(g) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 1 fiscal year, the head of the agency shall submit a performance improvement plan to the Office of Management and Budget to increase program effectiveness for each unmet goal with measurable milestones. The agency shall designate a senior official who shall oversee the performance improvement strategies for each unmet goal.

(h)(1) If the Office of Management and Budget determines that agency programs or activities have unmet performance goals for 2 consecutive fiscal years, the head of the agency shall—

(A) submit to Congress a description of the actions the Administration will take to improve performance, including proposed statutory changes or planned executive actions; and

(B) describe any additional funding the agency will obligate to achieve the goal, if such an action is determined appropriate in consultation with the Director of the Office of Management and Budget, for an amount determined appropriate by the Director.

(2) In providing additional funding described under paragraph (1)(B), the head of the agency shall use any reprogramming or transfer authority available to the agency. If after exercising such authority additional funding is necessary to achieve the level determined appropriate by the Director of the Office of Management and Budget, the head of the agency shall submit a request to Congress for additional reprogramming or transfer authority.

(i) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 3 consecutive fiscal years, the Director of the Office of Management and Budget shall submit recommendations to Congress on actions to improve performance not later than 60 days after that determination, including—

(1) reauthorization proposals for each program or activity that has not met performance goals;

(2) proposed statutory changes necessary for the program activities to achieve the proposed level of performance on each performance goal; and

(3) planned executive actions or identification of the program for termination or reduction in the President's budget.

(Added Pub. L. 111–352, §4, Jan. 4, 2011, 124 Stat. 3871.)

<center>REFERENCES IN TEXT</center>

Section 9703, referred to in subsec. (c)(4), probably means the section 9703 added by section 5(a) of Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 289.

<center>PRIOR PROVISIONS</center>

A prior section 1116, added Pub. L. 103–62, §4(b), Aug. 3, 1993, 107 Stat. 288; amended Pub. L. 106–531, §5(a)(1), (b), Nov. 22, 2000, 114 Stat. 2539; Pub. L. 107–296, title XIII, §1311(b), Nov. 25, 2002, 116 Stat. 2290, related to program performance reports, prior to repeal by Pub. L. 111–352, §4, Jan. 4, 2011, 124 Stat. 3871.

<center>MERIT SYSTEMS PROTECTION BOARD</center>

Pub. L. 112–199, title I, §116(b), Nov. 27, 2012, 126 Stat. 1474, provided that:

"(1) IN GENERAL.—Each report submitted annually by the Merit Systems Protection Board under section 1116 of title 31, United States Code, shall, with respect to the period covered by such report, include as an addendum the following:

"(A) Information relating to the outcome of cases decided by the Merit Systems Protection Board during the period covered by such report in which violations of section 2302(b)(8) or (9)(A)(i), (B)(i), (C), or (D) of title 5, United States Code, were alleged.

"(B) The number of such cases filed in the regional and field offices, and the number of petitions for review filed in such cases, during the period covered by such report, and the outcomes of any such cases or petitions for review (irrespective of when filed) decided during such period.

"(2) FIRST REPORT.—The first report described under paragraph (1) submitted after the date of enactment of this Act [Nov. 27, 2012] shall include an addendum required under that paragraph that covers the period beginning on the effective date of this Act [see Effective Date of 2012 Amendment note set out under section 1204 of Title 5, Government Organization and Employees] and ending at the end of the fiscal year in which such effective date occurs."

§ 1117. Exemption

The Director of the Office of Management and Budget may exempt from the requirements of sections 1115 and 1116 of this title and section 306 of title 5, any agency with annual outlays of $20,000,000 or less.

(Added Pub. L. 103–62, §4(b), Aug. 3, 1993, 107 Stat. 289.)

<center>CONSTRUCTION</center>

No provision or amendment made by Pub. L. 103–62 to be construed as creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity, and no person not an officer or employee of the United States acting in such capacity to have standing to file any civil action in any court of the United States to enforce any provision or amendment made by Pub. L. 103–62, or to be construed as superseding any statutory requirement, see section 10 of Pub. L. 103–62, set out as a Construction of 1993 Amendment note under section 1101 of this title.

§ 1118. Pilot projects for performance goals

(a) The Director of the Office of Management and Budget, after consultation with the head of each agency, shall designate not less than ten agencies as pilot projects in performance measurement for fiscal years 1994, 1995, and 1996. The selected agencies shall reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

(b) Pilot projects in the designated agencies shall undertake the preparation of performance plans under section 1115, and program performance reports under section 1116, other than section 1116(c), for one or more of the major functions and operations of the agency. A strategic plan shall be used when preparing agency performance plans during one or more years of the pilot period.

(c) No later than May 1, 1997, the Director of the Office of Management and Budget shall submit a report to the President and to the Congress which shall—

(1) assess the benefits, costs, and usefulness of the plans and reports prepared by the pilot