

43 F.R. 14193, set out as a note under section 305 of Title 47, Telecommunications] and Reorganization Plan No. 1 for telecommunications [probably means Reorg. Plan No. 1 of 1970, 35 F.R. 6421, 84 Stat. 2083, set out in the Appendix to Title 5, Government Organization and Employees], and under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 ([former 40 U.S.C. 322 and former] 40 U.S.C. 759).”

[Section 101(m) [title VIII, §833] of Pub. L. 99-500 and Pub. L. 99-591 provided that: “This title and the amendments made by this title [amending former sections 3501 to 3507, 3511, 3514, and 3520 of this title and sections 751, 757, and 759 of former Title 40, Public Buildings, Property, and Works, enacting provisions set out as a notes under section 101 of this title and former section 3503 of this title, amending provisions set out as a note above, and repealing provisions set out as a note under section 759 of former Title 40] shall take effect on the date of enactment of this Act [Oct. 18, 1986], except as provided in section 813(b) [set out as a note under former section 3503 of this title] and except that the provisions of section 821 and the amendments made by such section [amending former sections 3503 and 3504 of this title, sections 757 and 759 of former Title 40, and provisions set out as a note above] shall take effect on January 1, 1987.”]

#### § 3504. Authority and functions of Director

(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including burden reduction and service delivery to the public. In performing such oversight, the Director shall—

(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

(B) provide direction and oversee—

(i) the review and approval of the collection of information and the reduction of the information collection burden;

(ii) agency dissemination of and public access to information;

(iii) statistical activities;

(iv) records management activities;

(v) privacy, confidentiality, security, disclosure, and sharing of information; and

(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.

(2) The authority of the Director under this subchapter shall be exercised consistent with applicable law.

(b) With respect to general information resources management policy, the Director shall—

(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

(2) foster greater sharing, dissemination, and access to public information, including through—

(A) the use of the Government Information Locator Service; and

(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

(4) oversee the development and implementation of best practices in information resources management, including training; and

(5) oversee agency integration of program and management functions with information resources management functions.

(c) With respect to the collection of information and the control of paperwork, the Director shall—

(1) review and approve proposed agency collections of information;

(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement, acquisition and payment, and to reduce information collection burdens on the public;

(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government;

(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information;<sup>1</sup>

(6) publish in the Federal Register and make available on the Internet (in consultation with the Small Business Administration) on an annual basis a list of the compliance assistance resources available to small businesses, with the first such publication occurring not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2002.

(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

(2) promote public access to public information and fulfill the purposes of this subchapter, including through the effective use of information technology.

(e) With respect to statistical policy and coordination, the Director shall—

(1) coordinate the activities of the Federal statistical system to ensure—

(A) the efficiency and effectiveness of the system; and

(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

(2) ensure that budget proposals of agencies are consistent with system-wide priorities for

<sup>1</sup> So in original. Probably should be followed by “and”.

maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

(3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning—

(A) statistical collection procedures and methods;

(B) statistical data classification;

(C) statistical information presentation and dissemination;

(D) timely release of statistical data; and

(E) such statistical data sources as may be required for the administration of Federal programs;

(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

(A) be headed by the chief statistician; and

(B) consist of—

(i) the heads of the major statistical programs; and

(ii) representatives of other statistical agencies under rotating membership; and

(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

(B) all costs of the training shall be paid by the agency requesting training.

(f) With respect to records management, the Director shall—

(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this subchapter;

(2) review compliance by agencies with—

(A) the requirements of chapters 29, 31, and 33 of this title; and

(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic for-

mat, in the planning and design of information systems.

(g) With respect to privacy and security, the Director shall—

(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies; and

(2) oversee and coordinate compliance with sections 552 and 552a of title 5, sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3 and 278g-4), section 11331 of title 40 and subchapter II of this chapter, and related information management laws.

(h) With respect to Federal information technology, the Director shall—

(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—

(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

(B) oversee the development and implementation of standards under section 11331 of title 40;

(2) monitor the effectiveness of, and compliance with, directives issued under subtitle III of title 40 and directives issued under section 322<sup>2</sup> of title 40;

(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

(5) promote the use 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.

(Added Pub. L. 104-13, § 2, May 22, 1995, 109 Stat. 167; amended Pub. L. 104-106, div. E, title LI, § 5131(e)(1), title LVI, § 5605(b), (c), Feb. 10, 1996, 110 Stat. 688, 700; Pub. L. 105-85, div. A, title X, § 1073(h)(5)(B), (C), Nov. 18, 1997, 111 Stat. 1907; Pub. L. 105-277, div. C, title XVII, § 1702, Oct. 21, 1998, 112 Stat. 2681-749; Pub. L. 106-398, § 1 [[div. A], title X, § 1064(b)], Oct. 30, 2000, 114 Stat. 1654,

<sup>2</sup> See References in Text note below.

