

–CITE–

40 USC CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF  
INFORMATION TECHNOLOGY 01/06/03

–EXPCITE–

TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION  
TECHNOLOGY

–HEAD–

CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION  
TECHNOLOGY

–MISC1–

SUBCHAPTER I – DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

Sec.

11301. Responsibility of Director.

11302. Capital planning and investment control.

11303. Performance–based and results–based management.

SUBCHAPTER II – EXECUTIVE AGENCIES

11311. Responsibilities.

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11316. Accountability.

11317. Significant deviations.

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### SUBCHAPTER III – OTHER RESPONSIBILITIES

11331. Responsibilities for Federal information systems standards.

[11332. Repealed.]

### AMENDMENTS

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

–SECRET–

### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 11103 of this title.

–End–

–CITE–

### 40 USC SUBCHAPTER I – DIRECTOR OF OFFICE OF MANAGEMENT

AND BUDGET 01/06/03

–EXPCITE–

### TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

### SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

### CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION

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SUBCHAPTER I – DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

–End–

–CITE–

40 USC Sec. 11301 01/06/03

–EXPCITE–

TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION

TECHNOLOGY

SUBCHAPTER I – DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

–HEAD–

Sec. 11301. Responsibility of Director

–STATUTE–

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

–SOURCE–

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

–MISC1–

HISTORICAL AND REVISION NOTES

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

Section

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11301 40:1411. Pub. L. 104–106, div. E,  
title LI, Sec. 5111, Feb.  
10, 1996, 110 Stat. 680.

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–End–

–CITE–

40 USC Sec. 11302 01/06/03

–EXPCITE–

TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION

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SUBCHAPTER I – DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

–HEAD–

Sec. 11302. Capital planning and investment control

–STATUTE–

(a) Federal Information Technology. – The Director of the Office of Management and Budget shall perform the responsibilities set forth in this section in fulfilling the responsibilities under section 3504(h) of title 44.

(b) Use of Information Technology in Federal Programs. – The Director shall promote and improve the acquisition, use, and disposal of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of federal

programs, including through dissemination of public information and the reduction of information collection burdens on the public.

(c) Use of Budget Process. –

(1) Analyzing, tracking, and evaluating capital investments. –

As part of the budget process, the Director shall develop a process for analyzing, tracking, and evaluating the risks and results of all major capital investments made by an executive agency for information systems. The process shall cover the life of each system and shall include explicit criteria for analyzing the projected and actual costs, benefits, and risks associated with the investments.

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

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

(e) Designation of Executive Agents for Acquisitions. – The

Director shall designate the head of one or more executive agencies, as the Director considers appropriate, as executive agent for Government-wide acquisitions of information technology.

(f) Use of Best Practices in Acquisitions. – The Director shall encourage the heads of the executive agencies to develop and use the best practices in the acquisition of information technology.

(g) Assessment of Other Models for Managing Information Technology. – On a continuing basis, the Director shall assess the experiences of executive agencies, state and local governments, international organizations, and the private sector in managing information technology.

(h) Comparison of Agency Uses of Information Technology. – The Director shall compare the performances of the executive agencies in using information technology and shall disseminate the comparisons to the heads of the executive agencies.

(i) Monitoring Training. – The Director shall monitor the development and implementation of training in information resources management for executive agency personnel.

(j) Informing Congress. – The Director shall keep Congress fully informed on the extent to which the executive agencies are improving the performance of agency programs and the accomplishment of the agency missions through the use of the best practices in information resources management.

(k) Coordination of Policy Development and Review. – The Director shall coordinate with the Office of Federal Procurement Policy the development and review by the Administrator of the Office of

Information and Regulatory Affairs of policy associated with  
federal acquisition of information technology.

–SOURCE–

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

–MISC1–

#### HISTORICAL AND REVISION NOTES

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

Section

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11302 40:1412. Pub. L. 104–106, div. E,

title LI, Sec. 5112, Feb.

10, 1996, 110 Stat. 680.

