

110TH CONGRESS
2D SESSION

S. 3384

To amend section 11317 of title 40, United States Code, to require greater accountability for cost overruns on Federal IT investment projects.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2008

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

A BILL

To amend section 11317 of title 40, United States Code, to require greater accountability for cost overruns on Federal IT investment projects.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Information Tech-
5 nology Investment Oversight Enhancement and Waste
6 Prevention Act of 2008”.

1 **SEC. 2. 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 STANDARD.—The term
12 ‘ANSI EIA–748 Standard’ means the measurement
13 tool jointly developed by the American National
14 Standards Institute and the Electronic Industries
15 Alliance to analyze earned value management sys-
16 tems.

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 Federal agency that is primarily re-
10 sponsible for the IT investment project under review.

11 “(5) CORE IT INVESTMENT PROJECT.—The
12 terms ‘core IT investment project’ and ‘core project’
13 mean a mission critical IT investment project jointly
14 designated as such by the Agency Head and the Di-
15 rector under subsection (b).

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

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

23 “(8) INDEPENDENT COST ESTIMATE.—The
24 term ‘independent cost estimate’ means a pragmatic
25 and neutral analysis, assessment, and quantification

1 of all costs and risks associated with the acquisition
2 of an IT investment project, which—

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

8 “(B) is formulated and provided by an en-
9 tity other than the office within the agency with
10 primary responsibility for the development, pro-
11 curement, and delivery of the project;

12 “(C) contains sufficient detail to inform
13 the selection of a baseline benchmark measure
14 under the ANSI EIA-748 standard; and

15 “(D) accounts for the full life cycle cost
16 plus associated operations and maintenance ex-
17 penses over the usable life of the project’s
18 deliverables.

19 “(9) IT INVESTMENT PROJECT.—The terms ‘IT
20 investment project’ and ‘project’ mean an informa-
21 tion technology system or acquisition that—

22 “(A) requires special management atten-
23 tion because of its importance to the mission or
24 function of the agency, a component of the
25 agency, or another organization;

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

3 “(C) has significant program or policy im-
4 plications;

5 “(D) has high executive visibility;

6 “(E) has high development, modernization,
7 or enhancement costs;

8 “(F) is funded through other than direct
9 appropriations; or

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

12 “(10) LIFE CYCLE COST.—The term ‘life cycle
13 cost’ means the total cost of an IT investment
14 project for planning, research and development,
15 modernization, and enhancement.

16 “(11) ORIGINAL BASELINE.—

17 “(A) IN GENERAL.—Except as provided
18 under subparagraph (B), the term ‘Original
19 Baseline’ means the ANSI EIA-748 Standard-
20 compliant cost, schedule, and performance
21 benchmark established at the commencement of
22 an IT investment project contract.

23 “(B) GROSSLY DEVIATED PROJECT.—If an
24 IT investment project grossly deviates from its
25 Original Baseline (as defined in subparagraph

1 (A)), the term ‘Original Baseline’ means the
 2 ANSI EIA-748 Standard-compliant cost,
 3 schedule, and performance benchmark estab-
 4 lished under subsection (e)(3)(C).

5 “(12) SIGNIFICANTLY DEVIATED.—The term
 6 ‘significantly deviated’ means cost, schedule, or per-
 7 formance variance that is at least 20 percent from
 8 the Original Baseline.

9 “(b) CORE IT INVESTMENT PROJECTS.—

10 “(1) DESIGNATION.—Except as provided under
 11 paragraph (2), each Agency Head and the Director
 12 shall jointly designate not fewer than 5 of the agen-
 13 cy’s most mission critical IT investment projects as
 14 ‘core IT investment projects’ or ‘core projects’, after
 15 considering, among other factors—

16 “(A) whether the project represents a
 17 high-dollar value relative to the average IT in-
 18 vestment project in the agency’s portfolio;

19 “(B) whether the project delivers a capa-
 20 bility critical to the successful completion of the
 21 agency mission, or a portion of such mission;
 22 and

23 “(C) whether the project incorporates
 24 unproven or previously undeveloped technology
 25 to meet primary project technical requirements.

1 “(2) EXCEPTION.—If the Agency Head and the
 2 Director jointly determine that fewer than 5 IT in-
 3 vestment projects meet the criteria described in
 4 paragraph (1), the Director—

5 “(A) may provide the agency with written
 6 authorization to designate fewer than 5
 7 projects; and

8 “(B) shall submit a report to the appro-
 9 priate congressional committees that contains
 10 notice of, and justification for, any such author-
 11 ization.

