

March 19, 2013

The Hon. Darrell Issa, Chairman  
House Committee on Oversight and  
Government Reform  
2157 Rayburn HOB  
Washington, DC 20515

The Hon. Elijah Cummings, Ranking Member  
House Committee on Oversight and  
Government Reform  
2471 Rayburn HOB  
Washington, DC 20515

**Re: SIIA Comments on Revised FITARA Discussion Draft**

Dear Chairman Issa and Ranking Member Cummings:

Thank you for your ongoing interest and work to reform federal information technology (IT) acquisition. SIIA believes the revised version of the bill as released to the public last week is much improved from prior drafts and we appreciate the committee's efforts to address many of the issues we raised in our earlier comments. For example, we applaud the committee for the language in Title I that empowers federal CIOs with additional authorities and puts in place a consistent organizational structure at virtually all major departments and agencies. Ensuring the agency CIOs have direct access to the agency head and making the CIOs at the largest federal agencies Presidential appointees are significant steps forward. These changes hopefully give these CIO offices the necessary clout to affect change across their organizations. We also view the revised Title II on data center consolidation and optimization as much improved from the previous version of the bill. Additionally, we continue to applaud the committee's efforts to develop and enhance the IT acquisition workforce.

The revised bill, however, continues to leave a number of key issues of importance to SIIA unresolved. Most notably, we are concerned with 1) the language in Sec. 303 calling for codification of standardized security assessments modeled on the FedRAMP program, 2) the language in Sec. 401 encouraging the development of a government-wide software license agreement that would treat the entire federal government as a single user, 3) the appearance of a preference for the use of strategic sourcing for the purchase of IT in Sec. 501 and 4) the continuing questions regarding the effect of proposed "guidance" for the use of open source software in the federal government in Sec. 506. These issues are addressed in more detail below.

## Transition to the Cloud

1. Sec. 303 (a). SENSE OF CONGRESS. The bill maintains a section on transition to the cloud, which also includes a provision calling for the adoption of a government-wide program providing for a standardized approach to security assessments for cloud products and services. In our original comments SIIA expressed reservations about this section and we will reiterate those here. SIIA has traditionally encouraged Congress to refrain from direct references to cloud or cloud computing in legislation as these terms are fluid, open to interpretation and will change over time. These terms are not defined in a manner that are widely accepted and in many cases refer to a broader scope of technologies than the term cloud computing implies. *We recommend that this provision be revised to focus on “interactive computer services” rather than “cloud” and encourage agencies to evaluate requirements to modernize their IT infrastructure, utilizing innovative technologies that will improve the speed, agility and effectiveness of government as we stated in our earlier comments.*
2. Sec. 303 (b). GOVERNMENTWIDE APPLICATION. We also have concerns regarding the language in this provision codifying a standardized approach to security assessments for cloud products and services. This provision mirrors the ongoing administration program known as FedRAMP which may conflict with the industry-accepted requirements of the Federal Information Security Management Act (FISMA). Requiring cloud service providers to complete a baseline security assessment along the lines of what the FedRAMP program now requires and then requiring an additional security assessment at the individual agency level is costly to federal cloud service providers while adding little value over what is current practice. *We respectfully request that Sec. 303(b) be deleted.*
3. Sec. 303 (c). ADDITIONAL BUDGET AUTHORITIES. We would support the provision establishing Working Capital Funds that allow agencies to preserve funding for modernizing their IT infrastructure, provided that the references to cloud computing are removed as we suggested in our original comments and reiterated above.

## Software Licensing Provisions

4. Sec. 401, (Sec. 11501 (f)). IMPROVEMENT OF THE DOD ENTERPRISE SOFTWARE INITIATIVE AND GSA SMARTBUY PROGRAM. In general while we support establishing consistency and uniformity in IT acquisition we have concerns with the provision in this section asking GSA to “identify and develop a strategic sourcing initiative to enhance acquisition, shared use and dissemination of software as well as compliance with end user license agreements”, as well as the provision seeking to develop a government-

wide contract vehicle that would allow for the purchase of a license agreement that is available to all government agencies as one user. *As we stated in our comments on the previous draft of this bill, we believe this provision is misguided in that it fails to recognize the value of resellers, different types of user licenses and the overall scope of software licensing in the federal government. We also believe this provision would adversely affect many small and minority owned businesses that specialize in the sale of commercial software to the federal government. We respectfully request that it be redrafted to account for these important aspects of software licensing for the federal government.*

### **Federal Strategic Sourcing Initiative**

5. Sec. 501. MAXIMIZING THE BENEFIT OF FSSI. The revised language on the use of FSSI asks agencies to justify not using FSSI for the purchase of services and supplies offered under FSSI. *This appears to maintain the appearance of a preference for FSSI that we objected to in the prior draft and therefore we ask that it be deleted from the bill or revised so as to not show a preference.* We would also like to further reiterate our view that the vast majority of IT products and services purchased by the federal government are too complex to be effectively purchased using FSSI.

