

Calendar No. 364111TH CONGRESS
2^D 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.

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*]

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 ac-
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 TION.—

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 (e) **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

111TH CONGRESS
2^D SESSION

S. 920

[Report No. 111-179]

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.

MAY 5, 2010

Reported with an amendment