

tracting and Federal financial assistance processes, agencies shall take such measures, including the use of certifications or written assurances, as the agency head deems appropriate and consistent with the requirements of law.

(d) Executive agencies shall cooperate fully in implementing this order and shall share information as appropriate that may be useful in combating the use of computer software in violation of applicable copyright laws.

SEC. 2. *Responsibilities of Agency Heads.* In connection with the acquisition and use of computer software, the head of each executive agency shall:

(a) ensure agency compliance with copyright laws protecting computer software and with the provisions of this order to ensure that only authorized computer software is acquired for and used on the agency's computers;

(b) utilize performance measures as recommended by the Chief Information Officers Council pursuant to section 3 of this order to assess the agency's compliance with this order;

(c) educate appropriate agency personnel regarding copyrights protecting computer software and the policies and procedures adopted by the agency to honor them; and

(d) ensure that the policies, procedures, and practices of the agency related to copyrights protecting computer software are adequate and fully implement the policies set forth in this order.

SEC. 3. *Chief Information Officers Council.* The Chief Information Officers Council ("Council") established by section 3 of Executive Order No. 13011 of July 16, 1996 [set out above], shall be the principal interagency forum to improve executive agency practices regarding the acquisition and use of computer software, and monitoring and combating the use of unauthorized computer software. The Council shall provide advice and make recommendations to executive agencies and to the Office of Management and Budget regarding appropriate government-wide measures to carry out this order. The Council shall issue its initial recommendations within 6 months of the date of this order.

SEC. 4. *Office of Management and Budget.* The Director of the Office of Management and Budget, in carrying out responsibilities under the Clinger-Cohen Act [probably means the Clinger-Cohen Act of 1996, div. D (§§ 4001-4402) and div. E (§§ 5001-5703) of Pub. L. 104-106, see Tables for classification], shall utilize appropriate oversight mechanisms to foster agency compliance with the policies set forth in this order. In carrying out these responsibilities, the Director shall consider any recommendations made by the Council under section 3 of this order regarding practices and policies to be instituted on a government-wide basis to carry out this order.

SEC. 5. *Definition.* "Executive agency" and "agency" have the meaning given to that term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 6. *National Security.* In the interest of national security, nothing in this order shall be construed to require the disclosure of intelligence sources or methods or to otherwise impair the authority of those agencies listed at 50 U.S.C. 401a(4) to carry out intelligence activities.

SEC. 7. *Law Enforcement Activities.* Nothing in this order shall be construed to require the disclosure of law enforcement investigative sources or methods or to prohibit or otherwise impair any lawful investigative or protective activity undertaken for or by any officer, agent, or employee of the United States or any person acting pursuant to a contract or other agreement with such entities.

SEC. 8. *Scope.* Nothing in this order shall be construed to limit or otherwise affect the interpretation, application, or operation of 28 U.S.C. 1498.

SEC. 9. *Judicial Review.* This Executive order is intended only to improve the internal management of the executive branch and does not create any right or bene-

fit, substantive or procedural, at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

§ 11102. Sense of Congress

It is the sense of Congress that, during the five-year period beginning with 1996, executive agencies should achieve each year through improvements in information resources management by the agency—

(1) at least a five percent decrease in the cost (in constant fiscal year 1996 dollars) incurred by the agency in operating and maintaining information technology; and

(2) a five percent increase in the efficiency of the agency operations.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1236.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11102	40:1442.	Pub. L. 104-106, div. E, title LI, §5132, Feb. 10, 1996, 110 Stat. 689.

§ 11103. Applicability to national security systems

(a) DEFINITION.—

(1) NATIONAL SECURITY SYSTEM.—In this section, the term "national security system" means a telecommunications or information system operated by the Federal Government, the function, operation, or use of which—

(A) involves intelligence activities;

(B) involves cryptologic activities related to national security;

(C) involves command and control of military forces;

(D) involves equipment that is an integral part of a weapon or weapons system; or

(E) subject to paragraph (2), is critical to the direct fulfillment of military or intelligence missions.

(2) LIMITATION.—Paragraph (1)(E) does not include a system to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

(b) IN GENERAL.—Except as provided in subsection (c), chapter 113 of this title does not apply to national security systems.

(c) EXCEPTIONS.—

(1) IN GENERAL.—Sections 11313, 11315, and 11316 of this title apply to national security systems.

(2) CAPITAL PLANNING AND INVESTMENT CONTROL.—The heads of executive agencies shall apply sections 11302 and 11312 of this title to national security systems to the extent practicable.

(3) APPLICABILITY OF PERFORMANCE-BASED AND RESULTS-BASED MANAGEMENT TO NATIONAL SECURITY SYSTEMS.—

(A) IN GENERAL.—Subject to subparagraph (B), the heads of executive agencies shall apply section 11303 of this title to national security systems to the extent practicable.

(B) EXCEPTION.—National security systems are subject to section 11303(b)(5) of this title, except for subparagraph (B)(iv).

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1236.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
11103(a)	40:1452.	Pub. L. 104–106, div. E, title LI, §§5141, 5142, Feb. 10, 1996, 110 Stat. 689.
11103(b)	40:1451(a).	
11103(c)	40:1451(b).	

CHAPTER 113—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

SUBCHAPTER I—DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

Sec.

- 11301. Responsibility of Director.
- 11302. Capital planning and investment control.
- 11303. Performance-based and results-based management.

SUBCHAPTER II—EXECUTIVE AGENCIES

- 11311. Responsibilities.
- 11312. Capital planning and investment control.
- 11313. Performance and results-based management.
- 11314. Authority to acquire and manage information technology.
- 11315. Agency Chief Information Officer.
- 11316. Accountability.
- 11317. Significant deviations.
- 11318. Interagency support.

SUBCHAPTER III—OTHER RESPONSIBILITIES

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

AMENDMENTS

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

SUBCHAPTER I—DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

§ 11301. Responsibility of Director

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

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

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
11301	40:1411.	Pub. L. 104–106, div. E, title LI, §5111, Feb. 10, 1996, 110 Stat. 680.

§ 11302. Capital planning and investment control

(a) FEDERAL INFORMATION TECHNOLOGY.—The Director of the Office of Management and Budget shall perform the responsibilities set forth in this section in fulfilling the responsibilities under section 3504(h) of title 44.

(b) USE OF INFORMATION TECHNOLOGY IN FEDERAL PROGRAMS.—The Director shall promote and improve the acquisition, use, security, and disposal of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

(c) USE OF BUDGET PROCESS.—

(1) ANALYZING, TRACKING, AND EVALUATING CAPITAL INVESTMENTS.—As part of the budget process, the Director shall develop a process for analyzing, tracking, and evaluating the risks, including information security risks, and results of all major capital investments made by an executive agency for information systems. The process shall cover the life of each system and shall include explicit criteria for analyzing the projected and actual costs, benefits, and risks, including information security risks, associated with the investments.

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

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

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

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

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

(h) COMPARISON OF AGENCY USES OF INFORMATION TECHNOLOGY.—The Director shall compare the performances of the executive agencies in using information technology and shall disseminate the comparisons to the heads of the executive agencies.

(i) MONITORING TRAINING.—The Director shall monitor the development and implementation of training in information resources management for executive agency personnel.