

104TH CONGRESS
1ST SESSION

S. 946

To facilitate, encourage, and provide for efficient and effective acquisition and use of modern information technology by executive agencies; to establish the position of Chief Information Officer of the United States in the Office of Management and Budget; to increase the responsibility and public accountability of the heads of the departments and agencies of the Federal Government for achieving substantial improvements in the delivery of services to the public and in other program activities through the use of modern information technology in support of agency missions; and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 20 (legislative day, JUNE 19), 1995

Mr. COHEN (for himself and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To facilitate, encourage, and provide for efficient and effective acquisition and use of modern information technology by executive agencies; to establish the position of Chief Information Officer of the United States in the Office of Management and Budget; to increase the responsibility and public accountability of the heads of the departments and agencies of the Federal Government for achieving substantial improvements in the delivery of services to the public and in other program activities through the use of modern information technology in support of agency missions; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Information Technology Management Reform Act of
 6 1995”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

**TITLE I—RESPONSIBILITY FOR ACQUISITIONS OF
 INFORMATION TECHNOLOGY**

Subtitle A—General Authority

- Sec. 101. Authority of heads of executive agencies.
- Sec. 102. Superior authority of Director of Office of Management and Budget.
- Sec. 103. Repeal of central authority of the Administrator of General Services.

Subtitle B—Director of the Office of Management and Budget

- Sec. 121. Responsibility of Director.
- Sec. 122. Specific responsibilities.
- Sec. 123. Performance-based and results-based management.
- Sec. 124. Standards and guidelines for Federal information systems.
- Sec. 125. Contracting for performance of information resources management functions.
- Sec. 126. Regulations.

Subtitle C—Chief Information Officer of the United States

- Sec. 131. Office of the Chief Information Officer of the United States.
- Sec. 132. Relationship of Chief Information Officer to Director of the Office of Management and Budget; principal duties.
- Sec. 133. Additional duties.
- Sec. 134. Acquisitions under high-risk information technology programs.
- Sec. 135. Electronic data base on contractor performance.

Subtitle D—Executive Agencies

- Sec. 141. Responsibilities.
- Sec. 142. Specific authority.
- Sec. 143. Agency chief information officer.
- Sec. 144. Accountability.

- Sec. 145. Agency missions and the appropriateness of information technology initiatives.
- Sec. 146. Significant failures of programs to achieve cost, performance, or schedule goals.
- Sec. 147. Interagency support.
- Sec. 148. Monitoring of modifications in information technology acquisition programs.
- Sec. 149. Special provisions for Department of Defense.
- Sec. 150. Special provisions for Central Intelligence Agency.

Subtitle E—Federal Information Council

- Sec. 151. Establishment of Federal Information Council.
- Sec. 152. Membership.
- Sec. 153. Chairman; executive director.
- Sec. 154. Duties.
- Sec. 155. Software Review Council.

Subtitle F—Interagency Functional Groups

- Sec. 161. Establishment.
- Sec. 162. Specific functions.

Subtitle G—Congressional Oversight

- Sec. 171. Establishment and organization of Joint Committee on Information.
- Sec. 172. Responsibilities of Joint Committee on Information.
- Sec. 173. Rulemaking authority of Congress.

Subtitle H—Other Responsibilities

- Sec. 181. Responsibilities under the National Institute of Standards and Technology Act.
- Sec. 182. Responsibilities under the Computer Security Act of 1987.

TITLE II—PROCESS FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

Subtitle A—Procedures

- Sec. 201. Procurement procedures.
- Sec. 202. Agency process.
- Sec. 203. Incremental acquisition of information technology.
- Sec. 204. Authority to limit number of offerors.
- Sec. 205. Exception from truth in negotiation requirements.
- Sec. 206. Unrestricted competitive procurement of commercial off-the-shelf items of information technology.
- Sec. 207. Task and delivery order contracts.
- Sec. 208. Two-phase selection procedures.
- Sec. 209. Contractor share of gains and losses from cost, schedule, and performance experience.

Subtitle B—Acquisition Management

- Sec. 221. Acquisition management team.
- Sec. 222. Oversight of acquisitions.

**TITLE III—SPECIAL FISCAL SUPPORT FOR INFORMATION
INNOVATION**

Subtitle A—Information Technology Fund

- Sec. 301. Establishment.
- Sec. 302. Accounts.

Subtitle B—Innovation Loan Account

- Sec. 321. Availability of fund for loans in support of information innovation.
- Sec. 322. Repayment of loans.
- Sec. 323. Savings from information innovations.
- Sec. 324. Funding.

Subtitle C—Common Use Account

- Sec. 331. Support of multiagency acquisitions of information technology.
- Sec. 332. Funding.

Subtitle D—Other Fiscal Policies

- Sec. 341. Limitation on use of funds.
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- Sec. 343. Review by GAO and inspectors general.

**TITLE IV—INFORMATION TECHNOLOGY ACQUISITION
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- Sec. 401. Requirement to conduct pilot programs.
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- Sec. 405. Recommended legislation.
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**TITLE V—OTHER INFORMATION RESOURCES
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- Sec. 501. Transfer of responsibility for FACNET.
- Sec. 502. On-line multiple award schedule ordering.
- Sec. 503. Upgrading information equipment in agency field offices.
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- Sec. 506. Continuation of eligibility of contractor for award of information technology contract after providing design and engineering services.
- Sec. 507. Enhanced performance incentives for information technology acquisition workforce.

**TITLE VI—ACTIONS REGARDING CURRENT INFORMATION
TECHNOLOGY PROGRAMS**

- Sec. 601. Performance measurements.
 Sec. 602. Independent assessment of programs.
 Sec. 603. Current information technology acquisition program defined.

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

- Sec. 701. Remedies.
 Sec. 702. Period for processing protests.
 Sec. 703. Definition.

**TITLE VIII—RELATED TERMINATIONS, CONFORMING
AMENDMENTS, AND CLERICAL AMENDMENTS**

Subtitle A—Related Terminations

- Sec. 801. Office of Information and Regulatory Affairs.
 Sec. 802. Senior information resources management officials.

Subtitle B—Conforming Amendments

- Sec. 811. Amendments to title 10, United States Code.
 Sec. 812. Amendments to title 28, United States Code.
 Sec. 813. Amendments to title 31, United States Code.
 Sec. 814. Amendments to title 38, United States Code.
 Sec. 815. Provisions of title 44, United States Code, and other laws relating to certain joint committees of Congress.
 Sec. 816. Provisions of title 44, United States Code, relating to paperwork reduction.
 Sec. 817. Amendment to title 49, United States Code.
 Sec. 818. Other laws.

Subtitle C—Clerical Amendments

- Sec. 821. Amendment to title 10, United States Code.
 Sec. 822. Amendment to title 38, United States Code.
 Sec. 823. Amendments to title 44, United States Code.

TITLE IX—SAVINGS PROVISIONS

- Sec. 901. Savings provisions.

TITLE X—EFFECTIVE DATES

- Sec. 1001. Effective dates.

1 SEC. 2. FINDINGS.

2 Congress makes the following findings:

- 3 (1) Federal information systems are critical to
 4 the lives of every American.

1 (2) The efficiency and effectiveness of the Fed-
2 eral Government is dependent upon the effective use
3 of information.

4 (3) The Federal Government annually spends
5 billions of dollars operating obsolete information sys-
6 tems.

7 (4) The use of obsolete information systems se-
8 verely limits the quality of the services that the Fed-
9 eral Government provides, the efficiency of Federal
10 Government operations, and the capabilities of the
11 Federal Government to account for how taxpayer
12 dollars are spent.

