

gress, Jan. 9, 2019. Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

SUBCHAPTER III—OTHER RESPONSIBILITIES

§ 11331. Responsibilities for Federal information systems standards

(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 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 of Commerce 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) IN GENERAL.—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) REQUIREMENT.—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 of Commerce 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 Federal 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 of Commerce; and

(2) are otherwise consistent with policies and guidelines issued under section 3553 of title 44.

(f) DECISIONS ON PROMULGATION OF STANDARDS.—The decision by the Secretary of Commerce 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 3552(b)(3) of title 44.

(3) NATIONAL SECURITY SYSTEM.—The term “national security system” has the meaning given that term in section 3552(b)(6) of title 44.

(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; Pub. L. 117-167, div. B, title II, §10246(f), Aug. 9, 2022, 136 Stat. 1492.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 11331, 40:1441, Pub. L. 104-106, div. E, title LI, §513(a)-(d), Feb. 10, 1996, 110 Stat. 687.

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-167 amended text generally. Prior to amendment, text related to the definition of “information security”, in subsec. (a); the requirement that the Director of the Office of Management and Budget promulgate information security standards, in subsec. (b); the application of more stringent standards by heads of agencies, in subsec. (c); and requirements regarding decisions by the Director, in subsec. (d).

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.”

## Statutory Notes and Related Subsidiaries

### 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.

Statutory Notes and Related Subsidiaries

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.]

Editorial Notes

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

Editorial Notes

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 title¹ 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

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 11501, 40:1471, Pub. L. 104-106, div. E, title LIII, § 5301, Feb. 10, 1996, 110 Stat. 691.

Editorial Notes

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.

¹ See References in Text note below.