

Public Law 107–347
107th Congress

An Act

To enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

Dec. 17, 2002
[H.R. 2458]

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

E-Government
Act of 2002.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “E-Government Act of 2002”. 44 USC 101 note.

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

- Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

**TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC
GOVERNMENT SERVICES**

- Sec. 101. Management and promotion of electronic government services.
Sec. 102. Conforming amendments.

**TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC
GOVERNMENT SERVICES**

- Sec. 201. Definitions.
Sec. 202. Federal agency responsibilities.
Sec. 203. Compatibility of executive agency methods for use and acceptance of electronic signatures.
Sec. 204. Federal Internet portal.
Sec. 205. Federal courts.
Sec. 206. Regulatory agencies.
Sec. 207. Accessibility, usability, and preservation of government information.
Sec. 208. Privacy provisions.
Sec. 209. Federal information technology workforce development.
Sec. 210. Share-in-savings initiatives.
Sec. 211. Authorization for acquisition of information technology by State and local governments through Federal supply schedules.
Sec. 212. Integrated reporting study and pilot projects.
Sec. 213. Community technology centers.
Sec. 214. Enhancing crisis management through advanced information technology.
Sec. 215. Disparities in access to the Internet.
Sec. 216. Common protocols for geographic information systems.

TITLE III—INFORMATION SECURITY

- Sec. 301. Information security.
Sec. 302. Management of information technology.
Sec. 303. National Institute of Standards and Technology.
Sec. 304. Information Security and Privacy Advisory Board.
Sec. 305. Technical and conforming amendments.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

- Sec. 401. Authorization of appropriations.

Sec. 402. Effective dates.

TITLE V—CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL
EFFICIENCY

Sec. 501. Short title.

Sec. 502. Definitions.

Sec. 503. Coordination and oversight of policies.

Sec. 504. Effect on other laws.

Subtitle A—Confidential Information Protection

Sec. 511. Findings and purposes.

Sec. 512. Limitations on use and disclosure of data and information.

Sec. 513. Fines and penalties.

Subtitle B—Statistical Efficiency

Sec. 521. Findings and purposes.

Sec. 522. Designation of statistical agencies.

Sec. 523. Responsibilities of designated statistical agencies.

Sec. 524. Sharing of business data among designated statistical agencies.

Sec. 525. Limitations on use of business data provided by designated statistical agencies.

Sec. 526. Conforming amendments.

44 USC 3601
note.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and increase citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function or topic.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires strong leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government information and services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decisionmaking by policy makers.

(8) To promote access to high quality Government information and services across multiple channels.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

(11) To provide enhanced access to Government information and services in a manner consistent with laws regarding protection of personal privacy, national security, records retention, access for persons with disabilities, and other relevant laws.

TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

“CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

“Sec.

“3601. Definitions.

“3602. Office of Electronic Government.

“3603. Chief Information Officers Council.

“3604. E-Government Fund.

“3605. Program to encourage innovative solutions to enhance electronic Government services and processes.

“3606. E-Government report.

“§ 3601. Definitions

“In this chapter, the definitions under section 3502 shall apply, and the term—

“(1) ‘Administrator’ means the Administrator of the Office of Electronic Government established under section 3602;

“(2) ‘Council’ means the Chief Information Officers Council established under section 3603;

“(3) ‘electronic Government’ means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

“(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

“(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

“(4) ‘enterprise architecture’—

“(A) means—

“(i) a strategic information asset base, which defines the mission;

“(ii) the information necessary to perform the mission;

“(iii) the technologies necessary to perform the mission; and

“(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

“(B) includes—

“(i) a baseline architecture;

“(ii) a target architecture; and

“(iii) a sequencing plan;

“(5) ‘Fund’ means the E-Government Fund established under section 3604;

“(6) ‘interoperability’ means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

“(7) ‘integrated service delivery’ means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

“(8) ‘tribal government’ means—

“(A) the governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and

“(B) any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

“§ 3602. Office of Electronic Government

“(a) There is established in the Office of Management and Budget an Office of Electronic Government.

“(b) There shall be at the head of the Office an Administrator who shall be appointed by the President.

“(c) The Administrator shall assist the Director in carrying out—

“(1) all functions under this chapter;

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organization.
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“(2) all of the functions assigned to the Director under title II of the E-Government Act of 2002; and

“(3) other electronic government initiatives, consistent with other statutes.

“(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

“(1) chapter 35;

“(2) subtitle III of title 40, United States Code;

“(3) section 552a of title 5 (commonly referred to as the ‘Privacy Act’);

“(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note); and

“(5) the Federal Information Security Management Act of 2002.

“(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

“(1) capital planning and investment control for information technology;

“(2) the development of enterprise architectures;

“(3) information security;

“(4) privacy;

“(5) access to, dissemination of, and preservation of Government information;

“(6) accessibility of information technology for persons with disabilities; and

“(7) other areas of electronic Government.

“(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

“(1) Advise the Director on the resources required to develop and effectively administer electronic Government initiatives.

“(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

“(3) Provide overall leadership and direction to the executive branch on electronic Government.

“(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

“(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the E-Government Fund established under section 3604.

“(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

“(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

“(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce under section 11331 of title 40, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, including the following:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(9) Sponsor ongoing dialogue that—

“(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

“(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

“(C) may include—

“(i) development of innovative models—

“(I) for electronic Government management and Government information technology contracts; and

“(II) that may be developed through focused discussions or using separately sponsored research;

“(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

“(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

“(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

“(10) Sponsor activities to engage the general public in the development and implementation of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities

which engage multiple agencies providing similar or related information and services.

“(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 204 of the E-Government Act of 2002.

“(12) Coordinate with the Administrator for Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

“(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

“(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

“(B) ensuring compliance with those standards through the budget review process and other means.

“(14) Oversee the development of enterprise architectures within and across agencies.

“(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

“(16) Administer the Office of Electronic Government established under this section.

“(17) Assist the Director in preparing the E-Government report established under section 3606.

“(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

“§ 3603. Chief Information Officers Council

“(a) There is established in the executive branch a Chief Information Officers Council. Establishment.

“(b) The members of the Council shall be as follows:

“(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

“(2) The Administrator of the Office of Electronic Government.

“(3) The Administrator of the Office of Information and Regulatory Affairs.

“(4) The chief information officer of each agency described under section 901(b) of title 31.

“(5) The chief information officer of the Central Intelligence Agency.

“(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

“(7) Any other officer or employee of the United States designated by the chairperson.

“(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

“(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

“(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

“(3) The Administrator of General Services shall provide administrative and other support for the Council.

“(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

“(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

“(f) The Council shall perform functions that include the following:

“(1) Develop recommendations for the Director on Government information resources management policies and requirements.

“(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

“(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

“(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title II of the E-Government Act of 2002.

“(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 11331 of title 40, and maximize the use of commercial standards as appropriate, including the following:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

“(7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

“§ 3604. E-Government Fund

“(a)(1) There is established in the Treasury of the United States the E-Government Fund.

“(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of

Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

“(3) Projects under this subsection may include efforts to—

“(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

“(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

“(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

“(b)(1) The Administrator shall—

“(A) establish procedures for accepting and reviewing proposals for funding;

Procedures.

“(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

“(C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.

“(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

“(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agencywide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

“(B) Projects shall adhere to fundamental capital planning and investment control processes.

“(C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would be coordinated with support from the Fund, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

“(D) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

“(E) Agencies shall assess the results of funded projects.

“(c) In determining which proposals to recommend for funding, the Administrator—

“(1) shall consider criteria that include whether a proposal—

“(A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;

“(B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);

“(C) ensures proper security and protects privacy;

“(D) is interagency in scope, including projects implemented by a primary or single agency that—

“(i) could confer benefits on multiple agencies; and

“(ii) have the support of other agencies; and

“(E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

“(2) may also rank proposals based on criteria that include whether a proposal—

“(A) has Governmentwide application or implications;

“(B) has demonstrated support by the public to be served;

“(C) integrates Federal with State, local, or tribal approaches to service delivery;

“(D) identifies resource commitments from nongovernmental sectors;

“(E) identifies resource commitments from the agencies involved;

“(F) uses web-based technologies to achieve objectives;

“(G) identifies records management and records access strategies;

“(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

“(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

“(J) supports integrated service delivery;

“(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

“(L) is new or innovative and does not supplant existing funding streams within agencies.

“(d) The Fund may be used to fund the integrated Internet-based system under section 204 of the E-Government Act of 2002.

Notification.

“(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

Reports.

“(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3606.

“(2) The report under paragraph (1) shall describe—

“(A) all projects which the Director has approved for funding from the Fund; and

“(B) the results that have been achieved to date for these funded projects.

“(g)(1) There are authorized to be appropriated to the Fund—

“(A) \$45,000,000 for fiscal year 2003;

“(B) \$50,000,000 for fiscal year 2004;

“(C) \$100,000,000 for fiscal year 2005;

“(D) \$150,000,000 for fiscal year 2006; and

“(E) such sums as are necessary for fiscal year 2007.

“(2) Funds appropriated under this subsection shall remain available until expended.

“§ 3605. Program to encourage innovative solutions to enhance electronic Government services and processes

“(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish and promote a Governmentwide program to encourage contractor innovation and excellence in facilitating the development and enhancement of electronic Government services and processes.

“(b) ISSUANCE OF ANNOUNCEMENTS SEEKING INNOVATIVE SOLUTIONS.—Under the program, the Administrator, in consultation with the Council and the Administrator for Federal Procurement Policy, shall issue announcements seeking unique and innovative solutions to facilitate the development and enhancement of electronic Government services and processes.

“(c) MULTIAGENCY TECHNICAL ASSISTANCE TEAM.—(1) The Administrator, in consultation with the Council and the Administrator for Federal Procurement Policy, shall convene a multiagency technical assistance team to assist in screening proposals submitted to the Administrator to provide unique and innovative solutions to facilitate the development and enhancement of electronic Government services and processes. The team shall be composed of employees of the agencies represented on the Council who have expertise in scientific and technical disciplines that would facilitate the assessment of the feasibility of the proposals.

“(2) The technical assistance team shall—

“(A) assess the feasibility, scientific and technical merits, and estimated cost of each proposal; and

“(B) submit each proposal, and the assessment of the proposal, to the Administrator.

“(3) The technical assistance team shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

“(4) After receiving proposals and assessments from the technical assistance team, the Administrator shall consider recommending appropriate proposals for funding under the E-Government Fund established under section 3604 or, if appropriate, forward the proposal and the assessment of it to the executive agency whose mission most coincides with the subject matter of the proposal.

“§ 3606. E-Government report

“(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

Deadline.

“(b) The report under subsection (a) shall contain—

“(1) a summary of the information reported by agencies under section 202(f) of the E-Government Act of 2002;

“(2) the information required to be reported by section 3604(f); and

“(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

“36. Management and Promotion of Electronic Government Services 3601”.

SEC. 102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—Chapter 3 of title 40, United States Code, is amended by inserting after section 304 the following new section:

“§ 305. Electronic Government and information technologies

“The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.”

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 3 of such title is amended by inserting after the item relating to section 304 the following:

“305. Electronic Government and information technologies.”

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

“(5) Chair the Chief Information Officers Council established under section 3603 of title 44.”

(c) OFFICE OF ELECTRONIC GOVERNMENT.—

(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

“§ 507. Office of Electronic Government

“The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.”

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

“507. Office of Electronic Government.”

TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 202. FEDERAL AGENCY RESPONSIBILITIES.44 USC 3501
note.

(a) **IN GENERAL.**—The head of each agency shall be responsible for—

(1) complying with the requirements of this Act (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this Act by the Director, and the related information technology standards promulgated by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 204.

