# [DISCUSSION DRAFT]

MARCH 13, 2013

113TH CONGRESS
1ST SESSION

# H. R. _____

To amend titles 40, 41, and 44, United States Code, to eliminate duplication and waste in information technology acquisition and management.

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IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following bill; which was referred to the Committee on _____

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# A BILL

To amend titles 40, 41, and 44, United States Code, to eliminate duplication and waste in information technology acquisition and management.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Federal Information Technology Acquisition Reform Act''.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

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Sec. 502. Promoting transparency of blanket purchase agreements.
Sec. 503. Additional source selection technique in solicitations.
Sec. 504. Enhanced transparency in information technology investments.
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**SEC. 3. DEFINITIONS.**

In this Act:

(1) CHIEF ACQUISITION OFFICERS COUNCIL.—The term ''Chief Acquisition Officers Council'' means the Chief Acquisition Officers Council established by section 1311(a) of title 41, United States Code.

(2) CHIEF INFORMATION OFFICER.—The term ''Chief Information Officer'' means a Chief Information Officer (as designated under section 3506(a)(2) of title 44, United States Code) of an agency listed in section 901(b) of title 31, United States Code.

(3) CHIEF INFORMATION OFFICERS COUNCIL.—The term ''Chief Information Officers Council'' or ''CIO Council'' means the Chief Information Officers Council established by section 3603(a) of title 44, United States Code.

(4) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means each agency listed in section 901(b) of title 31, United States Code.

(6) INFORMATION TECHNOLOGY OR IT.—The term ''information technology'' or ''IT'' has the

meaning provided in section 11101(6) of title 40, United States Code.

(7) RELEVANT CONGRESSIONAL COMMITTEES.—The term ''relevant congressional committees'' means each of the following:

(A) The Committee on Oversight and Government Reform and the Committee on Armed Services of the House of Representatives.

(B) The Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate.

# TITLE I—MANAGEMENT OF INFORMATION TECHNOLOGY WITHIN FEDERAL GOVERNMENT

## SEC. 101. INCREASED AUTHORITY OF AGENCY CHIEF INFORMATION OFFICERS OVER INFORMATION TECHNOLOGY.

(a) PRESIDENTIAL APPOINTMENT OF CIOS OF CERTAIN AGENCIES.—

(1) IN GENERAL.—Section 11315 of title 40, United States Code, is amended—

(A) by redesignating subsection (a) as subsection (e) and moving such subsection to the end of the section; and

(B) by inserting before subsection (b) the following new subsection (a):

''(a) PRESIDENTIAL APPOINTMENT OR DESIGNATION OF CERTAIN CHIEF INFORMATION OFFICERS.—

''(1) IN GENERAL.—There shall be within each agency listed in section 901(b)(1) of title 31, other than the Department of Defense, an agency Chief Information Officer. Each agency Chief Information Officer shall—

''(A)(i) be appointed by the President; or

''(ii) be designated by the President, in consultation with the head of the agency, from among officials of the agency who are required by law to be so appointed; and

''(B) be appointed or designated, as applicable, from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in, information technology management practices in large governmental or business entities.

''(2) RESPONSIBILITIES.—An agency Chief Information Officer appointed or designated under this section shall report directly to the head of the agency and carry out responsibilities as set forth in this section and in section 3506(a) of title 44 for Chief

Information Officers designated under paragraph (2) of such section.''.

(2) CONFORMING AMENDMENT.—Section 3506(a)(2)(A) of title 44, United States Code, is amended by inserting after ''each agency'' the following: '', other than an agency with a Presidentially appointed or designated Chief Information Officer as provided in section 11315(a)(1) of title 40,''.

(b) AUTHORITY RELATING TO BUDGET AND PERSONNEL.—Section 11315 of title 40, United States Code, is further amended by inserting after subsection (c) the following new subsection:

''(d) ADDITIONAL AUTHORITIES FOR CERTAIN CIOS.—

''(1) BUDGET-RELATED AUTHORITY.—

''(A) PLANNING.—The head of each agency listed in section 901(b)(1) or 901(b)(2) of title 31, other than the Department of Defense, shall ensure that the Chief Information Officer of the agency has the authority to participate and provide input in the budget planning process related to information technology or programs that include significant information technology components.

''(B) ALLOCATION.—Amounts appropriated for any agency listed in section 901(b)(1) or 901(b)(2) of title 31, other than the Department of Defense, for any fiscal year that are available for information technology shall be allocated within the agency, consistent with the provisions of appropriations Acts and budget guidelines and recommendations from the Director of the Office of Management and Budget, in such manner as may be specified by, or approved by, the Chief Information Officer of the agency.

''(2) PERSONNEL-RELATED AUTHORITY.—The head of each agency listed in section 901(b)(1) or 901(b)(2) of title 31, other than the Department of Defense, shall ensure that the Chief Information Officer of the agency has the authority necessary to approve the hiring of personnel who will have information technology responsibilities within the agency and to require that such personnel have the obligation to report to the Chief Information Officer in a manner considered sufficient by the Chief Information Officer.''.

(c) REQUIREMENT TO SEEK ADVICE FROM CHIEF INFORMATION OFFICER ON DESIGNATION OR APPOINTMENT OF OTHER CHIEF INFORMATION OFFICERS.—

(1) REQUIREMENT.—Section 3506(a)(3) of title 44, United States Code, is amended—

(A) by inserting ''(A)'' after ''(3)''; and

(B) by adding at the end the following new subparagraph:

''(B) Each agency shall have only one individual with the title and designation of 'Chief Information Officer'. Any bureau, office, or subordinate organization within the agency may designate one individual with the title 'Deputy Chief Information Officer', 'Associate Chief Information Officer', or 'Assistant Chief Information Officer'. 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.''.

(2) EFFECTIVE DATE.—Section 3506(a)(3)(B) of title 44, United States Code, as added by paragraph (1), shall take effect as of October 1, 2014. Any individual serving in a position affected by such section before such date may continue in that posi-

tion if the requirements of such section are fulfilled with respect to that individual.

**SEC. 102. LEAD COORDINATION ROLE OF CHIEF INFORMATION OFFICERS COUNCIL.**

(a) LEAD COORDINATION ROLE.—Subsection (d) of section 3603 of title 44, United States Code, is amended to read as follows:

''(d) LEAD INTERAGENCY FORUM.—

''(1) IN GENERAL.—The Council is designated the lead interagency forum for improving agency coordination of practices related to the design, development, modernization, use, operation, sharing, performance, and review of Federal Government information resources investment. As the lead interagency forum, the Council shall develop cross-agency portfolio management practices to allow and encourage the development of cross-agency shared services and shared platforms. The Council shall also issue standards and practices for infrastructure and common information technology applications, including expansion of the Federal Enterprise Architecture process if appropriate. The standards and practices may address broader transparency, common inputs, common outputs, and outcomes achieved. The standards and practices shall be used as a basis for com-

paring performance across diverse missions and operations in various agencies.

