

H.R. 1232, the Federal IT Acquisition Reform Act (FITARA)
Section-by-Section Analysis of Carper Substitute Amendment
June 23, 2014

Sec. 1. Short title. – “Federal Information Technology Acquisition Reform Act.”

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Sec. 3. Definitions.

TITLE I—MANAGEMENT OF INFORMATION TECHNOLOGY WITHIN FEDERAL GOVERNMENT

Sec. 101. CIO Authority Enhancements.

Section 101(a) adds a new section 40 U.S.C. 11319, Resources, planning and portfolio management.

New section 11319(a) - Definitions

- “Covered agency” means each agency listed in sections 901(B)(1) and 901(b)(2) of title 31, which includes the following agencies: The Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Education, the Department of Energy, the Department of Health and Human Services, the Department of Homeland Security, the Department of Housing and Urban Development, the Department of the Interior, the Department of Justice, the Department of Labor, the Department of State, the Department of Transportation, the Department of the Treasury, the Department of Veterans Affairs, the Environmental Protection Agency, the National Aeronautics and Space Administration, The Agency for International Development, the General Services Administration, the National Science Foundation, the Nuclear Regulatory Commission, the Office of Personnel Management, the Small Business Administration, the Social Security Administration.
- “Information Technology” has the meaning given that term under capital planning guidance issued by the Office of Management and Budget.

New section 11319(b) – Additional Authorities for CIOs

New subsection (b)(1)(A) requires the head of each covered agency and each military department to ensure that the CIO of the agency has a significant role in the annual and multi-year planning, programming, budgeting and execution processes as well as the management, governance, and oversight processes related to information technology (IT).

New subsection (b)(1)(B) requires the Director of the Office of Management and Budget (OMB) to require in its annual IT capital planning guidance that the CIO of the agency (I) approve the

agency's information technology budget request; (II) certify that IT investments are implementing incremental development as defined by OMB; and (III) work with the Chief Human Capital Officer to review all IT positions requested in the budget to ensure the needs of the agency are being met.

New subsection (b)(1)(C) requires the CIO of covered agencies and the military departments to review and approve IT contracts or other agreements for information technology or information technology services. An agency CIO would also review and approve any request to reprogram funds for IT programs, prior to such funds being reprogrammed. The agency may utilize existing governance processes to obtain approval provided that the CIO of the agency is a full participant in those governance processes. This subsection also allows the CIO to delegate the approval of a contract or agreement to an individual who reports directly to the Chief Information Officer for contracts or agreements for non-major IT investments, as that term is defined by OMB. However, the CIO may not delegate the approval for major IT investments.

New subsection (b)(2) provides that the agency CIO shall approve the appointment of any other employee with the title of Chief Information Officer at the agency, or who functions in the capacity of Chief Information Officer, for any component organization within the agency.

Sec. 102. Enhanced Transparency and Improved Risk Management in Information Technology Investments.

Section 102(a) amends 40 U.S.C. 11302(c) to codify an IT Dashboard that would make publically available the cost, schedule, and performance data for each major IT investment at an agency. This section also sets forth a review process that must take place for major IT investments that receive a high or moderately high risk for four consecutive quarters.

Section 102 first adds two definitions:

- “Covered agency” once again means each agency listed in sections 901(B)(1) and 901(b)(2) of title 31.
- “Major information technology investment” means an agency IT investment that is designated by the executive agency as ‘major’ in accordance with capital planning guidance issued by OMB.

Section 102(a) then creates a new subsection 40 U.S.C. 11302(c)(3)(A) to require the Director of OMB to make publically available the cost, schedule, and performance data for each major IT investment for both new acquisitions and for operations and maintenance of existing IT. This information is required to be continuously available and the Director of OMB is allowed to waive or limit the information that is made publically available if it is determined that such a waiver or limitation is in the national security interests of the United States.

New 11302(c)(3)(B) further requires the agency CIO to certify each quarter that the information is current, accurate, and reflects the risks associated with each investment and to also identify significant data quality issues. The OMB Director is then required to publicly identify executive agencies with an incomplete certification.

Under new Subsection 11302(c)(3)(C) the agency CIO is required to categorize the investment according to level of risk. The CIO cannot categorize the level of risk as not lower than medium risk for any investment determined by the CIO and program manager to not employ incremental development. The CIO also may not rate an investment at a lower level of risk than either the cost or schedule risk ratings.

New subsection 11302(c)(4) then sets forth a review process that applies to major IT investments that receive a high rating for four consecutive quarters. First, the Administrator of the OMB Office of Electronic Government, in conjunction with the CIO of the agency and the program manager of the investment, must review the investment to identify (i) the root causes of the high level of risk of the investment; (ii) the extent to which these causes can be addressed; and (iii) the probability of future success. The results of that review are then sent to the relevant Congressional Committees. If within one year of the date of completion of the above-mentioned review, the investment is still evaluated as high risk, the OMB Director shall deny any request for all future development, modernization, and enhancement funding until such time as the agency CIO certifies that the root causes have been addressed and there exists sufficient capability to deliver on the investment within the planned cost and schedule.

