

H.R. 1232, the Federal Information Technology Acquisition Reform Act (FITARA)

(As an Amendment to H.R. 1960, FY2014 NDAA)

Explanation of Changes since 3/20/2013 Mark-up

(NOTE: There was no amendment offered during the markup. Therefore, the committee-reported version is identical to the introduced version.)

During the House Oversight and Government Reform Committee mark-up held on March 20, Chairman Issa stated -- "The window of feedback is not shut. I expect this legislation to undergo further refinement."

More than a dozen comments have been received from various stakeholders since the mark-up, including extensive feedback via the Madison open platform, a software tool used by the Committee to foster transparency in how legislation is crafted (*see* <http://legislation.nextgov.com/>). Each comment was carefully reviewed and considered. Based on extensive feedback, a significant portion of the legislation was redrafted.

Sec. 3 → NDAA 5003. Definitions.

Added the definition of "Federal Chief Information Officer" to mean the Administrator of the Office of Electronic Government established under the E-Government Act of 2002. Also codified the definition in 44 USC 3601(1) and 3602(b). Please see also Sec. 5102(c).

TITLE I—MANAGEMENT OF INFORMATION TECHNOLOGY WITHIN FEDERAL GOVERNMENT

Sec. 101 → NDAA 5101. Increased authority of agency Chief Information Officers over information technology.

P5, Ln18: Added "on a full-time basis" to ensure that an agency Chief Information Officer (CIO) is a fully dedicated position.

P6, Ln14-15: Struck "and provide input in" and inserted "in decisions regarding" to clarify the CIO's budget-related authority.

P7, Ln5-7: Added "in consultation with the Chief Financial Officer (CFO) of the agency and budget officials" to ensure proper coordination with relevant officials.

P8, Ln8: Struck "The head of the agency shall seek the advice of the Chief Information Officer of the agency in designating or appointing any deputy, associate, or assistant chief information officer within the agency" to avoid conflict with the preceding "Personnel-related authority." The CIO of the agency shall have the authority necessary to approve the hiring of all IT

personnel including "Associate" or "Assistant" CIOs for bureau, office, or subordinate organizations within the agency.

Sec. 102 → NDAA 5102. Lead coordination role of Chief Information Officers Council.

Subsection (c) was added to codify the definition of "Federal Chief Information Officer." Please see Sec. 5003.

TITLE II—DATA CENTER OPTIMIZATION

Sec. 203 → NDAA 5203. Federal Data Center Optimization Initiative.

P14, Ln15-16: Added "server virtualization, cloud computing" to require appropriate consideration of commercial cloud solutions.

Sec. 205 → NDAA 5205. Cost savings related to data center optimization.

P17, Ln8-9 & P18, Ln4-5: Struck "Operating system, database, and other" and inserted "Maintenance and support costs such as operating subsystem, database, hardware, and" to further clarify various factors contributing to data center costs and savings.

Subsection (d) was revised to require that the use of savings resulting from the implementation of the Federal Data Center Optimization Initiative be subject to appropriations.

TITLE III—ELIMINATION OF DUPLICATION AND WASTE IN INFORMATION TECHNOLOGY ACQUISITION

Sec. 303 → NDAA 5303. Transition to the cloud.

Subsection (c) was revised to require that the establishment of cloud service Working Capital Fund is i) coordinated with the agency CFO and ii) reported to the Committees on Appropriations and other relevant Congressional committees.

Sec. 304 → NDAA 5304. Elimination of unnecessary duplication of contracts by requiring business case analysis.

Shortened the Office of Federal Procurement Policy (OFPP) review of business case analysis from 100 days to 60 days to promote more efficient handling of agency requests.

TITLE IV—STREAMLINING AND STRENGTHENING INFORMATION TECHNOLOGY ACQUISITION

Subtitle A—Strengthening IT Program Management Practices

Sec. 401 → NDAA 5401. Establishment of Federal Infrastructure and Common Application Collaboration Center.

Several commenters expressed that the ideal location of the Federal Infrastructure and Common Application Collaboration Center (Collaboration Center) would be the existing Office of Electronic Government within OMB. Since the Federal CIO is both the head of the E-Government office and delegated chair of the CIO Council, this co-location makes good sense to promote synergy and coordination. Therefore, revisions were made to move the location of the Collaboration Center from the OMB to the E-Government Office (still within the OMB), and to have the Collaboration Center report directly to the Federal CIO. In addition, for administrative convenience, language was added to allow the Collaboration Center's activity report be combined with the existing annual E-Government status report required under 44 USC 3606.

P31, Ln1: Struck "use of open source software" from the roles and functions of the Collaboration Center to be consistent with the technology neutral approach in Section 5506.

P33, Ln4-8: Struck "in establishing the Governmentwide contract vehicle, the Collaboration Center shall pursue direct negotiation and contracting with major software publishers as prime contractors" in recognition of value-added resellers and integrators. The Committee continues to believe non-value added middlemen should be avoided to maximize best value and contractor performance accountability.

Subtitle B—Strengthening IT Acquisition Workforce

Sec. 411 → NDAA 5411. Expansion of training and use of information technology acquisition cadres.

P51, Ln1-21: Added additional criteria for the IT Acquisition Cadres Strategic Plan to explore the use of student internship and scholarship programs and to include the assessment of hiring experience by the hiring manager and the applicants.

TITLE V—ADDITIONAL REFORMS

Sec. 504 → NDAA 5504. Enhanced transparency in information technology investments.

P59, Ln8-11: Added "notwithstanding whether the investments are for new IT acquisitions or for operations and maintenance of existing IT" to ensure the IT Dashboard cover steady state investments. GAO found that about 69 percent, or \$54 billion, of the \$80 billion federal agencies spent on IT each year is spent on the operations and maintenance of existing legacy IT systems (GAO-13-87).

Sec. 506 → NDAA 5506. Clarification of current law with respect to technology neutrality in acquisition of software.

Based upon extensive stakeholder feedback, the updated section further clarifies that software acquisitions by the Federal Government are to be made using merit-based requirements development and evaluation processes, including the consideration of proprietary, open source, and mixed source software technologies. Section title has been revised to reflect this change. In addition, struck subsection (c) and (e)(3) in entirety--

~~(e) STANDARDS AND GUIDELINES.—Section 11302(d) of title 40, United States Code, is amended by adding at the end the following: “The standards and guidelines shall include those necessary to enable effective adoption of open source software.”.~~

~~(e)(3) Guidance to establish a program to educate the acquisition workforce by providing information to identify and counter misconceptions about open source software and to keep such information updated.~~