''(2) REPORT.—Not later than December 1 in each of the 6 years following the date of the enactment of this paragraph, the Council shall submit to the relevant congressional committees a report (to be known as the 'CIO Council Report') summarizing the Council's activities in the preceding fiscal year and containing such recommendations for further congressional action to fulfill its mission as the Council considers appropriate.

''(3) RELEVANT CONGRESSIONAL COMMITTEES.—For purposes of the report required by paragraph (2), the relevant congressional committees are each of the following:

''(A) The Committee on Oversight and Government Reform and the Committee on Armed Services of the House of Representatives.

''(B) The Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate.''.

(b) ADDITIONAL FUNCTION.—Subsection (f) of section 3603 of such title is amended by adding at the end the following new paragraph:

''(8) Direct the Federal Infrastructure and Common Application Collaboration Center established under section 11501 of title 40.''.

**SEC. 103. REPORTS BY GOVERNMENT ACCOUNTABILITY OFFICE.**

(a) REQUIREMENT TO EXAMINE EFFECTIVENESS.—The Comptroller General of the United States shall examine the effectiveness of the Chief Information Officers Council in meeting its responsibilities under section 3603(d) of title 44, United States Code, as added by section 102, with particular focus on—

(1) whether agencies are actively participating in the Council and heeding the Council's advice and guidance; and

(2) whether the Council is actively using and developing the capabilities of the Federal Infrastructure and Common Application Collaboration Center created under section 11501 of title 40, United States Code, as added by section 401.

(b) REPORTS.—Not later than 1 year, 3 years, and 5 years after the date of the enactment of this Act, the Comptroller General shall submit to the relevant congressional committees a report containing the findings and recommendations of the Comptroller General from the examination required by subsection (a).

# TITLE II—DATA CENTER OPTIMIZATION

**SEC. 201. PURPOSE.**

The purpose of this title is to optimize Federal data center usage and efficiency.

**SEC. 202. DEFINITIONS.**

In this subtitle:

(1) FEDERAL DATA CENTER OPTIMIZATION INITIATIVE.—The term ''Federal Data Center Optimization Initiative'' or the ''Initiative'' means the initiative developed and implemented by the Director, through the Federal Chief Information Officer, as required under section 203.

(2) COVERED AGENCY.—The term ''covered agency'' means any agency included in the Federal Data Center Optimization Initiative.

(3) FEDERAL CHIEF INFORMATION OFFICER.—The term ''Federal Chief Information Officer'' means the Administrator of the Office of Electronic Government established under section 3602 of title 44, United States Code.

(4) DATA CENTER.—The term ''data center'' means a closet, room, floor, or building for the storage, management, and dissemination of data and information, as defined by the Federal Chief Informa-

tion Officer under guidance issued pursuant to this section.

(5) FEDERAL DATA CENTER.—The term ''Federal data center'' means any data center of a covered agency used or operated by a covered agency, by a contractor of a covered agency, or by another organization on behalf of a covered agency.

(6) SERVER UTILIZATION.—The term ''server utilization'' refers to the activity level of a server relative to its maximum activity level, expressed as a percentage.

(7) POWER USAGE EFFECTIVENESS.—The term ''power usage effectiveness'' means the ratio obtained by dividing the total amount of electricity and other power consumed in running a data center by the power consumed by the information and communications technology in the data center.

**SEC. 203. FEDERAL DATA CENTER OPTIMIZATION INITIATIVE.**

(a) REQUIREMENT FOR INITIATIVE.—The Federal Chief Information Officer, in consultation with the chief information officers of covered agencies, shall develop and implement an initiative, to be known as the Federal Data Center Optimization Initiative, to optimize the usage and efficiency of Federal data centers by meeting the require-

ments of this Act and taking additional measures, as appropriate.

(b) REQUIREMENT FOR PLAN.—Within 6 months after the date of the enactment of this Act, the Federal Chief Information Officer, in consultation with the chief information officers of covered agencies, shall develop and submit to Congress a plan for implementation of the Initiative required by subsection (a) by each covered agency. In developing the plan, the Federal Chief Information Officer shall take into account the findings and recommendations of the Comptroller General review required by section 205(e).

(c) MATTERS COVERED.—The plan shall include—

(1) descriptions of how covered agencies will use reductions in floor space, energy use, infrastructure, equipment, applications, personnel, increases in multiorganizational use, and other appropriate methods to meet the requirements of the initiative; and

(2) appropriate consideration of shifting Federally owned data centers to commercially owned data centers.

**SEC. 204. PERFORMANCE REQUIREMENTS RELATED TO DATA CENTER CONSOLIDATION.**

(a) SERVER UTILIZATION.—Each covered agency may use the following methods to achieve the maximum

server utilization possible as determined by the Federal Chief Information Officer:

(1) The closing of existing data centers that lack adequate server utilization, as determined by the Federal Chief Information Officer. If the agency fails to close such data centers, the agency shall provide a detailed explanation as to why this data center should remain in use as part of the submitted plan. The Federal Chief Information Officer shall include an assessment of the agency explanation in the annual report to Congress.

(2) The consolidation of services within existing data centers to increase server utilization rates.

(3) Any other method that the Federal Chief Information Officer, in consultation with the chief information officers of covered agencies, determines necessary to optimize server utilization.

(b) POWER USAGE EFFECTIVENESS.—Each covered agency may use the following methods to achieve the maximum energy efficiency possible as determined by the Federal Chief Information Officer:

(1) The use of the measurement of power usage effectiveness to calculate data center energy efficiency.

(2) The use of power meters in data centers to frequently measure power consumption over time.

(3) The establishment of power usage effectiveness goals for each data center.

(4) The adoption of best practices for managing—

(A) temperature and airflow in data centers; and

(B) power supply efficiency.

(5) The implementation of any other method that the Federal Chief Information Officer, in consultation with the Chief Information Officers of covered agencies, determines necessary to optimize data center energy efficiency.