(b) **PERFORMANCE INTEGRATION.**—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals, as appropriate, to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

(c) **AVOIDING DIMINISHED ACCESS.**—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

(d) **ACCESSIBILITY TO PEOPLE WITH DISABILITIES.**—All actions taken by Federal departments and agencies under this Act shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) **SPONSORED ACTIVITIES.**—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

(f) **CHIEF INFORMATION OFFICERS.**—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(g) **E-GOVERNMENT STATUS REPORT.**—

(1) **IN GENERAL.**—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) **SUBMISSION.**—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director requires;

(B) consistent with related reporting requirements; and

(C) which addresses any section in this title relevant to that agency.

(h) **USE OF TECHNOLOGY.**—Nothing in this Act supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

(i) **NATIONAL SECURITY SYSTEMS.**—

(1) **INAPPLICABILITY.**—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 11103 of title 40, United States Code.

(2) **APPLICABILITY.**—This section, section 203, and section 214 do apply to national security systems to the extent practicable and consistent with law.

44 USC 3501
note.

SEC. 203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) **PURPOSE.**—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

(b) **ELECTRONIC SIGNATURES.**—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105-277; 112 Stat. 2681-749 through 2681-751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

(c) **AUTHORITY FOR ELECTRONIC SIGNATURES.**—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, and for other activities consistent with this section, \$8,000,000 or such sums as are necessary in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 204. FEDERAL INTERNET PORTAL.

44 USC 3501
note.

(a) **IN GENERAL.**—

(1) **PUBLIC ACCESS.**—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) **CRITERIA.**—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the General Services Administration \$15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 205. FEDERAL COURTS.

44 USC 3501
note.

(a) **INDIVIDUAL COURT WEBSITES.**—The Chief Justice of the United States, the chief judge of each circuit and district and of the Court of Federal Claims, and the chief bankruptcy judge of each district shall cause to be established and maintained, for the court of which the judge is chief justice or judge, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to documents filed with the courthouse in electronic form, to the extent provided under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) MAINTENANCE OF DATA ONLINE.—

(1) UPDATE OF INFORMATION.—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) CLOSED CASES.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) ELECTRONIC FILINGS.—

Public
information.

(1) IN GENERAL.—Except as provided under paragraph (2) or in the rules prescribed under paragraph (3), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) EXCEPTIONS.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

Regulations.

(3) PRIVACY AND SECURITY CONCERNS.—(A)(i) The Supreme Court shall prescribe rules, in accordance with sections 2072 and 2075 of title 28, United States Code, to protect privacy and security concerns relating to electronic filing of documents and the public availability under this subsection of documents filed electronically.

(ii) Such rules shall provide to the extent practicable for uniform treatment of privacy and security issues throughout the Federal courts.

(iii) Such rules shall take into consideration best practices in Federal and State courts to protect private information or otherwise maintain necessary information security.

(iv) To the extent that such rules provide for the redaction of certain categories of information in order to protect privacy and security concerns, such rules shall provide that a party that wishes to file an otherwise proper document containing such information may file an unredacted document under seal, which shall be retained by the court as part of the record, and which, at the discretion of the court and subject to any applicable rules issued in accordance with chapter 131 of title 28, United States Code, shall be either in lieu of, or in addition, to, a redacted copy in the public file.

(B)(i) Subject to clause (ii), the Judicial Conference of the United States may issue interim rules, and interpretive statements relating to the application of such rules, which conform to the requirements of this paragraph and which shall cease to have effect upon the effective date of the rules required under subparagraph (A).

(ii) Pending issuance of the rules required under subparagraph (A), any rule or order of any court, or of the Judicial Conference, providing for the redaction of certain categories of information in order to protect privacy and security concerns

arising from electronic filing shall comply with, and be construed in conformity with, subparagraph (A)(iv).

(C) Not later than 1 year after the rules prescribed under subparagraph (A) take effect, and every 2 years thereafter, the Judicial Conference shall submit to Congress a report on the adequacy of those rules to protect privacy and security. Deadlines.
Reports.

(d) **DOCKETS WITH LINKS TO DOCUMENTS.**—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) **COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.**—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking “shall hereafter” and inserting “may, only to the extent necessary,”.

(f) **TIME REQUIREMENTS.**—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date. Deadlines.

(g) **DEFERRAL.**—

(1) **IN GENERAL.**—

(A) **ELECTION.**—

(i) **NOTIFICATION.**—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) **CONTENTS.**—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) **EXCEPTION.**—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) **REPORT.**—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that— Deadline.

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 206. REGULATORY AGENCIES.

(a) **PURPOSES.**—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

44 USC 3501
note.

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the “Administrative Procedures Act”).

(b) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under paragraphs (1) and (2) of section 552(a) of title 5, United States Code.

(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

(d) ELECTRONIC DOCKETING.—

(1) IN GENERAL.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) TIME LIMITATION.—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3606 of title 44 (as added by this Act).

44 USC 3501
note.

SEC. 207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) DEFINITIONS.—In this section, the term—

(1) “Committee” means the Interagency Committee on Government Information established under subsection (c); and

(2) “directory” means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) MEMBERSHIP.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

Deadline.

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) FUNCTIONS.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) TERMINATION.—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) CATEGORIZING OF INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 2 years after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

Deadline.

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(ii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 1 year after the submission of recommendations under paragraph (1), the Director shall issue policies—

Deadline.
Policies.

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies;

and

(iii) that are, as appropriate, consistent with the provisions under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Director shall modify

- the policies, as needed, in consultation with the Committee and interested parties.
- Reports. (4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).
- Deadline. (e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—
- (1) COMMITTEE FUNCTIONS.—Not later than 2 years after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—
- (A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and
- (B) the imposition of timetables for the implementation of the policies and procedures by agencies.
- Deadline. (2) FUNCTIONS OF THE ARCHIVIST.—Not later than 1 year after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—
- Policies. (A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and
- (B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.
- (3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.
- Reports. (4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).
- Deadline. (f) AGENCY WEBSITES.—
- Guidelines. (1) STANDARDS FOR AGENCY WEBSITES.—Not later than 2 years after the effective date of this title, the Director shall promulgate guidance for agency websites that includes—
- (A) requirements that websites include direct links to—
- (i) descriptions of the mission and statutory authority of the agency;
- (ii) information made available to the public under subsections (a)(1) and (b) of section 552 of title 5, United States Code (commonly referred to as the “Freedom of Information Act”);
- (iii) information about the organizational structure of the agency; and
- (iv) the strategic plan of the agency developed under section 306 of title 5, United States Code; and
- (B) minimum agency goals to assist public users to navigate agency websites, including—
- (i) speed of retrieval of search results;
- (ii) the relevance of the results;

- (iii) tools to aggregate and disaggregate data; and
- (iv) security protocols to protect information.

(2) AGENCY REQUIREMENTS.—(A) Not later than 2 years after the date of enactment of this Act, each agency shall— Deadline.

(i) consult with the Committee and solicit public comment;

(ii) establish a process for determining which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(iii) develop priorities and schedules for making Government information available and accessible;

(iv) make such final determinations, priorities, and schedules available for public comment;

(v) post such final determinations, priorities, and schedules on the Internet; and

(vi) submit such final determinations, priorities, and schedules to the Director, in the report established under section 202(g).

(B) Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(3) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

(A) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall— Deadline.

(i) develop and establish a public domain directory of public Federal Government websites; and

(ii) post the directory on the Internet with a link to the integrated Internet-based system established under section 204.

(B) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(i) direct the development of the directory through a collaborative effort, including input from—

- (I) agency librarians;
- (II) information technology managers;
- (III) program managers;
- (IV) records managers;
- (V) Federal depository librarians; and
- (VI) other interested parties; and

(ii) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(C) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(i) update the directory as necessary, but not less than every 6 months; and Deadline.

(ii) solicit interested persons for improvements to the directory.

(g) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE REPOSITORY AND WEBSITE.—

(A) REPOSITORY AND WEBSITE.—The Director of the Office of Management and Budget (or the Director's delegate), in consultation with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government, consistent with any relevant protections for the information under section 552 of title 5, United States Code, and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development centers; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

Public
information.

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) OVERSIGHT.—The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

Guidelines.

(2) AGENCY FUNCTIONS.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) COMMITTEE FUNCTIONS.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

Deadline.

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) FUNCTIONS OF THE DIRECTOR.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3606 of title 44 (as added by this Act).

Reports.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the development, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) \$2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

SEC. 208. PRIVACY PROVISIONS.

44 USC 3501
note.

(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) PRIVACY IMPACT ASSESSMENTS.—

(1) RESPONSIBILITIES OF AGENCIES.—

(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) before—

(i) developing or procuring information technology that collects, maintains, or disseminates information that is in an identifiable form; or

(ii) initiating a new collection of information that—
(I) will be collected, maintained, or disseminated using information technology; and

(II) includes any information in an identifiable form permitting the physical or online contacting of a specific individual, if identical questions have been posed to, or identical reporting requirements

imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the Federal Government.

(B) AGENCY ACTIVITIES.—To the extent required under subparagraph (A), each agency shall—

(i) conduct a privacy impact assessment;

(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

(C) SENSITIVE INFORMATION.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

(D) COPY TO DIRECTOR.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—

(A) IN GENERAL.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) GUIDANCE.—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of information that is in an identifiable form in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

(I) what information is to be collected;

(II) why the information is being collected;

(III) the intended use of the agency of the information;

(IV) with whom the information will be shared;

(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the “Privacy Act”).

(3) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of information that is in an identifiable form as the Director determines appropriate.

(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

Public
information.
Federal Register,
publication.

Guidelines.

(1) PRIVACY POLICIES ON WEBSITES.—

(A) GUIDELINES FOR NOTICES.—The Director shall develop guidance for privacy notices on agency websites used by the public.

(B) CONTENTS.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

- (i) what information is to be collected;
- (ii) why the information is being collected;
- (iii) the intended use of the agency of the information;
- (iv) with whom the information will be shared;
- (v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;
- (vi) how the information will be secured; and
- (vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the “Privacy Act”), and other laws relevant to the protection of the privacy of an individual.

(2) PRIVACY POLICIES IN MACHINE-READABLE FORMATS.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

Guidelines.

(d) DEFINITION.—In this section, the term “identifiable form” means any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.

SEC. 209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

44 USC 3501 note.

(a) PURPOSE.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

(b) WORKFORCE DEVELOPMENT.—

(1) IN GENERAL.—In consultation with the Director of the Office of Management and Budget, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(A) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(B) identify where current information technology and information resource management training do not satisfy the personnel needs described in subparagraph (A);

(C) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(D) assess the training of Federal employees in information technology disciplines in order to ensure that the information resource management needs of the Federal Government are addressed.

(2) INFORMATION TECHNOLOGY TRAINING PROGRAMS.—The head of each Executive agency, after consultation with the Director of the Office of Personnel Management, the Chief

Information Officers Council, and the Administrator of General Services, shall establish and operate information technology training programs consistent with the requirements of this subsection. Such programs shall—

(A) have curricula covering a broad range of information technology disciplines corresponding to the specific information technology and information resource management needs of the agency involved;

(B) be developed and applied according to rigorous standards; and

(C) be designed to maximize efficiency, through the use of self-paced courses, online courses, on-the-job training, and the use of remote instructors, wherever such features can be applied without reducing the effectiveness of the training or negatively impacting academic standards.

(3) GOVERNMENTWIDE POLICIES AND EVALUATION.—The Director of the Office of Personnel Management, in coordination with the Director of the Office of Management and Budget, shall issue policies to promote the development of performance standards for training and uniform implementation of this subsection by Executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Director of the Office of Personnel Management shall evaluate the implementation of the provisions of this subsection by Executive agencies.

(4) CHIEF INFORMATION OFFICER AUTHORITIES AND RESPONSIBILITIES.—Subject to the authority, direction, and control of the head of an Executive agency, the chief information officer of such agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementation of this subsection. The chief information officer shall ensure that the policies of the agency head established in accordance with this subsection are implemented throughout the agency.