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

14 “(1) QUARTERLY REPORTS.—Not later than 7
 15 days after the end of each fiscal quarter, the project
 16 manager for an IT investment project shall submit
 17 a written report to the Chief Information Officer
 18 that includes, as of the last day of the applicable
 19 quarter—

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

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

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

5 “(D) for each project under the project
6 manager’s supervision, any known, expected, or
7 anticipated changes to project schedule mile-
8 stones or project performance benchmarks in-
9 cluded as part of the original or current base-
10 line description; and

11 “(E) the current cost, schedule, and per-
12 formance status of all projects under super-
13 vision that were previously identified as signifi-
14 cantly deviated or grossly deviated.

15 “(2) INTERIM REPORTS.—If the project man-
16 ager for an IT investment project determines that
17 there is reasonable cause to believe that an IT in-
18 vestment project has significantly deviated or grossly
19 deviated since the issuance of the latest quarterly re-
20 port, the project manager shall submit to the Chief
21 Information Officer, not later than 7 days after such
22 determination, a report on the project that includes,
23 as of the date of the report—

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

4 “(B) the cost, schedule, or performance
 5 variance related to the IT investment project
 6 since the commencement of the contract;

7 “(C) any known, expected, or anticipated
 8 changes to the project schedule milestones or
 9 project performance benchmarks included as
 10 part of the original or current baseline descrip-
 11 tion; and

12 “(D) the major reasons underlying the sig-
 13 nificant or gross deviation of the project.

14 “(d) DETERMINATION OF SIGNIFICANT DEVI-
 15 ATION.—

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

19 “(A) determine if any IT investment
 20 project has significantly deviated; and

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

23 “(2) CONGRESSIONAL NOTIFICATION.—If the
 24 Chief Information Officer determines under para-
 25 graph (1) that an IT investment project has signifi-

1 cantly deviated and the Agency Head has not issued
2 a report to the appropriate congressional committees
3 of a significant deviation for that project under this
4 section since the project was last required to be re-
5 baselined under this section, the Agency Head shall
6 submit a report to the appropriate congressional
7 committees and to the Government Accountability
8 Office that includes—

9 “(A) written notification of such deter-
10 mination;

11 “(B) the date on which such determination
12 was made;

13 “(C) the amount of the cost increases and
14 the extent of the schedule delays with respect to
15 such project;

16 “(D) any requirements that—

17 “(i) were added subsequent to the
18 original contract; or

19 “(ii) were originally contracted for,
20 but were changed by deferment or deletion
21 from the original schedule, or were other-
22 wise no longer included in the require-
23 ments contracted for;

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

1 “(i) the estimate at completion be-
2 tween the project manager, any contractor,
3 and any independent analysis; and

4 “(ii) the original budget at comple-
5 tion;

6 “(F) the rough order of magnitude of the
7 costs of any reasonable alternative system, or
8 reasonable alternative approach to establishing
9 an equivalent outcome or capability;

10 “(G) a statement of the reasons underlying
11 the project’s significant deviation;

12 “(H) the identities of the project managers
13 responsible for program management and cost
14 control of the program; and

15 “(I) a summary of the plan of action to
16 remedy the significant deviation.

17 “(3) DEADLINE.—

18 “(A) NOTIFICATION BASED ON QUARTERLY
19 REPORT.—If the determination of significant
20 deviation is based on a report submitted under
21 subsection (b)(1), the Agency Head shall notify
22 Congress in accordance with paragraph (2) not
23 later than 14 days after the end of the quarter
24 upon which such report is based.

1 “(B) NOTIFICATION BASED ON INTERIM
2 REPORT.—If the determination of significant
3 deviation is based on a report submitted under
4 subsection (b)(2), the Secretary shall notify
5 Congress in accordance with paragraph (2) not
6 later than 14 days after the submission of such
7 report.

8 “(e) DETERMINATION OF GROSS DEVIATION.—

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

12 “(A) determine if any IT investment
13 project has grossly deviated; and

14 “(B) report any such determination to the
15 Agency Head.