**SEC. 205. COST SAVINGS RELATED TO DATA CENTER OPTIMIZATION.**

(a) REQUIREMENT TO TRACK COSTS.—Each covered agency shall track costs resulting from implementation of the Federal Data Center Optimization Initiative within the agency and submit a report on those costs annually to the Federal Chief Information Officer. Covered agencies shall determine the net costs from data consolidation on an annual basis.

(1) FACTORS.—In calculating net costs each year under subsection (a), a covered agency shall use the following factors:

(A) Energy costs.

(B) Personnel costs.

(C) Real estate costs.

(D) Capital expense costs.

(E) Operating system, database, and other software license expense costs.

(F) Other appropriate costs, as determined by the agency in consultation with the Federal Chief Information Officer.

(b) REQUIREMENT TO TRACK SAVINGS.—Each covered agency shall track savings resulting from implementation of the Federal Data Center Optimization Initiative within the agency and submit a report on those savings annually to the Federal Chief Information Officer. Covered agencies shall determine the net savings from data consolidation on an annual basis.

(1) FACTORS.—In calculating net savings each year under subsection (b), a covered agency shall use the following factors:

(A) Energy savings.

(B) Personnel savings.

(C) Real estate savings.

(D) Capital expense savings.

(E) Operating system, database, and other software license expense savings.

(F) Other appropriate savings, as determined by the agency in consultation with the Federal Chief Information Officer.

(c) REQUIREMENT TO USE COST-EFFECTIVE MEASURES.—Covered agencies shall use the most cost-effective measures to implement the Federal Data Center Optimization Initiative.

(d) USE OF SAVINGS.—Any savings resulting from implementation of the Federal Data Center Optimization Initiative within a covered agency shall be used for the following purposes:

(1) To offset the costs of implementing the Initiative within the agency.

(2) To further enhance information technology capabilities and services within the agency.

(e) GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.—Not later than 3 months after the date of the enactment of this Act, the Comptroller General of the United States shall examine methods for calculating savings from the Initiative and using them for the purposes identified in subsection (d), including establishment and use of a special revolving fund that supports data centers and serv-

er optimization, and shall submit to the Federal Chief Information Officer and Congress a report on the Comptroller General's findings and recommendations.

**SEC. 206. REPORTING REQUIREMENTS TO CONGRESS AND THE FEDERAL CHIEF INFORMATION OFFICER.**

(a) AGENCY REQUIREMENT TO REPORT TO CIO.—Each year, each covered agency shall submit to the Federal Chief Information Officer a report on the implementation of the Federal Data Center Optimization Initiative, including savings resulting from such implementation. The report shall include an update of the agency's plan for implementing the Initiative.

(b) FEDERAL CHIEF INFORMATION OFFICER REQUIREMENT TO REPORT TO CONGRESS.—Each year, the Federal Chief Information Officer shall submit to the relevant congressional committees a report that assesses agency progress in carrying out the Federal Data Center Optimization Initiative and updates the plan under section 203. The report may be included as part of the annual report required under section 3606 of title 44, United States Code.

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

## SEC. 301. INVENTORY OF INFORMATION TECHNOLOGY ASSETS.

(a) PLAN.—The Director shall develop a plan for conducting a Governmentwide inventory of information technology assets.

(b) MATTERS COVERED.—The plan required by subsection (a) shall cover the following:

(1) The manner in which Federal agencies can achieve the greatest possible economies of scale and cost savings in the procurement of information technology assets, through measures such as reducing hardware or software products or services that are duplicative or overlapping and reducing the procurement of new software licenses until such time as agency needs exceed the number of existing and unused licenses.

(2) The capability to conduct ongoing Governmentwide inventories of all existing software licenses, including overused and underused licenses, and to assess the need of agencies for software licenses.

(3) A Governmentwide spending analysis to provide knowledge about how much is being spent for software products or services to support decisions for strategic sourcing under the Federal strategic sourcing program managed by the Office of Federal Procurement Policy.

(c) OTHER INVENTORIES.—In developing the plan required by subsection (a), the Director shall review the inventory of information systems maintained by each agency under section 3505(c) of title 44, United States Code, and the inventory of information resources maintained by each agency under section 3506(b)(4) of such title.

(d) AVAILABILITY.—The inventory of information technology assets shall be available to Chief Information Officers and such other Federal officials as the Chief Information Officers may, in consultation with the Chief Information Officers Council, designate.

(e) DEADLINE AND SUBMISSION TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Director shall complete and submit to Congress the plan required by subsection (a).

(f) IMPLEMENTATION.—Not later than two years after the date of the enactment of this Act, the Director shall complete implementation of the plan required by subsection (a).

(g) REVIEW BY COMPTROLLER GENERAL.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall review the plan required by subsection (a) and submit to the relevant congressional committees a report on the review.

**SEC. 302. WEBSITE CONSOLIDATION AND TRANSPARENCY.**

(a) WEBSITE CONSOLIDATION.—The Director shall—

(1) in consultation with Federal agencies, and after reviewing the directory of public Federal Government websites of each agency (as required to be established and updated under section 207(f)(3) of the E-Government Act of 2002 (Public Law 107–347; 44 U.S.C. 3501 note)), assess all the publicly available websites of Federal agencies to determine whether there are duplicative or overlapping websites; and

(2) require Federal agencies to eliminate or consolidate those websites that are duplicative or overlapping.

(b) WEBSITE TRANSPARENCY.—The Director shall issue guidance to Federal agencies to ensure that the data on publicly available websites of the agencies are open and accessible to the public.

(c) MATTERS COVERED.—In preparing the guidance required by subsection (b), the Director shall—

(1) develop guidelines, standards, and best practices for interoperability and transparency;

(2) identify interfaces that provide for shared, open solutions on the publicly available websites of the agencies; and

(3) ensure that Federal agency Internet home pages, web-based forms, and web-based applications are accessible to individuals with disabilities in conformance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(d) DEADLINE FOR GUIDANCE.—The guidance required by subsection (b) shall be issued not later than 180 days after the date of the enactment of this Act.

**SEC. 303. TRANSITION TO THE CLOUD.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that transition to cloud computing offers significant potential benefits for the implementation of Federal information technology projects in terms of flexibility, cost, and operational benefits.

(b) GOVERNMENTWIDE APPLICATION.—In assessing cloud computing opportunities, the Chief Information Officers Council shall define policies and guidelines for the adoption of Governmentwide programs providing for a

standardized approach to security assessment and operational authorization for cloud products and services.