1654A-275; Pub. L. 107-198, §2(a), June 28, 2002, 116 Stat. 729; Pub. L. 107-217, §3(l)(5), Aug. 21, 2002, 116 Stat. 1301; Pub. L. 107-296, title X, §1005(c)(1), Nov. 25, 2002, 116 Stat. 2272; Pub. L. 107-347, title III, §305(c)(1), Dec. 17, 2002, 116 Stat. 2960.)

#### REFERENCES IN TEXT

The date of enactment of the Small Business Paperwork Relief Act of 2002, referred to in subsec. (c)(6), is the date of enactment of Pub. L. 107-198, which was approved June 28, 2002.

Section 322 of title 40, referred to in subsec. (h)(2), was repealed by Pub. L. 109-313, §3(h)(1), Oct. 6, 2006, 120 Stat. 1736.

#### PRIOR PROVISIONS

A prior section 3504, added Pub. L. 96-511, §2(a), Dec. 11, 1980, 94 Stat. 2815; amended Pub. L. 98-497, title I, §107(b)(26), Oct. 19, 1984, 98 Stat. 2291; Pub. L. 99-500, §101(m) [title VIII, §§814, 821(b)(2)], Oct. 18, 1986, 100 Stat. 1783-308, 1783-336, 1783-342, and Pub. L. 99-591, §101(m) [title VIII, §§814, 821(b)(2)], Oct. 30, 1986, 100 Stat. 3341-308, 3341-336, 3341-342, related to authority and functions of Director prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3504, Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1303, provided for designation of a central collection agency, prior to the general amendment of this chapter by Pub. L. 96-511. See section 3509 of this title.

#### AMENDMENTS

2002—Subsec. (c)(6). Pub. L. 107-198 added par. (6). Subsec. (g)(1). Pub. L. 107-296, §1005(c)(1)(A), and Pub. L. 107-347, §305(c)(1)(A), amended par. (1) identically, inserting “and” at end.

Subsec. (g)(2). Pub. L. 107-347, §305(c)(1)(B), substituted “section 11331 of title 40 and subchapter II of this chapter” for “sections 11331 and 11332(b) and (c) of title 40” and a period for “; and” at end.

Pub. L. 107-296, §1005(c)(1)(B), which directed amendment of par. (2) by substituting “section 11331 of title 40 and subchapter II of this title” for “sections 11331 and 11332(b) and (c) of title 40” and a period for the semicolon, could not be executed because of amendment by Pub. L. 107-347, §305(c)(1)(B). See Amendment note above and Effective Date of 2002 Amendments notes below.

Pub. L. 107-217, §3(l)(5)(A), substituted “sections 11331 and 11332(b) and (c) of title 40” for “section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)”.

Subsec. (g)(3). Pub. L. 107-296, §1005(c)(1)(C), and Pub. L. 107-347, §305(c)(1)(C), amended subsec. (g) identically, striking out par. (3) which read as follows: “require Federal agencies, consistent with the standards and guidelines promulgated under sections 11331 and 11332(b) and (c) of title 40, to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.”

Pub. L. 107-217, §3(l)(5)(B), substituted “sections 11331 and 11332(b) and (c) of title 40” for “section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)”.

Subsec. (h)(1)(B). Pub. L. 107-217, §3(l)(5)(C), substituted “section 11331 of title 40” for “section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441)”.

Subsec. (h)(2). Pub. L. 107-217, §3(l)(5)(D), substituted “subtitle III of title 40” for “division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)” and “section 322 of title 40” for “section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757)”.

2000—Subsecs. (a)(2), (d)(2), (f)(1). Pub. L. 106-398 substituted “subchapter” for “chapter”.

1998—Subsec. (a)(1)(B)(vi). Pub. L. 105-277 amended cl. (vi) generally. Prior to amendment, cl. (vi) read as follows: “the acquisition and use of information technology.”

1997—Subsecs. (g)(2), (3), (h)(1)(B). Pub. L. 105-85, §1073(h)(5)(C), substituted “Clinger-Cohen Act of 1996 (40 U.S.C. 1441)” for “Information Technology Management Reform Act of 1996”.

Subsec. (h)(2). Pub. L. 105-85, §1073(h)(5)(B), substituted “division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)” for “the Information Technology Management Reform Act of 1996”.

1996—Subsec. (g)(2). Pub. L. 104-106, §5131(e)(1)(A), substituted “sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3 and 278g-4), section 5131 of the Information Technology Management Reform Act of 1996, and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)” for “the Computer Security Act of 1987 (40 U.S.C. 759 note)”.