Records.

(5) INFORMATION TECHNOLOGY TRAINING REPORTING.—The Director of the Office of Management and Budget shall ensure that the heads of Executive agencies collect and maintain standardized information on the information technology and information resources management workforce related to the implementation of this subsection.

Regulations.

(6) AUTHORITY TO DETAIL EMPLOYEES TO NON-FEDERAL EMPLOYERS.—In carrying out the preceding provisions of this subsection, the Director of the Office of Personnel Management may provide for a program under which a Federal employee may be detailed to a non-Federal employer. The Director of the Office of Personnel Management shall prescribe regulations for such program, including the conditions for service and duties as the Director considers necessary.

(7) COORDINATION PROVISION.—An assignment described in section 3703 of title 5, United States Code, may not be made unless a program under paragraph (6) is established, and the assignment is made in accordance with the requirements of such program.

(8) EMPLOYEE PARTICIPATION.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall

encourage employees to participate in occupational information technology training.

(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this subsection, \$15,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

(10) EXECUTIVE AGENCY DEFINED.—For purposes of this subsection, the term “Executive agency” has the meaning given the term “agency” under section 3701 of title 5, United States Code (as added by subsection (c)).

(c) INFORMATION TECHNOLOGY EXCHANGE PROGRAM.—

(1) IN GENERAL.—Subpart B of part III of title 5, United States Code, is amended by adding at the end the following:

“CHAPTER 37—INFORMATION TECHNOLOGY EXCHANGE PROGRAM

“Sec.

“3701. Definitions.

“3702. General provisions.

“3703. Assignment of employees to private sector organizations.

“3704. Assignment of employees from private sector organizations.

“3705. Application to Office of the Chief Technology Officer of the District of Columbia.

“3706. Reporting requirement.

“3707. Regulations.

“§ 3701. Definitions

“For purposes of this chapter—

“(1) the term ‘agency’ means an Executive agency, but does not include the General Accounting Office; and

“(2) the term ‘detail’ means—

“(A) the assignment or loan of an employee of an agency to a private sector organization without a change of position from the agency that employs the individual, or

“(B) the assignment or loan of an employee of a private sector organization to an agency without a change of position from the private sector organization that employs the individual,

whichever is appropriate in the context in which such term is used.

“§ 3702. General provisions

“(a) ASSIGNMENT AUTHORITY.—On request from or with the agreement of a private sector organization, and with the consent of the employee concerned, the head of an agency may arrange for the assignment of an employee of the agency to a private sector organization or an employee of a private sector organization to the agency. An eligible employee is an individual who—

“(1) works in the field of information technology management;

“(2) is considered an exceptional performer by the individual’s current employer; and

“(3) is expected to assume increased information technology management responsibilities in the future.

An employee of an agency shall be eligible to participate in this program only if the employee is employed at the GS-11 level

Eligibility.

or above (or equivalent) and is serving under a career or career-conditional appointment or an appointment of equivalent tenure in the excepted service, and applicable requirements of section 209(b) of the E-Government Act of 2002 are met with respect to the proposed assignment of such employee.

“(b) AGREEMENTS.—Each agency that exercises its authority under this chapter shall provide for a written agreement between the agency and the employee concerned regarding the terms and conditions of the employee’s assignment. In the case of an employee of the agency, the agreement shall—

“(1) require the employee to serve in the civil service, upon completion of the assignment, for a period equal to the length of the assignment; and

“(2) provide that, in the event the employee fails to carry out the agreement (except for good and sufficient reason, as determined by the head of the agency from which assigned) the employee shall be liable to the United States for payment of all expenses of the assignment.

An amount under paragraph (2) shall be treated as a debt due the United States.

“(c) TERMINATION.—Assignments may be terminated by the agency or private sector organization concerned for any reason at any time.

“(d) DURATION.—Assignments under this chapter shall be for a period of between 3 months and 1 year, and may be extended in 3-month increments for a total of not more than 1 additional year, except that no assignment under this chapter may commence after the end of the 5-year period beginning on the date of the enactment of this chapter.

“(e) ASSISTANCE.—The Chief Information Officers Council, by agreement with the Office of Personnel Management, may assist in the administration of this chapter, including by maintaining lists of potential candidates for assignment under this chapter, establishing mentoring relationships for the benefit of individuals who are given assignments under this chapter, and publicizing the program.

“(f) CONSIDERATIONS.—In exercising any authority under this chapter, an agency shall take into consideration—

“(1) the need to ensure that small business concerns are appropriately represented with respect to the assignments described in sections 3703 and 3704, respectively; and

“(2) how assignments described in section 3703 might best be used to help meet the needs of the agency for the training of employees in information technology management.

“§ 3703. Assignment of employees to private sector organizations

“(a) IN GENERAL.—An employee of an agency assigned to a private sector organization under this chapter is deemed, during the period of the assignment, to be on detail to a regular work assignment in his agency.

“(b) COORDINATION WITH CHAPTER 81.—Notwithstanding any other provision of law, an employee of an agency assigned to a private sector organization under this chapter is entitled to retain coverage, rights, and benefits under subchapter I of chapter 81, and employment during the assignment is deemed employment by the United States, except that, if the employee or the employee’s

dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

“(c) REIMBURSEMENTS.—The assignment of an employee to a private sector organization under this chapter may be made with or without reimbursement by the private sector organization for the travel and transportation expenses to or from the place of assignment, subject to the same terms and conditions as apply with respect to an employee of a Federal agency or a State or local government under section 3375, and for the pay, or a part thereof, of the employee during assignment. Any reimbursements shall be credited to the appropriation of the agency used for paying the travel and transportation expenses or pay.

“(d) TORT LIABILITY; SUPERVISION.—The Federal Tort Claims Act and any other Federal tort liability statute apply to an employee of an agency assigned to a private sector organization under this chapter. The supervision of the duties of an employee of an agency so assigned to a private sector organization may be governed by an agreement between the agency and the organization.

“(e) SMALL BUSINESS CONCERNS.—

“(1) IN GENERAL.—The head of each agency shall take such actions as may be necessary to ensure that, of the assignments made under this chapter from such agency to private sector organizations in each year, at least 20 percent are to small business concerns.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘small business concern’ means a business concern that satisfies the definitions and standards specified by the Administrator of the Small Business Administration under section 3(a)(2) of the Small Business Act (as from time to time amended by the Administrator);

“(B) the term ‘year’ refers to the 12-month period beginning on the date of the enactment of this chapter, and each succeeding 12-month period in which any assignments under this chapter may be made; and

“(C) the assignments ‘made’ in a year are those commencing in such year.

“(3) REPORTING REQUIREMENT.—An agency which fails to comply with paragraph (1) in a year shall, within 90 days after the end of such year, submit a report to the Committees on Government Reform and Small Business of the House of Representatives and the Committees on Governmental Affairs and Small Business of the Senate. The report shall include—

“(A) the total number of assignments made under this chapter from such agency to private sector organizations in the year;

“(B) of that total number, the number (and percentage) made to small business concerns; and

“(C) the reasons for the agency’s noncompliance with paragraph (1).

“(4) EXCLUSION.—This subsection shall not apply to an agency in any year in which it makes fewer than 5 assignments under this chapter to private sector organizations.

Deadline.

“§ 3704. Assignment of employees from private sector organizations

“(a) IN GENERAL.—An employee of a private sector organization assigned to an agency under this chapter is deemed, during the period of the assignment, to be on detail to such agency.

“(b) TERMS AND CONDITIONS.—An employee of a private sector organization assigned to an agency under this chapter—

“(1) may continue to receive pay and benefits from the private sector organization from which he is assigned;

“(2) is deemed, notwithstanding subsection (a), to be an employee of the agency for the purposes of—

“(A) chapter 73;

“(B) sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18;

“(C) sections 1343, 1344, and 1349(b) of title 31;

“(D) the Federal Tort Claims Act and any other Federal tort liability statute;

“(E) the Ethics in Government Act of 1978;

“(F) section 1043 of the Internal Revenue Code of 1986;

and

“(G) section 27 of the Office of Federal Procurement Policy Act;

“(3) may not have access to any trade secrets or to any other nonpublic information which is of commercial value to the private sector organization from which he is assigned; and

“(4) is subject to such regulations as the President may prescribe.

The supervision of an employee of a private sector organization assigned to an agency under this chapter may be governed by agreement between the agency and the private sector organization concerned. Such an assignment may be made with or without reimbursement by the agency for the pay, or a part thereof, of the employee during the period of assignment, or for any contribution of the private sector organization to employee benefit systems.

“(c) COORDINATION WITH CHAPTER 81.—An employee of a private sector organization assigned to an agency under this chapter who suffers disability or dies as a result of personal injury sustained while performing duties during the assignment shall be treated, for the purpose of subchapter I of chapter 81, as an employee as defined by section 8101 who had sustained the injury in the performance of duty, except that, if the employee or the employee’s dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

“(d) PROHIBITION AGAINST CHARGING CERTAIN COSTS TO THE FEDERAL GOVERNMENT.—A private sector organization may not charge the Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the organization to an employee assigned to an agency under this chapter for the period of the assignment.

“§ 3705. Application to Office of the Chief Technology Officer of the District of Columbia

“(a) IN GENERAL.—The Chief Technology Officer of the District of Columbia may arrange for the assignment of an employee of the Office of the Chief Technology Officer to a private sector organization, or an employee of a private sector organization to such Office, in the same manner as the head of an agency under this chapter.

“(b) TERMS AND CONDITIONS.—An assignment made pursuant to subsection (a) shall be subject to the same terms and conditions as an assignment made by the head of an agency under this chapter, except that in applying such terms and conditions to an assignment made pursuant to subsection (a), any reference in this chapter to a provision of law or regulation of the United States shall be deemed to be a reference to the applicable provision of law or regulation of the District of Columbia, including the applicable provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1-601.01 et seq., D.C. Official Code) and section 601 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act (sec. 1-1106.01, D.C. Official Code).

“(c) DEFINITION.—For purposes of this section, the term ‘Office of the Chief Technology Officer’ means the office established in the executive branch of the government of the District of Columbia under the Office of the Chief Technology Officer Establishment Act of 1998 (sec. 1-1401 et seq., D.C. Official Code).

“§ 3706. Reporting requirement

“(a) IN GENERAL.—The Office of Personnel Management shall, not later than April 30 and October 31 of each year, prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a semiannual report summarizing the operation of this chapter during the immediately preceding 6-month period ending on March 31 and September 30, respectively.

Deadline.

“(b) CONTENT.—Each report shall include, with respect to the 6-month period to which such report relates—

“(1) the total number of individuals assigned to, and the total number of individuals assigned from, each agency during such period;

“(2) a brief description of each assignment included under paragraph (1), including—

“(A) the name of the assigned individual, as well as the private sector organization and the agency (including the specific bureau or other agency component) to or from which such individual was assigned;

“(B) the respective positions to and from which the individual was assigned, including the duties and responsibilities and the pay grade or level associated with each; and

“(C) the duration and objectives of the individual’s assignment; and

“(3) such other information as the Office considers appropriate.

“(c) PUBLICATION.—A copy of each report submitted under subsection (a)—

“(1) shall be published in the Federal Register; and

Federal Register, publication.

Public information.

“(2) shall be made publicly available on the Internet.

“(d) AGENCY COOPERATION.—On request of the Office, agencies shall furnish such information and reports as the Office may require in order to carry out this section.

“§ 3707. Regulations

Deadline.

“The Director of the Office of Personnel Management shall prescribe regulations for the administration of this chapter.”.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the General Accounting Office shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the operation of chapter 37 of title 5, United States Code (as added by this subsection). Such report shall include—

(A) an evaluation of the effectiveness of the program established by such chapter; and

(B) a recommendation as to whether such program should be continued (with or without modification) or allowed to lapse.

