

National Defense  
Authorization  
Act for Fiscal  
Year 1996.

**Public Law 104-106**  
**104th Congress**

**An Act**

To authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to reform acquisition laws and information technology management of the Federal Government, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 1996”.

**SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS.—This Act is organized into five divisions as follows:

- (1) Division A—Department of Defense Authorizations.
- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.
- (4) Division D—Federal Acquisition Reform.
- (5) Division E—Information Technology Management Reform.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Organization of Act into divisions; table of contents.
- Sec. 3. Congressional defense committees defined.
- Sec. 4. Extension of time for submission of reports.

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MANAGEMENT REFORM**

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Sec. 5403. Access of certain information in information systems to the directory established under section 4101 of title 44, United States Code.

**TITLE LV—PROCUREMENT PROTEST AUTHORITY OF THE COMPTROLLER GENERAL**

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**TITLE LVI—CONFORMING AND CLERICAL AMENDMENTS**

Sec. 5601. Amendments to title 10, United States Code.  
Sec. 5602. Amendments to title 28, United States Code.  
Sec. 5603. Amendment to title 31, United States Code.

- Sec. 5604. Amendments to title 38, United States Code.
- Sec. 5605. Provisions of title 44, United States Code, relating to paperwork reduction.
- Sec. 5606. Amendment to title 49, United States Code.
- Sec. 5607. Other laws.
- Sec. 5608. Clerical amendments.

**TITLE LVII—EFFECTIVE DATE, SAVINGS PROVISIONS, AND RULES OF CONSTRUCTION**

- Sec. 5701. Effective date.
- Sec. 5702. Savings provisions.
- Sec. 5703. Rules of construction.

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## DIVISION E—INFORMATION TECHNOLOGY MANAGEMENT REFORM

Information  
Technology  
Management  
Reform Act of  
1996.  
40 USC 1401  
note.

### SEC. 5001. SHORT TITLE.

This division may be cited as the “Information Technology Management Reform Act of 1996”.

### SEC. 5002. DEFINITIONS.

40 USC 1401.

In this division:

(1) **DIRECTOR.**—The term “Director” means the Director of the Office of Management and Budget.

(2) **EXECUTIVE AGENCY.**—The term “executive agency” has the meaning given that term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(3) **INFORMATION TECHNOLOGY.**—(A) The term “information technology”, with respect to an executive agency means any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency. For purposes of the preceding sentence, equipment is used by an executive agency if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency which (i) requires the use of such equipment, or (ii) requires the use, to a significant extent, of such equipment in the performance of a service or the furnishing of a product.

(B) The term “information technology” includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

(C) Notwithstanding subparagraphs (A) and (B), the term “information technology” does not include any equipment that is acquired by a Federal contractor incidental to a Federal contract.

(4) **INFORMATION RESOURCES.**—The term “information resources” has the meaning given such term in section 3502(6) of title 44, United States Code.

(5) INFORMATION RESOURCES MANAGEMENT.—The term “information resources management” has the meaning given such term in section 3502(7) of title 44, United States Code.

(6) INFORMATION SYSTEM.—The term “information system” has the meaning given such term in section 3502(8) of title 44, United States Code.

(7) COMMERCIAL ITEM.—The term “commercial item” has the meaning given that term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

## **TITLE LI—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY**

### **Subtitle A—General Authority**

#### **SEC. 5101. REPEAL OF CENTRAL AUTHORITY OF THE ADMINISTRATOR OF GENERAL SERVICES.**

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is repealed.

### **Subtitle B—Director of the Office of Management and Budget**

#### **40 USC 1411. SEC. 5111. RESPONSIBILITY OF DIRECTOR.**

In fulfilling the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Director shall comply with this title with respect to the specific matters covered by this title.

#### **40 USC 1412. SEC. 5112. CAPITAL PLANNING AND INVESTMENT CONTROL.**

(a) FEDERAL INFORMATION TECHNOLOGY.—The Director shall perform the responsibilities set forth in this section in fulfilling the responsibilities under section 3504(h) of title 44, United States Code.

Public information. (b) USE OF INFORMATION TECHNOLOGY IN FEDERAL PROGRAMS.—The Director shall promote and be responsible for improving the acquisition, use, 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.

Reports. (c) USE OF BUDGET PROCESS.—The Director shall develop, as part of the budget process, a process for analyzing, tracking, and evaluating the 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 associated with the investments. At the same time that the President submits the budget for a fiscal year to Congress under section 1105(a) of title 31, United States Code, 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 in 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 5131 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 (as the Director considers appropriate) one or more heads of executive agencies 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.—The Director shall assess, on a continuing basis, 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) TRAINING.—The Director shall monitor the development and implementation of training in information resources management for executive agency personnel.

(j) INFORMING CONGRESS.—The Director shall keep Congress fully informed on the extent to which the executive agencies are improving the performance of agency programs and the accomplishment of agency missions through the use of the best practices in information resources management.

(k) PROCUREMENT POLICY AND ACQUISITIONS OF INFORMATION TECHNOLOGY.—The Director shall coordinate the development and review by the Administrator of the Office of Information and Regulatory Affairs of policy associated with Federal acquisition of information technology with the Office of Federal Procurement Policy.

**SEC. 5113. PERFORMANCE-BASED AND RESULTS-BASED MANAGEMENT.** 40 USC 1413.

(a) IN GENERAL.—The Director shall encourage the use of performance-based and results-based management in fulfilling the responsibilities assigned under section 3504(h), of title 44, United States Code.

(b) EVALUATION OF AGENCY PROGRAMS AND INVESTMENTS.—

(1) REQUIREMENT.—The Director shall evaluate the information resources management practices of the executive agencies with respect to the performance and results of the investments made by the executive agencies in information technology.

(2) DIRECTION FOR EXECUTIVE AGENCY ACTION.—The Director shall issue to the head of each executive agency clear and concise direction that the head of such agency shall—

(A) establish effective and efficient capital planning processes for selecting, managing, and evaluating the

results of all of its major investments in information systems;

(B) determine, before making an investment in a new information system—

(i) whether the function to be supported by the system should be performed by the private sector and, if so, whether any component of the executive agency performing that function should be converted from a governmental organization to a private sector organization; or

(ii) whether the function should be performed by the executive agency and, if so, whether the function should be performed by a private sector source under contract or by executive agency personnel;

(C) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes, as appropriate, before making significant investments in information technology to be used in support of those missions; and

(D) ensure that the information security policies, procedures, and practices are adequate.

