

AMENDMENT TO H.R. 5450
OFFERED BY MR. UDALL OF COLORADO

Amend section 16 to read as follows:

1 **SEC. 16. BASELINES AND COST CONTROLS.**

2 (a) **CONDITIONS FOR DEVELOPMENT.**—

3 (1) **IN GENERAL.**—The Administration shall
4 not enter into a contract for the development of a
5 major program unless the Administrator determines
6 that—

7 (A) the technical, cost, and schedule risks
8 of the program are clearly identified and the
9 program has developed a plan to manage those
10 risks;

11 (B) the technologies required for the pro-
12 gram have been demonstrated in a relevant lab-
13 oratory or test environment; and

14 (C) the program complies with all relevant
15 policies, regulations, and directives of the Ad-
16 ministration.

17 (2) **REPORT.**—The Administrator shall trans-
18 mit a report describing the basis for the determina-
19 tion required under paragraph (1) to the Committee
20 on Science of the House of Representatives and the

1 Committee on Commerce, Science, and Transpor-
2 tation of the Senate at least 30 days before entering
3 into a contract for development under a major pro-
4 gram.

5 (3) NONDELEGATION.—The Administrator may
6 not delegate the determination requirement under
7 this subsection, except in cases in which the Admin-
8 istrator has a conflict of interest.

9 (b) MAJOR PROGRAM ANNUAL REPORTS.—

10 (1) REQUIREMENT.—Annually, at the same
11 time as the President's annual budget submission to
12 the Congress, the Administrator shall transmit to
13 the Committee on Science of the House of Rep-
14 resentatives and the Committee on Commerce,
15 Science, and Transportation of the Senate a report
16 that includes the information required by this sec-
17 tion for each major program for which the Adminis-
18 tration proposes to expend funds in the subsequent
19 fiscal year. Reports under this paragraph shall be
20 known as Major Program Annual Reports.

21 (2) BASELINE REPORT.—The first Major Pro-
22 gram Annual Report for each major program shall
23 include a Baseline Report that shall, at a minimum,
24 include—

1 (A) the purposes of the program and key
2 technical characteristics necessary to fulfill
3 those purposes;

4 (B) an estimate of the life-cycle cost for
5 the program, with a detailed breakout of the
6 development cost, program reserves, and an es-
7 timate of the annual costs until development is
8 completed;

9 (C) the schedule for development, including
10 key program milestones;

11 (D) the plan for mitigating technical, cost,
12 and schedule risks identified in accordance with
13 subsection (a)(1)(A); and

14 (E) the name of the person responsible for
15 making notifications under subsection (c), who
16 shall be an individual whose primary responsi-
17 bility is overseeing the program.

18 (3) INFORMATION UPDATES.—For major pro-
19 grams for which a Baseline Report has been sub-
20 mitted, each subsequent Major Program Annual Re-
21 port shall describe any changes to the information
22 that had been provided in the Baseline Report, and
23 the reasons for those changes.

24 (c) NOTIFICATION.—

1 (1) REQUIREMENT.—The individual identified
2 under subsection (b)(2)(E) shall immediately notify
3 the Administrator any time that individual has rea-
4 sonable cause to believe that, for the major program
5 for which he or she is responsible—

6 (A) the development cost of the program is
7 likely to exceed the estimate provided in the
8 Baseline Report of the program by 15 percent
9 or more; or

10 (B) a milestone of the program is likely to
11 be delayed by 6 months or more from the date
12 provided for it in the Baseline Report of the
13 program.

14 (2) REASONS.—Not later than 30 days after
15 the notification required under paragraph (1), the
16 individual identified under subsection (b)(2)(E) shall
17 transmit to the Administrator a written notification
18 explaining the reasons for the change in the cost or
19 milestone of the program for which notification was
20 provided under paragraph (1).