(3) CLERICAL AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 35 the following:

“37. Information Technology Exchange Program 3701”.

(d) ETHICS PROVISIONS.—

(1) ONE-YEAR RESTRICTION ON CERTAIN COMMUNICATIONS.—Section 207(c)(2)(A) of title 18, United States Code, is amended—

(A) by striking “or” at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting “; or”; and

(C) by adding at the end the following:

“(v) assigned from a private sector organization to an agency under chapter 37 of title 5.”.

(2) DISCLOSURE OF CONFIDENTIAL INFORMATION.—Section 1905 of title 18, United States Code, is amended by inserting “or being an employee of a private sector organization who is or was assigned to an agency under chapter 37 of title 5,” after “(15 U.S.C. 1311-1314).”.

(3) CONTRACT ADVICE.—Section 207 of title 18, United States Code, is amended by adding at the end the following:

“(1) CONTRACT ADVICE BY FORMER DETAILS.—Whoever, being an employee of a private sector organization assigned to an agency under chapter 37 of title 5, within one year after the end of that assignment, knowingly represents or aids, counsels, or assists in representing any other person (except the United States) in connection with any contract with that agency shall be punished as provided in section 216 of this title.”.

(4) RESTRICTION ON DISCLOSURE OF PROCUREMENT INFORMATION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended in subsection (a)(1) by adding at the end the following new sentence: “In the case of an employee of a private sector organization assigned to an agency under chapter 37 of title 5, United States Code, in addition to the restriction in the preceding sentence, such employee shall not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection

information during the three-year period after the end of the assignment of such employee.”

(e) REPORT ON EXISTING EXCHANGE PROGRAMS.—

(1) EXCHANGE PROGRAM DEFINED.—For purposes of this subsection, the term “exchange program” means an executive exchange program, the program under subchapter VI of chapter 33 of title 5, United States Code, and any other program which allows for—

(A) the assignment of employees of the Federal Government to non-Federal employers;

(B) the assignment of employees of non-Federal employers to the Federal Government; or

(C) both.

(2) REPORTING REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Office of Personnel Management shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report identifying all existing exchange programs.

Deadline.

(3) SPECIFIC INFORMATION.—The report shall, for each such program, include—

(A) a brief description of the program, including its size, eligibility requirements, and terms or conditions for participation;

(B) specific citation to the law or other authority under which the program is established;

(C) the names of persons to contact for more information, and how they may be reached; and

(D) any other information which the Office considers appropriate.

(f) REPORT ON THE ESTABLISHMENT OF A GOVERNMENTWIDE INFORMATION TECHNOLOGY TRAINING PROGRAM.—

(1) IN GENERAL.—Not later January 1, 2003, the Office of Personnel Management, in consultation with the Chief Information Officers Council and the Administrator of General Services, shall review and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a written report on the following:

Deadline.

(A) The adequacy of any existing information technology training programs available to Federal employees on a Governmentwide basis.

(B)(i) If one or more such programs already exist, recommendations as to how they might be improved.

(ii) If no such program yet exists, recommendations as to how such a program might be designed and established.

(C) With respect to any recommendations under subparagraph (B), how the program under chapter 37 of title 5, United States Code, might be used to help carry them out.

(2) COST ESTIMATE.—The report shall, for any recommended program (or improvements) under paragraph (1)(B), include the estimated costs associated with the implementation and operation of such program as so established (or estimated difference in costs of any such program as so improved).

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(A) in section 3111, by adding at the end the following:

“(d) Notwithstanding section 1342 of title 31, the head of an agency may accept voluntary service for the United States under chapter 37 of this title and regulations of the Office of Personnel Management.”;

(B) in section 4108, by striking subsection (d); and

(C) in section 7353(b), by adding at the end the following:

“(4) Nothing in this section precludes an employee of a private sector organization, while assigned to an agency under chapter 37, from continuing to receive pay and benefits from such organization in accordance with such chapter.”.

(2) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Section 209 of title 18, United States Code, is amended by adding at the end the following:

“(g)(1) This section does not prohibit an employee of a private sector organization, while assigned to an agency under chapter 37 of title 5, from continuing to receive pay and benefits from such organization in accordance with such chapter.

“(2) For purposes of this subsection, the term ‘agency’ means an agency (as defined by section 3701 of title 5) and the Office of the Chief Technology Officer of the District of Columbia.”.

(3) OTHER AMENDMENTS.—Section 125(c)(1) of Public Law 100-238 (5 U.S.C. 8432 note) is amended—

(A) in subparagraph (B), by striking “or” at the end;

(B) in subparagraph (C), by striking “and” at the end and inserting “or”; and

(C) by adding at the end the following:

“(D) an individual assigned from a Federal agency to a private sector organization under chapter 37 of title 5, United States Code; and”.

44 USC 3501
note.

SEC. 210. SHARE-IN-SAVINGS INITIATIVES.

(a) DEFENSE CONTRACTS.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2332. Share-in-savings contracts

“(a) AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS CONTRACTS.—(1) The head of an agency may enter into a share-in-savings contract for information technology (as defined in section 11101(6) of title 40) in which the Government awards a contract to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance.

“(2)(A) Except as provided in subparagraph (B), a share-in-savings contract shall be awarded for a period of not more than five years.

“(B) A share-in-savings contract may be awarded for a period greater than five years, but not more than 10 years, if the head of the agency determines in writing prior to award of the contract that—

“(i) the level of risk to be assumed and the investment to be undertaken by the contractor is likely to inhibit the government from obtaining the needed information technology

competitively at a fair and reasonable price if the contract is limited in duration to a period of five years or less; and

“(ii) usage of the information technology to be acquired is likely to continue for a period of time sufficient to generate reasonable benefit for the government.

“(3) Contracts awarded pursuant to the authority of this section shall, to the maximum extent practicable, be performance-based contracts that identify objective outcomes and contain performance standards that will be used to measure achievement and milestones that must be met before payment is made.

“(4) Contracts awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline that is to be the basis upon which a savings share ratio is established that governs the amount of payment a contractor is to receive under the contract. Before commencement of performance of such a contract, the senior procurement executive of the agency shall determine in writing that the terms of the provision are quantifiable and will likely yield value to the Government.

“(5)(A) The head of the agency may retain savings realized through the use of a share-in-savings contract under this section that are in excess of the total amount of savings paid to the contractor under the contract, but may not retain any portion of such savings that is attributable to a decrease in the number of civilian employees of the Federal Government performing the function. Except as provided in subparagraph (B), savings shall be credited to the appropriation or fund against which charges were made to carry out the contract and shall be used for information technology.

“(B) Amounts retained by the agency under this subsection shall—

“(i) without further appropriation, remain available until expended; and

“(ii) be applied first to fund any contingent liabilities associated with share-in-savings procurements that are not fully funded.

“(b) CANCELLATION AND TERMINATION.—(1) If funds are not made available for the continuation of a share-in-savings contract entered into under this section in a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid out of—

“(A) appropriations available for the performance of the contract;

“(B) appropriations available for acquisition of the information technology procured under the contract, and not otherwise obligated; or

“(C) funds subsequently appropriated for payments of costs of cancellation or termination, subject to the limitations in paragraph (3).

“(2) The amount payable in the event of cancellation or termination of a share-in-savings contract shall be negotiated with the contractor at the time the contract is entered into.

“(3)(A) Subject to subparagraph (B), the head of an agency may enter into share-in-savings contracts under this section in any given fiscal year even if funds are not made specifically available for the full costs of cancellation or termination of the contract if funds are available and sufficient to make payments with respect to the first fiscal year of the contract and the following conditions

are met regarding the funding of cancellation and termination liability:

“(i) The amount of unfunded contingent liability for the contract does not exceed the lesser of—

“(I) 25 percent of the estimated costs of a cancellation or termination; or

“(II) \$5,000,000.

“(ii) Unfunded contingent liability in excess of \$1,000,000 has been approved by the Director of the Office of Management and Budget or the Director’s designee.

“(B) The aggregate number of share-in-savings contracts that may be entered into under subparagraph (A) by all agencies to which this chapter applies in a fiscal year may not exceed 5 in each of fiscal years 2003, 2004, and 2005.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘contractor’ means a private entity that enters into a contract with an agency.

“(2) The term ‘savings’ means—

“(A) monetary savings to an agency; or

“(B) savings in time or other benefits realized by the agency, including enhanced revenues (other than enhanced revenues from the collection of fees, taxes, debts, claims, or other amounts owed the Federal Government).

“(3) The term ‘share-in-savings contract’ means a contract under which—

“(A) a contractor provides solutions for—

“(i) improving the agency’s mission-related or administrative processes; or

“(ii) accelerating the achievement of agency missions; and

“(B) the head of the agency pays the contractor an amount equal to a portion of the savings derived by the agency from—

“(i) any improvements in mission-related or administrative processes that result from implementation of the solution; or

“(ii) acceleration of achievement of agency missions.

“(d) TERMINATION.—No share-in-savings contracts may be entered into under this section after September 30, 2005.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end of the following new item:

“2332. Share-in-savings contracts.”.

(b) OTHER CONTRACTS.—Title III of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end the following:

41 USC 266a.

“SEC. 317. SHARE-IN-SAVINGS CONTRACTS.

“(a) AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS CONTRACTS.—(1) The head of an executive agency may enter into a share-in-savings contract for information technology (as defined in section 11101(6) of title 40, United States Code) in which the Government awards a contract to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance.

“(2)(A) Except as provided in subparagraph (B), a share-in-savings contract shall be awarded for a period of not more than five years.

“(B) A share-in-savings contract may be awarded for a period greater than five years, but not more than 10 years, if the head of the agency determines in writing prior to award of the contract that—

“(i) the level of risk to be assumed and the investment to be undertaken by the contractor is likely to inhibit the government from obtaining the needed information technology competitively at a fair and reasonable price if the contract is limited in duration to a period of five years or less; and

“(ii) usage of the information technology to be acquired is likely to continue for a period of time sufficient to generate reasonable benefit for the government.

“(3) Contracts awarded pursuant to the authority of this section shall, to the maximum extent practicable, be performance-based contracts that identify objective outcomes and contain performance standards that will be used to measure achievement and milestones that must be met before payment is made.

“(4) Contracts awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline that is to be the basis upon which a savings share ratio is established that governs the amount of payment a contractor is to receive under the contract. Before commencement of performance of such a contract, the senior procurement executive of the agency shall determine in writing that the terms of the provision are quantifiable and will likely yield value to the Government.

“(5)(A) The head of the agency may retain savings realized through the use of a share-in-savings contract under this section that are in excess of the total amount of savings paid to the contractor under the contract, but may not retain any portion of such savings that is attributable to a decrease in the number of civilian employees of the Federal Government performing the function. Except as provided in subparagraph (B), savings shall be credited to the appropriation or fund against which charges were made to carry out the contract and shall be used for information technology.

“(B) Amounts retained by the agency under this subsection shall—

“(i) without further appropriation, remain available until expended; and

“(ii) be applied first to fund any contingent liabilities associated with share-in-savings procurements that are not fully funded.

“(b) CANCELLATION AND TERMINATION.—(1) If funds are not made available for the continuation of a share-in-savings contract entered into under this section in a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid out of—

“(A) appropriations available for the performance of the contract;

“(B) appropriations available for acquisition of the information technology procured under the contract, and not otherwise obligated; or

“(C) funds subsequently appropriated for payments of costs of cancellation or termination, subject to the limitations in paragraph (3).

“(2) The amount payable in the event of cancellation or termination of a share-in-savings contract shall be negotiated with the contractor at the time the contract is entered into.