(3) GUIDANCE FOR MULTIAGENCY INVESTMENTS.—The direction issued under paragraph (2) shall include guidance for undertaking efficiently and effectively interagency and Government-wide investments in information technology to improve the accomplishment of missions that are common to the executive agencies.

(4) PERIODIC REVIEWS.—The Director shall implement through the budget process periodic reviews of selected information resources management activities of the executive agencies in order to ascertain the efficiency and effectiveness of information technology in improving the performance of the executive agency and the accomplishment of the missions of the executive agency.

(5) ENFORCEMENT OF ACCOUNTABILITY.—

(A) IN GENERAL.—The Director may take any authorized action that the Director considers appropriate, including an action involving the budgetary process or appropriations management process, to enforce accountability of the head of an executive agency for information resources management and for the investments made by the executive agency in information technology.

(B) SPECIFIC ACTIONS.—Actions taken by the Director in the case of an executive agency may include—

(i) recommending a reduction or an increase in any amount for information resources that the head of the executive agency proposes for the budget submitted to Congress under section 1105(a) of title 31, United States Code;

(ii) reducing or otherwise adjusting apportionments and reapportionments of appropriations for information resources;

(iii) using other authorized administrative controls over appropriations to restrict the availability of funds for information resources; and



(iv) designating for the executive agency an executive agent to contract with private sector sources for the performance of information resources management or the acquisition of information technology.

## Subtitle C—Executive Agencies

### SEC. 5121. RESPONSIBILITIES.

40 USC 1421.

In fulfilling the responsibilities assigned under chapter 35 of title 44, United States Code, the head of each executive agency shall comply with this subtitle with respect to the specific matters covered by this subtitle.

### SEC. 5122. CAPITAL PLANNING AND INVESTMENT CONTROL.

40 USC 1422.

(a) DESIGN OF PROCESS.—In fulfilling the responsibilities assigned under section 3506(h) of title 44, United States Code, the head of each executive agency shall design and implement in the executive agency a process for maximizing the value and assessing and managing the risks of the information technology acquisitions of the executive agency.

(b) CONTENT OF PROCESS.—The process of an executive agency shall—

(1) provide for the selection of information technology investments to be made by the executive agency, the management of such investments, and the evaluation of the results of such investments;

(2) be integrated with the processes for making budget, financial, and program management decisions within the executive agency;

(3) include minimum criteria to be applied in considering whether to undertake a particular investment in information systems, including criteria related to the quantitatively expressed projected net, risk-adjusted return on investment and specific quantitative and qualitative criteria for comparing and prioritizing alternative information systems investment projects;

(4) provide for identifying information systems investments that would result in shared benefits or costs for other Federal agencies or State or local governments;

(5) provide for identifying for a proposed investment quantifiable measurements for determining the net benefits and risks of the investment; and

(6) provide the means for senior management personnel of the executive agency to obtain timely information regarding the progress of an investment in an information system, including a system of milestones for measuring progress, on an independently verifiable basis, in terms of cost, capability of the system to meet specified requirements, timeliness, and quality.

### SEC. 5123. PERFORMANCE AND RESULTS-BASED MANAGEMENT.

40 USC 1423.

In fulfilling the responsibilities under section 3506(h) of title 44, United States Code, the head of an executive agency shall—

(1) establish goals for improving the efficiency and effectiveness of agency operations and, as appropriate, the delivery of services to the public through the effective use of information technology;

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(2) prepare an annual report, to be included in the executive agency's budget submission to Congress, on the progress in achieving the goals;

(3) ensure that performance measurements are prescribed for information technology used by or to be acquired for, the executive agency and that the performance measurements measure how well the information technology supports programs of the executive agency;

(4) where comparable processes and organizations in the public or private sectors exist, quantitatively benchmark agency process performance against such processes in terms of cost, speed, productivity, and quality of outputs and outcomes;

(5) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes as appropriate before making significant investments in information technology that is to be used in support of the performance of those missions; and

(6) ensure that the information security policies, procedures, and practices of the executive agency are adequate.

40 USC 1424.

**SEC. 5124. ACQUISITIONS OF INFORMATION TECHNOLOGY.**

(a) **IN GENERAL.**—The authority of the head of an executive agency to conduct an acquisition of information technology includes the following authorities:

(1) To acquire information technology as authorized by law.

(2) To enter into a contract that provides for multiagency acquisitions of information technology in accordance with guidance issued by the Director.

(3) If the Director finds that it would be advantageous for the Federal Government to do so, to enter into a multiagency contract for procurement of commercial items of information technology that requires each executive agency covered by the contract, when procuring such items, either to procure the items under that contract or to justify an alternative procurement of the items.

(b) **FTS 2000 PROGRAM.**—Notwithstanding any other provision of this or any other law, the Administrator of General Services shall continue to manage the FTS 2000 program, and to coordinate the follow-on to that program, on behalf of and with the advice of the heads of executive agencies.

40 USC 1425.

**SEC. 5125. AGENCY CHIEF INFORMATION OFFICER.**

(a) **DESIGNATION OF CHIEF INFORMATION OFFICERS.**—Section 3506 of title 44, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A), by striking out “senior official” and inserting in lieu thereof “Chief Information Officer”;

(B) in paragraph (2)(B)—

(i) by striking out “senior officials” in the first sentence and inserting in lieu thereof “Chief Information Officers”;

(ii) by striking out “official” in the second sentence and inserting in lieu thereof “Chief Information Officer”; and

(iii) by striking out “officials” in the second sentence and inserting in lieu thereof “Chief Information Officers”; and

(C) in paragraphs (3) and (4), by striking out “senior official” each place it appears and inserting in lieu thereof “Chief Information Officer”; and

(2) in subsection (c)(1), by striking out “official” in the matter preceding subparagraph (A) and inserting in lieu thereof “Chief Information Officer”.

(b) GENERAL RESPONSIBILITIES.—The Chief Information Officer of an executive agency shall be responsible for—

(1) providing advice and other assistance to the head of the executive agency and other senior management personnel of the executive agency to ensure that information technology is acquired and information resources are managed for the executive agency in a manner that implements the policies and procedures of this division, consistent with chapter 35 of title 44, United States Code, and the priorities established by the head of the executive agency;

(2) developing, maintaining, and facilitating the implementation of a sound and integrated information technology architecture for the executive agency; and

(3) promoting the effective and efficient design and operation of all major information resources management processes for the executive agency, including improvements to work processes of the executive agency.

