

FITARA ENHANCEMENT ACT OF 2017

OCTOBER 10, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOWDY, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 3243]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 3243) to amend title 40, United States Code, to eliminate the sunset of certain provisions relating to information technology, to amend the National Defense Authorization Act for Fiscal Year 2015 to extend the sunset relating to the Federal Data Center Consolidation Initiative, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 3243, the *FITARA Enhancement Act of 2017*, reauthorizes several provisions in the *Federal Information Technology Acquisition Reform Act* (FITARA).¹ These provisions relate to requirements aimed at increasing transparency and improving risk management of major federal information technology (IT) investments and establishing agency reviews of IT portfolios to reduce duplication and realize savings. This bill also extends requirements related to goals and deadlines for the agency data center consolidation initiative from 2018 to 2020.

BACKGROUND AND NEED FOR LEGISLATION

In fiscal year 2017, the Federal Government will spend more than \$89 billion on IT.² Over 75 percent of this spending is on operating and maintaining legacy IT systems.³ Legacy IT is often inefficient, costly to maintain, and can have greater security vulnerabilities. The taxpayer's return on IT investments is often at risk with an acquisition system plagued with delays and rising costs. Generally, the IT acquisition system does not reward innovation and excellence. Large government IT investments can take years while the private sector rewards speed and innovation. Given this state of affairs, Congress recognized the need for reform to address IT management and acquisition challenges.

In December 2014, Congress passed the *Federal Information Technology Acquisition Reform Act* (FITARA) to address some of these challenges.⁴ FITARA represented the first serious IT acquisition and management reform effort since the Clinger-Cohen Act of 1996.⁵

In February 2015, the Government Accountability Office (GAO) added "Improving the Management of IT Acquisitions and Operations" to its annual High Risk List for the first time, confirming the need for the reforms codified in FITARA. As of January 2015, only 23 percent of the 737 recommendations were fully implemented.⁶ GAO designates areas as "high risk due to their greater vulnerabilities to fraud, waste, abuse, and mismanagement or the need for transformation to address economy, efficiency, or effectiveness challenges."⁷

FITARA provides a vital tool for Congress to conduct oversight of federal IT management and acquisition. Key FITARA provisions include clarifications related to Chief Information Officer (CIO) authority, requirements for agency CIOs and the Office of Management and Budget (OMB) related to the management and acquisition of IT, and directives to the GAO for further oversight.

¹National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113–291, Title VIII, Subtitle D, 128 Stat. 3292, 3438–3450 (2014).

²U.S. Budget Fiscal Year 2017, Analytical Perspectives: Information Technology 287 (Feb. 2016).

³Gov't Accountability Office, GAO–16–468, Federal Agencies Need to Address Aging Legacy Systems (2016).

⁴National Defense Authorization Act Fiscal Year 2015, Pub. L. No. 113–291, Title VIII, Subtitle D (Dec. 19, 2014).

⁵40 U.S.C. § 11101 et seq.

⁶Gov't Accountability Office, GAO–15–290, 2015 High Risk Report 39 (2015).

⁷*Id.* at *i*.

First, FITARA enhances existing CIO authorities by ensuring the CIO has a significant role in the budgeting, execution, management, and governance processes related to IT management and acquisition.⁸ Second, FITARA establishes key requirements to enhance transparency and improve risk management for federal IT investments. FITARA does this by requiring OMB to publish on the IT Dashboard a list by agency of major IT investments with data on cost, schedule, and performance, and requiring agency CIOs to certify the accuracy of this data.⁹ This provision expires on December 19, 2019. Third, FITARA requires OMB and agency CIOs to review annually agency IT investments and evaluate their entire IT Portfolio.¹⁰ Specifically, CIOs must identify: (1) ways to increase efficiencies and effectiveness of IT investments; (2) potential duplication and waste; and (3) cost savings. This provision expires on December 19, 2019. Fourth, FITARA requires agencies to develop implementation plans to inventory and consolidate data centers and to report to OMB on their performance under these plans.¹¹ OMB is also required to develop metrics, including cost savings, for government-wide data center consolidation and optimization plans. Further, GAO must review and verify agencies' data center consolidation efforts. This provision expires on October 1, 2018.

These provisions were established with sunset dates to evaluate the effectiveness of the requirements. These provisions have proven valuable in the Committee's IT oversight activities and improving federal IT management and operations, and therefore should be permanently authorized. The Committee has furthered the goals of FITARA with vigorous oversight, including the development of a *FITARA Scorecard* to evaluate agencies' FITARA implementation activities and holding several FITARA-related hearings since the law was passed in 2014.

