

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11313	40:1423.	Pub. L. 104-106, div. E, title LI, §5123, Feb. 10, 1996, 110 Stat. 683.

§ 11314. Authority to acquire and manage information technology

(a) IN GENERAL.—The authority of the head of an executive agency to acquire information technology includes—

- (1) acquiring information technology as authorized by law;
- (2) making a contract that provides for multiagency acquisitions of information technology in accordance with guidance issued by the Director of the Office of Management and Budget; and
- (3) if the Director finds that it would be advantageous for the Federal Government to do so, making a multiagency contract for procurement of commercial products of information technology that requires each executive agency covered by the contract, when procuring those products, to procure the products under that contract or to justify an alternative procurement of the products.

(b) FTS 2000 PROGRAM.—The Administrator of General Services shall continue to manage the FTS 2000 program, and to coordinate the follow-on to that program, for and with the advice of the heads of executive agencies.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1241; Pub. L. 115-232, div. A, title VIII, §836(g)(7)(B), Aug. 13, 2018, 132 Stat. 1874.)

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Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11314	40:1424.	Pub. L. 104-106, div. E, title LI, §5124, Feb. 10, 1996, 110 Stat. 684.

In subsection (b), the words “Notwithstanding any other provision of this or any other law” are omitted as unnecessary.

Editorial Notes

AMENDMENTS

2018—Subsec. (a)(3). Pub. L. 115-232 substituted “products” for “items” wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115-232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

§ 11315. Agency Chief Information Officer

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

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

- (1) providing advice and other assistance to the head of the executive agency and other senior management personnel of the executive agency to ensure that information technology is acquired and information resources are managed for the executive agency in a manner that implements the policies and procedures of this subtitle, consistent with chapter 35 of title 44 and the priorities established by the head of the executive agency;
- (2) developing, maintaining, and facilitating the implementation of a sound, secure, and integrated information technology architecture for the executive agency; and
- (3) promoting the effective and efficient design and operation of all major information resources management processes for the executive agency, including improvements to work processes of the executive agency.

(c) DUTIES AND QUALIFICATIONS.—The Chief Information Officer of an agency listed in section 901(b) of title 31—

- (1) has information resources management duties as that official’s primary duty;
- (2) monitors the performance of information technology programs of the agency, evaluates the performance of those programs on the basis of the applicable performance measurements, and advises the head of the agency regarding whether to continue, modify, or terminate a program or project; and
- (3) annually, as part of the strategic planning and performance evaluation process required (subject to section 1117 of title 31) under section 306 of title 5 and sections 1105(a)(28), 1115-1117, and 9703 (as added by section 5(a) of the Government Performance and Results Act of 1993 (Public Law 103-62, 107 Stat. 289)) of title 31—

- (A) assesses the requirements established for agency personnel regarding knowledge and skill in information resources management and the adequacy of those requirements for facilitating the achievement of the performance goals established for information resources management;
- (B) assesses the extent to which the positions and personnel at the executive level of the agency and the positions and personnel at management level of the agency below the executive level meet those requirements;
- (C) develops strategies and specific plans for hiring, training, and professional development to rectify any deficiency in meeting those requirements; and
- (D) reports to the head of the agency on the progress made in improving information resources management capability.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1241; Pub. L. 108-458, title VIII, §8401(4), Dec. 17, 2004, 118 Stat. 3869.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11315	40:1425(b)-(d).	Pub. L. 104-106, div. E, title LI, §5125(b)-(d), Feb. 10, 1996, 110 Stat. 685.

In subsection (c)(3), before subclause (A), the reference to 31:1105(a)(29) is changed to 1105(a)(28) because of the redesignation of 1105(a)(29) as 1105(a)(28) by section 4(1) of the Act of October 11, 1996, (Public Law 104-287, 110 Stat. 3388). The words “as added by section 5(a) of the Government Performance and Results Act of 1993 (Public Law 103-62, 107 Stat. 289)” are added for clarity because there is another 31:9703.

Editorial Notes

AMENDMENTS

2004—Subsec. (b)(2). Pub. L. 108-458 inserted “, secure,” after “sound”.