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

Pub. L. 106–398, Sec. 1 [[div. A], title VIII, Sec. 813], Oct.

30, 2000, 114 Stat. 1654, 1654A–214, provided that:

"(a) Amendment of the Federal Acquisition Regulation. – Not later than 180 days after the date of the enactment of this Act [Oct. 30, 2000], the Federal Acquisition Regulation issued in accordance with sections 6 and 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 405 and 421) shall be amended to address the use, in the procurement of information technology services, of requirements regarding the experience and education of contractor personnel.

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

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

or

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

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

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

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

"(d) Definitions. – In this section:

"(1) The term 'executive agency' has the meaning given that term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

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

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

–SECREP–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11103 of this title.

–End–

–CITE–

40 USC Sec. 11303 01/06/03

–EXPCITE–

#### TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

#### SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

#### CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

#### SUBCHAPTER I – DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

–HEAD–

Sec. 11303. Performance-based and results-based management

–STATUTE–

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

(b) Evaluation of Agency Programs and Investments. –

(1) Requirement. – The Director shall evaluate the information resources management practices of the executive agencies with

respect to the performance and results of the investments made by the executive agencies in information technology.

(2) Direction for executive agency action. – The Director shall issue to the head of each executive agency clear and concise direction that the head of each agency shall –

(A) establish effective and efficient capital planning processes for selecting, managing, and evaluating the results of all of its major investments in information systems;

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

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

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

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

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

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

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

(5) Enforcement of accountability. –

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

(B) Specific actions. – Actions taken by the Director may include –

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

(ii) reducing or otherwise adjusting apportionments and

reapportionments of appropriations for information resources;

(iii) using other administrative controls over

appropriations to restrict the availability of amounts for

information resources; and

(iv) designating for the executive agency an executive

agent to contract with private sector sources for the

performance of information resources management or the

acquisition of information technology.

–SOURCE–

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

–MISC1–

#### HISTORICAL AND REVISION NOTES

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

Section

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11303 40:1413. Pub. L. 104–106, div. E,

title LI, Sec. 5113, Feb.

10, 1996, 110 Stat. 681.

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–SECREf–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11103 of this title; title

44 sections 3533, 3543.

–End–

–CITE–

40 USC SUBCHAPTER II – EXECUTIVE AGENCIES 01/06/03

–EXPCITE–

TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION

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SUBCHAPTER II – EXECUTIVE AGENCIES

–End–

–CITE–

40 USC Sec. 11311 01/06/03

–EXPCITE–

TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION

TECHNOLOGY

SUBCHAPTER II – EXECUTIVE AGENCIES

–HEAD–

Sec. 11311. Responsibilities

–STATUTE–

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

–SOURCE–

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

–MISC1–

## HISTORICAL AND REVISION NOTES

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

Section

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11311 40:1421. Pub. L. 104–106, div. E,

title LI, Sec. 5121, Feb.

10, 1996, 110 Stat. 683.

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

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

to [former] 40 U.S.C. 759."

–End–

–CITE–

40 USC Sec. 11312 01/06/03

–EXPCITE–

TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION

TECHNOLOGY

SUBCHAPTER II – EXECUTIVE AGENCIES

–HEAD–

Sec. 11312. Capital planning and investment control

–STATUTE–

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

(b) Content of Process. – The process of an executive agency shall –

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

(2) be integrated with the processes for making budget,

financial, and program management decisions in the executive agency;

- (3) include minimum criteria to be applied in considering whether to undertake a particular investment in information systems, including criteria related to the quantitatively expressed projected net, risk-adjusted return on investment and specific quantitative and qualitative criteria for comparing and prioritizing alternative information systems investment projects;
- (4) identify information systems investments that would result in shared benefits or costs for other federal agencies or state or local governments;
- (5) identify quantifiable measurements for determining the net benefits and risks of a proposed investment; and
- (6) provide the means for senior management personnel of the executive agency to obtain timely information regarding the progress of an investment in an information system, including a system of milestones for measuring progress, on an independently verifiable basis, in terms of cost, capability of the system to meet specified requirements, timeliness, and quality.

