

(b) DISTRICT OF COLUMBIA.—The District of Columbia shall pay the cost of any main pipe of the Washington Aqueduct which supplies water to the inhabitants of the District of Columbia, in the manner provided by law.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1234.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 9505, 40:55, R.S. §1805.

In subsection (b), the words “its inhabitants” are substituted for “inhabitants of Washington and Georgetown” in section 1805 of the Revised Statutes because of the Act of February 11, 1895 (ch. 79, 28 Stat. 650).

§ 9506. Civil penalty

A person that, without the consent of the Chief of Engineers, taps or opens the mains or pipes laid by the Federal Government is liable to the Government for a civil penalty of at least \$50 and not more than \$500.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1234.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 9506, 40:56, R.S. §1803.

The words “in charge of public buildings and works” in section 1803 of the Revised Statutes are omitted because the Office of Public Buildings and Grounds under the Chief of Engineers was abolished and the functions of the Chief of Engineers with respect to public buildings and works were transferred to the Director of Public Buildings and Public Parks of the National Capital by section 3 of the Act of February 26, 1925 (ch. 339, 43 Stat. 983). Those functions subsequently were transferred to the National Park Service by section 2 of Executive Order No. 6166 (eff. June 10, 1933) and the Act of March 2, 1934 (ch. 38, 48 Stat. 389), the Public Buildings Administrator in the Federal Works Agency by sections 301 and 303 of Reorganization Plan No. 1 of 1939 (eff. July 1, 1939, 53 Stat. 1426, 1427), and the Administrator of General Services by section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title. The words “or hereafter to be laid” are omitted as unnecessary. The words “is liable to the government for a civil penalty” are substituted for “under a penalty” for consistency in the revised title and with other titles of the United States Code.

§ 9507. Control of expenditures

Unless expressly provided for by law, the Secretary of the Army shall direct the expenditure of amounts appropriated for the Washington Aqueduct and for other public works in the District of Columbia.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1235.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 9507, 40:54, R.S. §1802.

The words “Secretary of the Army” are substituted for “Department of War” [subsequently changed to “Department of the Army” because of section 205(a) of the National Security Act of 1947 (ch. 343, 61 Stat. 501)] because of 10:3013(a)(1).

SUBTITLE III—INFORMATION TECHNOLOGY MANAGEMENT

Chapter 111. GENERAL 11101
113. RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY 11301
115. INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAM 11501
117. ADDITIONAL INFORMATION RESOURCES MANAGEMENT MATTERS 11701

AMENDMENTS

2002—Pub. L. 107–314, div. A, title VIII, §825(b)(3)(G), Dec. 2, 2002, 116 Stat. 2616, and Pub. L. 107–347, title II, §210(h)(3)(H), Dec. 17, 2002, 116 Stat. 2939, amended item for chapter 115 identically, substituting “PROGRAM” for “PROGRAMS”.

CHAPTER 111—GENERAL

Sec. 11101. Definitions.
11102. Sense of Congress.
11103. Applicability to national security systems.

§ 11101. Definitions

In this subtitle, the following definitions apply:

- (1) COMMERCIAL ITEM.—The term “commercial item” has the meaning given that term in section 103 of title 41.
(2) EXECUTIVE AGENCY.—The term “executive agency” has the meaning given that term in section 133 of title 41.
(3) INFORMATION RESOURCES.—The term “information resources” has the meaning given that term in section 3502 of title 44.
(4) INFORMATION RESOURCES MANAGEMENT.—The term “information resources management” has the meaning given that term in section 3502 of title 44.
(5) INFORMATION SYSTEM.—The term “information system” has the meaning given that term in section 3502 of title 44.
(6) INFORMATION TECHNOLOGY.—The term “information technology”—

(A) with respect to an executive agency means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

- (i) of that equipment; or
(ii) of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(B) includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services

(including support services), and related resources; but

(C) does not include any equipment acquired by a federal contractor incidental to a federal contract.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1235; Pub. L. 108–199, div. F, title V, § 535(b), Jan. 23, 2004, 118 Stat. 345; Pub. L. 111–350, § 5(l)(24), Jan. 4, 2011, 124 Stat. 3852.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11101 .....	40:1401.	Pub. L. 104–106, div. E, § 5002, Feb. 10, 1996, 110 Stat. 679.

The text of 40:1401(1) is omitted as unnecessary because the complete name of the Director of the Office of Management and Budget is used the first time the term appears in a section.

#### AMENDMENTS

2011—Par. (1). Pub. L. 111–350, § 5(l)(24)(A), substituted “section 103 of title 41” for “section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)”.

Par. (2). Pub. L. 111–350, § 5(l)(24)(B), substituted “section 133 of title 41” for “section 4 of the Act (41 U.S.C. 403)”.

2004—Par. (6)(A). Pub. L. 108–199, § 535(b)(1), inserted “analysis, evaluation,” after “storage.”

Par. (6)(B). Pub. L. 108–199, § 535(b)(2), substituted “ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer,” for “ancillary equipment.”

#### EXECUTIVE ORDER NO. 13011

Ex. Ord. No. 13011, July 16, 1996, 61 F.R. 37657, as amended by Ex. Ord. No. 13284, § 16, Jan. 23, 2003, 68 F.R. 4076; Ex. Ord. No. 13286, § 18, Feb. 28, 2003, 68 F.R. 10623, which related to information technology policies and reforms for Federal agencies, was revoked by Ex. Ord. No. 13403, § 6, May 12, 2006, 71 F.R. 28543.

#### EX. ORD. NO. 13103. COMPUTER SOFTWARE PIRACY

Ex. Ord. No. 13103, Sept. 30, 1998, 63 F.R. 53273, provided:

The United States Government is the world’s largest purchaser of computer-related services and equipment, purchasing more than \$20 billion annually. At a time when a critical component in discussions with our international trading partners concerns their efforts to combat piracy of computer software and other intellectual property, it is incumbent on the United States to ensure that its own practices as a purchaser and user of computer software are beyond reproach. Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**SECTION 1. Policy.** It shall be the policy of the United States Government that each executive agency shall work diligently to prevent and combat computer software piracy in order to give effect to copyrights associated with computer software by observing the relevant provisions of international agreements in effect in the United States, including applicable provisions of the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights, the Berne Convention for the Protection of Literary and Artistic Works, and relevant provisions of Federal law, including the Copyright Act.

(a) Each agency shall adopt procedures to ensure that the agency does not acquire, reproduce, distribute, or transmit computer software in violation of applicable copyright laws.

(b) Each agency shall establish procedures to ensure that the agency has present on its computers and uses

only computer software not in violation of applicable copyright laws. These procedures may include:

(1) preparing agency inventories of the software present on its computers;

(2) determining what computer software the agency has the authorization to use; and

(3) developing and maintaining adequate record-keeping systems.

(c) Contractors and recipients of Federal financial assistance, including recipients of grants and loan guarantee assistance, should have appropriate systems and controls in place to ensure that Federal funds are not used to acquire, operate, or maintain computer software in violation of applicable copyright laws. If agencies become aware that contractors or recipients are using Federal funds to acquire, operate, or maintain computer software in violation of copyright laws and determine that such actions of the contractors or recipients may affect the integrity of the agency’s contracting and Federal financial assistance processes, agencies shall take such measures, including the use of certifications or written assurances, as the agency head deems appropriate and consistent with the requirements of law.

(d) Executive agencies shall cooperate fully in implementing this order and shall share information as appropriate that may be useful in combating the use of computer software in violation of applicable copyright laws.

**SEC. 2. Responsibilities of Agency Heads.** In connection with the acquisition and use of computer software, the head of each executive agency shall:

(a) ensure agency compliance with copyright laws protecting computer software and with the provisions of this order to ensure that only authorized computer software is acquired for and used on the agency’s computers;

(b) utilize performance measures as recommended by the Chief Information Officers Council pursuant to section 3 of this order to assess the agency’s compliance with this order;

(c) educate appropriate agency personnel regarding copyrights protecting computer software and the policies and procedures adopted by the agency to honor them; and

(d) ensure that the policies, procedures, and practices of the agency related to copyrights protecting computer software are adequate and fully implement the policies set forth in this order.

**SEC. 3. Chief Information Officers Council.** The Chief Information Officers Council (“Council”) established by section 3 of Executive Order No. 13011 of July 16, 1996 [set out above], shall be the principal interagency forum to improve executive agency practices regarding the acquisition and use of computer software, and monitoring and combating the use of unauthorized computer software. The Council shall provide advice and make recommendations to executive agencies and to the Office of Management and Budget regarding appropriate government-wide measures to carry out this order. The Council shall issue its initial recommendations within 6 months of the date of this order.

**SEC. 4. Office of Management and Budget.** The Director of the Office of Management and Budget, in carrying out responsibilities under the Clinger-Cohen Act [probably means the Clinger-Cohen Act of 1996, div. D (§§ 4001–4402) and div. E (§§ 5001–5703) of Pub. L. 104–106, see Tables for classification], shall utilize appropriate oversight mechanisms to foster agency compliance with the policies set forth in this order. In carrying out these responsibilities, the Director shall consider any recommendations made by the Council under section 3 of this order regarding practices and policies to be instituted on a government-wide basis to carry out this order.

**SEC. 5. Definition.** “Executive agency” and “agency” have the meaning given to that term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

**SEC. 6. National Security.** In the interest of national security, nothing in this order shall be construed to re-

quire the disclosure of intelligence sources or methods or to otherwise impair the authority of those agencies listed at [former] 50 U.S.[C.] 401a(4) [now 50 U.S.C. 3003(4)] to carry out intelligence activities.

SEC. 7. *Law Enforcement Activities.* Nothing in this order shall be construed to require the disclosure of law enforcement investigative sources or methods or to prohibit or otherwise impair any lawful investigative or protective activity undertaken for or by any officer, agent, or employee of the United States or any person acting pursuant to a contract or other agreement with such entities.