(c) DUTIES AND QUALIFICATIONS.—The Chief Information Officer of an agency that is listed in section 901(b) of title 31, United States Code, shall—

(1) have information resources management duties as that official’s primary duty;

(2) monitor the performance of information technology programs of the agency, evaluate the performance of those programs on the basis of the applicable performance measurements, and advise the head of the agency regarding whether to continue, modify, or terminate a program or project; and

(3) annually, as part of the strategic planning and performance evaluation process required (subject to section 1117 of title 31, United States Code) under section 306 of title 5, United States Code, and sections 1105(a)(29), 1115, 1116, 1117, and 9703 of title 31, United States Code—

(A) assess the requirements established for agency personnel regarding knowledge and skill in information resources management and the adequacy of such requirements for facilitating the achievement of the performance goals established for information resources management;

(B) assess the extent to which the positions and personnel at the executive level of the agency and the positions and personnel at management level of the agency below the executive level meet those requirements;

(C) in order to rectify any deficiency in meeting those requirements, develop strategies and specific plans for hiring, training, and professional development; and

(D) report to the head of the agency on the progress made in improving information resources management capability.

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(d) INFORMATION TECHNOLOGY ARCHITECTURE DEFINED.—In this section, the term “information technology architecture”, with respect to an executive agency, means an integrated framework for evolving or maintaining existing information technology and acquiring new information technology to achieve the agency’s strategic goals and information resources management goals.

(e) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

“Chief Information Officer, Department of Agriculture.

“Chief Information Officer, Department of Commerce.

“Chief Information Officer, Department of Defense (unless the official designated as the Chief Information Officer of the Department of Defense is an official listed under section 5312, 5313, or 5314 of this title).

“Chief Information Officer, Department of Education.

“Chief Information Officer, Department of Energy.

“Chief Information Officer, Department of Health and Human Services.

“Chief Information Officer, Department of Housing and Urban Development.

“Chief Information Officer, Department of Interior.

“Chief Information Officer, Department of Justice.

“Chief Information Officer, Department of Labor.

“Chief Information Officer, Department of State.

“Chief Information Officer, Department of Transportation.

“Chief Information Officer, Department of Treasury.

“Chief Information Officer, Department of Veterans Affairs.

“Chief Information Officer, Environmental Protection Agency.

“Chief Information Officer, National Aeronautics and Space Administration.

“Chief Information Officer, Agency for International Development.

“Chief Information Officer, Federal Emergency Management Agency.

“Chief Information Officer, General Services Administration.

“Chief Information Officer, National Science Foundation.

“Chief Information Officer, Nuclear Regulatory Agency.

“Chief Information Officer, Office of Personnel Management.

“Chief Information Officer, Small Business Administration.”.

40 USC 1426.

**SEC. 5126. ACCOUNTABILITY.**

The head of each executive agency, in consultation with the Chief Information Officer and the Chief Financial Officer of that executive agency (or, in the case of an executive agency without a Chief Financial Officer, any comparable official), shall establish policies and procedures that—

(1) ensure that the accounting, financial, and asset management systems and other information systems of the executive agency are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the executive agency;

(2) ensure that financial and related program performance data are provided on a reliable, consistent, and timely basis to executive agency financial management systems; and

(3) ensure that financial statements support—

(A) assessments and revisions of mission-related processes and administrative processes of the executive agency; and

(B) performance measurement of the performance in the case of investments made by the agency in information systems.

**SEC. 5127. SIGNIFICANT DEVIATIONS.**

40 USC 1427.

The head of an executive agency shall identify in the strategic information resources management plan required under section 3506(b)(2) of title 44, United States Code, any major information technology acquisition program, or any phase or increment of such a program, that has significantly deviated from the cost, performance, or schedule goals established for the program.

**SEC. 5128. INTERAGENCY SUPPORT.**

40 USC 1428.

Funds available for an executive agency for oversight, acquisition, and procurement of information technology may be used by the head of the executive agency to support jointly with other executive agencies the activities of interagency groups that are established to advise the Director in carrying out the Director's responsibilities under this title. The use of such funds for that purpose shall be subject to such requirements and limitations on uses and amounts as the Director may prescribe. The Director shall prescribe any such requirements and limitations during the Director's review of the executive agency's proposed budget submitted to the Director by the head of the executive agency for purposes of section 1105 of title 31, United States Code.

## Subtitle D—Other Responsibilities

**SEC. 5131. RESPONSIBILITIES REGARDING EFFICIENCY, SECURITY, AND PRIVACY OF FEDERAL COMPUTER SYSTEMS.**

40 USC 1441.

(a) STANDARDS AND GUIDELINES.—

(1) AUTHORITY.—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)), promulgate standards and guidelines pertaining to Federal computer systems. The Secretary shall make such standards compulsory and binding to the extent to which the Secretary determines necessary to improve the efficiency of operation or security and privacy of Federal computer systems. The President may disapprove or modify such standards and guidelines 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.

Federal Register,  
publication.

(2) EXERCISE OF AUTHORITY.—The authority conferred upon the Secretary of Commerce by this section shall be exercised subject to direction by the President and in coordination with the Director to ensure fiscal and policy consistency.

(b) 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 within or under the supervision of that agency that are more stringent than the standards promulgated by the Secretary of Commerce under this section, if such standards contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Secretary of Commerce.

(c) WAIVER OF STANDARDS.—The standards determined under subsection (a) to be compulsory and binding may be waived by the Secretary of Commerce in writing upon a determination that compliance would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or cause a major adverse financial impact on the operator which is not offset by Government-wide savings. The Secretary may delegate to the head of one or more Federal agencies authority to waive such standards to the extent to which the Secretary determines such action to be necessary and desirable to allow for timely and effective implementation of Federal computer system standards. The head of such agency may redelegate such authority only to a Chief Information Officer designated pursuant to section 3506 of title 44, United States Code. Notice of each such waiver and delegation shall be transmitted promptly to Congress and shall be published promptly in the Federal Register.

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

(e) TECHNICAL AMENDMENTS.—Chapter 35 of title 44, United States Code, is amended—

(1) in section 3504(g)—

(A) in paragraph (2), by striking out “the Computer Security Act of 1987 (40 U.S.C. 759 note)” and inserting in lieu thereof “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)”; and

(B) in paragraph (3), by striking out “the Computer Security Act of 1987 (40 U.S.C. 759 note)” and inserting in lieu thereof “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)”; and

(2) in section 3518(d), by striking out “Public Law 89-306 on the Administrator of the General Services Administration, the Secretary of Commerce, or” and inserting in lieu thereof “section 5131 of the Information Technology Management Reform Act of 1996 and the Computer Security Act of 1987 (40 U.S.C. 759 note) on the Secretary of Commerce or”.

