INFORMATION TECHNOLOGY
15 ACQUISITION AND DEVELOPMENT.—Subchapter II of
16 chapter 113 of title 40, United States Code, is amended
17 by adding at the end the following:

18 **“SEC. 11319. ACQUISITION AND DEVELOPMENT.**

19 “(a) PURPOSE.—The objective of this section is to
20 significantly reduce—

21 “(1) cost overruns and schedule slippage from
22 the estimates established at the time the program is
23 initially approved;

1 “(2) the number of requirements and business
2 objectives at the time the program is approved that
3 are not met by the delivered products; and

4 “(3) the number of critical defects and serious
5 defects in delivered information technology.

6 “(b) OMB GUIDANCE.—The Director of the Office
7 of Management and Budget shall—

8 “(1) not later than 180 days after the date of
9 the enactment of this section, prescribe uniformly
10 applicable guidance for agencies to implement the
11 requirements of this section, which shall not include
12 any exemptions to such requirements not specifically
13 authorized under this section; and

14 “(2) take any actions that are necessary to en-
15 sure that Federal agencies are in compliance with
16 the guidance prescribed pursuant to paragraph (1)
17 not later than 1 year after the date of the enactment
18 of this section.

19 “(c) ESTABLISHMENT OF PROGRAM.—Not later than
20 180 days after the date of the enactment of this section,
21 each Agency Head (as defined in section 11317(a) of title
22 40, United States Code) shall establish a program to im-
23 prove the information technology (referred to in this sec-
24 tion as ‘IT’) processes overseen by the Chief Information
25 Officer.

1 “(d) PROGRAM REQUIREMENTS.—Each program es-
2 tablished pursuant to this section shall include—

3 “(1) a documented process for IT acquisition
4 planning, requirements development and manage-
5 ment, project management and oversight, earned-
6 value management, and risk management;

7 “(2) the development of appropriate metrics
8 that can be implemented and monitored on a real-
9 time dashboard for performance measurement of—

10 “(A) processes and development status of
11 investments;

12 “(B) continuous process improvement of
13 the program; and

14 “(C) achievement of program and invest-
15 ment outcomes;

16 “(3) a process to ensure that key program per-
17 sonnel have an appropriate level of experience, train-
18 ing, and education, at an institution or institutions
19 approved by the Director, in the planning, acquisi-
20 tion, execution, management, and oversight of IT;

21 “(4) a process to ensure that the agency imple-
22 ments and adheres to established processes and re-
23 quirements relating to the planning, acquisition, exe-
24 cution, management, and oversight of IT programs
25 and developments; and

1 “(5) a process for the Chief Information Officer
2 to intervene or stop the funding of an IT investment
3 if it is at risk of not achieving major project mile-
4 stones.

5 “(e) ANNUAL REPORT TO OMB.—Not later than the
6 last day of February of each year, the Agency Head shall
7 submit a report to the Office of Management and Budget
8 that includes—

9 “(1) a detailed summary of the accomplish-
10 ments of the program established by the Agency
11 Head pursuant to this section;

12 “(2) the status of completeness of implementa-
13 tion of each of the program requirements, and the
14 date each such requirement was deemed to be com-
15 pleted;

16 “(3) the percentage of Federal IT projects cov-
17 ered under the program compared to all of the IT
18 projects of the agency, listed by number of programs
19 and by annual dollars expended;

20 “(4) a detailed breakdown of the sources and
21 uses of the amounts spent by the agency during the
22 previous fiscal year to support the activities of the
23 program;

1 “(5) a copy of any guidance issued under the
2 program and a statement regarding whether each
3 such guidance is mandatory;

4 “(6) the identification of the metrics developed
5 in accordance with subsection (b)(2);

6 “(7) a description of how paragraphs (3) and
7 (4) of subsection (b) have been implemented and any
8 related agency guidance; and

9 “(8) a description of how agencies will continue
10 to review and update the implementation and objec-
11 tives of such guidance.

12 “(f) ANNUAL REPORT TO CONGRESS.—The Director
13 of the Office of Management and Budget shall provide an
14 annual report to Congress on the status and implementa-
15 tion of the program established pursuant to this section.

16 “(g) DEPARTMENT OF DEFENSE ACQUISITIONS.—
17 The requirements of section 2223a of title 10, United
18 States Code, shall apply to the information technology in-
19 vestment projects of the Department of Defense instead
20 of the requirements under this section.”.

