

–CITE–

31 USC CHAPTER 5 – OFFICE OF MANAGEMENT AND BUDGET 01/06/03

–EXPCITE–

TITLE 31 – MONEY AND FINANCE

SUBTITLE I – GENERAL

CHAPTER 5 – OFFICE OF MANAGEMENT AND BUDGET

–HEAD–

CHAPTER 5 – OFFICE OF MANAGEMENT AND BUDGET

–MISC1–

SUBCHAPTER I – ORGANIZATION

Sec.

501. Office of Management and Budget.

502. Officers.

503. Functions of Deputy Director for Management.

504. Office of Federal Financial Management.

505. Office of Information and Regulatory Affairs.

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SUBCHAPTER II – ADMINISTRATIVE

521. Employees.

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AMENDMENTS

2002 – Pub. L. 107–347, title I, Sec. 102(c)(2), Dec. 17, 2002,

116 Stat. 2910, added item 507.

1990 – Pub. L. 101–576, title II, Sec. 203(c), Nov. 15, 1990, 104

Stat. 2841, added items 503 and 504 and redesignated former items

503 and 504 as 505 and 506, respectively.

1983 – Pub. L. 97–452, Sec. 1(1)(B), Jan. 12, 1983, 96 Stat.

2467, added item 504.

–End–

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31 USC Sec. 501 01/06/03

–EXPCITE–

TITLE 31 – MONEY AND FINANCE

SUBTITLE I – GENERAL

CHAPTER 5 – OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER I – ORGANIZATION

–HEAD–

Sec. 501. Office of Management and Budget

–STATUTE–

The Office of Management and Budget is an office in the Executive

Office of the President.

–SOURCE–

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 886.)

–MISC1–

HISTORICAL AND REVISION NOTES

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

Section

501 31:16(1st sentence). June 10, 1921, ch. 18, Sec.

207(1st sentence), 42 Stat.

22; Reorg. Plan No. 1 of 1939,

eff. July 1, 1939, Sec. 1, 53

Stat. 1423; Reorg. Plan No. 2

of 1970, eff. July 1, 1970,

Sec. 102(a), 84 Stat. 2085;

restated Mar. 2, 1974, Pub. L.

93–250, Sec. 1, 88 Stat. 11.

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–576, title I, Sec. 101, Nov. 15, 1990, 104 Stat.

2838, provided that: "This Act [enacting sections 503, 504, 901 to

903, and 3515 of this title, amending sections 502, 1105, 3512,

3521, 9105, and 9106 of this title, sections 5313 to 5315 of Title

5, Government Organization and Employees, and section 3533 of Title

42, The Public Health and Welfare, renumbering sections 503 and 504

of this title as 505 and 506 of this title, respectively, enacting provisions set out as notes under this section and sections 901, 3511, 3515, and 3521 of this title, and amending provisions set out as a note under section 301 of Title 38, Veterans' Benefits] may be cited as the 'Chief Financial Officers Act of 1990'."

–TRANS–

TRANSFER OF FUNCTIONS

Pub. L. 104–53, title II, Sec. 211, Nov. 19, 1995, 109 Stat. 535, as amended by Pub. L. 104–316, title II, Sec. 203, Oct. 19, 1996, 110 Stat. 3845, provided that: "Personnel transferred pursuant to this section, as in effect immediately before the effective date of section 303 [203] of the General Accounting Office Act of 1996 [Pub. L. 104–316, Oct. 19, 1996], shall not be separated or reduced in classification or compensation for one year after any such transfer, except for cause."

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Director of the Office of Management and Budget, see Parts 1, 2, and 28 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

–MISC2–

STUDY OF POLICIES AND PROCEDURES FOR TRANSFER OF COMMERCIAL ACTIVITIES

Pub. L. 106–398, Sec. 1 [[div. A], title VIII, Sec. 832], Oct. 30, 2000, 114 Stat. 1654, 1654A–221, provided that:

"(a) GAO–Convened Panel. – The Comptroller General shall convene a panel of experts to study the policies and procedures governing the transfer of commercial activities for the Federal Government from Government personnel to a Federal contractor, including –

"(1) procedures for determining whether functions should continue to be performed by Government personnel;

"(2) procedures for comparing the costs of performance of functions by Government personnel and the costs of performance of such functions by Federal contractors;

"(3) implementation by the Department of Defense of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 31 U.S.C. 501 note); and

"(4) procedures of the Department of Defense for public–private competitions pursuant to the Office of Management and Budget Circular A–76.

"(b) Composition of Panel. – (1) The Comptroller General shall appoint highly qualified and knowledgeable persons to serve on the panel and shall ensure that the following entities receive fair representation on the panel:

"(A) The Department of Defense.

"(B) Persons in private industry.

"(C) Federal labor organizations.

"(D) The Office of Management and Budget.

"(2) For the purposes of the requirement for fair representation under paragraph (1), persons serving on the panel under subparagraph (C) of that paragraph shall not be counted as persons

serving on the panel under subparagraph (A), (B), or (D) of that paragraph.

"(c) Chairman. – The Comptroller General, or an individual within the General Accounting Office designated by the Comptroller General, shall be the chairman of the panel.

"(d) Participation by Other Interested Parties. – The chairman shall ensure that all interested parties, including individuals who are not represented on the panel who are officers or employees of the United States, persons in private industry, or representatives of Federal labor organizations, have the opportunity to submit information and views on the matters being studied by the panel.

"(e) Information From Agencies. – The panel may request directly from any department or agency of the United States any information that the panel considers necessary to carry out a meaningful study of the policies and procedures described in subsection (a), including the Office of Management and Budget Circular A-76 process. To the extent consistent with applicable laws and regulations, the head of such department or agency shall furnish the requested information to the panel.

"(f) Report. – Not later than May 1, 2002, the Comptroller General shall submit the report of the panel on the results of the study to Congress, including recommended changes with respect to implementation of policies and enactment of legislation.

"(g) Definition. – In this section, the term 'Federal labor organization' has the meaning given the term 'labor organization' in section 7103(a)(4) of title 5, United States Code."

USE OF PRIVATE ENTERPRISES

Pub. L. 106–53, title II, Sec. 227, Aug. 17, 1999, 113 Stat. 298,
provided that:

"(a) In General. – The Secretary [of the Army] shall comply with the requirements of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note; Public Law 105–270).

"(b) Compliance With Other Law. –

"(1) Inventory and review. – In carrying out this section, the Secretary shall inventory and review all activities that are not inherently governmental in nature in accordance with the Federal Activities Inventory Reform Act of 1998.

"(2) Architectural and engineering services. – Any review and conversion by the Secretary to performance by private enterprise of an architectural or engineering service (including a surveying or mapping service) shall be carried out in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) [now sections 1101–1104 of title 40]."

FEDERAL ACTIVITIES INVENTORY REFORM

Pub. L. 105–270, Oct. 19, 1998, 112 Stat. 2382, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Federal Activities Inventory Reform Act of 1998'.

"SEC. 2. ANNUAL LISTS OF GOVERNMENT ACTIVITIES NOT INHERENTLY GOVERNMENTAL IN NATURE.

"(a) Lists Required. – Not later than the end of the third

quarter of each fiscal year, the head of each executive agency shall submit to the Director of the Office of Management and Budget a list of activities performed by Federal Government sources for the executive agency that, in the judgment of the head of the executive agency, are not inherently governmental functions. The entry for an activity on the list shall include the following:

"(1) The fiscal year for which the activity first appeared on a list prepared under this section.

"(2) The number of full-time employees (or its equivalent) that are necessary for the performance of the activity by a Federal Government source.

"(3) The name of a Federal Government employee responsible for the activity from whom additional information about the activity may be obtained.

"(b) OMB Review and Consultation. – The Director of the Office of Management and Budget shall review the executive agency's list for a fiscal year and consult with the head of the executive agency regarding the content of the final list for that fiscal year.

"(c) Public Availability of Lists. –

"(1) Publication. – Upon the completion of the review and consultation regarding a list of an executive agency –

"(A) the head of the executive agency shall promptly transmit a copy of the list to Congress and make the list available to the public; and

"(B) the Director of the Office of Management and Budget shall promptly publish in the Federal Register a notice that

the list is available to the public.

"(2) Changes. – If the list changes after the publication of the notice as a result of the resolution of a challenge under section 3, the head of the executive agency shall promptly –

"(A) make each such change available to the public and transmit a copy of the change to Congress; and

"(B) publish in the Federal Register a notice that the change is available to the public.

"(d) Competition Required. – Within a reasonable time after the date on which a notice of the public availability of a list is published under subsection (c), the head of the executive agency concerned shall review the activities on the list. Each time that the head of the executive agency considers contracting with a private sector source for the performance of such an activity, the head of the executive agency shall use a competitive process to select the source (except as may otherwise be provided in a law other than this Act, an Executive order, regulations, or any executive branch circular setting forth requirements or guidance that is issued by competent executive authority). The Director of the Office of Management and Budget shall issue guidance for the administration of this subsection.

"(e) Realistic and Fair Cost Comparisons. – For the purpose of determining whether to contract with a source in the private sector for the performance of an executive agency activity on the list on the basis of a comparison of the costs of procuring services from such a source with the costs of performing that activity by the

executive agency, the head of the executive agency shall ensure that all costs (including the costs of quality assurance, technical monitoring of the performance of such function, liability insurance, employee retirement and disability benefits, and all other overhead costs) are considered and that the costs considered are realistic and fair.

"SEC. 3. CHALLENGES TO THE LIST.

"(a) Challenge Authorized. – An interested party may submit to an executive agency a challenge of an omission of a particular activity from, or an inclusion of a particular activity on, a list for which a notice of public availability has been published under section 2.

"(b) Interested Party Defined. – For the purposes of this section, the term 'interested party', with respect to an activity referred to in subsection (a), means the following:

"(1) A private sector source that –

"(A) is an actual or prospective offeror for any contract, or other form of agreement, to perform the activity; and

"(B) has a direct economic interest in performing the activity that would be adversely affected by a determination not to procure the performance of the activity from a private sector source.

"(2) A representative of any business or professional association that includes within its membership private sector sources referred to in paragraph (1).

"(3) An officer or employee of an organization within an

executive agency that is an actual or prospective offeror to perform the activity.

"(4) The head of any labor organization referred to in section 7103(a)(4) of title 5, United States Code, that includes within its membership officers or employees of an organization referred to in paragraph (3).

"(c) Time for Submission. – A challenge to a list shall be submitted to the executive agency concerned within 30 days after the publication of the notice of the public availability of the list under section 2.

"(d) Initial Decision. – Within 28 days after an executive agency receives a challenge, an official designated by the head of the executive agency shall –

"(1) decide the challenge; and

"(2) transmit to the party submitting the challenge a written notification of the decision together with a discussion of the rationale for the decision and an explanation of the party's right to appeal under subsection (e).

"(e) Appeal. –

"(1) Authorization of appeal. – An interested party may appeal an adverse decision of the official to the head of the executive agency within 10 days after receiving a notification of the decision under subsection (d).

"(2) Decision on appeal. – Within 10 days after the head of an executive agency receives an appeal of a decision under paragraph (1), the head of the executive agency shall decide the appeal and

transmit to the party submitting the appeal a written notification of the decision together with a discussion of the rationale for the decision.

"SEC. 4. APPLICABILITY.

"(a) Executive Agencies Covered. – Except as provided in subsection (b), this Act applies to the following executive agencies:

"(1) Executive department. – An executive department named in section 101 of title 5, United States Code.

"(2) Military department. – A military department named in section 102 of title 5, United States Code.

"(3) Independent establishment. – An independent establishment, as defined in section 104 of title 5, United States Code.

"(b) Exceptions. – This Act does not apply to or with respect to the following:

"(1) General accounting office. – The General Accounting Office.

"(2) Government corporation. – A Government corporation or a Government controlled corporation, as those terms are defined in section 103 of title 5, United States Code.

"(3) Nonappropriated funds instrumentality. – A part of a department or agency if all of the employees of that part of the department or agency are employees referred to in section 2105(c) of title 5, United States Code.

"(4) Certain depot–level maintenance and repair. – Depot–level maintenance and repair of the Department of Defense (as defined

in section 2460 of title 10, United States Code).

"SEC. 5. DEFINITIONS.

"In this Act:

"(1) Federal government source. – The term 'Federal Government source', with respect to performance of an activity, means any organization within an executive agency that uses Federal Government employees to perform the activity.

"(2) Inherently governmental function. –

"(A) Definition. – The term 'inherently governmental function' means a function that is so intimately related to the public interest as to require performance by Federal Government employees.

"(B) Functions included. – The term includes activities that require either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlements. An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as –

"(i) to bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

"(ii) to determine, protect, and advance United States economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal

judicial proceedings, contract management, or otherwise;

"(iii) to significantly affect the life, liberty, or

property of private persons;

"(iv) to commission, appoint, direct, or control officers

or employees of the United States; or

"(v) to exert ultimate control over the acquisition, use,

or disposition of the property, real or personal, tangible or

intangible, of the United States, including the collection,

control, or disbursement of appropriated and other Federal

funds.

"(C) Functions excluded. – The term does not normally include

–

"(i) gathering information for or providing advice,

opinions, recommendations, or ideas to Federal Government

officials; or

"(ii) any function that is primarily ministerial and

internal in nature (such as building security, mail

operations, operation of cafeterias, housekeeping, facilities

operations and maintenance, warehouse operations, motor

vehicle fleet management operations, or other routine

electrical or mechanical services).

"SEC. 6. EFFECTIVE DATE.

"This Act shall take effect on October 1, 1998."

PURPOSE OF AMENDMENTS BY PUB. L. 104–316

Pub. L. 104–316, title II, Sec. 201, Oct. 19, 1996, 110 Stat.

3842, provided that: "The purpose of this title [see Tables for

classification] is to amend provisions of law to reflect, update, and enact transfers and subsequent delegations of functions made under section 211 of the Legislative Branch Appropriations Act, 1996 (Public Law 104–53, 109 Stat. 535) [see Transfer of Functions note above], as in effect immediately before this title takes effect [Oct. 19, 1996]."