16 “(2) CONGRESSIONAL NOTIFICATION.—If the
17 Chief Information Officer determines under para-
18 graph (1) that an IT investment project has grossly
19 deviated and the Agency Head has not issued a re-
20 port to the appropriate congressional committees of
21 a gross deviation for that project under this section
22 since the project was last required to be re-baselined
23 under this section, the Agency Head shall submit a
24 report to the appropriate congressional committees

1 and to the Government Accountability Office that in-
2 cludes—

3 “(A) written notification of such deter-
4 mination, which states—

5 “(i) the date on which such deter-
6 mination was made; and

7 “(ii) an indication of whether or not
8 the project has been previously reported as
9 a significant or gross deviation by the
10 Chief Information Officer, and the date of
11 any such report;

12 “(B) incorporations by reference of all
13 prior reports to Congress on the project re-
14 quired under this section;

15 “(C) updated accounts of the items de-
16 scribed in subparagraphs (C) through (H) of
17 subsection (d)(2);

18 “(D) the original estimate at completion
19 for the project manager, any contractor, and
20 any independent analysis;

21 “(E) a graphical depiction of actual cost
22 variance since the commencement of the con-
23 tract;

24 “(F) the amount, if any, of incentive
25 award fees any contractor has received since the

1 commencement of the contract and the reasons
2 for receiving such award fees;

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

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

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

17 “(J) a statement regarding previous or an-
18 ticipated re-baselining or re-planning of the
19 project and the names of the individuals respon-
20 sible for approval;

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

1 “(L) a comprehensive plan of action to
2 remedy the gross deviation, and milestones es-
3 tablished to control future cost, schedule, and
4 performance deviations in the future.

5 “(3) REMEDIAL ACTION.—If the Chief Informa-
6 tion Officer determines under paragraph (1) that an
7 IT investment project has grossly deviated, the
8 Agency Head, in consultation with the Chief Infor-
9 mation Officer, shall ensure that—

10 “(A) a report is submitted to the appro-
11 priate congressional committees that—

12 “(i) describes the primary business
13 case and key functional requirements for
14 the project;

15 “(ii) describes any portions of the
16 project that have technical requirements of
17 sufficient clarity that such portions may be
18 feasibly procured under firm, fixed-price
19 contract;

20 “(iii) includes a certification by the
21 Agency Head, after consultation with the
22 Chief Information Officer, that all tech-
23 nical requirements have been reviewed and
24 validated to ensure alignment with the re-
25 ported business case;

1 “(iv) describes any changes to the pri-
2 mary business case or key functional re-
3 quirements which have occurred since
4 project inception; and

5 “(v) includes an independent cost esti-
6 mate for the project conducted by an enti-
7 ty approved by the Director;

8 “(B) an analysis is submitted to the appro-
9 priate congressional committees that—

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

13 “(ii) includes a gap analysis of what
14 project deliverables remain in order for the
15 agency to accomplish the business goals re-
16 ferred to in clause (i);

17 “(iii) identifies the 3 most cost-effec-
18 tive alternative approaches to the project
19 which would achieve the business goals re-
20 ferred to in clause (i); and

21 “(iv) includes a cost-benefit analysis,
22 which compares—

23 “(I) the completion of the project
24 with the completion of each alter-
25 native approach, after factoring in fu-

1 ture costs associated with the termi-
2 nation of the project; and

3 “(II) the termination of the
4 project without pursuit of alternatives,
5 after factoring in foregone benefits;
6 and

7 “(C) a new baseline of the project is estab-
8 lished that is consistent with the independent
9 cost estimate required under subparagraph
10 (A)(v); and

11 “(D) the project is designated as a core IT
12 investment project and subjected to the require-
13 ments under subsection (f).

14 “(4) DEADLINE AND FUNDING CONTIN-
15 GENCY.—

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

18 “(i) IN GENERAL.—If the determina-
19 tion of gross deviation is based on a report
20 submitted under subsection (c)(1), the
21 Agency Head shall—

22 “(I) not later than 45 days after
23 the end of the quarter upon which
24 such report is based, notify the appro-

1 prate congressional committees in ac-
2 cordance with paragraph (2); and

3 “(II) not later than 180 days
4 after the end of the quarter upon
5 which such report is based, ensure the
6 completion of remedial action under
7 paragraph (3).

8 “(ii) FAILURE TO MEET DEAD-
9 LINES.—If the Agency Head fails to meet
10 the deadlines described in clause (i)(II),
11 additional funds may not be obligated to
12 support expenditures associated with the
13 project until the requirements of this sub-
14 section have been fulfilled.

