

FEDERAL CIO AUTHORIZATION ACT OF 2018

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OCTOBER 12, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. GOWDY, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 6901]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 6901) to amend chapter 36 of title 44, United States Code, to make certain changes relating to electronic Government services, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## SUMMARY AND PURPOSE OF LEGISLATION

H.R. 6901, the Federal CIO Authorization Act of 2018 reauthorizes and renames the Office of Electronic Government as the Office of the Federal Chief Information Officer. The bill codifies the positions of Federal Chief Information Officer (CIO) and Federal Chief Information Security Officer (CISO) as presidential appointees. The bill elevates the Federal CIO within the Office of Management and Budget to report directly to the Director of OMB.

## BACKGROUND AND NEED FOR LEGISLATION

The *E-Government Act of 2002* is the primary statute governing the Federal government's information technology (IT) management and security requirements.<sup>1</sup> When the law was passed in 2002, it marked the first major overhaul of federal IT policy since the *Clinger-Cohen Act of 1996*.<sup>2</sup> The *E-Government Act* established the Office of Electronic Government (E-Government) within the Office of Management and Budget (OMB), headed by the Administrator of the Office of E-Government. The head of this office has also been referred to as the Federal CIO since 2009.

The bill reauthorizes and renames the Office of E-Government as the Office of the Federal Chief Information Officer. The bill codifies the Federal CIO as a presidential appointee. The bill elevates the Federal CIO within the Office of Management and Budget by requiring direct reporting to the Director of OMB. This change recognizes the importance of the Federal CIO in coordinating information technology policy for the Federal government. Making the Federal CIO a direct report aligns with the Committee's view and that of most in the private sector that CIOs must be empowered to be held fully accountable.<sup>3</sup> One of the key areas the Committee has emphasized in its oversight of the *Federal Information Technology Acquisition Reform Act (FITARA)* implementation is CIO authority, in particular the reporting chain for the agency CIO.<sup>4</sup> Complementing of the Committee's work, the President signed Executive Order 13833 directing agencies to make the CIO a direct report to the agency head.<sup>5</sup>

H.R. 6901 also establishes the position of Federal Chief Information Security Officer (CISO) reporting directly to the Federal CIO. The President, OMB Director, and the Federal CIO may assign duties to the Federal CISO. OMB's cybersecurity role, including the duties assigned to the OMB Director by the *Federal Information Security Modernization Act (FISMA)*, are the responsibility of the Federal CISO.<sup>6</sup>

H.R. 6901 requires the OMB Director to create a technology investment planning and oversight process. This process requires all agency heads to submit reports to the Federal CIO detailing all IT

<sup>1</sup>E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899 (2002).

<sup>2</sup>National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, 110 Stat. 186 (1996).

<sup>3</sup>See, e.g., *The Federal Information Technology Acquisition Reform Act (FITARA) Scorecard 6.0: Hearing Before the Subcomm. on Information Tech. & Subcomm. on Gov't Operations of the H. Comm. on Oversight & Gov't Reform*, 115th Cong. (2017).

<sup>4</sup>The Federal Information Technology Acquisition and Reform Act of 2014, Pub. L. No. 113-291, Title VIII, Subtitle D, 831, 128 Stat. 3438 (2014).

<sup>5</sup>Exec. Order No. 13833, 83 Fed. Reg. 23345 (May 15, 2018).

<sup>6</sup>The Federal Information Security Modernization Act of 2014, Pub. L. No. 113-283, 128 Stat. 3073 (2014).

expenditures. All reported IT expenditures must be made publicly available online, expanding upon the IT Dashboard requirements in the FITARA.<sup>7</sup> The Federal CIO is required to submit to Congress a report on the status of establishing this process within 120 days of enactment. This process standardizes the process for tracking government IT spending.

Finally, H.R. 6901 directs the Federal CIO to submit to Congress a proposal for consolidating IT across the federal government and increasing the use of shared services, with a focus on small and medium agencies. The proposal is due within 180 days of enactment.

#### STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the previous section.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal or objective of this bill is to amend chapter 36 of title 44, United States Code, to make certain changes relating to electronic Government services, and for other purposes.

#### LEGISLATIVE HISTORY

On September 26, 2018, Representative Will Hurd (R-TX) introduced H.R. 6901, the Federal CIO Authorization Act of 2018, with Representative Robin D. Kelly (D-IL), Mark Meadows (R-NC), and Gerald E. Connolly (D-VA). H.R. 6901 was referred to the Committee on Oversight and Government Reform. The Committee considered H.R. 6901 at a business meeting on September 27, 2018 and ordered the bill favorably reported by voice vote.

Senator Joseph Lieberman (D-CT) introduced S. 803, the E-Government Act of 2002, on May 1, 2001. The then-Senate Committee on Governmental Affairs considered S. 803 at a business meeting on March 21, 2002 and ordered the bill favorably reported, as amended, by voice vote. The Senate passed the bill by unanimous consent on June 27, 2002.

On July 11, 2001, Representative Jim Turner (D-TX) introduced H.R. 2458, the House companion to S. 803. H.R. 2458 was referred to the then-House Committee on Government Reform, with an additional referral to the House Committee on the Judiciary. The Committee on Government Reform considered H.R. 2458 at a business meeting on October 9, 2002, and ordered the bill favorably reported, as amended, by voice vote. The House passed the bill by unanimous consent on November 15, 2002. H.R. 2458 passed the Senate by unanimous consent on November 15, 2002. The bill was signed by the President on December 17, 2002 and became Public Law No. 107-347.

<sup>7</sup>The Federal Information Technology Acquisition and Reform Act of 2014, Pub. L. No. 113-291, Title VIII, Subtitle D, 831, 128 Stat. 3438 (2014).

## COMMITTEE CONSIDERATION

On September 27, 2018, the Committee met in open session and, with a quorum being present, ordered the bill favorably reported by voice vote.

## ROLL CALL VOTES

There were no roll call votes requested or conducted during Committee consideration of H.R. 6901.

## EXPLANATION OF AMENDMENTS

There were no amendments to H.R. 6901 offered or adopted during Committee consideration of the bill.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill would amend chapter 36 of title 44, United States Code, to make certain changes relating to electronic Government services. As such, this bill does not relate to employment or access to public services and accommodations.

## DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## DISCLOSURE OF DIRECTED RULE MAKINGS

This bill does not direct the completion of any specific rule makings within the meaning of section 551 of title 5, United States Code.

## FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

## UNFUNDED MANDATES STATEMENT

Pursuant to section 423 of the *Congressional Budget Act of 1974* the Committee has included a letter received from the Congressional Budget Office below.

## EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

## COMMITTEE ESTIMATE

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act of 1974*.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the *Congressional Budget Act of 1974* is as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 11, 2018.*

Hon. TREY GOWDY,  
*Chairman, Committee on Oversight and Government Reform,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6901, the Federal CIO Authorization Act of 2018.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

MARK P. HADLEY  
(For Keith Hall, Director).

Enclosure.

*H.R. 6901—Federal CIO Authorization Act of 2018*

H.R. 6901 would amend the E-Government Act of 2002 that governs the management and use of federal electronic services and processes. Specifically, the bill would rename the Office of E-Government within the Office of Management and Budget (OMB) as the Office of Chief Information Officer and designate a chief information officer (CIO) and a chief information security officer (CISO). The bill also would require federal agencies to report to the Congress on their information technology (IT) investments and direct the CIO to report on the feasibility of small agencies' consolidating their IT services.

Based on information from OMB, CBO expects that the bill would largely codify current practice: The federal government has a CIO and a CISO and the Federal IT Dashboard now reports on federal IT spending. Depending on scope and the effort required to produce the report, CBO estimates, it would cost up to \$2 million to complete a report on the feasibility of consolidating the IT services of the federal government's approximately 100 small-to-midsize agencies.

Enacting H.R. 6901 could affect direct spending by some agencies (the Tennessee Valley Authority, for example) that are authorized to use fees, receipts from the sale of goods, and other collections to cover their operating costs; therefore, pay-as-you-go procedures apply. Because most such agencies can adjust the amounts they

collect, however, CBO estimates that any net changes in direct spending would not be significant. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 6901 would not increase direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 6901 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 establishes the short title of the bill as the “Federal CIO Authorization Act of 2018.”

##### *Sec. 2. Changes relating to electronic government services*

Section 2 amends chapter 36 of title 44, United States Code, to rename the Office of Electronic Government to the Office of the Federal Chief Information Officer (CIO), elevate the new Federal CIO to a direct report to the Director of the Office of Management and Budget, and make related technical and conforming changes to existing law. In addition, Section 2 codifies the position of Federal Chief Information Security Officer as a Presidential appointee to oversee federal cybersecurity.

Section 2 also requires Federal agencies to report all information technology expenditures to the Office of the Federal Chief Information Officer under an implementation process to be determined by the Director of the Office of Management and Budget.

##### *Sec. 3. Proposal related to shared services*

Section 3 requires the Federal CIO to submit to Congress a proposal for consolidating information technology across the federal government and increasing the use of shared services, with a focus on small and medium agencies.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

#### **TITLE 44, UNITED STATES CODE**

\* \* \* \* \*

#### **CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES**

Sec.  
3601. Definitions.  
【3602. Office of Electronic Government.】

3602. *Office of the Federal Chief Information Officer.*

3603. *Chief Information Officers Council.*

**3604. E-Government Fund.**

*3604. Federal IT Fund.*

3605. Program to encourage innovative solutions to enhance electronic Government services and processes.

3606. **[E-Government]** *Annual report.*

3607. *Federal Chief Information Security Officer.*

3608. *Technology investment planning and oversight process.*

### § 3601. Definitions

In this chapter, the definitions under section 3502 shall apply, and the term—

**[(1)]** “Administrator” means the Administrator of the Office of Electronic Government established under section 3602;

**[(2)]** (1) “Council” means the Chief Information Officers Council established under section 3603;

**[(3)]** (2) “electronic Government” means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

**[(4)]** (3) “enterprise architecture”—

(A) means—

(i) a strategic information asset base, which defines the mission;

(ii) the information necessary to perform the mission;

(iii) the technologies necessary to perform the mission; and

(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

(B) includes—

(i) a baseline architecture;

(ii) a target architecture; and

(iii) a sequencing plan;

**[(5)]** (4) “Fund” means the **[E-Government Fund]** *Federal IT Fund* established under section 3604;

**[(6)]** (5) “interoperability” means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

**[(7)]** (6) “integrated service delivery” means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

**[(8)]** (7) “tribal government” means—

(A) the governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and serv-

ices provided by the United States to Indians because of their status as Indians, and

(B) any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

**§ 3602. [Office of Electronic Government] *Office of the Federal Chief Information Officer***

(a) There is established in the Office of Management and Budget an [Office of Electronic Government] *Office of the Federal Chief Information Officer*.

(b) There shall be at the head of the Office [an Administrator] *a Federal Chief Information Officer* who shall be appointed by the President *and who shall report directly to the Director*.

(c) [The Administrator] *The Federal Chief Information Officer* shall assist the Director in carrying out—

- (1) all functions under this chapter;
- (2) all of the functions assigned to the Director under title II of the E-Government Act of 2002; and
- (3) other electronic government initiatives, consistent with other statutes.

(d) [The Administrator] *The Federal Chief Information Officer* shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

- (1) chapter 35;
- (2) subtitle III of title 40, United States Code;
- (3) section 552a of title 5 (commonly referred to as the “Privacy Act”);
- (4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note); and
- (5) the Federal Information Security Management Act of 2002.

(e) [The Administrator] *The Federal Chief Information Officer* shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

- (1) capital planning and investment control for information technology;
- (2) the development of enterprise architectures;
- (3) information security;
- (4) privacy;
- (5) access to, dissemination of, and preservation of Government information;
- (6) accessibility of information technology for persons with disabilities; and
- (7) other areas of electronic Government.

(f) Subject to requirements of this chapter, [the Administrator] *the Federal Chief Information Officer* shall assist the Director by performing electronic Government functions as follows:



(1) Advise the Director on the resources required to develop and effectively administer electronic Government initiatives.

(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

(3) Provide overall leadership and direction to the executive branch on electronic Government.

(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the [E-Government Fund] *Federal IT Fund* established under section 3604.

(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce under section 11331 of title 40, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, including the following:

(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

(B) Consistent with the process under section 207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

(C) Standards and guidelines for Federal Government computer system efficiency and security.