DEPARTMENT OF COMMERCE FRANCHISE FUND PILOT

Pub. L. 107–77, title II, Sec. 207, Nov. 28, 2001, 115 Stat. 778, provided in part: "That an amount not to exceed 4 percent of the total annual income to such fund [Commerce franchise fund] may be retained in the fund for fiscal year 2002 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment, and for the improvement and implementation of department financial management, ADP, and other support systems: Provided further, That such amounts retained in the fund for fiscal year 2002 and each fiscal year thereafter shall be available for obligation and expenditure only in accordance with section 605 of this Act [115 Stat. 798]: Provided further, That no later than 30 days after the end of each fiscal year, amounts in excess of this reserve limitation shall be deposited as miscellaneous receipts in the Treasury: Provided further, That such franchise fund pilot program shall terminate pursuant to section 403(f) of Public Law 103–356 [set out below]."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106–553, Sec. 1(a)(2) [title II, Sec. 208], Dec. 21,

2000, 114 Stat. 2762, 2762A–79.

Pub. L. 106–113, div. B, Sec. 1000(a)(1) [title II, Sec. 209],

Nov. 29, 1999, 113 Stat. 1535, 1501A–33.

Pub. L. 105–277, div. A, Sec. 101(b) [title II, Sec. 209], Oct.

21, 1998, 112 Stat. 2681–50, 2681–87.

DEPARTMENT OF THE INTERIOR FRANCHISE FUND PILOT

Pub. L. 104–208, div. A, title I, Sec. 101(d) [title I, Sec.

113], Sept. 30, 1996, 110 Stat. 3009–181, 3009–200, provided that:

"There is hereby established in the Treasury a franchise fund pilot, as authorized by section 403 of Public Law 103–356 [set out below], to be available as provided in such section for costs of capitalizing and operating administrative services as the Secretary determines may be performed more advantageously as central services: Provided, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made prior to the current year for the purpose of providing capital shall be used to capitalize such fund: Provided further, That such fund shall be paid in advance from funds available to the Department and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automatic data processing (ADP) software and systems (either acquired or donated) and an amount necessary to maintain a reasonable operating reserve, as determined by the

Secretary: Provided further, That such fund shall provide services on a competitive basis: Provided further, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment, and for the improvement and implementation of Department financial management, ADP, and other support systems: Provided further, That no later than thirty days after the end of each fiscal year amounts in excess of this reserve limitation shall be transferred to the Treasury: Provided further, That such franchise fund pilot shall terminate pursuant to section 403(f) of Public Law 103–356."

DEPARTMENT OF THE TREASURY FRANCHISE FUND

Pub. L. 104–208, div. A, title I, Sec. 101(f) [title I], Sept. 30, 1996, 110 Stat. 3009–314, 3009–316, as amended by Pub. L. 106–554, Sec. 1(a)(3) [title I, Sec. 120], Dec. 21, 2000, 114 Stat. 2763, 2763A–135, provided in part that: "There is hereby established in the Treasury a franchise fund until October 1, 2002 to be available without fiscal year limitation, for expenses and equipment necessary for the maintenance and operation of such financial and administrative support services as the Secretary determines may be performed more advantageously as central services: Provided, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made for the purpose of

providing capital, shall be used to capitalize such fund: Provided further, That such fund shall be reimbursed or credited with the payments, including advanced payments, from applicable appropriations and funds available to the Department and other Federal agencies for which such administrative and financial services are performed, at rates which will recover all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of Automatic Data Processing (ADP) software and systems, and an amount necessary to maintain a reasonable operating reserve, as determined by the Secretary: Provided further, That such fund shall provide services on a competitive basis: Provided further, That an amount not to exceed 4 percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of Treasury financial management, ADP, and other support systems: Provided further, That no later than 30 days after the end of each fiscal year, amounts in excess of this reserve limitation shall be deposited as miscellaneous receipts in the Treasury."

DEPARTMENT OF VETERANS AFFAIRS FRANCHISE FUND PILOT

Pub. L. 107-73, title I, Sec. 108, Nov. 26, 2001, 115 Stat. 658, provided that: "Notwithstanding any other provision of law, the Department of Veterans Affairs shall continue the Franchise Fund pilot program authorized to be established by section 403 of Public Law 103-356 [set out below] until October 1, 2002: Provided, That

the Franchise Fund, established by title I of Public Law 104–204 [set out below] to finance the operations of the Franchise Fund pilot program, shall continue until October 1, 2002."

Pub. L. 104–204, title I, Sept. 26, 1996, 110 Stat. 2880, provided in part that: "There is hereby established in the Treasury a franchise fund pilot, as authorized by section 403 of Public Law 103–356 [set out below], to be available as provided in such section for expenses and equipment necessary for the maintenance and operation of such administrative services as the Secretary determines may be performed more advantageously as central services: Provided, That any inventories, equipment and other assets pertaining to the services to be provided by the franchise fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to capitalize the franchise fund: Provided further, That the franchise fund may be paid in advance from funds available to the Department and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the Secretary: Provided further, That the franchise fund shall provide services on a competitive basis: Provided further, That an amount not to exceed four percent of the total annual income to such fund

may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of Departmental financial management, ADP, and other support systems: Provided further, That no later than thirty days after the end of each fiscal year amounts in excess of this reserve limitation shall be transferred to the Treasury: Provided further, That such franchise fund pilot shall terminate pursuant to section 403(f) of Public Law 103-356."

ENVIRONMENTAL PROTECTION AGENCY FRANCHISE FUND PILOT

Pub. L. 104-204, title III, Sept. 26, 1996, 110 Stat. 2912, as amended, formerly set out as a note under this section, was transferred and is classified to section 4370e of Title 42, The Public Health and Welfare.

FEDERAL EMERGENCY MANAGEMENT AGENCY FRANCHISE FUND PILOT

Pub. L. 104-204, title III, Sept. 26, 1996, 110 Stat. 2915, provided in part: "For the establishment of a working capital fund for the Federal Emergency Management Agency, to be available without fiscal year limitation, for expenses and equipment necessary for maintenance and operations of such administrative services as the Director determines may be performed more advantageously as central services: Provided, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to

capitalize such fund: Provided further, That such fund shall be reimbursed or credited with advance payments from applicable appropriations and funds of the Federal Emergency Management Agency, other Federal agencies, and other sources authorized by law for which such centralized services are performed, including supplies, materials, and services, at rates that will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve as determined by the Director: Provided further, That income of such fund may be retained, to remain available until expended, for purposes of the fund: Provided further, That fees for services shall be established by the Director at a level to cover the total estimated costs of providing such services, such fees to be deposited in the fund shall remain available until expended for purposes of the fund: Provided further, That such fund shall terminate in a manner consistent with section 403(f) of Public Law 103-356 [set out below]."

[For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 313(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set

out as a note under section 542 of Title 6.]

FRANCHISE FUND PILOT PROGRAMS

Pub. L. 103–356, title IV, Sec. 403, Oct. 13, 1994, 108 Stat.

3413, as amended by Pub. L. 104–208, div. A, title I, Sec. 101(f)
[title VI, Sec. 627], Sept. 30, 1996, 110 Stat. 3009–314, 3009–360;

Pub. L. 107–67, title VI, Sec. 634, Nov. 12, 2001, 115 Stat. 553,
provided that:

"(a) Establishment. – There is authorized to be established on a pilot program basis in each of six executive agencies a franchise fund. The Director of the Office of Management and Budget, after consultation with the chairman and ranking members of the Committees on Appropriations and Governmental Affairs of the Senate, and the Committees on Appropriations and Government Operations [now Committee on Government Reform] of the House of Representatives, shall designate the agencies.

"(b) Uses. – Each such fund may provide, consistent with guidelines established by the Director of the Office of Management and Budget, such common administrative support services to the agency and to other agencies as the head of such agency, with the concurrence of the Director, determines can be provided more efficiently through such a fund than by other means. To provide such services, each such fund is authorized to acquire the capital equipment, automated data processing systems, and financial management and management information systems needed. Services shall be provided by such funds on a competitive basis.

"(c) Funding. – (1) There are authorized to be appropriated to

the franchise fund of each agency designated under subsection (a) such funds as are necessary to carry out the purposes of the fund, to remain available until expended. To the extent that unexpended balances remain available in other accounts for the purposes to be carried out by the fund, the head of the agency may transfer such balances to the fund.

"(2) Fees for services shall be established by the head of the agency at a level to cover the total estimated costs of providing such services. Such fees shall be deposited in the agency's fund to remain available until expended, and may be used to carry out the purposes of the fund.

"(3) Existing inventories, including inventories on order, equipment, and other assets or liabilities pertaining to the purposes of the fund may be transferred to the fund.

"(d) Report on Pilot Programs. – Within 6 months after the end of fiscal year 1997, the Director of the Office of Management and Budget shall forward a report on the results of the pilot programs to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations [now Committee on Government Reform] of the House of Representatives. The report shall contain the financial and program performance results of the pilot programs, including recommendations for –

"(1) the structure of the fund;

"(2) the composition of the funding mechanism;

"(3) the capacity of the fund to promote competition; and

"(4) the desirability of extending the application and implementation of franchise funds to other Federal agencies.

"(e) Procurement. – Nothing in this section shall be construed as relieving any agency of any duty under applicable procurement laws.

"(f) Termination. – The provisions of this section shall expire on October 1, 2002."

SIMPLIFICATION OF MANAGEMENT REPORTING PROCESS

Pub. L. 103–356, title IV, Sec. 404, Oct. 13, 1994, 108 Stat.

3414, as amended by Pub. L. 104–208, div. A, title I, Sec. 101(f) [title VI, Sec. 646], Sept. 30, 1996, 110 Stat. 3009–314, 3009–366;

Pub. L. 106–113, div. B, Sec. 1000(a)(5) [title II, Sec. 241], Nov. 29, 1999, 113 Stat. 1536, 1501A–303, provided that:

"(a) In General. – To improve the efficiency of executive branch performance in implementing statutory requirements for financial management reporting to the Congress and its committees, the Director of the Office of Management and Budget may adjust the frequency and due dates of or consolidate any statutorily required reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress under any laws for which the Office of Management and Budget has financial management responsibility, including –

"(1) chapters 5, 9, 11, 33, 35, 37, 39, 75, and 91 of title 31, United States Code;

"(2) the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 101–410; 104 Stat. 890).

"(b) Application. – The authority provided in subsection (a)

shall apply only to reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress required by statute to be submitted between January 1, 1995, and April 30, 2000.

"(c) Adjustments in Reporting. – The Director may consolidate or adjust the frequency and due dates of any statutorily required reports under subsections (a) and (b) only after –

"(1) consultation with the Chairman of the Senate Committee on Governmental Affairs and the Chairman of the House of Representatives Committee on Government Operations [now Committee on Government Reform]; and

"(2) written notification to the Congress, no later than February 8 of each fiscal year covered under subsection (b) for those reports required to be submitted during that fiscal year."

FINDINGS AND PURPOSES OF CHIEF FINANCIAL OFFICERS ACT OF 1990

Pub. L. 101–576, title I, Sec. 102, Nov. 15, 1990, 104 Stat.

2838, provided that:

"(a) Findings. – The Congress finds the following:

"(1) General management functions of the Office of Management and Budget need to be significantly enhanced to improve the efficiency and effectiveness of the Federal Government.

"(2) Financial management functions of the Office of Management and Budget need to be significantly enhanced to provide overall direction and leadership in the development of a modern Federal financial management structure and associated systems.

"(3) Billions of dollars are lost each year through fraud,

waste, abuse, and mismanagement among the hundreds of programs in the Federal Government.

"(4) These losses could be significantly decreased by improved management, including improved central coordination of internal controls and financial accounting.

"(5) The Federal Government is in great need of fundamental reform in financial management requirements and practices as financial management systems are obsolete and inefficient, and do not provide complete, consistent, reliable, and timely information.

"(6) Current financial reporting practices of the Federal Government do not accurately disclose the current and probable future cost of operating and investment decisions, including the future need for cash or other resources, do not permit adequate comparison of actual costs among executive agencies, and do not provide the timely information required for efficient management of programs.

"(b) Purposes. – The purposes of this Act [see Short Title of 1990 Amendment note above] are the following:

"(1) Bring more effective general and financial management practices to the Federal Government through statutory provisions which would establish in the Office of Management and Budget a Deputy Director for Management, establish an Office of Federal Financial Management headed by a Controller, and designate a Chief Financial Officer in each executive department and in each major executive agency in the Federal Government.

"(2) Provide for improvement, in each agency of the Federal Government, of systems of accounting, financial management, and internal controls to assure the issuance of reliable financial information and to deter fraud, waste, and abuse of Government resources.

"(3) Provide for the production of complete, reliable, timely, and consistent financial information for use by the executive branch of the Government and the Congress in the financing, management, and evaluation of Federal programs."

DUTIES AND FUNCTIONS OF DEPARTMENT OF THE TREASURY

Pub. L. 101-576, title II, Sec. 204, Nov. 15, 1990, 104 Stat.

2842, provided that: "Nothing in this Act [see Short Title of 1990 Amendment note above] shall be construed to interfere with the exercise of the functions, duties, and responsibilities of the Department of the Treasury, as in effect immediately before the enactment of this Act [Nov. 15, 1990]."

REORGANIZATION PLAN NO. 2 OF 1970

EFF. JULY 1, 1970, 35 F.R. 7959, 84 STAT. 2085, AS AMENDED PUB. L.

97-258, SEC. 5(B), SEPT. 13, 1982, 96 STAT. 1068, 1085

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled March 12, 1970, Pursuant to the Provisions of Chapter 9 of Title 5 of the United States Code.