13 (5) The failure to modernize Federal Govern-
14 ment information systems, despite efforts to do so,
15 has resulted in the waste of billions of dollars that
16 cannot be recovered.

17 (6) Despite improvements achieved through im-
18 plementation of the Chief Financial Officers Act of
19 1990, most Federal agencies cannot track the ex-
20 penditures of Federal dollars and, thus, expose the
21 taxpayers to billions of dollars in waste, fraud,
22 abuse, and mismanagement.

23 (7) Weak oversight and a lengthy acquisition
24 process have resulted in the American taxpayers not
25 getting their money's worth from the expenditure of

1 \$200,000,000,000 on information systems during
2 the decade preceding the enactment of this Act.

3 (8) The Federal Government does an inad-
4 equated job of planning for information technology
5 acquisitions and how such acquisitions will support
6 the accomplishment of agency missions.

7 (9) Many Federal Government personnel lack
8 the basic skills necessary to effectively and efficiently
9 use information technology and other information
10 resources in support of agency programs and mis-
11 sions.

12 (10) Federal regulations governing information
13 technology acquisitions are outdated, focus on proc-
14 ess rather than results, and prevent the Federal
15 Government from taking timely advantage of the
16 rapid advances taking place in the competitive and
17 fast changing global information technology indus-
18 try.

19 (11) Buying, leasing, or developing information
20 systems should be a top priority for Federal agency
21 management because the high potential for the sys-
22 tems to substantially improve Federal Government
23 operations, including the delivery of services to the
24 public.

1 (12) Organizational changes are necessary in
2 the Federal Government in order to improve Federal
3 information management and to facilitate Federal
4 Government acquisition of the state-of-the-art infor-
5 mation technology that is critical for improving the
6 efficiency and effectiveness of Federal Government
7 operations.

8 **SEC. 3. PURPOSES.**

9 The purposes of this Act are as follows:

10 (1) To create incentives for the Federal Govern-
11 ment to strategically use information technology in
12 order to achieve efficient and effective operations of
13 the Federal Government, to provide cost effective
14 and efficient delivery of Federal Government services
15 to the taxpayers, to provide greater protection of the
16 health and safety of Americans, and to enhance the
17 national security of the United States.

18 (2) To provide for the cost effective and timely
19 acquisition, management, and use of effective infor-
20 mation technology solutions.

21 (3) To transform the process-oriented procure-
22 ment system of the Federal Government, as it re-
23 lates to the acquisition of information technology,
24 into a results-oriented procurement system.

1 (4) To increase the responsibility of officials of
2 the Office of Management and Budget and other
3 Federal Government agencies, and the accountability
4 of such officials to Congress and the public, for
5 achieving agency missions, including achieving im-
6 provements in the efficiency and effectiveness of
7 Federal Government programs through the use of
8 information technology and other information re-
9 sources in support of agency missions.

10 (5) To ensure that the heads of Federal Gov-
11 ernment agencies are responsible and accountable
12 for acquiring, using, and strategically managing in-
13 formation resources in a manner that achieves sig-
14 nificant improvements in the performance of agency
15 missions in pursuit of a goal of achieving service de-
16 livery levels and project management performance
17 comparable to the best in the private sector.

18 (6) To promote the development and operation
19 of secure, multiple-agency and Governmentwide,
20 interoperable, shared information resources to sup-
21 port the performance of Federal Government mis-
22 sions.

23 (7) To reduce fraud, waste, abuse, and errors
24 resulting from a lack of, or poor implementation of,
25 Federal Government information systems.

1 (8) To increase the capability of Federal Gov-
2 ernment agencies to restructure and improve proc-
3 esses before applying information technology.

4 (9) To increase the emphasis placed by Federal
5 agency managers on completing effective planning
6 and mission analysis before applying information
7 technology to the execution of plans and the per-
8 formance of agency missions.

9 (10) To coordinate, integrate, and, to the extent
10 practicable and appropriate, establish uniform Fed-
11 eral information resources management policies and
12 practices in order to improve the productivity, effi-
13 ciency, and effectiveness of Federal Government pro-
14 grams and the delivery of services to the public.

15 (11) To strengthen the partnership between the
16 Federal Government and State, local, and tribal gov-
17 ernments for achieving Federal Government mis-
18 sions, goals, and objectives.

19 (12) To provide for the development of a well-
20 trained core of professional Federal Government in-
21 formation resources managers.

22 **SEC. 4. DEFINITIONS.**

23 In this Act:

24 (1) INFORMATION RESOURCES.—The term “in-
25 formation resources” means the resources used in

1 the collection, processing, maintenance, use, sharing,
2 dissemination, or disposition of information, includ-
3 ing personnel, equipment, funds, and information
4 technology.

5 (2) INFORMATION RESOURCES MANAGEMENT.—
6 The term “information resources management”
7 means the process of managing information re-
8 sources to accomplish agency missions and to im-
9 prove agency performance.

10 (3) INFORMATION SYSTEM.—The term “infor-
11 mation system” means a discrete set of information
12 resources, whether automated or manual, that are
13 organized for the collection, processing, mainte-
14 nance, use, sharing, dissemination, or disposition of
15 information in accordance with defined procedures
16 and includes computer systems.

17 (4) INFORMATION TECHNOLOGY.—The term
18 “information technology”, with respect to an execu-
19 tive agency—

20 (A) means any equipment or inter-
21 connected system or subsystem of equipment,
22 including software, services, satellites, sensors,
23 an information system, or a telecommunication
24 system, that is used in the acquisition, storage,
25 manipulation, management, movement, control,

1 display, switching, interchange, transmission, or
2 reception of data or information by the execu-
3 tive agency or under a contract with the execu-
4 tive agency which (i) requires the use of such
5 system or subsystem of equipment, or (ii) re-
6 quires the use, to a significant extent, of such
7 system or subsystem of equipment in the per-
8 formance of a service or the furnishing of a
9 product; and

10 (B) does not include any such equipment
11 that is acquired by a Federal contractor inci-
12 dental to a Federal contract.

13 (5) INFORMATION ARCHITECTURE.—The term
14 “information architecture”, with respect to an execu-
15 tive agency, means a framework or plan for evolving
16 or maintaining existing information technology, ac-
17 quiring new information technology, and integrating
18 the agency’s information technology to achieve the
19 agency’s strategic goals and information resources
20 management goals.

21 (6) EXECUTIVE DEPARTMENT.—The term “ex-
22 ecutive department” means an executive department
23 specified in section 101 of title 5, United States
24 Code.

1 (7) EXECUTIVE AGENCY.—The term “executive
2 agency” has the meaning given the term in section
3 4(1) of the Office of Federal Procurement Policy
4 Act (41 U.S.C. 403(1)).

5 (8) HIGH-RISK INFORMATION TECHNOLOGY
6 PROGRAM.—The term “high-risk information tech-
7 nology program” means an acquisition of an infor-
8 mation system, or components of an information
9 system, that requires special management attention
10 because—

11 (A) the program cost is at least
12 \$100,000,000;

13 (B) the system being developed under the
14 program is critical to the success of an execu-
15 tive agency in fulfilling the agency’s mission;

16 (C) there is a significant risk in the devel-
17 opment of the system because of—

18 (i) the size or scope of the develop-
19 ment project;

20 (ii) the period necessary for complet-
21 ing the project;

22 (iii) technical configurations;

23 (iv) unusual security requirements;

1 (v) the special management skills nec-
2 essary for the management of the project;

3 or

4 (vi) the highly technical expertise nec-
5 essary for the project; or

6 (D) it is or will be necessary to allocate a
7 significant percentage of the information tech-
8 nology budget of an executive agency to paying
9 the costs of developing, operating, or maintain-
10 ing the system.