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

17 “(i) IN GENERAL.—If the determina-
18 tion of gross deviation is based on a report
19 submitted under subsection (c)(2), the Sec-
20 retary shall—

21 “(I) not later than 45 days after
22 the submission of such report, notify
23 the appropriate congressional commit-
24 tees in accordance with paragraph (2);
25 and

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

5 “(ii) FAILURE TO MEET DEAD-
 6 LINES.—If the Agency Head fails to meet
 7 the deadlines described in clause (i)(II),
 8 additional funds may not be obligated to
 9 support expenditures associated with the
 10 project until the requirements of this sub-
 11 section have been fulfilled.

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

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

1 “(A) a description of the primary business
2 case and key functional requirements for the
3 project;

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

9 “(C) an independent cost estimate for the
10 project;

11 “(D) certification by the Chief Information
12 Officer that all technical requirements have
13 been reviewed and validated to ensure align-
14 ment with the reported business case; and

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

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

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

1 “(B) if changes to the primary business
 2 case or key functional requirements for a core
 3 IT investment project occur in any fiscal quar-
 4 ter, submit a report to Congress not later than
 5 7 days after the end of such quarter that de-
 6 tails the changes and describes the impact the
 7 changes will have on the cost and ultimate ef-
 8 fectiveness of the project.

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

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

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

21 “(4) ALTERNATIVE GROSS DEVIATION DETER-
 22 MINATION.—If the Chief Information Officer deter-
 23 mines, subsequent to a change in the primary busi-
 24 ness case or key functional requirements, that with-

1 out such change the project would have grossly devi-
 2 ated—

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

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

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

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

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

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

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

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

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

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

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

9 “(a) ESTABLISHMENT OF PROGRAMS.—Not later
10 than 120 days after the date of the enactment of this sec-
11 tion, each Agency Head (as defined in section 11317(a)
12 of title 49, United States Code) shall establish a program
13 to improve the information technology (referred to in this
14 section as ‘IT’) processes of the agency overseen by the
15 Agency Head.

16 “(b) PROGRAM REQUIREMENTS.—Each program es-
17 tablished pursuant to this section 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 for
24 performance measurement of—

1 “(A) processes and development status;
2 and

3 “(B) continuous process improvement;

4 “(3) a process to ensure that key program per-
5 sonnel have an appropriate level of experience or
6 training in the planning, acquisition, execution, man-
7 agement, and oversight of information technology;
8 and

9 “(4) a process to ensure that the applicable de-
10 partment and subcomponents implement and adhere
11 to established processes and requirements relating to
12 the planning, acquisition, execution, management,
13 and oversight of information technology programs
14 and developments.

15 “(c) OMB GUIDANCE.—The Director of the Office
16 of Management and Budget shall—

17 “(1) prescribe uniformly applicable guidance to
18 the administration of all the programs established
19 under subsection (a); and

20 “(2) take any actions that are necessary to en-
21 sure that Federal agencies comply with the guid-
22 ance.

23 “(d) ANNUAL REPORT TO CONGRESS.—Not later
24 than the last day of February of each year, the Agency
25 Head shall submit a report to Congress that includes—

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

4 “(2) the status of completeness of implementa-
5 tion of each of the program requirements, and the
6 date each such requirement was deemed to be com-
7 pleted;

8 “(3) the percentage of Federal IT projects cov-
9 ered under the program compared to all of the IT
10 projects of the agency, listed by number of programs
11 and by annual dollars expended;

12 “(4) the identification, listed by name and posi-
13 tion, of—

14 “(A) the person assigned responsibility for
15 implementation and management of the pro-
16 gram and the percent of such person’s time
17 used to carry out such responsibility; and

18 “(B) the person to whom the person de-
19 scribed in subparagraph (A) reports;

20 “(5) 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 “(6) a copy of any guidance issued under the
2 program and a statement regarding whether each
3 such guidance is mandatory;

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

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

9 “(9) a description of how continuous process
10 improvement has been implemented and the objec-
11 tives of such guidance.”.

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

15 (1) by striking the item relating to section
16 11317 and inserting the following:

“11317. Significant and gross deviations.”; and

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

“11319. Acquisition and development.”.

19 **SEC. 3. IT STRIKE FORCE.**

20 (a) PURPOSE.—The Director of the Office of Man-
21 agement of Budget (referred to in this section as the “Di-
22 rector”), in consultation with the Administrator of the Of-
23 fice of Electronic Government and Information and Tech-
24 nology at the Office of Management and Budget (referred

1 to in this section as the “E-Gov Administrator”), shall as-
2 sist agencies in avoiding significant and gross deviations
3 in the cost, schedule, and performance of IT investment
4 projects (as such terms are defined in section 11317(a)
5 of title 40, United States Code).