SEC. 8. *Scope.* Nothing in this order shall be construed to limit or otherwise affect the interpretation, application, or operation of 28 U.S.C. 1498.

SEC. 9. *Judicial Review.* This Executive order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

**§ 11102. Sense of Congress**

It is the sense of Congress that, during the five-year period beginning with 1996, executive agencies should achieve each year through improvements in information resources management by the agency—

(1) at least a five percent decrease in the cost (in constant fiscal year 1996 dollars) incurred by the agency in operating and maintaining information technology; and

(2) a five percent increase in the efficiency of the agency operations.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1236.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11102 .....	40:1442.	Pub. L. 104–106, div. E, title LI, §5132, Feb. 10, 1996, 110 Stat. 689.

**§ 11103. Applicability to national security systems**

(a) DEFINITION.—

(1) NATIONAL SECURITY SYSTEM.—In this section, the term “national security system” means a telecommunications or information system operated by the Federal Government, the function, operation, or use of which—

- (A) involves intelligence activities;
- (B) involves cryptologic activities related to national security;
- (C) involves command and control of military forces;
- (D) involves equipment that is an integral part of a weapon or weapons system; or
- (E) subject to paragraph (2), is critical to the direct fulfillment of military or intelligence missions.

(2) LIMITATION.—Paragraph (1)(E) does not include a system to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

(b) IN GENERAL.—Except as provided in subsection (c), chapter 113 of this title does not apply to national security systems.

(c) EXCEPTIONS.—

(1) IN GENERAL.—Sections 11313, 11315, and 11316 of this title apply to national security systems.

(2) CAPITAL PLANNING AND INVESTMENT CONTROL.—The heads of executive agencies shall apply sections 11302 and 11312 of this title to national security systems to the extent practicable.

(3) APPLICABILITY OF PERFORMANCE-BASED AND RESULTS-BASED MANAGEMENT TO NATIONAL SECURITY SYSTEMS.—

(A) IN GENERAL.—Subject to subparagraph (B), the heads of executive agencies shall apply section 11303 of this title to national security systems to the extent practicable.

(B) EXCEPTION.—National security systems are subject to section 11303(b)(5) of this title, except for subparagraph (B)(iv).

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1236.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11103(a) .....	40:1452.	Pub. L. 104–106, div. E, title LI, §§5141, 5142, Feb. 10, 1996, 110 Stat. 689.
11103(b) .....	40:1451(a).	
11103(c) .....	40:1451(b).	

EXEMPTION FROM REQUIREMENT FOR CAPITAL PLANNING AND INVESTMENT CONTROL FOR INFORMATION TECHNOLOGY EQUIPMENT INCLUDED AS INTEGRAL PART OF A WEAPON OR WEAPON SYSTEM

Pub. L. 114–328, div. A, title VIII, §895, Dec. 23, 2016, 130 Stat. 2326, provided that:

“(a) WAIVER AUTHORITY.—Notwithstanding subsection (c)(2) of section 11103 of title 40, United States Code, a national security system described in subsection (a)(1)(D) of such section shall not be subject to the requirements of paragraphs (2) through (5) of section 11312(b) of such title unless the milestone decision authority determines in writing that application of such requirements is appropriate and in the best interests of the Department of Defense.

“(b) MILESTONE DECISION AUTHORITY DEFINED.—In this section, the term ‘milestone decision authority’ has the meaning given the term in section 2366a(d)(7) of title 10, United States Code.”

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

SUBCHAPTER I—DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

- Sec. 11301. Responsibility of Director.
- 11302. Capital planning and investment control.
- 11303. Performance-based and results-based management.

SUBCHAPTER II—EXECUTIVE AGENCIES

- 11311. Responsibilities.
- 11312. Capital planning and investment control.
- 11313. Performance and results-based management.
- 11314. Authority to acquire and manage information technology.
- 11315. Agency Chief Information Officer.
- 11316. Accountability.
- 11317. Significant deviations.
- 11318. Interagency support.
- 11319. Resources, planning, and portfolio management.

SUBCHAPTER III—OTHER RESPONSIBILITIES

- 11331. Responsibilities for Federal information systems standards.

Sec.  
[11332. Repealed.]

AMENDMENTS

2014—Pub. L. 113–291, div. A, title VIII, §831(b), Dec. 19, 2014, 128 Stat. 3440, added item 11319.

2002—Pub. L. 107–296, title X, §§1002(b), 1005(a)(2), Nov. 25, 2002, 116 Stat. 2269, 2272, and Pub. L. 107–347, title III, §§302(b), 305(a), Dec. 17, 2002, 116 Stat. 2957, 2960, amended table of sections identically, substituting “Responsibilities for Federal information systems standards” for “Responsibilities regarding efficiency, security, and privacy of federal computer systems” in item 11331 and striking out item 11332 “Federal computer system security training and plan”.

SUBCHAPTER I—DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

§ 11301. Responsibility of Director

In fulfilling the responsibility to administer the functions assigned under chapter 35 of title 44, the Director of the Office of Management and Budget shall comply with this chapter with respect to the specific matters covered by this chapter.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1237.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11301 .....	40:1411.	Pub. L. 104–106, div. E, title LI, §5111, Feb. 10, 1996, 110 Stat. 680.

MODERNIZING GOVERNMENT TECHNOLOGY

Pub. L. 115–91, div. A, title X, subtitle G, Dec. 12, 2017, 131 Stat. 1586, provided that:

“SEC. 1076. DEFINITIONS.

“In this subtitle:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of General Services.

“(2) BOARD.—The term ‘Board’ means the Technology Modernization Board established under section 1094(c)(1).

“(3) CLOUD COMPUTING.—The term ‘cloud computing’ has the meaning given the term by the National Institute of Standards and Technology in NIST Special Publication 800–145 and any amendatory or superseding document thereto.

“(4) DIRECTOR.—The term ‘Director’ means the Director of the Office of Management and Budget.

“(5) FUND.—The term ‘Fund’ means the Technology Modernization Fund established under section 1094(b)(1) [probably should be “1078(b)(1)”].

“(6) INFORMATION TECHNOLOGY.—The term ‘information technology’ has the meaning given the term in section 3502 of title 44, United States Code.

“(7) IT WORKING CAPITAL FUND.—The term ‘IT working capital fund’ means an information technology system modernization and working capital fund established under section 1093(b)(1) [probably should be “1077(b)(1)”].

“(8) LEGACY INFORMATION TECHNOLOGY SYSTEM.—The term ‘legacy information technology system’ means an outdated or obsolete system of information technology.

“SEC. 1077. ESTABLISHMENT OF AGENCY INFORMATION TECHNOLOGY SYSTEMS MODERNIZATION AND WORKING CAPITAL FUNDS.

“(a) DEFINITION.—In this section, the term ‘covered agency’ means each agency listed in section 901(b) of title 31, United States Code.

“(b) INFORMATION TECHNOLOGY SYSTEM MODERNIZATION AND WORKING CAPITAL FUNDS.—

“(1) ESTABLISHMENT.—The head of a covered agency may establish within the covered agency an information technology system modernization and working capital fund for necessary expenses described in paragraph (3).

“(2) SOURCE OF FUNDS.—The following amounts may be deposited into an IT working capital fund:

“(A) Reprogramming and transfer of funds made available in appropriations Acts enacted after the date of enactment of this Act [Dec. 12, 2017], including the transfer of any funds for the operation and maintenance of legacy information technology systems, in compliance with any applicable reprogramming law or guidelines of the Committees on Appropriations of the Senate and the House of Representatives or transfer authority specifically provided in appropriations law.

“(B) Amounts made available to the IT working capital fund through discretionary appropriations made available after the date of enactment of this Act.

“(3) USE OF FUNDS.—An IT working capital fund established under paragraph (1) may only be used—

“(A) to improve, retire, or replace existing information technology systems in the covered agency to enhance cybersecurity and to improve efficiency and effectiveness across the life of a given workload, procured using full and open competition among all commercial items to the greatest extent practicable;

“(B) to transition legacy information technology systems at the covered agency to commercial cloud computing and other innovative commercial platforms and technologies, including those serving more than 1 covered agency with common requirements;

“(C) to assist and support covered agency efforts to provide adequate, risk-based, and cost-effective information technology capabilities that address evolving threats to information security;

“(D) to reimburse funds transferred to the covered agency from the Fund with the approval of the Chief Information Officer, in consultation with the Chief Financial Officer, of the covered agency; and

“(E) for a program, project, or activity or to increase funds for any program, project, or activity that has not been denied or restricted by Congress.

“(4) EXISTING FUNDS.—An IT working capital fund may not be used to supplant funds provided for the operation and maintenance of any system within an appropriation for the covered agency at the time of establishment of the IT working capital fund.

“(5) PRIORITIZATION OF FUNDS.—The head of each covered agency—

“(A) shall prioritize funds within the IT working capital fund of the covered agency to be used initially for cost savings activities approved by the Chief Information Officer of the covered agency; and

“(B) may reprogram and transfer any amounts saved as a direct result of the cost savings activities approved under clause (i) [probably should be “subparagraph (A)”] for deposit into the IT working capital fund of the covered agency, consistent with paragraph (2)(A).

“(6) AVAILABILITY OF FUNDS.—

“(A) IN GENERAL.—Any funds deposited into an IT working capital fund shall be available for obligation for the 3-year period beginning on the last day of the fiscal year in which the funds were deposited.

“(B) TRANSFER OF UNOBLIGATED AMOUNTS.—Any amounts in an IT working capital fund that are unobligated at the end of the 3-year period described in subparagraph (A) shall be transferred to the general fund of the Treasury.

