

**Calendar No. 364**111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 920****[Report No. 111-179]**

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.

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**IN THE SENATE OF THE UNITED STATES**

APRIL 28, 2009

Mr. CARPER (for himself, Ms. COLLINS, Mr. LIEBERMAN, and Mr. VOINOVICH) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

MAY 5, 2010

Reported by Mr. LIEBERMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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**A BILL**

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 ae-  
 23 tual cost, schedule, and performance of agency infor-

1 mation technology investments and has difficulty  
 2 providing the necessary oversight.

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

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

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

18 **SEC. 3. REAL-TIME TRANSPARENCY OF IT INVESTMENT**  
 19 **PROJECTS.**

20 Section 11302(e)(1) of title 40, United States Code,  
 21 is amended by striking the period at the end and inserting  
 22 the following: “, including establishing a Website, updat-  
 23 ing the Website on a quarterly basis, and including on the  
 24 Website, not later than 90 days after the date of the enact-  
 25 ment of the Information Technology (IT) Investment

1 Oversight Enhancement and Waste Prevention Act of  
2 2009—

3 “(1) the cost, schedule, and performance of all  
4 major information technology investments using  
5 earned-value management data based on the ANSI  
6 EIA-748-B standard;

7 “(2) accurate quarterly information since the  
8 commencement of the project;

9 “(3) a graphical depiction of trend information  
10 since the commencement of the project;

11 “(4) a clear delineation of investments that  
12 have experienced cost, schedule, or performance vari-  
13 ance greater than 10 percent over the life cycle of  
14 the investment;

15 “(5) an explanation of the reasons the invest-  
16 ment deviated from the benchmark established at  
17 the commencement of the project; and

18 “(6) the number of times investments were  
19 rebaselined and the dates on which such rebaselines  
20 occurred.”

21 **SEC. 4. IT INVESTMENT PROJECTS.**

22 (a) **SIGNIFICANT AND GROSS DEVIATIONS.**—Section  
23 11317 of title 40, United States Code, is amended to read  
24 as follows:

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

2 “(a) **DEFINITIONS.**—In this subchapter:

3 “(1) **AGENCY HEAD.**—The term ‘Agency Head’  
4 means the head of the Federal agency that is pri-  
5 marily responsible for the IT investment project  
6 under review.

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

13 “(3) **APPROPRIATE CONGRESSIONAL COMMIT-**  
14 **TEES.**—The term ‘appropriate congressional com-  
15 mittees’ means—

16 “(A) the Committee on Homeland Security  
17 and Governmental Affairs of the Senate;

18 “(B) the Committee on Oversight and Gov-  
19 ernment Reform of the House of Representa-  
20 tives;

21 “(C) the Committee on Appropriations of  
22 the Senate;

23 “(D) the Committee on Appropriations of  
24 the House of Representatives; and

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

4           “(4) CHIEF INFORMATION OFFICER.—The term  
5           ‘Chief Information Officer’ means the Chief Infor-  
6           mation Officer designated under section 3506(a)(2)  
7           of title 44 of the Federal agency that is primarily re-  
8           sponsible for the IT investment project under review.

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

15          “(6) DIRECTOR.—The term ‘Director’ means  
16          the Director of the Office of Management and Budget.  
17          et.

18          “(7) EARNED VALUE MANAGEMENT.—The term  
19          ‘Earned Value Management’ means the cost, per-  
20          formance, and schedule data used to determine  
21          project status and developed in accordance with the  
22          ANSI EIA-748-B Standard.

23          “(8) GROSSLY DEVIATED.—The term ‘grossly  
24          deviated’ means cost, schedule, or performance vari-

1           ance that is at least 40 percent from the Original  
2           Baseline.

3           ~~“(9) INDEPENDENT GOVERNMENT COST ESTI-~~  
4           ~~MATE.—~~The term ‘independent government cost es-  
5           timate’ means a pragmatic and neutral analysis, as-  
6           sessment, and quantification of all costs and risks  
7           associated with the acquisition of an IT investment  
8           project, which—

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

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

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

22          ~~“(D) accounts for the full life cycle cost~~  
23          ~~plus associated operations and maintenance ex-~~  
24          ~~penses over the usable life of the project’s~~  
25          ~~deliverables.~~

1           “(10) IT INVESTMENT PROJECT.—The terms  
2           ‘IT investment project’ and ‘project’ mean an infor-  
3           mation technology system or information technology  
4           acquisition that—

5                   “(A) requires special management atten-  
6                   tion because of its importance to the mission or  
7                   function of the agency, a component of the  
8                   agency, or another organization;

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

11                  “(C) has significant program or policy im-  
12                  plications;

13                  “(D) has high executive visibility;

14                  “(E) has high development, operating, or  
15                  maintenance costs;

16                  “(F) is funded through other than direct  
17                  appropriations; or

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

20           “(11) LIFE CYCLE COST.—The term ‘life cycle  
21           cost’ means the total cost of an IT investment  
22           project for planning, research and development,  
23           modernization, enhancement, operation, and mainte-  
24           nance.

25           “(12) ORIGINAL BASELINE.—



1           “(A) IN GENERAL.—Except as provided  
2           under subparagraph (B), the term ‘Original  
3           Baseline’ means the ANSI EIA-748-B Stand-  
4           ard-compliant Earned Value Management  
5           benchmark established at the commencement of  
6           an IT investment project.

7           “(B) GROSSLY DEVIATED PROJECT.—If an  
8           IT investment project grossly deviates from its  
9           Original Baseline (as defined in subparagraph  
10          (A)), the term ‘Original Baseline’ means the  
11          ANSI EIA-748-B Standard-compliant Earned  
12          Value Management benchmark established  
13          under subsection (c)(3)(C).

14          “(13) SIGNIFICANTLY DEVIATED.—The term  
15          ‘significantly deviated’ means Earned Value Manage-  
16          ment variance that is at least 20 percent from the  
17          Original Baseline.

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

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

23                 “(2) designate any project as a ‘core IT invest-  
24                 ment project’ or a ‘core project’, upon determining

1 that the project is a mission critical IT investment  
2 project that—

3 “(A) represents a significant high dollar  
4 value relative to the average IT investment  
5 project in the agency’s portfolio;

6 “(B) delivers a capability critical to the  
7 successful completion of the agency mission, or  
8 a portion of such mission;

9 “(C) incorporates unproven or previously  
10 undeveloped technology to meet primary project  
11 technical requirements; or

12 “(D) would have a significant negative im-  
13 pact on the successful completion of the agency  
14 mission if the project experienced significant  
15 cost, schedule, or performance deviations.

16 “(e) COST, SCHEDULE, AND PERFORMANCE RE-  
17 PORTS.—

18 “(1) QUARTERLY REPORTS.—Not later than 14  
19 days after the end of each fiscal quarter, the project  
20 manager designated by the Agency Head for an IT  
21 investment project shall submit a written report to  
22 the Chief Information Officer that includes, as of  
23 the last day of the applicable quarter—

1           “(A) a description of the cost, schedule,  
2           and performance of all projects under the  
3           project manager’s supervision;

4           “(B) the original and current project cost,  
5           schedule, and performance benchmarks for each  
6           project under the project manager’s supervision;

7           “(C) the quarterly and cumulative cost,  
8           schedule, and performance variance related to  
9           each IT investment project under the project  
10          manager’s supervision since the commencement  
11          of the project;

12          “(D) for each project under the project  
13          manager’s supervision, any known, expected, or  
14          anticipated changes to project schedule mile-  
15          stones or project performance benchmarks in-  
16          cluded as part of the original or current base-  
17          line description;

18          “(E) the current cost, schedule, and per-  
19          formance status of all projects under super-  
20          vision that were previously identified as signifi-  
21          cantly deviated or grossly deviated; and

22          “(F) any corrective actions taken to ad-  
23          dress problems discovered under subparagraphs  
24          (C) through (E).

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

10                   “(A) a description of the original and cur-  
11                   rent program cost, schedule, and performance  
12                   benchmarks;

13                   “(B) the cost, schedule, or performance  
14                   variance related to the IT investment project  
15                   since the commencement of the project;

16                   “(C) any known, expected, or anticipated  
17                   changes to the project schedule milestones or  
18                   project performance benchmarks included as  
19                   part of the original or current baseline descrip-  
20                   tion;

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

23                   “(E) a corrective action plan to correct  
24                   such deviations.

1       “(d) DETERMINATION OF SIGNIFICANT DEVI-  
2    ATION.—

3               “(1) CHIEF INFORMATION OFFICER.—Upon re-  
4    ceiving a report under subsection (c), the Chief In-  
5    formation Officer shall—

6                       “(A) determine if any IT investment  
7                       project has significantly deviated; and

8                       “(B) report such determination to the  
9                       Agency Head.

10               “(2) CONGRESSIONAL NOTIFICATION.—If the  
11    Chief Information Officer determines under para-  
12    graph (1) that an IT investment project has signifi-  
13    cantly deviated and the Agency Head has not issued  
14    a report to the appropriate congressional committees  
15    of a significant deviation for that project under this  
16    section since the project was last required to be  
17    rebaselined under this section, the Agency Head  
18    shall submit a report to the appropriate congress-  
19    sional committees, the Director, and the Government  
20    Accountability Office that includes—

21                       “(A) written notification of such deter-  
22                       mination;

23                       “(B) the date on which such determination  
24                       was made;

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

4           “(D) any requirements that—

5               “(i) were added subsequent to the  
6 original contract; or

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

12           “(E) an explanation of the differences be-  
13 tween—

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

17               “(ii) the original budget at comple-  
18 tion;

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

21           “(G) a summary of the plan of action to  
22 remedy the significant deviation.

23           “(3) DEADLINE.—

24           “(A) NOTIFICATION BASED ON QUARTERLY  
25 REPORT.—If the determination of significant

1 deviation is based on a report submitted under  
2 subsection (c)(1), the Agency Head shall notify  
3 Congress and the Director in accordance with  
4 paragraph (2) not later than 21 days after the  
5 end of the quarter upon which such report is  
6 based.