### **Open Source Software**

6. Sec. 506. CLARIFICATION WITH RESPECT TO OPEN SOURCE SOFTWARE. We appreciate the committee clarifying that the open source software language is intended to be technology-neutral. *We remain concerned as stated in our initial comments that the language in this bill that calls for the development of “guidance” (Sec. 506(d)) on the use of open source software may create additional burdens for commercial vendors of open-source software. We strongly urge that this provision (particularly Sec. 506(c)) be clarified to apply to agency adoption and use of open source software from either internal government projects or from project downloads which do not have necessary certifications, assurances or demonstrated commercial support.*

### **Other Provisions of Interest to SIIA**

7. Sec. 101 (a)(1). PRESIDENTIAL APPOINTMENT ON DESIGNATION OF CERTAIN CIOs. We support the revised provision that would make the CIOs at the 16 largest federal agencies as designated in USC 31 901(b)(1) (minus DoD) Presidential appointees but question why the provision does not add the 8 agencies included in in USC 31 901 (b)(2)

to the list of those CIOs who are Presidentially appointed. Collectively the 24 agencies referenced in USC 31 901 (b)(1) and (b)(2) are referred to as the CFO Act Agencies and this legislation provides “budget-related authority” and agency head reporting for 23 of 24 agencies so for consistent application of the law we suggest all be subject to a Presidential appointment.

8. Sec. 102(d). LEAD COORDINATION ROLE OF CIO COUNCIL. We appreciate the committee’s inclusion of language we suggested regarding the development and sharing of cross-agency portfolio management and continue to encourage you to couple the expanded role of the CIO Council with the authorization of budget and FTEs to support this effort.
9. Sec. 202(3). DEFINITIONS. We respectfully suggest that the definition of Federal Chief Information Officer be deleted from this section and moved to the Sec. 3. Definitions.
10. Sec. 301. INVENTORY OF IT ASSETS. We appreciate the inclusion of language adding “overused” licenses to the list of software licenses to be inventoried. As we pointed out in our comments on the prior draft, we believe this is a significant problem that needs to be addressed.
11. Sec. 302. WEBSITE CONSOLIDATION AND TRANSPARENCY. In our original comments, we encouraged the committee to amend the website transparency section to make open data the default for government data and embrace the use of open APIs. This suggestion did not make it into the revised draft so we’d like to reiterate its importance here and request again that language along those lines be added. In addition, we had encouraged you to include in this provision and any other applicable areas of the bill language ensuring the protection of intellectual property and copyright laws and would like to reiterate the importance of that suggestion as well.
12. Sec. 401 (Sec. 11501(a)). ESTABLISHMENT OF FEDERAL INFRASTRUCTURE AND COMMON APPLICATION COLLABORATION CENTER. It is unclear why this section calls for the establishment of a Federal Infrastructure and Common Application Collaboration Center housed at OMB, when the majority of today’s acquisition expertise lies within GSA or other federal agencies. The previous draft gave the Director of OMB the flexibility to establish the predecessor to this entity where it made the most sense. We believe that flexibility is needed in the revised draft. In addition, it would appear that this center would at least in part duplicate the efforts of other federal entities including multiple individual agencies, GSA, GAO and the CIO Council. Further, we question the language that calls for the Collaboration Center to compile a price list and catalogue containing current pricing information by vendor for each of its IT infrastructure and common applications categories. Under current practice the maintenance and reporting of this information is the responsibility of the vendor and

provided to GSA. Assuming that the vendor's responsibility would remain as it currently exists under the schedules program the Collaboration Center would potentially be duplicating the efforts of GSA.

13. Sec. 411. EXPANSION OF TRAINING AND USE OF IT ACQUISITION CADRES. We continue to support the efforts of the committee to develop and enhance the IT acquisition workforce.

Thank you for your attention to the issues brought forward in this letter and for your ongoing work to reform federal IT acquisition. We look forward to continuing to work with you as this process moves forward.

Sincerely,

*Mike Hettinger*

Mike Hettinger

Director, Public Sector Innovation Group

Software and Information Industry Association