

“one Justice of the Supreme Court, appointed by the Chief Justice of the United States;”.

Subsec. (e)(2). Pub. L. 94-261, §1(a)(2), substituted “section 5703 of title 5, United States Code” for “section 5703(b) of title 5, United States Code”.

TERMINATION OF COMMISSION

For provision that Commission is to cease to exist sixty days after transmitting its report, see section 3323 of this title.

§ 3319. Director and staff; experts and consultants

(a) The Commission shall appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316).

(b) The Commission may appoint and fix the pay of such additional personnel as it deems necessary.

(c)(1) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332).

(2) In procuring services under this subsection, the Commission shall seek to obtain the advice and assistance of constitutional scholars and members of the historical, archival, and journalistic professions.

(d) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under sections 3315 through 3324 of this title.

(Added Pub. L. 93-526, title II, §202, Dec. 19, 1974, 88 Stat. 1701.)

TERMINATION OF COMMISSION

For provision that Commission is to cease to exist sixty days after transmitting its report, see section 3323 of this title.

§ 3320. Powers of Commission

(a) The Commission may, for the purpose of carrying out its duties under sections 3315 through 3324 of this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem desirable.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out its duties under section 3315 through section 3324 of this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(Added Pub. L. 93-526, title II, §202, Dec. 19, 1974, 88 Stat. 1701.)

TERMINATION OF COMMISSION

For provision that Commission is to cease to exist sixty days after transmitting its report, see section 3323 of this title.

§ 3321. Support services

(a) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services and assistance as the Commission may request.

(b) The Archivist of the United States shall provide to the Commission on a reimbursable basis such technical and expert advice, consultation, and support assistance as the Commission may request.

(Added Pub. L. 93-526, title II, §202, Dec. 19, 1974, 88 Stat. 1701.)

TERMINATION OF COMMISSION

For provision that Commission is to cease to exist sixty days after transmitting its report, see section 3323 of this title.

§ 3322. Report

The Commission shall transmit to the President and to each House of the Congress a report not later than March 31, 1977. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation, administrative actions, and other actions, as it deems appropriate.

(Added Pub. L. 93-526, title II, §202, Dec. 19, 1974, 88 Stat. 1701; amended Pub. L. 94-261, §1(b), Apr. 11, 1976, 90 Stat. 326.)

AMENDMENTS

1976—Pub. L. 94-261 substituted “March 31, 1977” for “March 31, 1976”.

TERMINATION OF COMMISSION

For provision that Commission is to cease to exist sixty days after transmitting its report, see section 3323 of this title.

§ 3323. Termination

The Commission shall cease to exist sixty days after transmitting its report under section 3322 of this title.

(Added Pub. L. 93-526, title II, §202, Dec. 19, 1974, 88 Stat. 1701.)

§ 3324. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out section 3315 through section 3324 of this title.

(Added Pub. L. 93-526, title II, §202, Dec. 19, 1974, 88 Stat. 1701.)

CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

SUBCHAPTER I—FEDERAL INFORMATION POLICY

Sec.	Purposes.
3501.	Definitions.
3502.	Office of Information and Regulatory Affairs.
3503.	Authority and functions of Director.
3504.	Assignment of tasks and deadlines.
3505.	Federal agency responsibilities.
3506.	Public information collection activities; submission to Director; approval and delegation.
3507.	Determination of necessity for information; hearing.
3508.	

- Sec.
 3509. Designation of central collection agency.
 3510. Cooperation of agencies in making information available.
 3511. Establishment and operation of Government Information Locator Service.
 3512. Public protection.
 3513. Director review of agency activities; reporting; agency response.
 3514. Responsiveness to Congress.
 3515. Administrative powers.
 3516. Rules and regulations.
 3517. Consultation with other agencies and the public.
 3518. Effect on existing laws and regulations.
 3519. Access to information.
 3520. Establishment of task force on information collection and dissemination.
 3521. Authorization of appropriations.

SUBCHAPTER II—INFORMATION SECURITY

3531. Purposes.
 3532. Definitions.
 3533. Authority and functions of the Director.
 3534. Federal agency responsibilities.
 3535. Annual independent evaluation.
 3536. National security systems.
 3537. Authorization of appropriations.
 3538. Effect on existing law.

SUBCHAPTER III—INFORMATION SECURITY

3541. Purposes.
 3542. Definitions.
 3543. Authority and functions of the Director.
 3544. Federal agency responsibilities.
 3545. Annual independent evaluation.
 3546. Federal information security incident center.
 3547. National security systems.
 3548. Authorization of appropriations.
 3549. Effect on existing law.

AMENDMENTS

2002—Pub. L. 107-347, title III, § 301(b)(2), Dec. 17, 2002, 116 Stat. 2955, added heading for subchapter III and items 3541 to 3549.

Pub. L. 107-296, title X, § 1001(b)(2), Nov. 25, 2002, 116 Stat. 2267, reenacted items 3531 to 3535 without change, substituted “National security systems” for “Expiration” in item 3536, and added items 3537 and 3538.

Pub. L. 107-198, § 3(b), June 28, 2002, 116 Stat. 732, added item 3520 and renumbered former item 3520 as 3521.

2000—Pub. L. 106-398, § 1 [[div. A], title X, § 1064(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275, inserted subchapters I and II headings and added items 3531 to 3536.

1995—Pub. L. 104-13, § 2, May 22, 1995, 109 Stat. 163, amended chapter heading and analysis generally.

1980—Pub. L. 96-511, § 2(a), Dec. 11, 1980, 94 Stat. 2812, substituted in chapter heading “INFORMATION POLICY” for “REPORTING SERVICES”, and amended analysis generally.

SUBCHAPTER I—FEDERAL INFORMATION POLICY

AMENDMENTS

2000—Pub. L. 106-398, § 1 [[div. A], title X, § 1064(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275, inserted subchapter heading.

§ 3501. Purposes

The purposes of this subchapter are to—

- (1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

(3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to—

(A) privacy and confidentiality, including section 552a of title 5;

(B) security of information, including section 11332 of title 40¹; and

(C) access to information, including section 552 of title 5;

(9) ensure the integrity, quality, and utility of the Federal statistical system;

(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this subchapter.

(Added Pub. L. 104-13, § 2, May 22, 1995, 109 Stat. 163; amended Pub. L. 106-398, § 1 [[div. A], title X, § 1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275; Pub. L. 107-217, § 3(l)(3), Aug. 21, 2002, 116 Stat. 1301.)

REFERENCES IN TEXT

Section 11332 of title 40, referred to in par. (8)(B), was repealed by Pub. L. 107-296, title X, § 1005(a)(1), Nov. 25,

¹ See References in Text note below.

2002, 116 Stat. 2272, and Pub. L. 107-347, title III, §305(a), Dec. 17, 2002, 116 Stat. 2960.

PRIOR PROVISIONS

A prior section 3501, added Pub. L. 96-511, §2(a), Dec. 11, 1980, 94 Stat. 2812; amended Pub. L. 99-500, §101(m) [title VIII, §811], Oct. 18, 1986, 100 Stat. 1783-308, 1783-335, and Pub. L. 99-591, §101(m) [title VIII, §811], Oct. 30, 1986, 100 Stat. 3341-308, 3341-335, related to purposes of this chapter prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3501, Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1302, related to information for Federal agencies, prior to the general amendment of this chapter by Pub. L. 96-511.

AMENDMENTS

2002—Par. (8)(B). Pub. L. 107-217 substituted “section 11332 of title 40” for “the Computer Security Act of 1987 (Public Law 100-235)”.

2000—Pub. L. 106-398 substituted “subchapter” for “chapter” in introductory provisions and in par. (11).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [(div. A), title X, §1065] of Pub. L. 106-398, set out as an Effective Date note under section 3531 of this title.

EFFECTIVE DATE

Section 4 of Pub. L. 104-13 provided that:

“(a) IN GENERAL.—Except as otherwise provided in this section, this Act [enacting this chapter, amending section 91 of Title 13, Census, and enacting provisions set out as a note under section 101 of this title] and the amendments made by this Act shall take effect on October 1, 1995.

“(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3520 [now 3521] of title 44, United States Code, as amended by this Act, shall take effect on the date of enactment of this Act [May 22, 1995].

“(c) DELAYED APPLICATION.—In the case of a collection of information for which there is in effect on September 30, 1995, a control number issued by the Office of Management and Budget under chapter 35 of title 44, United States Code—

“(1) the amendments made by this Act [enacting this chapter and amending section 91 of Title 13] shall apply to the collection of information beginning on the earlier of—

“(A) the first renewal or modification of that collection of information after September 30, 1995; or

“(B) the expiration of its control number after September 30, 1995.

“(2) prior to such renewal, modification, or expiration, the collection of information shall be subject to chapter 35 of title 44, United States Code, as in effect on September 30, 1995.”

SHORT TITLE

This chapter is popularly known as the “Paperwork Reduction Act”.

FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

Pub. L. 107-347, title II, Dec. 17, 2002, 116 Stat. 2910, as amended by Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 108-281, §1, Aug. 2, 2004, 118 Stat. 889, provided that:

“SEC. 201. DEFINITIONS.

“Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

“SEC. 202. FEDERAL AGENCY RESPONSIBILITIES.

“(a) IN GENERAL.—The head of each agency shall be responsible for—

“(1) complying with the requirements of this Act [see Tables for classification] (including the amend-

ments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

“(2) ensuring that the information resource management policies and guidance established under this Act by the Director, and the related information technology standards promulgated by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

“(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 204.

“(b) PERFORMANCE INTEGRATION.—

“(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

“(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

“(3) Areas of performance measurement that agencies should consider include—

“(A) customer service;

“(B) agency productivity; and

“(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

“(4) Agencies shall link their performance goals, as appropriate, to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

“(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

“(c) AVOIDING DIMINISHED ACCESS.—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

“(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

“(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

“(d) ACCESSIBILITY TO PEOPLE WITH DISABILITIES.—All actions taken by Federal departments and agencies under this Act [see Tables for classification] shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

“(e) SPONSORED ACTIVITIES.—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

“(f) CHIEF INFORMATION OFFICERS.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

“(1) participating in the functions of the Chief Information Officers Council; and

“(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

“(g) E-GOVERNMENT STATUS REPORT.—

“(1) IN GENERAL.—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

“(A) the status of the implementation by the agency of electronic government initiatives;

“(B) compliance by the agency with this Act [see Tables for classification]; and

“(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

“(2) SUBMISSION.—Each agency shall submit an annual report under this subsection—

“(A) to the Director at such time and in such manner as the Director requires;

“(B) consistent with related reporting requirements; and

“(C) which addresses any section in this title relevant to that agency.

“(h) USE OF TECHNOLOGY.—Nothing in this Act [see Tables for classification] supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

“(i) NATIONAL SECURITY SYSTEMS.—

“(1) INAPPLICABILITY.—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 11103 of title 40, United States Code.

“(2) APPLICABILITY.—This section, section 203, and section 214 do apply to national security systems to the extent practicable and consistent with law.

“SEC. 203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

“(a) PURPOSE.—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

“(b) ELECTRONIC SIGNATURES.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105-277; 112 Stat. 2681-749 through 2681-751) [44 U.S.C. 3504 note], each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

“(c) AUTHORITY FOR ELECTRONIC SIGNATURES.—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, and for other activities consistent with this section, \$8,000,000 or such sums as are necessary in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

“SEC. 204. FEDERAL INTERNET PORTAL.

“(a) IN GENERAL.—

“(1) PUBLIC ACCESS.—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

“(2) CRITERIA.—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

“(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

“(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

“(C) Access to Federal Government information and services consolidated, as appropriate, with

Internet-based information and services provided by State, local, and tribal governments.

“(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration \$15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

“SEC. 205. FEDERAL COURTS.

“(a) INDIVIDUAL COURT WEBSITES.—The Chief Justice of the United States, the chief judge of each circuit and district and of the Court of Federal Claims, and the chief bankruptcy judge of each district shall cause to be established and maintained, for the court of which the judge is chief justice or judge, a website that contains the following information or links to websites with the following information:

“(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

“(2) Local rules and standing or general orders of the court.

“(3) Individual rules, if in existence, of each justice or judge in that court.

“(4) Access to docket information for each case.

“(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

“(6) Access to documents filed with the courthouse in electronic form, to the extent provided under subsection (c).

“(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

“(b) MAINTENANCE OF DATA ONLINE.—

“(1) UPDATE OF INFORMATION.—The information and rules on each website shall be updated regularly and kept reasonably current.

“(2) CLOSED CASES.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section [see Effective Date note set out under section 3601 of this title] shall remain available online.

“(c) ELECTRONIC FILINGS.—

“(1) IN GENERAL.—Except as provided under paragraph (2) or in the rules prescribed under paragraph (3), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

“(2) EXCEPTIONS.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

“(3) PRIVACY AND SECURITY CONCERNS.—

“(A)(i) The Supreme Court shall prescribe rules, in accordance with sections 2072 and 2075 of title 28, United States Code, to protect privacy and security concerns relating to electronic filing of documents and the public availability under this subsection of documents filed electronically or converted to electronic form.

“(ii) Such rules shall provide to the extent practicable for uniform treatment of privacy and security issues throughout the Federal courts.

“(iii) Such rules shall take into consideration best practices in Federal and State courts to protect private information or otherwise maintain necessary information security.

“(iv) Except as provided in clause (v), to the extent that such rules provide for the redaction of certain categories of information in order to protect privacy and security concerns, such rules shall provide that a party that wishes to file an otherwise proper document containing such protected information may file an unredacted document under seal, which shall be retained by the court as part of the record, and which, at the discretion of the court and subject to any applicable rules issued in accordance with chapter 131 of title 28, United States Code, shall be either in lieu of, or in addition to, a redacted copy in the public file.

“(v) Such rules may require the use of appropriate redacted identifiers in lieu of protected information described in clause (iv) in any pleading, motion, or other paper filed with the court (except with respect to a paper that is an exhibit or other evidentiary matter, or with respect to a reference list described in this subclause), or in any written discovery response—

“(I) by authorizing the filing under seal, and permitting the amendment as of right under seal, of a reference list that—

“(aa) identifies each item of unredacted protected information that the attorney or, if there is no attorney, the party, certifies is relevant to the case; and

“(bb) specifies an appropriate redacted identifier that uniquely corresponds to each item of unredacted protected information listed; and

“(II) by providing that all references in the case to the redacted identifiers in such reference list shall be construed, without more, to refer to the corresponding unredacted item of protected information.

“(B)(i) Subject to clause (ii), the Judicial Conference of the United States may issue interim rules, and interpretive statements relating to the application of such rules, which conform to the requirements of this paragraph and which shall cease to have effect upon the effective date of the rules required under subparagraph (A).

“(ii) Pending issuance of the rules required under subparagraph (A), any rule or order of any court, or of the Judicial Conference, providing for the redaction of certain categories of information in order to protect privacy and security concerns arising from electronic filing or electronic conversion shall comply with, and be construed in conformity with, subparagraph (A)(iv).

“(C) Not later than 1 year after the rules prescribed under subparagraph (A) take effect, and every 2 years thereafter, the Judicial Conference shall submit to Congress a report on the adequacy of those rules to protect privacy and security.

“(d) **DOCKETS WITH LINKS TO DOCUMENTS.**—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

“(e) **COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.**—[Amended section 303(a) of Pub. L. 102-140, set out as a note under section 1913 of Title 28, Judiciary and Judicial Procedure.]

“(f) **TIME REQUIREMENTS.**—Not later than 2 years after the effective date of this title [see Effective Date note set out under section 3601 of this title], the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

“(g) **DEFERRAL.**—

“(1) **IN GENERAL.**—

“(A) **ELECTION.**—

“(i) **NOTIFICATION.**—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section

with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

“(ii) **CONTENTS.**—A notification submitted under this subparagraph shall state—

“(I) the reasons for the deferral; and

“(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

“(B) **EXCEPTION.**—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

“(2) **REPORT.**—Not later than 1 year after the effective date of this title [see Effective Date note set out under section 3601 of this title], and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform [now Oversight and Government Reform] and the Judiciary of the House of Representatives that—

“(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

“(B) summarizes and evaluates all notifications.

“SEC. 206. REGULATORY AGENCIES.

“(a) **PURPOSES.**—The purposes of this section are to—

“(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

“(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the ‘Administrative Procedures Act’).

“(b) **INFORMATION PROVIDED BY AGENCIES ONLINE.**—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under paragraphs (1) and (2) of section 552(a) of title 5, United States Code.

“(c) **SUBMISSIONS BY ELECTRONIC MEANS.**—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

“(d) **ELECTRONIC DOCKETING.**—

“(1) **IN GENERAL.**—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

“(2) **INFORMATION AVAILABLE.**—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

“(A) all submissions under section 553(c) of title 5, United States Code; and

“(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

“(e) **TIME LIMITATION.**—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3606 of title 44 (as added by this Act).

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

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

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

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

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

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

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

“(c) INTERAGENCY COMMITTEE.—

“(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this title [Dec. 17, 2002], the Director shall establish the Interagency Committee on Government Information.