OFFICE OF MANAGEMENT AND BUDGET; DOMESTIC COUNCIL

PART I. OFFICE OF MANAGEMENT AND BUDGET

SECTION 101. TRANSFER OF FUNCTIONS TO THE PRESIDENT

There are hereby transferred to the President of the United States all functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget.

SEC. 102. OFFICE OF MANAGEMENT AND BUDGET

[Repealed. Pub. L. 97-258, Sec. 5(b), Sept. 13, 1982, 96 Stat. 1068, 1085. Section designated the Bureau of the Budget as the Office of Management and Budget, provided for the officers and their duties, and provided for performance of the duties of the Director in the event of absence or disability or a vacancy in the office of Director.]

SEC. 103. RECORDS, PROPERTY, PERSONNEL, AND FUNDS

[Repealed. Pub. L. 97-258, Sec. 5(b), Sept. 13, 1982, 96 Stat. 1068, 1085. Section provided that the records, property, personnel, and unexpended balances etc., of the Bureau of the Budget shall become those of the Office of Management and Budget.]

PART II. DOMESTIC COUNCIL

SEC. 201. ESTABLISHMENT OF THE COUNCIL

(a) There is hereby established in the Executive Office of the President a Domestic Council, hereinafter referred to as the Council.

(b) The Council shall be composed of the following:

The President of the United States

The Vice President of the United States

The Attorney General

Secretary of Agriculture

Secretary of Commerce

Secretary of Health, Education, and Welfare

Secretary of Housing and Urban Development

Secretary of the Interior

Secretary of Labor

Secretary of Transportation

Secretary of the Treasury

and such other officers of the Executive Branch as the President may from time to time direct.

(c) The President of the United States shall preside over meetings of the Council: Provided, That, in the event of his absence, he may designate a member of the Council to preside.

SEC. 202. FUNCTIONS OF THE COUNCIL

The Council shall perform such functions as the President may from time to time delegate or assign thereto.

SEC. 203. EXECUTIVE DIRECTOR

The staff of the Council shall be headed by an Executive Director who shall be an assistant to the President designated by the President. The Executive Director shall perform such functions as the President may from time to time direct.

PART III. TAKING EFFECT

SEC. 301. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code, or on July 1, 1970, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

We in government often are quick to call for reform in other institutions, but slow to reform ourselves. Yet nowhere today is modern management more needed than in government itself.

In 1939, President Franklin D. Roosevelt proposed and the Congress accepted a reorganization plan that laid the groundwork for providing managerial assistance for a modern Presidency.

The plan placed the Bureau of the Budget within the Executive Office of the President. It made available to the President direct access to important new management instruments. The purpose of the plan was to improve the administration of the Government – to ensure that the Government could perform "promptly, effectively, without waste or lost motion."

Fulfilling that purpose today is far more difficult – and more important – than it was 30 years ago.

Last April, I created a President's Advisory Council on Executive Organization and named to it a distinguished group of outstanding experts headed by Roy L. Ash. I gave the Council a broad charter to examine ways in which the Executive Branch could be better organized. I asked it to recommend specific organizational changes that would make the Executive Branch a more vigorous and more effective instrument for creating and carrying out the programs that are needed today. The Council quickly concluded that the place to begin was in the Executive Office of the President itself. I agree.

The past 30 years have seen enormous changes in the size,

structure and functions of the Federal Government. The budget has grown from less than \$10 billion to \$200 billion. The number of civilian employees has risen from one million to more than two and a half million. Four new Cabinet departments have been created, along with more than a score of independent agencies. Domestic policy issues have become increasingly complex. The interrelationships among Government programs have become more intricate. Yet the organization of the President's policy and management arms has not kept pace.

Over three decades, the Executive Office of the President has mushroomed but not by conscious design. In many areas it does not provide the kind of staff assistance and support the President needs in order to deal with the problems of government in the 1970s. We confront the 1970s with a staff organization geared in large measure to the tasks of the 1940s and 1950s.

One result, over the years, has been a tendency to enlarge the immediate White House staff – that is, the President's personal staff, as distinct from the institutional structure – to assist with management functions for which the President is responsible.

This has blurred the distinction between personal staff and management institutions; it has left key management functions to be performed only intermittently and some not at all. It has perpetuated outdated structures.

Another result has been, paradoxically, to inhibit the delegation of authority to Departments and agencies.

A President whose programs are carefully coordinated, whose

information system keeps him adequately informed, and whose organizational assignments are plainly set out, can delegate authority with security and confidence. A President whose office is deficient in these respects will be inclined, instead, to retain close control of operating responsibilities which he cannot and should not handle.

Improving the management processes of the President's own office, therefore, is a key element in improving the management of the entire Executive Branch, and in strengthening the authority of its Departments and agencies. By providing the tools that are needed to reduce duplication, to monitor performance and to promote greater efficiency throughout the Executive Branch, this also will enable us to give the country not only more effective but also more economical government – which it deserves.

To provide the management tools and policy mechanisms needed for the 1970s, I am today transmitting to the Congress Reorganization Plan No. 2 of 1970, prepared in accordance with Chapter 9 of Title 5 of the United States Code.

This plan draws not only on the work of the Ash Council itself, but also on the work of others that preceded – including the pioneering Brownlow Committee of 1936, the two Hoover Commissions, the Rockefeller Committee, and other Presidential task forces.

Essentially, the plan recognizes that two closely connected but basically separate functions both center in the President's office: policy determination and executive management. This involves (1) what government should do, and (2) how it goes about doing it.

My proposed reorganization creates a new entity to deal with each of these functions:

– It establishes a Domestic Council, to coordinate policy formulation in the domestic area. This Cabinet group would be provided with an institutional staff, and to a considerable degree would be a domestic counterpart to the National Security Council.

– It establishes an Office of Management and Budget, which would be the President's principal arm for the exercise of his managerial functions.

The Domestic Council will be primarily concerned with what we do; the Office of Management and Budget will be primarily concerned with how we do it, and how well we do it.

DOMESTIC COUNCIL

The past year's experience with the Council for Urban Affairs has shown how immensely valuable a Cabinet-level council can be as a forum for both discussion and action on policy matters that cut across departmental jurisdictions.

The Domestic Council will be chaired by the President. Under the plan, its membership will include the Vice President, and the Secretaries of the Treasury, Interior, Agriculture, Commerce, Labor, Health, Education and Welfare, Housing and Urban Development, and Transportation, and the Attorney General. I also intend to designate as members the Director of the Office of Economic Opportunity and, while he remains a member of the Cabinet, the Postmaster General. (Although I continue to hope that the

Congress will adopt my proposal to create, in place of the Post Office Department, a self-sufficient postal authority.) The President could add other Executive Branch officials at his discretion.

The Council will be supported by a staff under an Executive Director who will also be one of the President's assistants. Like the National Security Council staff, this staff will work in close coordination with the President's personal staff but will have its own institutional identity. By being established on a permanent, institutional basis, it will be designed to develop and employ the "institutional memory" so essential if continuity is to be maintained, and if experience is to play its proper role in the policy-making process.

There does not now exist an organized, institutionally-staffed group charged with advising the President on the total range of domestic policy. The Domestic Council will fill that need. Under the President's direction, it will also be charged with integrating the various aspects of domestic policy into a consistent whole.

Among the specific policy functions in which I intend the Domestic Council to take the lead are these:

- Assessing national needs, collecting information and developing forecasts, for the purpose of defining national goals and objectives.
- Identifying alternative ways of achieving these objectives, and recommending consistent, integrated sets of policy choices.

- Providing rapid response to Presidential needs for policy advice on pressing domestic issues.
- Coordinating the establishment of national priorities for the allocation of available resources.
- Maintaining a continuous review of the conduct of ongoing programs from a policy standpoint, and proposing reforms as needed.

Much of the Council's work will be accomplished by temporary, ad hoc project committees. These might take a variety of forms, such as task forces, planning groups or advisory bodies. They can be established with varying degrees of formality, and can be set up to deal either with broad program areas or with specific problems. The committees will draw for staff support on Department and agency experts, supplemented by the Council's own staff and that of the Office of Management and Budget.

Establishment of the Domestic Council draws on the experience gained during the past year with the Council for Urban Affairs, the Cabinet Committee on the Environment and the Council for Rural Affairs. The principal key to the operation of these Councils has been the effective functioning of their various subcommittees. The Councils themselves will be consolidated into the Domestic Council; Urban, Rural and Environment subcommittees of the Domestic Council will be strengthened, using access to the Domestic Council staff. Overall, the Domestic Council will provide the President with a streamlined, consolidated domestic policy arm, adequately staffed, and highly flexible in its operation. It also will provide a

structure through which departmental initiatives can be more fully considered, and expert advice from the Departments and agencies more fully utilized.

OFFICE OF MANAGEMENT AND BUDGET

Under the reorganization plan, the technical and formal means by which the Office of Management and Budget is created is by re-designating the Bureau of the Budget as the Office of Management and Budget. The functions currently vested by law in the Bureau, or in its director, are transferred to the President, with the provision that he can then re-delegate them.

As soon as the reorganization plan takes effect, I intend to delegate those statutory functions to the Director of the new Office of Management and Budget, including those under section 212 of the Budget and Accounting Act, 1921 [31 U.S.C. 1113].

However, creation of the Office of Management and Budget represents far more than a mere change of name for the Bureau of the Budget. It represents a basic change in concept and emphasis, reflecting the broader management needs of the Office of the President.

The new Office will still perform the key function of assisting the President in the preparation of the annual Federal budget and overseeing its execution. It will draw upon the skills and experience of the extraordinarily able and dedicated career staff developed by the Bureau of the Budget. But preparation of the budget as such will no longer be its dominant, overriding concern.

While the budget function remains a vital tool of management, it

will be strengthened by the greater emphasis the new office will place on fiscal analysis. The budget function is only one of several important management tools that the President must now have. He must also have a substantially enhanced institutional staff capability in other areas of executive management – particularly in program evaluation and coordination, improvement of Executive Branch organization, information and management systems, and development of executive talent. Under this plan, strengthened capability in these areas will be provided partly through internal reorganization, and it will also require additional staff resources.

The new Office of Management and Budget will place much greater emphasis on the evaluation of program performance: on assessing the extent to which programs are actually achieving their intended results, and delivering the intended services to the intended recipients. This is needed on a continuing basis, not as a one-time effort. Program evaluation will remain a function of the individual agencies as it is today. However, a single agency cannot fairly be expected to judge overall effectiveness in programs that cross agency lines – and the difference between agency and Presidential perspectives requires a capacity in the Executive Office to evaluate program performance whenever appropriate.

The new Office will expand efforts to improve interagency cooperation in the field. Washington-based coordinators will help work out interagency problems at the operating level, and assist in developing efficient coordinating mechanisms throughout the

country. The success of these efforts depends on the experience, persuasion, and understanding of an Office which will be an expediter and catalyst. The Office will also respond to requests from State and local governments for assistance on intergovernmental programs. It will work closely with the Vice President and the Office of Intergovernmental Relations.

Improvement of Government organization, information and management systems will be a major function of the Office of Management and Budget. It will maintain a continuous review of the organizational structures and management processes of the Executive Branch, and recommend needed changes. It will take the lead in developing new information systems to provide the President with the performance and other data that he needs but does not now get. When new programs are launched, it will seek to ensure that they are not simply forced into or grafted onto existing organizational structures that may not be appropriate. Resistance to organizational change is one of the chief obstacles to effective government; the new Office will seek to ensure that organization keeps abreast of program needs.

The new Office will also take the lead in devising programs for the development of career executive talent throughout the Government. Not the least of the President's needs as Chief Executive is direct capability in the Executive Office for insuring that talented executives are used to the full extent of their abilities. Effective, coordinated efforts for executive manpower development have been hampered by the lack of a system for

forecasting the needs for executive talent and appraising leadership potential. Both are crucial to the success of an enterprise – whether private or public.

The Office of Management and Budget will be charged with advising the President on the development of new programs to recruit, train, motivate, deploy, and evaluate the men and women who make up the top ranks of the civil service, in the broadest sense of that term.

It will not deal with individuals, but will rely on the talented professionals of the Civil Service Commission and the Departments and agencies themselves to administer these programs. Under the leadership of the Office of Management and Budget there will be joint efforts to see to it that all executive talent is well utilized wherever it may be needed throughout the Executive Branch, and to assure that executive training and motivation meet not only today's needs but those of the years ahead.

Finally, the new Office will continue the Legislative Reference functions now performed by the Bureau of the Budget, drawing together agency reactions on all proposed legislation, and helping develop legislation to carry out the President's program. It also will continue the Bureau's work of improving and coordinating Federal statistical services.

SIGNIFICANCE OF THE CHANGES

The people deserve a more responsive and more effective Government. The times require it. These changes will help provide it.

Each reorganization included in the plan which accompanies this

message is necessary to accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. In particular, the plan is responsive to Section 901(a)(1), "to promote the better execution of the laws, the more effective management of the Executive Branch and of its agencies and functions, and the expeditious administration of the public business;" and Section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in this plan make necessary the appointment and compensation of new officers, as specified in Section 102(c) of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the Executive Branch who have similar responsibilities.

While this plan will result in a modest increase in direct expenditures, its strengthening of the Executive Office of the President will bring significant indirect savings, and at the same time will help ensure that people actually receive the return they deserve for every dollar the Government spends. The savings will result from the improved efficiency these changes will provide throughout the Executive Branch – and also from curtailing the waste that results when programs simply fail to achieve their objectives. It is not practical, however, to itemize or aggregate these indirect expenditure reductions which will result from the reorganization.

I expect to follow with other reorganization plans, quite

possibly including ones that will affect other activities of the Executive Office of the President. Our studies are continuing. But this by itself is a reorganization of major significance, and a key to the more effective functioning of the entire Executive Branch. These changes would provide an improved system of policy making and coordination, a strengthened capacity to perform those functions that are now the central concerns of the Bureau of the Budget, and a more effective set of management tools for the performance of other functions that have been rapidly increasing in importance.