11 (9) COMMERCIAL ITEM.—The term “commer-
12 cial item” has the meaning given that term in sec-
13 tion 4(12) of the Office of Federal Procurement Pol-
14 icy Act (41 U.S.C. 403(12)).

15 (10) NONDEVELOPMENTAL ITEM.—The term
16 “nondevelopmental item” has the meaning given
17 that term in section 4(13) of the Office of Federal
18 Procurement Policy Act (41 U.S.C. 403(13)).

19 **TITLE I—RESPONSIBILITY FOR**
20 **ACQUISITIONS OF INFORMA-**
21 **TION TECHNOLOGY**

22 **Subtitle A—General Authority**

23 **SEC. 101. AUTHORITY OF HEADS OF EXECUTIVE AGENCIES.**

24 The heads of the executive agencies may conduct ac-
25 quisitions of information technology pursuant to their re-

1 spective authorities under title III of the Federal Property
2 and Administrative Services Act of 1949 (41 U.S.C. 251,
3 et seq.), chapters 4 and 137 of title 10, United States
4 Code, and the National Aeronautics and Space Act of
5 1958 (42 U.S.C. 2451 et seq.).

6 **SEC. 102. SUPERIOR AUTHORITY OF DIRECTOR OF OFFICE**
7 **OF MANAGEMENT AND BUDGET.**

8 Notwithstanding section 101 and the authorities re-
9 ferred to in such section, the conduct of an acquisition
10 of information technology by the head of an executive
11 agency is subject to (1) the authority, direction, and con-
12 trol of the Director of the Office of Management and
13 Budget and the Chief Information Officer of the United
14 States, and (2) the provisions of this Act.

15 **SEC. 103. REPEAL OF CENTRAL AUTHORITY OF THE ADMIN-**
16 **ISTRATOR OF GENERAL SERVICES.**

17 Section 111 of the Federal Property and Administra-
18 tive Services Act of 1949 (40 U.S.C. 759) is repealed.

19 **Subtitle B—Director of the Office**
20 **of Management and Budget**

21 **SEC. 121. RESPONSIBILITY OF DIRECTOR.**

22 (a) IN GENERAL.—The Director of the Office of
23 Management and Budget is responsible for the effective
24 and efficient acquisition, use, and disposal of information

1 technology and other information resources by the execu-
2 tive agencies.

3 (b) GOAL.—It shall be a goal of the Director to maxi-
4 mize the productivity, efficiency, and effectiveness of the
5 information resources of the Federal Government to serve
6 executive agency missions.

7 (c) ACTIONS TO BE TAKEN THROUGH CHIEF INFOR-
8 MATION OFFICER.—The Director shall act through the
9 Chief Information Officer of the United States in the exer-
10 cise of authority under this Act.

11 **SEC. 122. SPECIFIC RESPONSIBILITIES.**

12 (a) RESPONSIBILITIES STATED.—The Director of the
13 Office of Management and Budget has the following re-
14 sponsibilities with respect to the executive agencies:

15 (1) To provide direction for, and oversee, the
16 acquisition and management of information re-
17 sources.

18 (2) To develop, coordinate, and supervise the
19 implementation of policies, principles, standards, and
20 guidelines for information resources, performance of
21 information resources management functions and ac-
22 tivities, and investment in information resources.

23 (3) To determine the information resources that
24 are to be provided in common for executive agencies.

1 (4) To designate (as the Director considers ap-
2 propriate) one or more heads of executive agencies
3 as an executive agent to contract for Government-
4 wide information technology.

5 (5) To maintain a registry of most effective
6 agency sources of information technology program
7 management and contracting services, and to facili-
8 tate interagency use of such sources.

9 (6) To promulgate standards and guidelines
10 pertaining to Federal information systems in accord-
11 ance with section 124.

12 (7) To carry out an information systems secu-
13 rity and privacy program for the information sys-
14 tems of the Federal Government, including to ad-
15 minister the provisions of section 21 of the National
16 Institute of Standards and Technology Act (15
17 U.S.C. 278g-4) relating to the Computer System
18 Security and Privacy Advisory Board.

19 (8) To provide for Federal information system
20 security training in accordance with section 5(c) of
21 the Computer Security Act of 1987 (40 U.S.C.
22 759(c)).

23 (9) To encourage and advocate the adoption of
24 national and international information technology
25 standards that are technically and economically ben-

1 official to the Federal Government and the private
2 sector.

3 (b) CONSULTATION WITH FEDERAL INFORMATION
4 COUNCIL.—(1) The Director shall consult with the Fed-
5 eral Information Council regarding actions to be taken
6 under paragraphs (3) and (4) of subsection (a).

7 (2) The Director may consult with the Federal Infor-
8 mation Council regarding the performance of any other
9 responsibility of the Director under this Act.

10 **SEC. 123. PERFORMANCE-BASED AND RESULTS-BASED**
11 **MANAGEMENT.**

12 (a) EVALUATION OF AGENCY PROGRAMS AND IN-
13 VESTMENTS.—

14 (1) REQUIREMENT.—The Director of the Office
15 of Management and Budget shall evaluate the infor-
16 mation resources management practices of the exec-
17 utive agencies and the performance and results of
18 the information technology investments of executive
19 agencies.

20 (2) CONSIDERATION OF ADVICE AND REC-
21 OMMENDATIONS.—In performing the evaluation, the
22 Director shall consider any advice and recommenda-
23 tions provided by the Federal Information Council or
24 in any interagency or independent review or vendor
25 or user survey conducted pursuant to this section.

1 (b) CONTINUOUS REVIEW REQUIRED.—The Director
2 shall ensure, by reviewing each executive agency’s budget
3 proposals, information resources management plans, and
4 performance measurements, and by other means, that—

5 (1) the agency—

6 (A) provides adequately for the integration
7 of the agency’s information resources manage-
8 ment plans, strategic plans prepared pursuant
9 to section 306 of title 5, United States Code,
10 and performance plans prepared pursuant to
11 section 1115 of title 31, United States Code;
12 and

13 (B) budgets for the acquisition and use of
14 information technology;

15 (2) the agency analyzes its missions and, based
16 on the analysis, revises its mission-related processes
17 and administrative processes as appropriate before
18 making significant investments in information tech-
19 nology to be used in support of agency missions;

20 (3) the agency’s information resources manage-
21 ment plan is current and adequate and, to the maxi-
22 mum extent practicable, specifically identifies how
23 new information technology to be acquired is ex-
24 pected to improve agency operations and otherwise
25 expected to benefit the agency;

1 (4) efficient and effective interagency and Gov-
2 ernmentwide information technology investments are
3 undertaken to improve the accomplishment of com-
4 mon agency missions; and

5 (5) agency information security is adequate.

6 (c) PERIODIC REVIEWS.—

7 (1) REVIEWS REQUIRED.—The Director shall
8 periodically review selected information resources
9 management activities of the executive agencies in
10 order to ascertain the efficiency and effectiveness of
11 such activities in improving agency performance and
12 the accomplishment of agency missions.

13 (2) INDEPENDENT REVIEWERS.—(A) The Di-
14 rector may carry out a review of an executive agency
15 under this subsection through—

16 (i) the Comptroller General of the United
17 States (with the consent of the Comptroller
18 General);

19 (ii) the Inspector General of the agency (in
20 the case of an agency having an Inspector Gen-
21 eral); or

22 (iii) in the case of a review requiring an
23 expertise not available to the Director for the
24 review, a panel of officials of executive agencies
25 or a contractor.