**SEC. 5132. SENSE OF CONGRESS.**

40 USC 1442.

It is the sense of Congress that, during the next five-year period beginning with 1996, executive agencies should achieve each year at least a 5 percent decrease in the cost (in constant fiscal year 1996 dollars) that is incurred by the agency for operating and maintaining information technology, and each year a 5 percent increase in the efficiency of the agency operations, by reason of improvements in information resources management by the agency.

## **Subtitle E—National Security Systems**

**SEC. 5141. APPLICABILITY TO NATIONAL SECURITY SYSTEMS.**

40 USC 1451.

(a) **IN GENERAL.**—Except as provided in subsection (b), this title does not apply to national security systems.

(b) **EXCEPTIONS.**—

(1) **IN GENERAL.**—Sections 5123, 5125, and 5126 apply to national security systems.

(2) **CAPITAL PLANNING AND INVESTMENT CONTROL.**—The heads of executive agencies shall apply sections 5112 and 5122 to national security systems to the extent practicable.

(3) **PERFORMANCE AND RESULTS OF INFORMATION TECHNOLOGY INVESTMENTS.**—(A) Subject to subparagraph (B), the heads of executive agencies shall apply section 5113 to national security systems to the extent practicable.

(B) National security systems shall be subject to section 5113(b)(5) except for subparagraph (B)(iv) of that section.

**SEC. 5142. NATIONAL SECURITY SYSTEM DEFINED.**

40 USC 1452.

(a) **DEFINITION.**—In this subtitle, the term “national security system” means any telecommunications or information system operated by the United States Government, the function, operation, or use of which—

(1) involves intelligence activities;

(2) involves cryptologic activities related to national security;

(3) involves command and control of military forces;

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

(5) subject to subsection (b), is critical to the direct fulfillment of military or intelligence missions.

(b) **LIMITATION.**—Subsection (a)(5) does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

## **TITLE LII—PROCESS FOR ACQUISITIONS OF INFORMATION TECHNOLOGY**

**SEC. 5201. PROCUREMENT PROCEDURES.**

40 USC 1461.

The Federal Acquisition Regulatory Council shall ensure that, to the maximum extent practicable, the process for acquisition of information technology is a simplified, clear, and understandable process that specifically addresses the management of risk,

incremental acquisitions, and the need to incorporate commercial information technology in a timely manner.

**SEC. 5202. INCREMENTAL ACQUISITION OF INFORMATION TECHNOLOGY.**

(a) **POLICY.**—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

41 USC 434.

**“SEC. 35. MODULAR CONTRACTING FOR INFORMATION TECHNOLOGY.**

“(a) **IN GENERAL.**—The head of an executive agency should, to the maximum extent practicable, use modular contracting for an acquisition of a major system of information technology.

“(b) **MODULAR CONTRACTING DESCRIBED.**—Under modular contracting, an executive agency’s need for a system is satisfied in successive acquisitions of interoperable increments. Each increment complies with common or commercially accepted standards applicable to information technology so that the increments are compatible with other increments of information technology comprising the system.

“(c) **IMPLEMENTATION.**—The Federal Acquisition Regulation shall provide that—

“(1) under the modular contracting process, an acquisition of a major system of information technology may be divided into several smaller acquisition increments that—

“(A) are easier to manage individually than would be one comprehensive acquisition;

“(B) address complex information technology objectives incrementally in order to enhance the likelihood of achieving workable solutions for attainment of those objectives;

“(C) provide for delivery, implementation, and testing of workable systems or solutions in discrete increments each of which comprises a system or solution that is not dependent on any subsequent increment in order to perform its principal functions; and

“(D) provide an opportunity for subsequent increments of the acquisition to take advantage of any evolution in technology or needs that occur during conduct of the earlier increments;

“(2) a contract for an increment of an information technology acquisition should, to the maximum extent practicable, be awarded within 180 days after the date on which the solicitation is issued and, if the contract for that increment cannot be awarded within such period, the increment should be considered for cancellation; and

“(3) the information technology provided for in a contract for acquisition of information technology should be delivered within 18 months after the date on which the solicitation resulting in award of the contract was issued.”.

(b) **CLERICAL AMENDMENT.**—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 34 the following new item:

“Sec. 35. Modular contracting for information technology.”.



# TITLE LIII—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS

## Subtitle A—Conduct of Pilot Programs

### SEC. 5301. AUTHORITY TO CONDUCT PILOT PROGRAMS.

40 USC 1471.

#### (a) IN GENERAL.—

(1) PURPOSE.—The Administrator for Federal Procurement Policy (hereinafter referred to as the “Administrator”), in consultation with the Administrator for the Office of Information and Regulatory Affairs, may conduct pilot programs in order to test alternative approaches for acquisition of information technology by executive agencies.

(2) MULTIAGENCY, MULTI-ACTIVITY CONDUCT OF EACH PROGRAM.—Except as otherwise provided in this title, each pilot program conducted under this title shall be carried out in not more than two procuring activities in each of the executive agencies that are designated by the Administrator in accordance with this title to carry out the pilot program. The head of each designated executive agency shall, with the approval of the Administrator, select the procuring activities of the executive agency that are to participate in the test and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of the pilot program within the executive agency.

#### (b) LIMITATIONS.—

(1) NUMBER.—Not more than two pilot programs may be conducted under the authority of this title, including one pilot program each pursuant to the requirements of sections 5311 and 5312.

(2) AMOUNT.—The total amount obligated for contracts entered into under the pilot programs conducted under the authority of this title may not exceed \$750,000,000. The Administrator shall monitor such contracts and ensure that contracts are not entered into in violation of the limitation in the preceding sentence.

#### (c) PERIOD OF PROGRAMS.—

(1) IN GENERAL.—Subject to paragraph (2), any pilot program may be carried out under this title for the period, not in excess of five years, that is determined by the Administrator as being sufficient to establish reliable results.

(2) CONTINUING VALIDITY OF CONTRACTS.—A contract entered into under the pilot program before the expiration of that program shall remain in effect according to the terms of the contract after the expiration of the program.

### SEC. 5302. EVALUATION CRITERIA AND PLANS.

40 USC 1472.

(a) MEASURABLE TEST CRITERIA.—The head of each executive agency conducting a pilot program under section 5301 shall establish, to the maximum extent practicable, measurable criteria for evaluating the effects of the procedures or techniques to be tested under the program.

(b) TEST PLAN.—Before a pilot program may be conducted under section 5301, the Administrator shall submit to Congress a detailed

test plan for the program, including a detailed description of the procedures to be used and a list of any regulations that are to be waived.