“(7) AGENCY CIO RESPONSIBILITIES.—In evaluating projects to be funded by the IT working capital fund of a covered agency, the Chief Information Officer of the covered agency shall consider, to the extent applicable, guidance issued under section 1094(b)(1)

[probably should be “1078(b)(1)”] to evaluate applications for funding from the Fund that include factors including a strong business case, technical design, consideration of commercial off-the-shelf products and services, procurement strategy (including adequate use of rapid, iterative software development practices), and program management.

“(c) REPORTING REQUIREMENT.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every 6 months thereafter, the head of each covered agency shall submit to the Director, with respect to the IT working capital fund of the covered agency—

“(A) a list of each information technology investment funded, including the estimated cost and completion date for each investment; and

“(B) a summary by fiscal year of obligations, expenditures, and unused balances.

“(2) PUBLIC AVAILABILITY.—The Director shall make the information submitted under paragraph (1) publicly available on a website.

“SEC. 1078. ESTABLISHMENT OF TECHNOLOGY MODERNIZATION FUND AND BOARD.

“(a) DEFINITION.—In this section, the term ‘agency’ has the meaning given the term in section 551 of title 5, United States Code.

“(b) TECHNOLOGY MODERNIZATION FUND.—

“(1) ESTABLISHMENT.—There is established in the Treasury a Technology Modernization Fund for technology-related activities, to improve information technology, to enhance cybersecurity across the Federal Government, and to be administered in accordance with guidance issued by the Director.

“(2) ADMINISTRATION OF FUND.—The Administrator, in consultation with the Chief Information Officers Council and with the approval of the Director, shall administer the Fund in accordance with this subsection.

“(3) USE OF FUNDS.—The Administrator shall, in accordance with recommendations from the Board, use amounts in the Fund—

“(A) to transfer such amounts, to remain available until expended, to the head of an agency for the acquisition of products and services, or the development of such products and services when more efficient and cost effective, to improve, retire, or replace existing Federal information technology systems to enhance cybersecurity and privacy and improve long-term efficiency and effectiveness;

“(B) to transfer such amounts, to remain available until expended, to the head of an agency for the operation and procurement of information technology products and services, or the development of such products and services when more efficient and cost effective, and acquisition vehicles for use by agencies to improve Governmentwide efficiency and cybersecurity in accordance with the requirements of the agencies;

“(C) to provide services or work performed in support of—

“(i) the activities described in subparagraph (A) or (B); and

“(ii) the Board and the Director in carrying out the responsibilities described in subsection (c)(2); and

“(D) to fund only programs, projects, or activities or to fund increases for any programs, projects, or activities that have not been denied or restricted by Congress.

“(4) AUTHORIZATION OF APPROPRIATIONS; CREDITS; AVAILABILITY OF FUNDS.—

“(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund \$250,000,000 for each of fiscal years 2018 and 2019.

“(B) CREDITS.—In addition to any funds otherwise appropriated, the Fund shall be credited with all reimbursements, advances, or refunds or recoveries relating to information technology or services provided for the purposes described in paragraph (3).

“(C) AVAILABILITY OF FUNDS.—Amounts deposited, credited, or otherwise made available to the Fund shall be available until expended for the purposes described in paragraph (3).

“(5) REIMBURSEMENT.—

“(A) REIMBURSEMENT BY AGENCY.—

“(i) IN GENERAL.—The head of an agency shall reimburse the Fund for any transfer made under subparagraph (A) or (B) of paragraph (3), including any services or work performed in support of the transfer under paragraph (3)(C), in accordance with the terms established in a written agreement described in paragraph (6).

“(ii) REIMBURSEMENT FROM SUBSEQUENT APPROPRIATIONS.—Notwithstanding any other provision of law, an agency may make a reimbursement required under clause (i) from any appropriation made available after the date of enactment of this Act [Dec. 12, 2017] for information technology activities, consistent with any applicable reprogramming law or guidelines of the Committees on Appropriations of the Senate and the House of Representatives.

“(iii) RECORDING OF OBLIGATION.—Notwithstanding section 1501 of title 31, United States Code, an obligation to make a payment under a written agreement described in paragraph (6) in a fiscal year after the date of enactment of this Act shall be recorded in the fiscal year in which the payment is due.

“(B) PRICES FIXED BY ADMINISTRATOR.—

“(i) IN GENERAL.—The Administrator, in consultation with the Director, shall establish amounts to be paid by an agency under this paragraph and the terms of repayment for activities funded under paragraph (3), including any services or work performed in support of that development under paragraph (3)(C), at levels sufficient to ensure the solvency of the Fund, including operating expenses.

“(ii) REVIEW AND APPROVAL.—Before making any changes to the established amounts and terms of repayment, the Administrator shall conduct a review and obtain approval from the Director.

“(C) FAILURE TO MAKE TIMELY REIMBURSEMENT.—The Administrator may obtain reimbursement from an agency under this paragraph by the issuance of transfer and counterwarrants, or other lawful transfer documents, supported by itemized bills, if payment is not made by the agency during the 90-day period beginning after the expiration of a repayment period described in a written agreement described in paragraph (6).

“(6) WRITTEN AGREEMENT.—

“(A) IN GENERAL.—Before the transfer of funds to an agency under subparagraphs (A) and (B) of paragraph (3), the Administrator, in consultation with the Director, and the head of the agency shall enter into a written agreement—

“(i) documenting the purpose for which the funds will be used and the terms of repayment, which may not exceed 5 years unless approved by the Director; and

“(ii) which shall be recorded as an obligation as provided in paragraph (5)(A).

“(B) Requirement for use of incremental funding, commercial products and services, and rapid, iterative development practices.—The Administrator shall ensure—

“(i) for any funds transferred to an agency under paragraph (3)(A), in the absence of compelling circumstances documented by the Administrator at the time of transfer, that such funds shall be transferred only on an incremental basis, tied to metric-based development milestones achieved by the agency through the use of rapid, iterative, development processes; and

“(ii) that the use of commercial products and services are incorporated to the greatest extent

practicable in activities funded under subparagraphs (A) and (B) of paragraph (3), and that the written agreement required under paragraph (6) documents this preference.

“(7) REPORTING REQUIREMENTS.—

“(A) LIST OF PROJECTS.—

“(i) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director shall maintain a list of each project funded by the Fund, to be updated not less than quarterly, that includes a description of the project, project status (including any schedule delay and cost overruns), financial expenditure data related to the project, and the extent to which the project is using commercial products and services, including if applicable, a justification of why commercial products and services were not used and the associated development and integration costs of custom development.

“(ii) PUBLIC AVAILABILITY.—The list required under clause (i) shall be published on a public website in a manner that is, to the greatest extent possible, consistent with applicable law on the protection of classified information, sources, and methods.

“(B) COMPTROLLER GENERAL REPORTS.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Comptroller General of the United States shall submit to Congress and make publically available a report assessing—

“(i) the costs associated with establishing the Fund and maintaining the oversight structure associated with the Fund compared with the cost savings associated with the projects funded both annually and over the life of the acquired products and services by the Fund;

“(ii) the reliability of the cost savings estimated by agencies associated with projects funded by the Fund;

“(iii) whether agencies receiving transfers of funds from the Fund used full and open competition to acquire the custom development of information technology products or services; and

“(iv) the number of IT procurement, development, and modernization programs, offices, and entities in the Federal Government, including 18F and the United States Digital Services, the roles, responsibilities, and goals of those programs and entities, and the extent to which they duplicate work.

“(c) TECHNOLOGY MODERNIZATION BOARD.—

“(1) ESTABLISHMENT.—There is established a Technology Modernization Board to evaluate proposals submitted by agencies for funding authorized under the Fund.

“(2) RESPONSIBILITIES.—The responsibilities of the Board are—

“(A) to provide input to the Director for the development of processes for agencies to submit modernization proposals to the Board and to establish the criteria by which those proposals are evaluated, which shall include—

“(i) addressing the greatest security, privacy, and operational risks;

“(ii) having the greatest Governmentwide impact; and

“(iii) having a high probability of success based on factors including a strong business case, technical design, consideration of commercial off-the-shelf products and services, procurement strategy (including adequate use of rapid, agile iterative software development practices), and program management;

“(B) to make recommendations to the Administrator to assist agencies in the further development and refinement of select submitted modernization proposals, based on an initial evaluation performed with the assistance of the Administrator;

“(C) to review and prioritize, with the assistance of the Administrator and the Director, moderniza-

tion proposals based on criteria established pursuant to subparagraph (A);

“(D) to identify, with the assistance of the Administrator, opportunities to improve or replace multiple information technology systems with a smaller number of information technology services common to multiple agencies;

“(E) to recommend the funding of modernization projects, in accordance with the uses described in subsection (b)(3), to the Administrator;

“(F) to monitor, in consultation with the Administrator, progress and performance in executing approved projects and, if necessary, recommend the suspension or termination of funding for projects based on factors including the failure to meet the terms of a written agreement described in subsection (b)(6); and

“(G) to monitor the operating costs of the Fund.

“(3) MEMBERSHIP.—The Board shall consist of 7 voting members.

“(4) CHAIR.—The Chair of the Board shall be the Administrator of the Office of Electronic Government.

“(5) PERMANENT MEMBERS.—The permanent members of the Board shall be—

“(A) the Administrator of the Office of Electronic Government; and

“(B) a senior official from the General Services Administration having technical expertise in information technology development, appointed by the Administrator, with the approval of the Director.

“(6) ADDITIONAL MEMBERS OF THE BOARD.—

“(A) APPOINTMENT.—The other members of the Board shall be—

“(i) 1 employee of the National Protection and Programs Directorate of the Department of Homeland Security, appointed by the Secretary of Homeland Security; and

“(ii) 4 employees of the Federal Government primarily having technical expertise in information technology development, financial management, cybersecurity and privacy, and acquisition, appointed by the Director.

“(B) TERM.—Each member of the Board described in paragraph (A) shall serve a term of 1 year, which shall be renewable not more than 4 times at the discretion of the appointing Secretary or Director, as applicable.

