

November 30, 2012

The Honorable Darrell Issa  
House Oversight and Government Reform Committee  
2347 Rayburn House Office Building  
Washington DC, 20515

Dear Chairman Issa:

On behalf of the membership of the Technology Association of America (TechAmerica), BSA | The Software Alliance, The Coalition for Government Procurement (CGP), and the Information Technology Industry Council (ITI), we would like to commend you for your interest in reforming how the government acquires information technology (IT). As you have strongly noted, the current system has strayed from core values that have served the government well for decades. These core values include a reliance on the commercial IT marketplace instead of government-specific solutions wherever possible, with a focus on delivering the best value over the anticipated lifecycle of a technology instead of simply looking at the initial purchase price.

We appreciate your public posting of the discussion draft of the Federal Information Technology Acquisition Reform Act (FITARA) and are pleased that in an attempt to further develop the ideas contained in this discussion draft, your staff has opened a dialogue with the information and communication technology sectors.

In our discussions, we have identified a number of specific provisions in the bill that we support, as well as portions that raise serious concerns and must be modified if the bill is to earn our support.

In particular, we support the goal of government becoming more sophisticated as a customer of IT. To that end, we believe that the government should collect and analyze data about IT purchases made by agencies across the federal enterprise. This will allow the government to fully capture the cost savings and innovation gains that are made by large-scale commercial customers of IT. We further support the consolidation of agency CIO authority and granting them budget authority, which will again support the goal of leveraging the government's IT purchasing power to save the taxpayers' money while delivering best value. We also support the goals of data center and website consolidation across the federal government.

We agree that there is a need to invest in the acquisition workforce and to consolidate unnecessary government-wide and multi-agency purchasing agreements (GWACs and MAC agreements). However, we believe that other implementation options would be more effective and would avoid unintended consequences in the future.

The following are areas we feel need significant revision before the next discussion draft of FITARA is released for public comment:

- Given that reliance on commercial IT markets is a core value in government procurement and the speed of technology change far outpaces the development of legislation and regulations, we are concerned about the addition of new technology terms into statute, such as "Commodity IT." If the intention is to treat commodity IT as a subset of the well-defined term "Commercial Item," we believe the new definition could potentially introduce unnecessary confusion. If, however the intent is to define the term

such that it is potentially outside the scope of the definition for “Commercial Item,” then we would be very concerned about the potential to depart from well-settled principles in government procurement law.

- Along the same lines, we are concerned that the draft legislation, particularly in Title IV, Sec. 405: Promotion of Government-Wide Support for the Use and Development of Open Source Software, strays from the core principle that statutes should be technology neutral. To the extent that there may be misconceptions among government procurement officials about the legality of using certain types of technologies, that could be addressed through your Committee’s oversight authorities. However, under no circumstances do we believe the government should promote or mandate consideration of commercial IT products or services based specifically upon the licensing, contracting, or business model used to develop them.
- Similarly, we believe that the legislation should affirmatively reinforce Congress’ intent to preserve government access to commercial goods and services through transactions that are simplified and commercial in nature.
- We also question the necessity for creating new centers within the government to focus on IT procurement—e.g., Federal Commodity IT Acquisition Centers and Assisted Acquisition Centers of Excellence. We are concerned that this could create competing sources of this information within the government and a move away from the GSA schedules program.
- Finally, we have concerns about unintended consequences that the legislation might have for small and minority owned businesses and other value added resellers who, working closely with their agency customers, have built innovative products and services upon the technology platforms created by our member companies.

Again, we appreciate your leadership on this effort to reform IT acquisition and investment and the ultimate goal of returning the federal acquisition system to its core values, which rely upon the use of commercially developed products and services to deliver best value, cost savings to taxpayers, and innovation gains to the government. Although our concerns with the draft bill are serious, we look forward to continued dialogue with you and your staff to better the proposal in the months ahead. Should you have any questions please do not hesitate to reach out to us by contacting Trey Hodgkins at [trey.hodgkins@techamerica.org](mailto:trey.hodgkins@techamerica.org).

Respectfully submitted,



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