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

14 “(e) DETERMINATION OF GROSS DEVIATION.—

15 “(1) CHIEF INFORMATION OFFICER.—Upon re-  
16 ceiving a report under subsection (c), the Chief In-  
17 formation Officer shall—

18 “(A) determine if any IT investment  
19 project has grossly deviated; and

20 “(B) report any such determination to the  
21 Agency Head.

22 “(2) CONGRESSIONAL NOTIFICATION.—If the  
23 Chief Information Officer determines under para-  
24 graph (1) that an IT investment project has grossly  
25 deviated and the Agency Head has not issued a re-

1 port to the appropriate congressional committees of  
2 a gross deviation for that project under this section  
3 since the project was last required to be rebaselined  
4 under this section; the Agency Head shall submit a  
5 report to the appropriate congressional committees,  
6 the Director, and the Government Accountability Of-  
7 fice that includes—

8 “(A) written notification of such deter-  
9 mination, which—

10 “(i) identifies the date on which such  
11 determination was made; and

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

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

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

23 “(D) the original estimate at completion  
24 for the project manager, any contractor, and  
25 any independent analysis;



1           “(E) a graphical depiction that shows  
2 monthly planned expenditures against actual  
3 expenditures since the commencement of the  
4 project;

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

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

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

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

23           “(J) a statement regarding previous or an-  
24 ticipated rebaselining or replanning of the

1 project and the names of the individuals respon-  
2 sible for approval;

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

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

11 “(3) REMEDIAL ACTION.—

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

19 “(i) a report that—

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

23 “(II) describes any portions of  
24 the project that have technical re-  
25 quirements of sufficient clarity that

1 such portions may be feasibly pro-  
2 cured under firm, fixed-price type con-  
3 tract;

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

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

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

19 “(ii) an analysis that—

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

23 “(II) includes a gap analysis of  
24 what project deliverables remain in  
25 order for the agency to accomplish the

1 business goals referred to in subclause  
2 (I);

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

8 “(IV) includes a cost-benefit  
9 analysis, which compares—

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

16 “(bb) the termination of the  
17 project without pursuit of alter-  
18 natives, after factoring in fore-  
19 gone benefits; and

20 “(iii) a new baseline of the project is  
21 established that is consistent with the inde-  
22 pendent government cost estimate required  
23 under clause (i)(V); and

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

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

9           “(C) REPORTING AND ANALYSIS EXEMP-  
10          TIONS.—

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

24           “(ii) IDENTIFICATION OF REASONS.—  
25          The Chief Information Officer shall include

1 the reasons for not including any element  
2 referred to in clause (i) in the report sub-  
3 mitted to Congress under subparagraph  
4 (B).

5 “(4) DEADLINE AND FUNDING CONTIN-  
6 GENCY.—

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

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

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

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

24 “(ii) FAILURE TO MEET DEAD-  
25 LINES.—If the Agency Head fails to meet

1 the deadline described in clause (i)(II), ad-  
 2 ditional funds may not be obligated to sup-  
 3 port expenditures associated with the  
 4 project until the requirements of this sub-  
 5 section have been fulfilled.

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

8 “(i) IN GENERAL.—If the determina-  
 9 tion of gross deviation is based on a report  
 10 submitted under subsection (c)(2), the  
 11 Agency Head shall—

12 “(I) not later than 45 days after  
 13 the submission of such report, notify  
 14 the appropriate congressional commit-  
 15 tees in accordance with paragraph (2);  
 16 and

17 “(II) not later than 180 days  
 18 after the submission of such report,  
 19 ensure the completion of remedial ac-  
 20 tion in accordance with paragraph (3).

21 “(ii) FAILURE TO MEET DEAD-  
 22 LINES.—If the Agency Head fails to meet  
 23 the deadline described in clause (i)(II), ad-  
 24 ditional funds may not be obligated to sup-  
 25 port expenditures associated with the

1 project until the requirements of this sub-  
2 section have been fulfilled.

3 “(f) ~~ADDITIONAL REQUIREMENTS FOR CORE IT IN-~~  
4 ~~VESTMENT PROJECT REPORTS.—~~

5 “(1) ~~INITIAL REPORT.—~~If a remedial action  
6 plan described in subsection (e)(3)(A) has not been  
7 submitted for a core IT investment project, the  
8 Agency Head, in coordination with the Chief Infor-  
9 mation Officer and responsible program managers,  
10 shall prepare an initial report for inclusion in the  
11 first budget submitted to Congress under section  
12 1105(a) of title 31, United States Code, after the  
13 designation of a project as a core IT investment  
14 project, which includes—

15 “(A) a description of the primary business  
16 case and key functional requirements for the  
17 project;

18 “(B) an identification and description of  
19 any portions of the project that have technical  
20 requirements of sufficient clarity that such por-  
21 tions may be feasibly procured under firm,  
22 fixed-price contracts;

23 “(C) an independent government cost esti-  
24 mate for the project;



1           ~~“(D)~~ certification by the Chief Information  
2           Officer that all technical and business require-  
3           ments have been reviewed and validated to en-  
4           sure alignment with the reported business case;  
5           and

6           ~~“(E)~~ any changes to the primary business  
7           case or key functional requirements which have  
8           occurred since project inception.

9           ~~“(2) QUARTERLY REVIEW OF BUSINESS~~  
10          CASE.—The Agency Head, in coordination with the  
11          Chief Information Officer and responsible program  
12          managers, shall—

13                 ~~“(A)~~ monitor the primary business case  
14                 and core functionality requirements reported to  
15                 Congress and the Director for designated core  
16                 IT investment projects; and

17                 ~~“(B)~~ if changes to the primary business  
18                 case or key functional requirements for a core  
19                 IT investment project occur in any fiscal quar-  
20                 ter, submit a report to Congress and the Direc-  
21                 tor not later than 14 days after the end of such  
22                 quarter that details the changes and describes  
23                 the impact the changes will have on the cost  
24                 and ultimate effectiveness of the project.

1           “(3) ALTERNATIVE SIGNIFICANT DEVIATION  
2 DETERMINATION.—If the Chief Information Officer  
3 determines, subsequent to a change in the primary  
4 business case or key functional requirements, that  
5 without such change the project would have signifi-  
6 cantly deviated—

7           “(A) the Chief Information Officer shall  
8 notify the Agency Head of the significant devi-  
9 ation; and

10           “(B) the Agency Head shall fulfill the re-  
11 quirements under subsection (d)(2) in accord-  
12 ance with the deadlines under subsection (d)(3).

13           “(4) ALTERNATIVE GROSS DEVIATION DETER-  
14 MINATION.—If the Chief Information Officer deter-  
15 mines, subsequent to a change in the primary busi-  
16 ness case or key functional requirements, that with-  
17 out such change the project would have grossly devi-  
18 ated—

19           “(A) the Chief Information Officer shall  
20 notify the Agency Head of the gross deviation;  
21 and

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

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

4 (1) in the matter preceding paragraph (1), by  
5 striking “include in each budget the following:” and  
6 inserting “include in each budget—”;

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

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

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

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

17 “(36) the reports prepared under section  
18 11317(f) of title 40, United States Code, relating to  
19 the core IT investment projects of the agency.”

20 (c) IMPROVEMENT OF INFORMATION TECHNOLOGY  
21 ACQUISITION AND DEVELOPMENT.—Subchapter H of  
22 chapter 113 of title 40, United States Code, is amended  
23 by adding at the end the following:

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

2 “(a) **PURPOSE.**—The objective of this section is to  
3 significantly reduce—

4 “(1) cost overruns and schedule slippage from  
5 the estimates established at the time the program is  
6 initially approved;

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

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

12 “(b) **OMB GUIDANCE.**—The Director of the Office  
13 of Management and Budget shall—

14 “(1) not later than 180 days after the date of  
15 the enactment of this section, prescribe uniformly  
16 applicable guidance for agencies to implement the  
17 requirements of this section, which shall not include  
18 any exemptions to such requirements not specifically  
19 authorized under this section; and

20 “(2) take any actions that are necessary to en-  
21 sure that Federal agencies are in compliance with  
22 the guidance prescribed pursuant to paragraph (1)  
23 not later than 1 year after the date of the enactment  
24 of this section.

25 “(c) **ESTABLISHMENT OF PROGRAM.**—Not later than  
26 120 days after the date of the enactment of this section,

1 each Chief Information Officer, upon the approval of the  
2 Agency Head (as defined in section 11317(a) of title 40,  
3 United States Code) shall establish a program to improve  
4 the information technology (referred to in this section as  
5 ‘IT’) processes overseen by the Chief Information Officer.

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

8 “(1) a documented process for IT acquisition  
9 planning; requirements development and manage-  
10 ment; project management and oversight; earned-  
11 value management; and risk management;

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

15 “(A) processes and development status of  
16 investments;

17 “(B) continuous process improvement of  
18 the program; and

19 “(C) achievement of program and invest-  
20 ment outcomes;

21 “(3) a process to ensure that key program per-  
22 sonnel have an appropriate level of experience; train-  
23 ing; and education; at an institution or institutions  
24 approved by the Director; in the planning; acquisi-  
25 tion; execution; management; and oversight of IT;

1           “(4) a process to ensure that the agency imple-  
2           ments and adheres to established processes and re-  
3           quirements relating to the planning, acquisition, exe-  
4           cution, management, and oversight of IT programs  
5           and developments; and

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

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

14                 “(1) a detailed summary of the accomplish-  
15                 ments of the program established by the Agency  
16                 Head pursuant to this section;

17                 “(2) the status of completeness of implementa-  
18                 tion of each of the program requirements, and the  
19                 date each such requirement was deemed to be com-  
20                 pleted;

21                 “(3) the percentage of Federal IT projects cov-  
22                 ered under the program compared to all of the IT  
23                 projects of the agency, listed by number of programs  
24                 and by annual dollars expended;

1           “(4) a detailed breakdown of the sources and  
2           uses of the amounts spent by the agency during the  
3           previous fiscal year to support the activities of the  
4           program;

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

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

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

13          “(8) a description of how agencies will continue  
14          to review and update the implementation and objec-  
15          tives of such guidance.

16          “(f) ANNUAL REPORT TO CONGRESS.—The Director  
17          of the Office of Management and Budget shall provide an  
18          annual report to Congress on the status and implementa-  
19          tion of the program established pursuant to this section.”.