“(7) PROHIBITION ON COMPENSATION.—Members of the Board may not receive additional pay, allowances, or benefits by reason of their service on the Board.

“(8) STAFF.—Upon request of the Chair of the Board, the Director and the Administrator may detail, on a reimbursable or nonreimbursable basis, any employee of the Federal Government to the Board to assist the Board in carrying out the functions of the Board.

“(d) RESPONSIBILITIES OF ADMINISTRATOR.—

“(1) IN GENERAL.—In addition to the responsibilities described in subsection (b), the Administrator shall support the activities of the Board and provide technical support to, and, with the concurrence of the Director, oversight of, agencies that receive transfers from the Fund.

“(2) RESPONSIBILITIES.—The responsibilities of the Administrator are—

“(A) to provide direct technical support in the form of personnel services or otherwise to agencies transferred amounts under subsection (b)(3)(A) and for products, services, and acquisition vehicles funded under subsection (b)(3)(B);

“(B) to assist the Board with the evaluation, prioritization, and development of agency modernization proposals.

“(C) to perform regular project oversight and monitoring of approved agency modernization projects, in consultation with the Board and the Director, to increase the likelihood of successful implementation and reduce waste; and

“(D) to provide the Director with information necessary to meet the requirements of subsection (b)(7).

“(e) EFFECTIVE DATE.—This section shall take effect on the date that is 90 days after the date of enactment of this Act.

“(f) SUNSET.—

“(1) IN GENERAL.—On and after the date that is 2 years after the date on which the Comptroller General of the United States issues the third report required under subsection (b)(7)(B), the Administrator may not award or transfer funds from the Fund for any project that is not already in progress as of such date.

“(2) TRANSFER OF UNOBLIGATED AMOUNTS.—Not later than 90 days after the date on which all projects that received an award from the Fund are completed, any amounts in the Fund shall be transferred to the general fund of the Treasury and shall be used for deficit reduction.

“(3) TERMINATION OF TECHNOLOGY MODERNIZATION BOARD.—Not later than 90 days after the date on which all projects that received an award from the Fund are completed, the Technology Modernization Board and all the authorities of subsection (c) shall terminate.”

### § 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.<sup>1</sup>

(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).

<sup>1</sup> See References in Text note below.

(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, 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 shall 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 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 per-

taining 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.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1237; Pub. L. 108-458, title VIII, §8401(1), (2), Dec. 17, 2004, 118 Stat. 3869; Pub. L. 113-291, div. A, title VIII, §832, Dec. 19, 2014, 128 Stat. 3440; Pub. L. 115-88, §2, Nov. 21, 2017, 131 Stat. 1278; Pub. L. 115-91, div. A, title VIII, §819(a), Dec. 12, 2017, 131 Stat. 1464.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11302 .....	40:1412.	Pub. L. 104-106, div. E, title LI, §5112, Feb. 10, 1996, 110 Stat. 680.

REFERENCES IN TEXT

Section 3542 of title 44, referred to in subsec. (c)(1)(C), was repealed by Pub. L. 113-283, §2(a), Dec. 18, 2014, 128 Stat. 3073. See section 3552 of Title 44, Public Printing and Documents.

AMENDMENTS

2017—Subsec. (c)(5). Pub. L. 115-88 and Pub. L. 115-91 amended subsec. (c) identically, striking out par. (5) re-

lating to sunset of certain provisions. Text read as follows: “Paragraphs (1), (3), and (4) shall not be in effect on and after the date that is 5 years after the date of the enactment of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015.”

2014—Subsec. (c). Pub. L. 113–291 added pars. (1), (3), (4), and par. (5) relating to sunset of certain provisions and redesignated former pars. (1) and (2) as par. (2) and par. (5) relating to report to Congress, respectively.

2004—Subsec. (b). Pub. L. 108–458, §8401(1), inserted “security,” after “use.”

Subsec. (c)(1). Pub. L. 108–458, §8401(2), inserted “, including information security risks,” after “evaluating the risks” and “costs, benefits, and risks”.

#### MANAGEMENT OF SOFTWARE LICENSES

Pub. L. 114–210, July 29, 2016, 130 Stat. 824, provided that:

##### “SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Making Electronic Government Accountable By Yielding Tangible Efficiencies Act of 2016’ or the ‘MEGABYTE Act of 2016’.

##### “SEC. 2. OMB DIRECTIVE ON MANAGEMENT OF SOFTWARE LICENSES.

“(a) DEFINITION.—In this section—

“(1) the term ‘Director’ means the Director of the Office of Management and Budget; and

“(2) the term ‘executive agency’ has the meaning given that term in section 105 of title 5, United States Code.

“(b) OMB DIRECTIVE.—The Director shall issue a directive to require the Chief Information Officer of each executive agency to develop a comprehensive software licensing policy, which shall—

“(1) identify clear roles, responsibilities, and central oversight authority within the executive agency for managing enterprise software license agreements and commercial software licenses; and

“(2) require the Chief Information Officer of each executive agency to—

“(A) establish a comprehensive inventory, including 80 percent of software license spending and enterprise licenses in the executive agency, by identifying and collecting information about software license agreements using automated discovery and inventory tools;

“(B) regularly track and maintain software licenses to assist the executive agency in implementing decisions throughout the software license management life cycle;

“(C) analyze software usage and other data to make cost-effective decisions;

“(D) provide training relevant to software license management;

“(E) establish goals and objectives of the software license management program of the executive agency; and

“(F) consider the software license management life cycle phases, including the requisition, reception, deployment and maintenance, retirement, and disposal phases, to implement effective decision-making and incorporate existing standards, processes, and metrics.

“(c) REPORT ON SOFTWARE LICENSE MANAGEMENT.—

“(1) IN GENERAL.—Beginning in the first fiscal year beginning after the date of enactment of this Act [July 29, 2016], and in each of the following 5 fiscal years, the Chief Information Officer of each executive agency shall submit to the Director a report on the financial savings or avoidance of spending that resulted from improved software license management.

“(2) AVAILABILITY.—The Director shall make each report submitted under paragraph (1) publically available.”

#### APPROPRIATE USE OF REQUIREMENTS REGARDING EXPERIENCE AND EDUCATION OF CONTRACTOR PERSONNEL IN THE PROCUREMENT OF INFORMATION TECHNOLOGY SERVICES

Pub. L. 106–398, §1 [[div. A], title VIII, §813], Oct. 30, 2000, 114 Stat. 1654, 1654A–214, provided that:

“(a) AMENDMENT OF THE FEDERAL ACQUISITION REGULATION.—Not later than 180 days after the date of the enactment of this Act [Oct. 30, 2000], the Federal Acquisition Regulation issued in accordance with sections 6 and 25 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 405 and 421) [see 41 U.S.C. 1121, 1303] shall be amended to address the use, in the procurement of information technology services, of requirements regarding the experience and education of contractor personnel.

“(b) CONTENT OF AMENDMENT.—The amendment issued pursuant to subsection (a) shall, at a minimum, provide that solicitations for the procurement of information technology services shall not set forth any minimum experience or educational requirement for proposed contractor personnel in order for a bidder to be eligible for award of a contract unless—

“(1) the contracting officer first determines that the needs of the executive agency cannot be met without any such requirement; or

“(2) the needs of the executive agency require the use of a type of contract other than a performance-based contract.

“(c) GAO REPORT.—Not later than one year after the date on which the regulations required by subsection (a) are published in the Federal Register, the Comptroller General shall submit to Congress an evaluation of—

“(1) executive agency compliance with the regulations; and

“(2) conformance of the regulations with existing law, together with any recommendations that the Comptroller General considers appropriate.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘executive agency’ has the meaning given that term in section 4(1) of the Office of Federal Procurement Policy Act (former 41 U.S.C. 403(1)) [now 41 U.S.C. 133].

“(2) The term ‘information technology’ has the meaning given that term in section 5002(3) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401(3)) [now 40 U.S.C. 11101(6)].

“(3) The term ‘performance-based’, with respect to a contract, means that the contract includes the use of performance work statements that set forth contract requirements in clear, specific, and objective terms with measurable outcomes.”

#### § 11303. Performance-based and results-based management

(a) IN GENERAL.—The Director of the Office of Management and Budget shall encourage the use of performance-based and results-based management in fulfilling the responsibilities assigned under section 3504(h) of title 44.

(b) EVALUATION OF AGENCY PROGRAMS AND INVESTMENTS.—

(1) REQUIREMENT.—The Director shall evaluate the information resources management practices of the executive agencies with respect to the performance and results of the investments made by the executive agencies in information technology.

(2) DIRECTION FOR EXECUTIVE AGENCY ACTION.—The Director shall issue to the head of each executive agency clear and concise direction that the head of each agency shall—

(A) establish effective and efficient capital planning processes for selecting, managing,

and evaluating the results of all of its major investments in information systems;

(B) determine, before making an investment in a new information system—

(i) whether the function to be supported by the system should be performed by the private sector and, if so, whether any component of the executive agency performing that function should be converted from a governmental organization to a private sector organization; or

(ii) whether the function should be performed by the executive agency and, if so, whether the function should be performed by a private sector source under contract or by executive agency personnel;

(C) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes, as appropriate, before making significant investments in information technology to be used in support of those missions; and

(D) ensure that the information security policies, procedures, and practices are adequate.

(3) **GUIDANCE FOR MULTIAGENCY INVESTMENTS.**—The direction issued under paragraph (2) shall include guidance for undertaking efficiently and effectively interagency and Federal Government-wide investments in information technology to improve the accomplishment of missions that are common to the executive agencies.

(4) **PERIODIC REVIEWS.**—The Director shall implement through the budget process periodic reviews of selected information resources management activities of the executive agencies to ascertain the efficiency and effectiveness of information technology in improving the performance of the executive agency and the accomplishment of the missions of the executive agency.