The reorganization will not only improve the staff resources available to the President, but will also strengthen the advisory roles of those members of the Cabinet principally concerned with domestic affairs. By providing a means of formulating integrated and systematic recommendations on major domestic policy issues, the plan serves not only the needs of the President but also the interests of the Congress.

This reorganization plan is of major importance to the functioning of modern government. The national interest requires it. I urge that the Congress allow it to become effective.

Richard Nixon.

The White House, March 12, 1970.

–TRANS–

ABOLITION OF DOMESTIC COUNCIL

Domestic Council, established by Reorg. Plan No. 2 of 1970, Sec. 201, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2086, set out above,

abolished by Reorg. Plan No. 1 of 1977, Sec. 3, 42 F.R. 56101, 91 Stat. 1633, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by President. Section 5D of Reorg. Plan No. 1 of 1977 transferred all functions vested in Domestic Council to President with power to delegate performance of such transferred functions within Executive Office of President.

–EXEC–

EX. ORD. NO. 11541. PRESCRIBING DUTIES OF OFFICE OF MANAGEMENT AND BUDGET AND DOMESTIC COUNCIL

Ex. Ord. No. 11541, July 1, 1970, 35 F.R. 10737, as amended by Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931; Ex. Ord. No. 12027, Dec. 5, 1977, 42 F.R. 61851; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12318, Aug. 21, 1981, 46 F.R. 42833, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, including section 301 of Title 3 of the United States Code, and pursuant to Reorganization Plan No. 2 of 1970 (hereinafter referred to as "the Plan") [set out as a note under this section], it is ordered as follows:

Section 1. (a) All functions transferred to the President of the United States by Part I of the Plan (including the function vested by section 102(f) of designating the officials of the Office of Management and Budget who shall act as Director during the absence or disability of the Deputy Director or in the event of a vacancy in the office of Deputy Director) are hereby delegated to the

Director of the Office of Management and Budget in the Executive Office of the President. Such functions shall be carried out by the Director under the direction of the President and pursuant to such further instructions as the President from time to time may issue.

(b) All outstanding delegations, rules, regulations, orders, circulars, bulletins, or other forms of Executive or administrative action issued or taken by or relating to the Bureau of the Budget or the Director of the Bureau of the Budget prior to the effective date of this order shall, until amended or revoked, remain in full force and effect as if issued or taken by or relating to the Office of Management and Budget or the Director of the Office of Management and Budget.

(c) The delegation to the Director of the Office of Management and Budget, pursuant to subsection (a) of this Section, of the functions vested in the Director of the Bureau of the Budget by Section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18b) [31 U.S.C. 1104(d)] and subsequently transferred to the President by Part I of Reorganization Plan No. 2 of 1970 (5 U.S.C. App.), shall be implemented in accord with Section 3(a) of the Paperwork Reduction Act of 1980 (94 Stat. 2825; 44 U.S.C. 3503 note), to the extent that provision is applicable.

(d) The delegation to the Director of the Office of Management and Budget of the following executive development and personnel functions (which have been transferred to the Office of Personnel Management) is terminated on December 4, 1977:

(1) Providing overall Executive Branch leadership, regulation,

and guidance in executive personnel selection, development and management.

(2) Studying and reporting on issues relating to position classification and the compensation of Federal civilian employees, including linkages among pay systems, and providing reports on average grade levels, work–years and personnel costs of Federal civilian employees.

(3) Providing primary Executive Branch leadership in (i) developing and reviewing a program of policy guidance to departments and agencies for the organization of management responsibility under the Federal Labor Relations program; and (ii) monitoring issues and trends in labor management relations for referral to appropriate Executive Branch officials including the Federal Labor Relations Council.

Sec. 2. (a) Under the direction of the President and subject to such further instructions as the President from time to time may issue, the Domestic Council in the Executive Office of the President shall (1) receive and develop information necessary for assessing national domestic needs and defining national domestic goals, and develop for the President alternative proposals for reaching those goals; (2) collaborate with the Office of Management and Budget and others in the determination of national domestic priorities for the allocation of available resources; (3) collaborate with the Office of Management and Budget and others to assure a continuing review of ongoing programs from the standpoint of their relative contributions to national goals as compared with

their use of available resources; and (4) provide policy advice to the President on domestic issues.

(b) The organizations listed herein are terminated and the functions heretofore assigned to them shall be performed by the Domestic Council:

Council for Urban Affairs (Executive Order No. 11452 of January 23, 1969)

Cabinet Committee on the Environment (Executive Order No. 11472 of May 29, 1969, as amended by Executive Order No. 11514 of March 5, 1970)

Council for Rural Affairs (Executive Order No. 11493 of November 13, 1969)

Sec. 3. This order shall be effective July 1, 1970.

SUPERSEDURE OF EX. ORD. NO. 11541

Supersedure of Ex. Ord. No. 11541 to the extent that it is inconsistent with Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, see section 11(6) of Ex. Ord. No. 11609, set out as a note under section 301 of Title 3, The President; with Ex. Ord. No. 11713, Apr. 21, 1973, 38 F.R. 10069, see section 3 of Ex. Ord. No. 11713, set out as a note under section 301 of Title 3; with Ex. Ord. No. 11717, May 9, 1973, 38 F.R. 12315, see section 5 of Ex. Ord. No. 11717, set out below.

EXECUTIVE ORDER NO. 11647

Ex. Ord. No. 11647, Feb. 10, 1972, 37 F.R. 3167, as amended by Ex. Ord. No. 11731, July 23, 1973, 38 F.R. 19903; Ex. Ord. No. 11892, Dec. 31, 1975, 41 F.R. 751; Ex. Ord. No. 12038, Feb. 3,

1978, 43 F.R. 4957, which established Federal Regional Councils, was revoked by section 1–307 of Ex. Ord. No. 12149, July 20, 1979, 44 F.R. 43248.

EX. ORD. NO. 11717. TRANSFER OF CERTAIN FUNCTIONS FROM OFFICE OF MANAGEMENT AND BUDGET TO GENERAL SERVICES ADMINISTRATION AND DEPARTMENT OF COMMERCE

Ex. Ord. No. 11717, May 9, 1973, 38 F.R. 12315, provided:

By virtue of the authority vested in me as President by the Constitution and Statutes of the United States, particularly by section 301 of title 3 of the United States Code, the Federal Property and Administrative Services Act of 1949, as amended, the Budget and Accounting Act, 1921, as amended, the Budget and Accounting Procedures Act of 1950, as amended, and Reorganization Plan No. 2 of 1970 [set out as a note above], it is hereby ordered as follows:

Section 1. There are hereby transferred to the Administrator of General Services all functions that were being performed in the Office of Management and Budget on April 13, 1973 by:

- (1) The Financial Management Branch, the Procurement and Property Management Branch, and the Management Systems Branch of the Organization and Management Systems Division; and
- (2) the Management Information and Computer Systems Division with respect to policy control over automatic data processing (except those functions relating to the establishment of Government–wide automatic data–processing standards).

Sec. 2. There are hereby transferred to the Secretary of Commerce

all functions being performed on the date of this order in the Office of Management and Budget relating to the establishment of Government-wide automatic data processing standards, including the function of approving standards on behalf of the President pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended [former 40 U.S.C. 759(f)(2)].

Sec. 3. (a) The functions transferred to the Administrator of the General Services Administration and to the Secretary of Commerce by this order do not include those performed in connection with the general oversight responsibilities of the Director of the Office of Management and Budget, as the head of that agency and as Assistant to the President for executive management, and the functions transferred by this order shall be performed subject to such general oversight to the same extent that other functions of the General Services Administration and the Department of Commerce, respectively, are so performed.

(b) The functions vested in the President by the first sentence of section 111(g) of the Federal Property and Administrative Services Act of 1949, as amended [former 40 U.S.C. 759(g)], with respect to fiscal control of automatic data processing activities shall continue to be performed by the Director of the Office of Management and Budget. No function vested by statute in the Director shall be deemed to be affected by the provisions of this order.

Sec. 4. So much of the personnel, property, records and unexpended balances of appropriations, allocations, and other funds

employed, used, held, available, or to be made available, in connection with the functions transferred by this order as the Director of the Office of Management and Budget shall determine, shall be transferred to the Department of Commerce and the General Services Administration, respectively, at such times as the Director shall specify.

Sec. 5. Executive Order No. 11541 of July 1, 1970, is hereby superseded to the extent that it is inconsistent with this order.

Sec. 6. This order shall be effective as of April 15, 1973.

Richard Nixon.

SUPERSEDURE OF EX. ORD. NO. 11717

Ex. Ord. No. 11717 superseded to the extent that it is inconsistent with Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040, see section 4 of Ex. Ord. No. 11893, set out as a note under section 4252 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 12013

Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931, which related to transfer of certain statistical functions and the establishment of the Statistical Policy Coordination Committee, was revoked by section 4(a) of Ex. Ord. No. 12318, Aug. 21, 1981, 46 F.R. 42833, set out below.

EX. ORD. NO. 12027. TRANSFER OF CERTAIN EXECUTIVE DEVELOPMENT AND OTHER PERSONNEL FUNCTIONS

Ex. Ord. No. 12027, Dec. 5, 1977, 42 F.R. 61851, as amended by

Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by the Constitution and

statutes of the United States of America, including Reorganization Plan No. 2 of 1970 (5 U.S.C. App.), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531], and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to transfer certain functions from the Director of the Office of Management and Budget to the Office of Personnel Management, it is hereby ordered as follows:

Section 1. The following functions which heretofore have been performed by the Director of the Office of Management and Budget, either alone or in conjunction with the Office of Personnel Management, are hereby reassigned and delegated to the Office of Personnel Management:

(a) Providing overall Executive Branch leadership, regulation, and guidance in executive personnel selection, development, and management including:

(1) Devising and establishing programs and encouraging agencies to devise and establish programs to forecast the need for career executive talent and to select, train, develop, motivate, deploy and evaluate the men and women who make up the top ranks of Federal civil service;

(2) Initiating and leading efforts to ensure that potential executive talent is identified, developed and well utilized throughout the Executive Branch and;

(3) Ensuring that executive training and motivation meet current and future needs.

(b) Studying and reporting on issues relating to position classification and the compensation of Federal civilian employees, including linkages among pay systems, and providing reports on average grade levels, work–years and personnel costs of Federal civilian employees.

(c) Providing primary Executive Branch leadership in (1) developing and reviewing a program of policy guidance to departments and agencies for the organization of management's responsibility under the Federal Labor Relations program; and (2) monitoring issues and trends in labor management relations for referral to appropriate Executive Branch officials including the Federal Labor Relations Council.

Sec. 2. Section 1 of Executive Order No. 11541, as amended [set out above], is further amended by adding thereto the following new subsection:

"(d) The delegation to the Director of the Office of Management and Budget of the following executive development and personnel functions (which have been transferred to the Office of Personnel Management) is terminated on December 4, 1977:

"(1) Providing overall Executive Branch leadership, regulation, and guidance in executive personnel selection, development and management.

"(2) Studying and reporting on issues relating to position classification and the compensation of Federal civilian employees, including linkages among pay systems, and providing reports on average grade levels, work–years and personnel costs of Federal

civilian employees.

"(3) Providing primary Executive Branch leadership in (i) developing and reviewing a program of policy guidance to departments and agencies for the organization of management responsibility under the Federal Labor Relations program; and (ii) monitoring issues and trends in labor management relations for referral to appropriate Executive Branch officials including the Federal Labor Relations Council."

Sec. 3. Executive Order No. 11491, as amended [5 U.S.C. 7101 note], is further amended by amending Section 25(a) to read as follows:

"The Office of Personnel Management, in conjunction with the Director of the Office of Management and Budget, shall establish and maintain a program for the policy guidance of agencies on labor-management relations in the Federal service and shall periodically review the implementation of these policies. The Office of Personnel Management shall be responsible for the day-to-day policy guidance under that program. The Office of Personnel Management also shall continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; implement technical advice and information programs for the agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement."

Sec. 4. Section 5(a) of Executive Order No. 11636 of December 17, 1971 [formerly set out as a note under 22 U.S.C. 801], establishing an Employee–Management Relations Commission as a committee of the Board of the Foreign Service, is amended by deleting: "The representative of the Office of Management and Budget shall be the Chairman of the Commission" and substituting therefor "The representative of the Office of Personnel Management shall be the Chairman of the Commission".

Sec. 5. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned by this Order from the Office of Management and Budget to the Office of Personnel Management, are hereby transferred to the Office of Personnel Management.

Sec. 6. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

Sec. 7. This Order shall be effective December 4, 1977.

Jimmy Carter.

EXECUTIVE ORDER NO. 12074

Ex. Ord. No. 12074, Aug. 16, 1978, 43 F.R. 36875, which related to urban and community impact analyses, was revoked by Ex. Ord. No. 12350, Mar. 9, 1982, 47 F.R. 10503.

EXECUTIVE ORDER NO. 12149

Ex. Ord. No. 12149, July 20, 1979, 44 F.R. 43247, which established Federal Regional Councils, was revoked by section 4(b) of Ex. Ord. No. 12314, July 22, 1981, 46 F.R. 38330.

EXECUTIVE ORDER NO. 12301

Executive Order No. 12301, Mar. 26, 1981, 46 F.R. 19211, as amended by Ex. Ord. No. 13118, Sec. 10(5), Mar. 31, 1999, 64 F.R. 16598, which established the President's Council on Integrity and Efficiency in Federal programs, was revoked by Ex. Ord. No. 12625, Jan. 27, 1988, 53 F.R. 2812, formerly set out below.

EXECUTIVE ORDER NO. 12314

Ex. Ord. No. 12314, July 22, 1981, 46 F.R. 38329, which established Federal Regional Councils, was revoked by Ex. Ord. No. 12407, Feb. 22, 1983, 48 F.R. 7717.