The Committee, with technical assistance from GAO, developed the *Scorecard* to assess implementation of four key FITARA provisions.¹² The *Scorecard* relies on agency self-reported data and GAO verification of such data. The *Scorecard* assesses the following areas: (1) CIO authority enhancements; (2) enhanced transparency and improved risk management; (3) IT Portfolio review; and (4) federal data center consolidation initiative. For *Scorecard* area one (CIO authority enhancements), the *Scorecard* assesses agencies' use of incremental development, which is a preferred approach to IT development, and requires agency CIO certification of its use. For area two (enhanced transparency and improved risk management), the *Scorecard* rewards agencies that are reporting more risk on major IT investments because GAO found agencies were typically under-reporting risk; thereby putting the success of these IT investments at risk. For area three (IT Portfolio review), the *Scorecard* calculates a grade by dividing agency's reported savings through the IT Portfolio review process by the agency's total IT budget for the most recent three fiscal years and assigns a grade

⁸ Pub. L. No. 113-291, § 831.

⁹ *Id.* at § 832; see <https://www.itdashboard.gov>.

¹⁰ Pub. L. No. 113-291, § 833.

¹¹ *Id.* at § 834.

¹² *The Federal Information Technology Acquisition Reform Act (FITARA) Scorecard 4.0: Hearing Before the Information Technology and Government Operations Subcommittees of H. Comm. on Oversight & Gov't Reform, 115th Cong. (June 13, 2017)*, available at <https://oversight.house.gov/hearing/federal-information-technology-acquisition-reform-act-fitara-scorecard-4-0/>.

relative to other agencies' performance in this area. For area four (data center consolidation), the *Scorecard* grades generally are based on the percentage of planned savings realized through data center consolidation.

H.R. 3243 permanently authorizes areas two (enhanced transparency and improved risk management) and three (IT Portfolio review) of FITARA and extends the sunset for area four (data center consolidation). This will ensure the continuation of FITARA requirements that inform the Congress's oversight of federal IT acquisition.

The Committee highlighted the results of the Scorecard and the priority the Committee places on FITARA implementation with hearings. Overall, the Committee has held five FITARA-related hearings of the Subcommittees on Information Technology and Government Operations:

- June 10, 2015, hearing titled, *The Federal Information Technology Acquisition Reform Act's Role in Reducing IT Acquisition Risk*; ¹³
- November 4, 2015, hearing titled, *The Federal Information Technology Acquisition Reform Act's (FITARA) Role in Reducing IT Acquisition Risk, Part II: Measuring Agencies' FITARA Implementation* (first FITARA Scorecard released); ¹⁴
- May 18, 2016, hearing titled, *The Federal Information Technology Acquisition Reform Act Scorecard 2.0*; ¹⁵
- December 6, 2016, hearing titled, *The Federal Information Technology Acquisition Reform Act (FITARA) Scorecard 3.0: Measuring Agencies Implementation*; ¹⁶ and
- June 13, 2017, hearing titled, *The Federal Information Technology Acquisition Reform Act (FITARA) Scorecard 4.0*.¹⁷

In light of the improvements agencies made and the effectiveness of the *FITARA Scorecard*, the Committee recognized the need to eliminate the sunsets and extend the original expiration date for several key FITARA provisions. Consequently, H.R. 3243 will: (1) extend the requirements for agencies to publicly report schedule and cost information and assess the risks of major IT investments; (2) extend the requirement for each agency to regularly assess its IT portfolio, looking for opportunities to reduce duplication and find savings; and (3) continue to hold agencies accountable for consolidating and optimizing their data centers by extending these requirements through 2020.

In the June 13, 2017, hearing, GAO, which has been instrumental in assisting the Committee with overseeing FITARA imple-

¹³*The Federal Information Technology Acquisition Reform Act's Role in Reducing IT Acquisition Risk: Hearing Before the Subcomms. on Information Technology and Government Operations of the H. Comm. on Oversight & Gov't Reform*, 114th Cong., Serial NO. 114-43 (June 10, 2015).

¹⁴*The Federal Information Technology [Acquisition] Reform Act's (FITARA) Role in Reducing IT Acquisition Risk, Part II: Measuring Agencies' FITARA Implementation: Hearing Before the Subcomms. on Information Technology and Government Operations of the H. Comm. on Oversight & Gov't Reform*, 114th Cong., Serial NO. 114-89 (Nov. 4, 2015).

¹⁵*The Federal Information Technology [Acquisition] Reform Act Scorecard 2.0: Hearing Before the Subcomms. on Information Technology and Government Operations of the H. Comm. on Oversight & Gov't Reform*, 114th Cong., Serial NO. 114-159 (May 18, 2016).

