SUBTITLE III—INFORMATION TECHNOLOGY MANAGEMENT

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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.
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§ 11101. Definitions

In this subtitle, the following definitions apply:

(1) COMMERCIAL ITEM.—The term ''commercial item'' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 4 of the Act (41 U.S.C. 403).

(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.)

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

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 recordkeeping 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 require the disclosure of intelligence sources or methods or to otherwise impair the authority of those agencies listed at 50 U.S.[C.] 401a(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).	

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.

SUBCHAPTER III—OTHER RESPONSIBILITIES

11331. Responsibilities for Federal information systems standards.
[11332. Repealed.]

AMENDMENTS

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.

§ 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) 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.

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

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

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

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

(g) ASSESSMENT OF OTHER MODELS FOR MANAGING INFORMATION TECHNOLOGY.—On a continuing basis, the Director shall assess the experiences of executive agencies, state and local governments, international organizations, and the pri-

vate 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.)

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.

AMENDMENTS

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''.

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 (41 U.S.C. 405 and 421) 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 (41 U.S.C. 403(1)).

''(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 Fed-

eral 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 private 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 expressed 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

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
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 information 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

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
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

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
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.

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''.

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[1] 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.

[1] See References in Text note below.

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 executive 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

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
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

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
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

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
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

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CHAPTER 141—GENERAL PROVISIONS

Sec.
14101. Findings and purposes.
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