EX. ORD. NO. 12318. TRANSFER OF CERTAIN STATISTICAL POLICY FUNCTIONS

Ex. Ord. No. 12318, Aug. 21, 1981, 46 F.R. 42833, provided:

By virtue of the authority vested in me as President by the Constitution and statutes of the United States, including Reorganization Plan No. 2 of 1970 (5 U.S.C. App.), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531], Section 3(a) of the Paperwork Reduction Act of 1980 (Public Law 96-511, 94 Stat. 2825, 44 U.S.C. 3503 note), and Section 301 of Title 3 of the United States Code, and in order to transfer, redelegate, and reassign certain statistical policy functions from the Secretary of Commerce to the Director of the Office of Management and Budget, and to require redelegation of

certain functions to the Administrator for the Office of Information and Regulatory Affairs, it is hereby ordered as follows:

Section 1. Sec. 1(c) of Executive Order No. 11541 of July 1, 1970, as amended [set out as a note above], is amended by deleting the last phrase "is terminated on October 9, 1977" and substituting therefor "shall be implemented in accord with Section 3(a) of the Paperwork Reduction Act of 1980 (94 Stat. 2825; 44 U.S.C. 3503 note), to the extent that provision is applicable".

Sec. 2. Executive Order No. 10253 of July 11, 1951, as amended [31 U.S.C. 1104 note], is further amended as follows:

(a) "Secretary of Commerce" is deleted in Section 1 and "Director of the Office of Management and Budget" is substituted therefor.

(b) "Secretary" is deleted wherever it appears in Sections 1, 2, 4, 5, and 6 and "Director" is substituted therefor.

(c) "Department of Commerce" is deleted in Section 6 and "Office of Management and Budget" is substituted therefor.

(d) Section 7 is deleted and a new Section 7 is substituted therefor as follows:

"Sec. 7. As required by Section 3(a) of the Paperwork Reduction Act of 1980 (94 Stat. 2825; 44 U.S.C. 3503 note), the Director shall redelegate to the Administrator for the Office of Information and Regulatory Affairs, Office of Management and Budget, all functions, authority, and responsibility under Section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18b) [31 U.S.C. 1104(d)] which have been vested in the Director by this

Order."

(e) Section 8 is revoked.

Sec. 3. Executive Order No. 10033, as amended [22 U.S.C. 286f note], is further amended as follows:

(a) "Secretary of Commerce, hereinafter referred to as the Secretary," is deleted in Section 1 and "Director of the Office of Management and Budget, hereinafter referred to as the Director," is substituted therefor.

(b) "Secretary" is deleted wherever it appears in Sections 2(a), 2(b), 2(c), 3, 4, and 5 and "Director" is substituted therefor.

(c) Section 7 is revoked.

Sec. 4. (a) Executive Order No. 12013 is revoked.

(b) Section 4 of Executive Order No. 11961, as amended [22 U.S.C. 3101 note], is further amended by deleting "the Secretary of Commerce shall perform the functions set forth in Sections 4(a)(3) and 5(c) of the Act" [22 U.S.C. 3103(a)(3), 3104(c)], and substituting therefor "the Secretary of Commerce shall perform the function of making periodic reports to the Committees of the Congress as set forth in Section 4(a)(3) of the Act" [22 U.S.C. 3103(a)(3)].

Sec. 5. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned from the Secretary of Commerce to the Director of the Office of Management and Budget by the delegations made in this Order, are hereby transferred to the Director of the Office of Management and Budget.

Sec. 6. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all steps necessary or appropriate to ensure or effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

Sec. 7. Any rules, regulations, orders, directives, circulars, or other actions taken pursuant to the functions transferred or reassigned from the Secretary of Commerce to the Director of the Office of Management and Budget by the delegations made in this Order, shall remain in effect until amended, modified, or revoked pursuant to the delegations made in this Order.

Sec. 8. This Order shall be effective August 23, 1981.

Ronald Reagan.

EXECUTIVE ORDER NO. 12479

Ex. Ord. No. 12479, May 24, 1984, 49 F.R. 22243, which established President's Council on Management Improvement, assigned functions of Council and responsibilities of Chairman, and provided for administrative support, was revoked by Ex. Ord. No. 12816, Oct. 14, 1992, 57 F.R. 47562, formerly set below.

EXECUTIVE ORDER NO. 12552

Ex. Ord. No. 12552, Feb. 25, 1986, 51 F.R. 7041, which provided for establishment of a comprehensive program for improvement of productivity throughout all Executive departments and agencies, was superseded by Ex. Ord. No. 12637, Apr. 27, 1988, 53 F.R. 15349, formerly set out below, and was revoked by Ex. Ord. No. 13048, Sec. 5, June 10, 1997, 62 F.R. 32469, set out below.

EX. ORD. NO. 12615. PERFORMANCE OF COMMERCIAL ACTIVITIES

Ex. Ord. No. 12615, Nov. 19, 1987, 52 F.R. 44853, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to facilitate ongoing efforts to ensure that the Federal Government acquires needed goods and services in the most economical and efficient manner, it is hereby ordered as follows:

Section 1. The head of each Executive department and agency shall, to the extent permitted by law:

- (a) Ensure that new Federal Government requirements for commercial activities are provided by private industry, except where statute or national security requires government performance or where private industry costs are unreasonable;
- (b) Identify by April 29, 1988, in cooperation with the Director of the Office of Management and Budget all commercial activities currently performed by government. The department and agency heads are encouraged to consult with the President's Commission on Privatization in making such identification;
- (c) Schedule, by June 30, 1988, all commercial activities identified pursuant to subsection (b) for study in accordance with the procedures of OMB Circular No. A-76, as revised, and the Supplement thereto, to determine whether they could be performed more economically by private industry;
- (d) Meet the study goals for Fiscal Year 1988 set forth in "Management of the United States Government, Fiscal Year 1988"; and thereafter, beginning with Fiscal Year 1989, conduct annual studies

of not less than 3 percent of the department or agency's total civilian population, until all identified potential commercial activities have been studied;

(e) Include in each annual budget proposal to the Office of Management and Budget estimates of expected yearly budget savings from the privatization of commercial activities projected to be accomplished following the completion of scheduled studies, unless an exception is authorized by the Director of the Office of Management and Budget. These estimates shall be based on analysis of savings under previous studies and estimated savings to be achieved from future conversions to contract. A department or agency proposal may reflect retention of expected first-year savings as negotiated with the Office of Management and Budget for use as incentive compensation to reward employees covered by the studies for their productivity efforts, or for use in other productivity enhancement projects;

(f) Develop and maintain an effective job placement program for government employees affected by privatization initiatives and cooperate fully in interagency placement efforts;

(g) Designate a senior-level official to coordinate the OMB Circular No. A-76 studies and other privatization efforts; and

(h) Report to the President on progress each quarter, through the Director of the Office of Management and Budget.

Sec. 2. The Director of the Office of Management and Budget shall, to the extent permitted by law:

(a) Issue guidance to departments and agencies to implement this

Order. Such guidance shall be designed to ensure an equitable cost comparison of government–operated commercial activities with private industry performance of the same activities, and to improve the efficiency in the conduct of studies;

(b) Publish for public review (i) not later than 30 days after its completion, the inventory of commercial activities identified pursuant to section 1(b) and the activities scheduled for study by departments and agencies in Fiscal Year 1988 pursuant to section 1(c); and (ii) not later than 30 days before the start of each successive fiscal year, the list of activities to be reviewed during that year pursuant to section 1(d); and

(c) Establish a tracking system to monitor, on a quarterly basis, progress by departments and agencies in carrying out this Order.

Sec. 3. The Director of the Office of Personnel Management, in consultation with the heads of other Executive departments and agencies, shall review and revise, as necessary and to the extent permitted by law, personnel policies and regulations in order (a) to ensure that government managers have the flexibility to organize in the most effective and efficient manner to achieve levels of productivity comparable with those of private industry, and (b) to reduce any adverse effects of productivity improvements on employees.

Sec. 4. For purposes of this Order, the terms "commercial activity," "conversion to contract," and "cost comparison" shall have the meanings set forth in OMB Circular No. A–76, as revised.

Sec. 5. Nothing in this Order shall be construed to confer a

private right of action on any person, or to add in any way to applicable procurement procedures required by existing law.

Ronald Reagan.

EXECUTIVE ORDER NO. 12625

Ex. Ord. No. 12625, Jan. 27, 1988, 53 F.R. 2812, which established President's Council on Integrity and Efficiency as an interagency committee, was revoked by Ex. Ord. No. 12805, May 11, 1992, 57 F.R. 20627, set out below.

EXECUTIVE ORDER NO. 12637

Ex. Ord. No. 12637, Apr. 27, 1988, 53 F.R. 15349, which established a productivity improvement program for the Federal Government, was revoked by Ex. Ord. No. 13048, Sec. 5, June 10, 1997, 62 F.R. 32469, set out below.

EX. ORD. NO. 12803. INFRASTRUCTURE PRIVATIZATION

Ex. Ord. No. 12803, Apr. 30, 1992, 57 F.R. 19063, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure that the United States achieves the most beneficial economic use of its resources, it is hereby ordered as follows:

Section 1. Definitions. For purposes of this order:

- (a) "Privatization" means the disposition or transfer of an infrastructure asset, such as by sale or by long-term lease, from a State or local government to a private party.
- (b) "Infrastructure asset" means any asset financed in whole or in part by the Federal Government and needed for the functioning of the economy. Examples of such assets include, but are not limited

to: roads, tunnels, bridges, electricity supply facilities, mass transit, rail transportation, airports, ports, waterways, water supply facilities, recycling and wastewater treatment facilities, solid waste disposal facilities, housing, schools, prisons, and hospitals.

(c) "Originally authorized purposes" means the general objectives of the original grant program; however, the term is not intended to include every condition required for a grantee to have obtained the original grant.

(d) "Transfer price" means: (i) the amount paid or to be paid by a private party for an infrastructure asset, if the asset is transferred as a result of competitive bidding; or (ii) the appraised value of an infrastructure asset, as determined by the head of the executive department or agency and the Director of the Office of Management and Budget, if the asset is not transferred as a result of competitive bidding.

(e) "State and local governments" means the government of any State of the United States, the District of Columbia, any commonwealth, territory, or possession of the United States, and any county, municipality, city, town, township, local public authority, school district, special district, intrastate district, regional or interstate governmental entity, council of governments, and any agency or instrumentality of a local government, and any federally recognized Indian Tribe.

Sec. 2. Fundamental Principles. Executive departments and agencies shall be guided by the following objectives and

principles: (a) Adequate and well-maintained infrastructure is critical to economic growth. Consistent with the principles of federalism enumerated in Executive Order No. 12612 [formerly set out under section 601 of Title 5, Government Organization and Employees], and in order to allow the private sector to provide for infrastructure modernization and expansion, State and local governments should have greater freedom to privatize infrastructure assets.

(b) Private enterprise and competitively driven improvements are the foundation of our Nation's economy and economic growth. Federal financing of infrastructure assets should not act as a barrier to the achievement of economic efficiencies through additional private market financing or competitive practices, or both.

(c) State and local governments are in the best position to assess and respond to local needs. State and local governments should, subject to assuring continued compliance with Federal requirements that public use be on reasonable and nondiscriminatory terms, have maximum possible freedom to make decisions concerning the maintenance and disposition of their federally financed infrastructure assets.

(d) User fees are generally more efficient than general taxes as a means to support infrastructure assets. Privatization transactions should be structured so as not to result in unreasonable increases in charges to users.

Sec. 3. Privatization Initiative. To the extent permitted by law, the head of each executive department and agency shall undertake

the following actions:

- (a) Review those procedures affecting the management and disposition of federally financed infrastructure assets owned by State and local governments and modify those procedures to encourage appropriate privatization of such assets consistent with this order;
- (b) Assist State and local governments in their efforts to advance the objectives of this order; and
- (c) Approve State and local governments' requests to privatize infrastructure assets, consistent with the criteria in section 4 of this order and, where necessary, grant exceptions to the disposition requirements of the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" common rule, or other relevant rules or regulations, for infrastructure assets; provided that the transfer price shall be distributed, as paid, in the following manner: (i) State and local governments shall first recoup in full the unadjusted dollar amount of their portion of total project costs (including any transaction and fix-up costs they incur) associated with the infrastructure asset involved; (ii) if proceeds remain, then the Federal Government shall recoup in full the amount of Federal grant awards associated with the infrastructure asset, less the applicable share of accumulated depreciation on such asset (calculated using the Internal Revenue Service accelerated depreciation schedule for the categories of assets in question); and (iii) finally, the State and local governments shall keep any

remaining proceeds.

Sec. 4. Criteria. To the extent permitted by law, the head of an executive department or agency shall approve a request in accordance with section 3(c) of this order only if the grantee: (a) Agrees to use the proceeds described in section 3(c)(iii) of this order only for investment in additional infrastructure assets (after public notice of the proposed investment), or for debt or tax reduction; and

(b) Demonstrates that a market mechanism, legally enforceable agreement, or regulatory mechanism will ensure that: (i) the infrastructure asset or assets will continue to be used for their originally authorized purposes, as long as needed for those purposes, even if the purchaser becomes insolvent or is otherwise hindered from fulfilling the originally authorized purposes; and (ii) user charges will be consistent with any current Federal conditions that protect users and the public by limiting the charges.

Sec. 5. Government-wide Coordination and Review. In implementing Executive Order Nos. 12291 and 12498 [formerly set out under section 601 of Title 5, Government Organization and Employees] and OMB Circular No. A-19, the Office of Management and Budget, to the extent permitted by law and consistent with the provisions of those authorities, shall take action to ensure that the policies of the executive department and agencies are consistent with the principles, criteria, and requirements of this order. The Office of Management and Budget shall review the results of implementing this

order and report thereon to the President 1 year after the date of this order.

Sec. 6. Preservation of Existing Authority. Nothing in this order is in any way intended to limit any existing authority of the heads of executive departments and agencies to approve privatization proposals that are otherwise consistent with law.

Sec. 7. Judicial Review. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

George Bush.