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

“(A) shall include representatives from—

“(i) the National Archives and Records Administration;

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

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

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

“(3) FUNCTIONS.—The Committee shall—

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

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

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

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

“(d) CATEGORIZING OF INFORMATION.—

“(1) COMMITTEE FUNCTIONS.—Not later than 2 years after the date of enactment of this Act [Dec. 17, 2002], the Committee shall submit recommendations to the Director on—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—

“(1) COMMITTEE FUNCTIONS.—Not later than 2 years after the date of enactment of this Act [Dec. 17, 2002], the Committee shall submit recommendations to the Director and the Archivist of the United States on—

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

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

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

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

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

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

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

“(f) AGENCY WEBSITES.—

“(1) STANDARDS FOR AGENCY WEBSITES.—Not later than 2 years after the effective date of this title [see Effective Date note set out under section 3601 of this title], the Director shall promulgate guidance for agency websites that includes—

“(A) requirements that websites include direct links to—

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

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

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

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

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

“(i) speed of retrieval of search results;

“(ii) the relevance of the results;

“(iii) tools to aggregate and disaggregate data; and

“(iv) security protocols to protect information.

“(2) AGENCY REQUIREMENTS.—(A) Not later than 2 years after the date of enactment of this Act [Dec. 17, 2002], each agency shall—

“(i) consult with the Committee and solicit public comment;

“(ii) establish a process for determining which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

“(iii) develop priorities and schedules for making Government information available and accessible;

“(iv) make such final determinations, priorities, and schedules available for public comment;

“(v) post such final determinations, priorities, and schedules on the Internet; and

“(vi) submit such final determinations, priorities, and schedules to the Director, in the report established under section 202(g).

“(B) Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

“(3) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

“(A) ESTABLISHMENT.—Not later than 2 years after the effective date of this title [see Effective Date note set out under section 3601 of this title], the Director and each agency shall—

“(i) develop and establish a public domain directory of public Federal Government websites; and

“(ii) post the directory on the Internet with a link to the integrated Internet-based system established under section 204.

“(B) DEVELOPMENT.—With the assistance of each agency, the Director shall—

“(i) direct the development of the directory through a collaborative effort, including input from—

“(I) agency librarians;

“(II) information technology managers;

“(III) program managers;

“(IV) records managers;

“(V) Federal depository librarians; and

“(VI) other interested parties; and

“(ii) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

“(C) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

“(i) update the directory as necessary, but not less than every 6 months; and

“(ii) solicit interested persons for improvements to the directory.

“(g) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(3) COMMITTEE FUNCTIONS.—Not later than 18 months after the date of enactment of this Act [Dec. 17, 2002], working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

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

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

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

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

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

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

“SEC. 208. PRIVACY PROVISIONS.

“(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

“(b) PRIVACY IMPACT ASSESSMENTS.—

“(1) RESPONSIBILITIES OF AGENCIES.—

“(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) before—

“(i) developing or procuring information technology that collects, maintains, or disseminates information that is in an identifiable form; or

“(ii) initiating a new collection of information that—

“(I) will be collected, maintained, or disseminated using information technology; and

“(II) includes any information in an identifiable form permitting the physical or online contacting of a specific individual, if identical questions have been posed to, or identical reporting requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the Federal Government.

“(B) AGENCY ACTIVITIES.—To the extent required under subparagraph (A), each agency shall—

“(i) conduct a privacy impact assessment;

“(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

“(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

“(C) SENSITIVE INFORMATION.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

“(D) COPY TO DIRECTOR.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

“(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—

“(A) IN GENERAL.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

“(B) GUIDANCE.—The guidance shall—

“(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of information that is in an identifiable form in that system, and the risk of harm from unauthorized release of that information; and

“(ii) require that a privacy impact assessment address—

“(I) what information is to be collected;

“(II) why the information is being collected;

“(III) the intended use of the agency of the information;

“(IV) with whom the information will be shared;

“(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

“(VI) how the information will be secured; and

“(VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the ‘Privacy Act’).

“(3) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

“(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

“(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

“(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of information that is in an identifiable form as the Director determines appropriate.

“(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

“(1) PRIVACY POLICIES ON WEBSITES.—

“(A) GUIDELINES FOR NOTICES.—The Director shall develop guidance for privacy notices on agency websites used by the public.

“(B) CONTENTS.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

“(i) what information is to be collected;

“(ii) why the information is being collected;

“(iii) the intended use of the agency of the information;

“(iv) with whom the information will be shared;

“(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

“(vi) how the information will be secured; and

“(vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the ‘Privacy Act’), and other laws relevant to the protection of the privacy of an individual.

“(2) PRIVACY POLICIES IN MACHINE-READABLE FORMATS.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

“(d) DEFINITION.—In this section, the term ‘identifiable form’ means any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.

“SEC. 209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

“(a) PURPOSE.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

“(b) WORKFORCE DEVELOPMENT.—

“(1) IN GENERAL.—In consultation with the Director of the Office of Management and Budget, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

“(A) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

“(B) identify where current information technology and information resource management training do not satisfy the personnel needs described in subparagraph (A);

“(C) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

“(D) assess the training of Federal employees in information technology disciplines in order to ensure that the information resource management needs of the Federal Government are addressed.

“(2) INFORMATION TECHNOLOGY TRAINING PROGRAMS.—The head of each Executive agency, after consultation with the Director of the Office of Personnel Management, the Chief Information Officers Council, and the Administrator of General Services, shall establish and operate information technology training programs consistent with the requirements of this subsection. Such programs shall—

“(A) have curricula covering a broad range of information technology disciplines corresponding to the specific information technology and information resource management needs of the agency involved;

“(B) be developed and applied according to rigorous standards; and

“(C) be designed to maximize efficiency, through the use of self-paced courses, online courses, on-the-job training, and the use of remote instructors, wherever such features can be applied without reducing the effectiveness of the training or negatively impacting academic standards.

“(3) GOVERNMENTWIDE POLICIES AND EVALUATION.—The Director of the Office of Personnel Management, in coordination with the Director of the Office of Management and Budget, shall issue policies to promote the development of performance standards for

training and uniform implementation of this subsection by Executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Director of the Office of Personnel Management shall evaluate the implementation of the provisions of this subsection by Executive agencies.

“(4) CHIEF INFORMATION OFFICER AUTHORITIES AND RESPONSIBILITIES.—Subject to the authority, direction, and control of the head of an Executive agency, the chief information officer of such agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementation of this subsection. The chief information officer shall ensure that the policies of the agency head established in accordance with this subsection are implemented throughout the agency.

“(5) INFORMATION TECHNOLOGY TRAINING REPORTING.—The Director of the Office of Management and Budget shall ensure that the heads of Executive agencies collect and maintain standardized information on the information technology and information resources management workforce related to the implementation of this subsection.

“(6) AUTHORITY TO DETAIL EMPLOYEES TO NON-FEDERAL EMPLOYERS.—In carrying out the preceding provisions of this subsection, the Director of the Office of Personnel Management may provide for a program under which a Federal employee may be detailed to a non-Federal employer. The Director of the Office of Personnel Management shall prescribe regulations for such program, including the conditions for service and duties as the Director considers necessary.

“(7) COORDINATION PROVISION.—An assignment described in section 3703 of title 5, United States Code, may not be made unless a program under paragraph (6) is established, and the assignment is made in accordance with the requirements of such program.

“(8) EMPLOYEE PARTICIPATION.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in occupational information technology training.

“(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this subsection, \$15,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

“(10) EXECUTIVE AGENCY DEFINED.—For purposes of this subsection, the term ‘Executive agency’ has the meaning given the term ‘agency’ under section 3701 of title 5, United States Code (as added by subsection (c)).

“(c) INFORMATION TECHNOLOGY EXCHANGE PROGRAM.—“(1) IN GENERAL.—[Enacted chapter 37 of Title 5, Government Organization and Employees.]

“(2) REPORT.—Not later than 4 years after the date of the enactment of this Act [Dec. 17, 2002], the Government Accountability Office shall prepare and submit to the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate a report on the operation of chapter 37 of title 5, United States Code (as added by this subsection). Such report shall include—

“(A) an evaluation of the effectiveness of the program established by such chapter; and

“(B) a recommendation as to whether such program should be continued (with or without modification) or allowed to lapse.

“(3) CLERICAL AMENDMENT.—[Amended analysis for part III of Title 5.]

“(d) ETHICS PROVISIONS.—

“(1) ONE-YEAR RESTRICTION ON CERTAIN COMMUNICATIONS.—[Amended section 207 of Title 18, Crimes and Criminal Procedure.]

“(2) DISCLOSURE OF CONFIDENTIAL INFORMATION.—[Amended section 1905 of Title 18.]

“(3) CONTRACT ADVICE.—[Amended section 207 of Title 18.]

“(4) RESTRICTION ON DISCLOSURE OF PROCUREMENT INFORMATION.—[Amended section 423 of Title 41, Public Contracts.]

“(e) REPORT ON EXISTING EXCHANGE PROGRAMS.—

“(1) EXCHANGE PROGRAM DEFINED.—For purposes of this subsection, the term ‘exchange program’ means an executive exchange program, the program under subchapter VI of chapter 33 of title 5, United States Code, and any other program which allows for—

“(A) the assignment of employees of the Federal Government to non-Federal employers;

“(B) the assignment of employees of non-Federal employers to the Federal Government; or

“(C) both.

“(2) REPORTING REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act [Dec. 17, 2002], the Office of Personnel Management shall prepare and submit to the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate a report identifying all existing exchange programs.

“(3) SPECIFIC INFORMATION.—The report shall, for each such program, include—

“(A) a brief description of the program, including its size, eligibility requirements, and terms or conditions for participation;

“(B) specific citation to the law or other authority under which the program is established;

“(C) the names of persons to contact for more information, and how they may be reached; and

“(D) any other information which the Office considers appropriate.

“(f) REPORT ON THE ESTABLISHMENT OF A GOVERNMENTWIDE INFORMATION TECHNOLOGY TRAINING PROGRAM.—

“(1) IN GENERAL.—Not later January 1, 2003, the Office of Personnel Management, in consultation with the Chief Information Officers Council and the Administrator of General Services, shall review and submit to the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate a written report on the following:

“(A) The adequacy of any existing information technology training programs available to Federal employees on a Governmentwide basis.

“(B)(i) If one or more such programs already exist, recommendations as to how they might be improved.

“(ii) If no such program yet exists, recommendations as to how such a program might be designed and established.

“(C) With respect to any recommendations under subparagraph (B), how the program under chapter 37 of title 5, United States Code, might be used to help carry them out.

“(2) COST ESTIMATE.—The report shall, for any recommended program (or improvements) under paragraph (1)(B), include the estimated costs associated with the implementation and operation of such program as so established (or estimated difference in costs of any such program as so improved).

“(g) TECHNICAL AND CONFORMING AMENDMENTS.—

“(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—[Amended sections 3111, 4108, and 7353 of Title 5.]

“(2) AMENDMENT TO TITLE 18, UNITED STATES CODE.—[Amended section 209 of Title 18.]

“(3) OTHER AMENDMENTS.—[Amended section 125(c)(1) of Pub. L. 100-238, set out as a note under section 8432 of Title 5.]

“SEC. 210. SHARE-IN-SAVINGS INITIATIVES.

“(a) DEFENSE CONTRACTS.—[Enacted section 2332 of Title 10, Armed Forces.]

“(b) OTHER CONTRACTS.—[Enacted section 266a of Title 41.]

“(c) DEVELOPMENT OF INCENTIVES.—The Director of the Office of Management and Budget shall, in consultation with the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate, the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives, and executive agencies, develop techniques to permit an executive agency to retain a portion of the savings (after payment of the contractor's share of the savings) derived from share-in-savings contracts as funds are appropriated to the agency in future fiscal years.

“(d) REGULATIONS.—Not later than 270 days after the date of the enactment of this Act [Dec. 17, 2002], the Federal Acquisition Regulation shall be revised to implement the provisions enacted by this section. Such revisions shall—

“(1) provide for the use of competitive procedures in the selection and award of share-in-savings contracts to—

“(A) ensure the contractor's share of savings reflects the risk involved and market conditions; and

“(B) otherwise yield greatest value to the government; and

“(2) allow appropriate regulatory flexibility to facilitate the use of share-in-savings contracts by executive agencies, including the use of innovative provisions for technology refreshment and nonstandard Federal Acquisition Regulation contract clauses.

“(e) ADDITIONAL GUIDANCE.—The Administrator of General Services shall—

“(1) identify potential opportunities for the use of share-in-savings contracts; and

“(2) in consultation with the Director of the Office of Management and Budget, provide guidance to executive agencies for determining mutually beneficial savings share ratios and baselines from which savings may be measured.

“(f) OMB REPORT TO CONGRESS.—In consultation with executive agencies, the Director of the Office of Management and Budget shall, not later than 2 years after the date of the enactment of this Act [Dec. 17, 2002], submit to Congress a report containing—

“(1) a description of the number of share-in-savings contracts entered into by each executive agency under by [sic] this section and the amendments made by this section, and, for each contract identified—

“(A) the information technology acquired;

“(B) the total amount of payments made to the contractor; and

“(C) the total amount of savings or other measurable benefits realized;

“(2) a description of the ability of agencies to determine the baseline costs of a project against which savings can be measured; and

“(3) any recommendations, as the Director deems appropriate, regarding additional changes in law that may be necessary to ensure effective use of share-in-savings contracts by executive agencies.

“(g) GAO REPORT TO CONGRESS.—The Comptroller General shall, not later than 6 months after the report required under subsection (f) is submitted to Congress, conduct a review of that report and submit to Congress a report containing—

“(1) the results of the review;

“(2) an independent assessment by the Comptroller General of the effectiveness of the use of share-in-savings contracts in improving the mission-related and administrative processes of the executive agencies and the achievement of agency missions; and

“(3) a recommendation on whether the authority to enter into share-in-savings contracts should be continued.

“(h) REPEAL OF SHARE-IN-SAVINGS PILOT PROGRAM.—

“(1) REPEAL.—[Repealed section 11521 of Title 40, Public Buildings, Property, and Works.]

“(2) CONFORMING AMENDMENTS TO PILOT PROGRAM AUTHORITY.—[Amended sections 11501 to 11505 of Title 40.]

“(3) ADDITIONAL CONFORMING AMENDMENTS.—[Redesignated 11522 of Title 40 as 11521 and amended headings and analysis.]

“(i) DEFINITIONS.—In this section, the terms ‘contractor’, ‘savings’, and ‘share-in-savings contract’ have the meanings given those terms in section 317 of the Federal Property and Administrative Services Act of 1949 [41 U.S.C. 266a] (as added by subsection (b)).

“SEC. 211. AUTHORIZATION FOR ACQUISITION OF INFORMATION TECHNOLOGY BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL SUPPLY SCHEDULES.

“(a) AUTHORITY TO USE CERTAIN SUPPLY SCHEDULES.—[Amended section 502 of Title 40.]

“(b) PROCEDURES.—Not later than 30 days after the date of the enactment of this Act [Dec. 17, 2002], the Administrator of General Services shall establish procedures to implement section 501(c) of title 40, United States Code (as added by subsection (a)).

“(c) REPORT.—Not later than December 31, 2004, the Administrator shall submit to the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate a report on the implementation and effects of the amendment made by subsection (a).

“SEC. 212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

“(a) PURPOSES.—The purposes of this section are to—

“(1) enhance the interoperability of Federal information systems;

“(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

“(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

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

“(1) ‘agency’ means an Executive agency as defined under section 105 of title 5, United States Code; and

“(2) ‘person’ means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

“(c) REPORT.—

“(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [Dec. 17, 2002], the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives on progress toward integrating Federal information systems across agencies.

“(2) CONTENTS.—The report under this section shall—

“(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

“(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

“(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

“(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, without requiring public users to know which agency holds the information; and

“(ii) allows the integration of public information held by the participating agencies;

“(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

“(E) make any recommendations that the Director deems appropriate on the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

“(d) **PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.**—

“(1) **IN GENERAL.**—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

“(2) **GOALS OF PILOT PROJECTS.**—

“(A) **IN GENERAL.**—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

“(B) **GOALS.**—The goals under this paragraph are to—

“(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

“(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

“(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

“(3) **INPUT.**—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

“(e) **PROTECTIONS.**—The activities authorized under this section shall afford protections for—

“(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

“(2) personal privacy information under sections 552(b)(6) and (7)(C) and 552a of title 5, United States Code, and other relevant law;

“(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law; and

“(4) confidential statistical information collected under a confidentiality pledge, solely for statistical purposes, consistent with the Office of Management and Budget's Federal Statistical Confidentiality Order, and other relevant law.

“**SEC. 213. COMMUNITY TECHNOLOGY CENTERS.**

“(a) **PURPOSES.**—The purposes of this section are to—

“(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

“(2) promote awareness of the availability of online government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

“(b) **STUDY AND REPORT.**—Not later than 2 years after the effective date of this title [see Effective Date note set out under section 3601 of this title], the Administrator shall—

“(1) ensure that a study is conducted to evaluate the best practices of community technology centers that have received Federal funds; and

“(2) submit a report on the study to—

“(A) the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate;

“(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

“(C) the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives; and

“(D) the Committee on Education and the Workforce [now Committee on Education and Labor] of the House of Representatives.

“(c) **CONTENTS.**—The report under subsection (b) may consider—

“(1) an evaluation of the best practices being used by successful community technology centers;

“(2) a strategy for—

“(A) continuing the evaluation of best practices used by community technology centers; and

“(B) establishing a network to share information and resources as community technology centers evolve;

“(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

“(4) a database of all community technology centers that have received Federal funds, including—

“(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

“(B) other relevant information;

“(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

“(6) recommendations of how to—

“(A) enhance the development of community technology centers; and

“(B) establish a network to share information and resources.

“(d) **COOPERATION.**—All agencies that fund community technology centers shall provide to the Administrator any information and assistance necessary for the completion of the study and the report under this section.