[(c) ADDITIONAL BUDGET AUTHORITIES FOR TRANSITION.—In transitioning to the cloud, a Chief Information Officer of an agency listed in section 901(b) of title 31, United States Code, may establish such cloud service Working Capital Funds as may be necessary to transition to cloud-based solutions. These cloud service Working Capital Funds may preserve funding for cloud service transitions for a period not to exceed 5 years per appropriation. [placeholder]]

**SEC. 304. ELIMINATION OF UNNECESSARY DUPLICATION OF CONTRACTS BY REQUIRING BUSINESS CASE ANALYSIS.**

(a) PURPOSE.—The purpose of this section is to leverage the Government's buying power and achieve administrative efficiencies and cost savings by eliminating unnecessary duplication of contracts.

(b) REQUIREMENT FOR BUSINESS CASE APPROVAL.—

(1) IN GENERAL.—Effective on and after 180 days after the date of the enactment of this Act, an executive agency may not issue a solicitation for a covered contract vehicle unless the agency performs a business case analysis for the contract vehicle and

obtains an approval of the business case analysis from the Administrator for Federal Procurement Policy.

(2) REVIEW OF BUSINESS CASE ANALYSIS.—

(A) IN GENERAL.—With respect to any covered contract vehicle, the Administrator for Federal Procurement Policy shall review the business case analysis submitted for the contract vehicle and provide an approval or disapproval within 100 days after the date of submission. Any business case analysis not disapproved within such 100-day period is deemed to be approved.

(B) BASIS FOR APPROVAL OF BUSINESS CASE.—The Administrator for Federal Procurement Policy shall approve or disapprove a business case analysis based on the adequacy of the analysis submitted. The Administrator shall give primary consideration to whether an agency has demonstrated a compelling need that cannot be satisfied by existing Governmentwide contract vehicles in a timely and cost-effective manner.

(3) CONTENT OF BUSINESS CASE ANALYSIS.—The Administrator for Federal Procurement Policy

shall issue guidance specifying the content for a business case analysis submitted pursuant to this section. At a minimum, the business case analysis shall include details on the administrative resources needed for such contract vehicle, including an analysis of all direct and indirect costs to the Federal Government of awarding and administering such contract vehicle and the impact such contract vehicle will have on the ability of the Federal Government to leverage its purchasing power.

(c) DEFINITIONS.—

(1) COVERED CONTRACT VEHICLE.—The term ''covered contract vehicle'' has the meaning provided by the Administrator for Federal Procurement Policy in guidance issued pursuant to this section and includes, at a minimum, any Governmentwide contract vehicle , whether for acquisition of information technology or other goods or services, in an amount greater than $50,000,000 (or $10,000,000, determined on an average annual basis, in the case of such a contract vehicle performed over more than one year). The term does not include a multiple award schedule contract awarded by the General Services Administration, a Governmentwide acquisition contract for information technology awarded

pursuant to sections 11302(e) and 11314(a)(2) of title 40, United States Code, or orders against existing Governmentwide contract vehicles.

(2) GOVERNMENTWIDE CONTRACT VEHICLE AND EXECUTIVE AGENCY.—The terms ''Governmentwide contract vehicle'' and ''executive agency'' have the meanings provided in section 11501 of title 40, United States Code, as added by section 401.

(d) REPORT.—Not later than June 1 in each of the next 6 years following the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit to the relevant congressional committees a report on the implementation of this section, including a summary of the submissions, reviews, approvals, and disapprovals of business case analyses pursuant to this section.

(e) GUIDANCE.—The Administrator for Federal Procurement Policy shall issue guidance for implementing this section.

(f) REVISION OF FAR.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to implement this section.

# TITLE IV—STRENGTHENING AND STREAMLINING INFORMATION TECHNOLOGY ACQUISITION MANAGEMENT PRACTICES

## Subtitle A—Strengthening and Streamlining IT Program Management Practices

### SEC. 401. ESTABLISHMENT OF FEDERAL INFRASTRUCTURE AND COMMON APPLICATION COLLABORATION CENTER.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Chapter 115 of title 40, United States Code, is amended to read as follows:

## "CHAPTER 115—INFORMATION TECHNOLOGY ACQUISITION MANAGEMENT PRACTICES

"Sec.
"11501. Federal Infrastructure and Common Application Collaboration Center.

### "§ 11501. Federal Infrastructure and Common Application Collaboration Center

"(a) ESTABLISHMENT AND PURPOSES.—The Director of the Office of Management and Budget shall establish a Federal Infrastructure and Common Application Collaboration Center (hereafter in this section referred to as the 'Collaboration Center') within the Office of Man-

agement and Budget in accordance with this section. The purposes of the Collaboration Center are to serve as a focal point for coordinated program management practices and to develop and maintain requirements for the acquisition of IT infrastructure and common applications commonly used by various Federal agencies.

''(b) ORGANIZATION OF CENTER.—

''(1) MEMBERSHIP.—The Center shall consist of the following members:

''(A) An appropriate number, as determined by the CIO Council, but not less than 12, full-time program managers or cost specialists, all of whom have appropriate experience in the private or Government sector in managing or overseeing acquisitions of IT infrastructure and common applications.

''(B) At least 1 full-time detailee from each of the Federal agencies listed in section 901(b) of title 31, nominated by the respective agency chief information officer for a detail period of not less than 2 years.

''(2) WORKING GROUPS.—The Collaboration Center shall have working groups that specialize in IT infrastructure and common applications identified by the CIO Council. Each working group shall

be headed by a separate dedicated program manager appointed by the CIO Council.

''(c) CAPABILITIES AND FUNCTIONS OF THE COLLABORATION CENTER.—For each of the IT infrastructure and common application areas identified by the CIO Council, the Collaboration Center shall perform the following roles, and any other functions as directed by the CIO Council:

''(1) Develop, maintain, and disseminate requirements suitable to establish contracts that will meet the common and general needs of various Federal agencies as determined by the Center. In doing so, the Center shall give maximum consideration to the adoption of commercial standards and industry acquisition best practices, including opportunities for shared services, consideration of total cost of ownership, preference for industry-neutral functional specifications leveraging open industry standards and competition, use of open source software, and use of long-term contracts, as appropriate;

''(2) Develop, maintain, and disseminate reliable cost estimates that are accurate, comprehensive, well-documented, and credible.

''(3) Lead the review of significant or troubled IT investments or acquisitions as identified by the CIO Council.

''(4) Provide expert aid to troubled IT investments or acquisitions.

''(d) GUIDANCE.—The Director, in consultation with the Chief Information Officers Council, shall issue guidance addressing the scope and operation of the Collaboration Center. The guidance shall require that the Collaboration Center report to the Federal Chief Information Officer or his delegate.