(9) Sponsor ongoing dialogue that—

(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

(C) may include—

(i) development of innovative models—

(I) for electronic Government management and Government information technology contracts; and

(II) that may be developed through focused discussions or using separately sponsored research;

(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

(10) Sponsor activities to engage the general public in the development and implementation of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities which engage multiple agencies providing similar or related information and services.

(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 204 of the E-Government Act of 2002.

(12) Coordinate with the Administrator for Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

(B) ensuring compliance with those standards through the budget review process and other means.

(14) Oversee the development of enterprise architectures within and across agencies.

(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

(16) Administer **the Office of Electronic Government** *the Office of the Federal Chief Information Officer* established under this section.

(17) Assist the Director in preparing the E-Government report established under section 3606.

(18) *Oversee the Federal Chief Information Security Officer.*

(g) The Director shall ensure that the Office of Management and Budget, including **the Office of Electronic Government** *the Office of the Federal Chief Information Officer*, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

**§ 3603. Chief Information Officers Council**

(a) There is established in the executive branch a Chief Information Officers Council.

(b) The members of the Council shall be as follows:

(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

(2) **【The Administrator of the Office of Electronic Government】** *The Federal Chief Information Officer*.

(3) The Administrator of the Office of Information and Regulatory Affairs.

(4) The chief information officer of each agency described under section 901(b) of title 31.

(5) The chief information officer of the Central Intelligence Agency.

(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

(7) Any other officer or employee of the United States designated by the chairperson.

(c)(1) **【The Administrator of the Office of Electronic Government】** *The Federal Chief Information Officer* shall lead the activities of the Council on behalf of the Deputy Director for Management.

(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

(3) The Administrator of General Services shall provide administrative and other support for the Council.

(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

(f) The Council shall perform functions that include the following:

(1) Develop recommendations for the Director on Government information resources management policies and requirements.

(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

(3) Assist **【the Administrator】** *the Federal Chief Information Officer* in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title II of the E-Government Act of 2002.

(5) Work as appropriate with the National Institute of Standards and Technology and **【the Administrator】** *the Federal Chief Information Officer* to develop recommendations on information technology standards developed under section 20 of the

National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 11331 of title 40, and maximize the use of commercial standards as appropriate, including the following:

- (A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.
  - (B) Consistent with the process under section 207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.
  - (C) Standards and guidelines for Federal Government computer system efficiency and security.
- (6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.
- (7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

**§ 3604. [E-Government Fund] *Federal IT Fund***

(a)(1) There is established in the Treasury of the United States the **[E-Government Fund] *Federal IT Fund***.

(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by **[the Administrator of the Office of Electronic Government]** *the Federal Chief Information Officer*, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

(3) Projects under this subsection may include efforts to—

(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

(b)(1) The **[Administrator]** *Federal Chief Information Officer* shall—

(A) establish procedures for accepting and reviewing proposals for funding;

(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

- (C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.
- (2) When reviewing proposals and managing the Fund, the **【Administrator】** *Federal Chief Information Officer* shall observe and incorporate the following procedures:
- (A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agencywide authority on behalf of the head of the agency, who shall report directly to the head of the agency.
- (B) Projects shall adhere to fundamental capital planning and investment control processes.
- (C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would be coordinated with support from the Fund, and include plans for potential continuation of projects after all funds made available from the Fund are expended.
- (D) After considering the recommendations of the interagency councils, the Director, assisted by the **【Administrator】** *Federal Chief Information Officer*, shall have final authority to determine which of the candidate projects shall be funded from the Fund.
- (E) Agencies shall assess the results of funded projects.
- (c) In determining which proposals to recommend for funding, **【the Administrator】** *the Federal Chief Information Officer*—
- (1) shall consider criteria that include whether a proposal—
- (A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;
- (B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);
- (C) ensures proper security and protects privacy;
- (D) is interagency in scope, including projects implemented by a primary or single agency that—
- (i) could confer benefits on multiple agencies; and
- (ii) have the support of other agencies; and
- (E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and
- (2) may also rank proposals based on criteria that include whether a proposal—
- (A) has Governmentwide application or implications;
- (B) has demonstrated support by the public to be served;
- (C) integrates Federal with State, local, or tribal approaches to service delivery;
- (D) identifies resource commitments from nongovernmental sectors;
- (E) identifies resource commitments from the agencies involved;
- (F) uses web-based technologies to achieve objectives;
- (G) identifies records management and records access strategies;

(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

(J) supports integrated service delivery;

(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

(L) is new or innovative and does not supplant existing funding streams within agencies.

(d) The Fund may be used to fund the integrated Internet-based system under section 204 of the E-Government Act of 2002.

(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3606.

(2) The report under paragraph (1) shall describe—

(A) all projects which the Director has approved for funding from the Fund; and

(B) the results that have been achieved to date for these funded projects.

(g)(1) There are authorized to be appropriated to the Fund—

(A) \$45,000,000 for fiscal year 2003;

(B) \$50,000,000 for fiscal year 2004;

(C) \$100,000,000 for fiscal year 2005;

(D) \$150,000,000 for fiscal year 2006; and

(E) such sums as are necessary for fiscal year 2007.

(2) Funds appropriated under this subsection shall remain available until expended.

**§ 3605. Program to encourage innovative solutions to enhance electronic Government services and processes**

(a) ESTABLISHMENT OF PROGRAM.—~~【The Administrator】~~ *The Federal Chief Information Officer* shall establish and promote a Governmentwide program to encourage contractor innovation and excellence in facilitating the development and enhancement of electronic Government services and processes.

(b) ISSUANCE OF ANNOUNCEMENTS SEEKING INNOVATIVE SOLUTIONS.—Under the program~~【, the Administrator,】~~, *the Federal Chief Information Officer*, in consultation with the Council and the Administrator for Federal Procurement Policy, shall issue announcements seeking unique and innovative solutions to facilitate

the development and enhancement of electronic Government services and processes.

(c) MULTIAGENCY TECHNICAL ASSISTANCE TEAM.—(1) **[The Administrator]** *The Federal Chief Information Officer*, in consultation with the Council and the Administrator for Federal Procurement Policy, shall convene a multiagency technical assistance team to assist in screening **[proposals submitted to the Administrator]** *proposals submitted to the Federal Chief Information Officer* to provide unique and innovative solutions to facilitate the development and enhancement of electronic Government services and processes. The team shall be composed of employees of the agencies represented on the Council who have expertise in scientific and technical disciplines that would facilitate the assessment of the feasibility of the proposals.