Finally, new subsection 11302(c)(5) adds a report that include an analysis of executive agency trends reflected in the performance risk information required in paragraph (3).

Sec. 103. Governmentwide Software Purchasing Program.

Section 103(a) requires the Administrator of General Services, in collaboration with the Secretary of Defense, to identify and develop a strategic sourcing initiative to enhance Governmentwide acquisition, shared use, and dissemination of software.

Section 103(b) requires the GSA Administrator, in developing the initiative under subsection (a), to allow for the purchase of a license agreement that is available for use by all executive agencies as one user to the maximum extent practicable and as appropriate.

TITLE II—PORTFOLIO REVIEW AND FEDERAL DATA CENTER CONSOLIDATION INITIATIVE

Sec. 201. Portfolio Review

Section 201(a) adds a new section 40 U.S.C. 11319(c) that requires the Director of OMB and agency CIOs to annually review the IT investments of an agency.

New subsection 11319(c)(1) requires OMB to first set forth the process by which agencies should identify, among other things, ways to increase the efficiency and effectiveness of an agency's IT investments, opportunities to increase the use of shared services, potential duplication, waste and cost savings, and a multi-year strategy to reduce duplication within an agency's IT portfolio.

New subsection 11319(c)(2) requires the Director of OMB to develop metrics and performance indicators that agencies shall use in their annual portfolio review.

New subsection 11319(c)(3) requires the CIO of a covered agency to work with the Chief Operating Officer of the agency and the Administrator of the Office of E-Government at OMB to conduct an annual review of the IT portfolio of the agency

New subsection 11319(c)(4) requires the Administrator of the Office of E-Government at OMB to submit quarterly reports on the cost savings and reductions in duplicative IT investments that were identified through the portfolio review process.

Sec. 202. Federal Data Center Consolidation Initiative

Subsection 202(a): Definitions

The section defines the terms: Administrator, Covered Agency, FDCCI, and Government-Wide Data Center Consolidation and Optimization Metrics.

Subsection 2(b): Federal Data Center Consolidation Inventories and Strategies

Subsection 202(b)(1) establishes annual data center consolidation reporting requirements for 24 key agencies. Each year, agencies are required to submit to the Office of Management and Budget (OMB) a data center inventory and a multi-year strategy to consolidate and optimize their data centers. The strategy shall include performance metrics, a consolidation timeline, and cost saving estimates. Each agency is then required to implement the consolidation strategies submitted to OMB and provide quarterly updates to OMB on the implementation process.

Subsection 202(b)(1) also makes clear that OMB may allow agencies to submit information through existing reporting structures and that once a year an agency Chief Information Officer must state that their agency has complied with the requirements of this Act. Finally, this subsection contains a Rule of Construction to make it clear that nothing in this Act limits the reporting of information by agencies to OMB or Congress.

Subsection 202(b)(2) lays out the responsibilities of the Administrator for the Office of E-Government and Information Technology under this Act. These responsibilities include: establishing deadlines for annual reporting by agencies and requirements that agencies must meet to be considered in compliance with the Act, ensuring that agency progress is made available to the public, reviewing the inventories and strategies submitted pursuant to this Act, monitoring the implementation of agency strategies, updating the cost savings realized through the FDCCI, and creating government-wide data center consolidation and optimization metrics.

Subsection 202(b)(3) requires the Administrator to develop a cost-savings goal for the FDCCI, with a year-by-year break-down of anticipated savings. This subsection requires OMB to submit

regular updates to Congress on cost savings realized, and the completeness or incompleteness of each agency's data center inventories and consolidation strategies.

Subsection 202(b)(4) requires GAO to review the quality and completeness of each agency's asset inventory and consolidation strategy.

Subsection 202(c): Ensuring Cybersecurity Standards for Data Center Consolidation and Cloud Computing

This subsection establishes that data center consolidation must be done in accordance with federal guidelines on cloud computing security, including the Federal Risk and Authorization Management Program (FedRAMP) and guidance published by the National Institute of Standards and Technology.

Subsection 202(d): Waiver of Disclosure Requirements

This subsection provides the Director of National Intelligence (DNI) the ability to waive the requirements of the Act if the DNI determines that such disclosure is in the interest of national security. Within 30 days after making such a determination, the Director would need to file a statement describing the waiver and the reasons for the waiver to the Senate Homeland Security and Governmental Affairs Committee, the House Committee on Oversight and Government Reform and the Senate and House Intelligence Committees.

Subsection 202(e): Sunset

This subsection repeals this section on October 1, 2018.