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

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

               “11317. Significant and gross deviations.”;

25                 and

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

“11319. Acquisition and development.”.

3 **SEC. 5. IT TIGER TEAM.**

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

14          (b) **IT TIGER TEAM.**—

15               (1) **ESTABLISHMENT.**—Not later than 180 days  
16               after the date of the enactment of this Act, the E-  
17               Gov Administrator shall establish a small group of  
18               individuals (referred to in this section as the “IT  
19               Tiger Team”) to carry out the purpose described in  
20               subsection (a).

21               (2) **QUALIFICATIONS.**—Individuals selected for  
22               the IT Tiger Team—

23                       (A) shall be certified at the Senior/Expert  
24                       level according to the Federal Acquisition Cer-



1           tification for Program and Project Managers  
2           (~~FAC-P/PM~~);

3           (B) shall have comparable education, cer-  
4           tification, training, and experience to success-  
5           fully manage high-risk IT investment projects;  
6           or

7           (C) shall have expertise in the successful  
8           management or oversight of planning, architee-  
9           ture, process, integration, or other technical  
10          and management aspects using proven process  
11          best practices on high-risk IT investment  
12          projects.

13          (3) NUMBER.—The Director, in consultation  
14          with the E-Gov Administrator, shall determine the  
15          number of individuals who will be selected for the IT  
16          Tiger Team.

17          (e) OUTSIDE CONSULTANTS.—

18          (1) IDENTIFICATION.—The E-Gov Adminis-  
19          trator shall identify consultants in the private sector  
20          who have expert knowledge in IT program manage-  
21          ment and program management review teams. Not  
22          more than 20 percent of such consultants may be  
23          formally associated with any 1 of the following types  
24          of entities:

25                 (A) Commercial firms.

1           (B) Nonprofit entities.

2           (C) Federally funded research and develop-  
3           ment centers.

4           (2) USE OF CONSULTANTS.—

5           (A) IN GENERAL.—Consultants identified  
6           under paragraph (1) may be used to assist the  
7           IT Tiger Team in assessing and improving IT  
8           investment projects.

9           (B) LIMITATION.—Consultants with a for-  
10          mally established relationship with an organiza-  
11          tion may not participate in any assessment in-  
12          volving an IT investment project for which such  
13          organization is under contract to provide tech-  
14          nical support.

15          (C) EXCEPTION.—The limitation described  
16          in subparagraph (B) may not be construed as  
17          precluding access to anyone having relevant in-  
18          formation helpful to the conduct of the assess-  
19          ment.

20          (3) CONTRACTS.—The E-Gov Administrator, in  
21          conjunction with the Administrator of the General  
22          Services Administration (GSA), may establish com-  
23          petitively bid contracts with 1 or more qualified con-  
24          sultants, independent of any GSA schedule.

1       (d) INITIAL RESPONSE TO ANTICIPATED SIGNIFI-  
2 cant or gross deviation.—If the E-Gov Administrator  
3 determines there is reasonable cause to believe that a  
4 major IT investment project is likely to significantly or  
5 grossly deviate (as defined in section 11317(a) of title 40,  
6 United States Code), including the receipt of inconsistent  
7 or missing data, or if the E-Gov Administrator determines  
8 that the assignment of 1 or more members of the IT Tiger  
9 Team could meaningfully reduce the possibility of signifi-  
10 cant or gross deviation, the E-Gov Administrator shall  
11 carry out the following activities:

12           (1) Recommend the assignment of 1 or more  
13 members of the IT Tiger Team to assess the project  
14 in accordance with the scope and time period de-  
15 scribed in section 11317(e)(1) of title 40, United  
16 States Code, beginning not later than 14 days after  
17 such recommendation. No member of the Tiger  
18 Team who is associated with the department or  
19 agency whose IT investment project is the subject of  
20 the assessment may be assigned to participate in  
21 this assessment. Such limitation may not be con-  
22 strued as precluding access to anyone having rel-  
23 evant information helpful to the conduct of the as-  
24 sessment.

1           (2) If the E-Gov Administrator determines that  
2           1 or more qualified consultants are needed to sup-  
3           port the efforts of the IT Tiger Team under para-  
4           graph (1), negotiate a contract with the consultant  
5           to provide such support during the period in which  
6           the IT Tiger Team is conducting the assessment de-  
7           scribed in paragraph (1).

8           (3) Ensure that the costs of an assessment  
9           under paragraph (1) and the support services of 1  
10          or more consultants under paragraph (2) are paid  
11          by the major IT investment project being assessed.

12          (4) Monitor the progress made by the IT Tiger  
13          Team in assessing the project.

14          (e) REDUCTION OF SIGNIFICANT OR GROSS DEVI-  
15          ATION.—If the E-Gov Administrator determines that the  
16          assessment conducted under subsection (d) confirms that  
17          a major IT investment project is likely to significantly or  
18          grossly deviate, the E-Gov Administrator shall recommend  
19          that the Agency Head (as defined in section 11317(a)(1)  
20          of title 40, United States Code) take steps to reduce the  
21          deviation, which may include—

22                 (1) providing training, education, or mentoring  
23                 to improve the qualifications of the program man-  
24                 ager;

1           (2) replacing the program manager or other  
2 staff;

3           (3) supplementing the program management  
4 team with Federal Government employees or inde-  
5 pendent contractors;

6           (4) terminating the project; or

7           (5) hiring an independent contractor to report  
8 directly to senior management and the E-Gov Ad-  
9 ministrator.

10 (f) REPROGRAMMING OF FUNDS.—

11           (1) AUTHORIZATION.—The Director may direct  
12 an Agency Head to reprogram amounts which have  
13 been appropriated for such agency to pay for an as-  
14 sessment under subsection (d).

15           (2) NOTIFICATION.—An Agency Head who re-  
16 programs appropriations under paragraph (1) shall  
17 notify the Committee on Appropriations of the Sen-  
18 ate and the Committee on Appropriations of the  
19 House of Representatives of any such reprogram-  
20 ming.

21           (g) REPORT TO CONGRESS.—The Director shall in-  
22 clude in the annual Report to Congress on the Benefits  
23 of E-Government Initiatives a detailed summary of the  
24 composition and activities of the IT Tiger Team, includ-  
25 ing—

1           (1) the number and qualifications of individuals  
2 on the IT Tiger Team;

3           (2) a description of the IT investment projects  
4 that the IT Tiger Team has worked during the pre-  
5 vious fiscal year;

6           (3) the major issues that necessitated the in-  
7 volvement of the IT Tiger Team to assist agencies  
8 with assessing and managing IT investment projects  
9 and whether such issues were satisfactorily resolved;

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

14          (5) a detailed breakdown of the sources and  
15 uses of the amounts spent by the Office of Manage-  
16 ment and Budget and other Federal agencies during  
17 the previous fiscal year to support the activities of  
18 the IT Tiger Team; and

19          (6) a determination of whether the IT Tiger  
20 Team has been effective in—

21           (A) preventing projects from deviating  
22 from the original baseline; and

23           (B) assisting agencies in conducting appro-  
24 priate analysis and planning before a project is  
25 funded.

1 **SEC. 6. AWARDS FOR PERSONNEL FOR EXCELLENCE IN**  
2 **THE ACQUISITION OF INFORMATION SYS-**  
3 **TEMS AND INFORMATION TECHNOLOGY.**

4 (a) **IN GENERAL.**—Not later than 180 days after the  
5 enactment of this Act, the Director of the Office of Per-  
6 sonnel Management shall develop policy and guidance for  
7 agencies to develop a program to recognize excellent per-  
8 formance by Federal Government employees and teams of  
9 such employees in the acquisition of information systems  
10 and information technology for the agency.

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

13 (1) obtain objective outcome measures; and

14 (2) include procedures for—

15 (A) the nomination of Federal Government  
16 employees and teams of such employees for eli-  
17 gibility for recognition under the program; and

18 (B) the evaluation of nominations for rec-  
19 ognition under the program by 1 or more agen-  
20 cy panels of individuals from government, aca-  
21 demia, and the private sector who have such ex-  
22 pertise, and are appointed in such a manner, as  
23 the Director of the Office of Personal Manage-  
24 ment shall establish for purposes of the pro-  
25 gram.

1       (c) ~~AWARD OF CASH BONUSES.~~—As part of the pro-  
2 gram referred to in subsection (a), the Director of the Of-  
3 fice of Personnel Management, in consultation with the  
4 Director of the Office of Management and Budget, shall  
5 establish policies and guidance for agencies to award to  
6 any Federal Government employee or teams of such em-  
7 ployees recognized pursuant to the program a cash bonus  
8 authorized by any other provision of law to the extent that  
9 the performance of such individual so recognized warrants  
10 the award of such bonus under such provision of law.