1 (B) The Director shall notify the head of a
2 Federal agency of any determination made by the
3 Director to provide for a review to be performed by
4 an independent reviewer from outside the agency.

5 (C) A review of an executive agency by the
6 Comptroller General of the United States may be
7 carried out only pursuant to an interagency agree-
8 ment entered into by the Director and the Comptrol-
9 ler General. The agreement shall provide for the Di-
10 rector to pay the Comptroller General the amount
11 necessary to reimburse the Comptroller General for
12 the costs of performing the review.

13 (3) FUNDING.—Funds available to an executive
14 agency for acquisition or use of information tech-
15 nology shall be available for paying the costs of a re-
16 view of activity of that agency under this subsection.

17 (4) REPORT AND RESPONSE.—The Director
18 shall transmit to the head of an executive agency re-
19 viewed under this subsection a report on the results
20 of the review. Within 30 days after receiving the re-
21 port, the head of the executive agency shall submit
22 to the Director a written plan (including milestones)
23 on the actions that the head of the executive agency
24 determines necessary in order—

1 (A) to resolve any information resources
2 management problems identified in the report;
3 and

4 (B) to improve the performance of agency
5 missions and other agency performance.

6 (d) **VENDOR SURVEYS.**—The Director shall conduct
7 surveys of vendors and other sources of information tech-
8 nology acquired by an executive agency in order to deter-
9 mine the level of satisfaction of those sources with the per-
10 formance of the executive agency in conducting the acqui-
11 sition or acquisitions involved. The Director shall afford
12 the sources the opportunity to rate the executive agency
13 anonymously.

14 (e) **USER SURVEYS.**—

15 (1) **REQUIREMENT.**—The Director shall con-
16 duct surveys of users of information technology ac-
17 quired by an executive agency in order to determine
18 the level of satisfaction of the users with the per-
19 formance of the vendor.

20 (2) **COMPILATION OF SURVEY RESULTS.**—The
21 Director shall compile the results of the surveys into
22 an annual report and make the annual report avail-
23 able electronically to the heads of the executive agen-
24 cies.

25 (f) **ENFORCEMENT OF ACCOUNTABILITY.**—

1 (1) IN GENERAL.—The Director may take any
2 action that the Director considers appropriate, in-
3 cluding an action involving the budgetary process or
4 appropriations management process, to enforce ac-
5 countability for poor performance of information re-
6 sources management in an executive agency.

7 (2) SPECIFIC ACTIONS.—Actions taken by the
8 Director in the case of an executive agency may in-
9 clude such actions as the following:

10 (A) Reduce the amount proposed by the
11 head of the executive agency to be included for
12 information resources in the budget submitted
13 to Congress under section 1105(a) of title 31,
14 United States Code.

15 (B) Reduce or otherwise adjust apportion-
16 ments and reapportionments of appropriations
17 for information resources.

18 (C) Use other authorized administrative
19 controls over appropriations to restrict the
20 availability of funds for information resources.

21 (D) Disapprove the commencement or con-
22 tinuance of an information technology invest-
23 ment by the executive agency.

1 (E) Designate for the executive agency an
2 executive agent to contract with private sector
3 sources for—

4 (i) the performance of information re-
5 sources management (subject to the ap-
6 proval and continued oversight of the Di-
7 rector); or

8 (ii) the acquisition of information
9 technology.

10 (F) Withdraw all or part of the head of the
11 executive agency's authority to contract directly
12 for information technology.

13 (g) ENFORCEMENT ACTIONS RELATED TO COST,
14 PERFORMANCE, AND SCHEDULE GOALS.—

15 (1) REQUIRED TERMINATIONS OF ACQUISI-
16 TIONS.—The Director shall terminate any high-risk
17 information technology program or phase or incre-
18 ment of the program that—

19 (A) is more than 50 percent over the cost
20 goal established for the program or a phase or
21 increment of the program;

22 (B) fails to achieve at least 50 percent of
23 the performance goals established for the pro-
24 gram or a phase or increment of a program; or

1 (C) is more than 50 percent behind sched-
2 ule as determined in accordance with the sched-
3 ule goal established for the program or a phase
4 or increment of the program.

5 (2) AUTHORIZED TERMINATIONS OF ACQUI-
6 TIONS.—The Director shall consider terminating any
7 information technology acquisition that—

8 (A) is more than 10 percent over the cost
9 goal established for the program or a phase or
10 increment of the program;

11 (B) fails to achieve at least 90 percent of
12 the performance goals established for the pro-
13 gram or a phase or increment of a program; or

14 (C) is more than 10 percent behind sched-
15 ule as determined in accordance with the sched-
16 ule goal established for the program or a phase
17 or increment of the program.

18 **SEC. 124. STANDARDS AND GUIDELINES FOR FEDERAL IN-**
19 **FORMATION SYSTEMS.**

20 (a) PROMULGATION RESPONSIBILITY.—The Director
21 of the Office of Management and Budget shall, on the
22 basis of standards and guidelines developed pursuant to
23 paragraphs (2) and (3) of section 20(a) of the National
24 Institute of Standards and Technology Act (20 U.S.C.
25 278g-3(a)), promulgate standards and guidelines pertain-

1 ing to Federal information systems, making such stand-
2 ards compulsory and binding to the extent to which the
3 Director determines necessary to improve the efficiency of
4 operation, interoperability, security, and privacy of Fed-
5 eral information systems. In promulgating standards, the
6 Director should minimize the use of unique standards and
7 adopt market standards to the extent practicable.

8 (b) MORE STRINGENT STANDARDS AUTHORIZED.—
9 The head of an executive agency may employ standards
10 for the security and privacy of sensitive information in a
11 Federal information system within or under the super-
12 vision of that agency that are more stringent than the
13 standards promulgated by the Director, if such standards
14 are approved by the Director, are cost effective, maintain
15 interoperability, and contain, at a minimum, the provi-
16 sions of those applicable standards made compulsory and
17 binding by the Director.

18 (c) WAIVER AUTHORITY.—The standards determined
19 to be compulsory and binding may be waived by the Direc-
20 tor in writing upon a determination that compliance would
21 adversely affect the accomplishment of the mission of an
22 operator of a Federal information system, or cause a
23 major adverse financial impact on the operator which is
24 not offset by Governmentwide savings.

1 (d) SPECIAL RULE OF APPLICABILITY.—(1) Security
2 standards promulgated by the Director of the Office of
3 Management and Budget do not apply to information sys-
4 tems of the Department of Defense or the Central Intel-
5 ligence Agency.

6 (2) The Secretary of Defense shall prescribe security
7 standards applicable to the information systems of the De-
8 partment of Defense.

9 (3) The Director of Central Intelligence shall pre-
10 scribe security standards applicable to the information
11 systems of the Central Intelligence Agency.

12 **SEC. 125. CONTRACTING FOR PERFORMANCE OF INFORMA-**
13 **TION RESOURCES MANAGEMENT FUNCTIONS.**

14 The Director of the Office of Management and Budg-
15 et may contract for the performance of an information re-
16 sources management function for the executive branch.

17 **SEC. 126. REGULATIONS.**

18 (a) AUTHORITY.—The Director of the Office of Man-
19 agement and Budget may prescribe regulations to carry
20 out the provisions of this Act.

21 (b) SIMPLICITY OF REGULATIONS.—To the maxi-
22 mum extent practicable, the Director shall minimize the
23 length and complexity of the regulations and establish
24 clear and concise implementing regulations.

1 (c) INCORPORATION INTO FAR.—The regulations
2 shall be made a part of the Federal Acquisition Regula-
3 tion.