21 (d) CLERICAL AMENDMENTS.—The table of sections
22 for chapter 113 of title 40, United States Code, is amend-
23 ed—

24 (1) by striking the item relating to section
25 11317 and inserting the following:

“11317. Significant and gross deviations.”; and

1 (2) by inserting after the item relating to sec-
2 tion 11318 the following:

“11319. Acquisition and development.”.

3 **SEC. 5. MAJOR AUTOMATED INFORMATION SYSTEM PRO-**
4 **GRAMS OF THE DEPARTMENT OF DEFENSE.**

5 (a) PROGRAM TO IMPROVE INFORMATION TECH-
6 NOLOGY PROCESSES.—Chapter 131 of title 10, United
7 States Code, is amended by adding after section 2223 the
8 following:

9 **“§ 2223a. Information technology acquisition plan-**
10 **ning and oversight requirements**

11 “(a) ESTABLISHMENT OF PROGRAM.—The Secretary
12 of Defense shall establish a program to improve the plan-
13 ning and oversight processes for the acquisition of major
14 automated information systems by the Department of De-
15 fense.

16 “(b) PROGRAM COMPONENTS.—The program estab-
17 lished under subsection (a) shall include—

18 “(1) a documented process for information
19 technology acquisition planning, requirements devel-
20 opment and management, project management and
21 oversight, earned value management, and risk man-
22 agement;

23 “(2) the development of appropriate metrics
24 that can be implemented and monitored on a real-
25 time basis for performance measurement of—

1 “(A) processes and development status of
2 investments in major automated information
3 system programs;

4 “(B) continuous process improvement of
5 the program; and

6 “(C) achievement of program and invest-
7 ment outcomes;

8 “(3) a process to ensure that key program per-
9 sonnel have an appropriate level of experience, train-
10 ing, and education in the planning, acquisition, exe-
11 cution, management, and oversight of information
12 technology systems;

13 “(4) a process to ensure that military depart-
14 ments and defense agencies adhere to established
15 processes and requirements relating to the planning,
16 acquisition, execution, management, and oversight of
17 information technology programs and developments;
18 and

19 “(5) a process under which an appropriate De-
20 partment of Defense official may intervene or termi-
21 nate the funding of an information technology in-
22 vestment if the investment is at risk of not achieving
23 major project milestones.”.

1 (b) ANNUAL REPORT TO CONGRESS.—Section
2 2445b(b) of title 10, United States Code is amended by
3 adding at the end the following:

4 “(5) For each major automated information
5 system program for which such information has not
6 been provided in a previous annual report—

7 “(A) a description of the primary business
8 case and key functional requirements for the
9 program;

10 “(B) a description of the analysis of alter-
11 natives conducted with regard to the program;

12 “(C) an assessment of the extent to which
13 the program, or portions of the program, have
14 technical requirements of sufficient clarity that
15 the program, or portions of the program, may
16 be feasibly procured under firm, fixed-price con-
17 tracts;

18 “(D) the most recent independent cost es-
19 timate or cost analysis for the program pro-
20 vided by the Director of Cost Assessment and
21 Program Evaluation in accordance with section
22 2334(a)(6);

23 “(E) a certification by a Department of
24 Defense acquisition official with responsibility
25 for the program that all technical and business

1 requirements have been reviewed and validated
2 to ensure alignment with the business case; and
3 “(F) an explanation of the basis for the
4 certification described in subparagraph (E).

5 “(6) For each major automated information
6 system program for which the information required
7 under paragraph (5) has been provided in a previous
8 annual report, a summary of any significant changes
9 to the information previously provided.”.

10 **SEC. 6. IT SWAT TEAM.**

11 (a) **PURPOSE.**—The Director of the Office of Man-
12 agement of Budget (referred to in this section as the “Di-
13 rector”), in consultation with the Administrator of the Of-
14 fice of Electronic Government and Information and Tech-
15 nology at the Office of Management and Budget (referred
16 to in this section as the “E-Gov Administrator”), shall as-
17 sist agencies in avoiding significant and gross deviations
18 in the cost, schedule, and performance of IT investment
19 projects (as such terms are defined in section 11317(a)
20 of title 40, United States Code).

21 (b) **IT SWAT TEAM.**—

22 (1) **ESTABLISHMENT.**—Not later than 180 days
23 after the date of the enactment of this Act, the Di-
24 rector shall promulgate policy and guidance for the
25 head of each Federal agency that establishes proce-

1 dures for the creation of a small group of individuals
2 (referred to in this section as the “IT SWAT
3 Team”) to carry out the purpose described in sub-
4 section (a).