11 **SECTION 1. SHORT TITLE.**

12       *This Act may be cited as the “Information Technology*  
13 *(IT) Investment Oversight Enhancement and Waste Preven-*  
14 *tion Act of 2009”.*

15 **SEC. 2. FINDINGS.**

16       *Congress finds the following:*

17           (1) *The effective deployment of information tech-*  
18 *nology can make the Federal Government more effi-*  
19 *cient, effective, and transparent.*

20           (2) *Historically, the Federal Government has*  
21 *struggled to properly plan, manage, and deliver infor-*  
22 *mation technology investments on time, on budget,*  
23 *and performing as planned.*

24           (3) *The Office of Management and Budget has*  
25 *made significant progress overseeing information*



1 *technology investments made by Federal agencies, but*  
2 *continues to struggle to ensure that such investments*  
3 *meet cost, schedule, and performance expectations.*

4 *(4) Congress has limited knowledge of the actual*  
5 *cost, schedule, and performance of agency information*  
6 *technology investments and has difficulty providing*  
7 *the necessary oversight.*

8 *(5) In July 2008, an official of the Government*  
9 *Accountability Office testified before the Subcommittee*  
10 *on Federal Financial Management, Government In-*  
11 *formation, Federal Services, and International Secu-*  
12 *rity of the Committee on Homeland Security and*  
13 *Governmental Affairs of the Senate, stating that—*

14 *(A) agencies self-report inaccurate and un-*  
15 *reliable project management data to the Office of*  
16 *Management and Budget and Congress; and*

17 *(B) the Office of Management and Budget*  
18 *should establish a mechanism that would provide*  
19 *real-time project management information and*  
20 *force agencies to improve the accuracy and reli-*  
21 *ability of the information provided.*

22 **SEC. 3. REAL-TIME TRANSPARENCY OF IT INVESTMENT**  
23 **PROJECTS.**

24 *Section 11302(c)(1) of title 40, United States Code, is*  
25 *amended by striking the period at the end and inserting*

1 *the following: “, including establishing a Web site, updating*  
2 *the Web site, at a minimum, on a quarterly basis, and in-*  
3 *cluding on the Web site, not later than 90 days after the*  
4 *date of the enactment of the Information Technology (IT)*  
5 *Investment Oversight Enhancement and Waste Prevention*  
6 *Act of 2009—*

7           *“(1) the cost, schedule, and performance of all*  
8 *major information technology investments using*  
9 *earned-value management data based on the ANSI-*  
10 *EIA-748-B standard;*

11           *“(2) accurate quarterly information since the*  
12 *commencement of the project;*

13           *“(3) a graphical depiction of trend information*  
14 *since the commencement of the project;*

15           *“(4) a clear delineation of investments that have*  
16 *experienced cost, schedule, or performance variance*  
17 *greater than 10 percent over the life cycle of the in-*  
18 *vestment;*

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

22           *“(6) 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 measurement  
13 tool jointly developed by the American National  
14 Standards Institute and the Electronic Industries Al-  
15 liance to analyze Earned Value Management systems.

16 “(3) *APPROPRIATE CONGRESSIONAL COMMIT-*  
17 *TEES.*—The term ‘appropriate congressional commit-

18 tees’ means—  
19 “(A) the Committee on Homeland Security  
20 and Governmental Affairs of the Senate;

21 “(B) the Committee on Oversight and Gov-  
22 ernment Reform of the House of Representatives;

23 “(C) the Committee on Appropriations of  
24 the Senate;

25 “(D) the Committee on Appropriations of  
26 the House of Representatives; and

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

4           “(4) CHIEF INFORMATION OFFICER.—The term  
5           ‘Chief Information Officer’ means the Chief Informa-  
6           tion Officer designated under section 3506(a)(2) of  
7           title 44 of the Federal agency that is primarily re-  
8           sponsible for the IT investment project under review.

9           “(5) CORE IT INVESTMENT PROJECT.—The terms  
10          ‘core IT investment project’ and ‘core project’ mean a  
11          mission critical IT investment project designated as  
12          such by the Chief Information Officer, with approval  
13          by the Agency Head under subsection (b).

14          “(6) DIRECTOR.—The term ‘Director’ means the  
15          Director of the Office of Management and Budget.

16          “(7) EARNED VALUE MANAGEMENT.—The term  
17          ‘Earned Value Management’ means the cost, perform-  
18          ance, and schedule data used to determine project sta-  
19          tus and developed in accordance with the ANSI EIA-  
20          748-B Standard.

21          “(8) GROSSLY DEVIATED.—The term ‘grossly de-  
22          viated’ means cost, schedule, or performance variance  
23          that is at least 40 percent from the Original Baseline.

24          “(9) INDEPENDENT GOVERNMENT COST ESTI-  
25          MATE.—The term ‘independent government cost esti-

1        *mate’ means a pragmatic and neutral analysis, as-*  
2        *essment, and quantification of all costs and risks as-*  
3        *sociated with the acquisition of an IT investment*  
4        *project, which—*

5                *“(A) is based on programmatic and tech-*  
6                *nical specifications provided by the office within*  
7                *the agency with primary responsibility for the*  
8                *development, procurement, and delivery of the*  
9                *project;*

10               *“(B) is formulated and provided by an enti-*  
11               *ty other than the office within the agency with*  
12               *primary responsibility for the development, pro-*  
13               *curement, and delivery of the project;*

14               *“(C) contains sufficient detail to inform the*  
15               *selection of an Earned Value Management base-*  
16               *line benchmark measure under the ANSI EIA-*  
17               *748-B standard; and*

18               *“(D) accounts for the full life cycle cost plus*  
19               *associated operations and maintenance expenses*  
20               *over the usable life of the project’s deliverables.*

21               *“(10) IT INVESTMENT PROJECT.—The terms ‘IT*  
22               *investment project’ and ‘project’ mean an information*  
23               *technology system or information technology acquisi-*  
24               *tion, excluding systems or acquisitions of the Depart-*  
25               *ment of Defense, that—*

1           “(A) requires special management attention  
2 because of its importance to the mission or func-  
3 tion of the agency, a component of the agency, or  
4 another organization;

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

7           “(C) has significant program or policy im-  
8 plications;

9           “(D) has high executive visibility;

10          “(E) has high development, operating, or  
11 maintenance costs;

12          “(F) is funded through other than direct ap-  
13 propriations; or

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

16          “(11) LIFE CYCLE COST.—The term ‘life cycle  
17 cost’ means the total cost of an IT investment project  
18 for planning, research and development, moderniza-  
19 tion, enhancement, operation, and maintenance.

20          “(12) ORIGINAL BASELINE.—

21           “(A) IN GENERAL.—Except as provided  
22 under subparagraph (B), the term ‘Original  
23 Baseline’ means the ANSI EIA-748-B Stand-  
24 ard-compliant Earned Value Management bench-

1           *mark established at the commencement of an IT*  
2           *investment project.*

3           “(B) *GROSSLY DEVIATED PROJECT.*—*If an*  
4           *IT investment project grossly deviates from its*  
5           *Original Baseline (as defined in subparagraph*  
6           *(A)), the term ‘Original Baseline’ means the*  
7           *ANSI EIA-748-B Standard-compliant Earned*  
8           *Value Management benchmark established under*  
9           *subsection (e)(3)(C).*

10          “(13) *SIGNIFICANTLY DEVIATED.*—*The term ‘sig-*  
11          *nificantly deviated’ means Earned Value Manage-*  
12          *ment variance that is at least 20 percent from the*  
13          *Original Baseline.*

14          “(b) *CORE IT INVESTMENT PROJECTS DESIGNA-*  
15          *TION.*—*Each Chief Information Officer, with approval by*  
16          *the Agency Head, shall—*

17                 “(1) *identify the major IT investments that are*  
18                 *the most critical to the agency; and*

19                 “(2) *designate any project as a ‘core IT invest-*  
20                 *ment project’ or a ‘core project’, upon determining*  
21                 *that the project is a mission critical IT investment*  
22                 *project that—*

23                         “(A) *represents a significant high dollar*  
24                         *value relative to the average IT investment*  
25                         *project in the agency’s portfolio;*

1           “(B) delivers a capability critical to the  
2           successful completion of the agency mission, or a  
3           portion of such mission;

4           “(C) incorporates unproven or previously  
5           undeveloped technology to meet primary project  
6           technical requirements; or

7           “(D) would have a significant negative im-  
8           pact on the successful completion of the agency  
9           mission if the project experienced significant  
10          cost, schedule, or performance deviations.

11          “(c) COST, SCHEDULE, AND PERFORMANCE RE-  
12          PORTS.—

13                 “(1) QUARTERLY REPORTS.—Not later than 14  
14                 days after the end of each fiscal quarter, the project  
15                 manager designated by the Agency Head for an IT  
16                 investment project shall submit a written report to  
17                 the Chief Information Officer that includes, as of the  
18                 last day of the applicable quarter—

19                         “(A) a description of the cost, schedule, and  
20                         performance of all projects under the project  
21                         manager’s supervision;

22                         “(B) the original and current project cost,  
23                         schedule, and performance benchmarks for each  
24                         project under the project manager’s supervision;



1           “(C) the quarterly and cumulative cost,  
2           schedule, and performance variance related to  
3           each IT investment project under the project  
4           manager’s supervision since the commencement  
5           of the project;

6           “(D) for each project under the project man-  
7           ager’s supervision, any known, expected, or an-  
8           ticipated changes to project schedule milestones  
9           or project performance benchmarks included as  
10          part of the original or current baseline descrip-  
11          tion;

12          “(E) the current cost, schedule, and per-  
13          formance status of all projects under supervision  
14          that were previously identified as significantly  
15          deviated or grossly deviated; and

16          “(F) any corrective actions taken to address  
17          problems discovered under subparagraphs (C)  
18          through (E).

19          “(2) INTERIM REPORTS.—If the project manager  
20          for an IT investment project determines that there is  
21          reasonable cause to believe that an IT investment  
22          project has significantly deviated or grossly deviated  
23          since the issuance of the latest quarterly report, the  
24          project manager shall submit to the Chief Information  
25          Officer, not later than 14 days after such determina-

1        *tion, a report on the project that includes, as of the*  
2        *date of the report—*

3                *“(A) a description of the original and cur-*  
4                *rent program cost, schedule, and performance*  
5                *benchmarks;*

6                *“(B) the cost, schedule, or performance vari-*  
7                *ance related to the IT investment project since*  
8                *the commencement of the project;*

9                *“(C) any known, expected, or anticipated*  
10                *changes to the project schedule milestones or*  
11                *project performance benchmarks included as part*  
12                *of the original or current baseline description;*

13                *“(D) the major reasons underlying the sig-*  
14                *nificant or gross deviation of the project; and*

15                *“(E) a corrective action plan to correct such*  
16                *deviations.*

17        *“(d) DETERMINATION OF SIGNIFICANT DEVIATION.—*

18                *“(1) CHIEF INFORMATION OFFICER.—Upon re-*  
19                *ceiving a report under subsection (c), the Chief Infor-*  
20                *mation Officer shall—*

21                *“(A) determine if any IT investment project*  
22                *has significantly deviated; and*

23                *“(B) report such determination to the Agen-*  
24                *cy Head.*

1           “(2) *CONGRESSIONAL NOTIFICATION.*—*If the*  
2 *Chief Information Officer determines under para-*  
3 *graph (1) that an IT investment project has signifi-*  
4 *cantly deviated and the Agency Head has not issued*  
5 *a report to the appropriate congressional committees*  
6 *of a significant deviation for that project under this*  
7 *section since the project was last required to be*  
8 *rebaselined under this section, the Agency Head shall*  
9 *submit a report to the appropriate congressional com-*  
10 *mittees, the Director, and the Government Account-*  
11 *ability Office that includes—*

12                   “(A) *written notification of such determina-*  
13 *tion;*

14                   “(B) *the date on which such determination*  
15 *was made;*

16                   “(C) *the amount of the cost increases and*  
17 *the extent of the schedule delays with respect to*  
18 *such project;*

19                   “(D) *any requirements that—*

20                           “(i) *were added subsequent to the origi-*  
21 *nal baseline; or*

22                           “(ii) *were originally contracted for, but*  
23 *were changed by deferment or deletion from*  
24 *the original baseline, or were otherwise no*

1           longer included in the requirements con-  
2           tracted for;

3           “(E) an explanation of the differences be-  
4           tween—

5                   “(i) the estimate at completion between  
6                   the project manager, any contractor, and  
7                   any independent analysis; and

8                   “(ii) the original budget at completion;

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

11          “(G) a summary of the plan of action to  
12          remedy the significant deviation.