“(3)(A) Subject to subparagraph (B), the head of an executive agency may enter into share-in-savings contracts under this section in any given fiscal year even if funds are not made specifically available for the full costs of cancellation or termination of the contract if funds are available and sufficient to make payments with respect to the first fiscal year of the contract and the following conditions are met regarding the funding of cancellation and termination liability:

“(i) The amount of unfunded contingent liability for the contract does not exceed the lesser of—

“(I) 25 percent of the estimated costs of a cancellation or termination; or

“(II) \$5,000,000.

“(ii) Unfunded contingent liability in excess of \$1,000,000 has been approved by the Director of the Office of Management and Budget or the Director’s designee.

“(B) The aggregate number of share-in-savings contracts that may be entered into under subparagraph (A) by all executive agencies to which this chapter applies in a fiscal year may not exceed 5 in each of fiscal years 2003, 2004, and 2005.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘contractor’ means a private entity that enters into a contract with an agency.

“(2) The term ‘savings’ means—

“(A) monetary savings to an agency; or

“(B) savings in time or other benefits realized by the agency, including enhanced revenues (other than enhanced revenues from the collection of fees, taxes, debts, claims, or other amounts owed the Federal Government).

“(3) The term ‘share-in-savings contract’ means a contract under which—

“(A) a contractor provides solutions for—

“(i) improving the agency’s mission-related or administrative processes; or

“(ii) accelerating the achievement of agency missions; and

“(B) the head of the agency pays the contractor an amount equal to a portion of the savings derived by the agency from—

“(i) any improvements in mission-related or administrative processes that result from implementation of the solution; or

“(ii) acceleration of achievement of agency missions.

“(d) TERMINATION.—No share-in-savings contracts may be entered into under this section after September 30, 2005.”.

(c) DEVELOPMENT OF INCENTIVES.—The Director of the Office of Management and Budget shall, in consultation with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and executive agencies, develop techniques to permit an executive agency to retain

a portion of the savings (after payment of the contractor's share of the savings) derived from share-in-savings contracts as funds are appropriated to the agency in future fiscal years.

(d) REGULATIONS.—Not later than 270 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to implement the provisions enacted by this section. Such revisions shall—

Deadline.

(1) provide for the use of competitive procedures in the selection and award of share-in-savings contracts to—

(A) ensure the contractor's share of savings reflects the risk involved and market conditions; and

(B) otherwise yield greatest value to the government; and

(2) allow appropriate regulatory flexibility to facilitate the use of share-in-savings contracts by executive agencies, including the use of innovative provisions for technology refreshment and nonstandard Federal Acquisition Regulation contract clauses.

(e) ADDITIONAL GUIDANCE.—The Administrator of General Services shall—

(1) identify potential opportunities for the use of share-in-savings contracts; and

(2) in consultation with the Director of the Office of Management and Budget, provide guidance to executive agencies for determining mutually beneficial savings share ratios and baselines from which savings may be measured.

(f) OMB REPORT TO CONGRESS.—In consultation with executive agencies, the Director of the Office of Management and Budget shall, not later than 2 years after the date of the enactment of this Act, submit to Congress a report containing—

Deadline.

(1) a description of the number of share-in-savings contracts entered into by each executive agency under by this section and the amendments made by this section, and, for each contract identified—

(A) the information technology acquired;

(B) the total amount of payments made to the contractor; and

(C) the total amount of savings or other measurable benefits realized;

(2) a description of the ability of agencies to determine the baseline costs of a project against which savings can be measured; and

(3) any recommendations, as the Director deems appropriate, regarding additional changes in law that may be necessary to ensure effective use of share-in-savings contracts by executive agencies.

(g) GAO REPORT TO CONGRESS.—The Comptroller General shall, not later than 6 months after the report required under subsection (f) is submitted to Congress, conduct a review of that report and submit to Congress a report containing—

Deadline.

(1) the results of the review;

(2) an independent assessment by the Comptroller General of the effectiveness of the use of share-in-savings contracts in improving the mission-related and administrative processes of the executive agencies and the achievement of agency missions; and

(3) a recommendation on whether the authority to enter into share-in-savings contracts should be continued.

(h) REPEAL OF SHARE-IN-SAVINGS PILOT PROGRAM.—

(1) REPEAL.—Section 11521 of title 40, United States Code, is repealed.

(2) CONFORMING AMENDMENTS TO PILOT PROGRAM AUTHORITY.—

(A) Section 11501 of title 40, United States Code, is amended—

(i) in the section heading, by striking “**PROGRAMS**” and inserting “**PROGRAM**”;

(ii) in subsection (a)(1), by striking “conduct pilot programs” and inserting “conduct a pilot program pursuant to the requirements of section 11521 of this title”;

(iii) in subsection (a)(2), by striking “each pilot program” and inserting “the pilot program”;

(iv) in subsection (b), by striking “LIMITATIONS.—” and all that follows through “\$750,000,000.” and inserting the following: “LIMITATION ON AMOUNT.—The total amount obligated for contracts entered into under the pilot program conducted under this chapter may not exceed \$375,000,000.”; and

(v) in subsection (c)(1), by striking “a pilot” and inserting “the pilot”.

(B) The following provisions of chapter 115 of such title are each amended by striking “a pilot” each place it appears and inserting “the pilot”:

(i) Section 11502(a).

(ii) Section 11502(b).

(iii) Section 11503(a).

(iv) Section 11504.

(C) Section 11505 of such chapter is amended by striking “programs” and inserting “program”.

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Section 11522 of title 40, United States Code, is redesignated as section 11521.

(B) The chapter heading for chapter 115 of such title is amended by striking “**PROGRAMS**” and inserting “**PROGRAM**”.

(C) The subchapter heading for subchapter I and for subchapter II of such chapter are each amended by striking “**PROGRAMS**” and inserting “**PROGRAM**”.

(D) The item relating to subchapter I in the table of sections at the beginning of such chapter is amended to read as follows:

“SUBCHAPTER I—CONDUCT OF PILOT PROGRAM”.

(E) The item relating to subchapter II in the table of sections at the beginning of such chapter is amended to read as follows:

“SUBCHAPTER II—SPECIFIC PILOT PROGRAM”.

(F) The item relating to section 11501 in the table of sections at the beginning of such is amended by striking “programs” and inserting “program”.

(G) The table of sections at the beginning of such chapter is amended by striking the item relating to section 11521 and redesignating the item relating to section 11522 as section 11521.

(H) The item relating to chapter 115 in the table of chapters for subtitle III of title 40, United States Code, is amended to read as follows:

“115. INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAM11501”.

(i) DEFINITIONS.—In this section, the terms “contractor”, “savings”, and “share-in-savings contract” have the meanings given those terms in section 317 of the Federal Property and Administrative Services Act of 1949 (as added by subsection (b)).

SEC. 211. AUTHORIZATION FOR ACQUISITION OF INFORMATION TECHNOLOGY BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL SUPPLY SCHEDULES.

44 USC 3501
note.

(a) AUTHORITY TO USE CERTAIN SUPPLY SCHEDULES.—Section 502 of title 40, United States Code, is amended by adding at the end the following new subsection:

“(c) USE OF CERTAIN SUPPLY SCHEDULES.—

“(1) IN GENERAL.—The Administrator may provide for the use by State or local governments of Federal supply schedules of the General Services Administration for automated data processing equipment (including firmware), software, supplies, support equipment, and services (as contained in Federal supply classification code group 70).

“(2) VOLUNTARY USE.—In any case of the use by a State or local government of a Federal supply schedule pursuant to paragraph (1), participation by a firm that sells to the Federal Government through the supply schedule shall be voluntary with respect to a sale to the State or local government through such supply schedule.

“(3) DEFINITIONS.—In this subsection:

“(A) The term ‘State or local government’ includes any State, local, regional, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education).

“(B) The term ‘tribal government’ means—

“(i) the governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and

“(ii) any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

“(C) The term ‘local educational agency’ has the meaning given that term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).

“(D) The term ‘institution of higher education’ has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).”.

(b) PROCEDURES.—Not later than 30 days after the date of the enactment of this Act, the Administrator of General Services shall establish procedures to implement section 501(c) of title 40, United States Code (as added by subsection (a)).

Deadline.

Deadline. (c) **REPORT.**—Not later than December 31, 2004, the Administrator shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the implementation and effects of the amendment made by subsection (a).

44 USC 3501
note.

SEC. 212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) **PURPOSES.**—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) **DEFINITIONS.**—In this section, the term—

(1) “agency” means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) “person” means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) **REPORT.**—

Deadline.

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) **CONTENTS.**—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make any recommendations that the Director deems appropriate on the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) **PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.**—

(1) **IN GENERAL.**—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

(2) **GOALS OF PILOT PROJECTS.**—

(A) **IN GENERAL.**—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) **GOALS.**—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

(3) **INPUT.**—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) **PROTECTIONS.**—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

(2) personal privacy information under sections 552(b) (6) and (7)(C) and 552a of title 5, United States Code, and other relevant law;

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law; and

(4) confidential statistical information collected under a confidentiality pledge, solely for statistical purposes, consistent with the Office of Management and Budget's Federal Statistical Confidentiality Order, and other relevant law.

SEC. 213. COMMUNITY TECHNOLOGY CENTERS.

(a) **PURPOSES.**—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

44 USC 3501
note.

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

Deadline.

(b) STUDY AND REPORT.—Not later than 2 years after the effective date of this title, the Administrator shall—

(1) ensure that a study is conducted to evaluate the best practices of community technology centers that have received Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) CONTENTS.—The report under subsection (b) may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers that have received Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) COOPERATION.—All agencies that fund community technology centers shall provide to the Administrator any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) TYPES OF ASSISTANCE.—Assistance under this subsection may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) ONLINE TUTORIAL.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, the Director of the Institute of Museum and Library Services, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) DISTRIBUTION.—The Administrator, with assistance from the Secretary of Education, shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.—The Administrator, with assistance from the Department of Education and in consultation with other agencies and organizations, shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

(1) \$2,000,000 in fiscal year 2003;

(2) \$2,000,000 in fiscal year 2004; and

(3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

44 USC 3501
note.

(a) PURPOSE.—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

(b) IN GENERAL.—

(1) STUDY ON ENHANCEMENT OF CRISIS RESPONSE.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Federal Emergency Management Agency, shall ensure that a study is conducted on using information technology to enhance crisis preparedness, response, and consequence management of natural and man-made disasters.

Deadline.

(2) CONTENTS.—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and

consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

Deadline.

(3) REPORT.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Administrator shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(4) INTERAGENCY COOPERATION.—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Administrator in carrying out this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) PILOT PROJECTS.—Based on the results of the research conducted under subsection (b), the Administrator, in consultation with the Federal Emergency Management Agency, shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Administrator shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

44 USC 3501
note.
Deadlines.

SEC. 215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) STUDY AND REPORT.—

(1) STUDY.—Not later than 90 days after the date of enactment of this Act, the Administrator of General Services shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator of General Services shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

(b) CONTENTS.—The report under subsection (a) shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) RECOMMENDATIONS.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$950,000 in fiscal year 2003 to carry out this section.

SEC. 216. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

44 USC 3501
note.

(a) PURPOSES.—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) DEFINITION.—In this section, the term “geographic information” means information systems that involve locational data, such as maps or other geospatial information resources.

(c) IN GENERAL.—

(1) COMMON PROTOCOLS.—The Administrator, in consultation with the Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Administrator shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) INTERAGENCY GROUP.—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) DIRECTOR.—The Director shall oversee—

(1) the interagency initiative to develop common protocols;

(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) the adoption of common standards relating to the protocols.

(e) COMMON PROTOCOLS.—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

Federal
Information
Security
Management
Act of 2002.

44 USC 101 note.

TITLE III—INFORMATION SECURITY

SEC. 301. INFORMATION SECURITY.

(a) SHORT TITLE.—This title may be cited as the “Federal Information Security Management Act of 2002”.