“(e) **ASSISTANCE.**—

“(1) **IN GENERAL.**—The Administrator, in consultation with the Secretary of Education, shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

“(A) assist in the implementation of recommendations; and

“(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

“(2) **TYPES OF ASSISTANCE.**—Assistance under this subsection may include—

“(A) contribution of funds;

“(B) donations of equipment, and training in the use and maintenance of the equipment; and

“(C) the provision of basic instruction or training material in computer skills and Internet usage.

“(f) **ONLINE TUTORIAL.**—

“(1) **IN GENERAL.**—The Administrator, in consultation with the Secretary of Education, the Director of the Institute of Museum and Library Services, other relevant agencies, and the public, shall develop an online tutorial that—

“(A) explains how to access Government information and services on the Internet; and

“(B) provides a guide to available online resources.

“(2) **DISTRIBUTION.**—The Administrator, with assistance from the Secretary of Education, shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

“(g) PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.—The Administrator, with assistance from the Department of Education and in consultation with other agencies and organizations, shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

“(1) \$2,000,000 in fiscal year 2003;

“(2) \$2,000,000 in fiscal year 2004; and

“(3) such sums as are necessary in fiscal years 2005 through 2007.

“SEC. 214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

“(a) PURPOSE.—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

“(b) IN GENERAL.—

“(1) STUDY ON ENHANCEMENT OF CRISIS RESPONSE.—Not later than 90 days after the date of enactment of this Act [Dec. 17, 2002], the Administrator, in consultation with the Federal Emergency Management Agency, shall ensure that a study is conducted on using information technology to enhance crisis preparedness, response, and consequence management of natural and manmade disasters.

“(2) CONTENTS.—The study under this subsection shall address—

“(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

“(i) the Federal Emergency Management Agency; and

“(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

“(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

“(3) REPORT.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Administrator shall submit a report on the study, including findings and recommendations to—

“(A) the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate; and

“(B) the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives.

“(4) INTERAGENCY COOPERATION.—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Administrator in carrying out this section.

“(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for research under this subsection, such sums as are necessary for fiscal year 2003.

“(c) PILOT PROJECTS.—Based on the results of the research conducted under subsection (b), the Administrator, in consultation with the Federal Emergency Management Agency, shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Administrator

shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

“SEC. 215. DISPARITIES IN ACCESS TO THE INTERNET.

“(a) STUDY AND REPORT.—

“(1) STUDY.—Not later than 90 days after the date of enactment of this Act [Dec. 17, 2002], the Administrator of General Services shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

“(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator of General Services shall submit to the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

“(b) CONTENTS.—The report under subsection (a) shall include a study of—

“(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

“(A) the nature of disparities in Internet access;

“(B) the affordability of Internet service;

“(C) the incidence of disparities among different groups within the population; and

“(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

“(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

“(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

“(c) RECOMMENDATIONS.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$950,000 in fiscal year 2003 to carry out this section.

“SEC. 216. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

“(a) PURPOSES.—The purposes of this section are to—

“(1) reduce redundant data collection and information; and

“(2) promote collaboration and use of standards for government geographic information.

“(b) DEFINITION.—In this section, the term ‘geographic information’ means information systems that involve locational data, such as maps or other geospatial information resources.

“(c) IN GENERAL.—

“(1) COMMON PROTOCOLS.—The Administrator, in consultation with the Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Administrator shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

“(2) INTERAGENCY GROUP.—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

“(d) DIRECTOR.—The Director shall oversee—

“(1) the interagency initiative to develop common protocols;

“(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

“(3) the adoption of common standards relating to the protocols.

“(e) COMMON PROTOCOLS.—The common protocols shall be designed to—

“(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

“(2) promote the development of interoperable geographic information systems technologies that shall—

“(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

“(B) enable the enhancement of services using geographic data.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.”

INFORMATION SECURITY RESPONSIBILITIES OF CERTAIN AGENCIES

Pub. L. 107-347, title III, §301(c)(1)(A), Dec. 17, 2002, 116 Stat. 2955, provided that: “Nothing in this Act [see Tables for classification] (including any amendment made by this Act) shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3542(b)(2) of title 44, United States Code.”

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of Title 50, War and National Defense.]

ATOMIC ENERGY ACT OF 1954

Pub. L. 107-347, title III, §301(c)(2), Dec. 17, 2002, 116 Stat. 2955, provided that: “Nothing in this Act [see Tables for classification] shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted data or formerly restricted data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).”

CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL EFFICIENCY

Pub. L. 107-347, title V, Dec. 17, 2002, 116 Stat. 2962, provided that:

“SEC. 501. SHORT TITLE.

“This title may be cited as the ‘Confidential Information Protection and Statistical Efficiency Act of 2002’.

“SEC. 502. DEFINITIONS.

“As used in this title:

“(1) The term ‘agency’ means any entity that falls within the definition of the term ‘executive agency’ as defined in section 102 of title 31, United States Code, or ‘agency’, as defined in section 3502 of title 44, United States Code.

“(2) The term ‘agent’ means an individual—

“(A)(i) who is an employee of a private organization or a researcher affiliated with an institution of higher learning (including a person granted special sworn status by the Bureau of the Census under section 23(c) of title 13, United States Code), and with whom a contract or other agreement is executed, on a temporary basis, by an executive agency to perform exclusively statistical activities under the control and supervision of an officer or employee of that agency;

“(ii) who is working under the authority of a government entity with which a contract or other agreement is executed by an executive agency to perform exclusively statistical activities under the control of an officer or employee of that agency;

“(iii) who is a self-employed researcher, a consultant, a contractor, or an employee of a contractor, and with whom a contract or other agreement is executed by an executive agency to perform a statistical activity under the control of an officer or employee of that agency; or

“(iv) who is a contractor or an employee of a contractor, and who is engaged by the agency to design or maintain the systems for handling or storage of data received under this title; and

“(B) who agrees in writing to comply with all provisions of law that affect information acquired by that agency.

“(3) The term ‘business data’ means operating and financial data and information about businesses, tax-exempt organizations, and government entities.

“(4) The term ‘identifiable form’ means any representation of information that permits the identity of the respondent to whom the information applies to be reasonably inferred by either direct or indirect means.

“(5) The term ‘nonstatistical purpose’—

“(A) means the use of data in identifiable form for any purpose that is not a statistical purpose, including any administrative, regulatory, law enforcement, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable respondent; and

“(B) includes the disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act) of data that are acquired for exclusively statistical purposes under a pledge of confidentiality.

“(6) The term ‘respondent’ means a person who, or organization that, is requested or required to supply information to an agency, is the subject of information requested or required to be supplied to an agency, or provides that information to an agency.

“(7) The term ‘statistical activities’—

“(A) means the collection, compilation, processing, or analysis of data for the purpose of describing or making estimates concerning the whole, or relevant groups or components within, the economy, society, or the natural environment; and

“(B) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames.

“(8) The term ‘statistical agency or unit’ means an agency or organizational unit of the executive branch whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes.

“(9) The term ‘statistical purpose’—

“(A) means the description, estimation, or analysis of the characteristics of groups, without identifying the individuals or organizations that comprise such groups; and

“(B) includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support the purposes described in subparagraph (A).

“SEC. 503. COORDINATION AND OVERSIGHT OF POLICIES.

“(a) IN GENERAL.—The Director of the Office of Management and Budget shall coordinate and oversee the

confidentiality and disclosure policies established by this title. The Director may promulgate rules or provide other guidance to ensure consistent interpretation of this title by the affected agencies.

“(b) AGENCY RULES.—Subject to subsection (c), agencies may promulgate rules to implement this title. Rules governing disclosures of information that are authorized by this title shall be promulgated by the agency that originally collected the information.

“(c) REVIEW AND APPROVAL OF RULES.—The Director shall review any rules proposed by an agency pursuant to this title for consistency with the provisions of this title and chapter 35 of title 44, United States Code, and such rules shall be subject to the approval of the Director.

“(d) REPORTS.—

“(1) The head of each agency shall provide to the Director of the Office of Management and Budget such reports and other information as the Director requests.

“(2) Each Designated Statistical Agency referred to in section 522 shall report annually to the Director of the Office of Management and Budget, the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives, and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate on the actions it has taken to implement sections 523 and 524. The report shall include copies of each written agreement entered into pursuant to section 524(a) for the applicable year.

“(3) The Director of the Office of Management and Budget shall include a summary of reports submitted to the Director under paragraph (2) and actions taken by the Director to advance the purposes of this title in the annual report to the Congress on statistical programs prepared under section 3504(e)(2) of title 44, United States Code.

“SEC. 504. EFFECT ON OTHER LAWS.

“(a) TITLE 44, UNITED STATES CODE.—This title, including amendments made by this title, does not diminish the authority under section 3510 of title 44, United States Code, of the Director of the Office of Management and Budget to direct, and of an agency to make, disclosures that are not inconsistent with any applicable law.

“(b) TITLE 13 AND TITLE 44, UNITED STATES CODE.—This title, including amendments made by this title, does not diminish the authority of the Bureau of the Census to provide information in accordance with sections 8, 16, 301, and 401 of title 13, United States Code, and section 2108 of title 44, United States Code.

“(c) TITLE 13, UNITED STATES CODE.—This title, including amendments made by this title, shall not be construed as authorizing the disclosure for nonstatistical purposes of demographic data or information collected by the Census Bureau pursuant to section 9 of title 13, United States Code.

“(d) VARIOUS ENERGY STATUTES.—Data or information acquired by the Energy Information Administration under a pledge of confidentiality and designated by the Energy Information Administration to be used for exclusively statistical purposes shall not be disclosed in identifiable form for nonstatistical purposes under—

“(1) section 12, 20, or 59 of the Federal Energy Administration Act of 1974 (15 U.S.C. 771, 779, 790h);

“(2) section 11 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796); or

“(3) section 205 or 407 of the Department of the Energy Organization Act of 1977 (42 U.S.C. 7135, 7177).

“(e) SECTION 201 OF CONGRESSIONAL BUDGET ACT OF 1974 [2 U.S.C. 601].—This title, including amendments made by this title, shall not be construed to limit any authorities of the Congressional Budget Office to work (consistent with laws governing the confidentiality of information the disclosure of which would be a violation of law) with databases of Designated Statistical

Agencies (as defined in section 522), either separately or, for data that may be shared pursuant to section 524 of this title or other authority, jointly in order to improve the general utility of these databases for the statistical purpose of analyzing pension and health care financing issues.

“(f) PREEMPTION OF STATE LAW.—Nothing in this title shall preempt applicable State law regarding the confidentiality of data collected by the States.

“(g) STATUTES REGARDING FALSE STATEMENTS.—Notwithstanding section 512, information collected by an agency for exclusively statistical purposes under a pledge of confidentiality may be provided by the collecting agency to a law enforcement agency for the prosecution of submissions to the collecting agency of false statistical information under statutes that authorize criminal penalties (such as section 221 of title 13, United States Code) or civil penalties for the provision of false statistical information, unless such disclosure or use would otherwise be prohibited under Federal law.

“(h) CONSTRUCTION.—Nothing in this title shall be construed as restricting or diminishing any confidentiality protections or penalties for unauthorized disclosure that otherwise apply to data or information collected for statistical purposes or nonstatistical purposes, including, but not limited to, section 6103 of the Internal Revenue Code of 1986 (26 U.S.C. 6103).

“(i) AUTHORITY OF CONGRESS.—Nothing in this title shall be construed to affect the authority of the Congress, including its committees, members, or agents, to obtain data or information for a statistical purpose, including for oversight of an agency’s statistical activities.

“SUBTITLE A—CONFIDENTIAL INFORMATION PROTECTION

“SEC. 511. FINDINGS AND PURPOSES.

“(a) FINDINGS.—The Congress finds the following:

“(1) Individuals, businesses, and other organizations have varying degrees of legal protection when providing information to the agencies for strictly statistical purposes.

“(2) Pledges of confidentiality by agencies provide assurances to the public that information about individuals or organizations or provided by individuals or organizations for exclusively statistical purposes will be held in confidence and will not be used against such individuals or organizations in any agency action.

“(3) Protecting the confidentiality interests of individuals or organizations who provide information under a pledge of confidentiality for Federal statistical programs serves both the interests of the public and the needs of society.

“(4) Declining trust of the public in the protection of information provided under a pledge of confidentiality to the agencies adversely affects both the accuracy and completeness of statistical analyses.

“(5) Ensuring that information provided under a pledge of confidentiality for statistical purposes receives protection is essential in continuing public cooperation in statistical programs.

“(b) PURPOSES.—The purposes of this subtitle are the following:

“(1) To ensure that information supplied by individuals or organizations to an agency for statistical purposes under a pledge of confidentiality is used exclusively for statistical purposes.

“(2) To ensure that individuals or organizations who supply information under a pledge of confidentiality to agencies for statistical purposes will neither have that information disclosed in identifiable form to anyone not authorized by this title nor have that information used for any purpose other than a statistical purpose.

“(3) To safeguard the confidentiality of individually identifiable information acquired under a pledge of confidentiality for statistical purposes by controlling access to, and uses made of, such information.

“SEC. 512. LIMITATIONS ON USE AND DISCLOSURE OF DATA AND INFORMATION.

“(a) USE OF STATISTICAL DATA OR INFORMATION.—Data or information acquired by an agency under a pledge of confidentiality and for exclusively statistical purposes shall be used by officers, employees, or agents of the agency exclusively for statistical purposes.

“(b) DISCLOSURE OF STATISTICAL DATA OR INFORMATION.—

“(1) Data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes shall not be disclosed by an agency in identifiable form, for any use other than an exclusively statistical purpose, except with the informed consent of the respondent.

“(2) A disclosure pursuant to paragraph (1) is authorized only when the head of the agency approves such disclosure and the disclosure is not prohibited by any other law.

“(3) This section does not restrict or diminish any confidentiality protections in law that otherwise apply to data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes.

“(c) RULE FOR USE OF DATA OR INFORMATION FOR NON-STATISTICAL PURPOSES.—A statistical agency or unit shall clearly distinguish any data or information it collects for nonstatistical purposes (as authorized by law) and provide notice to the public, before the data or information is collected, that the data or information could be used for nonstatistical purposes.

“(d) DESIGNATION OF AGENTS.—A statistical agency or unit may designate agents, by contract or by entering into a special agreement containing the provisions required under section 502(2) for treatment as an agent under that section, who may perform exclusively statistical activities, subject to the limitations and penalties described in this title.

“SEC. 513. FINES AND PENALTIES.

“Whoever, being an officer, employee, or agent of an agency acquiring information for exclusively statistical purposes, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section 512, comes into possession of such information by reason of his or her being an officer, employee, or agent and, knowing that the disclosure of the specific information is prohibited under the provisions of this title, willfully discloses the information in any manner to a person or agency not entitled to receive it, shall be guilty of a class E felony and imprisoned for not more than 5 years, or fined not more than \$250,000, or both.

“SUBTITLE B—STATISTICAL EFFICIENCY

“SEC. 521. FINDINGS AND PURPOSES.

“(a) FINDINGS.—The Congress finds the following:

“(1) Federal statistics are an important source of information for public and private decision-makers such as policymakers, consumers, businesses, investors, and workers.

“(2) Federal statistical agencies should continuously seek to improve their efficiency. Statutory constraints limit the ability of these agencies to share data and thus to achieve higher efficiency for Federal statistical programs.

“(3) The quality of Federal statistics depends on the willingness of businesses to respond to statistical surveys. Reducing reporting burdens will increase response rates, and therefore lead to more accurate characterizations of the economy.

“(4) Enhanced sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes will improve their ability to track more accurately the large and rapidly changing nature of United States business. In particular, the statistical agencies will be able to better ensure that businesses are consistently classified in appropriate industries, resolve data anomalies, produce statis-

tical samples that are consistently adjusted for the entry and exit of new businesses in a timely manner, and correct faulty reporting errors quickly and efficiently.

“(5) The Congress enacted the International Investment and Trade in Services Act of 1990 [probably means the International Investment and Trade in Services Survey Act, Pub. L. 94-472, as amended by Pub. L. 101-533, which is classified to 22 U.S.C. 3101 et seq.] that allowed the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to share data on foreign-owned companies. The Act not only expanded detailed industry coverage from 135 industries to over 800 industries with no increase in the data collected from respondents but also demonstrated how data sharing can result in the creation of valuable data products.

“(6) With subtitle A of this title, the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics continues to ensure the highest level of confidentiality for respondents to statistical surveys.

“(b) PURPOSES.—The purposes of this subtitle are the following:

“(1) To authorize the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes.

“(2) To reduce the paperwork burdens imposed on businesses that provide requested information to the Federal Government.

“(3) To improve the comparability and accuracy of Federal economic statistics by allowing the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to update sample frames, develop consistent classifications of establishments and companies into industries, improve coverage, and reconcile significant differences in data produced by the three agencies.

“(4) To increase understanding of the United States economy, especially for key industry and regional statistics, to develop more accurate measures of the impact of technology on productivity growth, and to enhance the reliability of the Nation's most important economic indicators, such as the National Income and Product Accounts.

“SEC. 522. DESIGNATION OF STATISTICAL AGENCIES.

“For purposes of this subtitle, the term ‘Designated Statistical Agency’ means each of the following:

“(1) The Bureau of the Census of the Department of Commerce.

“(2) The Bureau of Economic Analysis of the Department of Commerce.

“(3) The Bureau of Labor Statistics of the Department of Labor.