13          “(3) DEADLINE.—

14                   “(A) NOTIFICATION BASED ON QUARTERLY  
15          REPORT.—If the determination of significant de-  
16          viation is based on a report submitted under  
17          subsection (c)(1), the Agency Head shall notify  
18          Congress and the Director in accordance with  
19          paragraph (2) not later than 21 days after the  
20          end of the quarter upon which such report is  
21          based.

22                   “(B) NOTIFICATION BASED ON INTERIM RE-  
23          PORT.—If the determination of significant devi-  
24          ation is based on a report submitted under sub-  
25          section (c)(2), the Agency Head shall notify Con-

1           gress and the Director in accordance with para-  
2           graph (2) not later than 21 days after the sub-  
3           mission of such report.

4           “(e) *DETERMINATION OF GROSS DEVIATION.*—

5           “(1) *CHIEF INFORMATION OFFICER.*—Upon re-  
6           ceiving a report under subsection (c), the Chief Infor-  
7           mation Officer shall—

8           “(A) determine if any IT investment project  
9           has grossly deviated; and

10          “(B) report any such determination to the  
11          Agency Head.

12          “(2) *CONGRESSIONAL NOTIFICATION.*—If the  
13          Chief Information Officer determines under para-  
14          graph (1) that an IT investment project has grossly  
15          deviated and the Agency Head has not issued a report  
16          to the appropriate congressional committees of a gross  
17          deviation for that project under this section since the  
18          project was last required to be rebaselined under this  
19          section, the Agency Head shall submit a report to the  
20          appropriate congressional committees, the Director,  
21          and the Government Accountability Office that in-  
22          cludes—

23          “(A) written notification of such determina-  
24          tion, which—

1           “(i) identifies the date on which such  
2           determination was made; and

3           “(ii) indicates whether or not the  
4           project has been previously reported as a  
5           significant or gross deviation by the Chief  
6           Information Officer, and the date of any  
7           such report;

8           “(B) incorporations by reference of all prior  
9           reports to Congress on the project required under  
10          this section;

11          “(C) updated accounts of the items de-  
12          scribed in subparagraphs (C) through (G) of sub-  
13          section (d)(2);

14          “(D) the original estimate at completion for  
15          the project manager, any contractor, and any  
16          independent analysis;

17          “(E) a graphical depiction that shows  
18          monthly planned expenditures against actual ex-  
19          penditures since the commencement of the  
20          project;

21          “(F) the amount, if any, of incentive or  
22          award fees any contractor has received since the  
23          commencement of the contract and the reasons  
24          for receiving such incentive or award fees;

1           “(G) the project manager’s estimated cost at  
2 completion and estimated completion date for the  
3 project if current requirements are not modified;

4           “(H) the project manager’s estimated cost at  
5 completion and estimated completion date for the  
6 project based on reasonable modification of such  
7 requirements;

8           “(I) an explanation of the most significant  
9 occurrence contributing to the variance identi-  
10 fied, including cost, schedule, and performance  
11 variances, and the effect such occurrence will  
12 have on future project costs and program sched-  
13 ule;

14           “(J) a statement regarding previous or an-  
15 ticipated rebaselining or replanning of the  
16 project and the names of the individuals respon-  
17 sible for approval;

18           “(K) the original life cycle cost of the in-  
19 vestment and the expected life cycle cost of the  
20 investment expressed in constant base year dol-  
21 lars and in current dollars; and

22           “(L) a comprehensive plan of action to rem-  
23 edy the gross deviation, and milestones estab-  
24 lished to control future cost, schedule, and per-  
25 formance deviations in the future.

1           “(3) *REMEDIAL ACTION.*—

2                   “(A) *IN GENERAL.*—*If the Chief Informa-*  
3                   *tion Officer determines under paragraph (1)(A)*  
4                   *that an IT investment project has grossly devi-*  
5                   *ated, the Agency Head, in consultation with the*  
6                   *Chief Information Officer and the appropriate*  
7                   *project manager, shall develop and implement a*  
8                   *remedial action plan that includes—*

9                           “(i) *a report that—*

10                                   “(I) *describes the primary busi-*  
11                                   *ness case and key functional require-*  
12                                   *ments for the project;*

13                                   “(II) *describes any portions of the*  
14                                   *project that have technical require-*  
15                                   *ments of sufficient clarity that such*  
16                                   *portions may be feasibly procured*  
17                                   *under fixed-price contracts;*

18                                   “(III) *includes a certification by*  
19                                   *the Agency Head, after consultation*  
20                                   *with the Chief Information Officer,*  
21                                   *that all technical and business require-*  
22                                   *ments have been reviewed and vali-*  
23                                   *dated to ensure alignment with the re-*  
24                                   *ported business case;*



1           “(IV) describes any changes to the  
2           primary business case or key func-  
3           tional requirements which have oc-  
4           curred since project inception; and

5           “(V) includes an independent gov-  
6           ernment cost estimate for the project  
7           conducted by an entity approved by  
8           the Director;

9           “(ii) an analysis that—

10           “(I) describes agency business  
11           goals that the project was originally  
12           designed to address;

13           “(II) includes a gap analysis of  
14           what project deliverables remain in  
15           order for the agency to accomplish the  
16           business goals referred to in subclause  
17           (I);

18           “(III) identifies the 3 most cost-ef-  
19           fective alternative approaches to the  
20           project which would achieve the busi-  
21           ness goals referred to in subclause (I);  
22           and

23           “(IV) includes a cost-benefit anal-  
24           ysis, which compares—

1                   “(aa) the completion of the  
2                   project with the completion of  
3                   each alternative approach, after  
4                   factoring in future costs associ-  
5                   ated with the termination of the  
6                   project; and

7                   “(bb) the termination of the  
8                   project without pursuit of alter-  
9                   natives, after factoring in foregone  
10                  benefits; and

11                  “(iii) a new baseline of the project is  
12                  established that is consistent with the inde-  
13                  pendent government cost estimate required  
14                  under clause (i)(V); and

15                  “(iv) the project is designated as a core  
16                  IT investment project and subjected to the  
17                  requirements under subsection (f).

18                  “(B) SUBMISSION TO CONGRESS.—The re-  
19                  medial action plan and all corresponding re-  
20                  ports, analyses, and actions under this para-  
21                  graph shall be submitted to the appropriate con-  
22                  gressional committees and the Director.

23                  “(C) REPORTING AND ANALYSIS EXEMP-  
24                  TIONS.—

1           “(i) *IN GENERAL.*—*The Chief Informa-*  
2           *tion Officer, in coordination with the Agen-*  
3           *cy Head and the Director, may forego the*  
4           *completion of any element of a report or*  
5           *analysis under clause (i) or (ii) of subpara-*  
6           *graph (A) if the Chief Information Officer*  
7           *determines that such element is not relevant*  
8           *to the understanding of the challenges facing*  
9           *the project or that such element does not*  
10          *further the remedial steps necessary to en-*  
11          *sure that the project is completed in a time-*  
12          *ly and cost-efficient manner.*

13           “(ii) *IDENTIFICATION OF REASONS.*—  
14          *The Chief Information Officer shall include*  
15          *the reasons for not including any element*  
16          *referred to in clause (i) in the report sub-*  
17          *mitted to Congress under subparagraph (B).*

18          “(4) *DEADLINE AND FUNDING CONTINGENCY.*—

19           “(A) *NOTIFICATION AND REMEDIAL ACTION*  
20          *BASED ON QUARTERLY REPORT.*—

21           “(i) *IN GENERAL.*—*If the determina-*  
22          *tion of gross deviation is based on a report*  
23          *submitted under subsection (c)(1), the Agen-*  
24          *cy Head shall—*

1           “(I) not later than 45 days after  
2           the end of the quarter upon which such  
3           report is based, notify the appropriate  
4           congressional committees and the Di-  
5           rector in accordance with paragraph  
6           (2); and

7           “(II) not later than 180 days  
8           after the end of the quarter upon which  
9           such report is based, ensure the comple-  
10          tion of remedial action under para-  
11          graph (3).

12          “(ii) *FAILURE TO MEET DEADLINES.*—  
13          If the Agency Head fails to meet the dead-  
14          line described in clause (i)(II), additional  
15          funds may not be obligated to support ex-  
16          penditures associated with the project until  
17          the requirements of this subsection have  
18          been fulfilled.

19          “(B) *NOTIFICATION AND REMEDIAL ACTION*  
20          *BASED ON INTERIM REPORT.*—

21          “(i) *IN GENERAL.*—If the determina-  
22          tion of gross deviation is based on a report  
23          submitted under subsection (c)(2), the Agen-  
24          cy Head shall—

1                   “(I) not later than 45 days after  
2                   the submission of such report, notify  
3                   the appropriate congressional commit-  
4                   tees in accordance with paragraph (2);  
5                   and

6                   “(II) not later than 180 days  
7                   after the submission of such report, en-  
8                   sure the completion of remedial action  
9                   in accordance with paragraph (3).

10                  “(i) *FAILURE TO MEET DEADLINES.*—  
11                  If the Agency Head fails to meet the dead-  
12                  line described in clause (i)(II), additional  
13                  funds may not be obligated to support ex-  
14                  penditures associated with the project until  
15                  the requirements of this subsection have  
16                  been fulfilled.