¹⁶*The Federal Information Technology [Acquisition] Reform Act (FITARA) Scorecard 3.0: Measuring Agencies Implementation: Hearing Before the Subcomms. on Information Technology and Government Operations of the H. Comm. on Oversight & Gov't Reform*, 114th Cong., Serial NO. 114-171 (Dec. 6, 2016).

¹⁷*The Federal Information Technology Acquisition Reform Act (FITARA) Scorecard 4.0: Hearing Before the Subcomms. on Information Technology and Government Operations of the H. Comm. on Oversight & Gov't Reform*, 115th Cong., Serial NO. 115-27 (June 13, 2017).

mentation, expressed support for extending these provisions.¹⁸ GAO has also reported that agencies have made progress in addressing GAO recommendations to address the high-risk status of the management of IT acquisition and operations. In a March 28, 2017, hearing, GAO acknowledged that as of December 2016, OMB and agencies fully implemented approximately 46 percent of about 800 related recommendations made by GAO (compared to 23 percent in 2015).¹⁹ In sum, the tools provided in FITARA and the Committee’s vigorous oversight of FITARA implementation by Federal agencies have resulted in demonstrable improvements and focused the attention of agencies on this high-risk area. H.R. 3243 will facilitate the Committee’s work in this area by eliminating the sunset provisions and extending a deadline for key FITARA provisions.

LEGISLATIVE HISTORY

On July 14, 2017, Representative Gerald Connolly (D–VA) introduced H.R. 3243, the FITARA Enhancement Act of 2017, with Representatives Darrell Issa (R–CA), Mark Meadows (R–NC), and Robin Kelly (D–IL). H.R. 3243 was referred to the Committee on Oversight and Government Reform. The Committee considered H.R. 3243 at a business meeting on July 19, 2017, and ordered the bill reported favorably by voice vote.

SECTION-BY-SECTION

Section 1. Short title

The short title is the “FITARA Enhancement Act of 2017”.

Section 2. Elimination of sunset relating to transparency and risk management of major information technology investments

Section 2 strikes a sunset related to section 11302(c) of title 40, United States Code.

Section 3. Elimination of sunset relating to information technology portfolio, program, and resource reviews

Section 3 strikes a sunset related to section 11319 of title 40, United States Code, and makes a technical amendment.

Section 4. Extension of sunset relating to Federal data center consolidation initiative

Section 4 extends a sunset related to section 834 of FITARA from 2018 until 2020.

EXPLANATION OF AMENDMENTS

There were no amendments to H.R. 3243 offered or agreed to during Committee consideration of the bill.

¹⁸*The Federal Information Technology Acquisition Reform Act (FITARA) Scorecard 4.0 Hearing Before Information Technology and Gov’t Operations Subcommittees of the H. Comm. on Oversight & Gov’t Reform*, 115th Cong. (June 13, 2017) (Testimony of David A. Powner, Director of Information Technology Mgmt Issues, Gov’t Accountability Office).

¹⁹Gov’t Accountability Office, GAO–17–494T, *Implementation of IT Reform Law and Related Initiatives Can Help Improve Acquisitions* (2017).

COMMITTEE CONSIDERATION

On July 19, 2017, the Committee met in open session and, with a quorum being present, ordered the bill favorably reported by voice vote.

ROLL CALL VOTES

There were no roll call votes during consideration of H.R. 3243.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill reauthorizes several provisions of the Federal Information Technology Acquisition Reform Act (Pub. L. No. 113–291, Title VIII, Subtitle D, 128 Stat. 3292, 3438–3450). As such, this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal or objective of this bill is to eliminate the sunset of certain provisions relating to information technology and to extend the sunset relating to the Federal Data Center Consolidation Initiative.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of section 551 or title 5, United States Code.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATES STATEMENT

Pursuant to section 423 of the Congressional Budget and Impoundment Control Act (Pub. L. 113–67), the Committee has included a letter received from the Congressional Budget Office below.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

COMMITTEE ESTIMATE

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the Congressional Budget Act of 1974 is as follows:

SEPTEMBER 29, 2017.

Hon. TREY GOWDY,
*Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3243, the FITARA Enhancement Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 3243—FITARA Enhancement Act of 2017

H.R. 3243 would amend the Federal Information Technology Acquisition Reform Act (FITARA) to permanently extend some expiring provisions. FITARA was enacted as part of the National Defense Authorization Act for Fiscal Year 2015 and primarily made changes to how the U.S. government buys and manages computer technology. Specifically, the bill would extend the Federal Data Center Consolidation Initiative (FDCCI), PortfolioStat reviews, and the information technology (IT) dashboard.

