

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

# S. 920

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## AN ACT

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

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

3 **SECTION 1. SHORT TITLE.**

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

7 **SEC. 2. FINDINGS.**

8        Congress finds the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20                 “(D) has high executive visibility;

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

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



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

3           “(12) ORIGINAL BASELINE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25           “(A) notification of such determination;

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

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

6           “(D) any requirements that—

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

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

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

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

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

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

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

25           “(3) DEADLINE.—

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

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

16       “(e) DETERMINATION OF GROSS DEVIATION.—

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

13          “(3) REMEDIAL ACTION.—

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

21                         “(i) a report that—

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

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

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

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

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

21           “(ii) an analysis that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“11317. Significant and gross deviations.”; and



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

“11319. Acquisition and development.”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 requirements have been reviewed and validated  
2 to ensure alignment with the business case; and

3 “(F) an explanation of the basis for the  
4 certification described in subparagraph (E).

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

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

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

21 (b) **IT SWAT TEAM.**—

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

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

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

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

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

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

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

1 (c) OUTSIDE CONSULTANTS.—

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

10 (A) Commercial firms.

11 (B) Nonprofit entities.

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

14 (2) USE OF CONSULTANTS.—

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

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

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

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

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

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

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

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



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

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

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

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

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

18           (4) terminating the project; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20           (1) obtain objective outcome measures; and

21           (2) include procedures for—

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

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

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

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

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

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

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

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

Passed the Senate May 19, 2010.

Attest:

*Secretary.*

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

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**S. 920**

**AN ACT**

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