(2) The technical assistance team shall—

(A) assess the feasibility, scientific and technical merits, and estimated cost of each proposal; and

(B) submit each proposal, and the assessment of the proposal, to **[the Administrator]** *the Federal Chief Information Officer*.

(3) The technical assistance team shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

(4) After receiving proposals and assessments from the technical assistance team, **[the Administrator]** *the Federal Chief Information Officer* shall consider recommending appropriate proposals for funding under the **[E-Government Fund]** *Federal IT Fund* established under section 3604 or, if appropriate, forward the proposal and the assessment of it to the executive agency whose mission most coincides with the subject matter of the proposal.

#### **§ 3606. **[E-Government]** Annual report**

(a) Not later than March 1 of each year, the Director shall submit **[an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives]** *a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives*.

(b) The report under subsection (a) shall contain—

(1) a summary of the information reported by agencies under section 202(f) of the E-Government Act of 2002;

(2) the information required to be reported by section 3604(f); and

(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.

#### **§ 3607. Federal Chief Information Security Officer**

(a) *ESTABLISHMENT.*—*There is established in the Office of Management and Budget a Federal Chief Information Security Officer, who shall—*

(1) *be appointed by the President;*

- (2) *be within the Office of the Federal Chief Information Officer; and*
- (3) *report directly to the Federal Chief Information Officer.*
- (b) *DUTIES.—The Federal Chief Information Security Officer shall—*
  - (1) *direct the cybersecurity efforts of the Office of Management and Budget;*
  - (2) *carry out the duties of the Director related to the security of information and information systems for agencies, including the duties and responsibilities assigned to the Director under subchapter II of chapter 35; and*
  - (3) *carry out such other duties and powers assigned by the President, the Director, or the Federal Chief Information Officer.*

**§ 3608. Technology investment planning and oversight process**

- (a) *REPORT ON INFORMATION TECHNOLOGY EXPENDITURES.—The head of each agency shall submit to the Federal Chief Information Officer a report on any expenditure on information technology by that agency.*
- (b) *IMPLEMENTATION.—The Director shall establish a process to implement subsection (a), and may update such process, as necessary, that shall—*
  - (1) *use a widely accepted industry standard taxonomy with common data elements and definitions; and*
  - (2) *display, on a website accessible to the public, timely, searchable, computer-readable data on the information technology expenditures, projects, and programs of agencies, if such information would otherwise be subject to public disclosure under section 552 of title 5, commonly known as the Freedom of Information Act.*

**TITLE 5, UNITED STATES CODE**

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**PART III—EMPLOYEES**

\* \* \* \* \*

**SUBPART B—EMPLOYMENT AND RETENTION**

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**CHAPTER 31—AUTHORITY FOR EMPLOYMENT**

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**SUBCHAPTER V—PRESIDENTIAL INNOVATION FELLOWS PROGRAM**

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**§ 3172. Presidential Innovation Fellows Program advisory board**

(a) IN GENERAL.—The Administrator of General Services shall continue an advisory board to advise the Director of the Presidential Innovation Fellows Program by recommending such priorities and standards as may be beneficial to fulfill the mission of the Presidential Innovation Fellows Program and assist in identifying potential projects and placements for fellows. The advisory board may not participate in the selection process under section 3171(f).

(b) CHAIR; MEMBERSHIP.—The Administrator shall designate a representative to serve as the Chair of the advisory board. In addition to the Chair, the membership of the advisory board shall include—

- (1) the Deputy Director for Management of the Office of Management and Budget;
- (2) the Director of the Office of Personnel Management;
- (3) [the Administrator of the Office of Electronic Government of the Office of Management and Budget] *the Federal Chief Information Officer*;
- (4) the Assistant to the President and Chief Technology Officer; and
- (5) other individuals as may be designated by the Administrator.

(c) CONSULTATION.—The advisory board may consult with industry, academia, or nonprofits to ensure the Presidential Innovation Fellows Program is continually identifying opportunities to apply advanced skillsets and innovative practices in effective ways to address the Nation’s most significant challenges.

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**SUBPART D—PAY AND ALLOWANCES**

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**CHAPTER 53—PAY RATES AND SYSTEMS**

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**SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES**

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**§ 5314. Positions at level III**

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Export Administration, and Under Secretary of Commerce for Travel and Tourism.

Under Secretaries of State (6).

Under Secretaries of the Treasury (3).

Administrator of General Services.

Administrator of the Small Business Administration.  
 Deputy Administrator, Agency for International Development.  
 Chairman of the Merit Systems Protection Board.  
 Chairman, Federal Communications Commission.  
 Chairman, Board of Directors, Federal Deposit Insurance Corporation.  
 Chairman, Federal Energy Regulatory Commission.  
 Chairman, Federal Trade Commission.  
 Chairman, Surface Transportation Board.  
 Chairman, National Labor Relations Board.  
 Chairman, Securities and Exchange Commission.  
 Chairman, National Mediation Board.  
 Chairman, Railroad Retirement Board.  
 Chairman, Federal Maritime Commission.  
 Comptroller of the Currency.  
 Commissioner of Internal Revenue.  
 Under Secretary of Defense for Acquisition and Sustainment.  
 Under Secretary of Defense for Policy.  
 Under Secretary of Defense (Comptroller).  
 Under Secretary of Defense for Personnel and Readiness.  
 Under Secretary of Defense for Intelligence.  
 Deputy Chief Management Officer of the Department of Defense.  
 Under Secretary of the Air Force.  
 Under Secretary of the Army.  
 Under Secretary of the Navy.  
 Deputy Administrator of the National Aeronautics and Space Administration.  
 Deputy Director of the Central Intelligence Agency.  
 Director of the Office of Emergency Planning.  
 Director of the Peace Corps.  
 Deputy Director, National Science Foundation.  
 President of the Export-Import Bank of Washington.  
 Members, Nuclear Regulatory Commission.  
 Members, Defense Nuclear Facilities Safety Board.  
 Director of the Federal Bureau of Investigation, Department of Justice.  
 Administrator of the National Highway Traffic Safety Administration.  
 Administrator of the Federal Motor Carrier Safety Administration.  
 Administrator, Federal Railroad Administration.  
 Chairman, National Transportation Safety Board.  
 Chairman of the National Endowment for the Arts the incumbent of which also serves as Chairman of the National Council on the Arts.  
 Chairman of the National Endowment for the Humanities.  
 Director of the Federal Mediation and Conciliation Service.  
 President, Overseas Private Investment Corporation.  
 Chairman, Postal Regulatory Commission.  
 Chairman, Occupational Safety and Health Review Commission.  
 Governor of the Farm Credit Administration.  
 Chairman, Equal Employment Opportunity Commission.

