tracts that are wasteful, inefficient, subject to misuse, or otherwise not well designed to serve the Federal Government's needs and to manage the risk associated with the goods and services being procured. The Federal Government must have sufficient capacity to manage and oversee the contracting process from start to finish, so as to ensure that taxpayer funds are spent wisely and are not subject to excessive risk. Finally, the Federal Government must ensure that those functions that are inherently governmental in nature are performed by executive agencies and are not outsourced.

I hereby direct the Director of the Office of Management and Budget (OMB), in collaboration with the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Administrator of General Services, the Director of the Office of Personnel Management, and the heads of such other agencies as the Director of OMB determines to be appropriate, and with the participation of appropriate management councils and program management officials, to develop and issue by July 1, 2009, Government-wide guidance to assist agencies in reviewing, and creating processes for ongoing review of, existing contracts in order to identify contracts that are wasteful, inefficient, or not otherwise likely to meet the agency's needs, and to formulate appropriate corrective action in a timely manner. Such corrective action may include modifying or canceling such contracts in a manner and to the extent consistent with applicable laws, regulations, and policy.

I further direct the Director of OMB, in collaboration with the aforementioned officials and councils, and with input from the public, to develop and issue by September 30, 2009, Government-wide guidance to:

(1) govern the appropriate use and oversight of sole-source and other types of noncompetitive contracts and to maximize the use of full and open competition and other competitive procurement processes;

(2) govern the appropriate use and oversight of all contract types, in full consideration of the agency's needs, and to minimize risk and maximize the value of Government contracts generally, consistent with the regulations to be promulgated pursuant to section 864 of Public Law 110–417;

(3) assist agencies in assessing the capacity and ability of the Federal acquisition workforce to develop, manage, and oversee acquisitions appropriately; and

(4) clarify when governmental outsourcing for services is and is not appropriate, consistent with section 321 of Public Law 110–417 (31 U.S.C. 501 note).

Executive departments and agencies shall carry out the provisions of this memorandum to the extent permitted by law. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of OMB is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 3102. Delegation and assignment of powers, functions, and responsibilities

(a) IN GENERAL.—Except to the extent expressly prohibited by another law, the head of an executive agency may delegate to another officer or official of that agency any power under this division.

(b) PROCUREMENTS FOR OR WITH ANOTHER AGENCY.—Subject to subsection (a), to facilitate the procurement of property and services covered by this division by an executive agency for another executive agency, and to facilitate joint procurement by executive agencies—

(1) the head of an executive agency may delegate functions and assign responsibilities relating to procurement to any officer or employee within the agency;

(2) the heads of 2 or more executive agencies, consistent with section 1535 of title 31 and regulations prescribed under section 1074 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355, 31 U.S.C. 1535 note), may by agreement delegate procurement functions and assign procurement responsibilities from one executive agency to another of those executive agencies or to an officer or civilian employee of another of those executive agencies; and

(3) the heads of 2 or more executive agencies may establish joint or combined offices to exercise procurement functions and responsibilities.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3743.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3102	41:261.	June 30, 1949, ch. 288, title III, §311, as added Pub. L. 103–355, title I, §1552, Oct. 13, 1994, 108 Stat. 3299.

§ 3103. Acquisition programs

(a) CONGRESSIONAL POLICY.—It is the policy of Congress that the head of each executive agency should achieve, on average, 90 percent of the cost, performance, and schedule goals established for major acquisition programs of the agency.

(b) ESTABLISHMENT OF GOALS.—

(1) BY HEAD OF EXECUTIVE AGENCY.—The head of each executive agency shall approve or define the cost, performance, and schedule goals for major acquisition programs of the agency.

(2) BY CHIEF FINANCIAL OFFICER.—The chief financial officer of an executive agency shall evaluate the cost goals proposed for each major acquisition program of the agency.

(c) IDENTIFICATION OF NONCOMPLIANT PROGRAMS.—When it is necessary to implement the policy set out in subsection (a), the head of an executive agency shall—

(1) determine whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements; and

(2) identify suitable actions to be taken, including termination, with respect to those programs.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3743.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3103	41:263.	June 30, 1949, ch. 288, title III, §313, as added Pub. L. 103–355, title V, §5051(a), Oct. 13, 1994, 108 Stat. 3351; Pub. L. 105–85, div. A, title VIII, §851(a), Nov. 18, 1997, 111 Stat. 1851.