''(e) REPORT TO CONGRESS.—The Director shall annually submit to the relevant congressional committees a report detailing the organization, staff, and activities of the Collaboration Center, including a list of IT infrastructure and common applications the Center assisted and an assessment of the Center's achievement in promoting efficiency, shared services, and elimination of unnecessary Government requirements that are contrary to commercial best practices.

''(f) IMPROVEMENT OF THE DOD ENTERPRISE SOFTWARE INITIATIVE AND GSA SMARTBUY PROGRAM.—

''(1) IN GENERAL.—The Collaboration Center, in collaboration with the Office of Federal Procurement Policy, the Department of Defense, and the

General Services Administration, shall identify and develop a strategic sourcing initiative to enhance Governmentwide acquisition, shared use, and dissemination of software, as well as compliance with end user license agreements.

''(2) EXAMINATION OF METHODS.—In developing the strategic sourcing initiative, the Collaboration Center shall examine the use of realistic and effective demand aggregation models supported by actual agency commitment to use the models, and supplier relationship management practices, to more effectively govern the Government's acquisition of information technology.

''(3) GOVERNMENTWIDE USER LICENSE AGREEMENT.—The Collaboration Center, in coordination with the Department of Defense and the General Services Administration, shall issue guidelines for establishing a Governmentwide contract vehicle that allows for the purchase of a license agreement that is available for use by all executive agencies as one user. To the maximum extent practicable, in establishing the Governmentwide contract vehicle, the Collaboration Center shall pursue direct negotiation and contracting with major software publishers as prime contractors.

''(g) GUIDELINES FOR ACQUISITION OF IT INFRASTRUCTURE AND COMMON APPLICATIONS.—

''(1) GUIDELINES.—The Collaboration Center shall establish guidelines that, to the maximum extent possible, eliminate inconsistent practices among executive agencies and ensure uniformity and consistency in acquisition processes for IT infrastructure and common applications across the Federal Government.

''(2) CENTRAL WEBSITE.—In preparing the guidelines, the Collaboration Center, in consultation with the Chief Acquisition Officers Council, shall offer executive agencies the option of accessing a central website for best practices, templates, and other relevant information.

''(h) PRICING TRANSPARENCY.—The Collaboration Center, in collaboration with the Office of Federal Procurement Policy, the Chief Acquisition Officers Council, the General Services Administration, and the Assisted Acquisition Centers of Excellence, shall compile a price list and catalogue containing current pricing information by vendor for each of its IT infrastructure and common applications categories. The price catalogue shall contain any price provided by a vendor for the same or similar good or service to any executive agency. The catalogue shall be

developed in a fashion ensuring that it may be used for pricing comparisons and pricing analysis using standard data formats. The price catalogue shall not be made public, but shall be accessible to executive agencies.

''(i) FEDERAL IT ACQUISITION MANAGEMENT IMPROVEMENT FUND.—

''(1) ESTABLISHMENT AND MANAGEMENT OF FUND.—There is a Federal IT Acquisition Management Improvement Fund (in this subsection referred to as the 'Fund'). The Administrator of General Services shall manage the Fund through the Collaboration Center to support the activities of the Collaboration Center carried out pursuant to this section. The Administrator of General Services shall consult with the Director in managing the Fund.

''(2) CREDITS TO FUND.—Five percent of the fees collected by executive agencies under the following contracts shall be credited to the Fund:

''(A) Governmentwide task and delivery order contracts entered into under sections 4103 and 4105 of title 41.

''(B) Governmentwide contracts for the acquisition of information technology and multiagency acquisition contracts for that technology authorized by section 11314 of this title.

''(C) Multiple-award schedule contracts entered into by the Administrator of General Services.

''(3) REMITTANCE BY HEAD OF EXECUTIVE AGENCY.—The head of an executive agency that administers a contract described in paragraph (2) shall remit to the General Services Administration the amount required to be credited to the Fund with respect to the contract at the end of each quarter of the fiscal year.

''(4) AMOUNTS NOT TO BE USED FOR OTHER PURPOSES.—The Administrator of General Services, through the Office of Management and Budget, shall ensure that amounts collected under this subsection are not used for a purpose other than the activities of the Collaboration Center carried out pursuant to this section.

''(5) AVAILABILITY OF AMOUNTS.—Amounts credited to the Fund remain available to be expended only in the fiscal year for which they are credited and the 4 succeeding fiscal years.

''(j) DEFINITIONS.—In this section:

''(1) EXECUTIVE AGENCY.—The term 'executive agency' has the meaning provided that term by section 105 of title 5.

''(2) GOVERNMENTWIDE CONTRACT VEHICLE.—The term 'Governmentwide contract vehicle' means any contract, blanket purchase agreement, or other contractual instrument that allows for an indefinite number of orders to be placed within the contract, agreement, or instrument, and that is established by one executive agency for use by multiple executive agencies to obtain supplies and services.

''(3) RELEVANT CONGRESSIONAL COMMITTEES.—The term 'relevant congressional committees' means each of the following:

''(A) The Committee on Oversight and Government Reform and the Committee on Armed Services of the House of Representatives.

''(B) The Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate.

''(k) REVISION OF FAR.—The Federal Acquisition Regulation shall be amended to implement this section.''.

(2) CLERICAL AMENDMENT.—The item relating to chapter 115 in the table of chapters at the beginning of subtitle III of title 40, United States Code, is amended to read as follows:

**''115. Information Technology Acquisition Management Practices ..... 11501''.**

(b) DEADLINES.—

(1) Not later than 180 days after the date of the enactment of this Act, the Director shall issue guidance under section 11501(d) of title 40, United States Code, as added by subsection (a).

(2) Not later than 1 year after the date of the enactment of this Act, the Director shall establish the Federal Infrastructure and Common Application Collaboration Center, in accordance with section 11501(a) of such title, as so added.

(3) Not later than 2 years after the date of the enactment of this Act, the Federal Infrastructure and Common Application Collaboration Center shall—

(A) identify and develop a strategic sourcing initiative in accordance with section 11501(f) of such title, as so added; and

(B) establish guidelines in accordance with section 11501(g) of such title, as so added.

**SEC. 402. DESIGNATION OF ASSISTED ACQUISITION CENTERS OF EXCELLENCE.**

(a) DESIGNATION.—Chapter 115 of title 40, United States Code, as amended by section 401, is further amended by adding at the end the following new section:

**"§ 11502. Assisted Acquisition Centers of Excellence**

''(a) PURPOSE.—The purpose of this section is to develop specialized assisted acquisition centers of excellence within the Federal Government to promote—

''(1) the effective use of best acquisition practices; and

''(2) the development of specialized expertise in the acquisition of information technology; and

''(3) Governmentwide sharing of acquisition capability to augment any shortage in the information technology acquisition workforce.