4 (d) PROHIBITION AGAINST AGENCY SUPPLEMENTAL
5 REGULATIONS.—The head of an executive agency may not
6 prescribe supplemental regulations for the regulations pre-
7 scribed by the Director under subsection (a).

8 **Subtitle C—Chief Information**
9 **Officer of the United States**

10 **SEC. 131. OFFICE OF THE CHIEF INFORMATION OFFICER**
11 **OF THE UNITED STATES.**

12 (a) ESTABLISHMENT.—There is established in the
13 Office of Management and Budget an Office of the Chief
14 Information Officer of the United States.

15 (b) CHIEF INFORMATION OFFICER OF THE UNITED
16 STATES.—

17 (1) APPOINTMENT.—The Chief Information Of-
18 ficer of the United States is appointed by the Presi-
19 dent, by and with the advice and consent of the Sen-
20 ate, from among persons who have demonstrated the
21 knowledge, skills, and abilities in management and
22 in information resources management that are nec-
23 essary to perform the functions of the Office of the
24 Chief Information Officer of the United States effec-
25 tively. The qualifications considered shall include

1 education, work experience, and professional activi-
2 ties related to information resources management.

3 (2) HEAD OF OFFICE.—The Chief Information
4 Officer is the head of the Office of the Chief Infor-
5 mation Officer of the United States.

6 (3) EXECUTIVE LEVEL II.—Section 5313 of
7 title 5, United States Code, is amended by adding
8 at the end the following:

9 “Chief Information Officer of the United
10 States.”.

11 (c) ADMINISTRATIVE PROVISIONS.—

12 (1) APPOINTMENT OF EMPLOYEES.—The Chief
13 Information Officer appoints the employees of the
14 office.

15 (2) EMPLOYEE QUALIFICATIONS.—In selecting
16 a person for appointment as an employee in an in-
17 formation resources management position, the Chief
18 Information Officer shall afford special attention to
19 the person’s demonstrated abilities to perform the
20 information resources management functions of the
21 position. The qualifications considered shall include
22 education, work experience, and professional activi-
23 ties related to information resources management.

24 (3) PAY FOR PERFORMANCE.—(A) The Chief
25 Information Officer shall establish a pay for per-

1 performance system for the employees of the office and
2 pay the employees in accordance with that system.

3 (B) Subject to the approval of the Director of
4 the Office of Management and Budget, the Chief In-
5 formation Officer may submit to Congress any rec-
6 ommendations for legislation that the Chief Informa-
7 tion Officer considers necessary to implement fully
8 the pay for performance system.

9 (4) SUPPORT FROM OTHER AGENCIES.—Upon
10 the request of the Chief Information Officer, the
11 head of an executive agency (other than an inde-
12 pendent regulatory agency) shall, to the extent prac-
13 ticable, make services, personnel, or facilities of the
14 agency available to the Office of the Chief Informa-
15 tion Officer of the United States for the perform-
16 ance of functions of the Chief Information Officer.

17 **SEC. 132. RELATIONSHIP OF CHIEF INFORMATION OFFICER**

18 **TO DIRECTOR OF THE OFFICE OF MANAGE-**

19 **MENT AND BUDGET; PRINCIPAL DUTIES.**

20 (a) REPORTING AUTHORITY.—The Chief Information
21 Officer of the United States reports directly to the Direc-
22 tor.

23 (b) PRINCIPAL ADVISER TO DIRECTOR OF OMB ON
24 INFORMATION RESOURCES MANAGEMENT.—The Chief
25 Information Officer is the principal adviser to the Director

1 on information resources management policy, including
2 policy on acquisition of information technology for the
3 Federal Government.

4 (c) PERFORMANCE OF DUTIES OF DIRECTOR OF
5 OMB.—

6 (1) IN GENERAL.—The Chief Information Offi-
7 cer shall perform the responsibilities of the Director
8 under this Act.

9 (2) CONTINUED RESPONSIBILITY OF DIREC-
10 TOR.—Paragraph (1) does not relieve the Director
11 of responsibility and accountability for the perform-
12 ance of such responsibilities.

13 (d) AUTHORITY SUBJECT TO CONTROL OF DIRECTOR
14 OF OMB.—The performance of duties and exercise of au-
15 thority by the Chief Information Officer is subject to the
16 authority, direction, and control of the Director of the Of-
17 fice of Management and Budget.

18 **SEC. 133. ADDITIONAL DUTIES.**

19 The Chief Information Officer has the following addi-
20 tional duties:

21 (1) To encourage the executive agencies to de-
22 velop and use the best practices in information re-
23 sources management and in acquisitions of informa-
24 tion technology by—

1 (A) identifying and collecting information
2 regarding the best practices, including informa-
3 tion on the development and implementation of
4 the best practices by the executive agencies; and

5 (B) providing the executive agencies with
6 information on the best practices and with ad-
7 vice and assistance regarding use of the best
8 practices.

9 (2) To assess, on a continuing basis, the experi-
10 ences of executive agencies, State and local govern-
11 ments, international organizations, and the private
12 sector in managing information resources.

13 (3) To compare the performances of the execu-
14 tive agencies in using information resources and to
15 disseminate the comparisons to the executive agen-
16 cies.

17 (4) To develop and maintain a Governmentwide
18 strategic plan for information resources management
19 and acquisitions of information technology, including
20 guidelines and standards for the development of an
21 information resources management plan to be used
22 by the executive agencies.

23 (5) To ensure that the information resources
24 management plan and the information systems of
25 executive agencies conform to the guidelines and

1 standards set forth in the Governmentwide strategic
2 plan.

3 (6) To develop and submit to the Director of
4 the Office of Management and Budget proposed leg-
5 islation and proposed changes or additions to regula-
6 tions and agency procedures as the Chief Informa-
7 tion Officer considers necessary in order to improve
8 information resources management by the executive
9 agencies.

10 (7) To review the regulations, policies, and
11 practices of executive agencies regarding information
12 resources management and acquisitions of informa-
13 tion technology in order to identify the regulations,
14 policies, and practices that should be eliminated or
15 adjusted so as not to hinder or impede information
16 resources management or acquisitions of information
17 technology.

18 (8) To monitor the development and implemen-
19 tation of training in information resources manage-
20 ment for executive agency management personnel
21 and staff.

22 (9) To keep Congress fully informed on high-
23 risk information technology programs of the execu-
24 tive agencies, and the extent to which the executive
25 agencies are improving program performance and

1 the accomplishment of agency missions through the
2 use of the best practices in information resources
3 management.

4 (10) To review Federal procurement policies on
5 acquisitions of information technology and to coordi-
6 nate with the Administrator for Federal Procure-
7 ment Policy regarding the development of Federal
8 procurement policies for such acquisitions.

9 (11) To facilitate the establishment and mainte-
10 nance of an electronic clearinghouse of information
11 on the availability of nondevelopmental items of in-
12 formation technology for the Federal Government.

13 (12) To perform the functions of the Director
14 of the Office of Management and Budget under
15 chapter 35 of title 44, United States Code.

16 **SEC. 134. ACQUISITIONS UNDER HIGH-RISK INFORMATION**
17 **TECHNOLOGY PROGRAMS.**

18 (a) **ADVANCE PROGRAM REVIEW.**—The Chief Infor-
19 mation Officer of the United States shall review each pro-
20 posed high-risk information technology program.

21 (b) **ADVANCE APPROVAL REQUIRED.**—No program
22 referred to in subsection (a) may be carried out by the
23 head of an executive agency without the advance approval
24 of the Chief Information Officer of the United States.