Executive Documents

EX ORD. NO. 13833. ENHANCING THE EFFECTIVENESS OF AGENCY CHIEF INFORMATION OFFICERS

Ex. Ord. No. 13833, May 15, 2018, 83 F.R. 23345, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. Purpose. The Federal Government spends more than \$90 billion annually on information technology (IT). The vast majority of this sum is consumed in maintaining legacy IT infrastructure that is often ineffective and more costly than modern technologies. Modern IT systems would enable agencies to reduce costs, mitigate cybersecurity risks, and deliver improved services to the American people. While the recently enacted Modernizing Government Technology Act [probably means subtitle G of title X of div. A of Pub. L. 115-91, set out as a note under section 11301 of this title] will provide needed financial resources to help transition agencies to more effective, efficient, and secure technologies, more can be done to improve management of IT resources. Department and agency (agency) Chief Information Officers (CIOs) generally do not have adequate visibility into, or control over, their agencies’ IT resources, resulting in duplication, waste, and poor service delivery. Enhancing the effectiveness of agency CIOs will better position agencies to modernize their IT systems, execute IT programs more efficiently, reduce cybersecurity risks, and serve the American people well.

SEC. 2. Policy. It is the policy of the executive branch to:

(a) empower agency CIOs to ensure that agency IT systems are secure, efficient, accessible, and effective, and that such systems enable agencies to accomplish their missions;

(b) modernize IT infrastructure within the executive branch and meaningfully improve the delivery of digital services; and

(c) improve the management, acquisition, and oversight of Federal IT.

SEC. 3. Definitions. For purposes of this order:

(a) the term “covered agency” means an agency listed in 31 U.S.C. 901(b), other than the Department of Defense or any agency considered to be an “independent regulatory agency” as defined in 44 U.S.C. 3502(5);

(b) the term “information technology” has the meaning given that term in 40 U.S.C. 11101(6);

(c) the term “Chief Information Officer” or “CIO” means the individual within a covered agency as described in 40 U.S.C. 11315;

(d) the term “component Chief Information Officer” or “component CIO” means an individual in a covered agency, other than the CIO referred to in subsection (c) of this section, who has the title Chief Information Officer, or who functions in the capacity of a CIO, and has IT management authorities over a component of the agency similar to those the CIO has over the entire agency;

(e) the term “IT position” means a position within the job family standard for the Information Technology Management Series, GS-2210, as defined by the

Office of Personnel Management (OPM) in the Handbook of Occupational Groups and Families and related guidance.

SEC. 4. Emphasizing Chief Information Officer Duties and Responsibilities. The head of each covered agency shall take all necessary and appropriate action to ensure that:

(a) consistent with 44 U.S.C. 3506(a)(2), the CIO of the covered agency reports directly to the agency head, such that the CIO has direct access to the agency head regarding all programs that include IT;

(b) consistent with 40 U.S.C. 11315(b), and to promote the effective, efficient, and secure use of IT to accomplish the agency’s mission, the CIO serves as the primary strategic advisor to the agency head concerning the use of IT;

(c) consistent with 40 U.S.C. 11319(b)(1)(A), the CIO has a significant role, including, as appropriate, as lead advisor, in all annual and multi-year planning, programming, budgeting, and execution decisions, as well as in all management, governance, and oversight processes related to IT; and

(d) consistent with 40 U.S.C. 11319(b)(2) and other applicable law, the CIO of the covered agency approves the appointment of any component CIO in that agency.

SEC. 5. Agency-wide IT Consolidation. Consistent with the purposes of Executive Order 13781 of March 13, 2017 (Comprehensive Plan for Reorganizing the Executive Branch) [82 F.R. 13959], the head of each covered agency shall take all necessary and appropriate action to:

(a) eliminate unnecessary IT management functions;

(b) merge or reorganize agency IT functions to promote agency-wide consolidation of the agency’s IT infrastructure, taking into account any recommendations of the relevant agency CIO; and

(c) increase use of industry best practices, such as the shared use of IT solutions within agencies and across the executive branch.

SEC. 6. Strengthening Cybersecurity. Consistent with the purposes of Executive Order 13800 of May 11, 2017 (Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure) [6 U.S.C. note prec. 1500], the head of each covered agency shall take all necessary and appropriate action to ensure that:

(a) the CIO, as the principal advisor to the agency head for the management of IT resources, works closely with an integrated team of senior executives with expertise in IT, security, budgeting, acquisition, law, privacy, and human resources to implement appropriate risk management measures; and

(b) the agency prioritizes procurement of shared IT services, including modern email and other cloud-based services, where possible and to the extent permitted by law.