The FDCCI aims to reduce costs and save energy, PortfolioStat reviews are face-to-face meetings between each agency's IT officers and the Office of Management and Budget (OMB), and the IT dashboard provides online details of federal information technology spending. Information from OMB suggests that implementing those efforts costs a few million dollars annually for agencies to produce

the necessary information; however, OMB expects that much of this work would continue regardless of the expiring authority to conduct them. Thus, CBO estimates there would be no significant additional cost or savings to continue those efforts under H.R. 3243.

Enacting the bill could affect direct spending by agencies not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net increase in spending by those agencies would not be significant. Enacting H.R. 3243 would not affect revenues.

CBO estimates that enacting H.R. 3243 would not increase direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3243 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contacts for this estimate is Matthew Pickford. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 40, UNITED STATES CODE

* * * * *

SUBTITLE III—INFORMATION TECHNOLOGY MANAGEMENT

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CHAPTER 113—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

SUBCHAPTER I—DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

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§ 11302. Capital planning and investment control

(a) FEDERAL INFORMATION TECHNOLOGY.—The Director of the Office of Management and Budget shall perform the responsibilities set forth in this section in fulfilling the responsibilities under section 3504(h) of title 44.

(b) USE OF INFORMATION TECHNOLOGY IN FEDERAL PROGRAMS.—The Director shall promote and improve the acquisition, use, security, and disposal of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of federal programs, including through dissemination of public infor-

mation and the reduction of information collection burdens on the public.

(c) USE OF BUDGET PROCESS.—

(1) DEFINITIONS.—In this subsection:

(A) The term “covered agency” means an agency listed in section 901(b)(1) or 901(b)(2) of title 31.

(B) The term “major information technology investment” means an investment within a covered agency information technology investment portfolio that is designated by the covered agency as major, in accordance with capital planning guidance issued by the Director.

(C) The term “national security system” has the meaning provided in section 3542 of title 44.

(2) ANALYZING, TRACKING, AND EVALUATING CAPITAL INVESTMENTS.—As part of the budget process, the Director shall develop a process for analyzing, tracking, and evaluating the risks, including information security risks, and results of all major capital investments made by an executive agency for information systems. The process shall cover the life of each system and shall include explicit criteria for analyzing the projected and actual costs, benefits, and risks, including information security risks, associated with the investments.

(3) PUBLIC AVAILABILITY.—

(A) IN GENERAL.—The Director shall make available to the public a list of each major information technology investment, without regard to whether the investments are for new information technology acquisitions or for operations and maintenance of existing information technology, including data on cost, schedule, and performance.

(B) AGENCY INFORMATION.—

(i) The Director shall issue guidance to each covered agency for reporting of data required by subparagraph (A) that provides a standardized data template that can be incorporated into existing, required data reporting formats and processes. Such guidance shall integrate the reporting process into current budget reporting that each covered agency provides to the Office of Management and Budget, to minimize additional workload. Such guidance shall also clearly specify that the investment evaluation required under subparagraph (C) adequately reflect the investment’s cost and schedule performance and employ incremental development approaches in appropriate cases.

(ii) The Chief Information Officer of each covered agency shall provide the Director with the information described in subparagraph (A) on at least a semi-annual basis for each major information technology investment, using existing data systems and processes.

(C) INVESTMENT EVALUATION.—For each major information technology investment listed under subparagraph (A), the Chief Information Officer of the covered agency, in consultation with other appropriate agency officials, shall categorize the investment according to risk, in accordance with guidance issued by the Director.

(D) CONTINUOUS IMPROVEMENT.—If either the Director or the Chief Information Officer of a covered agency determines that the information made available from the agency's existing data systems and processes as required by subparagraph (B) is not timely and reliable, the Chief Information Officer, in consultation with the Director and the head of the agency, shall establish a program for the improvement of such data systems and processes.

(E) WAIVER OR LIMITATION AUTHORITY.—The applicability of subparagraph (A) may be waived or the extent of the information may be limited by the Director, if the Director determines that such a waiver or limitation is in the national security interests of the United States.

(F) ADDITIONAL LIMITATION.—The requirements of subparagraph (A) shall not apply to national security systems or to telecommunications or information technology that is fully funded by amounts made available—

(i) under the National Intelligence Program, defined by section 3(6) of the National Security Act of 1947 (50 U.S.C. 3003(6));

(ii) under the Military Intelligence Program or any successor program or programs; or

(iii) jointly under the National Intelligence Program and the Military Intelligence Program (or any successor program or programs).