40 USC 1473.

**SEC. 5303. REPORT.**

(a) **REQUIREMENT.**—Not later than 180 days after the completion of a pilot program under this title, the Administrator shall—

- (1) submit to the Director a report on the results and findings under the program; and
- (2) provide a copy of the report to Congress.

(b) **CONTENT.**—The report shall include the following:

- (1) A detailed description of the results of the program, as measured by the criteria established for the program.
- (2) A discussion of any legislation that the Administrator recommends, or changes in regulations that the Administrator considers necessary, in order to improve overall information resources management within the Federal Government.

40 USC 1474.

**SEC. 5304. RECOMMENDED LEGISLATION.**

If the Director determines that the results and findings under a pilot program under this title indicate that legislation is necessary or desirable in order to improve the process for acquisition of information technology, the Director shall transmit the Director's recommendations for such legislation to Congress.

40 USC 1475.

**SEC. 5305. RULE OF CONSTRUCTION.**

Nothing in this title shall be construed as authorizing the appropriation or obligation of funds for the pilot programs authorized under this title.

## **Subtitle B—Specific Pilot Programs**

40 USC 1491.

**SEC. 5311. SHARE-IN-SAVINGS PILOT PROGRAM.**

(a) **REQUIREMENT.**—The Administrator may authorize the heads of two executive agencies to carry out a pilot program to test the feasibility of—

- (1) contracting on a competitive basis with a private sector source to provide the Federal Government with an information technology solution for improving mission-related or administrative processes of the Federal Government; and

- (2) paying the private sector source an amount equal to a portion of the savings derived by the Federal Government from any improvements in mission-related processes and administrative processes that result from implementation of the solution.

(b) **LIMITATIONS.**—The head of an executive agency authorized to carry out the pilot program may, under the pilot program, carry out one project and enter into not more than five contracts for the project.

(c) **SELECTION OF PROJECTS.**—The projects shall be selected by the Administrator, in consultation with the Administrator for the Office of Information and Regulatory Affairs.

40 USC 1492.

**SEC. 5312. SOLUTIONS-BASED CONTRACTING PILOT PROGRAM.**

(a) **IN GENERAL.**—The Administrator may authorize the heads of any of the executive agencies, in accordance with subsection (d)(2), to carry out a pilot program to test the feasibility of using

solutions-based contracting for acquisition of information technology.

(b) SOLUTIONS-BASED CONTRACTING DESCRIBED.—For purposes of this section, solutions-based contracting is an acquisition method under which the acquisition objectives are defined by the Federal Government user of the technology to be acquired, a streamlined contractor selection process is used, and industry sources are allowed to provide solutions that attain the objectives effectively.

(c) PROCESS REQUIREMENTS.—The Administrator shall require use of a process with the following aspects for acquisitions under the pilot program:

(1) ACQUISITION PLAN EMPHASIZING DESIRED RESULT.—Preparation of an acquisition plan that defines the functional requirements of the intended users of the information technology to be acquired, identifies the operational improvements to be achieved, and defines the performance measurements to be applied in determining whether the information technology acquired satisfies the defined requirements and attains the identified results.

(2) RESULTS-ORIENTED STATEMENT OF WORK.—Use of a statement of work that is limited to an expression of the end results or performance capabilities desired under the acquisition plan.

(3) SMALL ACQUISITION ORGANIZATION.—Assembly of a small acquisition organization consisting of the following:

(A) An acquisition management team, the members of which are to be evaluated and rewarded under the pilot program for contributions toward attainment of the desired results identified in the acquisition plan.

(B) A small source selection team composed of representatives of the specific mission or administrative area to be supported by the information technology to be acquired, together with a contracting officer and persons with relevant expertise.

(4) USE OF SOURCE SELECTION FACTORS EMPHASIZING SOURCE QUALIFICATIONS AND COSTS.—Use of source selection factors that emphasize—

(A) the qualifications of the offeror, including such factors as personnel skills, previous experience in providing other private or public sector organizations with solutions for attaining objectives similar to the objectives of the acquisition, past contract performance, qualifications of the proposed program manager, and the proposed management plan; and

(B) the costs likely to be associated with the conceptual approach proposed by the offeror.

(5) OPEN COMMUNICATIONS WITH CONTRACTOR COMMUNITY.—Open availability of the following information to potential offerors:

(A) The agency mission to be served by the acquisition.

(B) The functional process to be performed by use of information technology.

(C) The process improvements to be attained.

(6) SIMPLE SOLICITATION.—Use of a simple solicitation that sets forth only the functional work description, the source selection factors to be used in accordance with paragraph (4), the required terms and conditions, instructions regarding submis-

sion of offers, and the estimate of the Federal Government's budget for the desired work.

(7) **SIMPLE PROPOSALS.**—Submission of oral presentations and written proposals that are limited in size and scope and contain information on—

(A) the offeror's qualifications to perform the desired work;

(B) past contract performance;

(C) the proposed conceptual approach; and

(D) the costs likely to be associated with the proposed conceptual approach.

(8) **SIMPLE EVALUATION.**—Use of a simplified evaluation process, to be completed within 45 days after receipt of proposals, which consists of the following:

(A) Identification of the most qualified offerors that are within the competitive range.

(B) Issuance of invitations for at least three and not more than five of the identified offerors to make oral presentations to, and engage in discussions with, the evaluating personnel regarding, for each offeror—

(i) the qualifications of the offeror, including how the qualifications of the offeror relate to the approach proposed to be taken by the offeror in the acquisition; and

(ii) the costs likely to be associated with the approach.

(C) Evaluation of the qualifications of the identified offerors and the costs likely to be associated with the offerors' proposals on the basis of submissions required under the process and any oral presentations made by, and any discussions with, the offerors.

(9) **SELECTION OF MOST QUALIFIED OFFEROR.**—A selection process consisting of the following:

(A) Identification of the most qualified source, and ranking of alternative sources, primarily on the basis of the oral proposals, presentations, and discussions, and written proposals submitted in accordance with paragraph (7).

(B) Conduct for 30 to 60 days of a program definition phase (funded, in the case of the source ultimately awarded the contract, by the Federal Government)—

(i) during which the selected source, in consultation with one or more intended users, develops a conceptual system design and technical approach, defines logical phases for the project, and estimates the total cost and the cost for each phase; and

(ii) after which a contract for performance of the work may be awarded to that source on the basis of cost, the responsiveness, reasonableness, and quality of the proposed performance, and a sharing of risk and benefits between the source and the Government.

(C) Conduct of as many successive program definition phases with alternative sources (in the order ranked) as is necessary in order to award a contract in accordance with subparagraph (B).

