

112TH CONGRESS  
1ST SESSION

# S. 801

To amend chapter 113 of title 40, United States Code, to require executive agency participation in real-time transparency of investment projects, to require performance and governance reviews of all cost overruns on Federal information technology investment projects, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 12, 2011

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

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## A BILL

To amend chapter 113 of title 40, United States Code, to require executive agency participation in real-time transparency of investment projects, to require performance and governance reviews of all cost overruns on Federal information technology investment projects, 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 Investment Management Act of 2011”.

1 **SEC. 2. IT MANAGEMENT AND DEVELOPMENT PROGRAM.**

2 Section 11311 of title 40, United States Code is  
3 amended to read as follows:

4 **“§ 11311. Responsibilities**

5 “In fulfilling the responsibilities set forth in section  
6 3506 of title 44, the head of each executive agency shall—

7 “(1) comply with the requirements under this  
8 subchapter;

9 “(2) develop an information technology manage-  
10 ment and development program in accordance with  
11 guidance disseminated by the Director of the Office  
12 of Management and Budget; and

13 “(3) enter into the website established under  
14 section 11302, not less frequently than monthly—

15 “(A) cost, schedule, and performance infor-  
16 mation regarding the agency’s major IT invest-  
17 ment projects, using earned value management  
18 or another objective, performance-based stand-  
19 ard that has been approved by the E-Govern-  
20 ment Administrator; and

21 “(B) the planning information regarding  
22 core IT investment projects described in section  
23 11317(d)(2).”.

1 **SEC. 3. REAL-TIME TRANSPARENCY OF IT INVESTMENT**  
2 **PROJECTS.**

3 Section 11302 of title 40, United States Code, is  
4 amended by adding at the end the following:

5 “(1) REAL-TIME TRANSPARENCY OF IT INVESTMENT  
6 PROJECTS.—The Director shall—

7 “(1) ensure the effective operation of a website;

8 “(2) ensure that agency Chief Information Offi-  
9 cers update the website on a monthly basis, at a  
10 minimum;

11 “(3) include on the website, not later than 90  
12 days after the date of enactment of the Information  
13 Technology Investment Management Act of 2011—

14 “(A) the available, accurate, current and  
15 historical cost, schedule, and performance infor-  
16 mation of all major information technology in-  
17 vestments, which shall be reported in a manner  
18 consistent with policy established by the Office  
19 of Management and Budget on the use of  
20 earned-value management data, or another ob-  
21 jective performance-based management system  
22 approved by the E-Government Administrator,  
23 based on the current ANSI–EIA–748 standard.

24 “(B) a graphical depiction of trend infor-  
25 mation, to the extent practicable, since the com-  
26 mencement of the major IT investment;

1           “(C) a clear delineation of major IT invest-  
 2           ments that have experienced a cost, schedule, or  
 3           performance variance greater than 10 percent  
 4           over the life cycle of the investment, including  
 5           the extent of such variation;

6           “(D) an explanation of the reasons the in-  
 7           vestment deviated from the benchmark estab-  
 8           lished at the commencement of the project;

9           “(E) the dates on which investments were  
 10          rebaselined; and

11          “(F) any reports developed as a result of  
 12          a comprehensive agency review or a comprehen-  
 13          sive Office of Management and Budget review;  
 14          and

15          “(4) ensure that the agency Chief Information  
 16          Officers prevent inconsistencies in cost, schedule,  
 17          and performance data.”.

18 **SEC. 4. REVIEW OF MAJOR IT INVESTMENT PROJECTS.**

19          (a) SIGNIFICANT AND GROSS DEVIATIONS.—Section  
 20          11317 of title 40, United States Code, is amended to read  
 21          as follows:

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

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

24                  “(1) AGENCY HEAD.—The term ‘Agency Head’  
 25                  means the head of the Federal agency that is pri-

1 marily responsible for the major IT investment  
2 project under review.