(b) INFORMATION SECURITY.—

(1) IN GENERAL.—Chapter 35 of title 44, United States Code, is amended by adding at the end the following new subchapter:

“SUBCHAPTER III—INFORMATION SECURITY

“§ 3541. Purposes

“The purposes of this subchapter are to—

“(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

“(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

“(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

“(4) provide a mechanism for improved oversight of Federal agency information security programs;

“(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

“(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.

“§ 3542. Definitions

“(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

“(b) ADDITIONAL DEFINITIONS.—As used in this subchapter:

“(1) The term ‘information security’ means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

“(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

“(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and

“(C) availability, which means ensuring timely and reliable access to and use of information.

“(2)(A) The term ‘national security system’ means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

“(i) the function, operation, or use of which—

“(I) involves intelligence activities;

“(II) involves cryptologic activities related to national security;

“(III) involves command and control of military forces;

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

“(V) subject to subparagraph (B), is critical to the direct fulfillment of military or intelligence missions; or

“(ii) is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

“(B) Subparagraph (A)(i)(V) does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

“(3) The term ‘information technology’ has the meaning given that term in section 11101 of title 40.

“§ 3543. Authority and functions of the Director

“(a) IN GENERAL.—The Director shall oversee agency information security policies and practices, including—

“(1) developing and overseeing the implementation of policies, principles, standards, and guidelines on information security, including through ensuring timely agency adoption of and compliance with standards promulgated under section 11331 of title 40;

“(2) requiring agencies, consistent with the standards promulgated under such section 11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the

harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

“(A) information collected or maintained by or on behalf of an agency; or

“(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

“(3) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

“(4) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303 of title 40, to enforce accountability for compliance with such requirements;

“(5) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3544(b);

“(6) coordinating information security policies and procedures with related information resources management policies and procedures;

“(7) overseeing the operation of the Federal information security incident center required under section 3546; and

“(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

“(A) a summary of the findings of evaluations required by section 3545;

“(B) an assessment of the development, promulgation, and adoption of, and compliance with, standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 11331 of title 40;

“(C) significant deficiencies in agency information security practices;

“(D) planned remedial action to address such deficiencies; and

“(E) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(d)(10) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

“(b) NATIONAL SECURITY SYSTEMS.—Except for the authorities described in paragraphs (4) and (8) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

“(c) DEPARTMENT OF DEFENSE AND CENTRAL INTELLIGENCE AGENCY SYSTEMS.—(1) The authorities of the Director described in paragraphs (1) and (2) of subsection (a) shall be delegated to the Secretary of Defense in the case of systems described in paragraph (2) and to the Director of Central Intelligence in the case of systems described in paragraph (3).

“(2) The systems described in this paragraph are systems that are operated by the Department of Defense, a contractor of the Department of Defense, or another entity on behalf of the Department of Defense that processes any information the unauthorized access, use, disclosure, disruption, modification, or destruction of which would have a debilitating impact on the mission of the Department of Defense.

“(3) The systems described in this paragraph are systems that are operated by the Central Intelligence Agency, a contractor of the Central Intelligence Agency, or another entity on behalf of the Central Intelligence Agency that processes any information the unauthorized access, use, disclosure, disruption, modification, or destruction of which would have a debilitating impact on the mission of the Central Intelligence Agency.

“§ 3544. Federal agency responsibilities

“(a) IN GENERAL.—The head of each agency shall—

“(1) be responsible for—

“(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

“(i) information collected or maintained by or on behalf of the agency; and

“(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

“(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

“(i) information security standards promulgated under section 11331 of title 40; and

“(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

“(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

“(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

“(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

“(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40, for information security classifications and related requirements;

“(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

“(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

“(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

“(A) designating a senior agency information security officer who shall—

“(i) carry out the Chief Information Officer’s responsibilities under this section;

“(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

“(iii) have information security duties as that official’s primary duty; and

“(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

“(B) developing and maintaining an agencywide information security program as required by subsection (b);

“(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3543 of this title, and section 11331 of title 40;

“(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

“(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

“(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

“(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

“(b) AGENCY PROGRAM.—Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3543(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

“(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

“(2) policies and procedures that—

“(A) are based on the risk assessments required by paragraph (1);

“(B) cost-effectively reduce information security risks to an acceptable level;

“(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

“(D) ensure compliance with—

“(i) the requirements of this subchapter;

“(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

“(iii) minimally acceptable system configuration requirements, as determined by the agency; and

“(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

“(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

“(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

“(A) information security risks associated with their activities; and

“(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

“(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

“(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

“(B) may include testing relied on in a evaluation under section 3545;

“(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

“(7) procedures for detecting, reporting, and responding to security incidents, consistent with standards and guidelines issued pursuant to section 3546(b), including—

“(A) mitigating risks associated with such incidents before substantial damage is done;

“(B) notifying and consulting with the Federal information security incident center referred to in section 3546; and

“(C) notifying and consulting with, as appropriate—

“(i) law enforcement agencies and relevant Offices of Inspector General;

“(ii) an office designated by the President for any incident involving a national security system; and

“(iii) any other agency or office, in accordance with law or as directed by the President; and

“(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

“(c) AGENCY REPORTING.—Each agency shall—

“(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate

authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

“(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

“(A) annual agency budgets;

“(B) information resources management under subchapter 1 of this chapter;

“(C) information technology management under subtitle III of title 40;

“(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

“(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101-576) (and the amendments made by that Act);

“(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

“(G) internal accounting and administrative controls under section 3512 of title 31, (known as the ‘Federal Managers Financial Integrity Act’); and

“(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

“(A) as a material weakness in reporting under section 3512 of title 31; and

“(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

“(d) PERFORMANCE PLAN.—(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

“(A) the time periods, and

“(B) the resources, including budget, staffing, and training, that are necessary to implement the program required under subsection (b).

“(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

“(e) PUBLIC NOTICE AND COMMENT.—Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

“§ 3545. Annual independent evaluation

“(a) IN GENERAL.—(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

“(2) Each evaluation under this section shall include—

“(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency’s information systems;

“(B) an assessment (made on the basis of the results of the testing) of compliance with—

“(i) the requirements of this subchapter; and

“(ii) related information security policies, procedures, standards, and guidelines; and

“(C) separate presentations, as appropriate, regarding information security relating to national security systems.

“(b) INDEPENDENT AUDITOR.—Subject to subsection (c)—

“(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

“(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

“(c) NATIONAL SECURITY SYSTEMS.—For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

“(1) only by an entity designated by the agency head; and

“(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

“(d) EXISTING EVALUATIONS.—The evaluation required by this section may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

“(e) AGENCY REPORTING.—(1) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

Deadline.

“(2) To the extent an evaluation required under this section directly relates to a national security system, the evaluation results submitted to the Director shall contain only a summary and assessment of that portion of the evaluation directly relating to a national security system.

“(f) PROTECTION OF INFORMATION.—Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

“(g) OMB REPORTS TO CONGRESS.—(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3543(a)(8).

“(2) The Director’s report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

“(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central

Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

Reports.

“(h) COMPTROLLER GENERAL.—The Comptroller General shall periodically evaluate and report to Congress on—

“(1) the adequacy and effectiveness of agency information security policies and practices; and

“(2) implementation of the requirements of this subchapter.

“§ 3546. Federal information security incident center

“(a) IN GENERAL.—The Director shall ensure the operation of a central Federal information security incident center to—

“(1) provide timely technical assistance to operators of agency information systems regarding security incidents, including guidance on detecting and handling information security incidents;

“(2) compile and analyze information about incidents that threaten information security;

“(3) inform operators of agency information systems about current and potential information security threats, and vulnerabilities; and

“(4) consult with the National Institute of Standards and Technology, agencies or offices operating or exercising control of national security systems (including the National Security Agency), and such other agencies or offices in accordance with law and as directed by the President regarding information security incidents and related matters.

“(b) NATIONAL SECURITY SYSTEMS.—Each agency operating or exercising control of a national security system shall share information about information security incidents, threats, and vulnerabilities with the Federal information security incident center to the extent consistent with standards and guidelines for national security systems, issued in accordance with law and as directed by the President.

“§ 3547. National security systems

“The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

“(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

“(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

“(3) complies with the requirements of this subchapter.

“§ 3548. Authorization of appropriations

“There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

“§ 3549. Effect on existing law

“Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards and Technology Act (15 U.S.C. 278g-3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to the Congress or the Comptroller General of the United States. While this subchapter is in effect, subchapter II of this chapter shall not apply.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter 35 is amended by adding at the end the following:

“SUBCHAPTER III—INFORMATION SECURITY

“Sec.

“3541. Purposes.

“3542. Definitions.

“3543. Authority and functions of the Director.

“3544. Federal agency responsibilities.

“3545. Annual independent evaluation.

“3546. Federal information security incident center.

“3547. National security systems.

“3548. Authorization of appropriations.

“3549. Effect on existing law.”

(c) INFORMATION SECURITY RESPONSIBILITIES OF CERTAIN AGENCIES.—

(1) NATIONAL SECURITY RESPONSIBILITIES.—(A) Nothing in this Act (including any amendment made by this Act) shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3542(b)(2) of title 44, United States Code.

44 USC 3501
note.

(B) Section 2224 of title 10, United States Code, is amended—

(i) in subsection (b), by striking “(b) OBJECTIVES AND MINIMUM REQUIREMENTS.—(1)” and inserting “(b) OBJECTIVES OF THE PROGRAM.—”;

(ii) in subsection (b), by striking paragraph (2); and

(iii) in subsection (c), in the matter preceding paragraph (1), by inserting “, including through compliance with subchapter III of chapter 35 of title 44” after “infrastructure”.

(2) ATOMIC ENERGY ACT OF 1954.—Nothing in this Act shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted data or formerly restricted data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

44 USC 3501
note.

SEC. 302. MANAGEMENT OF INFORMATION TECHNOLOGY.

(a) **IN GENERAL.**—Section 11331 of title 40, United States Code, is amended to read as follows:

“§ 11331. Responsibilities for Federal information systems standards

“(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). Deadline.

“(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.”

(b) CLERICAL AMENDMENT.—The item relating to section 11331 in the table of sections at the beginning of chapter 113 of such title is amended to read as follows:

“11331. Responsibilities for Federal information systems standards.”

SEC. 303. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3), is amended by striking the text and inserting the following:

“(a) IN GENERAL.—The Institute shall—

“(1) have the mission of developing standards, guidelines, and associated methods and techniques for information systems;

“(2) develop standards and guidelines, including minimum requirements, for information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency, other than national security systems (as defined in section 3542(b)(2) of title 44, United States Code); and

“(3) develop standards and guidelines, including minimum requirements, for providing adequate information security for all agency operations and assets, but such standards and guidelines shall not apply to national security systems.

“(b) MINIMUM REQUIREMENTS FOR STANDARDS AND GUIDELINES.—The standards and guidelines required by subsection (a) shall include, at a minimum—

“(1)(A) standards to be used by all agencies to categorize all information and information systems collected or maintained by or on behalf of each agency based on the objectives of providing appropriate levels of information security according to a range of risk levels;

“(B) guidelines recommending the types of information and information systems to be included in each such category; and

“(C) minimum information security requirements for information and information systems in each such category;

“(2) a definition of and guidelines concerning detection and handling of information security incidents; and

“(3) guidelines developed in conjunction with the Department of Defense, including the National Security Agency, for identifying an information system as a national security system consistent with applicable requirements for national security systems, issued in accordance with law and as directed by the President.

“(c) DEVELOPMENT OF STANDARDS AND GUIDELINES.—In developing standards and guidelines required by subsections (a) and (b), the Institute shall—

“(1) consult with other agencies and offices and the private sector (including the Director of the Office of Management and Budget, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, and the Secretary of Homeland Security) to assure—

“(A) use of appropriate information security policies, procedures, and techniques, in order to improve information security and avoid unnecessary and costly duplication of effort; and

“(B) that such standards and guidelines are complementary with standards and guidelines employed for the protection of national security systems and information contained in such systems;

“(2) provide the public with an opportunity to comment on proposed standards and guidelines;

Deadlines.