(10) **SYSTEM IMPLEMENTATION PHASING.**—System implementation to be executed in phases that are tailored to

the solution, with various contract arrangements being used, as appropriate, for various phases and activities.

(11) MUTUAL AUTHORITY TO TERMINATE.—Authority for the Federal Government or the contractor to terminate the contract without penalty at the end of any phase defined for the project.

(12) TIME MANAGEMENT DISCIPLINE.—Application of a standard for awarding a contract within 105 to 120 days after issuance of the solicitation.

(d) PILOT PROGRAM DESIGN.—

(1) JOINT PUBLIC-PRIVATE WORKING GROUP.—The Administrator, in consultation with the Administrator for the Office of Information and Regulatory Affairs, shall establish a joint working group of Federal Government personnel and representatives of the information technology industry to design a plan for conduct of any pilot program carried out under this section.

(2) CONTENT OF PLAN.—The plan shall provide for use of solutions-based contracting in the Department of Defense and not more than two other executive agencies for a total of—

(A) not more than 10 projects, each of which has an estimated cost of between \$25,000,000 and \$100,000,000; and

(B) not more than 10 projects, each of which has an estimated cost of between \$1,000,000 and \$5,000,000, to be set aside for small business concerns.

(3) COMPLEXITY OF PROJECTS.—(A) Subject to subparagraph (C), each acquisition project under the pilot program shall be sufficiently complex to provide for meaningful evaluation of the use of solutions-based contracting for acquisition of information technology for executive agencies.

(B) In order for an acquisition project to satisfy the requirement in subparagraph (A), the solution for attainment of the executive agency's objectives under the project should not be obvious, but rather shall involve a need for some innovative development and systems integration.

(C) An acquisition project should not be so extensive or lengthy as to result in undue delay in the evaluation of the use of solutions-based contracting.

(e) MONITORING BY GAO.—The Comptroller General of the United States shall—

(1) monitor the conduct, and review the results, of acquisitions under the pilot program; and

(2) submit to Congress periodic reports containing the views of the Comptroller General on the activities, results, and findings under the pilot program.

Reports.

## **TITLE LIV—ADDITIONAL INFORMATION RESOURCES MANAGEMENT MATTERS**

### **SEC. 5401. ON-LINE MULTIPLE AWARD SCHEDULE CONTRACTING.**

40 USC 1501.

(a) AUTOMATION OF MULTIPLE AWARD SCHEDULE CONTRACTING.—In order to provide for the economic and efficient procurement of information technology and other commercial items, the Administrator of General Services shall provide through the Federal Acquisition Computer Network (in this section referred to as "FACNET"), not later than January 1, 1998, Government-wide on-line computer

access to information on products and services that are available for ordering under the multiple award schedules. If the Administrator determines it is not practicable to provide such access through FACNET, the Administrator shall provide such access through another automated system that has the capability to perform the functions listed in subsection (b)(1) and meets the requirement of subsection (b)(2).

(b) **ADDITIONAL FACNET FUNCTIONS.**—(1) In addition to the functions specified in section 30(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 426(b)), the FACNET architecture shall have the capability to perform the following functions:

(A) Provide basic information on prices, features, and performance of all products and services available for ordering through the multiple award schedules.

(B) Provide for updating that information to reflect changes in prices, features, and performance as soon as information on the changes becomes available.

(C) Enable users to make on-line computer comparisons of the prices, features, and performance of similar products and services offered by various vendors.

(2) The FACNET architecture shall be used to place orders under the multiple award schedules in a fiscal year for an amount equal to at least 60 percent of the total amount spent for all orders under the multiple award schedules in that fiscal year.

(c) **STREAMLINED PROCEDURES.**—

(1) **PILOT PROGRAM.**—Upon certification by the Administrator of General Services that the FACNET architecture meets the requirements of subsection (b)(1) and was used as required by subsection (b)(2) in the fiscal year preceding the fiscal year in which the certification is made, the Administrator for Federal Procurement Policy may establish a pilot program to test streamlined procedures for the procurement of information technology products and services available for ordering through the multiple award schedules.

(2) **APPLICABILITY TO MULTIPLE AWARD SCHEDULE CONTRACTS.**—Except as provided in paragraph (4), the pilot program shall be applicable to all multiple award schedule contracts for the purchase of information technology and shall test the following procedures:

(A) A procedure under which negotiation of the terms and conditions for a covered multiple award schedule contract is limited to terms and conditions other than price.

(B) A procedure under which the vendor establishes the prices under a covered multiple award schedule contract and may adjust those prices at any time in the discretion of the vendor.

(C) A procedure under which a covered multiple award schedule contract is awarded to any responsible offeror that—

(i) has a suitable record of past performance, which may include past performance on multiple award schedule contracts;

(ii) agrees to terms and conditions that the Administrator determines as being required by law or as being appropriate for the purchase of commercial items; and

(iii) agrees to establish and update prices, features, and performance and to accept orders electronically through the automated system established pursuant to subsection (a).

(3) COMPTROLLER GENERAL REVIEW AND REPORT.—(A) Not later than three years after the date on which the pilot program is established, the Comptroller General of the United States shall review the pilot program and report to the Congress on the results of the pilot program.

(B) The report shall include the following:

(i) An evaluation of the extent to which there is competition for the orders placed under the pilot program.

(ii) The effect that the streamlined procedures under the pilot program have on prices charged under multiple award schedule contracts.

(iii) The effect that such procedures have on paperwork requirements for multiple award schedule contracts and orders.

(iv) The impact of the pilot program on small businesses and socially and economically disadvantaged small businesses.

(4) WITHDRAWAL OF SCHEDULE OR PORTION OF SCHEDULE FROM PILOT PROGRAM.—The Administrator may withdraw a multiple award schedule or portion of a schedule from the pilot program if the Administrator determines that (A) price competition is not available under such schedule or portion thereof, or (B) the cost to the Government for that schedule or portion thereof for the previous year was higher than it would have been if the contracts for such schedule or portion thereof had been awarded using procedures that would apply if the pilot program were not in effect. The Administrator shall notify Congress at least 30 days before the date on which the Administrator withdraws a schedule or portion thereof under this paragraph. The authority under this paragraph may not be delegated.

Notification.

(5) TERMINATION OF PILOT PROGRAM.—Unless reauthorized by law, the authority of the Administrator to award contracts under the pilot program shall expire four years after the date on which the pilot program is established. Contracts entered into before the authority expires shall remain in effect in accordance with their terms notwithstanding the expiration of the authority to award new contracts under the pilot program.

(d) DEFINITION.—In this section, the term “FACNET” means the Federal Acquisition Computer Network established under section 30 of the Office of Federal Procurement Policy Act (41 U.S.C. 426).

