

(B) to identify or develop opportunities to consolidate the acquisition and management of information technology services, and increase the use of shared-service delivery models;

(C) to identify potential duplication and waste;

(D) to identify potential cost savings;

(E) to develop plans for actions to optimize the information technology portfolio, programs, and resources of the covered agency;

(F) to develop ways to better align the information technology portfolio, programs, and financial resources of the covered agency to any multi-year funding requirements or strategic plans required by law;

(G) to develop a multi-year strategy to identify and reduce duplication and waste within the information technology portfolio of the covered agency, including component-level investments and to identify projected cost savings resulting from such strategy; and

(H) to carry out any other goals that the Director may establish.

(2) **METRICS AND PERFORMANCE INDICATORS.**—The Director of the Office of Management and Budget, in consultation with the Chief Information Officers of appropriate agencies, shall develop standardized cost savings and cost avoidance metrics and performance indicators for use by agencies for the process implemented under paragraph (1).

(3) **ANNUAL REVIEW.**—The Chief Information Officer of each covered agency, in conjunction with the Chief Operating Officer or Deputy Secretary (or equivalent) of the covered agency and the Administrator of the Office of Electronic Government, shall conduct an annual review of the information technology portfolio of the covered agency.

(4) **APPLICABILITY TO THE DEPARTMENT OF DEFENSE.**—In the case of the Department of Defense, processes established pursuant to this subsection shall apply only to the business systems information technology portfolio of the Department of Defense and not to national security systems as defined by section 11103(a) of this title. The annual review required by paragraph (3) shall be carried out by the Deputy Chief Management Officer of the Department of Defense¹ (or any successor to such Officer), in consultation with the Chief Information Officer, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and other appropriate Department of Defense officials. The Secretary of Defense may designate an existing investment or management review process to fulfill the requirement for the annual review required by paragraph (3), in consultation with the Administrator of the Office of Electronic Government.

(5) **QUARTERLY REPORTS.**—

(A) **IN GENERAL.**—The Administrator of the Office of Electronic Government shall submit a quarterly report on the cost savings and reductions in duplicative information technology investments identified through the review required by paragraph (3) to—

(i) the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate;

(ii) the Committee on Oversight and Government Reform and the Committee on Appropriations of the House of Representatives; and

(iii) upon a request by any committee of Congress, to that committee.

(B) **INCLUSION IN OTHER REPORTS.**—The reports required under subparagraph (A) may be included as part of another report submitted to the committees of Congress described in clauses (i), (ii), and (iii) of subparagraph (A).

(Added and amended Pub. L. 113–291, div. A, title VIII, §§ 831(a), 833, title IX, § 901(n)(1), Dec. 19, 2014, 128 Stat. 3438, 3442, 3469; Pub. L. 115–88, § 3, Nov. 21, 2017, 131 Stat. 1278; Pub. L. 115–91, div. A, title VIII, § 819(b), title X, § 1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1464, 1597.)

REFERENCES IN TEXT

The Deputy Chief Management Officer of the Department of Defense, referred to in subsec. (d)(4), was established by section 132a of this title prior to the general amendment of that section by Pub. L. 115–91, div. A, title IX, § 910(a)(1), Dec. 12, 2017, 131 Stat. 1516. As amended by Pub. L. 115–91, section 132a of this title established the Chief Management Officer of the Department of Defense.

AMENDMENTS

2017—Subsecs. (c), (d). Pub. L. 115–88, § 3(1), and Pub. L. 115–91, § 819(b)(1), amended section identically, redesignating subsec. (c) relating to information technology portfolio, program, and resource reviews as (d).

Subsec. (d)(6). Pub. L. 115–88, § 3(2), and Pub. L. 115–91, § 819(b)(2), amended subsec. (d) identically, striking out par. (6). Text read as follows: “This subsection shall not be in effect on and after the date that is 5 years after the date of the enactment of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015.”

2014—Subsec. (c). Pub. L. 113–291, § 833, added subsec. (c) relating to information technology portfolio, program, and resource reviews.

CHANGE OF NAME

Reference to “Deputy Chief Management Officer of the Department of Defense” in subsec. (d)(4) was to be deemed to refer to “Under Secretary of Defense for Business Management and Information” after Feb. 1, 2017, pursuant to section 901(n)(1) of Pub. L. 113–291, formerly set out as a References note under section 131 of Title 10, Armed Forces. Section 901(a)(1) of Pub. L. 113–291, which amended section 132a of Title 10, effective Feb. 1, 2017, to establish the Under Secretary of Defense for Business Management and Information, was repealed by Pub. L. 114–328, div. A, title IX, § 901(d), Dec. 23, 2016, 130 Stat. 2342, effective Dec. 23, 2016. Section 901(n)(1) of Pub. L. 113–291 was repealed by Pub. L. 115–91, div. A, title X, § 1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, effective Dec. 23, 2016.

SUBCHAPTER III—OTHER RESPONSIBILITIES

§ 11331. Responsibilities for Federal information systems standards

(a) **DEFINITION.**—In this section, the term “information security” has the meaning given that term in section 3532(b)(1)¹ of title 44.