Chairman, Consumer Product Safety Commission.  
 Under Secretaries of Energy (3).  
 Chairman, Commodity Futures Trading Commission.  
 Deputy United States Trade Representatives (3).  
 Chief Agricultural Negotiator, Office of the United States Trade Representative.  
 Chief Innovation and Intellectual Property Negotiator, Office of the United States Trade Representative.  
 Chairman, United States International Trade Commission.  
 Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.  
 Under Secretary of Commerce for Standards and Technology, who also serves as Director of the National Institute of Standards and Technology.  
 Associate Attorney General.  
 Chairman, Federal Mine Safety and Health Review Commission.  
 Chairman, National Credit Union Administration Board.  
 Deputy Director of the Office of Personnel Management.  
 Under Secretary of Agriculture for Farm and Foreign Agricultural Services.  
 Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.  
 Under Secretary of Agriculture for Natural Resources and Environment.  
 Under Secretary of Agriculture for Research, Education, and Economics.  
 Under Secretary of Agriculture for Food Safety.  
 Under Secretary of Agriculture for Marketing and Regulatory Programs.  
 Director, Institute for Scientific and Technological Cooperation.  
 Under Secretary of Agriculture for Rural Development.  
 Administrator, Maritime Administration.  
 Executive Director Property Review Board.  
 Deputy Administrator of the Environmental Protection Agency.  
 Archivist of the United States.  
 Executive Director, Federal Retirement Thrift Investment Board.  
 Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.  
 Director, Trade and Development Agency.  
 Under Secretary for Health, Department of Veterans Affairs.  
 Under Secretary for Benefits, Department of Veterans Affairs.  
 Under Secretary for Memorial Affairs, Department of Veterans Affairs.  
 Under Secretaries, Department of Homeland Security.  
 Director of the Bureau of Citizenship and Immigration Services.  
 Director of the Office of Government Ethics.  
 Administrator for Federal Procurement Policy.

Administrator, Office of Information and Regulatory Affairs,  
Office of Management and Budget.  
Director of the Office of Thrift Supervision.  
Chairperson of the Federal Housing Finance Board.  
Executive Secretary, National Space Council.  
Controller, Office of Federal Financial Management, Office of  
Management and Budget.  
Administrator, Office of the Assistant Secretary for Research  
and Technology of the Department of Transportation.  
Deputy Director for Demand Reduction, Office of National  
Drug Control Policy.  
Deputy Director for Supply Reduction, Office of National  
Drug Control Policy.  
Deputy Director for State and Local Affairs, Office of Na-  
tional Drug Control Policy.  
Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office.  
Register of Copyrights.  
Commissioner of U.S. Customs and Border Protection, De-  
partment of Homeland Security  
Under Secretary of Education  
Administrator of the Centers for Medicare & Medicaid Serv-  
ices.  
【Administrator of the Office of Electronic Government】 *Fed-  
eral Chief Information Officer.*  
Administrator, Pipeline and Hazardous Materials Safety Ad-  
ministration.  
Director, Pension Benefit Guaranty Corporation.  
Deputy Administrators, Federal Emergency Management  
Agency.  
Chief Executive Officer, International Clean Energy Founda-  
tion.  
Independent Member of the Financial Stability Oversight  
Council (1).  
Director of the Office of Financial Research.

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**TITLE 31, UNITED STATES CODE**

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**SUBTITLE I—GENERAL**

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**CHAPTER 5—OFFICE OF MANAGEMENT AND BUDGET**

SUBCHAPTER I—ORGANIZATION

Sec.

501. Office of Management and Budget.

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【507. Office of Electronic Government.】

507. *Office of the Federal Chief Information Officer.*

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## SUBCHAPTER I—ORGANIZATION

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**§ 507. [Office of Electronic Government] Office of the Federal Chief Information Officer**

**[The Office of Electronic Government]** *The Office of the Federal Chief Information Officer*, established under section 3602 of title 44, is an office in the Office of Management and Budget.

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## SUBTITLE II—THE BUDGET PROCESS

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## CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION

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**§ 1126. Program management improvement officers and program management policy council**

## (a) PROGRAM MANAGEMENT IMPROVEMENT OFFICERS.—

(1) DESIGNATION.—The head of each agency described in section 901(b) shall designate a senior executive of the agency as the Program Management Improvement Officer of the agency.

(2) FUNCTIONS.—The Program Management Improvement Officer of an agency designated under paragraph (1) shall—

(A) implement program management policies established by the agency under section 503(c); and

(B) develop a strategy for enhancing the role of program managers within the agency that includes the following:

(i) Enhanced training and educational opportunities for program managers that shall include—

(I) training in the relevant competencies encompassed with program and project manager within the private sector for program managers; and

(II) training that emphasizes cost containment for large projects and programs.

(ii) Mentoring of current and future program managers by experienced senior executives and program managers within the agency.

(iii) Improved career paths and career opportunities for program managers.

(iv) A plan to encourage the recruitment and retention of highly qualified individuals to serve as program managers.

(v) Improved means of collecting and disseminating best practices and lessons learned to enhance program management across the agency.

(vi) Common templates and tools to support improved data gathering and analysis for program management and oversight purposes.

(3) APPLICATION TO DEPARTMENT OF DEFENSE.—This subsection shall not apply to the Department of Defense to the ex-

tent that the provisions of this subsection are substantially similar to or duplicative of the provisions of chapter 87 of title 10. For purposes of paragraph (1), the Under Secretary of Defense for Acquisition, Technology, and Logistics (or a designee of the Under Secretary) shall be considered the Program Management Improvement Officer.

(b) PROGRAM MANAGEMENT POLICY COUNCIL.—

(1) ESTABLISHMENT.—There is established in the Office of Management and Budget a council to be known as the “Program Management Policy Council” (in this subsection referred to as the “Council”).