–SOURCE–

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

–MISC1–

#### HISTORICAL AND REVISION NOTES

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

Section

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11312 40:1422. Pub. L. 104–106, div. E,

title LI, Sec. 5122, Feb.

10, 1996, 110 Stat. 683.

---

–SECREf–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11103 of this title; title

10 section 2225.

–End–

–CITE–

40 USC Sec. 11313 01/06/03

–EXPCITE–

#### TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

#### SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

#### CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION

#### TECHNOLOGY

#### SUBCHAPTER II – EXECUTIVE AGENCIES

–HEAD–

Sec. 11313. Performance and results–based management

–STATUTE–

In fulfilling the responsibilities under section 3506(h) of title

44, the head of an executive agency shall –

(1) establish goals for improving the efficiency and

effectiveness of agency operations and, as appropriate, the

delivery of services to the public through the effective use of

information technology;

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

(3) ensure that performance measurements –

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

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

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

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

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

–SOURCE–

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

–MISC1–

#### HISTORICAL AND REVISION NOTES

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

Section

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11313 40:1423. Pub. L. 104–106, div. E,  
title LI, Sec. 5123, Feb.  
10, 1996, 110 Stat. 683.

---

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11103 of this title; title  
10 section 2225.

–End–

–CITE–

40 USC Sec. 11314 01/06/03

–EXPCITE–

TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION

TECHNOLOGY

SUBCHAPTER II – EXECUTIVE AGENCIES

–HEAD–

Sec. 11314. Authority to acquire and manage information technology

–STATUTE–

(a) In General. – The authority of the head of an executive

agency to acquire information technology includes –

(1) acquiring information technology as authorized by law;

(2) making a contract that provides for multiagency

acquisitions of information technology in accordance with guidance issued by the Director of the Office of Management and Budget; and

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

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

–SOURCE–

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

–MISC1–

#### HISTORICAL AND REVISION NOTES

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

Section

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11314 40:1424. Pub. L. 104–106, div. E,

title LI, Sec. 5124, Feb.

10, 1996, 110 Stat. 684.

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In subsection (b), the words "Notwithstanding any other provision

of this or any other law" are omitted as unnecessary.

–End–

–CITE–

40 USC Sec. 11315 01/06/03

–EXPCITE–

TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION

TECHNOLOGY

SUBCHAPTER II – EXECUTIVE AGENCIES

–HEAD–

Sec. 11315. Agency Chief Information Officer

–STATUTE–

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

(b) General Responsibilities. – The Chief Information Officer of an executive agency is responsible for –

(1) providing advice and other assistance to the head of the executive agency and other senior management personnel of the executive agency to ensure that information technology is acquired and information resources are managed for the executive agency in a manner that implements the policies and procedures of

this subtitle, consistent with chapter 35 of title 44 and the priorities established by the head of the executive agency;

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

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

(c) Duties and Qualifications. – The Chief Information Officer of an agency listed in section 901(b) of title 31 –

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

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

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

(A) assesses the requirements established for agency personnel regarding knowledge and skill in information

resources management and the adequacy of those requirements for facilitating the achievement of the performance goals established for information resources management;

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

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

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

–SOURCE–

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

–MISC1–

#### HISTORICAL AND REVISION NOTES

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

Section

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11315 40:1425(b)–(d). Pub. L. 104–106, div. E, title LI, Sec. 5125(b)–(d), Feb. 10, 1996, 110 Stat. 685.

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In subsection (c)(3), before subclause (A), the reference to 31:1105(a)(29) is changed to 1105(a)(28) because of the

redesignation of 1105(a)(29) as 1105(a)(28) by section 4(1) of the Act of October 11, 1996, (Public Law 104–287, 110 Stat. 3388). The words "as added by section 5(a) of the Government Performance and Results Act of 1993 (Public Law 103–62, 107 Stat. 289)" are added for clarity because there is another 31:9703.