3 “(2) AGENCY PERFORMANCE AND GOVERNANCE  
4 REVIEW.—The term ‘agency performance and gov-  
5 ernance review’ means a systematic review of invest-  
6 ments experiencing performance problems that—

7 “(A) is conducted by relevant agency lead-  
8 ership and the Chief Information Officer; and

9 “(B) includes an analysis and discussion  
10 of—

11 “(i) the project’s overall intent and  
12 purpose and measurable goals and objec-  
13 tives;

14 “(ii) rationale for the project’s vari-  
15 ance from the original goals and perform-  
16 ance measures;

17 “(iii) any additional scope that may  
18 have been added to the project, including  
19 cost, schedule, and performance impact;

20 “(iv) any previous corrective action  
21 plans and outcomes and forward thinking  
22 plans to prevent subsequent variances;

23 “(v) a presentation of significant risks  
24 with mitigation strategies and assignment  
25 of risk owners; and

1                   “(vi) the Chief Information Officer’s  
2                   concerns with the investment and assess-  
3                   ment of whether the project is viable.

4                   “(3) ANSI EIA-748 STANDARD.—The term  
5                   ‘ANSI EIA-748 Standard’ means the measurement  
6                   tool jointly developed by the American National  
7                   Standards Institute and the Electronic Industries  
8                   Alliance to analyze Earned Value Management sys-  
9                   tems.

10                  “(4) APPROPRIATE CONGRESSIONAL COMMIT-  
11                  TEES.—The term ‘appropriate congressional com-  
12                  mittees’ means—

13                         “(A) the Committee on Homeland Security  
14                         and Governmental Affairs of the Senate;

15                         “(B) the Committee on Oversight and Gov-  
16                         ernment Reform of the House of Representa-  
17                         tives;

18                         “(C) the Committee on Appropriations of  
19                         the Senate;

20                         “(D) the Committee on Appropriations of  
21                         the House of Representatives; and

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

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

8           “(6) CORE IT INVESTMENT PROJECT.—The  
9           terms ‘core IT investment project’ and ‘core project’  
10          mean a mission critical major IT investment project  
11          so designated in accordance with subsection (d).

12          “(7) DIRECTOR.—The term ‘Director’ means  
13          the Director of the Office of Management and Budg-  
14          et.

15          “(8) EARNED VALUE MANAGEMENT.—The term  
16          ‘Earned Value Management’ means the cost, sched-  
17          ule, and performance data used to determine project  
18          status and developed in accordance with the ANSI  
19          EIA-748 Standard.

20          “(9) GROSSLY DEVIATED.—The term ‘grossly  
21          deviated’ means cost, schedule, or performance vari-  
22          ance that is at least 40 percent from the original  
23          baseline.

24          “(10) LIFE CYCLE COST.—The term ‘life cycle  
25          cost’ means the total cost of a major IT investment

1 project for planning, research and development,  
2 modernization, enhancement, operation, and mainte-  
3 nance.

4 “(11) MAJOR IT INVESTMENT PROJECT.—The  
5 term ‘major IT investment project’ means an infor-  
6 mation technology system or information technology  
7 acquisition that—

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

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

14 “(C) has significant program or policy im-  
15 plications;

16 “(D) has high executive visibility;

17 “(E) has high development, operating, or  
18 maintenance costs;

19 “(F) is funded through other than direct  
20 appropriations; or

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

23 “(12) OFFICE OF MANAGEMENT AND BUDGET  
24 PERFORMANCE AND GOVERNANCE REVIEW.—The  
25 term ‘Office of Management and Budget perform-



1       ance and governance review’ means a systematic re-  
2       view of investments experiencing performance prob-  
3       lems that—

4               “(A) is conducted by relevant agency lead-  
5               ership, the Chief Information Officer, and the  
6               E-Government Administrator; and

7               “(B) includes an analysis and discussion  
8               of—

9                       “(i) the project’s overall intent and  
10                      purpose and measurable goals and objec-  
11                      tives;

12                     “(ii) rationale for the project’s vari-  
13                     ance from the original goals and perform-  
14                     ance measures;

15                     “(iii) any additional scope that may  
16                     have been added to the project, including  
17                     cost, schedule, and performance impact;

18                     “(iv) any previous corrective action  
19                     plans and outcomes and forward thinking  
20                     plans to prevent subsequent variances;

21                     “(v) a presentation of significant risks  
22                     with mitigation strategies and assignment  
23                     of risk owners; and

24                     “(vi) the concerns of the Chief Infor-  
25                     mation Officer and the E-Government Ad-

1            administrator with the investment and their  
2            assessment of whether the project is viable.