(2) PURPOSE AND FUNCTIONS.—The Council shall act as the principal interagency forum for improving agency practices related to program and project management. The Council shall—

(A) advise and assist the Deputy Director for Management of the Office of Management and Budget;

(B) review programs identified as high risk by the General Accountability Office and make recommendations for actions to be taken by the Deputy Director for Management of the Office of Management and Budget or a designee;

(C) discuss topics of importance to the workforce, including—

(i) career development and workforce development needs;

(ii) policy to support continuous improvement in program and project management; and

(iii) major challenges across agencies in managing programs;

(D) advise on the development and applicability of standards governmentwide for program management transparency; and

(E) review the information published on the website of the Office of Management and Budget pursuant to section 1122.

(3) MEMBERSHIP.—

(A) COMPOSITION.—The Council shall be composed of the following members:

(i) Five members from the Office of Management and Budget as follows:

(I) The Deputy Director for Management.

(II) **【The Administrator of the Office of Electronic Government】** *The Federal Chief Information Officer.*

(III) The Administrator of Federal Procurement Policy.

(IV) The Controller of the Office of Federal Financial Management.

(V) The Director of the Office of Performance and Personnel Management.

(ii) The Program Management Improvement Officer from each agency described in section 901(b).

(iii) Any other full-time or permanent part-time officer or employee of the Federal Government or member of the Armed Forces designated by the Chairperson.

(B) CHAIRPERSON AND VICE CHAIRPERSON.—

(i) IN GENERAL.—The Deputy Director for Management of the Office of Management and Budget shall be the Chairperson of the Council. A Vice Chairperson shall be elected by the members and shall serve a term of not more than 1 year.

(ii) DUTIES.—The Chairperson shall preside at the meetings of the Council, determine the agenda of the Council, direct the work of the Council, and establish and direct subgroups of the Council as appropriate.

(4) MEETINGS.—The Council shall meet not less than twice per fiscal year and may meet at the call of the Chairperson or a majority of the members of the Council.

(5) SUPPORT.—The head of each agency with a Project Management Improvement Officer serving on the Council shall provide administrative support to the Council, as appropriate, at the request of the Chairperson.

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**TITLE 40, UNITED STATES CODE**

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**Subtitle I—GENERAL**

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**CHAPTER 3—ORGANIZATION OF GENERAL SERVICES ADMINISTRATION**

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**Subchapter I—GENERAL**

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**§ 305. Electronic Government and information technologies**

The Administrator of General Services shall consult with [the Administrator of the Office of Electronic Government] *the Federal Chief Information Officer* on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.

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**SUBTITLE III—INFORMATION TECHNOLOGY MANAGEMENT**

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**CHAPTER 113—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY**

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SUBCHAPTER I—DIRECTOR OF OFFICE OF MANAGEMENT  
AND BUDGET

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**§ 11302. Capital planning and investment control**

(a) **FEDERAL INFORMATION TECHNOLOGY.**—The Director of the Office of Management and Budget shall perform the responsibilities set forth in this section in fulfilling the responsibilities under section 3504(h) of title 44.

(b) **USE OF INFORMATION TECHNOLOGY IN FEDERAL PROGRAMS.**—The Director shall promote and improve the acquisition, use, security, and disposal of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

(c) **USE OF BUDGET PROCESS.**—

(1) **DEFINITIONS.**—In this subsection:

(A) The term “covered agency” means an agency listed in section 901(b)(1) or 901(b)(2) of title 31.

(B) The term “major information technology investment” means an investment within a covered agency information technology investment portfolio that is designated by the covered agency as major, in accordance with capital planning guidance issued by the Director.

(C) The term “national security system” has the meaning provided in section 3542 of title 44.

(2) **ANALYZING, TRACKING, AND EVALUATING CAPITAL INVESTMENTS.**—As part of the budget process, the Director shall develop a process for analyzing, tracking, and evaluating the risks, including information security risks, and results of all major capital investments made by an executive agency for information systems. The process shall cover the life of each system and shall include explicit criteria for analyzing the projected and actual costs, benefits, and risks, including information security risks, associated with the investments.

(3) **PUBLIC AVAILABILITY.**—

(A) **IN GENERAL.**—The Director shall make available to the public a list of each major information technology investment, without regard to whether the investments are for new information technology acquisitions or for operations and maintenance of existing information technology, including data on cost, schedule, and performance.

(B) **AGENCY INFORMATION.**—

(i) The Director shall issue guidance to each covered agency for reporting of data required by subparagraph (A) that provides a standardized data template that can be incorporated into existing, required data reporting formats and processes. Such guidance shall integrate the reporting process into current budget reporting that each covered agency provides to the Office of Management and Budget, to minimize additional workload. Such guidance shall also clearly specify that the investment evaluation required under subparagraph (C) adequately reflect the investment’s cost and



schedule performance and employ incremental development approaches in appropriate cases.

(ii) The Chief Information Officer of each covered agency shall provide the Director with the information described in subparagraph (A) on at least a semi-annual basis for each major information technology investment, using existing data systems and processes.

(C) INVESTMENT EVALUATION.—For each major information technology investment listed under subparagraph (A), the Chief Information Officer of the covered agency, in consultation with other appropriate agency officials, shall categorize the investment according to risk, in accordance with guidance issued by the Director.

(D) CONTINUOUS IMPROVEMENT.—If either the Director or the Chief Information Officer of a covered agency determines that the information made available from the agency's existing data systems and processes as required by subparagraph (B) is not timely and reliable, the Chief Information Officer, in consultation with the Director and the head of the agency, shall establish a program for the improvement of such data systems and processes.

(E) WAIVER OR LIMITATION AUTHORITY.—The applicability of subparagraph (A) may be waived or the extent of the information may be limited by the Director, if the Director determines that such a waiver or limitation is in the national security interests of the United States.

(F) ADDITIONAL LIMITATION.—The requirements of subparagraph (A) shall not apply to national security systems or to telecommunications or information technology that is fully funded by amounts made available—

(i) under the National Intelligence Program, defined by section 3(6) of the National Security Act of 1947 (50 U.S.C. 3003(6));

(ii) under the Military Intelligence Program or any successor program or programs; or

(iii) jointly under the National Intelligence Program and the Military Intelligence Program (or any successor program or programs).