21 (3) NOTIFICATION OF CONGRESS.—Not later
22 than 15 days after the Administrator receives a writ-
23 ten notification under paragraph (2), the Adminis-
24 trator shall transmit the notification to the Com-
25 mittee on Science of the House of Representatives

1 and the Committee on Commerce, Science, and
2 Transportation of the Senate.

3 (d) FIFTEEN PERCENT THRESHOLD.—Not later
4 than 30 days after receiving a written notification under
5 subsection (c)(2), the Administrator shall determine
6 whether the development cost of the program is likely to
7 exceed the estimate provided in the Baseline Report of the
8 program by 15 percent or more, or whether a milestone
9 is likely to be delayed by 6 months or more. If the deter-
10 mination is affirmative, the Administrator shall—

11 (1) transmit to the Committee on Science of the
12 House of Representatives and the Committee on
13 Commerce, Science, and Transportation of the Sen-
14 ate, not later than 15 days after making the deter-
15 mination, a report that includes—

16 (A) a description of the increase in cost or
17 delay in schedule and a detailed explanation for
18 the increase or delay;

19 (B) a description of actions taken or pro-
20 posed to be taken in response to the cost in-
21 crease or delay; and

22 (C) a description of any impacts the cost
23 increase or schedule delay, or the actions de-
24 scribed under subparagraph (B), will have on

1 any other program within the Administration;
2 and

3 (2) if the Administrator intends to continue
4 with the program, promptly initiate an analysis of
5 the program, which shall include, at a minimum—

6 (A) the projected cost and schedule for
7 completing the program if current requirements
8 of the program are not modified;

9 (B) the projected cost and the schedule for
10 completing the program after instituting the ac-
11 tions described under paragraph (1)(B); and

12 (C) a description of, and the projected cost
13 and schedule for, a broad range of alternatives
14 to the program.

15 The Administration shall complete an analysis initi-
16 ated under paragraph (2) not later than 6 months
17 after the Administrator makes a determination
18 under this subsection. The Administrator shall
19 transmit the analysis to the Committee on Science
20 of the House of Representatives and Committee on
21 Commerce, Science, and Transportation of the Sen-
22 ate not later than 30 days after its completion.

23 (e) THIRTY PERCENT THRESHOLD.—If the Adminis-
24 trator determines under subsection (d) that the develop-
25 ment cost of a program will exceed the estimate provided

1 in the Baseline Report of the program by more than 30
2 percent, then, beginning 18 months after the date the Ad-
3 ministrator transmits a report under subsection (d)(1),
4 the Administrator shall not expend any additional funds
5 on the program, other than termination costs, unless the
6 Congress has subsequently authorized continuation of the
7 program by law. An appropriation for the specific program
8 enacted subsequent to a report being transmitted shall be
9 considered an authorization for purposes of this sub-
10 section. If the program is continued, the Administrator
11 shall submit a new Baseline Report for the program no
12 later than 90 days after the date of enactment of the Act
13 under which Congress has authorized continuation of the
14 program.

15 (f) DEFINITIONS.—For the purposes of this section—

16 (1) the term “development” means the phase of
17 a program following the formulation phase and be-
18 ginning with the approval to proceed to implementa-
19 tion.

20 (2) the term “development cost” means the
21 total of all costs, including construction of facilities
22 and civil servant costs, from the period beginning
23 with the approval to proceed to implementation
24 through the achievement of operational readiness,

1 without regard to funding source or management
2 control, for the life of the program;

3 (3) the term “life-cycle cost” means the total of
4 the direct, indirect, recurring, and nonrecurring
5 costs, including the construction of facilities and civil
6 servant costs, and other related expenses incurred or
7 estimated to be incurred in the design, development,
8 verification, production, operation, maintenance,
9 support, and retirement of a program over its
10 planned lifespan, without regard to funding source
11 or management control; and

12 (4) the term “major program” means an activ-
13 ity approved to proceed to implementation that has
14 an estimated life-cycle cost of more than
15 \$250,000,000.