(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.

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) of title 44.

(b) REQUIREMENT TO PRESCRIBE STANDARDS.—

(1) IN GENERAL.—

(A) REQUIREMENT.—Except as provided under paragraph (2), the Director of the Of-

fice 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) 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 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.

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 an Effective Date note under section 3541 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 note under section 3541 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''.