(4) RISK MANAGEMENT.—For each major information technology investment listed under paragraph (3)(A) that receives a high risk rating, as described in paragraph (3)(C), for 4 consecutive quarters—

(A) the Chief Information Officer of the covered agency and the program manager of the investment within the covered agency, in consultation with **the Administrator of the Office of Electronic Government** *the Federal Chief Information Officer*, shall conduct a review of the investment that shall 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;

(B) **the Administrator of the Office of Electronic Government** *the Federal Chief Information Officer* shall com-

communicate the results of the review under subparagraph (A) to—

(i) the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate;

(ii) the Committee on Oversight and Government Reform and the Committee on Appropriations of the House of Representatives; and

(iii) the committees of the Senate and the House of Representatives with primary jurisdiction over the agency;

(C) in the case of a major information technology investment of the Department of Defense, the assessment required by subparagraph (A) may be accomplished in accordance with section 2445c of title 10, provided that the results of the review are provided to [the Administrator of the Office of Electronic Government] *the Federal Chief Information Officer* upon request and to the committees identified in subsection (B); and

(D) for a covered agency other than the Department of Defense, if on the date that is one year after the date of completion of the review required under subsection (A), the investment is rated as high risk under paragraph (3)(C), the Director shall deny any request for additional development, modernization, or enhancement funding for the investment until the date on which the Chief Information Officer of the covered agency determines that the root causes of the high level of risk of the investment have been addressed, and there is sufficient capability to deliver the remaining planned increments within the planned cost and schedule.

(5) REPORT TO CONGRESS.—At the same time that the President submits the budget for a fiscal year to Congress under section 1105(a) of title 31, the Director shall submit to Congress a report on the net program performance benefits achieved as a result of major capital investments made by executive agencies for information systems and how the benefits relate to the accomplishment of the goals of the executive agencies.

(d) INFORMATION TECHNOLOGY STANDARDS.—The Director shall oversee the development and implementation of standards and guidelines pertaining to federal computer systems by the Secretary of Commerce through the National Institute of Standards and Technology under section 11331 of this title and section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

(e) DESIGNATION OF EXECUTIVE AGENTS FOR ACQUISITIONS.—The Director shall designate the head of one or more executive agencies, as the Director considers appropriate, as executive agent for Government-wide acquisitions of information technology.

(f) USE OF BEST PRACTICES IN ACQUISITIONS.—The Director shall encourage the heads of the executive agencies to develop and use the best practices in the acquisition of information technology.

(g) ASSESSMENT OF OTHER MODELS FOR MANAGING INFORMATION TECHNOLOGY.—On a continuing basis, the Director shall assess the

experiences of executive agencies, state and local governments, international organizations, and the private sector in managing information technology.

(h) COMPARISON OF AGENCY USES OF INFORMATION TECHNOLOGY.—The Director shall compare the performances of the executive agencies in using information technology and shall disseminate the comparisons to the heads of the executive agencies.

(i) MONITORING TRAINING.—The Director shall monitor the development and implementation of training in information resources management for executive agency personnel.

(j) INFORMING CONGRESS.—The Director shall keep Congress fully informed on the extent to which the executive agencies are improving the performance of agency programs and the accomplishment of the agency missions through the use of the best practices in information resources management.

(k) COORDINATION OF POLICY DEVELOPMENT AND REVIEW.—The Director shall coordinate with the Office of Federal Procurement Policy the development and review by the Administrator of the Office of Information and Regulatory Affairs of policy associated with federal acquisition of information technology.

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## SUBCHAPTER II—EXECUTIVE AGENCIES

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### § 11319. Resources, planning, and portfolio management

(a) DEFINITIONS.—In this section:

(1) The term “covered agency” means each agency listed in section 901(b)(1) or 901(b)(2) of title 31.

(2) The term “information technology” has the meaning given that term under capital planning guidance issued by the Office of Management and Budget.

(b) ADDITIONAL AUTHORITIES FOR CHIEF INFORMATION OFFICERS.—

(1) PLANNING, PROGRAMMING, BUDGETING, AND EXECUTION AUTHORITIES FOR CIOS.—

(A) IN GENERAL.—The head of each covered agency other than the Department of Defense shall ensure that the Chief Information Officer of the agency has a significant role in—

(i) the decision processes for all annual and multi-year planning, programming, budgeting, and execution decisions, related reporting requirements, and reports related to information technology; and

(ii) the management, governance, and oversight processes related to information technology.

(B) BUDGET FORMULATION.—The Director of the Office of Management and Budget shall require in the annual information technology capital planning guidance of the Office of Management and Budget the following:

(i) That the Chief Information Officer of each covered agency other than the Department of Defense approve the information technology budget request of the covered agency, and that the Chief Information Officer

of the Department of Defense review and provide recommendations to the Secretary of Defense on the information technology budget request of the Department.

(ii) That the Chief Information Officer of each covered agency certify that information technology investments are adequately implementing incremental development, as defined in capital planning guidance issued by the Office of Management and Budget.

(C) REVIEW.—

(i) IN GENERAL.—A covered agency other than the Department of Defense—

(I) may not enter into a contract or other agreement for information technology or information technology services, unless the contract or other agreement has been reviewed and approved by the Chief Information Officer of the agency;

(II) may not request the reprogramming of any funds made available for information technology programs, unless the request has been reviewed and approved by the Chief Information Officer of the agency; and

(III) may use the governance processes of the agency to approve such a contract or other agreement if the Chief Information Officer of the agency is included as a full participant in the governance processes.

(ii) DELEGATION.—

(I) IN GENERAL.—Except as provided in subclause (II), the duties of a Chief Information Officer under clause (i) are not delegable.

(II) NON-MAJOR INFORMATION TECHNOLOGY INVESTMENTS.—For a contract or agreement for a non-major information technology investment, as defined in the annual information technology capital planning guidance of the Office of Management and Budget, the Chief Information Officer of a covered agency other than the Department of Defense may delegate the approval of the contract or agreement under clause (i) to an individual who reports directly to the Chief Information Officer.

(2) PERSONNEL-RELATED AUTHORITY.—Notwithstanding any other provision of law, for each covered agency other than the Department of Defense, the Chief Information Officer of the covered agency shall approve the appointment of any other employee with the title of Chief Information Officer, or who functions in the capacity of a Chief Information Officer, for any component organization within the covered agency.

(c) LIMITATION.—None of the authorities provided in this section shall apply to telecommunications or information technology that is fully funded by amounts made available—

(1) under the National Intelligence Program, defined by section 3(6) of the National Security Act of 1947 (50 U.S.C. 3003(6));

(2) under the Military Intelligence Program or any successor program or programs; or

(3) jointly under the National Intelligence Program and the Military Intelligence Program (or any successor program or programs).