¹ See References in Text note below.

¹ See References in Text note below.

(b) REQUIREMENT TO PRESCRIBE STANDARDS.—

(1) IN GENERAL.—

(A) REQUIREMENT.—Except as provided under paragraph (2), the Director of the Office of Management and Budget shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(a)) and in consultation with the Secretary of Homeland Security, promulgate information security standards pertaining to Federal information systems.

(B) REQUIRED STANDARDS.—Standards promulgated under subparagraph (A) shall include—

(i) standards that provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(b)); and

(ii) such standards that are otherwise necessary to improve the efficiency of operation or security of Federal information systems.

(C) REQUIRED STANDARDS BINDING.—Information security standards described under subparagraph (B) shall be compulsory and binding.

(2) STANDARDS AND GUIDELINES FOR NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems, as defined under section 3532(3)¹ of title 44, shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

(c) APPLICATION OF MORE STRINGENT STANDARDS.—The head of an agency may employ standards for the cost-effective information security for all operations and assets within or under the supervision of that agency that are more stringent than the standards promulgated by the Director under this section, if such standards—

(1) contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director; and

(2) are otherwise consistent with policies and guidelines issued under section 3533¹ of title 44.

(d) REQUIREMENTS REGARDING DECISIONS BY DIRECTOR.—

(1) DEADLINE.—The decision regarding the promulgation of any standard by the Director under subsection (b) shall occur not later than 6 months after the submission of the proposed standard to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

(2) NOTICE AND COMMENT.—A decision by the Director to significantly modify, or not promulgate, a proposed standard submitted to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3), shall be

made after the public is given an opportunity to comment on the Director's proposed decision.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1243; Pub. L. 107-296, title X, §1002(a), Nov. 25, 2002, 116 Stat. 2268; Pub. L. 107-347, title III, §302(a), Dec. 17, 2002, 116 Stat. 2956.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11331	40:1441.	Pub. L. 104-106, div. E, title LI, §5131(a)-(d), Feb. 10, 1996, 110 Stat. 687.

REFERENCES IN TEXT

Sections 3532 and 3533 of title 44, referred to in subsecs. (a), (b)(2), and (c)(2), were repealed by Pub. L. 113-283, §2(a), Dec. 18, 2014, 128 Stat. 3073. Provisions similar to sections 3532 and 3533 of title 44 are now contained, respectively, in sections 3552 and 3553 of title 44, as enacted by Pub. L. 113-283.

AMENDMENTS

2002—Pub. L. 107-296 amended text generally. Prior to amendment, text, as amended generally by Pub. L. 107-347, read as follows:

“(a) STANDARDS AND GUIDELINES.—

“(1) AUTHORITY TO PRESCRIBE.—Except as provided under paragraph (2), the Secretary of Commerce shall, on the basis of standards and guidelines developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(a)), prescribe standards and guidelines pertaining to Federal information systems.

“(2) NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems (as defined under this section) shall be developed, prescribed, enforced, and overseen as otherwise authorized by law and as directed by the President.

“(b) MANDATORY REQUIREMENTS.—

“(1) AUTHORITY TO MAKE MANDATORY.—Except as provided under paragraph (2), the Secretary shall make standards prescribed under subsection (a)(1) compulsory and binding to the extent determined necessary by the Secretary to improve the efficiency of operation or security of Federal information systems.

“(2) REQUIRED MANDATORY STANDARDS.—(A) Standards prescribed under subsection (a)(1) shall include information security standards that—

“(i) provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(b)); and

“(ii) are otherwise necessary to improve the security of Federal information and information systems.

“(B) Information security standards described in subparagraph (A) shall be compulsory and binding.

“(c) AUTHORITY TO DISAPPROVE OR MODIFY.—The President may disapprove or modify the standards and guidelines referred to in subsection (a)(1) if the President determines such action to be in the public interest. The President's authority to disapprove or modify such standards and guidelines may not be delegated. Notice of such disapproval or modification shall be published promptly in the Federal Register. Upon receiving notice of such disapproval or modification, the Secretary of Commerce shall immediately rescind or modify such standards or guidelines as directed by the President.

“(d) EXERCISE OF AUTHORITY.—To ensure fiscal and policy consistency, the Secretary shall exercise the authority conferred by this section subject to direction

by the President and in coordination with the Director of the Office of Management and Budget.

“(e) APPLICATION OF MORE STRINGENT STANDARDS.—The head of an executive agency may employ standards for the cost-effective information security for information systems within or under the supervision of that agency that are more stringent than the standards the Secretary prescribes under this section if the more stringent standards—

“(1) contain at least the applicable standards made compulsory and binding by the Secretary; and

“(2) are otherwise consistent with policies and guidelines issued under section 3543 of title 44.

“(f) DECISIONS ON PROMULGATION OF STANDARDS.—The decision by the Secretary regarding the promulgation of any standard under this section shall occur not later than 6 months after the submission of the proposed standard to the Secretary by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

“(g) DEFINITIONS.—In this section:

“(1) FEDERAL INFORMATION SYSTEM.—The term ‘Federal information system’ means an information system used or operated by an executive agency, by a contractor of an executive agency, or by another organization on behalf of an executive agency.