3            “(13) ORIGINAL BASELINE.—

4            “(A) IN GENERAL.—Except as provided  
5            under subparagraphs (B) and (C), the term  
6            ‘original baseline’ means—

7            “(i) the ANSI EIA-748 Standard-  
8            compliant Earned Value Management  
9            benchmark; or

10           “(ii) an equivalent benchmark ap-  
11           proved by the Office of Management and  
12           Budget and established at the commence-  
13           ment of an IT investment project.

14           “(B) GROSSLY DEVIATED PROJECT.—If a  
15           major IT investment project grossly deviates  
16           from its original baseline (as defined in sub-  
17           paragraph (A)), the term ‘original baseline’  
18           means—

19           “(i) the ANSI EIA-748 Standard-  
20           compliant Earned Value Management  
21           benchmark; or

22           “(ii) an equivalent benchmark ap-  
23           proved by the Office of Management and  
24           Budget after the commencement of an IT  
25           investment project.

1           “(C) STATUTORY OR BUDGETARY  
2           CHANGES.—If a project significantly or grossly  
3           deviates solely as a result of a substantial statu-  
4           tory change or a substantial reduction in Fed-  
5           eral funding for the project, and the deviation  
6           cannot be prevented through proper project  
7           management, the Agency Head may authorize  
8           the Chief Information Officer to establish a new  
9           baseline. The Agency Head shall notify Con-  
10          gress of any new baselines authorized under  
11          this subparagraph not later than 30 days after  
12          such authorization.

13          “(14) SIGNIFICANTLY DEVIATED.—The term  
14          ‘significantly deviated’ means cost, schedule, or per-  
15          formance variance that has deviated at least 20 per-  
16          cent from the original baseline.

17          “(b) RESPONSE TO SIGNIFICANT DEVIATION.—

18                 “(1) RESPONSIBILITIES OF CHIEF INFORMA-  
19                 TION OFFICER.—If a Chief Information Officer,  
20                 while entering project data under section  
21                 11311(3)(A), determines that a major IT investment  
22                 project of an agency has significantly deviated, the  
23                 Chief Information Officer shall—

24                         “(A) notify the Agency Head of such devi-  
25                         ation; and

1           “(B) conduct an agency performance and  
2 governance review.

3           “(2) REPORT.—

4           “(A) IN GENERAL.—Using the results of  
5 the review conducted under paragraph (1)(B),  
6 the Agency Head shall submit a report con-  
7 taining the information described in subpara-  
8 graph (B), not later than 30 days after the end  
9 of the month upon which such information is  
10 based, to the appropriate congressional commit-  
11 tees, the Director, and the Comptroller General  
12 of the United States.

13           “(B) CONTENTS OF REPORT.—The report  
14 submitted under subparagraph (A) shall contain  
15 the results of the review conducted under para-  
16 graph (1)(B), including—

17           “(i) the challenges and causes of the  
18 variance from the project baseline;

19           “(ii) a summary of risks, mitigation  
20 strategies, and clear lines of responsibility  
21 and accountability for project deviations;

22           “(iii) enhanced contractor perform-  
23 ance metrics and controls for existing con-  
24 tracts;

1           “(iv) a revised acquisition plan for  
2           contracts expected to be executed during  
3           the following fiscal year that address the  
4           issues identified in the report;

5           “(v) a high-level schedule that articu-  
6           lates critical path items;

7           “(vi) a description of how—

8                   “(I) the project’s governance will  
9                   be more rigorous because of the im-  
10                  provement plan laid out in the report;  
11                  and

12                   “(II) the agency will improve the  
13                  internal oversight of contract and pro-  
14                  gram management to ensure better  
15                  performance; and

16           “(vii) a list of specific corrective ac-  
17           tions to turn around the project.