5 (2) QUALIFICATIONS.—Individuals selected for
6 the IT SWAT Team—

7 (A) shall be certified at the Senior/Expert
8 level according to the Federal Acquisition Cer-
9 tification for Program and Project Managers
10 (FAC-P/PM);

11 (B) shall have comparable education, cer-
12 tification, training, and experience to success-
13 fully manage high-risk IT investment projects;
14 or

15 (C) shall have expertise in the successful
16 management or oversight of planning, architec-
17 ture, process, integration, or other technical
18 and management aspects using proven process
19 best practices on high-risk IT investment
20 projects.

21 (3) NUMBER.—The Director, in consultation
22 with the E-Gov Administrator and the head of the
23 agency primarily responsible for the IT investment,
24 shall determine the number of individuals who will
25 be selected for the IT SWAT Team.

1 (c) OUTSIDE CONSULTANTS.—

2 (1) IDENTIFICATION.—The E-Gov Adminis-
3 trator and representatives of the Chief Information
4 Officers Council shall identify consultants in the pri-
5 vate sector who have expert knowledge in IT pro-
6 gram management and program management review
7 teams. Not more than 20 percent of such consult-
8 ants may be formally associated with any 1 of the
9 following types of entities:

10 (A) Commercial firms.

11 (B) Nonprofit entities.

12 (C) Federally funded research and develop-
13 ment centers.

14 (2) USE OF CONSULTANTS.—

15 (A) IN GENERAL.—Consultants identified
16 under paragraph (1) may be used to assist the
17 IT SWAT Team in assessing and improving IT
18 investment projects.

19 (B) LIMITATION.—Consultants with a for-
20 mally established relationship with an organiza-
21 tion may not participate in any assessment in-
22 volving an IT investment project for which such
23 organization is under contract to provide tech-
24 nical support.

1 (C) EXCEPTION.—The limitation described
2 in subparagraph (B) may not be construed as
3 precluding access to anyone having relevant in-
4 formation helpful to the conduct of the assess-
5 ment.

6 (3) CONTRACTS.—The E-Gov Administrator, in
7 conjunction with the Administrator of the General
8 Services Administration (GSA), may establish com-
9 petitively bid contracts with 1 or more qualified con-
10 sultants, independent of any GSA schedule.

11 (d) INITIAL RESPONSE TO ANTICIPATED SIGNIFI-
12 CANT OR GROSS DEVIATION.—If the head of the Federal
13 agency primarily responsible for the major IT investment
14 or the E-Gov Administrator determines that there is rea-
15 sonable cause to believe that a major IT investment
16 project is likely to significantly or grossly deviate (as de-
17 fined in section 11317(a) of title 40, United States Code),
18 including the receipt of inconsistent or missing data, or
19 if such agency head or the E-Gov Administrator deter-
20 mines that the assignment of 1 or more members of the
21 IT SWAT Team could meaningfully reduce the possibility
22 of significant or gross deviation, such agency head or the
23 E-Gov Administrator shall carry out the following activi-
24 ties:

1 (1) Recommend the assignment of 1 or more
2 members of the IT SWAT Team to assess the
3 project in accordance with the scope and time period
4 described in section 11317(c)(1) of title 40, United
5 States Code, beginning not later than 14 days after
6 such recommendation. No member of the SWAT
7 Team who is associated with the department or
8 agency whose IT investment project is the subject of
9 the assessment may be assigned to participate in
10 this assessment. Such limitation may not be con-
11 strued as precluding access to anyone having rel-
12 evant information helpful to the conduct of the as-
13 sessment.

14 (2) If such agency head or the E-Gov Adminis-
15 trator determines that 1 or more qualified consult-
16 ants are needed to support the efforts of the IT
17 SWAT Team under paragraph (1), negotiate a con-
18 tract with the consultant to provide such support
19 during the period in which the IT SWAT Team is
20 conducting the assessment described in paragraph
21 (1).

22 (3) Ensure that the costs of an assessment
23 under paragraph (1) and the support services of 1
24 or more consultants under paragraph (2) are paid
25 for by the agency being assessed.

1 (4) Monitor the progress made by the IT
2 SWAT Team in assessing the project.