EX. ORD. NO. 12805. INTEGRITY AND EFFICIENCY IN FEDERAL PROGRAMS

Ex. Ord. No. 12805, May 11, 1992, 57 F.R. 20627, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to coordinate and enhance governmental efforts to promote integrity and efficiency and to detect and prevent fraud, waste, and abuse in Federal programs, the establishment of two Councils of Federal Inspectors General and appropriate Federal officials is hereby ordered as follows:

Section 1. Establishment of the President's Council on Integrity and Efficiency.

(a) There is established as an interagency committee the President's Council on Integrity and Efficiency (PCIE).

(b) The PCIE shall be composed of the following members:

(1) The Deputy Director for Management of the Office of Management and Budget, who shall be Chairperson of the Council;

(2) All civilian Presidentially appointed Inspectors General whose offices were established in the Inspector General Act of 1978 [5 App. U.S.C.] and subsequent amendments;

(3) The Vice Chairperson of the Executive Council on Integrity and Efficiency;

(4) The Controller of the Office of Federal Financial Management;

(5) The Associate Deputy Director for Investigations of the Federal Bureau of Investigation;

(6) The Director of the Office of Government Ethics;

(7) The Special Counsel of the Office of Special Counsel; and

(8) The Deputy Director of the Office of Personnel Management.

(c) The Chairperson may, from time to time, invite other officials to participate in meetings of the PCIE.

(d) The Chairperson shall, to the extent possible, convene meetings of the PCIE monthly.

Sec. 2. Establishment of the Executive Council on Integrity and Efficiency.

(a) There is established as an inter–entity committee the Executive Council on Integrity and Efficiency (ECIE).

(b) The ECIE shall be composed of the following members:

(1) The Deputy Director for Management of the Office of Management and Budget, who shall be Chairperson of the Council;

(2) All civilian statutory Inspectors General not represented

on the PCIE;

(3) The Vice Chairperson of the PCIE;

(4) The Controller of the Office of Federal Financial Management;

(5) The Associate Deputy Director for Investigations of the Federal Bureau of Investigation, or his or her designee;

(6) The Director of the Office of Government Ethics, or his or her designee;

(7) The Special Counsel of the Office of Special Counsel, or his or her designee; and

(8) The Deputy Director of the Office of Personnel Management, or his or her designee.

(c) If any individual simultaneously serves as a Presidentially appointed Inspector General and as Inspector General of an entity represented on the ECIE, that individual may send a designee to ECIE meetings.

(d) The Chairperson may, from time to time, invite other officials to participate in meetings of the ECIE.

(e) The Chairperson or, in his or her absence, the Controller of the Office of Federal Financial Management shall, to the extent possible, convene meetings of the ECIE monthly.

Sec. 3. Functions of the PCIE and the ECIE.

(a) The Councils shall continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations to fraud, waste, and abuse, and shall develop plans for coordinated, Governmentwide activities that address these problems

and promote economy and efficiency in Federal programs and operations. These activities will include interagency and inter–entity audit and investigation programs and projects to deal efficiently and effectively with those problems concerning fraud and waste that exceed the capability or jurisdiction of an individual agency or entity. The Councils shall recognize the preeminent role of the Department of Justice in law enforcement and litigation.

(b) The Councils shall develop policies that will aid in the establishment of a corps of well–trained and highly skilled Office of Inspector General staff members.

(c) The individual members of the Councils should, to the extent permitted under law, adhere to professional standards developed by the Councils and participate in the plans, programs, and projects of the Councils.

(d) The creation and operation of the Councils shall neither interfere with existing authority and responsibilities in the relevant agencies and entities nor augment or diminish the statutory authority or responsibilities of individual members of either Council.

Sec. 4. Responsibilities of the Chairperson of the PCIE and the ECIE.

(a) The Chairperson may appoint a Vice Chairperson from the PCIE and the ECIE to assist in carrying out the functions of each Council.

(b) The Chairperson shall, in consultation with the members of

each Council, establish the agenda for PCIE and ECIE activities.

(c) The Chairperson shall, on behalf of the Councils, report to the President on the activities of the Councils. The Chairperson shall, as appropriate, advise the Councils with respect to the President's consideration of the Councils' activities.

(d) The Chairperson shall provide agency and entity heads with summary reports of the activities of the Councils.

(e) The Chairperson shall establish, in consultation with members of the Councils, such committees of the PCIE and the ECIE as deemed necessary and appropriate for the efficient conduct of PCIE and ECIE functions. The Chairperson may invite members of the ECIE to serve on each PCIE Committee. Similarly, the Chairperson may invite members of the PCIE to serve on each ECIE Committee.

(f) The Chairperson shall convene joint meetings of the PCIE and the ECIE at least annually.

Sec. 5. Administrative Provisions.

(a) The Director of the Office of Management and Budget shall provide the PCIE and the ECIE with such administrative support as may be necessary for the performance of the functions of the Councils.

(b) The heads of agencies and entities represented on the PCIE and the ECIE shall provide their representatives with such administrative support as may be necessary, in accordance with law, to enable the representatives to carry out their responsibilities.

Sec. 6. Revocation. Executive Order No. 12625 of January 27, 1988, entitled "Integrity and Efficiency in Federal Programs," is

revoked.

George Bush.

EXECUTIVE ORDER NO. 12816

Ex. Ord. No. 12816, Oct. 14, 1992, 57 F.R. 47562, which established the President's Council on Management Improvement and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 13048, Sec. 5, June 10, 1997, 62 F.R. 32469, set out below.

EX. ORD. NO. 12837. DEFICIT CONTROL AND PRODUCTIVITY IMPROVEMENT IN THE ADMINISTRATION OF THE FEDERAL GOVERNMENT

Ex. Ord. No. 12837, Feb. 10, 1993, 58 F.R. 8205, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Budget and Accounting Act of 1921, as amended (31 U.S.C. 1101 et seq.), and section 301 of title 3, United States Code, and in order to assist in the control of the Federal deficit and improve the administrative productivity of the Federal Government, it is hereby ordered as follows:

Section 1. All executive departments and agencies shall include a separate category for "administrative expenses" when submitting their appropriation requests to the Office of Management and Budget (OMB) for fiscal years 1994 through 1997. The Director of OMB (Director), in consultation with the agencies, shall establish and revise as necessary a definition of administrative expenses for the agencies. All questions regarding the definition of administrative expenses shall be resolved by the Director.

Sec. 2. The purpose of this order is to achieve real reductions in the administrative costs of Federal agencies. In order to accomplish that goal, agencies shall submit budgets that reflect the following reductions from the fiscal year 1993 baseline:

(a) For fiscal year 1994, all agencies shall submit budget requests that reflect no less than a 3 percent reduction in administrative expenses from the amount made available for fiscal year 1993 adjusted for inflation;

(b) For fiscal year 1995, all agencies shall submit budget requests that reflect no less than a 6 percent reduction in administrative expenses from the amounts made available for fiscal year 1993 adjusted for inflation;

(c) For fiscal year 1996, all agencies shall submit budget requests that reflect no less than a 9 percent reduction in administrative expenses from the amounts made available for fiscal year 1993 adjusted for inflation;

(d) For fiscal year 1997, all agencies shall submit budget requests that reflect no less than a 14 percent reduction in administrative expenses from the amounts made available for fiscal year 1993 adjusted for inflation.

Sec. 3. The Director shall review agency requests for administrative expenses. The Director shall ensure that all agency requests for such expenses are reduced in accordance with section 2. To the extent that any agency fails to comply with the mandates of section 2, the Director is authorized to reduce the request for administrative expenses in that agency's budget to achieve the

appropriate reduction.

Sec. 4. All independent regulatory commissions and agencies are requested to comply with the provisions of this order.

William J. Clinton.

EX. ORD. NO. 12862. SETTING CUSTOMER SERVICE STANDARDS

Ex. Ord. No. 12862, Sept. 11, 1993, 58 F.R. 48257, provided:

Putting people first means ensuring that the Federal Government provides the highest quality service possible to the American people. Public officials must embark upon a revolution within the Federal Government to change the way it does business. This will require continual reform of the executive branch's management practices and operations to provide service to the public that matches or exceeds the best service available in the private sector.

NOW, THEREFORE, to establish and implement customer service standards to guide the operations of the executive branch, and by the authority vested in me as President by the Constitution and the laws of the United States, it is hereby ordered:

Section 1. Customer Service Standards. In order to carry out the principles of the National Performance Review, the Federal Government must be customer-driven. The standard of quality for services provided to the public shall be: Customer service equal to the best in business. For the purposes of this order, "customer" shall mean an individual or entity who is directly served by a department or agency. "Best in business" shall mean the highest quality of service delivered to customers by private organizations

providing a comparable or analogous service.

All executive departments and agencies (hereinafter referred to collectively as "agency" or "agencies") that provide significant services directly to the public shall provide those services in a manner that seeks to meet the customer service standard established herein and shall take the following actions:

- (a) identify the customers who are, or should be, served by the agency;
- (b) survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services;
- (c) post service standards and measure results against them;
- (d) benchmark customer service performance against the best in business;
- (e) survey front-line employees on barriers to, and ideas for, matching the best in business;
- (f) provide customers with choices in both the sources of service and the means of delivery;
- (g) make information, services, and complaint systems easily accessible; and
- (h) provide means to address customer complaints.

Sec. 2. Report on Customer Service Surveys. By March 8, 1994, each agency subject to this order shall report on its customer surveys to the President. As information about customer satisfaction becomes available, each agency shall use that information in judging the performance of agency management and in

making resource allocations.

Sec. 3. Customer Service Plans. By September 8, 1994, each agency subject to this order shall publish a customer service plan that can be readily understood by its customers. The plan shall include customer service standards and describe future plans for customer surveys. It also shall identify the private and public sector standards that the agency used to benchmark its performance against the best in business. In connection with the plan, each agency is encouraged to provide training resources for programs needed by employees who directly serve customers and by managers making use of customer survey information to promote the principles and objectives contained herein.

Sec. 4. Independent Agencies. Independent agencies are requested to adhere to this order.

Sec. 5. Judicial Review. This order is for the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

William J. Clinton.

EX. ORD. NO. 12893. PRINCIPLES FOR FEDERAL INFRASTRUCTURE
INVESTMENTS

Ex. Ord. No. 12893, Jan. 26, 1994, 59 F.R. 4233, provided:

A well-functioning infrastructure is vital to sustained economic growth, to the quality of life in our communities, and to the protection of our environment and natural resources. To develop and

maintain its infrastructure facilities, our Nation relies heavily on investments by the Federal Government.

Our Nation will achieve the greatest benefits from its infrastructure facilities if it invests wisely and continually improves the quality and performance of its infrastructure programs. Therefore, 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. Scope. The principles and plans referred to in this order shall apply to Federal spending for infrastructure programs. For the purposes of this order, Federal spending for infrastructure programs shall include direct spending and grants for transportation, water resources, energy, and environmental protection.

Sec. 2. Principles of Federal Infrastructure Investment.

Each executive department and agency with infrastructure responsibilities (hereinafter referred to collectively as "agencies") shall develop and implement plans for infrastructure investment and management consistent with the following principles:

(a) Systematic Analysis of Expected Benefits and Costs.

Infrastructure investments shall be based on systematic analysis of expected benefits and costs, including both quantitative and qualitative measures, in accordance with the following:

(1) Benefits and costs should be quantified and monetized to the maximum extent practicable. All types of benefits and costs, both market and nonmarket, should be considered. To the extent

that environmental and other nonmarket benefits and costs can be quantified, they shall be given the same weight as quantifiable market benefits and costs.

(2) Benefits and costs should be measured and appropriately discounted over the full life cycle of each project. Such analysis will enable informed tradeoffs among capital outlays, operating and maintenance costs, and nonmonetary costs borne by the public.

(3) When the amount and timing of important benefits and costs are uncertain, analyses shall recognize the uncertainty and address it through appropriate quantitative and qualitative assessments.

(4) Analyses shall compare a comprehensive set of options that include, among other things, managing demand, repairing facilities, and expanding facilities.

(5) Analyses should consider not only quantifiable measures of benefits and costs, but also qualitative measures reflecting values that are not readily quantified.

(b) Efficient Management. Infrastructure shall be managed efficiently in accordance with the following:

(1) The efficient use of infrastructure depends not only on physical design features, but also on operational practices. To improve these practices, agencies should conduct periodic reviews of the operation and maintenance of existing facilities.

(2) Agencies should use these reviews to consider a variety of management practices that can improve the return from

infrastructure investments. Examples include contracting practices that reward quality and innovation, and design standards that incorporate new technologies and construction techniques.

(3) Agencies also should use these reviews to identify the demand for different levels of infrastructure services. Since efficient levels of service can often best be achieved by properly pricing infrastructure, the Federal Government – through its direct investments, grants, and regulations – should promote consideration of market-based mechanisms for managing infrastructure.

(c) Private Sector Participation. Agencies shall seek private sector participation in infrastructure investment and management. Innovative public-private initiatives can bring about greater private sector participation in the ownership, financing, construction, and operation of the infrastructure programs referred to in section 1 of this order. Consistent with the public interest, agencies should work with State and local entities to minimize legal and regulatory barriers to private sector participation in the provision of infrastructure facilities and services.

(d) Encouragement of More Effective State and Local Programs. To promote the efficient use of Federal infrastructure funds, agencies should encourage the State and local recipients of Federal grants to implement planning and information management systems that support the principles set forth in section 2(a) through (c) of this order. In turn, the Federal Government should use the

information from the State and local recipients' management systems to conduct the system-level reviews of the Federal Government's infrastructure programs that are required by this order.

Sec. 3. Submission of Plans. Agencies shall submit initial plans to implement these principles to the Director of the Office of Management and Budget ("OMB") by March 15, 1994. Agency plans shall list the actions that will be taken to provide the data and analysis necessary for supporting infrastructure-related proposals in future budget submissions. Agency implementation plans should be consistent with OMB Circular A-94 that outlines the analytical methods required under the principles set forth in section 2 of this order.