–SECRET–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11103 of this title; title 10 section 2223.

–End–

–CITE–

40 USC Sec. 11316 01/06/03

–EXPCITE–

#### TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

#### SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

#### CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION

#### TECHNOLOGY

#### SUBCHAPTER II – EXECUTIVE AGENCIES

–HEAD–

Sec. 11316. Accountability

–STATUTE–

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

- (1) the accounting, financial, asset management, and other information systems of the executive agency are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the executive agency;
- (2) financial and related program performance data are provided on a reliable, consistent, and timely basis to executive agency financial management systems; and
- (3) financial statements support –
- (A) assessments and revisions of mission–related processes and administrative processes of the executive agency; and
- (B) measurement of the performance of investments made by the agency in information systems.

–SOURCE–

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

–MISC1–

#### HISTORICAL AND REVISION NOTES

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

Section

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11316 40:1426. Pub. L. 104–106, div. E,

title LI, Sec. 5126, Feb.

10, 1996, 110 Stat. 686.

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–SECREP–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11103 of this title.

–End–

–CITE–

40 USC Sec. 11317 01/06/03

–EXPCITE–

TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION  
TECHNOLOGY

SUBCHAPTER II – EXECUTIVE AGENCIES

–HEAD–

Sec. 11317. Significant deviations

–STATUTE–

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

–SOURCE–

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

–MISC1–

HISTORICAL AND REVISION NOTES

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

Section

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11317 40:1427. Pub. L. 104–106, div. E,

title LI, Sec. 5127, Feb.

10, 1996, 110 Stat. 687.

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–End–

–CITE–

40 USC Sec. 11318 01/06/03

–EXPCITE–

TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION

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SUBCHAPTER II – EXECUTIVE AGENCIES

–HEAD–

Sec. 11318. Interagency support

–STATUTE–

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

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

–SOURCE–

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

–MISC1–

#### HISTORICAL AND REVISION NOTES

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

Section

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11318 40:1428. Pub. L. 104–106, div. E,

title LI, Sec. 5128, Feb.

10, 1996, 110 Stat. 687.

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–End–

–CITE–

40 USC SUBCHAPTER III – OTHER RESPONSIBILITIES 01/06/03

–EXPCITE–

TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION

TECHNOLOGY

SUBCHAPTER III – OTHER RESPONSIBILITIES

–HEAD–

SUBCHAPTER III – OTHER RESPONSIBILITIES

–End–

–CITE–

40 USC Sec. 11331 01/06/03

–EXPCITE–

TITLE 40 – PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER 113 – RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION

TECHNOLOGY

SUBCHAPTER III – OTHER RESPONSIBILITIES

–HEAD–

Sec. 11331. Responsibilities for Federal information systems

standards

–STATUTE–

(a) Definition. – In this section, the term "information security" has the meaning given that term in section 3532(b)(1) of title 44.

(b) Requirement to Prescribe Standards. –

(1) In general. –

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

promulgate information security standards pertaining to Federal information systems.

(B) Required standards. – Standards promulgated under subparagraph (A) shall include –

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

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

(C) Required standards binding. – Information security standards described under subparagraph (B) shall be compulsory and binding.

(2) Standards and guidelines for national security systems. – Standards and guidelines for national security systems, as defined under section 3532(3) of title 44, shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

(c) Application of More Stringent Standards. – The head of an agency may employ standards for the cost-effective information security for all operations and assets within or under the supervision of that agency that are more stringent than the standards promulgated by the Director under this section, if such standards –

(1) contain, at a minimum, the provisions of those applicable

standards made compulsory and binding by the Director; and

(2) are otherwise consistent with policies and guidelines

issued under section 3533 of title 44.

(d) Requirements Regarding Decisions by Director. –

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

(2) Notice and comment. – A decision by the Director to significantly modify, or not promulgate, a proposed standard submitted to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), shall be made after the public is given an opportunity to comment on the Director's proposed decision.