“SEC. 523. RESPONSIBILITIES OF DESIGNATED STATISTICAL AGENCIES.

“The head of each of the Designated Statistical Agencies shall—

“(1) identify opportunities to eliminate duplication and otherwise reduce reporting burden and cost imposed on the public in providing information for statistical purposes;

“(2) enter into joint statistical projects to improve the quality and reduce the cost of statistical programs; and

“(3) protect the confidentiality of individually identifiable information acquired for statistical purposes by adhering to safeguard principles, including—

“(A) emphasizing to their officers, employees, and agents the importance of protecting the confidentiality of information in cases where the identity of individual respondents can reasonably be inferred by either direct or indirect means;

“(B) training their officers, employees, and agents in their legal obligations to protect the confidentiality of individually identifiable information

and in the procedures that must be followed to provide access to such information;

“(C) implementing appropriate measures to assure the physical and electronic security of confidential data;

“(D) establishing a system of records that identifies individuals accessing confidential data and the project for which the data were required; and

“(E) being prepared to document their compliance with safeguard principles to other agencies authorized by law to monitor such compliance.

“SEC. 524. SHARING OF BUSINESS DATA AMONG DESIGNATED STATISTICAL AGENCIES.

“(a) IN GENERAL.—A Designated Statistical Agency may provide business data in an identifiable form to another Designated Statistical Agency under the terms of a written agreement among the agencies sharing the business data that specifies—

“(1) the business data to be shared;

“(2) the statistical purposes for which the business data are to be used;

“(3) the officers, employees, and agents authorized to examine the business data to be shared; and

“(4) appropriate security procedures to safeguard the confidentiality of the business data.

“(b) RESPONSIBILITIES OF AGENCIES UNDER OTHER LAWS.—The provision of business data by an agency to a Designated Statistical Agency under this subtitle shall in no way alter the responsibility of the agency providing the data under other statutes (including section 552 of title 5, United States Code (popularly known as the Freedom of Information Act), and section 552b of title 5, United States Code (popularly known as the Privacy Act of 1974 [Pub. L. 93-579, see Short Title note set out under section 552a of Title 5, Government Organization and Employees])) with respect to the provision or withholding of such information by the agency providing the data.

“(c) RESPONSIBILITIES OF OFFICERS, EMPLOYEES, AND AGENTS.—Examination of business data in identifiable form shall be limited to the officers, employees, and agents authorized to examine the individual reports in accordance with written agreements pursuant to this section. Officers, employees, and agents of a Designated Statistical Agency who receive data pursuant to this subtitle shall be subject to all provisions of law, including penalties, that relate—

“(1) to the unlawful provision of the business data that would apply to the officers, employees, and agents of the agency that originally obtained the information; and

“(2) to the unlawful disclosure of the business data that would apply to officers, employees, and agents of the agency that originally obtained the information.

“(d) NOTICE.—Whenever a written agreement concerns data that respondents were required by law to report and the respondents were not informed that the data could be shared among the Designated Statistical Agencies, for exclusively statistical purposes, the terms of such agreement shall be described in a public notice issued by the agency that intends to provide the data. Such notice shall allow a minimum of 60 days for public comment.

“SEC. 525. LIMITATIONS ON USE OF BUSINESS DATA PROVIDED BY DESIGNATED STATISTICAL AGENCIES.

“(a) USE, GENERALLY.—Business data provided by a Designated Statistical Agency pursuant to this subtitle shall be used exclusively for statistical purposes.

“(b) PUBLICATION.—Publication of business data acquired by a Designated Statistical Agency shall occur in a manner whereby the data furnished by any particular respondent are not in identifiable form.

“SEC. 526. CONFORMING AMENDMENTS.

“(a) DEPARTMENT OF COMMERCE.—[Amended section 176a of Title 15, Commerce and Trade.]

“(b) TITLE 13.—[Enacted section 402 of Title 13, Census.]”.

WAIVER OF PAPERWORK REDUCTION

Pub. L. 101-508, title IV, § 4711(f), Nov. 5, 1990, 104 Stat. 1388-187, provided that: “Chapter 35 of title 44, United States Code, and Executive Order 12291 [formerly set out as a note under section 601 of Title 5, Government Organization and Employees] shall not apply to information and regulations required for purposes of carrying out this Act [see Tables for classification] and implementing the amendments made by this Act.”

§ 3502. Definitions

As used in this subchapter—

(1) the term “agency” means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include—

(A) the Government Accountability Office;

(B) Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

(2) the term “burden” means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

(A) reviewing instructions;

(B) acquiring, installing, and utilizing technology and systems;

(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

(D) searching data sources;

(E) completing and reviewing the collection of information; and

(F) transmitting, or otherwise disclosing the information;

(3) the term “collection of information”—

(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

(B) shall not include a collection of information described under section 3518(c)(1);

(4) the term “Director” means the Director of the Office of Management and Budget;

(5) the term “independent regulatory agency” means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product

Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Agency, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Regulatory Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

(6) the term “information resources” means information and related resources, such as personnel, equipment, funds, and information technology;

(7) the term “information resources management” means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

(8) the term “information system” means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

(9) the term “information technology” has the meaning given that term in section 11101 of title 40 but does not include national security systems as defined in section 11103 of title 40;

(10) the term “person” means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, tribal, or local government or branch thereof, or a political subdivision of a State, territory, tribal, or local government or a branch of a political subdivision;

(11) the term “practical utility” means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

(12) the term “public information” means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public;

(13) the term “recordkeeping requirement” means a requirement imposed by or for an agency on persons to maintain specified records, including a requirement to—

(A) retain such records;

(B) notify third parties, the Federal Government, or the public of the existence of such records;

(C) disclose such records to third parties, the Federal Government, or the public; or

(D) report to third parties, the Federal Government, or the public regarding such records; and

(14) the term “penalty” includes the imposition by an agency or court of a fine or other punishment; a judgment for monetary damages or equitable relief; or the revocation, suspension, reduction, or denial of a license, privilege, right, grant, or benefit.

(Added Pub. L. 104-13, §2, May 22, 1995, 109 Stat. 164; amended Pub. L. 104-106, div. E, title LVI, §5605(a), Feb. 10, 1996, 110 Stat. 700; Pub. L. 105-85, div. A, title X, §1073(h)(5)(A), Nov. 18, 1997, 111 Stat. 1907; Pub. L. 106-398, §1 [[div. A], title X, §1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275; Pub. L. 107-217, §3(l)(4), Aug. 21, 2002, 116 Stat. 1301; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-435, title VI, §604(e), Dec. 20, 2006, 120 Stat. 3242; Pub. L. 110-289, div. A, title II, §1216(e), July 30, 2008, 122 Stat. 2792.)

PRIOR PROVISIONS

A prior section 3502, added Pub. L. 96-511, §2(a), Dec. 11, 1980, 94 Stat. 2813; amended Pub. L. 98-443, §9(h), Oct. 4, 1984, 98 Stat. 1708; Pub. L. 99-500, §101(m) [title VIII, §812], Oct. 18, 1986, 100 Stat. 1783-308, 1783-335, and Pub. L. 99-591, §101(m) [title VIII, §812], Oct. 30, 1986, 100 Stat. 3341-308, 3341-335; Pub. L. 101-73, title VII, §744(e), Aug. 9, 1989, 103 Stat. 438, defined terms used in this chapter prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3502, Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1302; Pub. L. 93-153, title IV, §409(a), Nov. 16, 1973, 87 Stat. 593, defined “Federal agency”, “person”, and “information”, prior to the general amendment of this chapter by Pub. L. 96-511.

AMENDMENTS

2008—Par. (5). Pub. L. 110-289 substituted “Federal Housing Finance Agency” for “Federal Housing Finance Board”.

2006—Par. (5). Pub. L. 109-435 substituted “Postal Regulatory Commission” for “Postal Rate Commission”.

2004—Par. (1)(A). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

2002—Par. (9). Pub. L. 107-217 substituted “section 11101 of title 40” for “section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401)” and “section 11103 of title 40” for “section 5142 of that Act (40 U.S.C. 1452)”.

2000—Pub. L. 106-398 substituted “subchapter” for “chapter” in introductory provisions.

1997—Par. (9). Pub. L. 105-85 substituted “the Clinger-Cohen Act of 1996 (40 U.S.C. 1401)” for “the Information Technology Management Reform Act of 1996” and inserted “(40 U.S.C. 1452)” after “that Act”.

1996—Par. (9). Pub. L. 104-106 added par. (9) and struck out former par. (9) which read as follows: “the term ‘information technology’ has the same meaning as the term ‘automatic data processing equipment’ as defined by section 111(a)(2) and (3)(C)(i) through (v) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2) and (3)(C)(i) through (v));”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1065] of Pub. L. 106-398, set out as an Effective Date note under section 3531 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104-106, Feb. 10, 1996, 110 Stat. 702.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee

of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

§ 3503. Office of Information and Regulatory Affairs

(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this subchapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy.

(Added Pub. L. 104-13, § 2, May 22, 1995, 109 Stat. 166; amended Pub. L. 106-398, § 1 [[div. A], title X, § 1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275.)

PRIOR PROVISIONS

A prior section 3503, added Pub. L. 96-511, § 2(a), Dec. 11, 1980, 94 Stat. 2814; amended Pub. L. 99-500, § 101(m) [title VIII, § 813(a)], Oct. 18, 1986, 100 Stat. 1783-308, 1783-336, and Pub. L. 99-591, § 101(m) [title VIII, § 813(a)], Oct. 30, 1986, 100 Stat. 3341-308, 3341-336, related to the establishment of the Office of Information and Regulatory Affairs prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3503, Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1303, prescribed duties of Director of Bureau of the Budget, prior to the general amendment of this chapter by Pub. L. 96-511. See section 3504 of this title.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106-398 substituted “subchapter” for “chapter”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, § 1065] of Pub. L. 106-398, set out as an Effective Date note under section 3531 of this title.

DELEGATION OF OTHER FUNCTIONS TO ADMINISTRATOR

Pub. L. 96-511, § 3, Dec. 11, 1980, 94 Stat. 2825, as amended by Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1083; Pub. L. 99-500, § 101(m) [title VIII, § 821(b)(3)], Oct. 18, 1986, 100 Stat. 1783-308, 1783-342, and Pub. L. 99-591, § 101(m) [title VIII, § 821(b)(3)], Oct. 30, 1986, 100 Stat. 3341-308, 3341-342, provided:

“[(a) Repealed]

“(b) The Director of the Office of Management and Budget shall delegate to the Administrator for the Office of Information and Regulatory Affairs all functions, authority, and responsibility of the Director under section 552a of title 5, United States Code, under Executive Order 12046 [Ex. Ord. No. 12046, Mar. 27, 1978, 43 F.R. 14193, set out as a note under section 305 of Title 47, Telegraphs, Telephones, and Radiotelegraphs] and Reorganization Plan No. 1 for telecommunications [probably means Reorg. Plan No. 1 of 1970, 35 F.R. 6421, 84 Stat. 2083, set out in the Appendix to Title 5, Government Organization and Employees], and under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 [former 40 U.S.C. 322 and former] 40 U.S.C. 759).”

[Section 101(m) [title VIII, § 833] of Pub. L. 99-500 and Pub. L. 99-591 provided that: “This title and the amend-

ments made by this title [amending former sections 3501 to 3507, 3511, 3514, and 3520 of this title and sections 751, 757, and 759 of former Title 40, Public Buildings, Property, and Works, enacting provisions set out as a notes under section 101 of this title and former section 3503 of this title, amending provisions set out as a note above, and repealing provisions set out as a note under section 759 of former Title 40] shall take effect on the date of enactment of this Act [Oct. 18, 1986], except as provided in section 813(b) [set out as a note under former section 3503 of this title] and except that the provisions of section 821 and the amendments made by such section [amending former sections 3503 and 3504 of this title, sections 757 and 759 of former Title 40, and provisions set out as a note above] shall take effect on January 1, 1987.”]

§ 3504. Authority and functions of Director

(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including burden reduction and service delivery to the public. In performing such oversight, the Director shall—

(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

(B) provide direction and oversee—

(i) the review and approval of the collection of information and the reduction of the information collection burden;

(ii) agency dissemination of and public access to information;

(iii) statistical activities;

(iv) records management activities;

(v) privacy, confidentiality, security, disclosure, and sharing of information; and

(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.

(2) The authority of the Director under this subchapter shall be exercised consistent with applicable law.

(b) With respect to general information resources management policy, the Director shall—

(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

(2) foster greater sharing, dissemination, and access to public information, including through—

(A) the use of the Government Information Locator Service; and

(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

(4) oversee the development and implementation of best practices in information resources management, including training; and

(5) oversee agency integration of program and management functions with information resources management functions.

(c) With respect to the collection of information and the control of paperwork, the Director shall—

(1) review and approve proposed agency collections of information;

(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement, acquisition and payment, and to reduce information collection burdens on the public;

(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government;

(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information;¹

(6) publish in the Federal Register and make available on the Internet (in consultation with the Small Business Administration) on an annual basis a list of the compliance assistance resources available to small businesses, with the first such publication occurring not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2002.

(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

(2) promote public access to public information and fulfill the purposes of this subchapter, including through the effective use of information technology.

(e) With respect to statistical policy and coordination, the Director shall—

(1) coordinate the activities of the Federal statistical system to ensure—

(A) the efficiency and effectiveness of the system; and

(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

(3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning—

(A) statistical collection procedures and methods;

(B) statistical data classification;

(C) statistical information presentation and dissemination;

(D) timely release of statistical data; and
(E) such statistical data sources as may be required for the administration of Federal programs;

(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

(A) be headed by the chief statistician; and

(B) consist of—

(i) the heads of the major statistical programs; and

(ii) representatives of other statistical agencies under rotating membership; and

(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

(B) all costs of the training shall be paid by the agency requesting training.

(f) With respect to records management, the Director shall—

(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this subchapter;

(2) review compliance by agencies with—

(A) the requirements of chapters 29, 31, and 33 of this title; and

(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

(g) With respect to privacy and security, the Director shall—

(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies; and

(2) oversee and coordinate compliance with sections 552 and 552a of title 5, sections 20 and

¹ So in original. Probably should be followed by "and".

21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3 and 278g-4), section 11331 of title 40 and subchapter II of this chapter, and related information management laws.

(h) With respect to Federal information technology, the Director shall—

(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—

(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

(B) oversee the development and implementation of standards under section 11331 of title 40;

(2) monitor the effectiveness of, and compliance with, directives issued under subtitle III of title 40 and directives issued under section 322² of title 40;

(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

(5) promote the use 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.

(Added Pub. L. 104-13, § 2, May 22, 1995, 109 Stat. 167; amended Pub. L. 104-106, div. E, title LI, § 5131(e)(1), title LVI, § 5605(b), (c), Feb. 10, 1996, 110 Stat. 688, 700; Pub. L. 105-85, div. A, title X, § 1073(h)(5)(B), (C), Nov. 18, 1997, 111 Stat. 1907; Pub. L. 105-277, div. C, title XVII, § 1702, Oct. 21, 1998, 112 Stat. 2681-749; Pub. L. 106-398, § 1 [[div. A], title X, § 1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275; Pub. L. 107-198, § 2(a), June 28, 2002, 116 Stat. 729; Pub. L. 107-217, § 3(l)(5), Aug. 21, 2002, 116 Stat. 1301; Pub. L. 107-296, title X, § 1005(c)(1), Nov. 25, 2002, 116 Stat. 2272; Pub. L. 107-347, title III, § 305(c)(1), Dec. 17, 2002, 116 Stat. 2960.)

REFERENCES IN TEXT

The date of enactment of the Small Business Paperwork Relief Act of 2002, referred to in subsec. (c)(6), is the date of enactment of Pub. L. 107-198, which was approved June 28, 2002.

Section 322 of title 40, referred to in subsec. (h)(2), was repealed by Pub. L. 109-313, § 3(h)(1), Oct. 6, 2006, 120 Stat. 1736.

² See References in Text note below.

PRIOR PROVISIONS

A prior section 3504, added Pub. L. 96-511, § 2(a), Dec. 11, 1980, 94 Stat. 2815; amended Pub. L. 98-497, title I, § 107(b)(26), Oct. 19, 1984, 98 Stat. 2291; Pub. L. 99-500, § 101(m) [title VIII, §§ 814, 821(b)(2)], Oct. 18, 1986, 100 Stat. 1783-308, 1783-336, 1783-342, and Pub. L. 99-591, § 101(m) [title VIII, §§ 814, 821(b)(2)], Oct. 30, 1986, 100 Stat. 3341-308, 3341-336, 3341-342, related to authority and functions of Director prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3504, Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1303, provided for designation of a central collection agency, prior to the general amendment of this chapter by Pub. L. 96-511. See section 3509 of this title.

AMENDMENTS

2002—Subsec. (c)(6). Pub. L. 107-198 added par. (6).

Subsec. (g)(1). Pub. L. 107-296, § 1005(c)(1)(A), and Pub. L. 107-347, § 305(c)(1)(A), amended par. (1) identically, inserting “and” at end.

Subsec. (g)(2). Pub. L. 107-347, § 305(c)(1)(B), substituted “section 11331 of title 40 and subchapter II of this chapter” for “sections 11331 and 11332(b) and (c) of title 40” and a period for “; and” at end.

Pub. L. 107-296, § 1005(c)(1)(B), which directed amendment of par. (2) by substituting “section 11331 of title 40 and subchapter II of this title” for “sections 11331 and 11332(b) and (c) of title 40” and a period for the semicolon, could not be executed because of amendment by Pub. L. 107-347, § 305(c)(1)(B). See Amendment note above and Effective Date of 2002 Amendments notes below.