''(b) DESIGNATION OF AACEs.—Not later than 1 year after the date of the enactment of this section, and every 3 years thereafter, the Director of the Office of Management and Budget, in consultation with the Chief Acquisition Officers Council and the Chief Information Officers Council, shall designate, redesignate, or withdraw the designation of acquisition centers of excellence within various executive agencies to carry out the functions set forth in subsection (c) in an area of specialized acquisition expertise as determined by the Director. Each such center of excellence shall be known as an 'Assisted Acquisition Center of Excellence' or an 'AACE'.

''(c) FUNCTIONS.—The functions of each AACE are as follows:

''(1) BEST PRACTICES.—To promote, develop, and implement the use of best acquisition practices in the area of specialized acquisition expertise that the AACE is designated to carry out by the Director under subsection (b).

''(2) ASSISTED ACQUISITIONS.—To assist all Government agencies in the expedient and low-cost acquisition of the information technology goods or services covered by such area of specialized acquisition expertise by engaging in repeated and frequent acquisition of similar information technology requirements.

''(3) DEVELOPMENT AND TRAINING OF IT ACQUISITION WORKFORCE.—To assist in recruiting and training IT acquisition cadres (referred to in section 1704(j) of title 41).

''(d) CRITERIA.—In designating, redesignating, or withdrawing the designation of an AACE, the Director shall consider, at a minimum, the following matters:

''(1) The subject matter expertise of the host agency in a specific area of information technology acquisition.

''(2) For acquisitions of IT infrastructure and common applications covered by the Federal Infrastructure and Common Application Collaboration

Center established under section 11501 of this title, the ability and willingness to collaborate with the Collaboration Center and adhere to the requirements standards established by the Collaboration Center.

''(3) The ability of an AACE to develop customized requirements documents that meet the needs of executive agencies as well as the current industry standards and commercial best practices.

''(4) The ability of an AACE to consistently award and manage various contracts, task or delivery orders, and other acquisition arrangements in a timely, cost-effective, and compliant manner.

''(5) The ability of an AACE to aggregate demands from multiple executive agencies for similar information technology goods or services and fulfill those demands in one acquisition.

''(6) The ability of an AACE to acquire innovative or emerging commercial and noncommercial technologies using various contracting methods, including ways to lower the entry barriers for small businesses with limited government contracting experiences.

''(7) The ability of an AACE to maximize commercial item acquisition, effectively manage high-risk contract types, increase competition, promote small

business participation, and maximize use of available Governmentwide contract vehicles.

''(8) The existence of an in-house cost estimating group with expertise to consistently develop reliable cost estimates that are accurate, comprehensive, well-documented, and credible.

''(9) The ability of an AACE to employ best practices and educate requesting agencies, to the maximum extent practicable, regarding critical factors underlying successful major IT acquisitions, including the following factors:

''(A) Active engagement by program officials with stakeholders.

''(B) Possession by program staff of the necessary knowledge and skills.

''(C) Support of the programs by senior department and agency executives.

''(D) Involvement by end users and stakeholders in the development of requirements.

''(E) Participation by end users in testing of system functionality prior to formal end user acceptance testing.

''(F) Stability and consistency of Government and contractor staff.

''(G) Prioritization of requirements by program staff.

''(H) Maintenance of regular communication with the prime contractor by program officials.

''(I) Receipt of sufficient funding by programs.

''(10) The ability of an AACE to run an effective acquisition intern program in collaboration with the Federal Acquisition Institute or the Defense Acquisition University.

''(11) The ability of an AACE to effectively and properly manage fees received for assisted acquisitions pursuant to this section.

''(e) FUNDS RECEIVED BY AACES.—

''(1) AVAILABILITY.—Notwithstanding any other provision of law or regulation, funds obligated and transferred from an executive agency in a fiscal year to an AACE for the acquisition of goods or services covered by an area of specialized acquisition expertise of an AACE, regardless of whether the requirements are severable or non-severable, shall remain available for awards of contracts by the AACE for the same general requirements for the next 5 fis-

cal years following the fiscal year in which the funds were transferred.

''(2) ADDITIONAL TRANSFER AUTHORITY.—If the AACE to which the funds are transferred under paragraph (1) becomes unable to fulfill the requirements of the executive agency from which the funds were transferred, the funds may be transferred to a different AACE to fulfill such requirements. The funds so transferred shall be used for the same purpose and remain available for the same period of time as applied when transferred to the original AACE.

''(3) RELATIONSHIP TO EXISTING AUTHORITIES.—This subsection does not limit any existing authorities an AACE may have under its revolving or working capital funds authorities.

''(f) GOVERNMENT ACCOUNTABILITY OFFICE REVIEW OF AACE.—

''(1) REVIEW.—The Comptroller General of the United States shall review and assess the use and management of fees received by the AACEs pursuant to this section to ensure that an appropriate fee structure is established and enforced to cover activities addressed in this section and that no excess fees are charged or retained.

''(2) REPORTS.—Not later than 1 year after the designation or redesignation of AACES under subsection (b), the Comptroller General shall submit to the relevant congressional committees a report containing the findings and assessment under paragraph (1).

''(g) DEFINITIONS.—In this section:

''(1) ASSISTED ACQUISITION.—The term 'assisted acquisition' means a type of interagency acquisition in which the parties enter into an interagency agreement pursuant to which—

''(A) the servicing agency performs acquisition activities on the requesting agency's behalf, such as awarding, administering, or closing out a contract, task order, delivery order, or blanket purchase agreement; and

''(B) funding is provided through a franchise fund, the Acquisition Services Fund in section 321 of this title, sections 1535 and 1536 of title 31, or other available methods.

''(2) EXECUTIVE AGENCY.—The term 'executive agency' has the meaning provided that term by section 133 of title 41.

''(3) RELEVANT CONGRESSIONAL COMMITTEES.—The term 'relevant congressional commit-

tees' has the meaning provided that term by section 11501 of this title.

''(h) REVISION OF FAR.—The Federal Acquisition Regulation shall be amended to implement this section.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 115 of title 40, United States Code, as amended by section 401, is further amended by adding at the end the following new item:

''11502. Assisted Acquisition Centers of Excellence.''.