“(3) submit to the Secretary of Commerce for promulgation under section 11331 of title 40, United States Code—

“(A) standards, as required under subsection (b)(1)(A), no later than 12 months after the date of the enactment of this section; and

“(B) minimum information security requirements for each category, as required under subsection (b)(1)(C), no later than 36 months after the date of the enactment of this section;

Deadline.

“(4) issue guidelines as required under subsection (b)(1)(B), no later than 18 months after the date of the enactment of this section;

“(5) to the maximum extent practicable, ensure that such standards and guidelines do not require the use or procurement of specific products, including any specific hardware or software;

“(6) to the maximum extent practicable, ensure that such standards and guidelines provide for sufficient flexibility to permit alternative solutions to provide equivalent levels of protection for identified information security risks; and

“(7) to the maximum extent practicable, use flexible, performance-based standards and guidelines that permit the use of off-the-shelf commercially developed information security products.

“(d) INFORMATION SECURITY FUNCTIONS.—The Institute shall—

“(1) submit standards developed pursuant to subsection (a), along with recommendations as to the extent to which these should be made compulsory and binding, to the Secretary of Commerce for promulgation under section 11331 of title 40, United States Code;

“(2) provide technical assistance to agencies, upon request, regarding—

“(A) compliance with the standards and guidelines developed under subsection (a);

“(B) detecting and handling information security incidents; and

“(C) information security policies, procedures, and practices;

“(3) conduct research, as needed, to determine the nature and extent of information security vulnerabilities and techniques for providing cost-effective information security;

“(4) develop and periodically revise performance indicators and measures for agency information security policies and practices;

“(5) evaluate private sector information security policies and practices and commercially available information technologies to assess potential application by agencies to strengthen information security;

“(6) assist the private sector, upon request, in using and applying the results of activities under this section;

“(7) evaluate security policies and practices developed for national security systems to assess potential application by agencies to strengthen information security;

“(8) periodically assess the effectiveness of standards and guidelines developed under this section and undertake revisions as appropriate;

“(9) solicit and consider the recommendations of the Information Security and Privacy Advisory Board, established by section 21, regarding standards and guidelines developed under subsection (a) and submit such recommendations to the Secretary of Commerce with such standards submitted to the Secretary; and

“(10) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.

“(e) DEFINITIONS.—As used in this section—

“(1) the term ‘agency’ has the same meaning as provided in section 3502(1) of title 44, United States Code;

“(2) the term ‘information security’ has the same meaning as provided in section 3542(b)(1) of such title;

“(3) the term ‘information system’ has the same meaning as provided in section 3502(8) of such title;

“(4) the term ‘information technology’ has the same meaning as provided in section 11101 of title 40, United States Code; and

“(5) the term ‘national security system’ has the same meaning as provided in section 3542(b)(2) of title 44, United States Code.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce \$20,000,000 for each of fiscal years 2003, 2004, 2005, 2006, and 2007 to enable the National Institute of Standards and Technology to carry out the provisions of this section.”.

SEC. 304. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-4), is amended—

(1) in subsection (a), by striking “Computer System Security and Privacy Advisory Board” and inserting “Information Security and Privacy Advisory Board”;

(2) in subsection (a)(1), by striking “computer or telecommunications” and inserting “information technology”;

(3) in subsection (a)(2)—

(A) by striking “computer or telecommunications technology” and inserting “information technology”; and

(B) by striking “computer or telecommunications equipment” and inserting “information technology”;

(4) in subsection (a)(3)—

(A) by striking “computer systems” and inserting “information system”; and

(B) by striking “computer systems security” and inserting “information security”;

(5) in subsection (b)(1) by striking “computer systems security” and inserting “information security”;

(6) in subsection (b) by striking paragraph (2) and inserting the following:

“(2) to advise the Institute, the Secretary of Commerce, and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 20; and”;

(7) in subsection (b)(3) by inserting “annually” after “report”;

(8) by inserting after subsection (e) the following new subsection:

“(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.”;

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following:

“(h) As used in this section, the terms ‘information system’ and ‘information technology’ have the meanings given in section 20.”.

SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.

(a) **COMPUTER SECURITY ACT.**—Section 11332 of title 40, United States Code, and the item relating to that section in the table of sections for chapter 113 of such title, are repealed.

(b) **FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.**—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398) is amended by striking section 1062 (44 U.S.C. 3531 note).

(c) **PAPERWORK REDUCTION ACT.**—(1) Section 3504(g) of title 44, United States Code, is amended—

(A) by adding “and” at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking “sections 11331 and 11332(b) and (c) of title 40” and inserting “section 11331 of title 40 and subchapter II of this chapter”; and

(ii) by striking “; and” and inserting a period; and

(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end—

“(C) INVENTORY OF MAJOR INFORMATION SYSTEMS.—(1) The head of each agency shall develop and maintain an inventory of major information systems (including major national security systems) operated by or under the control of such agency.

“(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency.

“(3) Such inventory shall be—

“(A) updated at least annually;

“(B) made available to the Comptroller General; and

“(C) used to support information resources management, including—

“(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

“(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

“(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

“(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

“(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

“(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.”.

(3) Section 3506(g) of such title is amended—

(A) by adding “and” at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking “section 11332 of title 40” and inserting “subchapter II of this chapter”; and

(ii) by striking “; and” and inserting a period; and

(C) by striking paragraph (3).

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title I or II, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles I and II for each of fiscal years 2003 through 2007.

SEC. 402. EFFECTIVE DATES.

(a) TITLES I AND II.—

(1) IN GENERAL.—Except as provided under paragraph (2), titles I and II and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) IMMEDIATE ENACTMENT.—Sections 207, 214, and 215 shall take effect on the date of enactment of this Act.

44 USC 3601
note.

44 USC 3541
note.

(b) TITLES III AND IV.—Title III and this title shall take effect on the date of enactment of this Act.

Confidential
Information
Protection and
Statistical
Efficiency Act of
2002.

TITLE V—CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL EFFI- CIENCY

44 USC 3501
note.

SEC. 501. SHORT TITLE.

This title may be cited as the “Confidential Information Protection and Statistical Efficiency Act of 2002”.

44 USC 3501
note.

SEC. 502. DEFINITIONS.

As used in this title:

(1) The term “agency” means any entity that falls within the definition of the term “executive agency” as defined in section 102 of title 31, United States Code, or “agency”, as defined in section 3502 of title 44, United States Code.

(2) The term “agent” means an individual—

(A)(i) who is an employee of a private organization or a researcher affiliated with an institution of higher learning (including a person granted special sworn status by the Bureau of the Census under section 23(c) of title 13, United States Code), and with whom a contract or other agreement is executed, on a temporary basis, by an executive agency to perform exclusively statistical activities under the control and supervision of an officer or employee of that agency;

(ii) who is working under the authority of a government entity with which a contract or other agreement is executed by an executive agency to perform exclusively statistical activities under the control of an officer or employee of that agency;

(iii) who is a self-employed researcher, a consultant, a contractor, or an employee of a contractor, and with whom a contract or other agreement is executed by an executive agency to perform a statistical activity under the control of an officer or employee of that agency;

(iv) who is a contractor or an employee of a contractor, and who is engaged by the agency to design or maintain the systems for handling or storage of data received under this title; and

(B) who agrees in writing to comply with all provisions of law that affect information acquired by that agency.

(3) The term “business data” means operating and financial data and information about businesses, tax-exempt organizations, and government entities.

(4) The term “identifiable form” means any representation of information that permits the identity of the respondent to whom the information applies to be reasonably inferred by either direct or indirect means.

(5) The term “nonstatistical purpose”—

(A) means the use of data in identifiable form for any purpose that is not a statistical purpose, including

any administrative, regulatory, law enforcement, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable respondent; and

(B) includes the disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act) of data that are acquired for exclusively statistical purposes under a pledge of confidentiality.

(6) The term “respondent” means a person who, or organization that, is requested or required to supply information to an agency, is the subject of information requested or required to be supplied to an agency, or provides that information to an agency.

(7) The term “statistical activities”—

(A) means the collection, compilation, processing, or analysis of data for the purpose of describing or making estimates concerning the whole, or relevant groups or components within, the economy, society, or the natural environment; and

(B) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames.

(8) The term “statistical agency or unit” means an agency or organizational unit of the executive branch whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes.

(9) The term “statistical purpose”—

(A) means the description, estimation, or analysis of the characteristics of groups, without identifying the individuals or organizations that comprise such groups; and

(B) includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support the purposes described in subparagraph (A).

SEC. 503. COORDINATION AND OVERSIGHT OF POLICIES.

(a) **IN GENERAL.**—The Director of the Office of Management and Budget shall coordinate and oversee the confidentiality and disclosure policies established by this title. The Director may promulgate rules or provide other guidance to ensure consistent interpretation of this title by the affected agencies.

(b) **AGENCY RULES.**—Subject to subsection (c), agencies may promulgate rules to implement this title. Rules governing disclosures of information that are authorized by this title shall be promulgated by the agency that originally collected the information.

(c) **REVIEW AND APPROVAL OF RULES.**—The Director shall review any rules proposed by an agency pursuant to this title for consistency with the provisions of this title and chapter 35 of title 44, United States Code, and such rules shall be subject to the approval of the Director.

(d) **REPORTS.**—

(1) The head of each agency shall provide to the Director of the Office of Management and Budget such reports and other information as the Director requests.

(2) Each Designated Statistical Agency referred to in section 522 shall report annually to the Director of the Office

44 USC 3501
note.

of Management and Budget, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate on the actions it has taken to implement sections 523 and 524. The report shall include copies of each written agreement entered into pursuant to section 524(a) for the applicable year.

(3) The Director of the Office of Management and Budget shall include a summary of reports submitted to the Director under paragraph (2) and actions taken by the Director to advance the purposes of this title in the annual report to the Congress on statistical programs prepared under section 3504(e)(2) of title 44, United States Code.

44 USC 3501
note.

SEC. 504. EFFECT ON OTHER LAWS.

(a) TITLE 44, UNITED STATES CODE.—This title, including amendments made by this title, does not diminish the authority under section 3510 of title 44, United States Code, of the Director of the Office of Management and Budget to direct, and of an agency to make, disclosures that are not inconsistent with any applicable law.

(b) TITLE 13 AND TITLE 44, UNITED STATES CODE.—This title, including amendments made by this title, does not diminish the authority of the Bureau of the Census to provide information in accordance with sections 8, 16, 301, and 401 of title 13, United States Code, and section 2108 of title 44, United States Code.

(c) TITLE 13, UNITED STATES CODE.—This title, including amendments made by this title, shall not be construed as authorizing the disclosure for nonstatistical purposes of demographic data or information collected by the Census Bureau pursuant to section 9 of title 13, United States Code.

(d) VARIOUS ENERGY STATUTES.—Data or information acquired by the Energy Information Administration under a pledge of confidentiality and designated by the Energy Information Administration to be used for exclusively statistical purposes shall not be disclosed in identifiable form for nonstatistical purposes under—

(1) section 12, 20, or 59 of the Federal Energy Administration Act of 1974 (15 U.S.C. 771, 779, 790h);

(2) section 11 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796); or

(3) section 205 or 407 of the Department of the Energy Organization Act of 1977 (42 U.S.C. 7135, 7177).

(e) SECTION 201 OF CONGRESSIONAL BUDGET ACT OF 1974.—This title, including amendments made by this title, shall not be construed to limit any authorities of the Congressional Budget Office to work (consistent with laws governing the confidentiality of information the disclosure of which would be a violation of law) with databases of Designated Statistical Agencies (as defined in section 522), either separately or, for data that may be shared pursuant to section 524 of this title or other authority, jointly in order to improve the general utility of these databases for the statistical purpose of analyzing pension and health care financing issues.