1 **SEC. 135. ELECTRONIC DATA BASE ON CONTRACTOR PER-**
2 **FORMANCE.**

3 (a) ESTABLISHMENT.—The Chief Information Offi-
4 cer of the United States shall establish in the Office of
5 the Chief Information Officer of the United States an elec-
6 tronic data base containing a record of the performance
7 of each contractor under a Federal Government contract
8 for the acquisition of information technology or other in-
9 formation resources.

10 (b) REPORTING OF INFORMATION TO DATA BASE.—

11 (1) REQUIREMENT.—The head of each execu-
12 tive agency shall, in accordance with regulations pre-
13 scribed by the Director of the Office of Management
14 and Budget, report to the Chief Information Officer
15 information on contractor performance that is to be
16 included in the data base.

17 (2) WHEN SUBMITTED.—The head of an execu-
18 tive agency shall submit to the Director—

19 (A) an annual report on contractor per-
20 formance during the year covered by the report;
21 and

22 (B) upon the completion or termination of
23 performance under a contract, a report on the
24 contractor performance under that contract.

25 (c) PERIOD FOR INFORMATION TO BE MAIN-
26 TAINED.—Information on the performance of a contractor

1 under a contract shall be maintained in the data base for
2 five years following completion of the performance under
3 that contract. Information not required to be maintained
4 under the preceding sentence shall be removed from the
5 data base or rendered inaccessible.

6 **Subtitle D—Executive Agencies**

7 **SEC. 141. RESPONSIBILITIES.**

8 (a) IN GENERAL.—The head of an executive agency
9 is responsible for—

10 (1) carrying out the information resources man-
11 agement activities of the agency in a manner that
12 fulfills the agency’s missions and improves agency
13 productivity, efficiency, and effectiveness; and

14 (2) complying with the requirements of this Act
15 and the policies, regulations, and directives issued by
16 the Director of the Office of Management and Budg-
17 et or the Chief Information Officer of the United
18 States under the provisions of this Act.

19 (b) INFORMATION RESOURCES MANAGEMENT
20 PLAN.—

21 (1) PLAN REQUIRED.—The head of an execu-
22 tive agency shall develop, maintain, and oversee the
23 implementation of an agency-wide information re-
24 sources management plan that is consistent with the
25 strategic plan prepared by the head of the agency

1 pursuant to section 306 of title 5, United States
2 Code, and the agency head's mission analysis, and
3 ensure that the agency information systems conform
4 to those plans.

5 (2) CONTENT OF PLAN.—The information re-
6 sources management plan shall provide for applying
7 information technology and other information re-
8 sources in support of the performance of the mis-
9 sions of the agency and shall include the following:

10 (A) A statement of goals for improving the
11 contribution of information resources to pro-
12 gram productivity, efficiency, and effectiveness.

13 (B) Methods for measuring progress to-
14 ward achieving the goals.

15 (C) Assignment of clear roles, responsibil-
16 ities, and accountability for achieving the goals.

17 (D) Identification of—

18 (i) the existing and planned informa-
19 tion technology components (such as infor-
20 mation systems and telecommunication
21 networks) of the agency and the relation-
22 ship among the information technology
23 components; and

24 (ii) the information architecture for
25 the agency.

1 (c) AGENCY RECORDS.—The head of an executive
2 agency shall periodically evaluate and, as necessary, im-
3 prove the accuracy, completeness, and reliability of data
4 and records in the information systems of the agency.

5 (d) BUDGETING.—The head of an executive agency
6 shall use the strategic plan, performance plans, and infor-
7 mation resources management plan of the agency in pre-
8 paring and justifying the agency’s budget proposals to the
9 Director of the Office of Management and Budget and to
10 Congress.

11 **SEC. 142. SPECIFIC AUTHORITY.**

12 The authority of the head of an executive agency
13 under section 101 and the authorities referred to in such
14 section includes the following authorities:

15 (1) To acquire information technology—

16 (A) in the case of an acquisition of less
17 than \$100,000,000, without the advance ap-
18 proval of the Chief Information Officer of the
19 United States; and

20 (B) in the case of an acquisition of a high-
21 risk information technology program, with the
22 advance approval of the Director of the Office
23 of Management and Budget.

24 (2) To enter into a contract that provides for
25 multi-agency acquisitions of information technology

1 subject to the approval and guidance of the Federal
2 Information Council.

3 (3) If the Federal Information Council and the
4 heads of the executive agencies concerned find that
5 it would be advantageous for the Federal Govern-
6 ment to do so, to enter into a multi-agency contract
7 for procurement of commercial items that requires
8 each agency covered by the contract, when procuring
9 such items, either to procure the items under that
10 contract or to justify an alternative procurement of
11 the items.

12 (4) To establish one or more independent tech-
13 nical review committees, composed of diverse agency
14 personnel (including users) and outside experts se-
15 lected by the head of the executive agency, to advise
16 the head of the executive agency about information
17 systems programs.

18 **SEC. 143. AGENCY CHIEF INFORMATION OFFICER.**

19 (a) DESIGNATION OF CHIEF INFORMATION OFFI-
20 CERS.—

21 (1) AGENCIES REQUIRED TO HAVE CHIEF IN-
22 FORMATION OFFICERS.—There shall be a chief infor-
23 mation officer within each executive agency named
24 in section 901(b) of title 31, United States Code.

1 The head of the executive agency shall designate the
2 chief information officer for the executive agency.

3 (2) AGENCIES AUTHORIZED TO HAVE CHIEF IN-
4 FORMATION OFFICERS.—The head of any executive
5 agency not required by paragraph (1) to have a chief
6 information officer may designate a chief informa-
7 tion officer for the executive agency.

8 (b) RELATIONSHIP TO AGENCY HEAD.—

9 (1) PRINCIPAL ADVISER.—The chief informa-
10 tion officer of an executive agency is the principal
11 adviser to the head of the executive agency regard-
12 ing acquisition of information technology and man-
13 agement of information resources for the agency.

14 (2) REPORTING AUTHORITY.—The chief infor-
15 mation officer of an executive agency reports directly
16 to the head of the executive agency.

17 (3) CONTROL BY AGENCY HEAD.—The perform-
18 ance of duties and exercise of authority by the chief
19 information officer of an executive agency is subject
20 to the authority, direction, and control of the head
21 of the executive agency.

22 (c) DUTIES.—

23 (1) IN GENERAL.—The chief information officer
24 of an executive agency shall provide advice and other
25 assistance to the head of the executive agency and

1 other senior management personnel of the executive
2 agency to ensure that information technology is ac-
3 quired and information resources are managed for
4 the agency in a manner that—

5 (A) maximizes—

6 (i) the benefits derived by the agency
7 and the public served by the agency from
8 use of information technology; and

9 (ii) the public accountability of the
10 agency for delivery of services and accom-
11 plishment of the agency's mission; and

12 (B) is consistent with the policies, require-
13 ments, and procedures that are applicable in ac-
14 cordance with this Act to the acquisition and
15 management of information technology.

16 (2) ESTABLISHMENT OF GOALS.—The chief in-
17 formation officer of an executive agency shall—

18 (A) establish goals for improving the effi-
19 ciency and effectiveness of agency operations
20 and the delivery of services to the public
21 through the effective use of information re-
22 sources; and

23 (B) submit to the head of the executive
24 agency an annual report, to be included in the

1 budget submission for the executive agency, on
2 the progress in achieving the goals.

3 (3) INFORMATION RESOURCES MANAGEMENT.—

4 (A) The chief information officer of an executive
5 agency shall administer the information resources
6 management functions, including the acquisition
7 functions, of the head of the executive agency.