# Subtitle B—Strengthening IT Acquisition Workforce

## SEC. 411. EXPANSION OF TRAINING AND USE OF INFORMATION TECHNOLOGY ACQUISITION CADRES.

(a) PURPOSE.—The purpose of this section is to ensure timely progress by Federal agencies toward developing, strengthening, and deploying personnel with highly specialized skills in information technology acquisition, including program and project managers, to be known as information technology acquisition cadres.

(b) REPORT TO CONGRESS.—Section 1704 of title 41, United States Code, is amended by adding at the end the following new subsection:

''(j) STRATEGIC PLAN ON INFORMATION TECHNOLOGY ACQUISITION CADRES.—

''(1) FIVE-YEAR STRATEGIC PLAN TO CONGRESS.—Not later than June 1 following the date of

the enactment of this subsection, the Director shall submit to the relevant congressional committees a 5-year strategic plan (to be known as the 'IT Acquisition Cadres Strategic Plan') to develop, strengthen, and solidify information technology acquisition cadres. The plan shall include a timeline for implementation of the plan and identification of individuals responsible for specific elements of the plan during the 5-year period covered by the plan.

''(2) MATTERS COVERED.—The plan shall address, at a minimum, the following matters:

''(A) Current information technology acquisition staffing challenges in Federal agencies, by previous year's information technology acquisition value, and by the Federal Government as a whole.

''(B) The variety and complexity of information technology acquisitions conducted by each Federal agency covered by the plan, and the specialized information technology acquisition workforce needed to effectively carry out such acquisitions.

''(C) The development of a sustainable funding model to support efforts to hire, retain, and train an information technology acquisition

cadre of appropriate size and skill to effectively carry out the acquisition programs of the Federal agencies covered by the plan, including an examination of interagency funding methods and a discussion of how the model of the Defense Acquisition Workforce Development Fund could be applied to civilian agencies.

''(D) Any strategic human capital planning necessary to hire, retain, and train an information acquisition cadre of appropriate size and skill at each Federal agency covered by the plan.

''(E) Governmentwide training standards and certification requirements necessary to enhance the mobility and career opportunities of the Federal information technology acquisition cadre within the Federal agencies covered by the plan.

''(F) New and innovative approaches to workforce development and training, including cross-functional training, rotational development, and assignments both within and outside the Government.

''(G) Appropriate consideration and alignment with the needs and priorities of the Infra-

structure and Common Application Collaboration Center, Assisted Acquisition Centers of Excellence, and acquisition intern programs.

''(H) Assessment of the current workforce competency and usage trends in evaluation technique to obtain best value, including proper handling of tradeoffs between price and nonprice factors.

''(I) Assessment of the current workforce competency in designing and aligning performance goals, life cycle costs, and contract incentives.

''(J) Assessment of the current workforce competency in avoiding brand-name preference and using industry-neutral functional specifications to leverage open industry standards and competition.

''(K) Use of integrated program teams, including fully dedicated program managers, for each complex information technology investment.

''(L) Proper assignment of recognition or accountability to the members of an integrated program team for both individual functional goals and overall program success or failure.

''(M) The development of a technology fellows program that includes provisions for recruiting, for rotation of assignments, and for partnering directly with universities with well-recognized information technology programs.

''(N) The capability to properly manage other transaction authority (where such authority is granted), including ensuring that the use of the authority is warranted due to unique technical challenges, rapid adoption of innovative or emerging commercial or noncommercial technologies, or other circumstances that cannot readily be satisfied using a contract, grant, or cooperative agreement in accordance with applicable law and the Federal Acquisition Regulation.

''(O) Any other matters the Director considers appropriate.

''(3) ANNUAL REPORT.—Not later than June 1 in each of the 5 years following the year of submission of the plan required by paragraph (1), the Director shall submit to the relevant congressional committees an annual report outlining the progress made pursuant to the plan.

''(4) GOVERNMENT ACCOUNTABILITY OFFICE REVIEW OF THE PLAN AND ANNUAL REPORT.—

''(A) Not later than 1 year after the submission of the plan required by paragraph (1), the Comptroller General of the United States shall review the plan and submit to the relevant congressional committees a report on the review.

''(B) Not later than 6 months after the submission of the first, third, and fifth annual report required under paragraph (3), the Comptroller General shall independently assess the findings of the annual report and brief the relevant congressional committees on the Comptroller General's findings and recommendations to ensure the objectives of the plan are accomplished.

''(5) DEFINITIONS.—In this subsection:

''(A) The term 'Federal agency' means each agency listed in section 901(b) of title 31.

''(B) The term 'relevant congressional committees' means each of the following:

''(i) The Committee on Oversight and Government Reform and the Committee on

Armed Services of the House of Representatives.

''(ii) The Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate.''.

**SEC. 412. PLAN ON STRENGTHENING PROGRAM AND PROJECT MANAGEMENT PERFORMANCE.**

(a) PLAN ON STRENGTHENING PROGRAM AND PROJECT MANAGEMENT PERFORMANCE.—Not later than June 1 following the date of the enactment of this Act, the Director, in consultation with the Director of the Office of Personnel Management, shall submit to the relevant congressional committees a plan for improving management of IT programs and projects.

(b) MATTERS COVERED.—The plan required by subsection (a) shall include, at a minimum, the following:

(1) Creation of a specialized career path for program management.

(2) The development of a competency model for program management consistent with the IT project manager model.

(3) A career advancement model that requires appropriate expertise and experience for advancement.

(4) A career advancement model that is more competitive with the private sector and that recognizes both Government and private sector experience.

(5) Appropriate consideration and alignment with the needs and priorities of the Infrastructure and Common Application Collaboration Center, the Assisted Acquisition Centers of Excellence, and acquisition intern programs.

(c) COMBINATION WITH OTHER CADRES PLAN.—The Director may combine the plan required by subsection (a) with the IT Acquisition Cadres Strategic Plan required under section 1704(j) of title 41, United States Code, as added by section 411.

**SEC. 413. PERSONNEL AWARDS FOR EXCELLENCE IN THE ACQUISITION OF INFORMATION SYSTEMS AND INFORMATION TECHNOLOGY.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall develop policy and guidance for agencies to develop a program to recognize excellent performance by Federal Government employees and teams of such employees in the acquisition of information systems and information technology for the agency.

(b) ELEMENTS.—The program referred to in subsection (a) shall, to the extent practicable—

(1) obtain objective outcome measures; and

(2) include procedures for—

(A) the nomination of Federal Government employees and teams of such employees for eligibility for recognition under the program; and

(B) the evaluation of nominations for recognition under the program by 1 or more agency panels of individuals from Government, academia, and the private sector who have such expertise, and are appointed in such a manner, as the Director of the Office of Personal Management shall establish for purposes of the program.