SEC. 7. Knowledge and Skill Standards for IT Personnel. The head of each covered agency shall take all necessary and appropriate action to ensure that:

(a) consistent with 40 U.S.C. 11315(c)(3), the CIO assesses and advises the agency head regarding knowledge and skill standards established for agency IT personnel;

(b) the established knowledge and skill standards are included in the performance standards and reflected in the performance evaluations of all component CIOs, and that the CIO is responsible for that portion of the evaluation; and

(c) all component CIOs apply those standards within their own components.

SEC. 8. Chief Information Officer Role on IT Governance Boards. Wherever appropriate and consistent with applicable law, the head of each covered agency shall ensure that the CIO shall be a member of any investment or related board of the agency with purview over IT, or any board responsible for setting agency-wide IT standards. The head of each covered agency shall also, as appropriate and consistent with applicable law, direct the CIO to chair any such board. To the extent any such board operates through member votes, the head of each covered agency shall also, as appropriate and consistent with applicable law, direct the CIO to fulfill the role of voting member.

SEC. 9. *Chief Information Officer Hiring Authorities.* The Director of OPM (Director) shall publish a proposed rule delegating to the head of each covered agency authority to determine whether there is a severe shortage of candidates (or, with respect to the Department of Veterans Affairs, that there exists a severe shortage of highly qualified candidates), or that a critical hiring need exists, for IT positions at the covered agency pursuant to 5 U.S.C. 3304(a)(3), under criteria established by OPM.

(a) Such proposed rule shall provide that, upon an affirmative determination by the head of a covered agency that there is a severe shortage of candidates (or, with respect to the Department of Veterans Affairs, that there exists a severe shortage of highly qualified candidates), or that a critical hiring need exists for IT positions, under the criteria established by OPM, the Director shall, within 30 days, grant that agency direct hiring authority for IT positions.

(b) Such proposed rule shall further provide that employees hired using this authority may not be transferred to positions that are not IT positions; that the employees shall initially be given term appointments not to exceed 4 years; and that the terms of such employees may be extended up to 4 additional years at the discretion of the hiring agency.

(c) The Director shall submit the proposed rule for publication within 30 days of the date of this order [May 15, 2018].

SEC. 10. *Guidance.* The Director of the Office of Management and Budget shall amend or replace relevant guidance, as appropriate, to agencies to reflect the requirements of this order.

SEC. 11. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§ 11316. Accountability

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

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

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

(3) financial statements support—

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

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

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1242.)

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Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11316	40:1426.	Pub. L. 104–106, div. E, title LI, §5126, Feb. 10, 1996, 110 Stat. 686.

§ 11317. Significant deviations

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

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1242.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11317	40:1427.	Pub. L. 104–106, div. E, title LI, §5127, Feb. 10, 1996, 110 Stat. 687.

§ 11318. Interagency support

The head of an executive agency may use amounts available to the agency for oversight, acquisition, and procurement of information technology to support jointly with other executive agencies the activities of interagency groups that are established to advise the Director of the Office of Management and Budget in carrying out the Director’s responsibilities under this chapter. The use of those amounts for that purpose is subject to requirements and limitations on uses and amounts that the Director may prescribe. The Director shall prescribe the requirements and limitations during the Director’s review of the executive agency’s proposed budget submitted to the Director by the head of the executive agency for purposes of section 1105 of title 31.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1242.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
11318	40:1428.	Pub. L. 104–106, div. E, title LI, §5128, Feb. 10, 1996, 110 Stat. 687.

§ 11319. Resources, planning, and portfolio management

(a) DEFINITIONS.—In this section:

(1) The term “covered agency” means each agency listed in section 901(b)(1) or 901(b)(2) of title 31.

(2) The term “information technology” has the meaning given that term under capital planning guidance issued by the Office of Management and Budget.

(b) ADDITIONAL AUTHORITIES FOR CHIEF INFORMATION OFFICERS.—

(1) PLANNING, PROGRAMMING, BUDGETING, AND EXECUTION AUTHORITIES FOR CIOS.—

(A) IN GENERAL.—The head of each covered agency other than the Department of De-