(4) RISK MANAGEMENT.—For each major information technology investment listed under paragraph (3)(A) that receives a high risk rating, as described in paragraph (3)(C), for 4 consecutive quarters—

(A) the Chief Information Officer of the covered agency and the program manager of the investment within the covered agency, in consultation with the Administrator of the Office of Electronic Government, shall conduct a review of the investment that shall identify—

(i) the root causes of the high level of risk of the investment;

(ii) the extent to which these causes can be addressed; and

(iii) the probability of future success;

(B) the Administrator of the Office of Electronic Government shall communicate the results of the review under subparagraph (A) to—

(i) the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate;

(ii) the Committee on Oversight and Government Reform and the Committee on Appropriations of the House of Representatives; and

(iii) the committees of the Senate and the House of Representatives with primary jurisdiction over the agency;

(C) in the case of a major information technology investment of the Department of Defense, the assessment required by subparagraph (A) may be accomplished in accordance with section 2445c of title 10, provided that the

results of the review are provided to the Administrator of the Office of Electronic Government upon request and to the committees identified in subsection (B); and

(D) for a covered agency other than the Department of Defense, if on the date that is one year after the date of completion of the review required under subsection (A), the investment is rated as high risk under paragraph (3)(C), the Director shall deny any request for additional development, modernization, or enhancement funding for the investment until the date on which the Chief Information Officer of the covered agency determines that the root causes of the high level of risk of the investment have been addressed, and there is sufficient capability to deliver the remaining planned increments within the planned cost and schedule.

【(5) SUNSET OF CERTAIN PROVISIONS.—Paragraphs (1), (3), and (4) shall not be in effect on and after the date that is 5 years after the date of the enactment of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015.】

(5) REPORT TO CONGRESS.—At the same time that the President submits the budget for a fiscal year to Congress under section 1105(a) of title 31, the Director shall submit to Congress a report on the net program performance benefits achieved as a result of major capital investments made by executive agencies for information systems and how the benefits relate to the accomplishment of the goals of the executive agencies.

(d) INFORMATION TECHNOLOGY STANDARDS.—The Director shall oversee the development and implementation of standards and guidelines pertaining to federal computer systems by the Secretary of Commerce through the National Institute of Standards and Technology under section 11331 of this title and section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

(e) DESIGNATION OF EXECUTIVE AGENTS FOR ACQUISITIONS.—The Director shall designate the head of one or more executive agencies, as the Director considers appropriate, as executive agent for Government-wide acquisitions of information technology.

(f) USE OF BEST PRACTICES IN ACQUISITIONS.—The Director shall encourage the heads of the executive agencies to develop and use the best practices in the acquisition of information technology.

(g) ASSESSMENT OF OTHER MODELS FOR MANAGING INFORMATION TECHNOLOGY.—On a continuing basis, the Director shall assess the experiences of executive agencies, state and local governments, international organizations, and the private sector in managing information technology.

(h) COMPARISON OF AGENCY USES OF INFORMATION TECHNOLOGY.—The Director shall compare the performances of the executive agencies in using information technology and shall disseminate the comparisons to the heads of the executive agencies.

(i) MONITORING TRAINING.—The Director shall monitor the development and implementation of training in information resources management for executive agency personnel.

(j) INFORMING CONGRESS.—The Director shall keep Congress fully informed on the extent to which the executive agencies are improving the performance of agency programs and the accomplishment of the agency missions through the use of the best practices in information resources management.

(k) COORDINATION OF POLICY DEVELOPMENT AND REVIEW.—The Director shall coordinate with the Office of Federal Procurement Policy the development and review by the Administrator of the Office of Information and Regulatory Affairs of policy associated with federal acquisition of information technology.

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SUBCHAPTER II—EXECUTIVE AGENCIES

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§ 11319. Resources, planning, and portfolio management

(a) DEFINITIONS.—In this section:

(1) The term “covered agency” means each agency listed in section 901(b)(1) or 901(b)(2) of title 31.

(2) The term “information technology” has the meaning given that term under capital planning guidance issued by the Office of Management and Budget.

(b) ADDITIONAL AUTHORITIES FOR CHIEF INFORMATION OFFICERS.—

(1) PLANNING, PROGRAMMING, BUDGETING, AND EXECUTION AUTHORITIES FOR CIOS.—

(A) IN GENERAL.—The head of each covered agency other than the Department of Defense shall ensure that the Chief Information Officer of the agency has a significant role in—

(i) the decision processes for all annual and multi-year planning, programming, budgeting, and execution decisions, related reporting requirements, and reports related to information technology; and

(ii) the management, governance, and oversight processes related to information technology.

(B) BUDGET FORMULATION.—The Director of the Office of Management and Budget shall require in the annual information technology capital planning guidance of the Office of Management and Budget the following:

(i) That the Chief Information Officer of each covered agency other than the Department of Defense approve the information technology budget request of the covered agency, and that the Chief Information Officer of the Department of Defense review and provide recommendations to the Secretary of Defense on the information technology budget request of the Department.