3 (e) REDUCTION OF SIGNIFICANT OR GROSS DEVI-
4 ATION.—If the agency head described in subsection (d) or
5 the E-Gov Administrator determines that the assessment
6 conducted under subsection (d) confirms that a major IT
7 investment project is likely to significantly or grossly devi-
8 ate, such agency head or the E-Gov Administrator shall
9 take steps to reduce the deviation, which may include—

10 (1) providing training, education, or mentoring
11 to improve the qualifications of the program man-
12 ager;

13 (2) replacing the program manager or other
14 staff;

15 (3) supplementing the program management
16 team with Federal Government employees or inde-
17 pendent contractors;

18 (4) terminating the project; or

19 (5) hiring an independent contractor to report
20 directly to senior management and the E-Gov Ad-
21 ministrator.

22 (f) ENFORCEMENT OF ACCOUNTABILITY.—The Di-
23 rector may use the actions directed under section
24 11303(b)(5) of title 5, United States Code, to enforce ac-

1 countability of the head of the agency and for the invest-
2 ments made by the agency in information technology.

3 (g) REPORT TO CONGRESS.—The Director shall in-
4 clude in the annual Report to Congress on the Benefits
5 of E-Government Initiatives a detailed summary of the
6 composition and activities of the IT SWAT Team, includ-
7 ing—

8 (1) the number and qualifications of individuals
9 on the IT SWAT Team;

10 (2) a description of the IT investment projects
11 that the IT SWAT Team has worked during the
12 previous fiscal year;

13 (3) the major issues that necessitated the in-
14 volvement of the IT SWAT Team to assist agencies
15 with assessing and managing IT investment projects
16 and whether such issues were satisfactorily resolved;

17 (4) if the issues referred to in paragraph (3)
18 were not satisfactorily resolved, the issues still need-
19 ed to be resolved and the Agency Head's plan for re-
20 solving such issues;

21 (5) a detailed breakdown of the sources and
22 uses of the amounts spent by the Office of Manage-
23 ment and Budget and other Federal agencies during
24 the previous fiscal year to support the activities of
25 the IT SWAT Team; and

1 (6) a determination of whether the IT SWAT
2 Team has been effective in—

3 (A) preventing projects from deviating
4 from the original baseline; and

5 (B) assisting agencies in conducting appro-
6 priate analysis and planning before a project is
7 funded.

8 **SEC. 7. AWARDS FOR PERSONNEL FOR EXCELLENCE IN**
9 **THE ACQUISITION OF INFORMATION SYS-**
10 **TEMS AND INFORMATION TECHNOLOGY.**

11 (a) **IN GENERAL.**—Not later than 180 days after the
12 enactment of this Act, the Director of the Office of Per-
13 sonnel Management shall develop policy and guidance for
14 agencies to develop a program to recognize excellent per-
15 formance by Federal Government employees and teams of
16 such employees in the acquisition of information systems
17 and information technology for the agency.

18 (b) **ELEMENTS.**—The program referred to in sub-
19 section (a) shall, to the extent practicable—

20 (1) obtain objective outcome measures; and

21 (2) include procedures for—

22 (A) the nomination of Federal Government
23 employees and teams of such employees for eli-
24 gibility for recognition under the program; and

1 (B) the evaluation of nominations for rec-
2 ognition under the program by 1 or more agen-
3 cy panels of individuals from government, aca-
4 demia, and the private sector who have such ex-
5 pertise, and are appointed in such a manner, as
6 the Director of the Office of Personal Manage-
7 ment shall establish for purposes of the pro-
8 gram.

9 (c) AWARD OF CASH BONUSES AND OTHER INCEN-
10 TIVES.—As part of the program referred to in subsection
11 (a), the Director of the Office of Personnel Management,
12 in consultation with the Director of the Office of Manage-
13 ment and Budget, shall establish policies and guidance for
14 agencies to reward any Federal Government employee or
15 teams of such employees recognized pursuant to the pro-
16 gram—

17 (1) by awarding a cash bonus authorized by any
18 other provision of law to the extent that the per-
19 formance of such individual so recognized warrants
20 the award of such bonus under such provision of
21 law;

22 (2) through promotions and other nonmonetary
23 awards;

24 (3) by publicizing acquisition accomplishments
25 by individual employees and, as appropriate, the tan-

1 gible end benefits that resulted from such accom-
2 plishments; and

3 (4) through other awards, incentives, or bo-
4 nuses that the head of the agency considers appro-
5 priate.

Passed the Senate May 19, 2010.

Attest:

Secretary.

111TH CONGRESS
2^D SESSION

S. 920

AN ACT

To amend section 11317 of title 40, United States Code, to improve the transparency of the status of information technology investments, to require greater accountability for cost overruns on Federal information technology investment projects, to improve the processes agencies implement to manage information technology investments, to reward excellence in information technology acquisition, and for other purposes.