**SEC. 5402. IDENTIFICATION OF EXCESS AND SURPLUS COMPUTER EQUIPMENT.**

40 USC 1502.

Not later than six months after the date of the enactment of this Act, the head of an executive agency shall inventory all computer equipment under the control of that official. After completion of the inventory, the head of the executive agency shall maintain, in accordance with title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.), an inventory of any such equipment that is excess or surplus property.

40 USC 1503.

**SEC. 5403. ACCESS OF CERTAIN INFORMATION IN INFORMATION SYSTEMS TO THE DIRECTORY ESTABLISHED UNDER SECTION 4101 OF TITLE 44, UNITED STATES CODE.**

Notwithstanding any other provision of this division, if in designing an information technology system pursuant to this division, the head of an executive agency determines that a purpose of the system is to disseminate information to the public, then the head of such executive agency shall reasonably ensure that an index of information disseminated by such system is included in the directory created pursuant to section 4101 of title 44, United States Code. Nothing in this section authorizes the dissemination of information to the public unless otherwise authorized.

**TITLE LV—PROCUREMENT PROTEST AUTHORITY OF THE COMPTROLLER GENERAL****SEC. 5501. PERIOD FOR PROCESSING PROTESTS.**

Title 31, United States Code, is amended as follows:

(1) Section 3553(b)(2)(A) is amended by striking out “35” and inserting in lieu thereof “30”.

(2) Section 3554 is amended—

(A) in subsection (a)(1), by striking out “125” and inserting in lieu thereof “100”; and

(B) in subsection (e)—

(i) in paragraph (1), by striking out “Government Operations” and inserting in lieu thereof “Government Reform and Oversight”; and

(ii) in paragraph (2), by striking out “125” and inserting in lieu thereof “100”.

**SEC. 5502. AVAILABILITY OF FUNDS FOLLOWING GAO RESOLUTION OF CHALLENGE TO CONTRACTING ACTION.**

(a) IN GENERAL.—Section 1558 of title 31, United States Code, is amended—

(1) in the first sentence of subsection (a)—

(A) by inserting “or other action referred to in subsection (b)” after “protest” the first place it appears;

(B) by striking out “90 working days” and inserting in lieu thereof “100 days”; and

(C) by inserting “or other action” after “protest” the second place it appears; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

“(b) Subsection (a) applies with respect to—

“(1) any protest filed under subchapter V of chapter 35 of this title; or

“(2) an action commenced under administrative procedures or for a judicial remedy if—

“(A) the action involves a challenge to—

“(i) a solicitation for a contract;

“(ii) a proposed award of a contract;

“(iii) an award of a contract; or



“(iv) the eligibility of an offeror or potential offeror for a contract or of the contractor awarded the contract; and

“(B) commencement of the action delays or prevents an executive agency from making an award of a contract or proceeding with a procurement.”.

(b) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

**“§ 1558. Availability of funds following resolution of a formal protest or other challenge”.**

(c) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 15 of title 31, United States Code, is amended to read as follows:

“1558. Availability of funds following resolution of a formal protest or other challenge.”.

## TITLE LVI—CONFORMING AND CLERICAL AMENDMENTS

### SEC. 5601. AMENDMENTS TO TITLE 10, UNITED STATES CODE.

(a) PROTEST FILE.—Section 2305(e) is amended by striking out paragraph (3).

(b) MULTIYEAR CONTRACTS.—Section 2306b of such title is amended—

(1) by striking out subsection (k); and

(2) by redesignating subsection (l) as subsection (k).

(c) LAW INAPPLICABLE TO PROCUREMENT OF INFORMATION TECHNOLOGY.—Section 2315 of title 10, United States Code, is amended by striking out “Section 111” and all that follows through “use of equipment or services if,” and inserting in lieu thereof the following: “For the purposes of the Information Technology Management Reform Act of 1996, the term ‘national security systems’ means those telecommunications and information systems operated by the Department of Defense, the functions, operation or use of which”.

### SEC. 5602. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) REFERENCES TO BROOKS AUTOMATIC DATA PROCESSING ACT.—Section 612 of title 28, United States Code, is amended—

(1) in subsection (f), by striking out “section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759)” and inserting in lieu thereof “the provisions of law, policies, and regulations applicable to executive agencies under the Information Technology Management Reform Act of 1996”;

(2) in subsection (g), by striking out “sections 111 and 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 and 759)” and inserting in lieu thereof “section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481)”;

(3) by striking out subsection (l); and

(4) by redesignating subsection (m) as subsection (l).

(b) REFERENCES TO AUTOMATIC DATA PROCESSING.—Section 612 of title 28, United States Code, is further amended—

(1) in the heading, by striking out the second word and inserting in lieu thereof “**Information Technology**”;

(2) in subsection (a), by striking out “Judiciary Automation Fund” and inserting in lieu thereof “Judiciary Information Technology Fund”; and

(3) by striking out “automatic data processing” and inserting in lieu thereof “information technology” each place it appears in subsections (a), (b), (c)(2), (e), (f), and (h)(1).

**SEC. 5603. AMENDMENT TO TITLE 31, UNITED STATES CODE.**

Section 3552 of title 31, United States Code, is amended by striking out the second sentence.

**SEC. 5604. AMENDMENTS TO TITLE 38, UNITED STATES CODE.**

Section 310 of title 38, United States Code, is amended to read as follows:

**“§ 310. Chief Information Officer**

“(a) The Chief Information Officer for the Department is designated pursuant to section 3506(a)(2) of title 44.

“(b) The Chief Information Officer performs the duties provided for chief information officers of executive agencies under chapter 35 of title 44 and the Information Technology Management Reform Act of 1996.”.

**SEC. 5605. PROVISIONS OF TITLE 44, UNITED STATES CODE, RELATING TO PAPERWORK REDUCTION.**

(a) DEFINITION.—Section 3502 of title 44, United States Code, is amended by striking out paragraph (9) and inserting in lieu thereof the following:

“(9) the term ‘information technology’ has the meaning given that term in section 5002 of the Information Technology Management Reform Act of 1996 but does not include national security systems as defined in section 5142 of that Act;”.

(b) DEVELOPMENT OF STANDARDS AND GUIDELINES BY NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—Section 3504(h)(1)(B) of such title is amended by striking out “section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))” and inserting in lieu thereof “section 5131 of the Information Technology Management Reform Act of 1996”.

(c) COMPLIANCE WITH DIRECTIVES.—Section 3504(h)(2) of such title is amended by striking out “sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759)” and inserting in lieu thereof “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)”.