(ii) That the Chief Information Officer of each covered agency certify that information technology investments are adequately implementing incremental development, as defined in capital planning guidance issued by the Office of Management and Budget.

(C) REVIEW.—

(i) IN GENERAL.—A covered agency other than the Department of Defense—

(I) may not enter into a contract or other agreement for information technology or information technology services, unless the contract or other agreement has been reviewed and approved by the Chief Information Officer of the agency;

(II) may not request the reprogramming of any funds made available for information technology programs, unless the request has been reviewed and approved by the Chief Information Officer of the agency; and

(III) may use the governance processes of the agency to approve such a contract or other agreement if the Chief Information Officer of the agency is included as a full participant in the governance processes.

(ii) DELEGATION.—

(I) IN GENERAL.—Except as provided in subclause (II), the duties of a Chief Information Officer under clause (i) are not delegable.

(II) NON-MAJOR INFORMATION TECHNOLOGY INVESTMENTS.—For a contract or agreement for a non-major information technology investment, as defined in the annual information technology capital planning guidance of the Office of Management and Budget, the Chief Information Officer of a covered agency other than the Department of Defense may delegate the approval of the contract or agreement under clause (i) to an individual who reports directly to the Chief Information Officer.

(2) PERSONNEL-RELATED AUTHORITY.—Notwithstanding any other provision of law, for each covered agency other than the Department of Defense, the Chief Information Officer of the covered agency shall approve the appointment of any other employee with the title of Chief Information Officer, or who functions in the capacity of a Chief Information Officer, for any component organization within the covered agency.

(c) LIMITATION.—None of the authorities provided in this section shall apply to telecommunications or information technology that is fully funded by amounts made available—

(1) under the National Intelligence Program, defined by section 3(6) of the National Security Act of 1947 (50 U.S.C. 3003(6));

(2) under the Military Intelligence Program or any successor program or programs; or

(3) jointly under the National Intelligence Program and the Military Intelligence Program (or any successor program or programs).

[(c)] (d) INFORMATION TECHNOLOGY PORTFOLIO, PROGRAM, AND RESOURCE REVIEWS.—

(1) PROCESS.—The Director of the Office of Management and Budget, in consultation with the Chief Information Officers of appropriate agencies, shall implement a process to assist cov-

ered agencies in reviewing their portfolio of information technology investments—

(A) to identify or develop ways to increase the efficiency and effectiveness of the information technology investments of the covered agency;

(B) to identify or develop opportunities to consolidate the acquisition and management of information technology services, and increase the use of shared-service delivery models;

(C) to identify potential duplication and waste;

(D) to identify potential cost savings;

(E) to develop plans for actions to optimize the information technology portfolio, programs, and resources of the covered agency;

(F) to develop ways to better align the information technology portfolio, programs, and financial resources of the covered agency to any multi-year funding requirements or strategic plans required by law;

(G) to develop a multi-year strategy to identify and reduce duplication and waste within the information technology portfolio of the covered agency, including component-level investments and to identify projected cost savings resulting from such strategy; and

(H) to carry out any other goals that the Director may establish.

(2) METRICS AND PERFORMANCE INDICATORS.—The Director of the Office of Management and Budget, in consultation with the Chief Information Officers of appropriate agencies, shall develop standardized cost savings and cost avoidance metrics and performance indicators for use by agencies for the process implemented under paragraph (1).

(3) ANNUAL REVIEW.—The Chief Information Officer of each covered agency, in conjunction with the Chief Operating Officer or Deputy Secretary (or equivalent) of the covered agency and the Administrator of the Office of Electronic Government, shall conduct an annual review of the information technology portfolio of the covered agency.

(4) APPLICABILITY TO THE DEPARTMENT OF DEFENSE.—In the case of the Department of Defense, processes established pursuant to this subsection shall apply only to the business systems information technology portfolio of the Department of Defense and not to national security systems as defined by section 11103(a) of this title. The annual review required by paragraph (3) shall be carried out by the Deputy Chief Management Officer of the Department of Defense (or any successor to such Officer), in consultation with the Chief Information Officer, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and other appropriate Department of Defense officials. The Secretary of Defense may designate an existing investment or management review process to fulfill the requirement for the annual review required by paragraph (3), in consultation with the Administrator of the Office of Electronic Government.

(5) QUARTERLY REPORTS.—

(A) IN GENERAL.—The Administrator of the Office of Electronic Government shall submit a quarterly report on the cost savings and reductions in duplicative information technology investments identified through the review required by paragraph (3) to—

(i) the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate;

(ii) the Committee on Oversight and Government Reform and the Committee on Appropriations of the House of Representatives; and

(iii) upon a request by any committee of Congress, to that committee.