(5) **ENFORCEMENT OF ACCOUNTABILITY.**—

(A) **IN GENERAL.**—The Director may take any action that the Director considers appropriate, including an action involving the budgetary process or appropriations management process, to enforce accountability of the head of an executive agency for information resources management and for the investments made by the executive agency in information technology.

(B) **SPECIFIC ACTIONS.**—Actions taken by the Director may include—

(i) recommending a reduction or an increase in the amount for information resources that the head of the executive agency proposes for the budget submitted to Congress under section 1105(a) of title 31;

(ii) reducing or otherwise adjusting apportionments and reapportionments of appropriations for information resources;

(iii) using other administrative controls over appropriations to restrict the availability of amounts for information resources; and

(iv) designating for the executive agency an executive agent to contract with pri-

vate sector sources for the performance of information resources management or the acquisition of information technology.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1238.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11303 .....	40:1413.	Pub. L. 104-106, div. E, title LI, §5113, Feb. 10, 1996, 110 Stat. 681.

#### SUBCHAPTER II—EXECUTIVE AGENCIES

##### § 11311. Responsibilities

In fulfilling the responsibilities assigned under chapter 35 of title 44, the head of each executive agency shall comply with this subchapter with respect to the specific matters covered by this subchapter.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1239.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11311 .....	40:1421.	Pub. L. 104-106, div. E, title LI, §5121, Feb. 10, 1996, 110 Stat. 683.

#### PROCUREMENT OF AUTOMATIC DATA PROCESSING EQUIPMENT FOR TAX SYSTEMS MODERNIZATION PROGRAM; DELEGATION OF AUTHORITY

Pub. L. 104-52, title V, §526, Nov. 19, 1995, 109 Stat. 495, provided that: "Notwithstanding any other provision of law, the Administrator of General Services shall delegate the authority to procure automatic data processing equipment for the Tax Systems Modernization Program to the Secretary of the Treasury: *Provided*, That the Director of the Office of Management and Budget shall have the authority to revoke such delegation upon the written recommendation of the Administrator that the Secretary's actions under such delegation are inconsistent with the goals of economic and efficient procurement and utilization of automatic data processing equipment: *Provided further*, That for all other purposes, a procurement conducted under such delegation shall be treated as if made under a delegation by the Administrator pursuant to [former] 40 U.S.C. 759."

##### § 11312. Capital planning and investment control

(a) **DESIGN OF PROCESS.**—In fulfilling the responsibilities assigned under section 3506(h) of title 44, the head of each executive agency shall design and implement in the executive agency a process for maximizing the value, and assessing and managing the risks, of the information technology acquisitions of the executive agency.

(b) **CONTENT OF PROCESS.**—The process of an executive agency shall—

(1) provide for the selection of investments in information technology (including information security needs) to be made by the executive agency, the management of those investments, and the evaluation of the results of those investments;

(2) be integrated with the processes for making budget, financial, and program management decisions in the executive agency;

(3) include minimum criteria to be applied in considering whether to undertake a particular investment in information systems, including criteria related to the quantitatively ex-

pressed projected net, risk-adjusted return on investment and specific quantitative and qualitative criteria for comparing and prioritizing alternative information systems investment projects;

(4) identify information systems investments that would result in shared benefits or costs for other federal agencies or state or local governments;

(5) identify quantifiable measurements for determining the net benefits and risks of a proposed investment; and

(6) provide the means for senior management personnel of the executive agency to obtain timely information regarding the progress of an investment in an information system, including a system of milestones for measuring progress, on an independently verifiable basis, in terms of cost, capability of the system to meet specified requirements, timeliness, and quality.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1239; Pub. L. 108–458, title VIII, §8401(3), Dec. 17, 2004, 118 Stat. 3869.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
11312 .....	40:1422.	Pub. L. 104–106, div. E, title LI, §5122, Feb. 10, 1996, 110 Stat. 683.

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108–458 substituted “investments in information technology (including information security needs)” for “information technology investments”.

**§ 11313. Performance and results-based management**

In fulfilling the responsibilities under section 3506(h) of title 44, the head of an executive agency shall—

(1) establish goals for improving the efficiency and effectiveness of agency operations and, as appropriate, the delivery of services to the public through the effective use of information technology;

(2) prepare an annual report, to be included in the executive agency’s budget submission to Congress, on the progress in achieving the goals;

(3) ensure that performance measurements—

(A) are prescribed for information technology used by, or to be acquired for, the executive agency; and

(B) measure how well the information technology supports programs of the executive agency;

(4) where comparable processes and organizations in the public or private sectors exist, quantitatively benchmark agency process performance against those processes in terms of cost, speed, productivity, and quality of outputs and outcomes;

(5) analyze the missions of the executive agency and, based on the analysis, revise the executive agency’s mission-related processes and administrative processes as appropriate before making significant investments in in-

formation technology to be used in support of the performance of those missions; and

(6) ensure that the information security policies, procedures, and practices of the executive agency are adequate.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1240.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
11313 .....	40:1423.	Pub. L. 104–106, div. E, title LI, §5123, Feb. 10, 1996, 110 Stat. 683.

**§ 11314. Authority to acquire and manage information technology**

(a) IN GENERAL.—The authority of the head of an executive agency to acquire information technology includes—

(1) acquiring information technology as authorized by law;

(2) making a contract that provides for multiagency acquisitions of information technology in accordance with guidance issued by the Director of the Office of Management and Budget; and

(3) if the Director finds that it would be advantageous for the Federal Government to do so, making a multiagency contract for procurement of commercial items of information technology that requires each executive agency covered by the contract, when procuring those items, to procure the items under that contract or to justify an alternative procurement of the items.

(b) FTS 2000 PROGRAM.—The Administrator of General Services shall continue to manage the FTS 2000 program, and to coordinate the follow-on to that program, for and with the advice of the heads of executive agencies.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1241.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
11314 .....	40:1424.	Pub. L. 104–106, div. E, title LI, §5124, Feb. 10, 1996, 110 Stat. 684.

In subsection (b), the words “Notwithstanding any other provision of this or any other law” are omitted as unnecessary.

**§ 11315. Agency Chief Information Officer**

(a) DEFINITION.—In this section, the term “information technology architecture”, with respect to an executive agency, means an integrated framework for evolving or maintaining existing information technology and acquiring new information technology to achieve the agency’s strategic goals and information resources management goals.

(b) GENERAL RESPONSIBILITIES.—The Chief Information Officer of an executive agency is responsible for—

(1) providing advice and other assistance to the head of the executive agency and other senior management personnel of the executive agency to ensure that information technology is acquired and information resources are

managed for the executive agency in a manner that implements the policies and procedures of this subtitle, consistent with chapter 35 of title 44 and the priorities established by the head of the executive agency;

(2) developing, maintaining, and facilitating the implementation of a sound, secure, and integrated information technology architecture for the executive agency; and

(3) promoting the effective and efficient design and operation of all major information resources management processes for the executive agency, including improvements to work processes of the executive agency.

(c) DUTIES AND QUALIFICATIONS.—The Chief Information Officer of an agency listed in section 901(b) of title 31—

(1) has information resources management duties as that official’s primary duty;

(2) monitors the performance of information technology programs of the agency, evaluates the performance of those programs on the basis of the applicable performance measurements, and advises the head of the agency regarding whether to continue, modify, or terminate a program or project; and

(3) annually, as part of the strategic planning and performance evaluation process required (subject to section 1117 of title 31) under section 306 of title 5 and sections 1105(a)(28), 1115–1117, and 9703 (as added by section 5(a) of the Government Performance and Results Act of 1993 (Public Law 103–62, 107 Stat. 289)) of title 31—

(A) assesses the requirements established for agency personnel regarding knowledge and skill in information resources management and the adequacy of those requirements for facilitating the achievement of the performance goals established for information resources management;

(B) assesses the extent to which the positions and personnel at the executive level of the agency and the positions and personnel at management level of the agency below the executive level meet those requirements;

(C) develops strategies and specific plans for hiring, training, and professional development to rectify any deficiency in meeting those requirements; and

(D) reports to the head of the agency on the progress made in improving information resources management capability.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1241; Pub. L. 108–458, title VIII, §8401(4), Dec. 17, 2004, 118 Stat. 3869.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11315 .....	40:1425(b)–(d).	Pub. L. 104–106, div. E, title LI, §5125(b)–(d), Feb. 10, 1996, 110 Stat. 685.

In subsection (c)(3), before subclause (A), the reference to 31:1105(a)(29) is changed to 1105(a)(28) because of the redesignation of 1105(a)(29) as 1105(a)(28) by section 4(1) of the Act of October 11, 1996, (Public Law 104–287, 110 Stat. 3388). The words “as added by section 5(a) of the Government Performance and Results Act of 1993 (Public Law 103–62, 107 Stat. 289)” are added for clarity because there is another 31:9703.

AMENDMENTS

2004—Subsec. (b)(2). Pub. L. 108–458 inserted “, secure,” after “sound”.

§ 11316. Accountability

The head of each executive agency, in consultation with the Chief Information Officer and the Chief Financial Officer of that executive agency (or, in the case of an executive agency without a chief financial officer, any comparable official), shall establish policies and procedures to ensure that—

(1) the accounting, financial, asset management, and other information systems of the executive agency are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the executive agency;

(2) financial and related program performance data are provided on a reliable, consistent, and timely basis to executive agency financial management systems; and

(3) financial statements support—

(A) assessments and revisions of mission-related processes and administrative processes of the executive agency; and

(B) measurement of the performance of investments made by the agency in information systems.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1242.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11316 .....	40:1426.	Pub. L. 104–106, div. E, title LI, §5126, Feb. 10, 1996, 110 Stat. 686.