Sec. 4. Application to Budget Submissions. Beginning with the fiscal year 1996 budget submission to OMB, each agency should use these principles to justify major infrastructure investment and grant programs. Major programs are defined as those programs with annual budgetary resources in excess of \$50 million.

Sec. 5. Application to Legislative Proposals. Beginning March 15, 1994, agencies shall employ the principles set forth in section 2 of this order and, at the request of OMB, shall provide supporting analyses when requesting OMB clearance for legislative proposals that would authorize or reauthorize infrastructure programs.

Sec. 6. Guidance. The Office of Management and Budget shall provide guidance to the agencies on the implementation of this order.

Sec. 7. Judicial Review. This 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 by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

William J. Clinton.

EX. ORD. NO. 13048. IMPROVING ADMINISTRATIVE MANAGEMENT IN THE EXECUTIVE BRANCH

Ex. Ord. No. 13048, June 10, 1997, 62 F.R. 32467, as amended by

Ex. Ord. No. 13284, Sec. 7, Jan. 23, 2003, 68 F.R. 4075, provided:

Improvement of Government operations is a continuing process that benefits from interagency activities. One group dedicated to such activities is the President's Council on Management Improvement (PCMI), established by Executive Order 12479 in 1984, reestablished by Executive Order 12816 in 1992. In the intervening years, some activities of the PCMI have been assumed by the President's Management Council, the Chief Financial Officers Council, and the Chief Information Officers Council. These organizations are also focussed on improving agencies' use of quality management principles. Other functions have been assigned to individual agencies. Nonetheless, remaining administrative management matters deserve attention across agency lines.

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to improve agency administrative and management practices throughout the executive branch, I hereby direct the following:

Section 1. Interagency Council on Administrative Management.

(a) Purpose and Membership. An Interagency Council on Administrative Management ("Council") is established as an interagency coordination mechanism. The Council shall be composed of the Deputy Director for Management of the Office of Management and Budget, who shall serve as Chair, and one senior administrative management official from each of the following agencies:

1. Department of State;
2. Department of the Treasury;
3. Department of Defense;
4. Department of Justice;
5. Department of the Interior;
6. Department of Agriculture;
7. Department of Commerce;
8. Department of Labor;
9. Department of Health and Human Services;
10. Department of Housing and Urban Development;
11. Department of Transportation;
12. Department of Energy;
13. Department of Education;
14. Department of Veterans Affairs;
15. Department of Homeland Security;
16. Environmental Protection Agency;
17. Federal Emergency Management Agency;
18. Central Intelligence Agency;
19. Small Business Administration;
20. Department of the Army;

21. Department of the Navy;
22. Department of the Air Force;
23. National Aeronautics and Space Administration;
24. Agency for International Development;
25. General Services Administration;
26. National Science Foundation; and
27. Office of Personnel Management.

Department and agency heads shall advise the Chair of their selections for membership on the Council. Council membership shall also include representatives of the Chief Financial Officers Council, the Chief Information Officers Council, the Federal Procurement Council, the Interagency Advisory Group of Federal Personnel Directors, and the Small Agency Council, as well as at-large members appointed by the Chair, as he deems appropriate.

The Chair shall invite representatives of the Social Security Administration to participate in the Council's work, as appropriate. The Council shall select a Vice Chair from among the Council's membership.

(b) The Council shall plan, promote, and recommend improvements in Government administration and operations and provide advice to the Chair on matters pertaining to the administrative management of the Federal Government. The Council shall:

(1) explore opportunities for more effective use of Government resources;

(2) support activities and initiatives of the President's Management Council, the Chief Financial Officers Council, the

Chief Information Officers Council, the Federal Procurement Council, and the Interagency Advisory Group of Federal Personnel Directors designed to develop, review, revise, and implement Governmentwide administrative management policies; and (3) identify successful administrative management practices, including quality management practices, and assist in their Governmentwide dissemination and implementation.

Sec. 2. Responsibilities of the Chair. The Chair or, if the Chair chooses, the Vice Chair shall:

- (1) convene meetings of the Council;
- (2) preside at formal council meetings;
- (3) establish committees or working groups of the Council, as necessary for efficient conduct of Council functions; and
- (4) appoint, to the extent permitted by law and consistent with personnel practices, other full-time officers or employees of the Federal Government to the Council as at-large members for specific terms, not exceeding 2 years, to provide expertise to the Council.

Sec. 3. Responsibilities of Agency Heads. To the extent permitted by law, heads of departments or agencies represented on the Council shall provide their representatives with administrative support needed to support Council activities.

Sec. 4. Judicial Review. This order is for the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers

or employees, or any other person.

Sec. 5. Revocation. Executive Order 12816 (creating the President's Council on Management Improvement), Executive Order 12552 (establishing the executive branch productivity improvement program) and Executive Order 12637 (revising the executive branch productivity improvement program) are revoked.

IMPLEMENTING MANAGEMENT REFORM IN EXECUTIVE BRANCH

Memorandum of President of the United States, Oct. 1, 1993, 58 F.R. 52393, which directed the head of executive departments and agencies, and requested independent agencies, to establish a chief operating officer and implement additional agency management reforms and established the President's Management Council to advise and assist the President and Vice President in ensuring that such reforms were implemented, was revoked by Memorandum of President of the United States, July 11, 2001, 66 F.R. 37105, set out below.

IMPLEMENTING GOVERNMENT REFORM

Memorandum of President of the United States, July 11, 2001, 66 F.R. 37105, provided:

Memorandum for the Heads of Executive Departments and Agencies

Throughout the campaign and in my Budget, I have called for "active, but limited" Government: one that empowers States, cities, and citizens to make decisions; ensures results through accountability; and promotes innovation through competition. Thus, if reform is to help the Federal Government adapt to a rapidly changing world, its primary objectives must be a Government that

is:

- Citizen-centered – not bureaucracy centered;
- Results-oriented – not process-oriented; and
- Market-based – actively promoting, not stifling, innovation and competition.

In order to establish and implement Government reform throughout the executive branch, I hereby direct the following:

1. Establish Chief Operating Officers.

Each agency head shall designate a Chief Operating Officer, who shall be the senior official with agency-wide authority on behalf of the Secretary or agency head. The Chief Operating Officer, the equivalent of the Deputy Secretary, shall report directly to the agency head and shall be responsible for:

- (a) implementing the President's and agency head's goals and the agency's mission;
- (b) providing overall organization management to improve agency performance;
- (c) assisting the agency head in promoting Government reform, developing strategic plans, and measuring results; and
- (d) overseeing agency-specific efforts to integrate performance and budgeting, expand competitive sourcing, strengthen their workforce, improve financial management, advance e-government, apply information policy and technology policies, and other Government-wide management reforms.

2. Implement Additional Agency Reforms.

Each agency head shall identify and implement additional changes

within the agency that will promote the principles of government reform.

3. Establishment of President's Management Council.

In order to advise and assist the President in ensuring that Government reform is implemented throughout the executive branch, I hereby establish the President's Management Council ("Council").

The Council shall comprise:

- (a) The Deputy Director, Office of Management and Budget;
- (b) The Chief Operating Officers from the following agencies:
 - (1) Department of State;
 - (2) Department of the Treasury;
 - (3) Department of Defense;
 - (4) Department of Justice;
 - (5) Department of the Interior;
 - (6) Department of Agriculture;
 - (7) Department of Commerce;
 - (8) Department of Labor;
 - (9) Department of Health and Human Services;
 - (10) Department of Housing and Urban Development;
 - (11) Department of Transportation;
 - (12) Department of Energy;
 - (13) Department of Education; and
 - (14) Department of Veterans Affairs.
- (c) The following central management agency representatives:
 - (1) Director of the Office of Personnel Management;
 - (2) Administrator of General Services;

(d) Chief Operating Officers of the following agencies:

(1) Environmental Protection Agency;

(2) National Aeronautics and Space Administration;

(3) National Science Foundation;

(4) Social Security Administration; and

(5) Federal Emergency Management Agency.

(e) Chief Operating Officers of three other executive branch agencies designated by the Chairperson, in his or her discretion;

(f) Assistant to the President and Cabinet Secretary;

(g) Deputy Assistant to the President for Management and Administration; and

(h) Deputy Chief of Staff to the Vice President; and

(i) Such other officials of the executive departments and agencies as the Director of the Office of Management and Budget or I may, from time to time, designate.

The Deputy Director of the Office of Management and Budget shall serve as Chairperson of the Council. The Chairperson of the Council may appoint a Vice–Chairperson from the Council's membership to assist the Chairperson in conducting affairs of the Council.

The functions of the Council shall include, among others:

(a) improving overall executive branch management, including implementation of the President's Management Agenda;

(b) coordinating management–related efforts to improve Government throughout the executive branch and, as necessary, resolving specific interagency management issues;

(c) ensuring the adoption of new management practices in

agencies throughout the executive branch; and

(d) identifying examples of, and providing mechanisms for, interagency exchange of information about best management practices.

The Council shall seek advice and information as appropriate from nonmember Federal agencies, particularly smaller agencies. The Council shall also consider the management reform experience of corporations, nonprofit organizations, State and local governments, Government employees, public sector unions, and customers of Government services.

Agencies shall cooperate with the Council and provide such assistance, information, and advice to the Council as the Council may request, to the extent permitted by law.

4. Independent Agencies.

Independent agencies are requested to comply with this memorandum.

5. Revocation and Judicial Review.

(a) the memorandum of October 1, 1993, entitled "Implementing Management Reform in the Executive Branch" is revoked.

(b) this memorandum is for the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

6. Publication.

The Director of the Office of Management and Budget is authorized

and directed to publish this memorandum in the Federal Register.

George W. Bush.

–End–

–CITE–

31 USC Sec. 502 01/06/03

–EXPCITE–

TITLE 31 – MONEY AND FINANCE

SUBTITLE I – GENERAL

CHAPTER 5 – OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER I – ORGANIZATION

–HEAD–

Sec. 502. Officers

–STATUTE–

(a) The head of the Office of Management and Budget is the Director of the Office of Management and Budget. The Director is appointed by the President, by and with the advice and consent of the Senate. Under the direction of the President, the Director shall administer the Office.

(b) The Office has a Deputy Director of the Office of Management and Budget, appointed by the President, by and with the advice and consent of the Senate. The Deputy Director –

(1) shall carry out the duties and powers prescribed by the Director; and

(2) acts as the Director when the Director is absent or unable to serve or when the office of Director is vacant.

(c) The Office has a Deputy Director for Management appointed by

the President, by and with the advice and consent of the Senate.

The Deputy Director for Management shall be the chief official responsible for financial management in the United States Government.

(d) The Office has 3 Assistant Directors who shall carry out the duties and powers prescribed by the Director.

(e) The Office may have not more than 6 additional officers, each of whom is appointed in the competitive service by the Director, with the approval of the President. Each additional officer shall carry out the duties and powers prescribed by the Director. The Director shall specify the title of each additional officer.

(f) When the Director and Deputy Director are absent or unable to serve or when the offices of Director and Deputy Director are vacant, the President may designate an officer of the Office to act as Director.

–SOURCE–

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 886; Pub. L. 101–576, title II, Sec. 201, Nov. 15, 1990, 104 Stat. 2839.)

–MISC1–

HISTORICAL AND REVISION NOTES

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

Section

502(a) 31:16(2d sentence June 10, 1921, ch. 18, Sec.

related to 207(2d, 3d sentences), 42

Director). Stat. 22; Reorg. Plan No. 1 of
1939, eff. July 1, 1939, Sec.
1, 53 Stat. 1423; July 31,
1953, ch. 302, Sec. 101(1st
proviso in par. under heading
"Bureau of the Budget"), 67
Stat. 299; Reorg. Plan No. 2
of 1970, eff. July 1, 1970,
Sec. 102(a), (b), (d), (e),
(f)(less words between
parentheses), 84 Stat. 2085;
Mar. 2, 1974, Pub. L. 93–250,
Sec. 1, 88 Stat. 11.
502(b) 31:16(2d sentence
related to Deputy
Director, 3d
sentence).
502(c) 31:16a. Reorg. Plan No. 1 of 1939,
eff. July 1, 1939, Sec. 1, 53
Stat. 1423; July 31, 1953, ch.
302, Sec. 101(last proviso in
par. under heading "Bureau of
the Budget"), 67 Stat. 299;
Sept. 6, 1966, Pub. L. 89–554,
Sec. 8(a), 80 Stat. 657;
Reorg. Plan No. 2 of 1970,

eff. July 1, 1970, Sec.

102(b), (e), 84 Stat. 2085.

31:16c. Reorg. Plan No. 1 of 1939,

eff. July 1, 1939, Sec. 1, 53

Stat. 1423; Aug. 1, 1956, ch.

838, 70 Stat. 887; Reorg. Plan

No. 2 of 1970, eff. July 1,

1970, Sec. 102(b), (e), 84

Stat. 2085.

502(d), 31:16(note). Reorg. Plan No. 1 of 1939,

(e) eff. July 1, 1939, Sec. 1, 53

Stat. 1423; Reorg. Plan No. 2

of 1970, eff. July 1, 1970,

Sec. 102(c)(words before last

comma), (e), (f)(words between

parentheses), 84 Stat. 2085.

In subsections (a) and (b), the words related to salaries in section 207 of the Budget and Accounting Act, 1921 (ch. 18, 42 Stat. 22), are omitted as covered by 5:5313(11) and 5314(34).

In subsection (a), the text of section 102(d)(1st sentence) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1970, 84 Stat. 2085) is omitted as covered by 3:301 and for consistency in the revised title and with other titles of the United States Code. The word "administer" is substituted for "supervise and direct the administration of" in section 102(d) of the Reorganization Plan to

eliminate unnecessary words.

In subsections (b) and (c), the words "designated by this reorganization plan" in section 102(e) of Reorganization Plan No. 2 of 1970 are omitted as executed. The words "carry out the duties and powers prescribed by" are substituted for "perform such functions as" for consistency in the revised title and with other titles of the Code. The words "may from time to time direct" are omitted as unnecessary.