(f) PREEMPTION OF STATE LAW.—Nothing in this title shall preempt applicable State law regarding the confidentiality of data collected by the States.

(g) **STATUTES REGARDING FALSE STATEMENTS.**—Notwithstanding section 512, information collected by an agency for exclusively statistical purposes under a pledge of confidentiality may be provided by the collecting agency to a law enforcement agency for the prosecution of submissions to the collecting agency of false statistical information under statutes that authorize criminal penalties (such as section 221 of title 13, United States Code) or civil penalties for the provision of false statistical information, unless such disclosure or use would otherwise be prohibited under Federal law.

(h) **CONSTRUCTION.**—Nothing in this title shall be construed as restricting or diminishing any confidentiality protections or penalties for unauthorized disclosure that otherwise apply to data or information collected for statistical purposes or nonstatistical purposes, including, but not limited to, section 6103 of the Internal Revenue Code of 1986 (26 U.S.C. 6103).

(i) **AUTHORITY OF CONGRESS.**—Nothing in this title shall be construed to affect the authority of the Congress, including its committees, members, or agents, to obtain data or information for a statistical purpose, including for oversight of an agency's statistical activities.

Subtitle A—Confidential Information Protection

SEC. 511. FINDINGS AND PURPOSES.

44 USC 3501
note.

(a) **FINDINGS.**—The Congress finds the following:

(1) Individuals, businesses, and other organizations have varying degrees of legal protection when providing information to the agencies for strictly statistical purposes.

(2) Pledges of confidentiality by agencies provide assurances to the public that information about individuals or organizations or provided by individuals or organizations for exclusively statistical purposes will be held in confidence and will not be used against such individuals or organizations in any agency action.

(3) Protecting the confidentiality interests of individuals or organizations who provide information under a pledge of confidentiality for Federal statistical programs serves both the interests of the public and the needs of society.

(4) Declining trust of the public in the protection of information provided under a pledge of confidentiality to the agencies adversely affects both the accuracy and completeness of statistical analyses.

(5) Ensuring that information provided under a pledge of confidentiality for statistical purposes receives protection is essential in continuing public cooperation in statistical programs.

(b) **PURPOSES.**—The purposes of this subtitle are the following:

(1) To ensure that information supplied by individuals or organizations to an agency for statistical purposes under a pledge of confidentiality is used exclusively for statistical purposes.

(2) To ensure that individuals or organizations who supply information under a pledge of confidentiality to agencies for statistical purposes will neither have that information disclosed

in identifiable form to anyone not authorized by this title nor have that information used for any purpose other than a statistical purpose.

(3) To safeguard the confidentiality of individually identifiable information acquired under a pledge of confidentiality for statistical purposes by controlling access to, and uses made of, such information.

44 USC 3501
note.

SEC. 512. LIMITATIONS ON USE AND DISCLOSURE OF DATA AND INFORMATION.

(a) **USE OF STATISTICAL DATA OR INFORMATION.**—Data or information acquired by an agency under a pledge of confidentiality and for exclusively statistical purposes shall be used by officers, employees, or agents of the agency exclusively for statistical purposes.

(b) **DISCLOSURE OF STATISTICAL DATA OR INFORMATION.**—

(1) Data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes shall not be disclosed by an agency in identifiable form, for any use other than an exclusively statistical purpose, except with the informed consent of the respondent.

(2) A disclosure pursuant to paragraph (1) is authorized only when the head of the agency approves such disclosure and the disclosure is not prohibited by any other law.

(3) This section does not restrict or diminish any confidentiality protections in law that otherwise apply to data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes.

(c) **RULE FOR USE OF DATA OR INFORMATION FOR NONSTATISTICAL PURPOSES.**—A statistical agency or unit shall clearly distinguish any data or information it collects for nonstatistical purposes (as authorized by law) and provide notice to the public, before the data or information is collected, that the data or information could be used for nonstatistical purposes.

(d) **DESIGNATION OF AGENTS.**—A statistical agency or unit may designate agents, by contract or by entering into a special agreement containing the provisions required under section 502(2) for treatment as an agent under that section, who may perform exclusively statistical activities, subject to the limitations and penalties described in this title.

44 USC 3501
note.

SEC. 513. FINES AND PENALTIES.

Whoever, being an officer, employee, or agent of an agency acquiring information for exclusively statistical purposes, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section 512, comes into possession of such information by reason of his or her being an officer, employee, or agent and, knowing that the disclosure of the specific information is prohibited under the provisions of this title, willfully discloses the information in any manner to a person or agency not entitled to receive it, shall be guilty of a class E felony and imprisoned for not more than 5 years, or fined not more than \$250,000, or both.

Subtitle B—Statistical Efficiency

SEC. 521. FINDINGS AND PURPOSES.

44 USC 3501
note.

(a) FINDINGS.—The Congress finds the following:

(1) Federal statistics are an important source of information for public and private decision-makers such as policymakers, consumers, businesses, investors, and workers.

(2) Federal statistical agencies should continuously seek to improve their efficiency. Statutory constraints limit the ability of these agencies to share data and thus to achieve higher efficiency for Federal statistical programs.

(3) The quality of Federal statistics depends on the willingness of businesses to respond to statistical surveys. Reducing reporting burdens will increase response rates, and therefore lead to more accurate characterizations of the economy.

(4) Enhanced sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes will improve their ability to track more accurately the large and rapidly changing nature of United States business. In particular, the statistical agencies will be able to better ensure that businesses are consistently classified in appropriate industries, resolve data anomalies, produce statistical samples that are consistently adjusted for the entry and exit of new businesses in a timely manner, and correct faulty reporting errors quickly and efficiently.

(5) The Congress enacted the International Investment and Trade in Services Act of 1990 that allowed the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to share data on foreign-owned companies. The Act not only expanded detailed industry coverage from 135 industries to over 800 industries with no increase in the data collected from respondents but also demonstrated how data sharing can result in the creation of valuable data products.

(6) With subtitle A of this title, the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics continues to ensure the highest level of confidentiality for respondents to statistical surveys.

(b) PURPOSES.—The purposes of this subtitle are the following:

(1) To authorize the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes.

(2) To reduce the paperwork burdens imposed on businesses that provide requested information to the Federal Government.

(3) To improve the comparability and accuracy of Federal economic statistics by allowing the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to update sample frames, develop consistent classifications of establishments and companies into industries, improve coverage, and reconcile significant differences in data produced by the three agencies.

(4) To increase understanding of the United States economy, especially for key industry and regional statistics,

to develop more accurate measures of the impact of technology on productivity growth, and to enhance the reliability of the Nation's most important economic indicators, such as the National Income and Product Accounts.

44 USC 3501
note.

SEC. 522. DESIGNATION OF STATISTICAL AGENCIES.

For purposes of this subtitle, the term “Designated Statistical Agency” means each of the following:

- (1) The Bureau of the Census of the Department of Commerce.
- (2) The Bureau of Economic Analysis of the Department of Commerce.
- (3) The Bureau of Labor Statistics of the Department of Labor.

44 USC 3501
note.

SEC. 523. RESPONSIBILITIES OF DESIGNATED STATISTICAL AGENCIES.

The head of each of the Designated Statistical Agencies shall—

- (1) identify opportunities to eliminate duplication and otherwise reduce reporting burden and cost imposed on the public in providing information for statistical purposes;
- (2) enter into joint statistical projects to improve the quality and reduce the cost of statistical programs; and
- (3) protect the confidentiality of individually identifiable information acquired for statistical purposes by adhering to safeguard principles, including—
 - (A) emphasizing to their officers, employees, and agents the importance of protecting the confidentiality of information in cases where the identity of individual respondents can reasonably be inferred by either direct or indirect means;
 - (B) training their officers, employees, and agents in their legal obligations to protect the confidentiality of individually identifiable information and in the procedures that must be followed to provide access to such information;
 - (C) implementing appropriate measures to assure the physical and electronic security of confidential data;
 - (D) establishing a system of records that identifies individuals accessing confidential data and the project for which the data were required; and
 - (E) being prepared to document their compliance with safeguard principles to other agencies authorized by law to monitor such compliance.

44 USC 3501
note.

SEC. 524. SHARING OF BUSINESS DATA AMONG DESIGNATED STATISTICAL AGENCIES.

(a) **IN GENERAL.**—A Designated Statistical Agency may provide business data in an identifiable form to another Designated Statistical Agency under the terms of a written agreement among the agencies sharing the business data that specifies—

- (1) the business data to be shared;
- (2) the statistical purposes for which the business data are to be used;
- (3) the officers, employees, and agents authorized to examine the business data to be shared; and
- (4) appropriate security procedures to safeguard the confidentiality of the business data.

(b) **RESPONSIBILITIES OF AGENCIES UNDER OTHER LAWS.**—The provision of business data by an agency to a Designated Statistical

Agency under this subtitle shall in no way alter the responsibility of the agency providing the data under other statutes (including section 552 of title 5, United States Code (popularly known as the Freedom of Information Act), and section 552b of title 5, United States Code (popularly known as the Privacy Act of 1974)) with respect to the provision or withholding of such information by the agency providing the data.

(c) **RESPONSIBILITIES OF OFFICERS, EMPLOYEES, AND AGENTS.**—Examination of business data in identifiable form shall be limited to the officers, employees, and agents authorized to examine the individual reports in accordance with written agreements pursuant to this section. Officers, employees, and agents of a Designated Statistical Agency who receive data pursuant to this subtitle shall be subject to all provisions of law, including penalties, that relate—

(1) to the unlawful provision of the business data that would apply to the officers, employees, and agents of the agency that originally obtained the information; and

(2) to the unlawful disclosure of the business data that would apply to officers, employees, and agents of the agency that originally obtained the information.

(d) **NOTICE.**—Whenever a written agreement concerns data that respondents were required by law to report and the respondents were not informed that the data could be shared among the Designated Statistical Agencies, for exclusively statistical purposes, the terms of such agreement shall be described in a public notice issued by the agency that intends to provide the data. Such notice shall allow a minimum of 60 days for public comment.

Public
information.

SEC. 525. LIMITATIONS ON USE OF BUSINESS DATA PROVIDED BY DESIGNATED STATISTICAL AGENCIES.

44 USC 3501
note.

(a) **USE, GENERALLY.**—Business data provided by a Designated Statistical Agency pursuant to this subtitle shall be used exclusively for statistical purposes.

(b) **PUBLICATION.**—Publication of business data acquired by a Designated Statistical Agency shall occur in a manner whereby the data furnished by any particular respondent are not in identifiable form.

SEC. 526. CONFORMING AMENDMENTS.

44 USC 3501
note.

(a) **DEPARTMENT OF COMMERCE.**—Section 1 of the Act of January 27, 1938 (15 U.S.C. 176a) is amended by striking “The” and inserting “Except as provided in the Confidential Information Protection and Statistical Efficiency Act of 2002, the”.

(b) **TITLE 13.**—Chapter 10 of title 13, United States Code, is amended—

(1) by adding after section 401 the following:

“§ 402. Providing business data to Designated Statistical Agencies

“The Bureau of the Census may provide business data to the Bureau of Economic Analysis and the Bureau of Labor Statistics (‘Designated Statistical Agencies’) if such information is required for an authorized statistical purpose and the provision is the subject of a written agreement with that Designated Statistical Agency, or their successors, as defined in the Confidential Information Protection and Statistical Efficiency Act of 2002.”; and

(2) in the table of sections for the chapter by adding after the item relating to section 401 the following:

“402. Providing business data to Designated Statistical Agencies.”.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 2458 (S. 803):

HOUSE REPORTS: No. 107-787, Pt. 1 (Comm. on Government Reform).

SENATE REPORTS: No. 107-174 accompanying S. 803 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 14, considered and passed House.

Nov. 15, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Dec. 17, Presidential statement.