§ 11317. Significant deviations

The head of each executive agency shall identify in the strategic information resources management plan required under section 3506(b)(2) of title 44 any major information technology acquisition program, or any phase or increment of that program, that has significantly deviated from the cost, performance, or schedule goals established for the program.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1242.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11317 .....	40:1427.	Pub. L. 104–106, div. E, title LI, §5127, Feb. 10, 1996, 110 Stat. 687.

§ 11318. Interagency support

The head of an executive agency may use amounts available to the agency for oversight, acquisition, and procurement of information technology to support jointly with other executive agencies the activities of interagency groups that are established to advise the Director of the Office of Management and Budget in carrying out the Director’s responsibilities under this chapter. The use of those amounts for that purpose is subject to requirements and limitations on uses and amounts that the Director may prescribe. The Director shall prescribe the

requirements and limitations during the Director’s review of the executive agency’s proposed budget submitted to the Director by the head of the executive agency for purposes of section 1105 of title 31.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1242.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11318 .....	40:1428.	Pub. L. 104–106, div. E, title LI, §5128, Feb. 10, 1996, 110 Stat. 687.

**§ 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 tech-

nology 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, 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 Management Officer of the Department of Defense<sup>1</sup> (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.

(5) **QUARTERLY REPORTS.**—

(A) **IN GENERAL.**—The Administrator of the Office of Electronic Government 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).

(Added and amended Pub. L. 113–291, div. A, title VIII, §§ 831(a), 833, title IX, § 901(n)(1), Dec. 19, 2014, 128 Stat. 3438, 3442, 3469; Pub. L. 115–88, § 3, Nov. 21, 2017, 131 Stat. 1278; Pub. L. 115–91, div. A, title VIII, § 819(b), title X, § 1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1464, 1597.)

#### REFERENCES IN TEXT

The Deputy Chief Management Officer of the Department of Defense, referred to in subsec. (d)(4), was established by section 132a of this title prior to the general amendment of that section by Pub. L. 115–91, div. A, title IX, § 910(a)(1), Dec. 12, 2017, 131 Stat. 1516. As amended by Pub. L. 115–91, section 132a of this title established the Chief Management Officer of the Department of Defense.

#### AMENDMENTS

2017—Subsecs. (c), (d). Pub. L. 115–88, § 3(1), and Pub. L. 115–91, § 819(b)(1), amended section identically, redesignating subsec. (c) relating to information technology portfolio, program, and resource reviews as (d).

Subsec. (d)(6). Pub. L. 115–88, § 3(2), and Pub. L. 115–91, § 819(b)(2), amended subsec. (d) identically, striking out par. (6). Text read as follows: “This subsection shall not be in effect on and after the date that is 5 years after the date of the enactment of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015.”

2014—Subsec. (c). Pub. L. 113–291, § 833, added subsec. (c) relating to information technology portfolio, program, and resource reviews.

#### CHANGE OF NAME

Reference to “Deputy Chief Management Officer of the Department of Defense” in subsec. (d)(4) was to be deemed to refer to “Under Secretary of Defense for Business Management and Information” after Feb. 1, 2017, pursuant to section 901(n)(1) of Pub. L. 113–291, formerly set out as a References note under section 131 of Title 10, Armed Forces. Section 901(a)(1) of Pub. L. 113–291, which amended section 132a of Title 10, effective Feb. 1, 2017, to establish the Under Secretary of Defense for Business Management and Information, was repealed by Pub. L. 114–328, div. A, title IX, § 901(d), Dec. 23, 2016, 130 Stat. 2342, effective Dec. 23, 2016. Section 901(n)(1) of Pub. L. 113–291 was repealed by Pub. L. 115–91, div. A, title X, § 1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, effective Dec. 23, 2016.

#### SUBCHAPTER III—OTHER RESPONSIBILITIES

##### § 11331. Responsibilities for Federal information systems standards

(a) **DEFINITION.**—In this section, the term “information security” has the meaning given that term in section 3532(b)(1)<sup>1</sup> of title 44.

<sup>1</sup> See References in Text note below.

<sup>1</sup> See References in Text note below.

(b) REQUIREMENT TO PRESCRIBE STANDARDS.—

(1) IN GENERAL.—

(A) REQUIREMENT.—Except as provided under paragraph (2), the Director of the Office of Management and Budget shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(a)) and in consultation with the Secretary of Homeland Security, promulgate information security standards pertaining to Federal information systems.

(B) REQUIRED STANDARDS.—Standards promulgated under subparagraph (A) shall include—

(i) standards that provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(b)); and

(ii) such standards that are otherwise necessary to improve the efficiency of operation or security of Federal information systems.

(C) REQUIRED STANDARDS BINDING.—Information security standards described under subparagraph (B) shall be compulsory and binding.

(2) STANDARDS AND GUIDELINES FOR NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems, as defined under section 3532(3)<sup>1</sup> of title 44, shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

(c) APPLICATION OF MORE STRINGENT STANDARDS.—The head of an agency may employ standards for the cost-effective information security for all operations and assets within or under the supervision of that agency that are more stringent than the standards promulgated by the Director under this section, if such standards—

(1) contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director; and

(2) are otherwise consistent with policies and guidelines issued under section 3533<sup>1</sup> of title 44.

(d) REQUIREMENTS REGARDING DECISIONS BY DIRECTOR.—

(1) DEADLINE.—The decision regarding the promulgation of any standard by the Director under subsection (b) shall occur not later than 6 months after the submission of the proposed standard to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

(2) NOTICE AND COMMENT.—A decision by the Director to significantly modify, or not promulgate, a proposed standard submitted to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3), shall be

made after the public is given an opportunity to comment on the Director's proposed decision.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1243; Pub. L. 107-296, title X, §1002(a), Nov. 25, 2002, 116 Stat. 2268; Pub. L. 107-347, title III, §302(a), Dec. 17, 2002, 116 Stat. 2956.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11331 .....	40:1441.	Pub. L. 104-106, div. E, title LI, §5131(a)-(d), Feb. 10, 1996, 110 Stat. 687.

REFERENCES IN TEXT

Sections 3532 and 3533 of title 44, referred to in subsecs. (a), (b)(2), and (c)(2), were repealed by Pub. L. 113-283, §2(a), Dec. 18, 2014, 128 Stat. 3073. Provisions similar to sections 3532 and 3533 of title 44 are now contained, respectively, in sections 3552 and 3553 of title 44, as enacted by Pub. L. 113-283.

AMENDMENTS

2002—Pub. L. 107-296 amended text generally. Prior to amendment, text, as amended generally by Pub. L. 107-347, read as follows:

“(a) STANDARDS AND GUIDELINES.—

“(1) AUTHORITY TO PRESCRIBE.—Except as provided under paragraph (2), the Secretary of Commerce shall, on the basis of standards and guidelines developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(a)), prescribe standards and guidelines pertaining to Federal information systems.

“(2) NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems (as defined under this section) shall be developed, prescribed, enforced, and overseen as otherwise authorized by law and as directed by the President.

“(b) MANDATORY REQUIREMENTS.—

“(1) AUTHORITY TO MAKE MANDATORY.—Except as provided under paragraph (2), the Secretary shall make standards prescribed under subsection (a)(1) compulsory and binding to the extent determined necessary by the Secretary to improve the efficiency of operation or security of Federal information systems.

“(2) REQUIRED MANDATORY STANDARDS.—(A) Standards prescribed under subsection (a)(1) shall include information security standards that—

“(i) provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(b)); and

“(ii) are otherwise necessary to improve the security of Federal information and information systems.

“(B) Information security standards described in subparagraph (A) shall be compulsory and binding.

“(c) AUTHORITY TO DISAPPROVE OR MODIFY.—The President may disapprove or modify the standards and guidelines referred to in subsection (a)(1) if the President determines such action to be in the public interest. The President's authority to disapprove or modify such standards and guidelines may not be delegated. Notice of such disapproval or modification shall be published promptly in the Federal Register. Upon receiving notice of such disapproval or modification, the Secretary of Commerce shall immediately rescind or modify such standards or guidelines as directed by the President.

“(d) EXERCISE OF AUTHORITY.—To ensure fiscal and policy consistency, the Secretary shall exercise the authority conferred by this section subject to direction

by the President and in coordination with the Director of the Office of Management and Budget.

“(e) APPLICATION OF MORE STRINGENT STANDARDS.—The head of an executive agency may employ standards for the cost-effective information security for information systems within or under the supervision of that agency that are more stringent than the standards the Secretary prescribes under this section if the more stringent standards—

“(1) contain at least the applicable standards made compulsory and binding by the Secretary; and

“(2) are otherwise consistent with policies and guidelines issued under section 3543 of title 44.

“(f) DECISIONS ON PROMULGATION OF STANDARDS.—The decision by the Secretary regarding the promulgation of any standard under this section shall occur not later than 6 months after the submission of the proposed standard to the Secretary by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

“(g) DEFINITIONS.—In this section:

“(1) FEDERAL INFORMATION SYSTEM.—The term ‘Federal information system’ means an information system used or operated by an executive agency, by a contractor of an executive agency, or by another organization on behalf of an executive agency.

“(2) INFORMATION SECURITY.—The term ‘information security’ has the meaning given that term in section 3542(b)(1) of title 44.

“(3) NATIONAL SECURITY SYSTEM.—The term ‘national security system’ has the meaning given that term in section 3542(b)(2) of title 44.”

Pub. L. 107-347 substituted “Responsibilities for Federal information systems standards” for “Responsibilities regarding efficiency, security, and privacy of federal computer systems” in section catchline and amended text generally. Prior to amendment, text read as follows:

“(a) DEFINITIONS.—In this section, the terms ‘federal computer system’ and ‘operator of a federal computer system’ have the meanings given those terms in section 20(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(d)).