17                  “(f) *ADDITIONAL REQUIREMENTS FOR CORE IT IN-*  
18 *VESTMENT PROJECT REPORTS.*—

19                  “(1) *INITIAL REPORT.*—If a remedial action  
20                  plan described in subsection (e)(3)(A) has not been  
21                  submitted for a core IT investment project, the Agency  
22                  Head, in coordination with the Chief Information Of-  
23                  ficer and responsible program managers, shall pre-  
24                  pare an initial report for inclusion in the first budget  
25                  submitted to Congress under section 1105(a) of title

1       31, United States Code, after the designation of a  
2       project as a core IT investment project, which in-  
3       cludes—

4               “(A) a description of the primary business  
5       case and key functional requirements for the  
6       project;

7               “(B) an identification and description of  
8       any portions of the project that have technical  
9       requirements of sufficient clarity that such por-  
10      tions may be feasibly procured under fixed-price  
11      contracts;

12              “(C) an independent government cost esti-  
13      mate for the project;

14              “(D) certification by the Chief Information  
15      Officer that all technical and business require-  
16      ments have been reviewed and validated to en-  
17      sure alignment with the reported business case;  
18      and

19              “(E) any changes to the primary business  
20      case or key functional requirements which have  
21      occurred since project inception.

22              “(2) QUARTERLY REVIEW OF BUSINESS CASE.—  
23      The Agency Head, in coordination with the Chief In-  
24      formation Officer and responsible program managers,  
25      shall—

1           “(A) monitor the primary business case and  
2 core functionality requirements reported to Con-  
3 gress and the Director for designated core IT in-  
4 vestment projects; and

5           “(B) if changes to the primary business case  
6 or key functional requirements for a core IT in-  
7 vestment project occur in any fiscal quarter, sub-  
8 mit a report to Congress and the Director not  
9 later than 14 days after the end of such quarter  
10 that details the changes and describes the impact  
11 the changes will have on the cost and ultimate  
12 effectiveness of the project.

13           “(3) *ALTERNATIVE SIGNIFICANT DEVIATION DE-*  
14 *TERMINATION.—If the Chief Information Officer de-*  
15 *termines, subsequent to a change in the primary busi-*  
16 *ness case or key functional requirements, that without*  
17 *such change the project would have significantly devi-*  
18 *ated—*

19           “(A) the Chief Information Officer shall no-  
20 tify the Agency Head of the significant devi-  
21 ation; and

22           “(B) the Agency Head shall fulfill the re-  
23 quirements under subsection (d)(2) in accordance  
24 with the deadlines under subsection (d)(3).

1           “(4) *ALTERNATIVE GROSS DEVIATION DETER-*  
 2           *MINATION.—If the Chief Information Officer deter-*  
 3           *mines, subsequent to a change in the primary busi-*  
 4           *ness case or key functional requirements, that without*  
 5           *such change the project would have grossly deviated—*

6                     “(A) *the Chief Information Officer shall no-*  
 7                     *tify the Agency Head of the gross deviation; and*

8                     “(B) *the Agency Head shall fulfill the re-*  
 9                     *quirements under subsections (e)(2) and (e)(3) in*  
 10                    *accordance with subsection (e)(4).”.*

11           (b) *INCLUSION IN THE BUDGET SUBMITTED TO CON-*  
 12           *GRESS.—Section 1105(a) of title 31, United States Code,*  
 13           *is amended—*

14                   (1) *in the matter preceding paragraph (1), by*  
 15                   *striking “include in each budget the following:” and*  
 16                   *inserting “include in each budget—”;*

17                   (2) *by redesignating the second paragraph (33)*  
 18                   *(as added by section 889(a) of Public Law 107–296)*  
 19                   *as paragraph (35);*

20                   (3) *in each of paragraphs (1) through (34), by*  
 21                   *striking the period at the end and inserting a semi-*  
 22                   *colon;*

23                   (4) *in paragraph (35), as redesignated by para-*  
 24                   *graph (2), by striking the period at the end and in-*  
 25                   *serting “; and”;* and



1           (5) *by adding at the end the following:*

2           “(36) *the reports prepared under section*  
3           *11317(f) of title 40, United States Code, relating to*  
4           *the core IT investment projects of the agency.*”.

5           (c) *IMPROVEMENT OF INFORMATION TECHNOLOGY AC-*  
6           *QUISITION AND DEVELOPMENT.—Subchapter II of chapter*  
7           *113 of title 40, United States Code, is amended by adding*  
8           *at the end the following:*

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

10          “(a) *PURPOSE.—The objective of this section is to sig-*  
11          *nificantly reduce—*

12                 “(1) *cost overruns and schedule slippage from the*  
13                 *estimates established at the time the program is ini-*  
14                 *tially approved;*

15                 “(2) *the number of requirements and business ob-*  
16                 *jectives at the time the program is approved that are*  
17                 *not met by the delivered products; and*

18                 “(3) *the number of critical defects and serious*  
19                 *defects in delivered information technology.*

20          “(b) *OMB GUIDANCE.—The Director of the Office of*  
21          *Management and Budget shall—*

22                 “(1) *not later than 180 days after the date of the*  
23                 *enactment of this section, prescribe uniformly appli-*  
24                 *cable guidance for agencies to implement the require-*  
25                 *ments of this section, which shall not include any ex-*

1        *emptions to such requirements not specifically author-*  
2        *ized under this section; and*

3            *“(2) take any actions that are necessary to en-*  
4        *sure that Federal agencies are in compliance with the*  
5        *guidance prescribed pursuant to paragraph (1) not*  
6        *later than 1 year after the date of the enactment of*  
7        *this section.*

8            *“(c) ESTABLISHMENT OF PROGRAM.—Not later than*  
9        *120 days after the date of the enactment of this section, each*  
10       *Chief Information Officer, upon the approval of the Agency*  
11       *Head (as defined in section 11317(a) of title 40, United*  
12       *States Code) shall establish a program to improve the infor-*  
13       *mation technology (referred to in this section as ‘IT’) proc-*  
14       *esses overseen by the Chief Information Officer.*

15           *“(d) PROGRAM REQUIREMENTS.—Each program es-*  
16       *tablished pursuant to this section shall include—*

17            *“(1) a documented process for IT acquisition*  
18        *planning, requirements development and manage-*  
19        *ment, project management and oversight, earned-*  
20        *value management, and risk management;*

21            *“(2) the development of appropriate metrics that*  
22        *can be implemented and monitored on a real-time*  
23        *dashboard for performance measurement of—*

24            *“(A) processes and development status of in-*  
25        *vestments;*

1           “(B) continuous process improvement of the  
2           program; and

3           “(C) achievement of program and invest-  
4           ment outcomes;

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

10          “(4) a process to ensure that the agency imple-  
11          ments and adheres to established processes and re-  
12          quirements relating to the planning, acquisition, exe-  
13          cution, management, and oversight of IT programs  
14          and developments; and

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

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

23                 “(1) a detailed summary of the accomplishments  
24                 of the program established by the Agency Head pursu-  
25                 ant to this section;

1           “(2) *the status of completeness of implementation*  
2 *of each of the program requirements, and the date*  
3 *each such requirement was deemed to be completed;*

4           “(3) *the percentage of Federal IT projects covered*  
5 *under the program compared to all of the IT projects*  
6 *of the agency, listed by number of programs and by*  
7 *annual dollars expended;*

8           “(4) *a detailed breakdown of the sources and uses*  
9 *of the amounts spent by the agency during the pre-*  
10 *vious fiscal year to support the activities of the pro-*  
11 *gram;*

12           “(5) *a copy of any guidance issued under the*  
13 *program and a statement regarding whether each*  
14 *such guidance is mandatory;*

15           “(6) *the identification of the metrics developed in*  
16 *accordance with subsection (b)(2);*

17           “(7) *a description of how paragraphs (3) and (4)*  
18 *of subsection (b) have been implemented and any re-*  
19 *lated agency guidance; and*

20           “(8) *a description of how agencies will continue*  
21 *to review and update the implementation and objec-*  
22 *tives of such guidance.*

23           “(f) *ANNUAL REPORT TO CONGRESS.—The Director of*  
24 *the Office of Management and Budget shall provide an an-*

1 *nual report to Congress on the status and implementation*  
 2 *of the program established pursuant to this section.”.*

3 *(d) CLERICAL AMENDMENTS.—The table of sections for*  
 4 *chapter 113 of title 40, United States Code, is amended—*

5 *(1) by striking the item relating to section 11317*  
 6 *and inserting the following:*

*“11317. Significant and gross deviations.”; and*

7 *(2) by inserting after the item relating to section*  
 8 *11318 the following:*

*“11319. Acquisition and development.”.*

9 **SEC. 5. MAJOR AUTOMATED INFORMATION SYSTEM PRO-**  
 10 **GRAMS.**

11 *(a) DEFINITIONS.—Section 2445a of title 10, United*  
 12 *States Code, is amended—*

13 *(1) by amending the section heading to read as*  
 14 *follows:*

15 **“§2445a. Definitions”;**

16 *(2) in subsection (a)—*

17 *(A) in paragraph (1), by striking “or” at*  
 18 *the end;*

19 *(B) in paragraph (2), by striking the period*  
 20 *at the end and inserting “; or”;* and

21 *(C) by adding at the end the following:*

22 *“(3) the Chief Information Officer, with the ap-*  
 23 *proval of the Secretary of Defense, determines that the*  
 24 *program—*

1           “(A) delivers a capability critical to the  
2           successful completion of the mission of the De-  
3           partment of Defense, or a portion of such mis-  
4           sion;

5           “(B) incorporates unproven or previously  
6           undeveloped technology to meet primary pro-  
7           gram technical requirements; or

8           “(C) would have a significant negative im-  
9           pact on the successful completion of the mission  
10          of the Department of Defense if the program ex-  
11          perienced significant cost, schedule, or perform-  
12          ance deviations.”; and

13          (3) by adding at the end the following:

14          “(d) DEFINITIONS.—In this chapter:

15                 “(1) CHIEF INFORMATION OFFICER.—The term  
16                 ‘Chief Information Officer’ means the Chief Informa-  
17                 tion Officer of the Department of Defense, designated  
18                 under section 3506(a)(2) of title 44.