8 (B) Subparagraph (A) does not relieve the head
9 of an executive agency of responsibility and account-
10 ability for the administration of such functions.

11 (4) AGENCY POLICIES.—The chief information
12 officer shall prescribe policies and procedures that—

13 (A) minimize the layers of review for ac-
14 quisitions of information technology within the
15 executive agency;

16 (B) foster timely communications between
17 vendors of information technology and the
18 agency; and

19 (C) set forth and require the use of infor-
20 mation resources management practices and in-
21 formation technology acquisition practices that
22 the chief information officer considers as being
23 among the best of such practices.

24 (5) AGENCY PLANNING.—The chief information
25 officer shall—

1 (A) develop and maintain an information
2 resources management plan for management of
3 information resources and acquisition of infor-
4 mation technology for the executive agency; and

5 (B) ensure that there is adequate advance
6 planning for acquisitions of information tech-
7 nology, including assessing and revising the
8 mission-related processes and administrative
9 processes of the agency as determined appro-
10 priate before making information system invest-
11 ments.

12 (6) PERFORMANCE MEASUREMENTS.—(A) The
13 chief information officer shall ensure that—

14 (i) performance measurements are pre-
15 scribed for information technology used by or to
16 be acquired for the executive agency; and

17 (ii) the performance measurements meas-
18 ure how well the information technology sup-
19 ports agency programs.

20 (B) In carrying out the duty set forth in sub-
21 paragraph (A), the chief information officer shall
22 consult with the head of the executive agency, agen-
23 cy managers, users, and program managers regard-
24 ing the performance measurements that are to be
25 prescribed for information technology.

1 (7) MONITORING OF PROGRAM PERFORM-
2 ANCE.—The chief information officer shall monitor
3 the performance of information technology programs
4 of the executive agency, evaluate the performance on
5 the basis of the applicable performance measure-
6 ments, and advise the head of the executive agency
7 regarding whether to continue or terminate pro-
8 grams.

9 (8) PROGRAM PERFORMANCE REPORTS.—(A)
10 Not later than February 1, 1997, and not later than
11 February 1 of each year thereafter, the chief infor-
12 mation officer of an executive agency shall prepare
13 and submit to the head of the executive agency an
14 annual program performance report for the informa-
15 tion technology programs of the executive agency.
16 The report shall satisfy the requirements of section
17 1116(d) of title 31, United States Code.

18 (B) The head of the executive agency shall
19 transmit a copy of the annual report to the Chief In-
20 formation Officer of the United States.

21 (9) ADDITIONAL ASSIGNED DUTIES.—A chief
22 information officer designated under subsection
23 (a)(1) may not be assigned any duty that is not re-
24 lated to information resources management.

25 (d) OFFICE OF CHIEF INFORMATION OFFICER.—

1 (1) ESTABLISHMENT.—The head of an execu-
2 tive agency designating a chief information officer
3 shall establish within the agency an Office of the
4 Chief Information Officer.

5 (2) HEAD OF OFFICE.—The chief information
6 officer of the executive agency shall be the head of
7 the office.

8 (3) STAFF.—(A) The head of the executive
9 agency appoints the employees of the office. The
10 chief information officer of the executive agency may
11 make recommendations for appointments to posi-
12 tions in the office.

13 (B) In selecting a person for appointment to an
14 information resources management position in the
15 office, the head of the executive agency shall afford
16 special attention to the demonstrated abilities of the
17 person to perform the information resources man-
18 agement functions of the position. To the maximum
19 extent practicable, the head of the executive agency
20 shall appoint to the position a person who has direct
21 and substantial experience in successfully achieving
22 major improvements in organizational performance
23 through the use of information technology.

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

4 “Chief information officers designated under
5 section 143 of the Information Technology Manage-
6 ment Reform Act of 1995.”.

7 **SEC. 144. ACCOUNTABILITY.**

8 (a) INFORMATION TECHNOLOGY INVESTMENTS.—
9 The head of an executive agency shall be accountable to
10 the Director of the Office of Management and Budget,
11 through the budget process and otherwise as the Director
12 may prescribe, for attaining or failing to attain success
13 in the achievement of the program objectives established
14 for the information technology investments of the agency.

15 (b) SYSTEM OF CONTROLS.—The head of an execu-
16 tive agency, in consultation with the chief financial officer
17 of the agency (or, in the case of an agency without a chief
18 financial officer, any comparable official) shall establish
19 policies and procedures that—

20 (1) provide for sound management of expendi-
21 tures for information technology investments of the
22 agency;

23 (2) ensure that the accounting, financial, and
24 asset management systems and other information
25 systems of the agency are designed, developed, main-

1 tained, and used effectively to provide financial or
2 program performance data for financial statements
3 of the agency;

4 (3) ensure that financial and related program
5 performance data are provided on a reliable, consist-
6 ent, and timely basis to agency financial manage-
7 ment systems;

8 (4) ensure that there is a full and accurate ac-
9 counting for information technology expenditures,
10 including expenditures for related expenses, and for
11 the results derived by the agency from the expendi-
12 tures; and

13 (5) ensure that financial statements support—

14 (A) assessment and revision of mission-re-
15 lated processes and administrative processes of
16 the agency; and

17 (B) performance measurement in the case
18 of information system investments made by the
19 agency.

20 (c) PROTECTION OF SENSITIVE INFORMATION.—Sec-
21 tion 6 of the Computer Security Act of 1987 (Public Law
22 100–235; 101 Stat. 1729) is amended—

23 (1) in subsection (a), by striking out “Within 6
24 months after the date of enactment of this Act,
25 each” and inserting in lieu thereof “Each”; and

1 (2) in the first sentence of subsection (b)—

2 (A) by striking out “Within one year after
3 the date of enactment of this Act, each” and in-
4 serting in lieu thereof “Each”; and

5 (B) by striking out “section 111(d) of the
6 Federal Property and Administrative Services
7 Act of 1949” and inserting in lieu thereof “sec-
8 tion 124 of the Information Technology Man-
9 agement Reform Act of 1995”.

10 **SEC. 145. AGENCY MISSIONS AND THE APPROPRIATENESS**
11 **OF INFORMATION TECHNOLOGY INITIATIVES.**

12 (a) PROVIDING FOR APPROPRIATE INITIATIVES.—
13 Before making investments in information technology or
14 other information resources for the performance of agency
15 missions, the head of each executive agency shall—

16 (1) identify opportunities to revise mission-re-
17 lated processes and administrative processes, assess
18 the desirability of making the revisions, and, if de-
19 termined desirable, take appropriate action to make
20 and complete the revisions; and

21 (2) determine the most efficient and effective
22 manner for carrying out the agency missions.

23 (b) MISSION ANALYSIS.—

24 (1) CONTINUOUS STUDIES.—In order to be pre-
25 pared to carry out subsection (a) in an efficient, ef-

1 fective, and timely manner, the head of an executive
2 agency shall provide for studies to be conducted on
3 a continuing basis within the agency for the purpose
4 of analyzing the missions of the agency.

5 (2) ANALYSIS.—The purpose of an analysis of
6 a mission under subsection (a) is to determine—

7 (A) whether the mission should be per-
8 formed in the private sector rather than by an
9 agency of the Federal Government and, if so,
10 whether the component of the agency perform-
11 ing that function should be converted from a
12 governmental organization to a private sector
13 organization; or

14 (B) whether the mission should be per-
15 formed by the executive agency and, if so,
16 whether the mission should be performed by—

17 (i) a private sector source under a
18 contract entered into by head of the execu-
19 tive agency; or

20 (ii) executive agency personnel.