“(b) STANDARDS AND GUIDELINES.—

“(1) AUTHORITY TO PRESCRIBE AND DISAPPROVE OR MODIFY.—

“(A) AUTHORITY TO PRESCRIBE.—On the basis of standards and guidelines developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the Act (15 U.S.C. 278g-3(a)(2), (3)), the Secretary of Commerce shall prescribe standards and guidelines pertaining to federal computer systems. The Secretary shall make those standards compulsory and binding to the extent the Secretary determines necessary to improve the efficiency of operation or security and privacy of federal computer systems.

“(B) AUTHORITY TO DISAPPROVE OR MODIFY.—The President may disapprove or modify those standards and guidelines if the President determines that action to be in the public interest. The President’s authority to disapprove or modify those standards and guidelines may not be delegated. Notice of disapproval or modification shall be published promptly in the Federal Register. On receiving notice of disapproval or modification, the Secretary shall immediately rescind or modify those standards or guidelines as directed by the President.

“(2) EXERCISE OF AUTHORITY.—To ensure fiscal and policy consistency, the Secretary shall exercise the authority conferred by this section subject to direction by the President and in coordination with the Director of the Office of Management and Budget.

“(c) APPLICATION OF MORE STRINGENT STANDARDS.—The head of a federal agency may employ standards for the cost-effective security and privacy of sensitive information in a federal computer system in or under the supervision of that agency that are more stringent than the standards the Secretary prescribes under this

section if the more stringent standards contain at least the applicable standards the Secretary makes compulsory and binding.

“(d) WAIVER OF STANDARDS.—

“(1) AUTHORITY OF THE SECRETARY.—The Secretary may waive in writing compulsory and binding standards under subsection (b) if the Secretary determines that compliance would—

“(A) adversely affect the accomplishment of the mission of an operator of a federal computer system; or

“(B) cause a major adverse financial impact on the operator that is not offset by Federal Government-wide savings.

“(2) DELEGATION OF WAIVER AUTHORITY.—The Secretary may delegate to the head of one or more federal agencies authority to waive those standards to the extent the Secretary determines that action to be necessary and desirable to allow for timely and effective implementation of federal computer system standards. The head of the agency may redelegate that authority only to a chief information officer designated pursuant to section 3506 of title 44.

“(3) NOTICE.—Notice of each waiver and delegation shall be transmitted promptly to Congress and published promptly in the Federal Register.”

#### EFFECTIVE DATE OF 2002 AMENDMENTS

Amendment by Pub. L. 107-347 effective Dec. 17, 2002, see section 402(b) of Pub. L. 107-347, set out as a note under section 3504 of Title 44, Public Printing and Documents.

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

**[§ 11332. Repealed. Pub. L. 107-296, title X, § 1005(a)(1), Nov. 25, 2002, 116 Stat. 2272; Pub. L. 107-347, title III, § 305(a), Dec. 17, 2002, 116 Stat. 2960]**

Section, Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1244, related to Federal computer system security training and plan.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 17, 2002, see section 402(b) of Pub. L. 107-347, set out as an Effective Date of 2002 Amendments note under section 3504 of Title 44, Public Printing and Documents.

Repeal by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

### CHAPTER 115—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAM

#### SUBCHAPTER I—CONDUCT OF PILOT PROGRAM

Sec.

- 11501. Authority to conduct pilot program.
- 11502. Evaluation criteria and plans.
- 11503. Report.
- 11504. Recommended legislation.
- 11505. Rule of construction.

#### SUBCHAPTER II—SPECIFIC PILOT PROGRAM

[11521, 11522. Repealed.]

#### AMENDMENTS

2002—Pub. L. 107-314, div. A, title VIII, § 825(b)(3)(A), Dec. 2, 2002, 116 Stat. 2616, and Pub. L. 107-347, title II, § 210(h)(3)(B), Dec. 17, 2002, 116 Stat. 2938, amended chapter heading identically, substituting “PROGRAM” for “PROGRAMS”.

Pub. L. 107-314, div. A, title VIII, § 825(b)(3)(C), (D), Dec. 2, 2002, 116 Stat. 2616, and Pub. L. 107-347, title II, § 210(h)(3)(D), (E), Dec. 17, 2002, 116 Stat. 2938, amended

items for subchapters I and II identically, substituting “PROGRAM” for “PROGRAMS”.

Pub. L. 107-314, div. A, title VIII, § 825(b)(3)(E), Dec. 2, 2002, 116 Stat. 2616, and Pub. L. 107-347, title II, § 210(h)(3)(F), Dec. 17, 2002, 116 Stat. 2938, amended item 11501 identically, substituting “program” for “programs”.

Pub. L. 107-347, title II, § 210(h)(3)(G), Dec. 17, 2002, 116 Stat. 2939, struck out item 11521 “Share-in-savings pilot program”, and directed redesignation of item 11522 as item 11521, which could not be executed because of repeal of item 11522 by Pub. L. 107-314, § 825(b)(3)(F). See below.

Pub. L. 107-314, div. A, title VIII, § 825(b)(3)(F), Dec. 2, 2002, 116 Stat. 2616, struck out item 11522 “Solutions-based contracting pilot program”.

SUBCHAPTER I—CONDUCT OF PILOT PROGRAM

AMENDMENTS

2002—Pub. L. 107-314, div. A, title VIII, § 825(b)(3)(B), Dec. 2, 2002, 116 Stat. 2616, and Pub. L. 107-347, title II, § 210(h)(3)(C), Dec. 17, 2002, 116 Stat. 2938, amended subchapter heading identically, substituting “PROGRAM” for “PROGRAMS”.

§ 11501. Authority to conduct pilot program

(a) IN GENERAL.—

(1) PURPOSE.—In consultation with the Administrator for the Office of Information and Regulatory Affairs, the Administrator for Federal Procurement Policy may conduct a pilot program pursuant to the requirements of section 11521 of this title<sup>1</sup> to test alternative approaches for the acquisition of information technology by executive agencies.

(2) MULTIAGENCY, MULTI-ACTIVITY CONDUCT OF EACH PROGRAM.—Except as otherwise provided in this chapter, the pilot program conducted under this chapter shall be carried out in not more than two procuring activities in each of the executive agencies that are designated by the Administrator for Federal Procurement Policy in accordance with this chapter to carry out the pilot program. With the approval of the Administrator for Federal Procurement Policy, the head of each designated executive agency shall select the procuring activities of the executive agency that are to participate in the test and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of the pilot program within the executive agency.

(b) LIMITATION ON AMOUNT.—The total amount obligated for contracts entered into under the pilot program conducted under this chapter may not exceed \$375,000,000. The Administrator for Federal Procurement Policy shall monitor those contracts and ensure that contracts are not entered into in violation of this subsection.

(c) PERIOD OF PROGRAMS.—

(1) IN GENERAL.—Subject to paragraph (2), the pilot program may be carried out under this chapter for the period, not in excess of five years, the Administrator for Federal Procurement Policy determines is sufficient to establish reliable results.

(2) CONTINUING VALIDITY OF CONTRACTS.—A contract entered into under the pilot program

before the expiration of that program remains in effect according to the terms of the contract after the expiration of the program.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1245; Pub. L. 107-314, div. A, title VIII, § 825(b)(2)(A), Dec. 2, 2002, 116 Stat. 2615; Pub. L. 107-347, title II, § 210(h)(2)(A), Dec. 17, 2002, 116 Stat. 2938.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11501 .....	40:1471.	Pub. L. 104-106, div. E, title LIII, § 5301, Feb. 10, 1996, 110 Stat. 691.

REFERENCES IN TEXT

Section 11521 of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 107-347, title II, § 210(h)(1), Dec. 17, 2002, 116 Stat. 2938. Section 210(h)(3)(A) of Pub. L. 107-347 directed the redesignation of section 11522 of this title as section 11521 of this title, but it could not be executed because of the repeal of section 11522 by Pub. L. 107-314, div. A, title VIII, § 825(b)(1), Dec. 2, 2002, 116 Stat. 2615.

AMENDMENTS

2002—Pub. L. 107-314, § 825(b)(2)(A)(i), and Pub. L. 107-347, § 210(h)(2)(A)(i), amended section catchline identically, substituting “program” for “programs”.

Subsec. (a)(1). Pub. L. 107-314, § 825(b)(2)(A)(ii), and Pub. L. 107-347, § 210(h)(2)(A)(ii), amended par. (1) identically, substituting “conduct a pilot program pursuant to the requirements of section 11521 of this title” for “conduct pilot programs”.

Subsec. (a)(2). Pub. L. 107-314, § 825(b)(2)(A)(iii), and Pub. L. 107-347, § 210(h)(2)(A)(iii), amended par. (2) identically, substituting “the pilot program conducted” for “each pilot program conducted”.

Subsec. (b). Pub. L. 107-347, § 210(h)(2)(A)(iv), which directed amendment of subsec. (b) by substituting the heading “LIMITATION ON AMOUNT” and text “The total amount obligated for contracts entered into under the pilot program conducted under this chapter may not exceed \$375,000,000.” for the heading “LIMITATIONS” and all that followed through “\$750,000,000.”, was executed by making the substitution for “LIMITATION ON AMOUNT” in the heading and “The total amount obligated for contracts entered into under the pilot program conducted under this chapter may not exceed \$750,000,000.” in text to reflect the probable intent of Congress and the amendment by Pub. L. 107-314, § 825(b)(2)(A)(iv)(I). See below.

Pub. L. 107-314, § 825(b)(2)(A)(iv)(II), substituted “subsection.” for “paragraph.”

Pub. L. 107-314, § 825(b)(2)(A)(iv)(I), substituted “LIMITATION ON AMOUNT.—The total amount obligated for contracts entered into under the pilot program conducted” for “LIMITATIONS.—

“(1) NUMBER.—Not more than two pilot programs may be conducted under this chapter, including one pilot program each pursuant to the requirements of sections 11521 and 11522 of this title.