Pub. L. 107-217, § 3(l)(5)(A), substituted “sections 11331 and 11332(b) and (c) of title 40” for “section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)”.

Subsec. (g)(3). Pub. L. 107-296, § 1005(c)(1)(C), and Pub. L. 107-347, § 305(c)(1)(C), amended subsec. (g) identically, striking out par. (3) which read as follows: “require Federal agencies, consistent with the standards and guidelines promulgated under sections 11331 and 11332(b) and (c) of title 40, to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.”

Pub. L. 107-217, § 3(l)(5)(B), substituted “sections 11331 and 11332(b) and (c) of title 40” for “section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)”.

Subsec. (h)(1)(B). Pub. L. 107-217, § 3(l)(5)(C), substituted “section 11331 of title 40” for “section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441)”.

Subsec. (h)(2). Pub. L. 107-217, § 3(l)(5)(D), substituted “subtitle III of title 40” for “division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)” and “section 322 of title 40” for “section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757)”.

2000—Subsecs. (a)(2), (d)(2), (f)(1). Pub. L. 106-398 substituted “subchapter” for “chapter”.

1998—Subsec. (a)(1)(B)(vi). Pub. L. 105-277 amended cl. (vi) generally. Prior to amendment, cl. (vi) read as follows: “the acquisition and use of information technology.”

1997—Subsecs. (g)(2), (3), (h)(1)(B). Pub. L. 105-85, § 1073(h)(5)(C), substituted “Clinger-Cohen Act of 1996 (40 U.S.C. 1441)” for “Information Technology Management Reform Act of 1996”.

Subsec. (h)(2). Pub. L. 105-85, § 1073(h)(5)(B), substituted “division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)” for “the Information Technology Management Reform Act of 1996”.

1996—Subsec. (g)(2). Pub. L. 104-106, § 5131(e)(1)(A), substituted “sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3 and 278g-4), section 5131 of the Information Technology

Management Reform Act of 1996, and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)” for “the Computer Security Act of 1987 (40 U.S.C. 759 note)”.

Subsec. (g)(3). Pub. L. 104-106, §5131(e)(1)(B), substituted “the standards and guidelines promulgated under section 5131 of the Information Technology Management Reform Act of 1996 and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)” for “the Computer Security Act of 1987 (40 U.S.C. 759 note)”.

Subsec. (h)(1)(B). Pub. L. 104-106, §5605(b), substituted “section 5131 of the Information Technology Management Reform Act of 1996” for “section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))”.

Subsec. (h)(2). Pub. L. 104-106, §5605(c), substituted “the Information Technology Management Reform Act of 1996 and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757)” for “sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759)”.

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 this title.

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.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1065] of Pub. L. 106-398, set out as an Effective Date note under section 3531 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104-106, Feb. 10, 1996, 110 Stat. 702.

GOVERNMENT PAPERWORK ELIMINATION

Pub. L. 105-277, div. C, title XVII, Oct. 21, 1998, 112 Stat. 2681-749, provided that:

“SEC. 1701. SHORT TITLE.

“This title may be cited as the ‘Government Paperwork Elimination Act’.

“SEC. 1702. AUTHORITY OF OMB TO PROVIDE FOR ACQUISITION AND USE OF ALTERNATIVE INFORMATION TECHNOLOGIES BY EXECUTIVE AGENCIES.

“[Amended this section.]

“SEC. 1703. PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES BY EXECUTIVE AGENCIES.

“(a) IN GENERAL.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) [see Short Title of 1996 Amendment note set out under 41 U.S.C. 251] and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in consultation with the National Telecommunications and Information Administration and not later than 18 months after the date of enactment of this Act [Oct. 21, 1998], develop procedures for the use and acceptance of electronic signatures by Executive agencies.

“(b) REQUIREMENTS FOR PROCEDURES.—(1) The procedures developed under subsection (a)—

“(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

“(B) may not inappropriately favor one industry or technology;

“(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

“(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

“(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

“(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies and State government entities that set standards for the use and acceptance of electronic signatures.

“SEC. 1704. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE AGENCIES OF PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

“In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) [see Short Title of 1996 Amendment note set out under 41 U.S.C. 251] and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act [Oct. 21, 1998], Executive agencies provide—

“(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

“(2) for the use and acceptance of electronic signatures, when practicable.

“SEC. 1705. ELECTRONIC STORAGE AND FILING OF EMPLOYMENT FORMS.

“In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) [see Short Title of 1996 Amendment note set out under 41 U.S.C. 251] and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act [Oct. 21, 1998], develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

“SEC. 1706. STUDY ON USE OF ELECTRONIC SIGNATURES.

“(a) ONGOING STUDY REQUIRED.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) [see Short Title of 1996 Amendment note set out under 41 U.S.C. 251] and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this title on—

“(1) paperwork reduction and electronic commerce;

“(2) individual privacy; and

“(3) the security and authenticity of transactions.

“(b) REPORTS.—The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

“SEC. 1707. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

“Electronic records submitted or maintained in accordance with procedures developed under this title, or

electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

“SEC. 1708. DISCLOSURE OF INFORMATION.

“Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

“SEC. 1709. APPLICATION WITH INTERNAL REVENUE LAWS.

“No provision of this title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision—

“(1) involves the administration of the internal revenue laws; or

“(2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 [Pub. L. 105-206, see Tables for classification] or the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.].

“SEC. 1710. DEFINITIONS.

“For purposes of this title:

“(1) ELECTRONIC SIGNATURE.—The term ‘electronic signature’ means a method of signing an electronic message that—

“(A) identifies and authenticates a particular person as the source of the electronic message; and

“(B) indicates such person’s approval of the information contained in the electronic message.

“(2) EXECUTIVE AGENCY.—The term ‘Executive agency’ has the meaning given that term in section 105 of title 5, United States Code.”

§ 3505. Assignment of tasks and deadlines

(a) In carrying out the functions under this subchapter, the Director shall—

(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least 10 percent during each of fiscal years 1996 and 1997 and 5 percent during each of fiscal years 1998, 1999, 2000, and 2001, and set annual agency goals to—

(A) reduce information collection burdens imposed on the public that—

(i) represent the maximum practicable opportunity in each agency; and

(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this subchapter, particularly with regard to minimizing the Federal information collection burden; and

(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Direc-

tor of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include—

(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

(B) plans for—

(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

(iii) meeting the information technology needs of the Federal Government in accordance with the purposes of this subchapter; and

(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions.

(b) For purposes of any pilot project conducted under subsection (a)(2), the Director may, after consultation with the agency head, waive the application of any administrative directive issued by an agency with which the project is conducted, including any directive requiring a collection of information, after giving timely notice to the public and the Congress regarding the need for such waiver.

(c)¹ INVENTORY OF MAJOR INFORMATION SYSTEMS.—(1) The head of each agency shall develop and maintain an inventory of major information systems (including major national security systems) operated by or under the control of such agency.

(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency.

(3) Such inventory shall be—

(A) updated at least annually;

(B) made available to the Comptroller General; and

(C) used to support information resources management, including—

(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

¹ So in original. Two subsecs. (c) have been enacted.

(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.

(c)¹ **INVENTORY OF INFORMATION SYSTEMS.**—(1) The head of each agency shall develop and maintain an inventory of the information systems (including national security systems) operated by or under the control of such agency;

(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency;

(3) Such inventory shall be—

(A) updated at least annually;

(B) made available to the Comptroller General; and

(C) used to support information resources management, including—

(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.

(Added Pub. L. 104-13, §2, May 22, 1995, 109 Stat. 170; amended Pub. L. 106-398, §1 [[div. A], title X, §1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275; Pub. L. 107-296, title X, §1005(c)(2), Nov. 25, 2002, 116 Stat. 2272; Pub. L. 107-347, title III, §305(c)(2), Dec. 17, 2002, 116 Stat. 2961.)

PRIOR PROVISIONS

A prior section 3505, added Pub. L. 96-511, §2(a), Dec. 11, 1980, 94 Stat. 2818; amended Pub. L. 99-500, §101(m) [title VIII, §815], Oct. 18, 1986, 100 Stat. 1783-308, 1783-337, and Pub. L. 99-591, §101(m) [title VIII, §815], Oct. 30, 1986, 100 Stat. 3341-308, 3341-337, related to assignment of tasks and deadlines prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3505, Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1303, prohibited independent collection by an agency, prior to the general amendment of this chapter by Pub. L. 96-511. See section 3509 of this title.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107-347, added subsec. (c) relating to inventory of major information systems.

Pub. L. 107-296 added subsec. (c) relating to inventory of information systems.

2000—Subsec. (a). Pub. L. 106-398 substituted “subchapter” for “chapter” in introductory provisions and pars. (2) and (3)(B)(iii).

EFFECTIVE DATE OF 2002 AMENDMENT

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.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1065] of Pub. L. 106-398, set out as an Effective Date note under section 3531 of this title.

§ 3506. Federal agency responsibilities

(a)(1) The head of each agency shall be responsible for—

(A) carrying out the agency’s information resources management activities to improve agency productivity, efficiency, and effectiveness; and

(B) complying with the requirements of this subchapter and related policies established by the Director.

(2)(A) Except as provided under subparagraph (B), the head of each agency shall designate a Chief Information Officer who shall report directly to such agency head to carry out the responsibilities of the agency under this subchapter.

(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate Chief Information Officers who shall report directly to such Secretary to carry out the responsibilities of the department under this subchapter. If more than one Chief Information Officer is designated, the respective duties of the Chief Information Officers shall be clearly delineated.

(3) The Chief Information Officer designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this subchapter, including the reduction of information collection burdens on the public. The Chief Information Officer and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this subchapter.

(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the Chief Information Officer designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

(b) With respect to general information resources management, each agency shall—

(1) manage information resources to—

(A) reduce information collection burdens on the public;

(B) increase program efficiency and effectiveness; and

(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

(2) in accordance with guidance by the Director, develop and maintain a strategic infor-

mation resources management plan that shall describe how information resources management activities help accomplish agency missions;

(3) develop and maintain an ongoing process to—

(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

(B) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

(C) establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this subchapter; and

(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

(c) With respect to the collection of information and the control of paperwork, each agency shall—

(1) establish a process within the office headed by the Chief Information Officer designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this subchapter, to—

(A) review each collection of information before submission to the Director for review under this subchapter, including—

(i) an evaluation of the need for the collection of information;

(ii) a functional description of the information to be collected;

(iii) a plan for the collection of the information;

(iv) a specific, objectively supported estimate of burden;

(v) a test of the collection of information through a pilot program, if appropriate; and

(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;

(B) ensure that each information collection—

(i) is inventoried, displays a control number and, if appropriate, an expiration date;

(ii) indicates the collection is in accordance with the clearance requirements of section 3507; and

(iii) informs the person receiving the collection of information of—

(I) the reasons the information is being collected;

(II) the way such information is to be used;

(III) an estimate, to the extent practicable, of the burden of the collection;

(IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and

(V) the fact that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number; and

(C) assess the information collection burden of proposed legislation affecting the agency;

(2)(A) except as provided under subparagraph (B) or section 3507(j), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A)(i) through (iv);

(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507—

(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as—

(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

(iii) an exemption from coverage of the collection of information, or any part thereof;

(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

(F) indicates for each recordkeeping requirement the length of time persons are required to maintain the records specified;

(G) contains the statement required under paragraph (1)(B)(iii);

(H) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

(I) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

(J) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public; and

(4) in addition to the requirements of this chapter regarding the reduction of information collection burdens for small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), make efforts to further reduce the information collection burden for small business concerns with fewer than 25 employees.

(d) With respect to information dissemination, each agency shall—

(1) ensure that the public has timely and equitable access to the agency's public information, including ensuring such access through—

(A) encouraging a diversity of public and private sources for information based on government public information;

(B) in cases in which the agency provides public information maintained in electronic format, providing timely and equitable access to the underlying data (in whole or in part); and

(C) agency dissemination of public information in an efficient, effective, and economical manner;

(2) regularly solicit and consider public input on the agency's information dissemination activities;

(3) provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products; and

(4) not, except where specifically authorized by statute—

(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

(B) restrict or regulate the use, resale, or redissemination of public information by the public;

(C) charge fees or royalties for resale or redissemination of public information; or

(D) establish user fees for public information that exceed the cost of dissemination.

(e) With respect to statistical policy and coordination, each agency shall—

(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

(3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;

(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

(6) make data available to statistical agencies and readily accessible to the public.

(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

(g) With respect to privacy and security, each agency shall—

(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency; and

(2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, subchapter II of this chapter, and related information management laws.

(h) With respect to Federal information technology, each agency shall—

(1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;

(2) assume responsibility and accountability for information technology investments;

(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and

(5) assume responsibility for maximizing the value and assessing and managing the risks of

major information systems initiatives through a process that is—

- (A) integrated with budget, financial, and program management decisions; and
- (B) used to select, control, and evaluate the results of major information systems initiatives.

(i)(1) In addition to the requirements described in subsection (c), each agency shall, with respect to the collection of information and the control of paperwork, establish 1 point of contact in the agency to act as a liaison between the agency and small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)).

(2) Each point of contact described under paragraph (1) shall be established not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2002.

(Added Pub. L. 104-13, § 2, May 22, 1995, 109 Stat. 171; amended Pub. L. 104-106, div. E, title LI, § 5125(a), Feb. 10, 1996, 110 Stat. 684; Pub. L. 106-398, § 1 [[div. A], title X, § 1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275; Pub. L. 107-198, § 2(b), (c), June 28, 2002, 116 Stat. 729; Pub. L. 107-217, § 3(l)(6), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 107-296, title X, § 1005(c)(3), Nov. 25, 2002, 116 Stat. 2273; Pub. L. 107-347, title III, § 305(c)(3), Dec. 17, 2002, 116 Stat. 2961.)

REFERENCES IN TEXT

The date of enactment of the Small Business Paperwork Relief Act of 2002, referred to in subsec. (i)(2), is the date of enactment of Pub. L. 107-198, which was approved June 28, 2002.

PRIOR PROVISIONS

A prior section 3506, added Pub. L. 96-511, § 2(a), Dec. 11, 1980, 94 Stat. 2819; amended Pub. L. 99-500, § 101(m) [title VIII, § 816], Oct. 18, 1986, 100 Stat. 1783-308, 1783-338, and Pub. L. 99-591, § 101(m) [title VIII, § 816], Oct. 30, 1986, 100 Stat. 3341-308, 3341-338, related to Federal agency responsibilities prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3506, Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1303, provided for determination of necessity for information and hearing thereon, prior to the general amendment of this chapter by Pub. L. 96-511. See section 3508 of this title.

AMENDMENTS

2002—Subsec. (c)(4). Pub. L. 107-198, § 2(c), added par. (4).

Subsec. (g)(1). Pub. L. 107-296, § 1005(c)(3)(A), and Pub. L. 107-347, § 305(c)(3)(A), amended par. (1) identically, inserting “and” at end.

Subsec. (g)(2). Pub. L. 107-296, § 1005(c)(3)(B), and Pub. L. 107-347, § 305(c)(3)(B), amended par. (2) identically, substituting “subchapter II of this chapter” for “section 11332 of title 40” and a period for “; and” at end.

Pub. L. 107-217, § 3(l)(6)(A), substituted “section 11332 of title 40” for “the Computer Security Act of 1987 (40 U.S.C. 759 note)”.

Subsec. (g)(3). Pub. L. 107-296, § 1005(c)(3)(C), and Pub. L. 107-347, § 305(c)(3)(C), amended subsec. (g) identically, striking out par. (3) which read as follows: “consistent with section 11332 of title 40, identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.”

Pub. L. 107-217, § 3(l)(6)(B), substituted “section 11332 of title 40” for “the Computer Security Act of 1987 (40 U.S.C. 759 note)”.

Subsec. (i). Pub. L. 107-198, § 2(b), added subsec. (i).

2000—Subsecs. (a)(1) to (3), (b)(4), (c)(1). Pub. L. 106-398 substituted “subchapter” for “chapter” wherever appearing.

1996—Subsec. (a)(2)(A). Pub. L. 104-106, § 5125(a)(1)(A), substituted “Chief Information Officer” for “senior official”.

Subsec. (a)(2)(B). Pub. L. 104-106, § 5125(a)(1)(B), substituted “designate Chief Information Officers” for “designate senior officials”, “Chief Information Officer” for “official”, and “the Chief Information Officers” for “the officials”.

Subsec. (a)(3), (4). Pub. L. 104-106, § 5125(a)(1)(C), substituted “Chief Information Officer” for “senior official” wherever appearing.

Subsec. (c)(1). Pub. L. 104-106, § 5125(a)(2), substituted “Chief Information Officer” for “official” in introductory provisions.

EFFECTIVE DATE OF 2002 AMENDMENT

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.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, § 1065] of Pub. L. 106-398, set out as an Effective Date note under section 3531 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104-106, Feb. 10, 1996, 110 Stat. 702.

EX. ORD. NO. 13073. YEAR 2000 CONVERSION

Ex. Ord. No. 13073, Feb. 4, 1998, 63 F.R. 6467, as amended by Ex. Ord. No. 13127, June 14, 1999, 64 F.R. 32793, provided:

The American people expect reliable service from their Government and deserve the confidence that critical government functions dependent on electronic systems will be performed accurately and in a timely manner. Because of a design feature in many electronic systems, a large number of activities in the public and private sectors could be at risk beginning in the year 2000. Some computer systems and other electronic devices will misinterpret the year “00” as 1900, rather than 2000. Unless appropriate action is taken, this flaw, known as the “Y2K problem,” can cause systems that support those functions to compute erroneously or simply not run. Minimizing the Y2K problem will require a major technological and managerial effort, and it is critical that the United States Government do its part in addressing this challenge.