(d) COLLECTION OF INFORMATION.—Section 3507(j)(2) of such title is amended by striking out “90 days” in the second sentence and inserting in lieu thereof “180 days”.

**SEC. 5606. AMENDMENT TO TITLE 49, UNITED STATES CODE.**

Section 40112(a) of title 49, United States Code, is amended by striking out “or a contract to purchase property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies”.

**SEC. 5607. OTHER LAWS.**

(a) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) is amended—

(1) in subsection (a)—

(A) by striking out “section 3502(2) of title 44” each place it appears in paragraphs (2) and (3)(A) and inserting in lieu thereof “section 3502(9) of title 44”; and

(B) in paragraph (4), by striking out “section 111(d) of the Federal Property and Administrative Services Act of 1949” and inserting in lieu thereof “section 5131 of the Information Technology Management Reform Act of 1996”;

(2) in subsection (b)—

(A) by striking out paragraph (2);

(B) in paragraph (3), by striking out “section 111(d) of the Federal Property and Administrative Services Act of 1949” and inserting in lieu thereof “section 5131 of the Information Technology Management Reform Act of 1996”; and

(C) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5); and

(3) in subsection (d)—

(A) in paragraph (1)(B)(v), by striking out “as defined” and all that follows and inserting in lieu thereof a semicolon; and

(B) in paragraph (2)—

(i) by striking out “system’—” and all that follows through “means” in subparagraph (A) and inserting in lieu thereof “system’ means”; and

(ii) by striking out “; and” at the end of subparagraph (A) and all that follows through the end of subparagraph (B) and inserting in lieu thereof a semicolon.

(b) COMPUTER SECURITY ACT OF 1987.—

(1) PURPOSES.—Section 2(b)(2) of the Computer Security Act of 1987 (Public Law 100-235; 101 Stat. 1724) is amended by striking out “by amending section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))”.

40 USC 759 note.

(2) SECURITY PLAN.—Section 6(b) of such Act (101 Stat. 1729; 40 U.S.C. 759 note) is amended—

(A) by striking out “Within one year after the date of enactment of this Act, each such agency shall, consistent with the standards, guidelines, policies, and regulations prescribed pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949,” and inserting in lieu thereof “Each such agency shall, consistent with the standards, guidelines, policies, and regulations prescribed pursuant to section 5131 of the Information Technology Management Reform Act of 1996;” and

(B) by striking out “Copies” and all that follows through “Code.”.

(c) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Section 303B(h) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(h)) is amended by striking out paragraph (3).

(d) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Section 6(h)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(h)(1)) is amended by striking out “of automatic data processing and telecommunications equipment and services or”.

(e) NATIONAL ENERGY CONSERVATION POLICY ACT.—Section 801(b)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(3)) is amended by striking out the second sentence.

(f) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—Section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c) is amended by striking out subsection (e).

**SEC. 5608. CLERICAL AMENDMENTS.**

(a) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The table of contents in section 1(b) of the Federal Property and Administrative Services Act of 1949 is amended by striking out the item relating to section 111.

(b) TITLE 38, UNITED STATES CODE.—The table of sections at the beginning of chapter 3 of title 38, United States Code, is amended by striking out the item relating to section 310 and inserting in lieu thereof the following:

“310. Chief Information Officer.”.

40 USC 1401  
note.

**TITLE LVII—EFFECTIVE DATE, SAVINGS PROVISIONS, AND RULES OF CONSTRUCTION**

**SEC. 5701. EFFECTIVE DATE.**

This division and the amendments made by this division shall take effect 180 days after the date of the enactment of this Act.

**SEC. 5702. SAVINGS PROVISIONS.**

(a) REGULATIONS, INSTRUMENTS, RIGHTS, AND PRIVILEGES.—All rules, regulations, contracts, orders, determinations, permits, certificates, licenses, grants, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the Administrator of General Services or the General Services Board of Contract Appeals, or by a court of competent jurisdiction, in connection with an acquisition activity carried out under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), and

(2) which are in effect on the effective date of this division, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Director or any other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS.—

(1) PROCEEDINGS GENERALLY.—This division and the amendments made by this division shall not affect any proceeding, including any proceeding involving a claim, application, or protest in connection with an acquisition activity carried out under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) that is pending before the Administrator of General Services or the General Services Board of Contract Appeals on the effective date of this division.

(2) **ORDERS.**—Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if this division had not been enacted. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked in accordance with law by the Director or any other authorized official, by a court of competent jurisdiction, or by operation of law.

(3) **DISCONTINUANCE OR MODIFICATION OF PROCEEDINGS NOT PROHIBITED.**—Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(4) **OTHER AUTHORITY AND PROHIBITION.**—Section 1558(a) of title 31, United States Code, and the second sentence of section 3552 of such title shall continue to apply with respect to a protest process in accordance with this subsection.

(5) **REGULATIONS FOR TRANSFER OF PROCEEDINGS.**—The Director may prescribe regulations providing for the orderly transfer of proceedings continued under paragraph (1).

(c) **STANDARDS AND GUIDELINES FOR FEDERAL COMPUTER SYSTEMS.**—Standards and guidelines that are in effect for Federal computer systems under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d)) on the day before the effective date of this division shall remain in effect until modified, terminated, superseded, revoked, or disapproved under the authority of section 5131 of this Act.

**SEC. 5703. RULES OF CONSTRUCTION.**

(a) **RELATIONSHIP TO TITLE 44, UNITED STATES CODE.**—Nothing in this division shall be construed to amend, modify, or supersede any provision of title 44, United States Code, other than chapter 35 of such title.

(b) **RELATIONSHIP TO COMPUTER SECURITY ACT OF 1987.**—Nothing in this division shall affect the limitations on authority that is provided for in the administration of the Computer Security Act of 1987 (Public Law 100-235) and the amendments made by such Act.

Approved February 10, 1996.

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**LEGISLATIVE HISTORY—S. 1124 (H.R. 1530) (S. 1026):**

**HOUSE REPORTS:** Nos. 104-131 (Comm. on National Security) and 104-406 (Comm. of Conference), both accompanying H.R. 1530, and 104-450 (Comm. of Conference).

**SENATE REPORTS:** No. 104-112 accompanying S. 1026 (Comm. on Armed Services).

**CONGRESSIONAL RECORD:**

Vol. 141 (1995): Sept. 6, considered and passed Senate.

Vol. 142 (1996): Jan. 5, considered and passed House, amended, in lieu of H.R. 1530.

Jan. 24, House agreed to conference report.

Jan. 26, Senate agreed to conference report.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):**

Feb. 10, Presidential statement.