19                 “(2) EARNED VALUE MANAGEMENT.—The term  
20                 ‘Earned Value Management’ means the cost, perform-  
21                 ance, and schedule data used to determine the status  
22                 of a major automated information system program  
23                 that has been developed in accordance with the ANSI  
24                 EIA-748-B Standard.

1           “(3) *INDEPENDENT GOVERNMENT COST ASSESS-*  
2           *MENT.*—*The term ‘independent government cost as-*  
3           *essment’ means a pragmatic and neutral analysis,*  
4           *assessment, and quantification of all costs and risks*  
5           *associated with a major automated information sys-*  
6           *tem program developed and submitted by the Director*  
7           *of Independent Cost Assessment.’’.*

8           (b) *COST, SCHEDULE, AND PERFORMANCE INFORMA-*  
9           *TION.*—*Section 2445b of title 10, United States Code, is*  
10          *amended—*

11           (1) *in subsection (a), by striking “Congress” and*  
12           *inserting “the Office of Management and Budget, the*  
13           *Government Accountability Office, the Committee on*  
14           *Homeland Security and Governmental Affairs of the*  
15           *Senate, and the Committee on Oversight and Govern-*  
16           *ment Reform of the House of Representatives’’;*

17           (2) *in subsection (b), by adding at the end the*  
18           *following:*

19           “(5) *A description of the primary business case*  
20           *and key functional requirements for the program, in-*  
21           *cluding an analysis of alternatives;*

22           “(6) *An identification and description of any*  
23           *portions of the program that have technical require-*  
24           *ments of sufficient clarity that such portions may be*  
25           *feasibly procured under firm, fixed-price contracts;*

1           “(7) *An independent government cost assessment*  
2           *for the project provided by the Director of Inde-*  
3           *pendent Cost Assessment;*

4           “(8) *Certification by the Chief Information Offi-*  
5           *cer that all technical and business requirements have*  
6           *been reviewed and validated to ensure alignment with*  
7           *the reported business case; and*

8           “(9) *Any changes to the primary business case or*  
9           *key functional requirements which have occurred*  
10           *since the inception of the program.”; and*

11           (3) *in subsection (c)—*

12                 (A) *in paragraph (1), by striking “to Con-*  
13                 *gress”; and*

14                 (B) *in paragraph (3), by striking “the con-*  
15                 *gressional defense committees” and inserting*  
16                 *“the Office of Management and Budget, the Gov-*  
17                 *ernment Accountability Office, the Committee on*  
18                 *Armed Services of the Senate, the Committee on*  
19                 *Armed Services of the House of Representatives,*  
20                 *the Committee on Homeland Security and Gov-*  
21                 *ernmental Affairs of the Senate, and the Com-*  
22                 *mittee on Oversight and Government Reform of*  
23                 *the House of Representatives”.*

24           (c) *QUARTERLY REPORTS.—Section 2445c of title 10,*  
25           *United States Code, is amended—*



1           (1) in subsection (a)—

2                   (A) by striking “identifying” and inserting

3           the following: “that—

4           “(1) identifies”;

5                   (B) by striking “to Congress”;

6                   (C) by striking the period at the end and

7           inserting a semicolon; and

8                   (D) by adding at the end the following:

9           “(2) describes the cost, schedule, and performance  
10           of all programs under the program manager’s super-  
11           vision;

12           “(3) provides the original and current program  
13           cost, schedule, and performance benchmarks for each  
14           program under the program manager’s supervision;  
15           and

16           “(4) for each program under the program man-  
17           ager’s supervision, any known, expected, or antici-  
18           pated changes to program schedule milestones or pro-  
19           gram performance benchmarks included as part of the  
20           original or current baseline description.”;

21           (2) in subsection (c)—

22                   (A) in paragraph (1), by striking “the con-  
23           gressional defense committees” and inserting

24           “the Office of Management and Budget, the Gov-  
25           ernment Accountability Office, the Committee on

1 *Armed Services of the Senate, the Committee on*  
2 *Armed Services of the House of Representatives,*  
3 *the Committee on Homeland Security and Gov-*  
4 *ernmental Affairs of the Senate, and the Com-*  
5 *mittee on Oversight and Government Reform of*  
6 *the House of Representatives”; and*

7 *(B) in paragraph (2), by striking “to Con-*  
8 *gress” each place it appears; and*  
9 *(3) in subsection (d)—*

10 *(A) in paragraph (1)(B), by striking “the*  
11 *congressional defense committees” and inserting*  
12 *“the Office of Management and Budget, the Gov-*  
13 *ernment Accountability Office, the Committee on*  
14 *Armed Services of the Senate, the Committee on*  
15 *Armed Services of the House of Representatives,*  
16 *the Committee on Homeland Security and Gov-*  
17 *ernmental Affairs of the Senate, and the Com-*  
18 *mittee on Oversight and Government Reform of*  
19 *the House of Representatives”; and*

20 *(B) in paragraph (2), by striking “to Con-*  
21 *gress” each place it appears.*

22 *(d) REPORT ON SIGNIFICANT CHANGES IN PRO-*  
23 *GRAM.—Section 2445c(c) of title 10, United States Code,*  
24 *is amended—*

25 *(1) in paragraph (2)—*

1           (A) in subparagraph (B), by striking “or”  
2           at the end;

3           (B) in subparagraph (C), by striking the  
4           period at the end and inserting “; or”; and

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

6           “(D) the Earned Value Management of the  
7           program has changed by at least 15 percent, but  
8           less than 25 percent.”; and

9           (2) by adding at the end the following:

10           “(3) NOTIFICATION REQUIREMENTS.—The notifi-  
11           cation required under paragraph (1) shall include—

12           “(A) the date on which the determination  
13           described in paragraph (2) was made;

14           “(B) the amount of the cost increases and  
15           the extent of the schedule delays with respect to  
16           such program;

17           “(C) any requirements that—

18           “(i) were added subsequent to the origi-  
19           nal contract; or

20           “(ii) were part of the original contract,  
21           but were changed by deferment or deletion  
22           from the original schedule, or were other-  
23           wise no longer included in the contract;

24           “(D) an explanation of the differences be-  
25           tween—

1                   “(i) the estimate at completion between  
2                   the program manager, any contractor, and  
3                   any independent analysis; and

4                   “(ii) the original budget at completion;  
5                   “(E) a statement of the reasons underlying  
6                   the program’s significant changes; and

7                   “(F) a summary of the plan of action to  
8                   remedy the significant changes.

9                   “(4) *ALTERNATIVE SIGNIFICANT CHANGES DE-*  
10                   *TERMINATION.—If the program manager determines,*  
11                   *subsequent to a change in the primary business case*  
12                   *or key functional requirements, that without such*  
13                   *change the program would undergo significant*  
14                   *changes—*

15                   “(A) the program manager shall notify the  
16                   Secretary of Defense of the significant changes;  
17                   and

18                   “(B) the Secretary of Defense shall notify  
19                   the congressional defense committees in accord-  
20                   ance with the requirements of this subsection.”.

21                   (e) *REPORT ON CRITICAL CHANGES IN PROGRAM.—*  
22                   *Section 2445c(d) of title 10, United States Code, is amend-*  
23                   *ed—*

24                   (1) in paragraph (2)—

1           (A) in subparagraph (C), by striking “or”  
2           at the end;

3           (B) in subparagraph (D), by striking the  
4           period at the end and inserting “; or”; and

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

6           “(E) the Earned Value Management of the  
7           program has changed by at least 25 percent.”;  
8           and

9           (2) by adding at the end the following:

10           “(3) *ALTERNATIVE CRITICAL CHANGES DETER-*  
11           *MINATION.—If the program manager determines, sub-*  
12           *sequent to a change in the primary business case or*  
13           *key functional requirements, that without such change*  
14           *the program would undergo critical changes—*

15           “(A) the program manager shall notify the  
16           Secretary of Defense of the critical changes; and

17           “(B) the Secretary of Defense shall fulfill  
18           the requirements described in subparagraphs (A)  
19           and (B) of paragraph (1).”.

20           (f) *PROGRAM EVALUATION.—Section 2445c(e) of title*  
21           *10, United States Code, is amended by striking “cost and*  
22           *schedule” in paragraphs (1) and (2) and inserting “sched-*  
23           *ule and an independent government cost assessment pro-*  
24           *vided by the Director of Independent Cost Assessment”.*

1           (g) *REPORT ON CRITICAL PROGRAM CHANGES*.—*Sec-*  
2 *tion 2445c(f) of title 10, United States Code, is amended—*

3           (1) *by redesignating paragraphs (1), (2), (3),*  
4 *and (4) as subparagraphs (A), (B), (C), and (D), re-*  
5 *spectively;*

6           (2) *by striking “include a written certification”*  
7 *and inserting the following: “include—*

8           *“(1) a written certification”;*

9           (3) *by striking the period at the end and insert-*  
10 *ing “; and”; and*

11           (4) *by adding at the end the following:*

12           *“(E) all technical and business require-*  
13 *ments have been reviewed and validated to en-*  
14 *sure alignment with the reported business case;*  
15 *and*

16           *“(2) a description of—*

17           *“(A) the primary business case and key*  
18 *functional requirements for the program, includ-*  
19 *ing an analysis of alternatives;*

20           *“(B) any portions of the program that have*  
21 *technical requirements of sufficient clarity that*  
22 *such portions may be feasibly procured under*  
23 *firm, fixed-price type contract; and*

1           “(C) *any changes to the primary business*  
 2           *case or key functional requirements which have*  
 3           *occurred since the inception of the program.*”.

4           (h) *CLERICAL AMENDMENT.*—*The table of sections for*  
 5           *chapter 144a of title 10, United States Code, is amended*  
 6           *by striking the item relating to section 2445a and inserting*  
 7           *the following:*

          “2445a. *Definitions.*”.