In subsection (c), the words "the duties and powers prescribed by" in section 102(e)(related to Assistant Directors) of Reorganization Plan No. 2 of 1970 are substituted for "such functions as" for consistency. The words "may from time to time direct" are omitted as unnecessary. The words related to compensation in 31:16c are omitted as covered by 5:5315(37).

In subsection (d), the words "as determined from time to time by the Director of the Office of Management and Budget (hereinafter referred to as the Director)" in section 102(c)(1st sentence) of Reorganization Plan No. 2 of 1970 are omitted as unnecessary. The words "in the competitive" are substituted for "under the classified civil" in section 102(c)(2d sentence) of the Reorganization Plan to conform to 5:2102. The words "The Director shall specify the title of each additional officer" are substituted for "shall have such title as the Director shall from time to time determine" to eliminate unnecessary words. The words "provided for in subsection (c) of this section" in section 102(e)(related to officers) of the Reorganization Plan are omitted because of the

restatement. The words "carry out the duties and powers prescribed by" are substituted for "perform such functions as" for consistency in the revised title and with other titles of the Code. The words "may from time to time direct" are omitted as unnecessary.

In subsection (e), the words "When the Director and Deputy Director are absent or unable to serve or when the offices of Director and Deputy Director are vacant" are substituted for "or during the absence or disability of the Deputy Director or in the event of a vacancy in the office of Deputy Director" and "during the absence or disability of the Director or in the event of a vacancy in the office of Director" in section 102(f)(words between parentheses) of Reorganization Plan No. 2 of 1970 for clarity and consistency with other titles of the Code. The words "an officer" are substituted for "such other officials" for clarity and consistency in the chapter. The words "in such order as" are omitted as unnecessary. The words "from time to time" are eliminated as unnecessary.

AMENDMENTS

1990 – Subsecs. (c) to (f). Pub. L. 101–576 added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

–End–

–CITE–

31 USC Sec. 503 01/06/03

–EXPCITE–

TITLE 31 – MONEY AND FINANCE

SUBTITLE I – GENERAL

CHAPTER 5 – OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER I – ORGANIZATION

–HEAD–

Sec. 503. Functions of Deputy Director for Management

–STATUTE–

(a) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish governmentwide financial management policies for executive agencies and shall perform the following financial management functions:

- (1) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to financial management.
- (2) Provide overall direction and leadership to the executive branch on financial management matters by establishing financial management policies and requirements, and by monitoring the establishment and operation of Federal Government financial management systems.
- (3) Review agency budget requests for financial management systems and operations, and advise the Director on the resources required to develop and effectively operate and maintain Federal Government financial management systems and to correct major deficiencies in such systems.
- (4) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they are in accordance with financial management

plans of the Office of Management and Budget.

(5) Monitor the financial execution of the budget in relation to actual expenditures, including timely performance reports.

(6) Oversee, periodically review, and make recommendations to heads of agencies on the administrative structure of agencies with respect to their financial management activities.

(7) Develop and maintain qualification standards for agency Chief Financial Officers and for agency Deputy Chief Financial Officers appointed under sections 901 and 903, respectively (excluding any officer designated or appointed under section 901(c)).

(8) Provide advice to agency heads with respect to the selection of agency Chief Financial Officers and Deputy Chief Financial Officers (excluding any officer designated or appointed under section 901(c)).

(9) Provide advice to agencies regarding the qualifications, recruitment, performance, and retention of other financial management personnel.

(10) Assess the overall adequacy of the professional qualifications and capabilities of financial management staffs throughout the Government and make recommendations on ways to correct problems which impair the capacity of those staffs.

(11) Settle differences that arise among agencies regarding the implementation of financial management policies.

(12) Chair the Chief Financial Officers Council established by section 302 of the Chief Financial Officers Act of 1990.

(13) Communicate with the financial officers of State and local governments, and foster the exchange with those officers of information concerning financial management standards, techniques, and processes.

(14) Issue such other policies and directives as may be necessary to carry out this section, and perform any other function prescribed by the Director.

(b) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish general management policies for executive agencies and perform the following general management functions:

(1) Coordinate and supervise the general management functions of the Office of Management and Budget.

(2) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to

—

(A) managerial systems, including the systematic measurement of performance;

(B) procurement policy;

(C) grant, cooperative agreement, and assistance management;

(D) information and statistical policy;

(E) property management;

(F) human resources management;

(G) regulatory affairs; and

(H) other management functions, including organizational studies, long-range planning, program evaluation, productivity

improvement, and experimentation and demonstration programs.

(3) Provide complete, reliable, and timely information to the President, the Congress, and the public regarding the management activities of the executive branch.

(4) Facilitate actions by the Congress and the executive branch to improve the management of Federal Government operations and to remove impediments to effective administration.

(5) Chair the Chief Information Officers Council established under section 3603 of title 44.

(6) Provide leadership in management innovation, through –
(A) experimentation, testing, and demonstration programs; and
(B) the adoption of modern management concepts and technologies.

(7) Work with State and local governments to improve and strengthen intergovernmental relations, and provide assistance to such governments with respect to intergovernmental programs and cooperative arrangements.

(8) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they respond to program evaluations by, and are in accordance with general management plans of, the Office of Management and Budget.

(9) Provide advice to agencies on the qualification, recruitment, performance, and retention of managerial personnel.

(10) Perform any other functions prescribed by the Director.

–SOURCE–

(Added Pub. L. 101–576, title II, Sec. 202(b), Nov. 15, 1990, 104 Stat. 2839; amended Pub. L. 103–272, Sec. 4(f)(1)(B), July 5, 1994, 108 Stat. 1361; Pub. L. 106–58, title VI, Sec. 638(g), Sept. 29, 1999, 113 Stat. 476; Pub. L. 107–347, title I, Sec. 102(b), Dec. 17, 2002, 116 Stat. 2910.)

–REFTEXT–

REFERENCES IN TEXT

Section 302 of the Chief Financial Officers Act of 1990 [Pub. L. 101–576], referred to in subsec. (a)(12), is set out as a note under section 901 of this title.

–MISC1–

PRIOR PROVISIONS

A prior section 503 was renumbered section 505 of this title.

AMENDMENTS

2002 – Subsec. (b)(5) to (10). Pub. L. 107–347 added par. (5) and redesignated former pars. (5) to (9) as (6) to (10), respectively.

1999 – Subsec. (a)(7). Pub. L. 106–58, Sec. 638(g)(1), substituted "respectively (excluding any officer designated or appointed under section 901(c))." for "respectively."

Subsec. (a)(8). Pub. L. 106–58, Sec. 638(g)(2), substituted "Officers (excluding any officer designated or appointed under section 901(c))." for "Officers."

1994 – Subsec. (b)(9). Pub. L. 103–272 substituted "Perform" for "perform".

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–347 effective 120 days after Dec. 17,

2002, see section 402(a)(1) of Pub. L. 107–347, set out as an Effective Date note under section 3601 of Title 44, Public Printing and Documents.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–58, title VI, Sec. 638(h), Sept. 29, 1999, 113 Stat. 476, provided that: "This section [amending this section and sections 901 and 1105 of this title and enacting provisions set out as a note under section 901 of this title] shall take effect at noon on January 20, 2001."

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 504 of this title.

–End–

–CITE–

31 USC Sec. 504 01/06/03

–EXPCITE–

TITLE 31 – MONEY AND FINANCE

SUBTITLE I – GENERAL

CHAPTER 5 – OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER I – ORGANIZATION

–HEAD–

Sec. 504. Office of Federal Financial Management

–STATUTE–

(a) There is established in the Office of Management and Budget an office to be known as the "Office of Federal Financial Management". The Office of Federal Financial Management, under the

direction and control of the Deputy Director for Management of the Office of Management and Budget, shall carry out the financial management functions listed in section 503(a) of this title.

(b) There shall be at the head of the Office of Federal Financial Management a Controller, who shall be appointed by the President, by and with the advice and consent of the Senate. The Controller shall be appointed from among individuals who possess –

- (1) demonstrated ability and practical experience in accounting, financial management, and financial systems; and
- (2) extensive practical experience in financial management in large governmental or business entities.

(c) The Controller of the Office of Federal Financial Management shall be the deputy and principal advisor to the Deputy Director for Management in the performance by the Deputy Director for Management of functions described in section 503(a).

–SOURCE–

(Added Pub. L. 101–576, title II, Sec. 203(a), Nov. 15, 1990, 104 Stat. 2841.)

–MISC1–

PRIOR PROVISIONS

A prior section 504 was renumbered section 506 of this title.

–End–

–CITE–

31 USC Sec. 505 01/06/03

–EXPCITE–

TITLE 31 – MONEY AND FINANCE

SUBTITLE I – GENERAL

CHAPTER 5 – OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER I – ORGANIZATION

–HEAD–

Sec. 505. Office of Information and Regulatory Affairs

–STATUTE–

The Office of Information and Regulatory Affairs, established under section 3503 of title 44, is an office in the Office of Management and Budget.

–SOURCE–

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 886, Sec. 503; renumbered Sec. 505, Pub. L. 101–576, title II, Sec. 202(a), Nov. 15, 1990, 104 Stat. 2839.)

–MISC1–

HISTORICAL AND REVISION NOTES

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

Section

503 (no source).

The section is included to provide in subchapter I of chapter 5 of the revised title a complete list of the organizational units established by law that are in the Office of Management and Budget or are subject to the direction and supervision of the Director of the Office of Management and Budget.

AMENDMENTS

1990 – Pub. L. 101–576 renumbered section 503 of this title as this section.

–End–

–CITE–

31 USC Sec. 506 01/06/03

–EXPCITE–

TITLE 31 – MONEY AND FINANCE

SUBTITLE I – GENERAL

CHAPTER 5 – OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER I – ORGANIZATION

–HEAD–

Sec. 506. Office of Federal Procurement Policy

–STATUTE–

The Office of Federal Procurement Policy, established under section 5(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 404(a)), is an office in the Office of Management and Budget.

–SOURCE–

(Added Pub. L. 97–452, Sec. 1(1)(A), Jan. 12, 1983, 96 Stat. 2467, Sec. 504; renumbered Sec. 506, Pub. L. 101–576, title II, Sec. 202(a), Nov. 15, 1990, 104 Stat. 2839.)

–MISC1–

HISTORICAL AND REVISION NOTES

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

Section

504 (no source).

The section is included to provide in subchapter I of chapter 5 of title 31 a complete list of the organizational units established by law that are in the Office of Management and Budget or are subject to the direction and supervision of the Director of the Office of Management and Budget.

AMENDMENTS

1990 – Pub. L. 101–576 renumbered section 504 of this title as this section.

–End–

–CITE–

31 USC Sec. 507 01/06/03

–EXPCITE–

TITLE 31 – MONEY AND FINANCE

SUBTITLE I – GENERAL

CHAPTER 5 – OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER I – ORGANIZATION

–HEAD–

Sec. 507. Office of Electronic Government

–STATUTE–

The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.

–SOURCE–

(Added Pub. L. 107–347, title I, Sec. 102(c)(1), Dec. 17, 2002, 116 Stat. 2910.)

–MISC1–

EFFECTIVE DATE

Section effective 120 days after Dec. 17, 2002, see section 402(a)(1) of Pub. L. 107–347, set out as a note under section 3601 of Title 44, Public Printing and Documents.

–End–

–CITE–

31 USC SUBCHAPTER II – ADMINISTRATIVE 01/06/03

–EXPCITE–

TITLE 31 – MONEY AND FINANCE

SUBTITLE I – GENERAL

CHAPTER 5 – OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER II – ADMINISTRATIVE

–HEAD–

SUBCHAPTER II – ADMINISTRATIVE

–End–

–CITE–

31 USC Sec. 521 01/06/03

–EXPCITE–

TITLE 31 – MONEY AND FINANCE

SUBTITLE I – GENERAL

CHAPTER 5 – OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER II – ADMINISTRATIVE

–HEAD–

Sec. 521. Employees

–STATUTE–

The Director of the Office of Management and Budget shall appoint and fix the pay of employees of the Office under regulations prescribed by the President.

–SOURCE–

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 886.)

–MISC1–

HISTORICAL AND REVISION NOTES

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

Section

521 31:17(a)(related to June 10, 1921, ch. 18, Sec.

employees). 208(a)(related to employees),

42 Stat. 22; Reorg. Plan No. 1

of 1939, eff. July 1, 1939,

Sec. 1, 53 Stat. 1423; Reorg.

Plan No. 2 of 1970, eff. July

1, 1970, Sec. 102(a), 84 Stat.

2085.

The words "attorneys and other" are omitted as being included in "employees".

–End–

–CITE–

31 USC Sec. 522 01/06/03

–EXPCITE–

TITLE 31 – MONEY AND FINANCE

SUBTITLE I – GENERAL

CHAPTER 5 – OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER II – ADMINISTRATIVE

–HEAD–

Sec. 522. Necessary expenditures

–STATUTE–

The Director of the Office of Management and Budget may make necessary expenditures for the Office under regulations prescribed by the President.

–SOURCE–

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 886.)

–MISC1–

HISTORICAL AND REVISION NOTES

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

Section

522 31:17(a)(related to June 10, 1921, ch. 18, Sec.

expenses). 208(a)(related to expenses),

42 Stat. 22; Reorg. Plan No. 1

of 1939, eff. July 1, 1939,

Sec. 1, 53 Stat. 1423; Reorg.

Plan No. 2 of 1970, eff. July

1, 1970, Sec. 102(a), 84 Stat.

2085.

The words "for rent in the District of Columbia, printing, binding, telegrams, telephone service, law books, books of reference, periodicals, stationery, furniture, office equipment, other supplies, and" are omitted as covered by titles 5, 40, and 44, and as being included in "necessary expenditures". The words "within the appropriations made therefor" are omitted as unnecessary.

—End—