(d) INFORMATION TECHNOLOGY PORTFOLIO, PROGRAM, AND RESOURCE REVIEWS.—

(1) PROCESS.—The Director of the Office of Management and Budget, in consultation with the Chief Information Officers of appropriate agencies, shall implement a process to assist covered agencies in reviewing their portfolio of information technology investments—

(A) to identify or develop ways to increase the efficiency and effectiveness of the information technology investments of the covered agency;

(B) to identify or develop opportunities to consolidate the acquisition and management of information technology services, and increase the use of shared-service delivery models;

(C) to identify potential duplication and waste;

(D) to identify potential cost savings;

(E) to develop plans for actions to optimize the information technology portfolio, programs, and resources of the covered agency;

(F) to develop ways to better align the information technology portfolio, programs, and financial resources of the covered agency to any multi-year funding requirements or strategic plans required by law;

(G) to develop a multi-year strategy to identify and reduce duplication and waste within the information technology portfolio of the covered agency, including component-level investments and to identify projected cost savings resulting from such strategy; and

(H) to carry out any other goals that the Director may establish.

(2) METRICS AND PERFORMANCE INDICATORS.—The Director of the Office of Management and Budget, in consultation with the Chief Information Officers of appropriate agencies, shall develop standardized cost savings and cost avoidance metrics and performance indicators for use by agencies for the process implemented under paragraph (1).

(3) ANNUAL REVIEW.—The Chief Information Officer of each covered agency, in conjunction with the Chief Operating Officer or Deputy Secretary (or equivalent) of the covered agency and the [Administrator of the Office of Electronic Government] *Federal Chief Information Officer*, shall conduct an annual review of the information technology portfolio of the covered agency.

(4) APPLICABILITY TO THE DEPARTMENT OF DEFENSE.—In the case of the Department of Defense, processes established pursuant to this subsection shall apply only to the business systems information technology portfolio of the Department of Defense and not to national security systems as defined by section 11103(a) of this title. The annual review required by paragraph (3) shall be carried out by the Deputy Chief Manage-

ment Officer of the Department of Defense (or any successor to such Officer), in consultation with the Chief Information Officer, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and other appropriate Department of Defense officials. The Secretary of Defense may designate an existing investment or management review process to fulfill the requirement for the annual review required by paragraph (3), in consultation with the [Administrator of the Office of Electronic Government] *Federal Chief Information Officer*.

(5) QUARTERLY REPORTS.—

(A) IN GENERAL.—The [Administrator of the Office of Electronic Government] *Federal Chief Information Officer* shall submit a quarterly report on the cost savings and reductions in duplicative information technology investments identified through the review required by paragraph (3) to—

(i) the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate;

(ii) the Committee on Oversight and Government Reform and the Committee on Appropriations of the House of Representatives; and

(iii) upon a request by any committee of Congress, to that committee.

(B) INCLUSION IN OTHER REPORTS.—The reports required under subparagraph (A) may be included as part of another report submitted to the committees of Congress described in clauses (i), (ii), and (iii) of subparagraph (A).

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## SECTION 207 OF THE E-GOVERNMENT ACT OF 2002

### SEC. 207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) DEFINITIONS.—In this section, the term—

(1) “Committee” means the Interagency Committee on Government Information established under subsection (c); and

(2) “directory” means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) MEMBERSHIP.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) FUNCTIONS.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) TERMINATION.—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) CATEGORIZING OF INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 2 years after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(ii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 1 year after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies; and

(iii) that are, as appropriate, consistent with the provisions under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Director shall modify

the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 2 years after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) FUNCTIONS OF THE ARCHIVIST.—Not later than 1 year after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) AGENCY WEBSITES.—

(1) STANDARDS FOR AGENCY WEBSITES.—Not later than 2 years after the effective date of this title, the Director shall promulgate guidance for agency websites that includes—

(A) requirements that websites include direct links to—

(i) descriptions of the mission and statutory authority of the agency;

(ii) information made available to the public under subsections (a)(1) and (b) of section 552 of title 5, United States Code (commonly referred to as the “Freedom of Information Act”);

(iii) information about the organizational structure of the agency; and

(iv) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(B) minimum agency goals to assist public users to navigate agency websites, including—

(i) speed of retrieval of search results;



- (ii) the relevance of the results;
  - (iii) tools to aggregate and disaggregate data; and
  - (iv) security protocols to protect information.
- (2) AGENCY REQUIREMENTS.—(A) Not later than 2 years after the date of enactment of this Act, each agency shall—
- (i) consult with the Committee and solicit public comment;
  - (ii) establish a process for determining which Government information the agency intends to make available and accessible to the public on the Internet and by other means;
  - (iii) develop priorities and schedules for making Government information available and accessible;
  - (iv) make such final determinations, priorities, and schedules available for public comment;
  - (v) post such final determinations, priorities, and schedules on the Internet; and
  - (vi) submit such final determinations, priorities, and schedules to the Director, in the report established under section 202(g).
- (B) Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.
- (3) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—
- (A) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall—
- (i) develop and establish a public domain directory of public Federal Government websites; and
  - (ii) post the directory on the Internet with a link to the integrated Internet-based system established under section 204.
- (B) DEVELOPMENT.—With the assistance of each agency, the Director shall—
- (i) direct the development of the directory through a collaborative effort, including input from—
    - (I) agency librarians;
    - (II) information technology managers;
    - (III) program managers;
    - (IV) records managers;
    - (V) Federal depository librarians; and
    - (VI) other interested parties; and
  - (ii) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.
- (C) UPDATE.—With the assistance of each agency, [the Administrator of the Office of Electronic Government] *the Federal Chief Information Officer* shall—
- (i) update the directory as necessary, but not less than every 6 months; and
  - (ii) solicit interested persons for improvements to the directory.
- (g) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE REPOSITORY AND WEBSITE.—

(A) REPOSITORY AND WEBSITE.—The Director of the Office of Management and Budget (or the Director's delegate), in consultation with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government, consistent with any relevant protections for the information under section 552 of title 5, United States Code, and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development centers; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) OVERSIGHT.—The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

(2) AGENCY FUNCTIONS.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) COMMITTEE FUNCTIONS.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) FUNCTIONS OF THE DIRECTOR.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3606 of title 44 (as added by this Act).

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the development, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) \$2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.