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.* (a) It shall be the policy of the executive branch that agencies shall:

(1) assure that no critical Federal program experiences disruption because of the Y2K problem;

(2) assist and cooperate with State, local, and tribal governments to address the Y2K problem where those governments depend on Federal information or information technology or the Federal Government is dependent on those governments to perform critical missions;

(3) cooperate with the private sector operators of critical national and local systems, including the banking and financial system, the telecommunications system, the public health system, the transportation system, and the electric power generation system, in addressing the Y2K problem; and

(4) communicate with their foreign counterparts to raise awareness of and generate cooperative international arrangements to address the Y2K problem.

(b) As used in this order, “agency” and “agencies” refer to Federal agencies that are not in the judicial or legislative branches.

SEC. 2. *Year 2000 Conversion Council.* There is hereby established the President’s Council on Year 2000 Conversion (the “Council”).

(a) The Council shall be led by a Chair who shall be an Assistant to the President, and it shall be composed of one representative from each of the executive departments and from such other Federal agencies as may be determined by the Chair of the Council (the "Chair").

(b) The Chair shall appoint a Vice Chair and assign other responsibilities for operations of the council as he or she deems necessary.

(c) The Chair shall oversee the activities of agencies to assure that their systems operate smoothly through the year 2000, act as chief spokesperson on this issue for the executive branch in national and international fora, provide policy coordination of executive branch activities with State, local, and tribal governments on the Y2K problem, and promote appropriate Federal roles with respect to private sector activities in this area.

(d) The Chair and the Director of the Office of Management and Budget shall report jointly at least quarterly to me on the progress of agencies in addressing the Y2K problem.

(e) The Chair shall identify such resources from agencies as the Chair deems necessary for the implementation of the policies set out in this order, consistent with applicable law.

SEC. 3. *Responsibilities of Agency Heads.* (a) The head of each agency shall:

(1) assure that efforts to address the Y2K problem receive the highest priority attention in the agency and that the policies established in this order are carried out; and

(2) cooperate to the fullest extent with the Chair by making available such information, support, and assistance, including personnel, as the Chair may request to support the accomplishment of the tasks assigned herein, consistent with applicable law.

(b) The heads of executive departments and the agencies designated by the Chair under section 2(a) of this order shall identify a responsible official to represent the head of the executive department or agency on the Council with sufficient authority and experience to commit agency resources to address the Y2K problem.

SEC. 4. *Responsibilities of Interagency and Executive Office Councils.* Interagency councils and councils within the Executive Office of the President, including the President's Management Council, the Chief Information Officers Council, the Chief Financial Officers Council, the President's Council on Integrity and Efficiency, the Executive Council on Integrity and Efficiency, the National Science and Technology Council, the National Performance Review, the National Economic Council, the Domestic Policy Council, and the National Security Council shall provide assistance and support to the Chair upon the Chair's request.

SEC. 5. *Information Coordination Center.* (a) To assist the Chair in the Y2K response duties included under section 2(c) of this order, there shall be established the Information Coordination Center (ICC) in the General Services Administration.

(b) At the direction of the Chair, the ICC will assist in making preparations for information sharing and coordination within the Federal Government and key components of the public and private sectors, coordinating agency assessments of Y2K emergencies that could have an adverse affect on U.S. interests at home and abroad, and, if necessary, assisting Federal agencies and the Chair in reconstitution processes where appropriate.

(c) The ICC will:

(1) consist of officials from executive agencies, designated by agency heads under subsection 3(a)(2) of this order, who have expertise in important management and technical areas, computer hardware, software or security systems, reconstitution and recovery, and of additional personnel hired directly or by contract, as required, to carry out the duties described under section 5 of this order;

(2) work with the Council and the Office of Management and Budget to assure that Federal efforts to re-

store critical systems are coordinated with efforts managed by Federal agencies acting under existing emergency response authorities.

(d) The Chair of the President's Council on Year 2000 Conversion shall designate a Director of the ICC.

SEC. 6. *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, enforceable 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.

§ 3507. Public information collection activities; submission to Director; approval and delegation

(a) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information—

(1) the agency has—

(A) conducted the review established under section 3506(c)(1);

(B) evaluated the public comments received under section 3506(c)(2);

(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations, and other related materials as the Director may specify; and

(D) published a notice in the Federal Register—

(i) stating that the agency has made such submission; and

(ii) setting forth—

(I) a title for the collection of information;

(II) a summary of the collection of information;

(III) a brief description of the need for the information and the proposed use of the information;

(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

(V) an estimate of the burden that shall result from the collection of information; and

(VI) notice that comments may be submitted to the agency and Director;

(2) the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and

(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except as provided under subsection (j).

(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2)—

(A) the approval may be inferred;

(B) a control number shall be assigned without further delay; and

(C) the agency may collect the information for not more than 1 year.

(d)(1) For any proposed collection of information contained in a proposed rule—

(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

(2) When a final rule is published in the Federal Register, the agency shall explain—

(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

(B) the reasons such comments were rejected.

(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion—

(A) from disapproving any collection of information which was not specifically required by an agency rule;

(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that the agency's response to the Director's comments filed under paragraph (2) of this subsection was unreasonable; or

(D) from disapproving any collection of information contained in a final rule, if—

(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

(2) Any written communication between the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs, and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

(3) This subsection shall not require the disclosure of—

(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

(B) any communication relating to a collection of information which is not approved under this subchapter, the disclosure of which could lead to retaliation or discrimination against the communicator.

(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void—

(A) any disapproval by the Director, in whole or in part, of a proposed collection of information of that agency; or

(B) an exercise of authority under subsection (d) of section 3507 concerning that agency.

(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

(g) The Director may not approve a collection of information for a period in excess of 3 years.

(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall—

(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

(2) If under the provisions of this section, the Director disapproves a collection of information

contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall—

(A) publish an explanation thereof in the Federal Register; and

(B) instruct the agency to undertake a rule-making within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this subchapter.

(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the Director for review and approval under this subchapter.

(i)(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

(j)(1) The agency head may request the Director to authorize a collection of information, if an agency head determines that—

(A) a collection of information—

(i) is needed prior to the expiration of time periods established under this subchapter; and

(ii) is essential to the mission of the agency; and

(B) the agency cannot reasonably comply with the provisions of this subchapter because—

(i) public harm is reasonably likely to result if normal clearance procedures are followed;

(ii) an unanticipated event has occurred; or

(iii) the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed.

(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the collection of information a con-

trol number. Any collection of information conducted under this subsection may be conducted without compliance with the provisions of this subchapter for a maximum of 180 days after the date on which the Director received the request to authorize such collection.

(Added Pub. L. 104-13, § 2, May 22, 1995, 109 Stat. 176; amended Pub. L. 104-106, div. E, title LVI, § 5605(d), Feb. 10, 1996, 110 Stat. 700; Pub. L. 106-398, § 1 [[div. A], title X, § 1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275.)

PRIOR PROVISIONS

A prior section 3507, added Pub. L. 96-511, § 2(a), Dec. 11, 1980, 94 Stat. 2819; amended Pub. L. 99-500, § 101(m) [title VIII, § 817], Oct. 18, 1986, 100 Stat. 1783-308, 1783-338, and Pub. L. 99-591, § 101(m) [title VIII, § 817], Oct. 30, 1986, 100 Stat. 3341-308, 3341-338, related to submission to Director of public information collection request for an approval or delegation to a senior official of an agency prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3507, Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1304, provided for cooperation of agencies in making information available, prior to the general amendment of this chapter by Pub. L. 96-511. See section 3510(a) of this title.

AMENDMENTS

2000—Subsecs. (e)(3)(B), (h), (j). Pub. L. 106-398 substituted “subchapter” for “chapter” wherever appearing.

1996—Subsec. (j)(2). Pub. L. 104-106 substituted “180 days” for “90 days”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, § 1065] of Pub. L. 106-398, set out as an Effective Date note under section 3531 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104-106, Feb. 10, 1996, 110 Stat. 702.

§ 3508. Determination of necessity for information; hearing

Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director determines that the collection of information by an agency is unnecessary for any reason, the agency may not engage in the collection of information.

(Added Pub. L. 104-13, § 2, May 22, 1995, 109 Stat. 179.)

PRIOR PROVISIONS

A prior section 3508, added Pub. L. 96-511, § 2(a), Dec. 11, 1980, 94 Stat. 2821, related to determination of whether collection of information is necessary for proper performance of functions of agency prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3508, Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1304, related to unlawful disclosure of in-

formation, penalties, and release of information to other agencies, prior to the general amendment of this chapter by Pub. L. 96-511. See section 3510(b) of this title.

§ 3509. Designation of central collection agency

The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this subchapter.

(Added Pub. L. 104-13, §2, May 22, 1995, 109 Stat. 180; amended Pub. L. 106-398, §1 [[div. A], title X, §1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275.)

PRIOR PROVISIONS

A prior section 3509, added Pub. L. 96-511, §2(a), Dec. 11, 1980, 94 Stat. 2821, related to designation of central collection agency prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3509, Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1304, related to plans or forms for collecting information, submission to Director, and his approval, prior to the general amendment of this chapter by Pub. L. 96-511.

AMENDMENTS

2000—Pub. L. 106-398 substituted “subchapter” for “chapter”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1065] of Pub. L. 106-398, set out as an Effective Date note under section 3531 of this title.

§ 3510. Cooperation of agencies in making information available

(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

(b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties) that relate to the unlawful disclosure of information apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful dis-

closure of information as if the information had been collected directly by that agency.

(Added Pub. L. 104-13, §2, May 22, 1995, 109 Stat. 180.)

PRIOR PROVISIONS

A prior section 3510, added Pub. L. 96-511, §2(a), Dec. 11, 1980, 94 Stat. 2822, related to cooperation of agencies in making information available prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3510, Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1305, authorized promulgation of rules and regulations, prior to the general amendment of this chapter by Pub. L. 96-511. See section 3516 of this title.

§ 3511. Establishment and operation of Government Information Locator Service

(a) In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall—

(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the “Service”), which shall identify the major information systems, holdings, and dissemination products of each agency;

(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

(4) consider public access and other user needs in the establishment and operation of the Service;

(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

(b) This section shall not apply to operational files as defined by the Central Intelligence Agency Information Act (50 U.S.C. 431 et seq.).

(Added Pub. L. 104-13, §2, May 22, 1995, 109 Stat. 180.)

REFERENCES IN TEXT

The Central Intelligence Agency Information Act, referred to in subsec. (b), is Pub. L. 98-477, Oct. 15, 1984, 98 Stat. 2209, which is classified principally to subchapter V (§431 et seq.) of chapter 15 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 401 of Title 50 and Tables.

PRIOR PROVISIONS

A prior section 3511, added Pub. L. 96-511, §2(a), Dec. 11, 1980, 94 Stat. 2822; amended Pub. L. 99-500, §101(m)

[title VIII, §818], Oct. 18, 1986, 100 Stat. 1783-308, 1783-339, and Pub. L. 99-591, §101(m) [title VIII, §818], Oct. 30, 1986, 100 Stat. 3341-308, 3341-339, related to establishment and operation of a Federal Information Locator System prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3511, Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1305, provided for penalty for failure to furnish information, prior to the general amendment of this chapter by Pub. L. 96-511.

§ 3512. Public protection

(a) Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information that is subject to this subchapter if—

(1) the collection of information does not display a valid control number assigned by the Director in accordance with this subchapter; or

(2) the agency fails to inform the person who is to respond to the collection of information that such person is not required to respond to the collection of information unless it displays a valid control number.

(b) The protection provided by this section may be raised in the form of a complete defense, bar, or otherwise at any time during the agency administrative process or judicial action applicable thereto.

(Added Pub. L. 104-13, §2, May 22, 1995, 109 Stat. 181; amended Pub. L. 106-398, §1 [[div. A], title X, §1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275.)

PRIOR PROVISIONS

A prior section 3512, added Pub. L. 96-511, §2(a), Dec. 11, 1980, 94 Stat. 2822, related to protection of persons failing to maintain or provide information if information collection request did not display current control number prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3512, added Pub. L. 93-153, title IV, §409(b), Nov. 16, 1973, 87 Stat. 593, related to information for independent regulatory agencies, prior to the general amendment of this chapter by Pub. L. 96-511.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-398 substituted “subchapter” for “chapter” in introductory provisions and par. (1).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1065] of Pub. L. 106-398, set out as an Effective Date note under section 3531 of this title.

§ 3513. Director review of agency activities; reporting; agency response

(a) In consultation with the Administrator of General Services, the Archivist of the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a writ-

ten plan to the Director describing steps (including milestones) to—

(1) be taken to address information resources management problems identified in the report; and

(2) improve agency performance and the accomplishment of agency missions.

(Added Pub. L. 104-13, §2, May 22, 1995, 109 Stat. 181.)

PRIOR PROVISIONS

A prior section 3513, added Pub. L. 96-511, §2(a), Dec. 11, 1980, 94 Stat. 2822; amended Pub. L. 98-497, title I, §107(b)(27), Oct. 19, 1984, 98 Stat. 2291, related to periodic review of agency activities by Director and report of review and agency response to it prior to the general amendment of this chapter by Pub. L. 104-13.

§ 3514. Responsiveness to Congress

(a)(1) The Director shall—

(A) keep the Congress and congressional committees fully and currently informed of the major activities under this subchapter; and

(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

(2) The Director shall include in any such report a description of the extent to which agencies have—

(A) reduced information collection burdens on the public, including—

(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

(ii) a list of all violations of this subchapter and of any rules, guidelines, policies, and procedures issued pursuant to this subchapter;

(iii) a list of any increase in the collection of information burden, including the authority for each such collection; and

(iv) a list of agencies that in the preceding year did not reduce information collection burdens in accordance with section 3505(a)(1), a list of the programs and statutory responsibilities of those agencies that precluded that reduction, and recommendations to assist those agencies to reduce information collection burdens in accordance with that section;

(B) improved the quality and utility of statistical information;

(C) improved public access to Government information; and

(D) improved program performance and the accomplishment of agency missions through information resources management.

(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

(Added Pub. L. 104-13, §2, May 22, 1995, 109 Stat. 181; amended Pub. L. 106-398, §1 [[div. A], title X, §1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275.)

PRIOR PROVISIONS

A prior section 3514, added Pub. L. 96-511, §2(a), Dec. 11, 1980, 94 Stat. 2823, and Pub. L. 99-500, §101(m) [title

VIII, §819], Oct. 18, 1986, 100 Stat. 1783–308, 1783–339, and Pub. L. 99–591, §101(m) [title VIII, §819], Oct. 30, 1986, 100 Stat. 3341–308, 3341–339, related to requirement that Director keep Congress fully informed prior to the general amendment of this chapter by Pub. L. 104–13.

AMENDMENTS

2000—Subsec. (a)(1)(A), (2)(A)(ii). Pub. L. 106–398 substituted “subchapter” for “chapter” wherever appearing.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1065] of Pub. L. 106–398, set out as an Effective Date note under section 3531 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 8th item on page 41 identifies an annual reporting requirement which, as subsequently amended, is contained in subsec. (a) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 3515. Administrative powers

Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this subchapter.

(Added Pub. L. 104–13, §2, May 22, 1995, 109 Stat. 182; amended Pub. L. 106–398, §1 [[div. A], title X, §1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–275.)

PRIOR PROVISIONS

A prior section 3515, added Pub. L. 96–511, §2(a), Dec. 11, 1980, 94 Stat. 2824, related to availability of agency services, personnel, and facilities prior to the general amendment of this chapter by Pub. L. 104–13.

AMENDMENTS

2000—Pub. L. 106–398 substituted “subchapter” for “chapter”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1065] of Pub. L. 106–398, set out as an Effective Date note under section 3531 of this title.

§ 3516. Rules and regulations

The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this subchapter.

(Added Pub. L. 104–13, §2, May 22, 1995, 109 Stat. 182; amended Pub. L. 106–398, §1 [[div. A], title X, §1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–275.)

PRIOR PROVISIONS

A prior section 3516, added Pub. L. 96–511, §2(a), Dec. 11, 1980, 94 Stat. 2824, related to rules and regulations prior to the general amendment of this chapter by Pub. L. 104–13.

AMENDMENTS

2000—Pub. L. 106–398 substituted “subchapter” for “chapter”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1065] of

Pub. L. 106–398, set out as an Effective Date note under section 3531 of this title.

POLICY AND PROCEDURAL GUIDELINES

Pub. L. 106–554, §1(a)(3) [title V, §515], Dec. 21, 2000, 114 Stat. 2763, 2763A–153, provided that:

“(a) IN GENERAL.—The Director of the Office of Management and Budget shall, by not later than September 30, 2001, and with public and Federal agency involvement, issue guidelines under sections 3504(d)(1) and 3516 of title 44, United States Code, that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies in fulfillment of the purposes and provisions of chapter 35 of title 44, United States Code, commonly referred to as the Paperwork Reduction Act.