“(2) INFORMATION SECURITY.—The term ‘information security’ has the meaning given that term in section 3542(b)(1) of title 44.

“(3) NATIONAL SECURITY SYSTEM.—The term ‘national security system’ has the meaning given that term in section 3542(b)(2) of title 44.”

Pub. L. 107-347 substituted “Responsibilities for Federal information systems standards” for “Responsibilities regarding efficiency, security, and privacy of federal computer systems” in section catchline and amended text generally. Prior to amendment, text read as follows:

“(a) DEFINITIONS.—In this section, the terms ‘federal computer system’ and ‘operator of a federal computer system’ have the meanings given those terms in section 20(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(d)).

“(b) STANDARDS AND GUIDELINES.—

“(1) AUTHORITY TO PRESCRIBE AND DISAPPROVE OR MODIFY.—

“(A) AUTHORITY TO PRESCRIBE.—On the basis of standards and guidelines developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the Act (15 U.S.C. 278g-3(a)(2), (3)), the Secretary of Commerce shall prescribe standards and guidelines pertaining to federal computer systems. The Secretary shall make those standards compulsory and binding to the extent the Secretary determines necessary to improve the efficiency of operation or security and privacy of federal computer systems.

“(B) AUTHORITY TO DISAPPROVE OR MODIFY.—The President may disapprove or modify those standards and guidelines if the President determines that action to be in the public interest. The President’s authority to disapprove or modify those standards and guidelines may not be delegated. Notice of disapproval or modification shall be published promptly in the Federal Register. On receiving notice of disapproval or modification, the Secretary shall immediately rescind or modify those standards or guidelines as directed by the President.

“(2) EXERCISE OF AUTHORITY.—To ensure fiscal and policy consistency, the Secretary shall exercise the authority conferred by this section subject to direction by the President and in coordination with the Director of the Office of Management and Budget.

“(c) APPLICATION OF MORE STRINGENT STANDARDS.—The head of a federal agency may employ standards for the cost-effective security and privacy of sensitive information in a federal computer system in or under the supervision of that agency that are more stringent than the standards the Secretary prescribes under this

section if the more stringent standards contain at least the applicable standards the Secretary makes compulsory and binding.

“(d) WAIVER OF STANDARDS.—

“(1) AUTHORITY OF THE SECRETARY.—The Secretary may waive in writing compulsory and binding standards under subsection (b) if the Secretary determines that compliance would—

“(A) adversely affect the accomplishment of the mission of an operator of a federal computer system; or

“(B) cause a major adverse financial impact on the operator that is not offset by Federal Government-wide savings.

“(2) DELEGATION OF WAIVER AUTHORITY.—The Secretary may delegate to the head of one or more federal agencies authority to waive those standards to the extent the Secretary determines that action to be necessary and desirable to allow for timely and effective implementation of federal computer system standards. The head of the agency may redelegate that authority only to a chief information officer designated pursuant to section 3506 of title 44.

“(3) NOTICE.—Notice of each waiver and delegation shall be transmitted promptly to Congress and published promptly in the Federal Register.”

EFFECTIVE DATE OF 2002 AMENDMENTS

Amendment by Pub. L. 107-347 effective Dec. 17, 2002, see section 402(b) of Pub. L. 107-347, set out as a note under section 3504 of Title 44, Public Printing and Documents.

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.

[§ 11332. Repealed. Pub. L. 107-296, title X, § 1005(a)(1), Nov. 25, 2002, 116 Stat. 2272; Pub. L. 107-347, title III, § 305(a), Dec. 17, 2002, 116 Stat. 2960]

Section, Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1244, related to Federal computer system security training and plan.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 17, 2002, see section 402(b) of Pub. L. 107-347, set out as an Effective Date of 2002 Amendments note under section 3504 of Title 44, Public Printing and Documents.

Repeal 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.

CHAPTER 115—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAM

SUBCHAPTER I—CONDUCT OF PILOT PROGRAM

Sec.

- 11501. Authority to conduct pilot program.
- 11502. Evaluation criteria and plans.
- 11503. Report.
- 11504. Recommended legislation.
- 11505. Rule of construction.

SUBCHAPTER II—SPECIFIC PILOT PROGRAM

[11521, 11522. Repealed.]

AMENDMENTS

2002—Pub. L. 107-314, div. A, title VIII, § 825(b)(3)(A), Dec. 2, 2002, 116 Stat. 2616, and Pub. L. 107-347, title II, § 210(h)(3)(B), Dec. 17, 2002, 116 Stat. 2938, amended chapter heading identically, substituting “PROGRAM” for “PROGRAMS”.

Pub. L. 107-314, div. A, title VIII, § 825(b)(3)(C), (D), Dec. 2, 2002, 116 Stat. 2616, and Pub. L. 107-347, title II, § 210(h)(3)(D), (E), Dec. 17, 2002, 116 Stat. 2938, amended