(B) INCLUSION IN OTHER REPORTS.—The reports required under subparagraph (A) may be included as part of another report submitted to the committees of Congress described in clauses (i), (ii), and (iii) of subparagraph (A).

[(6) SUNSET.—This subsection shall not be in effect on and after the date that is 5 years after the date of the enactment of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015.]

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NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2015

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

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Subtitle D—Federal Information Technology Acquisition Reform

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SEC. 834. FEDERAL DATA CENTER CONSOLIDATION INITIATIVE.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Office of Electronic Government established under section 3602 of title 44, United States Code (and also known as the Office of E-Government and Information Technology), within the Office of Management and Budget.

(2) COVERED AGENCY.—The term “covered agency” means the following (including all associated components of the agency):

- (A) Department of Agriculture.
- (B) Department of Commerce.
- (C) Department of Defense.
- (D) Department of Education.
- (E) Department of Energy.
- (F) Department of Health and Human Services.
- (G) Department of Homeland Security.
- (H) Department of Housing and Urban Development.
- (I) Department of the Interior.
- (J) Department of Justice.
- (K) Department of Labor.
- (L) Department of State.
- (M) Department of Transportation.
- (N) Department of Treasury.
- (O) Department of Veterans Affairs.
- (P) Environmental Protection Agency.
- (Q) General Services Administration.
- (R) National Aeronautics and Space Administration.
- (S) National Science Foundation.
- (T) Nuclear Regulatory Commission.
- (U) Office of Personnel Management.
- (V) Small Business Administration.
- (W) Social Security Administration.
- (X) United States Agency for International Development.

(3) FDCCI.—The term “FDCCI” means the Federal Data Center Consolidation Initiative described in the Office of Management and Budget Memorandum on the Federal Data Center Consolidation Initiative, dated February 26, 2010, or any successor thereto.

(4) GOVERNMENT-WIDE DATA CENTER CONSOLIDATION AND OPTIMIZATION METRICS.—The term “Government-wide data center consolidation and optimization metrics” means the metrics established by the Administrator under subsection (b)(2)(G).

(b) FEDERAL DATA CENTER CONSOLIDATION INVENTORIES AND STRATEGIES.—

(1) IN GENERAL.—

(A) ANNUAL REPORTING.—Except as provided in subparagraph (C), each year, beginning in the first fiscal year after the date of the enactment of this Act and each fiscal year thereafter, the head of each covered agency, assisted by the Chief Information Officer of the agency, shall submit to the Administrator—

(i) a comprehensive inventory of the data centers owned, operated, or maintained by or on behalf of the agency; and

(ii) a multi-year strategy to achieve the consolidation and optimization of the data centers inventoried under clause (i), that includes—

(I) performance metrics—

(aa) that are consistent with the Government-wide data center consolidation and optimization metrics; and

(bb) by which the quantitative and qualitative progress of the agency toward the goals of the FDCCI can be measured;

(II) a timeline for agency activities to be completed under the FDCCI, with an emphasis on benchmarks the agency can achieve by specific dates;

(III) year-by-year calculations of investment and cost savings for the period beginning on the date of the enactment of this Act and ending on the date set forth in subsection (e), broken down by each year, including a description of any initial costs for data center consolidation and optimization and life cycle cost savings and other improvements, with an emphasis on—

(aa) meeting the Government-wide data center consolidation and optimization metrics; and

(bb) demonstrating the amount of agency-specific cost savings each fiscal year achieved through the FDCCI; and

(IV) any additional information required by the Administrator.

(B) USE OF OTHER REPORTING STRUCTURES.—The Administrator may require a covered agency to include the information required to be submitted under this subsection through reporting structures determined by the Administrator to be appropriate.

(C) DEPARTMENT OF DEFENSE REPORTING.—For any year that the Department of Defense is required to submit a performance plan for reduction of resources required for data servers and centers, as required under section 2867(b) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note), the Department of Defense—

(i) may submit to the Administrator, in lieu of the multi-year strategy required under subparagraph (A)(ii)—

(I) the defense-wide plan required under section 2867(b)(2) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note); and

(II) the report on cost savings required under section 2867(d) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note); and

(ii) shall submit the comprehensive inventory required under subparagraph (A)(i), unless the defense-wide plan required under section 2867(b)(2) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note)—

(I) contains a comparable comprehensive inventory; and

(II) is submitted under clause (i).

(D) STATEMENT.—Each year, beginning in the first fiscal year after the date of the enactment of this Act and each fiscal year thereafter, the head of each covered agency, acting through the Chief Information Officer of the agency, shall—

(i)(I) submit a statement to the Administrator stating whether the agency has complied with the requirements of this section; and

(II) make the statement submitted under subclause (I) publicly available; and

(ii) if the agency has not complied with the requirements of this section, submit a statement to the Administrator explaining the reasons for not complying with such requirements.