Subsec. (g)(3). Pub. L. 104-106, §5131(e)(1)(B), substituted “the standards and guidelines promulgated under section 5131 of the Information Technology Management Reform Act of 1996 and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)” for “the Computer Security Act of 1987 (40 U.S.C. 759 note)”.

Subsec. (h)(1)(B). Pub. L. 104-106, §5605(b), substituted “section 5131 of the Information Technology Management Reform Act of 1996” for “section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))”.

Subsec. (h)(2). Pub. L. 104-106, §5605(c), substituted “the Information Technology Management Reform Act of 1996 and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757)” for “sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759)”.

#### EFFECTIVE DATE OF 2002 AMENDMENTS

Pub. L. 107-347, title IV, §402(b), Dec. 17, 2002, 116 Stat. 2962, provided that: “Title III [see Short Title of 2002 Amendments note set out under section 101 of this title] and this title [enacting provisions set out as a note under section 3601 of this title] shall take effect on the date of enactment of this Act [Dec. 17, 2002].”

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

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1065] of Pub. L. 106-398, Oct. 30, 2000, 114 Stat. 1654, formerly set out as an Effective Date note under former section 3531 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104-106, Feb. 10, 1996, 110 Stat. 702.

#### GOVERNMENT PAPERWORK ELIMINATION

Pub. L. 105-277, div. C, title XVII, Oct. 21, 1998, 112 Stat. 2681-749, provided that:

“SEC. 1701. SHORT TITLE.

“This title may be cited as the ‘Government Paperwork Elimination Act’.

“SEC. 1702. AUTHORITY OF OMB TO PROVIDE FOR ACQUISITION AND USE OF ALTERNATIVE INFORMATION TECHNOLOGIES BY EXECUTIVE AGENCIES.

“[Amended this section.]

“SEC. 1703. PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES BY EXECUTIVE AGENCIES.

“(a) IN GENERAL.—In order to fulfill the responsibility to administer the functions assigned under chapter

35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) [see Short Title of 1996 Act note set out under section 101 of Title 41, Public Contracts] and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in consultation with the National Telecommunications and Information Administration and not later than 18 months after the date of enactment of this Act [Oct. 21, 1998], develop procedures for the use and acceptance of electronic signatures by Executive agencies.

“(b) REQUIREMENTS FOR PROCEDURES.—(1) The procedures developed under subsection (a)—

“(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

“(B) may not inappropriately favor one industry or technology;

“(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

“(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

“(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

“(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies and State government entities that set standards for the use and acceptance of electronic signatures.

“SEC. 1704. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE AGENCIES OF PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

“In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) [see Short Title of 1996 Act note set out under section 101 of Title 41] and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act [Oct. 21, 1998], Executive agencies provide—

“(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

“(2) for the use and acceptance of electronic signatures, when practicable.

“SEC. 1705. ELECTRONIC STORAGE AND FILING OF EMPLOYMENT FORMS.

“In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) [see Short Title of 1996 Amendment Act set out under section 101 of Title 41] and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act [Oct. 21, 1998], develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

“SEC. 1706. STUDY ON USE OF ELECTRONIC SIGNATURES.

“(a) ONGOING STUDY REQUIRED.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D

and E of Public Law 104-106) [see Short Title of 1996 Act note set out under section 101 of Title 41] and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this title on—

“(1) paperwork reduction and electronic commerce;

“(2) individual privacy; and

“(3) the security and authenticity of transactions.

“(b) REPORTS.—The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

“SEC. 1707. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

“Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

“SEC. 1708. DISCLOSURE OF INFORMATION.

“Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

“SEC. 1709. APPLICATION WITH INTERNAL REVENUE LAWS.

“No provision of this title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision—

“(1) involves the administration of the internal revenue laws; or

“(2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 [Pub. L. 105-206, see Tables for classification] or the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.].

“SEC. 1710. DEFINITIONS.

“For purposes of this title:

“(1) ELECTRONIC SIGNATURE.—The term ‘electronic signature’ means a method of signing an electronic message that—

“(A) identifies and authenticates a particular person as the source of the electronic message; and

“(B) indicates such person’s approval of the information contained in the electronic message.

“(2) EXECUTIVE AGENCY.—The term ‘Executive agency’ has the meaning given that term in section 105 of title 5, United States Code.”

### § 3505. Assignment of tasks and deadlines

(a) In carrying out the functions under this subchapter, the Director shall—

(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least 10 percent during each of fiscal years 1996 and 1997 and 5 percent during each of fiscal years 1998, 1999, 2000, and 2001, and set annual agency goals to—

(A) reduce information collection burdens imposed on the public that—

(i) represent the maximum practicable opportunity in each agency; and

(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

(B) improve information resources management in ways that increase the produc-