18           “(3) EXEMPTION.—

19                   “(A) IN GENERAL.—A Chief Information  
20                  Officer is exempt from conducting an agency  
21                  performance and governance review of a project  
22                  experiencing a significant deviation if the Agen-  
23                  cy Head certifies that—

24                   “(i) the deviation was solely the result  
25                  of—

1                   “(I) a substantial change in  
2                   project requirements due to a Federal  
3                   law that was enacted after the com-  
4                   mencement of the project; or

5                   “(II) a substantial reduction in  
6                   Federal funding for the project be-  
7                   cause of congressional action; and

8                   “(ii) the significant deviation could  
9                   not have been prevented through proper  
10                  project management.

11                  “(B) CONGRESSIONAL NOTIFICATION.—  
12                  Not later than 30 days after the discovery of a  
13                  significant deviation about which the Agency  
14                  Head certifies that an exemption is warranted  
15                  under subparagraph (A), the Agency Head shall  
16                  notify Congress of such significant deviation  
17                  and the reason for such exemption.

18                  “(c) RESPONSE TO GROSS DEVIATION.—

19                  “(1) RESPONSIBILITIES OF CHIEF INFORMA-  
20                  TION OFFICER.—If a Chief Information Officer,  
21                  while entering project data under section  
22                  11311(3)(A), determines that a major IT investment  
23                  project of an agency has grossly deviated or that a  
24                  core IT investment project has significantly deviated,  
25                  the E-Government Administrator shall—

1           “(A) conduct an Office of Management  
2 and Budget performance and governance review  
3 of the project; and

4           “(B) using the results of such review, sub-  
5 mit a report containing the information de-  
6 scribed in paragraph (2), not later than 30 days  
7 after the end of the month upon which such in-  
8 formation is based, to the appropriate congres-  
9 sional committees and the Comptroller General  
10 of the United States.

11           “(2) CONTENTS OF REPORT.—The report sub-  
12 mitted under paragraph (1)(B) shall contain the re-  
13 sults of the review conducted under paragraph  
14 (1)(A), including—

15           “(A) all the information required under  
16 subsection (b)(2);

17           “(B) the original and expected life cycle  
18 costs of the investment, expressed in constant  
19 base year dollars and in current dollars;

20           “(C) a certification by the Agency Head,  
21 after consultation with the Chief Information  
22 Officer, that all technical and business require-  
23 ments have been reviewed and validated to en-  
24 sure alignment with the business case;

1           “(D) a recommendation from the Office of  
2 Management and Budget on whether the scope  
3 of the project should be substantively changed  
4 or terminated;

5           “(E) a new baseline for the project;

6           “(F) the number of times the project has  
7 been rebaselined and the former baselines; and

8           “(G) a referral to the agency Inspector  
9 General to review the project.

10           “(3) PROJECT DESIGNATION.—After a Chief  
11 Information Officer determines that a major IT in-  
12 vestment project has grossly deviated, the project  
13 shall be treated as a core IT investment project in  
14 accordance with subsection (d).

15           “(4) EXEMPTION.—

16           “(A) IN GENERAL.—The E-Government  
17 Administrator is exempt from conducting an  
18 Office of Management and Budget performance  
19 and governance review for a project experi-  
20 encing a gross deviation if the E-Government  
21 Administrator certifies that—

22           “(i) the deviation was solely the result  
23 of—

24           “(I) a substantial change in  
25 project requirements due to a Federal



1 law that was enacted after the com-  
2 mencement of the project; or

3 “(II) a substantial reduction in  
4 Federal funding for the project be-  
5 cause of congressional action; and

6 “(ii) the gross deviation could not  
7 have been prevented through proper  
8 project management.