8           **SEC. 6. IT SWAT TEAM.**

9           (a) *PURPOSE.*—*The Director of the Office of Manage-*  
 10          *ment of Budget (referred to in this section as the “Direc-*  
 11          *tor”), in consultation with the Administrator of the Office*  
 12          *of Electronic Government and Information and Technology*  
 13          *at the Office of Management and Budget (referred to in this*  
 14          *section as the “E-Gov Administrator”), shall assist agencies*  
 15          *in avoiding significant and gross deviations in the cost,*  
 16          *schedule, and performance of IT investment projects (as*  
 17          *such terms are defined in section 11317(a) of title 40,*  
 18          *United States Code).*

19          (b) *IT SWAT TEAM.*—

20                 (1) *ESTABLISHMENT.*—*Not later than 180 days*  
 21          *after the date of the enactment of this Act, the E-Gov*  
 22          *Administrator shall establish a small group of indi-*  
 23          *viduals (referred to in this section as the “IT SWAT*  
 24          *Team”) to carry out the purpose described in sub-*  
 25          *section (a).*

1           (2) *QUALIFICATIONS.—Individuals selected for*  
2 *the IT SWAT Team—*

3           (A) *shall be certified at the Senior/Expert*  
4 *level according to the Federal Acquisition Cer-*  
5 *tification for Program and Project Managers*  
6 *(FAC-P/PM);*

7           (B) *shall have comparable education, cer-*  
8 *tification, training, and experience to success-*  
9 *fully manage high-risk IT investment projects; or*

10          (C) *shall have expertise in the successful*  
11 *management or oversight of planning, architec-*  
12 *ture, process, integration, or other technical and*  
13 *management aspects using proven process best*  
14 *practices on high-risk IT investment projects.*

15          (3) *NUMBER.—The Director, in consultation*  
16 *with the E-Gov Administrator, shall determine the*  
17 *number of individuals who will be selected for the IT*  
18 *SWAT Team.*

19          (c) *OUTSIDE CONSULTANTS.—*

20          (1) *IDENTIFICATION.—The E-Gov Administrator*  
21 *shall identify consultants in the private sector who*  
22 *have expert knowledge in IT program management*  
23 *and program management review teams. Not more*  
24 *than 20 percent of such consultants may be formally*



1       *associated with any 1 of the following types of enti-*  
2       *ties:*

3               *(A) Commercial firms.*

4               *(B) Nonprofit entities.*

5               *(C) Federally funded research and develop-*  
6       *ment centers.*

7       (2) *USE OF CONSULTANTS.—*

8               *(A) IN GENERAL.—Consultants identified*  
9       *under paragraph (1) may be used to assist the*  
10       *IT SWAT Team in assessing and improving IT*  
11       *investment projects.*

12              *(B) LIMITATION.—Consultants with a for-*  
13       *mally established relationship with an organiza-*  
14       *tion may not participate in any assessment in-*  
15       *volving an IT investment project for which such*  
16       *organization is under contract to provide tech-*  
17       *nical support.*

18              *(C) EXCEPTION.—The limitation described*  
19       *in subparagraph (B) may not be construed as*  
20       *precluding access to anyone having relevant in-*  
21       *formation helpful to the conduct of the assess-*  
22       *ment.*

23              (3) *CONTRACTS.—The E-Gov Administrator, in*  
24       *conjunction with the Administrator of the General*  
25       *Services Administration (GSA), may establish com-*

1        *petitively bid contracts with 1 or more qualified con-*  
2        *sultants, independent of any GSA schedule.*

3        *(d) INITIAL RESPONSE TO ANTICIPATED SIGNIFICANT*  
4        *OR GROSS DEVIATION.—If the E-Gov Administrator deter-*  
5        *mines there is reasonable cause to believe that a major IT*  
6        *investment project is likely to significantly or grossly devi-*  
7        *ate (as defined in section 11317(a) of title 40, United States*  
8        *Code), including the receipt of inconsistent or missing data,*  
9        *or if the E-Gov Administrator determines that the assign-*  
10       *ment of 1 or more members of the IT SWAT Team could*  
11       *meaningfully reduce the possibility of significant or gross*  
12       *deviation, the E-Gov Administrator shall carry out the fol-*  
13       *lowing activities:*

14                *(1) Recommend the assignment of 1 or more*  
15        *members of the IT SWAT Team to assess the project*  
16        *in accordance with the scope and time period de-*  
17        *scribed in section 11317(c)(1) of title 40, United*  
18        *States Code, beginning not later than 14 days after*  
19        *such recommendation. No member of the SWAT Team*  
20        *who is associated with the department or agency*  
21        *whose IT investment project is the subject of the as-*  
22        *essment may be assigned to participate in this as-*  
23        *essment. Such limitation may not be construed as*  
24        *precluding access to anyone having relevant informa-*  
25        *tion helpful to the conduct of the assessment.*

1           (2) *If the E-Gov Administrator determines that*  
2           *1 or more qualified consultants are needed to support*  
3           *the efforts of the IT SWAT Team under paragraph*  
4           *(1), negotiate a contract with the consultant to pro-*  
5           *vide such support during the period in which the IT*  
6           *SWAT Team is conducting the assessment described*  
7           *in paragraph (1).*

8           (3) *Ensure that the costs of an assessment under*  
9           *paragraph (1) and the support services of 1 or more*  
10          *consultants under paragraph (2) are paid by the*  
11          *major IT investment project being assessed.*

12          (4) *Monitor the progress made by the IT SWAT*  
13          *Team in assessing the project.*

14          (e) *REDUCTION OF SIGNIFICANT OR GROSS DEVI-*  
15          *ATION.—If the E-Gov Administrator determines that the as-*  
16          *essment conducted under subsection (d) confirms that a*  
17          *major IT investment project is likely to significantly or*  
18          *grossly deviate, the E-Gov Administrator shall recommend*  
19          *that the Agency Head (as defined in section 11317(a)(1)*  
20          *of title 40, United States Code) take steps to reduce the devi-*  
21          *ation, which may include—*

22                 (1) *providing training, education, or mentoring*  
23                 *to improve the qualifications of the program man-*  
24                 *ager;*

1           (2) *replacing the program manager or other*  
2 *staff;*

3           (3) *supplementing the program management*  
4 *team with Federal Government employees or inde-*  
5 *pendent contractors;*

6           (4) *terminating the project; or*

7           (5) *hiring an independent contractor to report*  
8 *directly to senior management and the E-Gov Admin-*  
9 *istrator.*

10 (f) *REPROGRAMMING OF FUNDS.—*

11           (1) *AUTHORIZATION.—The Director may direct*  
12 *an Agency Head to reprogram amounts which have*  
13 *been appropriated for such agency to pay for an as-*  
14 *essment under subsection (d).*

15           (2) *NOTIFICATION.—An Agency Head who repro-*  
16 *grams appropriations under paragraph (1) shall no-*  
17 *tify the Committee on Appropriations of the Senate*  
18 *and the Committee on Appropriations of the House of*  
19 *Representatives of any such reprogramming.*

20 (g) *REPORT TO CONGRESS.—The Director shall in-*  
21 *clude in the annual Report to Congress on the Benefits of*  
22 *E-Government Initiatives a detailed summary of the com-*  
23 *position and activities of the IT SWAT Team, including—*

24           (1) *the number and qualifications of individuals*  
25 *on the IT SWAT Team;*

1           (2) a description of the IT investment projects  
2 that the IT SWAT Team has worked during the pre-  
3 vious fiscal year;

4           (3) the major issues that necessitated the involve-  
5 ment of the IT SWAT Team to assist agencies with  
6 assessing and managing IT investment projects and  
7 whether such issues were satisfactorily resolved;

8           (4) if the issues referred to in paragraph (3)  
9 were not satisfactorily resolved, the issues still needed  
10 to be resolved and the Agency Head's plan for resolv-  
11 ing such issues;

12           (5) a detailed breakdown of the sources and uses  
13 of the amounts spent by the Office of Management  
14 and Budget and other Federal agencies during the  
15 previous fiscal year to support the activities of the IT  
16 SWAT Team; and

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

19                   (A) preventing projects from deviating from  
20 the original baseline; and

21                   (B) assisting agencies in conducting appro-  
22 priate analysis and planning before a project is  
23 funded.

1 **SEC. 7. AWARDS FOR PERSONNEL FOR EXCELLENCE IN THE**  
2 **ACQUISITION OF INFORMATION SYSTEMS**  
3 **AND INFORMATION TECHNOLOGY.**

4 (a) *IN GENERAL.*—Not later than 180 days after the  
5 enactment of this Act, the Director of the Office of Personnel  
6 Management shall develop policy and guidance for agencies  
7 to develop a program to recognize excellent performance by  
8 Federal Government employees and teams of such employees  
9 in the acquisition of information systems and information  
10 technology for the agency.

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

13 (1) *obtain objective outcome measures; and*

14 (2) *include procedures for—*

15 (A) *the nomination of Federal Government*  
16 *employees and teams of such employees for eligi-*  
17 *bility for recognition under the program; and*

18 (B) *the evaluation of nominations for rec-*  
19 *ognition under the program by 1 or more agency*  
20 *panels of individuals from government, aca-*  
21 *demia, and the private sector who have such ex-*  
22 *pertise, and are appointed in such a manner, as*  
23 *the Director of the Office of Personal Manage-*  
24 *ment shall establish for purposes of the program.*

25 (c) *AWARD OF CASH BONUSES AND OTHER INCEN-*  
26 *TIVES.*—As part of the program referred to in subsection

1 *(a), the Director of the Office of Personnel Management, in*  
2 *consultation with the Director of the Office of Management*  
3 *and Budget, shall establish policies and guidance for agen-*  
4 *cies to reward any Federal Government employee or teams*  
5 *of such employees recognized pursuant to the program—*

6 *(1) by awarding a cash bonus authorized by any*  
7 *other provision of law to the extent that the perform-*  
8 *ance of such individual so recognized warrants the*  
9 *award of such bonus under such provision of law;*

10 *(2) through promotions and other nonmonetary*  
11 *awards;*

12 *(3) by publicizing acquisition accomplishments*  
13 *by individual employees and, as appropriate, the tan-*  
14 *gible end benefits that resulted from such accomplish-*  
15 *ments; and*

16 *(4) through other awards, incentives, or bonuses*  
17 *that the head of the agency considers appropriate.*

Calendar No. 364

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 920**

[Report No. 111-179]

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## **A BILL**

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.

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MAY 5, 2010

Reported with an amendment