(E) AGENCY IMPLEMENTATION OF STRATEGIES.—

(i) IN GENERAL.—Each covered agency, under the direction of the Chief Information Officer of the agency, shall—

(I) implement the strategy required under subparagraph (A)(ii); and

(II) provide updates to the Administrator, on a quarterly basis, of—

(aa) the completion of activities by the agency under the FDCCI;

(bb) any progress of the agency towards meeting the Government-wide data center consolidation and optimization metrics; and

(cc) the actual cost savings and other improvements realized through the implementation of the strategy of the agency.

(ii) DEPARTMENT OF DEFENSE.—For purposes of clause (i)(I), implementation of the defense-wide plan required under section 2867(b)(2) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note) by the Department of Defense shall be considered implementation of the strategy required under subparagraph (A)(ii).

(F) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the reporting of information by a covered agency to the Administrator, the Director of the Office of Management and Budget, or Congress.

(2) ADMINISTRATOR RESPONSIBILITIES.—The Administrator shall—

(A) establish the deadline, on an annual basis, for covered agencies to submit information under this section;

(B) establish a list of requirements that the covered agencies must meet to be considered in compliance with paragraph (1);

(C) ensure that information relating to agency progress towards meeting the Government-wide data center consolidation and optimization metrics is made available in a timely manner to the general public;

(D) review the inventories and strategies submitted under paragraph (1) to determine whether they are comprehensive and complete;

(E) monitor the implementation of the data center strategy of each covered agency that is required under paragraph (1)(A)(ii);

(F) update, on an annual basis, the cumulative cost savings realized through the implementation of the FDCCI; and

(G) establish metrics applicable to the consolidation and optimization of data centers Government-wide, including metrics with respect to—

- (i) costs;
- (ii) efficiencies, including, at a minimum, server efficiency; and
- (iii) any other factors the Administrator considers appropriate.

(3) COST SAVING GOAL AND UPDATES FOR CONGRESS.—

(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Administrator shall develop, and make publicly available, a goal, broken down by year, for the amount of planned cost savings and optimization improvements achieved through the FDCCI during the period beginning on the date of the enactment of this Act and ending on the date set forth in subsection (e).

(B) ANNUAL UPDATE.—

(i) IN GENERAL.—Not later than one year after the date on which the goal described in subparagraph (A) is made publicly available, and each year thereafter, the Administrator shall aggregate the reported cost savings of each covered agency and optimization improvements achieved to date through the FDCCI and compare the savings to the projected cost savings and optimization improvements developed under subparagraph (A).

(ii) UPDATE FOR CONGRESS.—The goal required to be developed under subparagraph (A) shall be submitted to Congress and shall be accompanied by a statement describing—

(I) the extent to which each covered agency has developed and submitted a comprehensive inventory under paragraph (1)(A)(i), including an analysis of the inventory that details specific numbers, use, and efficiency level of data centers in each inventory; and

(II) the extent to which each covered agency has submitted a comprehensive strategy that addresses the items listed in paragraph (1)(A)(ii).

(4) GAO REVIEW.—

(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act, and each year thereafter, the Comptroller General of the United States shall review and verify the quality and completeness of the inventory and strategy of each covered agency required under paragraph (1)(A).

(B) REPORT.—The Comptroller General of the United States shall, on an annual basis, publish a report on each review conducted under subparagraph (A).

(c) ENSURING CYBERSECURITY STANDARDS FOR DATA CENTER CONSOLIDATION AND CLOUD COMPUTING.—

(1) IN GENERAL.—In implementing a data center consolidation and optimization strategy under this section, a covered agency shall do so in a manner that is consistent with Federal guidelines on cloud computing security, including—

(A) applicable provisions found within the Federal Risk and Authorization Management Program (FedRAMP); and

(B) guidance published by the National Institute of Standards and Technology.

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the ability of the Director of the Office of Management and Budget to update or modify the Federal guidelines on cloud computing security.

(d) WAIVER OF REQUIREMENTS.—The Director of National Intelligence and the Secretary of Defense, or their respective designee, may waive the applicability to any national security system, as defined in section 3542 of title 44, United States Code, of any provision of this section if the Director of National Intelligence or the Secretary of Defense, or their respective designee, determines that such waiver is in the interest of national security. Not later than 30 days after making a waiver under this subsection, the Director of National Intelligence or the Secretary of Defense, or their respective designee, shall submit to the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate and the Committee on Oversight and Government Reform and the Permanent Select Committee on Intelligence of the House of Representatives a statement describing the waiver and the reasons for the waiver.

(e) SUNSET.—This section is repealed effective on October 1, **[2018]** 2020.

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