“(b) CONTENT OF GUIDELINES.—The guidelines under subsection (a) shall—

“(1) apply to the sharing by Federal agencies of, and access to, information disseminated by Federal agencies; and

“(2) require that each Federal agency to which the guidelines apply—

“(A) issue guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency, by not later than 1 year after the date of issuance of the guidelines under subsection (a);

“(B) establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines issued under subsection (a); and

“(C) report periodically to the Director—

“(i) the number and nature of complaints received by the agency regarding the accuracy of information disseminated by the agency; and

“(ii) how such complaints were handled by the agency.”

§ 3517. Consultation with other agencies and the public

(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this subchapter, a person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information—

(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

(2) take appropriate remedial action, if necessary.

(Added Pub. L. 104–13, §2, May 22, 1995, 109 Stat. 182; amended Pub. L. 106–398, §1 [[div. A], title X, §1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–275.)

PRIOR PROVISIONS

A prior section 3517, added Pub. L. 96–511, §2(a), Dec. 11, 1980, 94 Stat. 2824, related to consultation with other agencies and the public prior to the general amendment of this chapter by Pub. L. 104–13.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106-398 substituted “subchapter” for “chapter” in introductory provisions.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1065] of Pub. L. 106-398, set out as an Effective Date note under section 3531 of this title.

§ 3518. Effect on existing laws and regulations

(a) Except as otherwise provided in this subchapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this subchapter.

(b) Nothing in this subchapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

(c)(1) Except as provided in paragraph (2), this subchapter shall not apply to the collection of information—

(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

(B) during the conduct of—

(i) a civil action to which the United States or any official or agency thereof is a party; or

(ii) an administrative action or investigation involving an agency against specific individuals or entities;

(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

(D) during the conduct of intelligence activities as defined in section 3.4(e) of Executive Order No. 12333, issued December 4, 1981, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

(2) This subchapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

(d) Nothing in this subchapter shall be interpreted as increasing or decreasing the authority conferred by sections 11331 and 11332¹ of title 40 on the Secretary of Commerce or the Director of the Office of Management and Budget.

(e) Nothing in this subchapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the sub-

stantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws.

(Added Pub. L. 104-13, §2, May 22, 1995, 109 Stat. 183; amended Pub. L. 104-106, div. E, title LI, §5131(e)(2), Feb. 10, 1996, 110 Stat. 688; Pub. L. 105-85, div. A, title X, §1073(h)(5)(C), Nov. 18, 1997, 111 Stat. 1907; Pub. L. 106-398, §1 [[div. A], title X, §1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275; Pub. L. 107-217, §3(l)(7), Aug. 21, 2002, 116 Stat. 1302.)

REFERENCES IN TEXT

Reorganization Plan No. 1 of 1977, referred to in subsec. (b), is set out in the Appendix to Title 5, Government Organization and Employees.

Executive order, referred to in subsec. (b), probably means Ex. Ord. No. 12046, Mar. 27, 1978, 43 F.R. 13349, which is set out as a note under section 305 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

The Antitrust Civil Process Act, referred to in subsec. (c)(1)(C), is Pub. L. 87-664, Sept. 19, 1962, 76 Stat. 548, as amended, which is classified generally to chapter 34 (§1311 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1311 of Title 15 and Tables.

Section 13 of the Federal Trade Commission Improvements Act of 1980, referred to in subsec. (c)(1)(C), is classified to section 57b-1 of Title 15.

Executive Order No. 12333, referred to in subsec. (c)(1)(D), is Ex. Ord. No. 12333, Dec. 4, 1981, 46 F.R. 59941, which is set out as a note under section 401 of Title 50, War and National Defense.

Section 11332 of title 40, referred to in subsec. (d), was repealed by Pub. L. 107-296, title X, §1005(a)(1), Nov. 25, 2002, 116 Stat. 2272, and Pub. L. 107-347, title III, §305(a), Dec. 17, 2002, 116 Stat. 2960.

The civil rights laws, referred to in subsec. (e), are classified generally to chapter 21 (§1981 et seq.) of Title 42, The Public Health and Welfare.

PRIOR PROVISIONS

A prior section 3518, added Pub. L. 96-511, §2(a), Dec. 11, 1980, 94 Stat. 2824, related to the effect on existing laws and regulations prior to the general amendment of this chapter by Pub. L. 104-13.

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-217 substituted “sections 11331 and 11332 of title 40” for “section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and the Computer Security Act of 1987 (40 U.S.C. 759 note)”.

2000—Pub. L. 106-398 substituted “subchapter” for “chapter” wherever appearing.

1997—Subsec. (d). Pub. L. 105-85 substituted “Clinger-Cohen Act of 1996 (40 U.S.C. 1441)” for “Information Technology Management Reform Act of 1996”.

1996—Subsec. (d). Pub. L. 104-106 substituted “section 5131 of the Information Technology Management Reform Act of 1996 and the Computer Security Act of 1987 (40 U.S.C. 759 note) on the Secretary of Commerce or” for “Public Law 89-306 on the Administrator of the General Services Administration, the Secretary of Commerce, or”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1065] of Pub. L. 106-398, set out as an Effective Date note under section 3531 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104-106, Feb. 10, 1996, 110 Stat. 702.

¹ See References in Text note below.

§ 3519. Access to information

Under the conditions and procedures prescribed in section 716 of title 31, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of the responsibilities of the Comptroller General. For the purpose of obtaining such information, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records, regardless of form or format, of the Office.

(Added Pub. L. 104-13, § 2, May 22, 1995, 109 Stat. 183.)

PRIOR PROVISIONS

A prior section 3519, added Pub. L. 96-511, § 2(a), Dec. 11, 1980, 94 Stat. 2825; amended Pub. L. 97-258, § 3(m)(3), Sept. 13, 1982, 96 Stat. 1066, related to access to information prior to the general amendment of this chapter by Pub. L. 104-13.

§ 3520. Establishment of task force on information collection and dissemination

(a) There is established a task force to study the feasibility of streamlining requirements with respect to small business concerns regarding collection of information and strengthening dissemination of information (in this section referred to as the “task force”).

(b)(1) The Director shall determine—

(A) subject to the minimum requirements under paragraph (2), the number of representatives to be designated under each subparagraph of that paragraph; and

(B) the agencies to be represented under paragraph (2)(K).

(2) After all determinations are made under paragraph (1), the members of the task force shall be designated by the head of each applicable department or agency, and include—

(A) 1 representative of the Director, who shall convene and chair the task force;

(B) not less than 2 representatives of the Department of Labor, including 1 representative of the Bureau of Labor Statistics and 1 representative of the Occupational Safety and Health Administration;

(C) not less than 1 representative of the Environmental Protection Agency;

(D) not less than 1 representative of the Department of Transportation;

(E) not less than 1 representative of the Office of Advocacy of the Small Business Administration;

(F) not less than 1 representative of the Internal Revenue Service;

(G) not less than 2 representatives of the Department of Health and Human Services, including 1 representative of the Centers for Medicare and Medicaid Services;

(H) not less than 1 representative of the Department of Agriculture;

(I) not less than 1 representative of the Department of the Interior;

(J) not less than 1 representative of the General Services Administration; and

(K) not less than 1 representative of each of 2 agencies not represented by representatives described under subparagraphs (A) through (J).

(c) The task force shall—

(1) identify ways to integrate the collection of information across Federal agencies and programs and examine the feasibility and desirability of requiring each agency to consolidate requirements regarding collections of information with respect to small business concerns within and across agencies, without negatively impacting the effectiveness of underlying laws and regulations regarding such collections of information, in order that each small business concern may submit all information required by the agency—

(A) to 1 point of contact in the agency;

(B) in a single format, such as a single electronic reporting system, with respect to the agency; and

(C) with synchronized reporting for information submissions having the same frequency, such as synchronized quarterly, semiannual, and annual reporting dates;

(2) examine the feasibility and benefits to small businesses of publishing a list by the Director of the collections of information applicable to small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), organized—

(A) by North American Industry Classification System code;

(B) by industrial sector description; or

(C) in another manner by which small business concerns can more easily identify requirements with which those small business concerns are expected to comply;

(3) examine the savings, including cost savings, and develop recommendations for implementing—

(A) systems for electronic submissions of information to the Federal Government; and

(B) interactive reporting systems, including components that provide immediate feedback to assure that data being submitted—

(i) meet requirements of format; and

(ii) are within the range of acceptable options for each data field;

(4) make recommendations to improve the electronic dissemination of information collected under Federal requirements;

(5) recommend a plan for the development of an interactive Governmentwide system, available through the Internet, to allow each small business to—

(A) better understand which Federal requirements regarding collection of information (and, when possible, which other Federal regulatory requirements) apply to that particular business; and

(B) more easily comply with those Federal requirements; and

(6) in carrying out this section, consider opportunities for the coordination—

(A) of Federal and State reporting requirements; and

(B) among the points of contact described under section 3506(i), such as to enable agencies to provide small business concerns with contacts for information collection requirements for other agencies.

(d) The task force shall—

(1) by publication in the Federal Register, provide notice and an opportunity for public comment on each report in draft form; and

(2) make provision in each report for the inclusion of—

(A) any additional or dissenting views of task force members; and

(B) a summary of significant public comments.

(e) Not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2002, the task force shall submit a report of its findings under subsection (c) (1), (2), and (3) to—

(1) the Director;

(2) the chairpersons and ranking minority members of—

(A) the Committee on Governmental Affairs and the Committee on Small Business and Entrepreneurship of the Senate; and

(B) the Committee on Government Reform and the Committee on Small Business of the House of Representatives; and

(3) the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under section 30(b) of the Small Business Act (15 U.S.C. 657(b)).

(f) Not later than 2 years after the date of enactment of the Small Business Paperwork Relief Act of 2002, the task force shall submit a report of its findings under subsection (c) (4) and (5) to—

(1) the Director;

(2) the chairpersons and ranking minority members of—

(A) the Committee on Governmental Affairs and the Committee on Small Business and Entrepreneurship of the Senate; and

(B) the Committee on Government Reform and the Committee on Small Business of the House of Representatives; and

(3) the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under section 30(b) of the Small Business Act (15 U.S.C. 657(b)).

(g) The task force shall terminate after completion of its work.

(h) In this section, the term “small business concern” has the meaning given under section 3 of the Small Business Act (15 U.S.C. 632).

(Added Pub. L. 107-198, §3(a)(2), June 28, 2002, 116 Stat. 730.)

REFERENCES IN TEXT

The date of enactment of the Small Business Paperwork Relief Act of 2002, referred to in subsecs. (e) and (f), is the date of enactment of Pub. L. 107-198, which was approved June 28, 2002.

PRIOR PROVISIONS

A prior section 3520 was renumbered section 3521 of this title.

Another prior section 3520, added Pub. L. 96-511, §2(a), Dec. 11, 1980, 94 Stat. 2825; amended Pub. L. 99-500, §101(m) [title VIII, §820], Oct. 18, 1986, 100 Stat. 1783-308, 1783-340, and Pub. L. 99-591, §101(m) [title VIII, §820], Oct. 30, 1986, 100 Stat. 3341-308, 3341-340, related to authorization of appropriations prior to the general amendment of this chapter by Pub. L. 104-13.

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 3521. Authorization of appropriations

There are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this subchapter, and for no other purpose, \$8,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, 2000, and 2001.

(Added Pub. L. 104-13, §2, May 22, 1995, 109 Stat. 184, §3520; amended Pub. L. 106-398, §1 [[div. A], title X, §1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275; renumbered §3521, Pub. L. 107-198, §3(a)(1), June 28, 2002, 116 Stat. 730.)

AMENDMENTS

2002—Pub. L. 107-198 renumbered section 3520 of this title as this section.

2000—Pub. L. 106-398 substituted “subchapter” for “chapter”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1065] of Pub. L. 106-398, set out as an Effective Date note under section 3531 of this title.

EFFECTIVE DATE

Section effective May 22, 1995, see section 4 of Pub. L. 104-13, set out as a note under section 3501 of this title.

SUBCHAPTER II—INFORMATION SECURITY

APPLICABILITY OF SUBCHAPTER

This subchapter not to apply while subchapter III of this chapter is in effect, see section 3549 of this title.

AMENDMENTS

2002—Pub. L. 107-296, title X, §1001(b)(1), Nov. 25, 2002, 116 Stat. 2259, reenacted subchapter heading without change.

§ 3531. Purposes

The purposes of this subchapter are to—

(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

(4) provide a mechanism for improved oversight of Federal agency information security programs;

(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.

(Added Pub. L. 107-296, title X, §1001(b)(1), Nov. 25, 2002, 116 Stat. 2259.)

APPLICABILITY OF SECTION

This section not to apply while subchapter III of this chapter is in effect, see section 3549 of this title.

PRIOR PROVISIONS

A prior section 3531, added Pub. L. 106-398, §1 [[div. A], title X, §1061], Oct. 30, 2000, 114 Stat. 1654, 1654A-266, set forth purposes of this subchapter prior to the general amendment of this subchapter by Pub. L. 107-296.

EFFECTIVE DATE

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

Pub. L. 106-398, §1 [[div. A], title X, §1065], Oct. 30, 2000, 114 Stat. 1654, 1654A-275, which provided that subtitle G (§§1061-1065) of title X of [div. A] of H.R. 5408, as enacted by section 1 of Pub. L. 106-398, enacting this subchapter, amending sections 3501 to 3507, 3509, 3512, 3514 to 3518, and 3520 of this title, and section 2224 of Title 10, Armed Forces, and enacting provisions formerly set out as a note below, would take effect 30 days after Oct. 30, 2000, was repealed by Pub. L. 107-296, title X, §1005(b), Nov. 25, 2002, 116 Stat. 2272.

RESPONSIBILITIES OF CERTAIN AGENCIES

Pub. L. 106-398, §1 [[div. A], title X, §1062], Oct. 30, 2000, 114 Stat. 1654, 1654A-272, which set forth responsibilities of Department of Commerce, Department of Defense, Intelligence Community, Department of Justice, General Services Administration, and Office of Personnel Management relating to development, issuance, review, and updating of information security policies, principles, standards, and guidelines, including assessment of training and personnel needs, was repealed by Pub. L. 107-296, title X, §1005(b), Nov. 25, 2002, 116 Stat. 2272, and Pub. L. 107-347, title III, §305(b), Dec. 17, 2002, 116 Stat. 2960.

§ 3532. Definitions

(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

(b) ADDITIONAL DEFINITIONS.—As used in this subchapter—

(1) the term “information security” means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

(B) confidentiality, which means preserving authorized restrictions on access and

disclosure, including means for protecting personal privacy and proprietary information;

(C) availability, which means ensuring timely and reliable access to and use of information; and

(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access;

(2) the term “national security system” means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency, 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) is critical to the direct fulfillment of military or intelligence missions provided that this definition does not apply to a system that is used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications);

(3) the term “information technology” has the meaning given that term in section 11101 of title 40; and

(4) the term “information system” means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, and includes—

(A) computers and computer networks;

(B) ancillary equipment;

(C) software, firmware, and related procedures;

(D) services, including support services; and

(E) related resources.

(Added Pub. L. 107-296, title X, §1001(b)(1), Nov. 25, 2002, 116 Stat. 2260.)

APPLICABILITY OF SECTION

This section not to apply while subchapter III of this chapter is in effect, see section 3549 of this title.

PRIOR PROVISIONS

A prior section 3532, added Pub. L. 106-398, §1 [[div. A], title X, §1061], Oct. 30, 2000, 114 Stat. 1654, 1654A-266, related to definitions applicable to this subchapter prior to the general amendment of this subchapter by Pub. L. 107-296.

§ 3533. Authority and functions of the Director

(a) The Director shall oversee agency information security policies and practices, by—

(1) promulgating information security standards under section 11331 of title 40;

(2) overseeing the implementation of policies, principles, standards, and guidelines on information security;

(3) requiring agencies, consistent with the standards promulgated under such section

11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

(A) information collected or maintained by or on behalf of an agency; or

(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

(4) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

(5) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303(b)(5) of title 40, to enforce accountability for compliance with such requirements;

(6) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3534(b);

(7) coordinating information security policies and procedures with related information resources management policies and procedures; and

(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

(A) a summary of the findings of evaluations required by section 3535;

(B) significant deficiencies in agency information security practices;

(C) planned remedial action to address such deficiencies; and

(D) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(d)(9) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

(b) Except for the authorities described in paragraphs (4) and (7) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

(Added Pub. L. 107-296, title X, §1001(b)(1), Nov. 25, 2002, 116 Stat. 2261.)

APPLICABILITY OF SECTION

This section not to apply while subchapter III of this chapter is in effect, see section 3549 of this title.

PRIOR PROVISIONS

A prior section 3533, added Pub. L. 106-398, §1 [div. A], title X, §1061], Oct. 30, 2000, 114 Stat. 1654, 1654A-266, set forth authority and functions of the Director prior to the general amendment of this subchapter by Pub. L. 107-296.