“(2) AMOUNT.—The total amount obligated for contracts entered into under the pilot programs conducted”.

Subsec. (c)(1). Pub. L. 107-314, § 825(b)(2)(A)(v), and Pub. L. 107-347, § 210(h)(2)(A)(v), amended par. (1) identically, substituting “the pilot” for “a pilot”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-347 effective 120 days after Dec. 17, 2002, see section 402(a) of Pub. L. 107-347, set out as an Effective Date note under section 3601 of Title 44, Public Printing and Documents.

§ 11502. Evaluation criteria and plans

(a) MEASURABLE TEST CRITERIA.—To the maximum extent practicable, the head of each execu-

<sup>1</sup> See References in Text note below.

tive agency conducting the pilot program under section 11501 of this title shall establish measurable criteria for evaluating the effects of the procedures or techniques to be tested under the program.

(b) TEST PLAN.—Before the pilot program may be conducted under section 11501 of this title, the Administrator for Federal Procurement Policy shall submit to Congress a detailed test plan for the program, including a detailed description of the procedures to be used and a list of regulations that are to be waived.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1246; Pub. L. 107–314, div. A, title VIII, §825(b)(2)(B)(i), (ii), Dec. 2, 2002, 116 Stat. 2616; Pub. L. 107–347, title II, §210(h)(2)(B)(i), (ii), Dec. 17, 2002, 116 Stat. 2938.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11502 .....	40:1472.	Pub. L. 104–106, div. E, title LIII, §5302, Feb. 10, 1996, 110 Stat. 691.

AMENDMENTS

2002—Pub. L. 107–314 and Pub. L. 107–347 amended section identically, substituting “the pilot” for “a pilot” in subsecs. (a) and (b).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–347 effective 120 days after Dec. 17, 2002, see section 402(a) of Pub. L. 107–347, set out as an Effective Date note under section 3601 of Title 44, Public Printing and Documents.

§ 11503. Report

(a) REQUIREMENT.—Not later than 180 days after the completion of the pilot program under this chapter, the Administrator for Federal Procurement Policy shall—

- (1) submit to the Director of the Office of Management and Budget a report on the results and findings under the program; and
- (2) provide a copy of the report to Congress.

(b) CONTENT.—The report shall include—

- (1) a detailed description of the results of the program, as measured by the criteria established for the program; and
- (2) a discussion of legislation that the Administrator recommends, or changes in regulations that the Administrator considers necessary, to improve overall information resources management in the Federal Government.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1246; Pub. L. 107–314, div. A, title VIII, §825(b)(2)(B)(iii), Dec. 2, 2002, 116 Stat. 2616; Pub. L. 107–347, title II, §210(h)(2)(B)(iii), Dec. 17, 2002, 116 Stat. 2938.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11503 .....	40:1473.	Pub. L. 104–106, div. E, title LIII, §5303, Feb. 10, 1996, 110 Stat. 692.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–314 and Pub. L. 107–347 amended subsec. (a) identically, substituting “the pilot” for “a pilot” in introductory provisions.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–347 effective 120 days after Dec. 17, 2002, see section 402(a) of Pub. L. 107–347, set out as an Effective Date note under section 3601 of Title 44, Public Printing and Documents.

§ 11504. Recommended legislation

If the Director of the Office of Management and Budget determines that the results and findings under the pilot program under this chapter indicate that legislation is necessary or desirable to improve the process for acquisition of information technology, the Director shall transmit the Director’s recommendations for that legislation to Congress.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1246; Pub. L. 107–314, div. A, title VIII, §825(b)(2)(B)(iv), Dec. 2, 2002, 116 Stat. 2616; Pub. L. 107–347, title II, §210(h)(2)(B)(iv), Dec. 17, 2002, 116 Stat. 2938.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11504 .....	40:1474.	Pub. L. 104–106, div. E, title LIII, §5304, Feb. 10, 1996, 110 Stat. 692.

AMENDMENTS

2002—Pub. L. 107–314 and Pub. L. 107–347 amended section identically, substituting “the pilot” for “a pilot”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–347 effective 120 days after Dec. 17, 2002, see section 402(a) of Pub. L. 107–347, set out as an Effective Date note under section 3601 of Title 44, Public Printing and Documents.

§ 11505. Rule of construction

This chapter does not authorize the appropriation or obligation of amounts for the pilot program authorized under this chapter.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1246; Pub. L. 107–314, div. A, title VIII, §825(b)(2)(C), Dec. 2, 2002, 116 Stat. 2616; Pub. L. 107–347, title II, §210(h)(2)(C), Dec. 17, 2002, 116 Stat. 2938.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11505 .....	40:1475.	Pub. L. 104–106, div. E, title LIII, §5305, Feb. 10, 1996, 110 Stat. 692.

AMENDMENTS

2002—Pub. L. 107–314 and Pub. L. 107–347 amended section identically, substituting “program” for “programs”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–347 effective 120 days after Dec. 17, 2002, see section 402(a) of Pub. L. 107–347, set out as an Effective Date note under section 3601 of Title 44, Public Printing and Documents.

SUBCHAPTER II—SPECIFIC PILOT PROGRAM

AMENDMENTS

2002—Pub. L. 107–314, div. A, title VIII, §825(b)(3)(B), Dec. 2, 2002, 116 Stat. 2616, and Pub. L. 107–347, title II, §210(h)(3)(C), Dec. 17, 2002, 116 Stat. 2938, amended subchapter heading identically, substituting “PROGRAM” for “PROGRAMS”.

[§ 11521. Repealed. Pub. L. 107-347, title II, § 210(h)(1), Dec. 17, 2002, 116 Stat. 2938]

Section, Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1247, related to the share-in-savings pilot program.

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Dec. 17, 2002, see section 402(a) of Pub. L. 107-347, set out as an Effective Date note under section 3601 of Title 44, Public Printing and Documents.

[§ 11522. Repealed. Pub. L. 107-314, div. A, title VIII, § 825(b)(1), Dec. 2, 2002, 116 Stat. 2615]

Section, Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1247, related to a pilot program to test the feasibility of using solutions-based contracting for the acquisition of information technology. Subsequent to repeal, Pub. L. 107-347, title II, § 210(h)(3)(A), Dec. 17, 2002, 116 Stat. 2938, directed that this section be renumbered section 11521 of this title.

CHAPTER 117—ADDITIONAL INFORMATION RESOURCES MANAGEMENT MATTERS

- Sec. 11701. Identification of excess and surplus computer equipment. 11702. Index of certain information in information systems included in directory established under section 4101 of title 44. 11703. Procurement procedures. [11704. Renumbered.]

AMENDMENTS

2002—Pub. L. 107-314, div. A, title VIII, § 825(c)(3), Dec. 2, 2002, 116 Stat. 2616, struck out item 11701 “On-line multiple award schedule contracting” and redesignated items 11702 to 11704 as 11701 to 11703, respectively.

§ 11701. Identification of excess and surplus computer equipment

In accordance with chapter 5 of this title, the head of an executive agency shall maintain an inventory of all computer equipment under the control of that official that is excess or surplus property.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1252, § 11702; renumbered § 11701, Pub. L. 107-314, div. A, title VIII, § 825(c)(2), Dec. 2, 2002, 116 Stat. 2616.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 11702: 40:1502, Pub. L. 104-106, div. E, title LIV, § 5402, Feb. 10, 1996, 110 Stat. 697.

The words “Not later than six months after February 10, 1996, the head of the an executive agency shall inventory all computer equipment under the control of that official. After completion of the inventory” are omitted as executed. The words “all computer equipment” are substituted for “any such equipment” for clarity.

PRIOR PROVISIONS

A prior section 11701, Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1250, related to on-line multiple award schedule contracting, prior to repeal by Pub. L. 107-314, div. A, title VIII, § 825(c)(1), Dec. 2, 2002, 116 Stat. 2616.

AMENDMENTS

2002—Pub. L. 107-314 renumbered section 11702 of this title as this section.

§ 11702. Index of certain information in information systems included in directory established under section 4101 of title 44

If in designing an information technology system pursuant to this subtitle, the head of an executive agency determines that a purpose of the system is to disseminate information to the public, then the head of that executive agency shall reasonably ensure that an index of information disseminated by the system is included in the directory created pursuant to section 4101 of title 44. This section does not authorize the dissemination of information to the public unless otherwise authorized.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1252, § 11703; renumbered § 11702, Pub. L. 107-314, div. A, title VIII, § 825(c)(2), Dec. 2, 2002, 116 Stat. 2616.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 11703: 40:1503, Pub. L. 104-106, div. E, title LIV, § 5403, Feb. 10, 1996, 110 Stat. 698.

The words “Notwithstanding any other provision of this chapter” are omitted as unnecessary.

PRIOR PROVISIONS

A prior section 11702 was renumbered section 11701 of this title.

AMENDMENTS

2002—Pub. L. 107-314 renumbered section 11703 of this title as this section.

§ 11703. Procurement procedures

To the maximum extent practicable, the Federal Acquisition Regulatory Council shall ensure that the process for acquisition of information technology is a simplified, clear, and understandable process that specifically addresses the management of risk, incremental acquisitions, and the need to incorporate commercial information technology in a timely manner.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1252, § 11704; renumbered § 11703, Pub. L. 107-314, div. A, title VIII, § 825(c)(2), Dec. 2, 2002, 116 Stat. 2616.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 11704: 40:1461, Pub. L. 104-106, div. E, title LII, § 5201, Feb. 10, 1996, 110 Stat. 689.

PRIOR PROVISIONS

A prior section 11703 was renumbered section 11702 of this title.

AMENDMENTS

2002—Pub. L. 107-314 renumbered section 11704 of this title as this section.

[§ 11704. Renumbered § 11703]

SUBTITLE IV—APPALACHIAN REGIONAL DEVELOPMENT

Chapter 141. GENERAL PROVISIONS ..... 14101