–SOURCE–

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

–MISC1–

#### HISTORICAL AND REVISION NOTES

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

Section

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11331 40:1441. Pub. L. 104–106, div. E,  
title LI, Sec. 5131(a)–(d),  
Feb. 10, 1996, 110 Stat. 687.

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## AMENDMENTS

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

"(a) Standards and Guidelines. –

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

"(2) National security systems. – Standards and guidelines for national security systems (as defined under this section) shall be developed, prescribed, enforced, and overseen as otherwise authorized by law and as directed by the President.

"(b) Mandatory Requirements. –

"(1) Authority to make mandatory. – Except as provided under paragraph (2), the Secretary shall make standards prescribed under subsection (a)(1) compulsory and binding to the extent determined necessary by the Secretary to improve the efficiency

of operation or security of Federal information systems.

"(2) Required mandatory standards. – (A) Standards prescribed under subsection (a)(1) shall include information security standards that –

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

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

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

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

"(d) Exercise of Authority. – To ensure fiscal and policy consistency, the Secretary shall exercise the authority conferred by this section subject to direction by the President and in coordination with the Director of the Office of Management and Budget.

"(e) Application of More Stringent Standards. – The head of an executive agency may employ standards for the cost-effective information security for information systems within or under the supervision of that agency that are more stringent than the standards the Secretary prescribes under this section if the more stringent standards –

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

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

"(f) Decisions on Promulgation of Standards. – The decision by the Secretary regarding the promulgation of any standard under this section shall occur not later than 6 months after the submission of the proposed standard to the Secretary by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

"(g) Definitions. – In this section:

"(1) Federal information system. – The term 'Federal information system' means an information system used or operated by an executive agency, by a contractor of an executive agency, or by another organization on behalf of an executive agency.

"(2) Information security. – The term 'information security' has the meaning given that term in section 3542(b)(1) of title 44.

"(3) National security system. – The term 'national security

system' has the meaning given that term in section 3542(b)(2) of title 44."

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

"(a) Definitions. – In this section, the terms 'federal computer system' and 'operator of a federal computer system' have the meanings given those terms in section 20(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(d)).

"(b) Standards and Guidelines. –

"(1) Authority to prescribe and disapprove or modify. –

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

"(B) Authority to disapprove or modify. – The President may disapprove or modify those standards and guidelines if the President determines that action to be in the public interest.

The President's authority to disapprove or modify those

standards and guidelines may not be delegated. Notice of disapproval or modification shall be published promptly in the Federal Register. On receiving notice of disapproval or modification, the Secretary shall immediately rescind or modify those standards or guidelines as directed by the President.

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

"(c) Application of More Stringent Standards. – The head of a federal agency may employ standards for the cost-effective security and privacy of sensitive information in a federal computer system in or under the supervision of that agency that are more stringent than the standards the Secretary prescribes under this section if the more stringent standards contain at least the applicable standards the Secretary makes compulsory and binding.

"(d) Waiver of Standards. –

"(1) Authority of the secretary. – The Secretary may waive in writing compulsory and binding standards under subsection (b) if the Secretary determines that compliance would –

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

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

"(2) Delegation of waiver authority. – The Secretary may

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

"(3) Notice. – Notice of each waiver and delegation shall be transmitted promptly to Congress and published promptly in the Federal Register."

#### EFFECTIVE DATE OF 2002 AMENDMENTS

Amendment by Pub. L. 107–347 effective Dec. 17, 2002, see section 402(b) of Pub. L. 107–347, set out as an Effective Date note under section 3541 of Title 44, Public Printing and Documents.

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

–SECREf–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11302 of this title; title 15 section 278g–3; title 44 sections 3504, 3518, 3533, 3534, 3538, 3543, 3544, 3549, 3602, 3603.

–End–

–CITE–

40 USC Sec. 11332 01/06/03

–EXPCITE–

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

–MISC1–

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

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 17, 2002, see section 402(b) of Pub. L.  
107–347, set out as an Effective Date note under section 3541 of  
Title 44, Public Printing and Documents.

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

–End–