§ 3534. Federal agency responsibilities

(a) The head of each agency shall—

(1) be responsible for—

(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

(i) information collected or maintained by or on behalf of the agency; and

(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

(i) information security standards promulgated by the Director under section 11331 of title 40; and

(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40 for information security classifications and related requirements;

(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

(A) designating a senior agency information security officer who shall—

(i) carry out the Chief Information Officer's responsibilities under this section;

(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

(iii) have information security duties as that official's primary duty; and

(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

(B) developing and maintaining an agency-wide information security program as required by subsection (b);

(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3533 of this title, and section 11331 of title 40;

(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

(b) Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3533(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

(2) policies and procedures that—

(A) are based on the risk assessments required by paragraph (1);

(B) cost-effectively reduce information security risks to an acceptable level;

(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

(D) ensure compliance with—

(i) the requirements of this subchapter;

(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

(iii) minimally acceptable system configuration requirements, as determined by the agency; and

(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

(A) information security risks associated with their activities; and

(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

(B) may include testing relied on in a¹ evaluation under section 3535;

(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

(7) procedures for detecting, reporting, and responding to security incidents, including—

(A) mitigating risks associated with such incidents before substantial damage is done; and

(B) notifying and consulting with, as appropriate—

(i) law enforcement agencies and relevant Offices of Inspector General;

(ii) an office designated by the President for any incident involving a national security system; and

(iii) any other agency or office, in accordance with law or as directed by the President; and

(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

(c) Each agency shall—

(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

(A) annual agency budgets;

(B) information resources management under subchapter 1² of this chapter;

(C) information technology management under subtitle III of title 40;

(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101-576) (and the amendments made by that Act);

¹ So in original. Probably should be “an”.

² So in original. Probably should be “I”.

(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

(G) internal accounting and administrative controls under section 3512 of title 31, United States Code,³ (known as the “Federal Managers Financial Integrity Act”); and

(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

(A) as a material weakness in reporting under section 3512 of title 31; and

(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

(A) the time periods; and

(B) the resources, including budget, staffing, and training,

that are necessary to implement the program required under subsection (b).

(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

(e) Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

(Added Pub. L. 107–296, title X, §1001(b)(1), Nov. 25, 2002, 116 Stat. 2262.)

APPLICABILITY OF SECTION

This section not to apply while subchapter III of this chapter is in effect, see section 3549 of this title.

REFERENCES IN TEXT

The Chief Financial Officers Act of 1990, referred to in subsec. (c)(2)(E), is Pub. L. 101–576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of Title 31, Money and Finance, and Tables.

The Federal Financial Management Improvement Act, referred to in subsec. (c)(2)(F), (3)(B), probably means the Federal Financial Management Improvement Act of 1996, Pub. L. 104–208, div. A, title I, §101(f) [title VIII], Sept. 30, 1996, 110 Stat. 3009–314, 3009–389, which is set out as a note under section 3512 of Title 31, Money and Finance. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 3534, added Pub. L. 106–398, §1 [[div. A], title X, §1061], Oct. 30, 2000, 114 Stat. 1654, 1654A–268, related to Federal agency responsibilities prior to the general amendment of this subchapter by Pub. L. 107–296.

CHANGE OF NAME

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives and

Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

§ 3535. Annual independent evaluation

(a)(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

(2) Each evaluation by an agency under this section shall include—

(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency’s information systems;

(B) an assessment (made on the basis of the results of the testing) of compliance with—

(i) the requirements of this subchapter; and

(ii) related information security policies, procedures, standards, and guidelines; and

(C) separate presentations, as appropriate, regarding information security relating to national security systems.

(b) Subject to subsection (c)—

(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978 or any other law, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

(c) For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

(1) only by an entity designated by the agency head; and

(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

(d) The evaluation required by this section—

(1) shall be performed in accordance with generally accepted government auditing standards; and

(2) may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

(e) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

(f) Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect in-

³ So in original. The comma probably should not appear.

formation security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

(g)(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3533(a)(8).

(2) The Director's report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

(h) The Comptroller General shall periodically evaluate and report to Congress on—

(1) the adequacy and effectiveness of agency information security policies and practices; and

(2) implementation of the requirements of this subchapter.

(Added Pub. L. 107-296, title X, §1001(b)(1), Nov. 25, 2002, 116 Stat. 2265; amended Pub. L. 108-177, title III, §377(e), Dec. 13, 2003, 117 Stat. 2631.)

APPLICABILITY OF SECTION

This section not to apply while subchapter III of this chapter is in effect, see section 3549 of this title.

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (b)(1), is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 3535, added Pub. L. 106-398, §1 [[div. A], title X, §1061], Oct. 30, 2000, 114 Stat. 1654, 1654A-271, related to annual independent evaluation prior to the general amendment of this subchapter by Pub. L. 107-296.

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108-177 inserted “or any other law” after “1978”.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of Title 50, War and National Defense.

§ 3536. National security systems

The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

(3) complies with the requirements of this subchapter.

(Added Pub. L. 107-296, title X, §1001(b)(1), Nov. 25, 2002, 116 Stat. 2266.)

APPLICABILITY OF SECTION

This section not to apply while subchapter III of this chapter is in effect, see section 3549 of this title.

PRIOR PROVISIONS

A prior section 3536, added Pub. L. 106-398, §1 [[div. A], title X, §1061], Oct. 30, 2000, 114 Stat. 1654, 1654A-272; amended Pub. L. 107-314, div. A, title X, §1052(a), Dec. 2, 2002, 116 Stat. 2648, set forth expiration date of this subchapter prior to the general amendment of this subchapter by Pub. L. 107-296.

EFFECTIVE DATE

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

§ 3537. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

(Added Pub. L. 107-296, title X, §1001(b)(1), Nov. 25, 2002, 116 Stat. 2267.)

APPLICABILITY OF SECTION

This section not to apply while subchapter III of this chapter is in effect, see section 3549 of this title.

§ 3538. Effect on existing law

Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards¹ and Technology Act (15 U.S.C. 278g-3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this

¹So in original. Probably should be “National Institute of Standards”.

title, or the disclosure of information to Congress or the Comptroller General of the United States.

(Added Pub. L. 107-296, title X, §1001(b)(1), Nov. 25, 2002, 116 Stat. 2267.)

APPLICABILITY OF SECTION

This section not to apply while subchapter III of this chapter is in effect, see section 3549 of this title.

SUBCHAPTER III—INFORMATION SECURITY

§ 3541. Purposes

The purposes of this subchapter are to—

(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

(4) provide a mechanism for improved oversight of Federal agency information security programs;

(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.

(Added Pub. L. 107-347, title III, §301(b)(1), Dec. 17, 2002, 116 Stat. 2946.)

EFFECTIVE DATE

Pub. L. 107-347, title IV, §402(b), Dec. 17, 2002, 116 Stat. 2962, provided that: “Title III [see Short Title of 2002 Amendments note set out under section 101 of this title] and this title [enacting provisions set out as a note under section 3601 of this title] shall take effect on the date of enactment of this Act [Dec. 17, 2002].”

§ 3542. Definitions

(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

(b) ADDITIONAL DEFINITIONS.—As used in this subchapter:

(1) The term “information security” means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

(A) integrity, which means guarding against improper information modification

or destruction, and includes ensuring information nonrepudiation and authenticity;

(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and

(C) availability, which means ensuring timely and reliable access to and use of information.

(2)(A) The term “national security system” means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

(i) the function, operation, or use of which—

(I) involves intelligence activities;

(II) involves cryptologic activities related to national security;

(III) involves command and control of military forces;

(IV) involves equipment that is an integral part of a weapon or weapons system; or

(V) subject to subparagraph (B), is critical to the direct fulfillment of military or intelligence missions; or

(ii) is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

(B) Subparagraph (A)(i)(V) does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

(3) The term “information technology” has the meaning given that term in section 11101 of title 40.

(Added Pub. L. 107-347, title III, §301(b)(1), Dec. 17, 2002, 116 Stat. 2947.)

§ 3543. Authority and functions of the Director

(a) IN GENERAL.—The Director shall oversee agency information security policies and practices, including—

(1) developing and overseeing the implementation of policies, principles, standards, and guidelines on information security, including through ensuring timely agency adoption of and compliance with standards promulgated under section 11331 of title 40;

(2) requiring agencies, consistent with the standards promulgated under such section 11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

(A) information collected or maintained by or on behalf of an agency; or

(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

(3) coordinating the development of standards and guidelines under section 20 of the Na-

tional Institute of Standards and Technology Act (15 U.S.C. 278g-3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

(4) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303 of title 40, to enforce accountability for compliance with such requirements;

(5) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3544(b);

(6) coordinating information security policies and procedures with related information resources management policies and procedures;

(7) overseeing the operation of the Federal information security incident center required under section 3546; and

(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

(A) a summary of the findings of evaluations required by section 3545;

(B) an assessment of the development, promulgation, and adoption of, and compliance with, standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 11331 of title 40;

(C) significant deficiencies in agency information security practices;

(D) planned remedial action to address such deficiencies; and

(E) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(d)(10) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

(b) NATIONAL SECURITY SYSTEMS.—Except for the authorities described in paragraphs (4) and (8) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

(c) DEPARTMENT OF DEFENSE AND CENTRAL INTELLIGENCE AGENCY SYSTEMS.—(1) The authorities of the Director described in paragraphs (1) and (2) of subsection (a) shall be delegated to the Secretary of Defense in the case of systems described in paragraph (2) and to the Director of Central Intelligence in the case of systems described in paragraph (3).

(2) The systems described in this paragraph are systems that are operated by the Department of Defense, a contractor of the Department of Defense, or another entity on behalf of the Department of Defense that processes any information the unauthorized access, use, disclosure, disruption, modification, or destruction of which would have a debilitating impact on the mission of the Department of Defense.

(3) The systems described in this paragraph are systems that are operated by the Central Intelligence Agency, a contractor of the Central

Intelligence Agency, or another entity on behalf of the Central Intelligence Agency that processes any information the unauthorized access, use, disclosure, disruption, modification, or destruction of which would have a debilitating impact on the mission of the Central Intelligence Agency.

(Added Pub. L. 107-347, title III, §301(b)(1), Dec. 17, 2002, 116 Stat. 2947.)

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of Title 50, War and National Defense.

§ 3544. Federal agency responsibilities

(a) IN GENERAL.—The head of each agency shall—

(1) be responsible for—

(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

(i) information collected or maintained by or on behalf of the agency; and

(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

(i) information security standards promulgated under section 11331 of title 40; and

(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40, for information security classifications and related requirements;

(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

(A) designating a senior agency information security officer who shall—

(i) carry out the Chief Information Officer's responsibilities under this section;

(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

(iii) have information security duties as that official's primary duty; and

(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

(B) developing and maintaining an agency-wide information security program as required by subsection (b);

(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3543 of this title, and section 11331 of title 40;

(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

(b) AGENCY PROGRAM.—Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3543(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

(2) policies and procedures that—

(A) are based on the risk assessments required by paragraph (1);

(B) cost-effectively reduce information security risks to an acceptable level;

(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

(D) ensure compliance with—

(i) the requirements of this subchapter;

(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

(iii) minimally acceptable system configuration requirements, as determined by the agency; and

(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

(A) information security risks associated with their activities; and

(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

(B) may include testing relied on in a¹ evaluation under section 3545;

(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

(7) procedures for detecting, reporting, and responding to security incidents, consistent with standards and guidelines issued pursuant to section 3546(b), including—

(A) mitigating risks associated with such incidents before substantial damage is done;

(B) notifying and consulting with the Federal information security incident center referred to in section 3546; and

(C) notifying and consulting with, as appropriate—

(i) law enforcement agencies and relevant Offices of Inspector General;

(ii) an office designated by the President for any incident involving a national security system; and

(iii) any other agency or office, in accordance with law or as directed by the President; and

¹ So in original. Probably should be "an".

(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

(c) AGENCY REPORTING.—Each agency shall—

(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

(A) annual agency budgets;

(B) information resources management under subchapter 1² of this chapter;

(C) information technology management under subtitle III of title 40;

(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101-576) (and the amendments made by that Act);

(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

(G) internal accounting and administrative controls under section 3512 of title 31,³ (known as the “Federal Managers Financial Integrity Act”); and

(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

(A) as a material weakness in reporting under section 3512 of title 31; and

(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

(d) PERFORMANCE PLAN.—(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

(A) the time periods, and

(B) the resources, including budget, staffing, and training,

that are necessary to implement the program required under subsection (b).

(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

(e) PUBLIC NOTICE AND COMMENT.—Each agency shall provide the public with timely notice and opportunities for comment on proposed informa-

tion security policies and procedures to the extent that such policies and procedures affect communication with the public.

(Added Pub. L. 107-347, title III, §301(b)(1), Dec. 17, 2002, 116 Stat. 2949.)

REFERENCES IN TEXT

The Chief Financial Officers Act of 1990, referred to in subsec. (c)(2)(E), is Pub. L. 101-576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of Title 31, Money and Finance, and Tables.

The Federal Financial Management Improvement Act, referred to in subsec. (c)(2)(F), (3)(B), probably means the Federal Financial Management Improvement Act of 1996, Pub. L. 104-208, div. A, title I, §101(f) [title VIII], Sept. 30, 1996, 110 Stat. 3009-314, 3009-389, which is set out as a note under section 3512 of Title 31, Money and Finance. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives and Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

§ 3545. Annual independent evaluation

(a) IN GENERAL.—(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

(2) Each evaluation under this section shall include—

(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency's information systems;

(B) an assessment (made on the basis of the results of the testing) of compliance with—

(i) the requirements of this subchapter; and

(ii) related information security policies, procedures, standards, and guidelines; and

(C) separate presentations, as appropriate, regarding information security relating to national security systems.

(b) INDEPENDENT AUDITOR.—Subject to subsection (c)—

(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978 or any other law, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

(c) NATIONAL SECURITY SYSTEMS.—For each agency operating or exercising control of a na-

² So in original. Probably should be “I”.

³ So in original. The comma probably should not appear.

tional security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

(1) only by an entity designated by the agency head; and

(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

(d) **EXISTING EVALUATIONS.**—The evaluation required by this section may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

(e) **AGENCY REPORTING.**—(1) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

(2) To the extent an evaluation required under this section directly relates to a national security system, the evaluation results submitted to the Director shall contain only a summary and assessment of that portion of the evaluation directly relating to a national security system.

(f) **PROTECTION OF INFORMATION.**—Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

(g) **OMB REPORTS TO CONGRESS.**—(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3543(a)(8).

(2) The Director's report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

(h) **COMPTROLLER GENERAL.**—The Comptroller General shall periodically evaluate and report to Congress on—

(1) the adequacy and effectiveness of agency information security policies and practices; and

(2) implementation of the requirements of this subchapter.

(Added Pub. L. 107-347, title III, §301(b)(1), Dec. 17, 2002, 116 Stat. 2952; amended Pub. L. 108-177, title III, §377(e), Dec. 13, 2003, 117 Stat. 2631.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (b)(1), is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101,

as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108-177 inserted “or any other law” after “1978”.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of Title 50, War and National Defense.

§ 3546. Federal information security incident center

(a) **IN GENERAL.**—The Director shall ensure the operation of a central Federal information security incident center to—

(1) provide timely technical assistance to operators of agency information systems regarding security incidents, including guidance on detecting and handling information security incidents;

(2) compile and analyze information about incidents that threaten information security;

(3) inform operators of agency information systems about current and potential information security threats, and vulnerabilities; and

(4) consult with the National Institute of Standards and Technology, agencies or offices operating or exercising control of national security systems (including the National Security Agency), and such other agencies or offices in accordance with law and as directed by the President regarding information security incidents and related matters.

(b) **NATIONAL SECURITY SYSTEMS.**—Each agency operating or exercising control of a national security system shall share information about information security incidents, threats, and vulnerabilities with the Federal information security incident center to the extent consistent with standards and guidelines for national security systems, issued in accordance with law and as directed by the President.

(Added Pub. L. 107-347, title III, §301(b)(1), Dec. 17, 2002, 116 Stat. 2954.)

§ 3547. National security systems

The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

(3) complies with the requirements of this subchapter.

(Added Pub. L. 107-347, title III, §301(b)(1), Dec. 17, 2002, 116 Stat. 2954.)

§ 3548. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

(Added Pub. L. 107-347, title III, §301(b)(1), Dec. 17, 2002, 116 Stat. 2954.)

§ 3549. Effect on existing law

Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards¹ and Technology Act (15 U.S.C. 278g-3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to the Congress or the Comptroller General of the United States. While this subchapter is in effect, subchapter II of this chapter shall not apply.

(Added Pub. L. 107-347, title III, §301(b)(1), Dec. 17, 2002, 116 Stat. 2955.)

CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

Sec.	
3601.	Definitions.
3602.	Office of Electronic Government.
3603.	Chief Information Officers Council.
3604.	E-Government Fund.
3605.	Program to encourage innovative solutions to enhance electronic Government services and processes.
3606.	E-Government report.

§ 3601. Definitions

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

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

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

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

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

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

(4) “enterprise architecture”—

(A) means—

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

(ii) the information necessary to perform the mission;

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

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

(B) includes—

(i) a baseline architecture;

(ii) a target architecture; and

(iii) a sequencing plan;

(5) “Fund” means the E-Government Fund established under section 3604;

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

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

(8) “tribal government” means—

(A) the governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and

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

(Added Pub. L. 107-347, title I, §101(a), Dec. 17, 2002, 116 Stat. 2901.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (8)(B), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

EFFECTIVE DATE

Pub. L. 107-347, title IV, §402(a), Dec. 17, 2002, 116 Stat. 2961, provided that:

“(1) IN GENERAL.—Except as provided under paragraph (2), titles I [enacting this chapter, section 507 of Title 31, Money and Finance, and section 305 of Title 40, Public Buildings, Property, and Works, and amending section 503 of Title 31] and II [enacting chapter 37 of Title 5, Government Organization and Employees, section 2332 of Title 10, Armed Forces, and section 266a of Title 41, Public Contracts, amending sections 3111, 4108, and 7353 of Title 5, sections 207, 209, and 1905 of Title 18, Crimes and Criminal Procedure, sections 502, 11501 to 11505 of Title 40, and section 423 of Title 41, repealing

¹ So in original. Probably should be “National Institute of Standards”.