6 (b) IT STRIKE FORCE.—

7 (1) ESTABLISHMENT.—Not later than 180 days
8 after the date of the enactment of this Act, the E-
9 Gov Administrator shall establish a small group of
10 individuals (referred to in this section as the “IT
11 Strike Force”) to carry out the purpose described in
12 subsection (a).

13 (2) QUALIFICATIONS.—Individuals selected for
14 the IT Strike Force—

15 (A) shall be certified at the Senior/Expert
16 level according to the Federal Acquisition Cer-
17 tification for Program and Project Managers
18 (FAC-P/PM); or

19 (B) shall have comparable education, cer-
20 tification, training, and experience to success-
21 fully manage high-risk IT investment projects.

22 (3) NUMBER.—The Director, in consultation
23 with the E-Gov Administrator, shall determine the
24 number of individuals who will be selected for the IT
25 Strike Force.

1 (c) OUTSIDE CONSULTANTS.—

2 (1) IDENTIFICATION.—The E-Gov Adminis-
3 trator shall identify consultants in the private sector
4 who have expert knowledge in IT program manage-
5 ment and program management review teams. Not
6 more than 20 percent of such consultants may be
7 formally associated with any 1 of the following types
8 of entities:

9 (A) Commercial firms.

10 (B) Nonprofit entities.

11 (C) Research and development corpora-
12 tions receiving Federal financial assistance.

13 (2) USE OF CONSULTANTS.—

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

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

24 (C) EXCEPTION.—The limitation described
25 in subparagraph (B) may not be construed as

1 precluding access to anyone having relevant in-
2 formation helpful to the conduct of the assess-
3 ment.

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

9 (d) INITIAL RESPONSE TO ANTICIPATED SIGNIFI-
10 CANT OR GROSS DEVIATION.—If the E-Gov Administrator
11 determines there is reasonable cause to believe that a
12 major IT investment project is likely to significantly or
13 grossly deviate (as defined in section 11317(a) of title 40,
14 United States Code), including the receipt of inconsistent
15 or missing data, the E-Gov Administrator shall carry out
16 the following activities:

17 (1) Recommend the assignment of 1 or more
18 members of the IT Strike Force to assess the project
19 in accordance with the scope and time period de-
20 scribed in section 11317(c)(1) of title 40, United
21 States Code, beginning not later than 7 days after
22 such recommendation. No member of the Strike
23 Force who is associated with the department or
24 agency whose IT investment project is the subject of
25 the assessment may be assigned to participate in

1 this assessment. Such limitation may not be con-
2 strued as precluding access to anyone having rel-
3 evant information helpful to the conduct of the as-
4 sessment.

5 (2) If the E-Gov Administrator determines that
6 1 or more qualified consultants are needed to sup-
7 port the efforts of the IT Strike Force under para-
8 graph (1), negotiate a contract with the consultant
9 to provide such support during the period in which
10 the IT Strike Force is conducting the assessment
11 described in paragraph (1).

12 (3) Ensure that the costs of an assessment
13 under paragraph (1) and the support services of 1
14 or more consultants under paragraph (2) are paid
15 by the major IT investment project being assessed.

16 (4) Monitor the progress made by the IT Strike
17 Force in assessing the project.

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

1 (1) providing training or mentoring to improve
2 the qualifications of the program manager;

3 (2) replacing the program manager or other
4 staff;

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

8 (4) terminating the project; or

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

12 (f) REPROGRAMMING OF FUNDS.—

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

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

23 (g) REPORT TO CONGRESS.—The Director shall in-
24 clude in the annual Report to Congress on the Benefits
25 of E-Government Initiatives a detailed summary of the

1 composition and activities of the IT Strike Force, includ-
2 ing—

3 (1) the number and qualifications of individuals
4 on the IT Strike Force;

5 (2) a description of the IT investment projects
6 that the IT Strike Force has worked during the pre-
7 vious fiscal year;

8 (3) the major issues that necessitated the in-
9 volvement of the IT Strike Force to assist agencies
10 with assessing and managing IT investment projects
11 and whether such issues were satisfactorily resolved;

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

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

21 (6) a determination of whether the IT Strike
22 Force has been effective in reducing the amount of
23 IT investment projects that deviate or significantly
24 deviate.

○