9 “(B) CONGRESSIONAL NOTIFICATION.—  
10 Not later than 30 days after the discovery of a  
11 gross deviation about which the E-Government  
12 Administrator certifies that an exemption is  
13 warranted under subparagraph (A), the E-Gov-  
14 ernment Administrator shall notify Congress of  
15 such gross deviation and the reason for such ex-  
16 emption.

17 “(d) CORE IT INVESTMENT PROJECTS.—

18 “(1) DESIGNATION.—Each Agency Head, in  
19 consultation with the Chief Information Officer of  
20 the agency, shall designate the most costly and crit-  
21 ical major IT investment projects within the agency  
22 as core IT investment projects after weighing the  
23 following factors:

24 “(A) The project’s ability to deliver a capa-  
25 bility that is critical to the successful comple-

1           tion of the agency’s mission or a portion of  
2           such mission.

3           “(B) The relative dollar value of the  
4           project relative to the average IT investment  
5           project in the agency’s portfolio.

6           “(C) The incorporation of unproven or pre-  
7           viously undeveloped technology to meet primary  
8           project technical requirements.

9           “(D) The likelihood that significant cost,  
10          schedule, or performance deviations would have  
11          a considerable negative impact on the successful  
12          completion of the agency mission.

13          “(E) The cruciality of management and  
14          oversight to prevent the negative impacts that  
15          would result from the project’s failure.

16          “(2) SUBMISSION OF ADDITIONAL PLANNING  
17          INFORMATION.—While entering project data under  
18          section 11311(3)(A), the Chief Information Officer  
19          shall submit additional planning information regard-  
20          ing core projects to the IT Dashboard, including—

21                 “(A) a description of the primary business  
22                 case and key functional performance capabili-  
23                 ties for the core project;

1           “(B) an identification and description of  
2 mission benefits, key milestones, and lifecycle  
3 costs for the core project;

4           “(C) an independent cost estimate for the  
5 core project;

6           “(D) a certification by the Chief Informa-  
7 tion Officer that all technical and business re-  
8 quirements have been reviewed and validated to  
9 ensure alignment with the reported business  
10 case; and

11           “(E) any changes to the primary business  
12 case or key functional performance capabilities  
13 that have occurred since project inception.

14       “(e) EFFECT OF AGENCY NONCOMPLIANCE.—If an  
15 Agency Head fails to timely submit the information re-  
16 quired under section 11311 for a major IT investment  
17 project or conduct a review required under subsection  
18 (b)(1)(A) of such project in a timely manner, the Director  
19 may prohibit additional expenditures for the project (other  
20 than expenditures needed to meet the requirements of this  
21 chapter) until such requirements have been met.”.

1 **SEC. 5. PERSONNEL AWARDS FOR EXCELLENCE IN THE AC-**  
2 **QUISITION OF INFORMATION SYSTEMS AND**  
3 **INFORMATION TECHNOLOGY.**

4 (a) **IN GENERAL.**—Not later than 180 days after the  
5 date of the enactment of this Act, the Director of the Of-  
6 fice of Personnel Management shall develop policy and  
7 guidance for agencies to develop a program to recognize  
8 excellent performance by Federal Government employees  
9 and teams of such employees in the acquisition of informa-  
10 tion systems 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 AND OTHER INCEN-  
2 TIVES.—In carrying out the program referred to in sub-  
3 section (a), the Director of the Office of Personnel Man-  
4 agement, in consultation with the Director of the Office  
5 of Management and Budget, shall establish policies and  
6 guidance for agencies to reward any Federal Government  
7 employee or teams of such employees recognized pursuant  
8 to the program—

9           (1) with a cash bonus, to the extent that the  
10 performance of such individual or team warrants the  
11 award of such bonus and is authorized by any provi-  
12 sion of law;

13           (2) through promotions and other nonmonetary  
14 awards;

15           (3) by publicizing—

16           (A) acquisition accomplishments by indi-  
17 vidual employees; and

18           (B) the tangible end benefits that resulted  
19 from such accomplishments, as appropriate;  
20 and

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

○