(c) AWARD OF CASH BONUSES AND OTHER INCENTIVES.—In carrying out the program referred to in subsection (a), the Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, shall establish policies and guidance for agencies to reward any Federal Government employee or teams of such employees recognized pursuant to the program—

(1) with a cash bonus, to the extent that the performance of such individual or team warrants the

award of such bonus and is authorized by any provision of law;

(2) through promotions and other nonmonetary awards;

(3) by publicizing—

(A) acquisition accomplishments by individual employees; and

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

(4) through other awards, incentives, or bonuses that the head of the agency considers appropriate.

# TITLE V—ADDITIONAL REFORMS

## SEC. 501. MAXIMIZING THE BENEFIT OF THE FEDERAL STRATEGIC SOURCING INITIATIVE.

Not later than 180 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall prescribe regulations providing that when the Federal Government makes a purchase of services and supplies offered under the Federal Strategic Sourcing Initiative (managed by the Office of Federal Procurement Policy) but such Initiative is not used, the contract file for the purchase shall include a brief analysis of the comparative value, including price and nonprice fac-

tors, between the services and supplies offered under such Initiative and services and supplies offered under the source or sources used for the purchase.

**SEC. 502. PROMOTING TRANSPARENCY OF BLANKET PURCHASE AGREEMENTS.**

(a) PRICE INFORMATION TO BE TREATED AS PUBLIC INFORMATION.—The final negotiated price offered by an awardee of a blanket purchase agreement shall be treated as public information.

(b) PUBLICATION OF BLANKET PURCHASE AGREEMENT INFORMATION.—Not later than 180 days after the date of the enactment of this Act, the Administrator of General Services shall make available to the public a list of all blanket purchase agreements entered into by Federal agencies under its Federal Supply Schedules contracts and the prices associated with those blanket purchase agreements. The list and price information shall be updated at least once every 6 months.

**SEC. 503. ADDITIONAL SOURCE SELECTION TECHNIQUE IN SOLICITATIONS.**

Section 3306(d) of title 41, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (1);

(2) by striking the period and inserting ''; or'' at the end of paragraph (2); and

(3) by adding at the end the following new paragraph:

''(3) stating in the solicitation that the award will be made using a fixed price technical competition, under which all offerors compete solely on nonprice factors and the fixed award price is pre-announced in the solicitation.''.

**SEC. 504. ENHANCED TRANSPARENCY IN INFORMATION TECHNOLOGY INVESTMENTS.**

(a) PUBLIC AVAILABILITY OF INFORMATION ABOUT IT INVESTMENTS.—Section 11302(c) of title 40, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

''(2) PUBLIC AVAILABILITY.—

''(A) IN GENERAL.—The Director shall make available to the public the cost, schedule, and performance data for at least 80 percent (by dollar value) of all information technology investments Governmentwide, and 60 percent (by dollar value) of all information technology

investments in each Federal agency listed in section 901(b) of title 31. The Director shall ensure that the information is current, accurate, and reflects the risks associated with each covered information technology investment.

''(B) WAIVER OR LIMITATION AUTHORITY.—The applicability of subparagraph (A) may be waived or the extent of the information may be limited—

''(i) by the Director, with respect to IT investments Governmentwide; and

''(ii) by the Chief Information Officer of a Federal agency, with respect to IT investments in that agency;

if the Director or the Chief Information Officer, as the case may be, determines that such a waiver or limitation is in the national security interests of the United States.''.

(b) ADDITIONAL REPORT REQUIREMENTS.—Paragraph (3) of section 11302(c) of such title, as redesignated by subsection (a), is amended by adding at the end the following: ''The report shall include an analysis of agency trends reflected in the performance risk information required in paragraph (2).''.

**SEC. 505. ENHANCED COMMUNICATION BETWEEN GOVERNMENT AND INDUSTRY.**

Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall prescribe a regulation making clear that agency acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry, so long as those exchanges are consistent with existing law and regulation and do not promote an unfair competitive advantage to particular firms.

**SEC. 506. CLARIFICATION OF CURRENT LAW WITH RESPECT TO OPEN SOURCE SOFTWARE.**

(a) PURPOSE.—The purpose of this section is to establish guidance and processes to clarify that open source software is a valid procurement option that shall receive full consideration alongside other options, in merit-based requirements development and evaluation processes that promote procurement choices based on performance and value, and free of preconceived preferences based on how technology is developed, licensed, or distributed within the Federal Government.

(b) TECHNOLOGY NEUTRALITY.—Nothing in this section shall be construed to modify the Federal Government's long-standing policy of following technology-neutral principles and practices when selecting and acquiring

information technology that best fits the needs of the Federal Government.

(c) 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.''.

(d) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Director, in consultation with the Chief Information Officers Council, shall issue guidance for the use and collaborative development of open source software within the Federal Government.

(e) MATTERS COVERED.—In issuing guidance under subsection (c), the Director shall include, at a minimum, the following:

(1) Guidance to clarify that the preference for commercial items in section 3307 of title 41, United States Code, includes all open source software that meets the definition of the term ''commercial item'' in section 103 of title 41, United State Code, including all such software that is used for non-Government purposes and is licensed to the public.

(2) Guidance regarding the conduct of market research to ensure the inclusion of open source software.

(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.

(4) Guidance to define Governmentwide standards for security, redistribution, indemnity, and copyright in the acquisition, use, release, and collaborative development of open source software.

(5) Guidance for the establishment of a Government approval process to qualify open source software for widespread Government use, addressing issues such as security and redistribution rights.

(6) Guidance to establish standard service level agreements for maintenance and support for open source software products widely adopted by the Government, as well as the development of Governmentwide agreements that contain standard and widely applicable contract provisions for ongoing maintenance and development of open source software.

(7) Guidance on the role and use of the Federal Infrastructure and Common Application Collabora-

tion Center, established pursuant to section 11501 of title 40, United States Code (as added by section 401), for acquisition of open source software.

(f) REPORT TO CONGRESS.—Not later than 2 years after the issuance of the guidance required by subsection (b), the Comptroller General of the United States shall submit to the relevant congressional committees a report containing—

(1) an assessment of the effectiveness of the guidance;

(2) an identification of barriers to widespread use by the Federal Government of open source software; and

(3) such legislative recommendations as the Comptroller General considers appropriate to further the purposes of this section.