21 (c) PROCESS IMPROVEMENT STUDIES.—The head of
22 the executive agency shall require that studies be con-
23 ducted of ways to improve processes used in the perform-
24 ance of missions determined, in accordance with sub-

1 section (b) or otherwise, as being appropriate for the agen-
2 cy to perform.

3 **SEC. 146. SIGNIFICANT FAILURES OF PROGRAMS TO**
4 **ACHIEVE COST, PERFORMANCE, OR SCHED-**
5 **ULE GOALS.**

6 (a) IN GENERAL.—The head of an executive agency
7 shall monitor the performance of information technology
8 acquisition programs of the executive agency with regard
9 to meeting the cost, performance, and schedule goals ap-
10 proved or defined for the programs pursuant to section
11 313(b) of the Federal Property and Administrative Serv-
12 ices Act of 1949 (41 U.S.C. 263(b)) or section 2220(a)
13 of title 10, United States Code.

14 (b) REQUIRED TERMINATIONS OF ACQUISITIONS.—
15 The head of an executive agency shall terminate any infor-
16 mation technology acquisition program of the executive
17 agency, or any phase or increment of such a program,
18 that—

19 (1) is more than 50 percent over the cost goal
20 established for the program or any phase or incre-
21 ment of the program;

22 (2) fails to achieve at least 50 percent of the
23 performance goals established for the program or
24 any phase or increment of the program; or

1 (3) is more than 50 percent behind schedule as
2 determined in accordance with the schedule goal es-
3 tablished for the program or any phase or increment
4 of the program.

5 (c) ACQUISITIONS REQUIRED TO BE CONSIDERED
6 FOR TERMINATION.—The head of an executive agency
7 shall consider for termination any information technology
8 acquisition program of the executive agency, or any phase
9 or increment of such a program, that—

10 (1) is more than 10 percent over the cost goal
11 established for the program or any phase or incre-
12 ment of the program;

13 (2) fails to achieve at least 90 percent of the
14 performance goals established for the program or
15 any phase or increment of the program; or

16 (3) is more than 10 percent behind schedule as
17 determined in accordance with the schedule goal es-
18 tablished for the program or any phase or increment
19 of the program.

20 **SEC. 147. INTERAGENCY SUPPORT.**

21 The head of an executive agency shall make personnel
22 of the agency and other forms of support available for
23 Governmentwide independent review committees and
24 interagency groups established under this Act.

1 **SEC. 148. MONITORING OF MODIFICATIONS IN INFORMA-**
2 **TION TECHNOLOGY ACQUISITION PRO-**
3 **GRAMS.**

4 (a) REQUIREMENT TO MONITOR AND REPORT.—The
5 program manager for an information technology acqui-
6 sion program of an executive agency shall monitor the
7 modifications made in the program or any phase or incre-
8 ment of the program, including modifications of cost,
9 schedule, or performance goals, and shall periodically re-
10 port on such modifications to the chief information officer
11 of the agency.

12 (b) DETERMINATIONS OF HIGH RISK.—The number
13 and type of the modifications in a program shall be a criti-
14 cal consideration in determinations of whether the pro-
15 gram is a high-risk information technology program (with-
16 out regard to the cost of the program).

17 (c) ASSESSMENTS OF AGENCY PERFORMANCE.—The
18 Chief Information Officer of the United States shall con-
19 sider the number and type of the modifications in an infor-
20 mation technology acquisition program of an executive
21 agency for purposes of assessing agency performance.

22 (d) CONTRACT TERMINATIONS.—The chief informa-
23 tion officer of an executive agency shall—

24 (1) closely review the modifications in an infor-
25 mation technology acquisition program of the
26 agency;

1 (2) consider whether the frequency and extent
2 of the modifications justify termination of a contract
3 under the program; and

4 (3) if a termination is determined justified, sub-
5 mit to the head of the executive agency a rec-
6 ommendation to terminate the contract.

7 **SEC. 149. SPECIAL PROVISIONS FOR DEPARTMENT OF DE-**
8 **FENSE.**

9 (a) OVERSIGHT OF IMPLEMENTATION WITHIN THE
10 DEPARTMENT OF DEFENSE.—

11 (1) DELEGATION OF AUTHORITY FOR INDIVID-
12 UAL PROGRAMS AND SYSTEMS.—(A) Subject to sub-
13 paragraph (B), the Director of the Office of Man-
14 agement and Budget shall delegate to the Secretary
15 of Defense the authority to perform the responsibil-
16 ities of the Director for supervision of the implemen-
17 tation of the requirements of this Act and the poli-
18 cies, regulations, and procedures prescribed by the
19 Director under this Act in the case of individual in-
20 formation technology programs, including acquisition
21 programs, and information systems of the Depart-
22 ment of Defense.

23 (B) The Director may revoke, in whole or in
24 part, the delegation of authority under subparagraph
25 (A) at any time that the Director determines that it

1 is in the interests of the United States to do so. In
2 considering whether to revoke the authority, the Di-
3 rector shall take into consideration the reports re-
4 ceived under subsection (d).

5 (2) RESPONSIBILITY OF DIRECTOR OF OMB.—

6 The Director of the Office of Management and
7 Budget shall continue to exercise overall responsibil-
8 ity for compliance by the Department of Defense
9 with the provisions of this Act and the policies, regu-
10 lations, and procedures prescribed by the Director
11 under this Act.

12 (b) IMPLEMENTATION.—

13 (1) REQUIREMENT.—The Secretary of Defense
14 shall implement the provisions of this Act within the
15 Department of Defense.

16 (2) COVERED PROGRAMS.—The Secretary of
17 Defense shall ensure that the provisions of this Act
18 and the policies and regulations prescribed by the
19 Director of the Office of Management and Budget
20 are applied to all information technology programs
21 of the Department of Defense, including—

22 (A) all such programs that are acquisition
23 programs, including major defense acquisition
24 programs;

1 (B) programs that involve intelligence ac-
2 tivities, cryptologic activities related to national
3 security, command and control of military
4 forces, and information technology integral to a
5 weapon or weapons system; and

6 (C) programs that are critical to the direct
7 fulfillment of military or intelligence missions.

8 (c) CHIEF INFORMATION OFFICER.—

9 (1) DESIGNATION.—The Secretary of Defense
10 shall—

11 (A) designate the Under Secretary of De-
12 fense for Acquisition and Technology as the
13 chief information officer of the Department of
14 Defense; and

15 (B) delegate to the Under Secretary the
16 duty to perform the responsibilities of the Sec-
17 retary under this Act.

18 (2) OTHER DUTIES.—Section 143(c)(9) does
19 not apply to the chief information officer of the De-
20 partment of Defense.

21 (d) ANNUAL REPORT.—The Secretary of Defense
22 shall submit to the Director of the Office of Management
23 and Budget an annual report on the implementation of
24 this Act within the Department of Defense.

25 (e) PILOT PROGRAMS.—

1 (1) RECOMMENDATIONS BY SECRETARY OF DE-
2 FENSE.—The Secretary of Defense may submit to
3 the Chief Information Officer of the United States
4 a recommendation that a specific information tech-
5 nology pilot program be carried out under section
6 401.

7 (2) OVERSIGHT OF RECOMMENDED PRO-
8 GRAM.—If the Chief Information Officer determines
9 to carry out a pilot program in the Department of
10 Defense under section 401, the Director of the Of-
11 fice of Management and Budget shall supervise the
12 pilot program without regard to any delegation of
13 authority under subsection (a).

14 **SEC. 150. SPECIAL PROVISIONS FOR CENTRAL INTEL-**
15 **LIGENCE AGENCY.**

16 (a) OVERSIGHT OF IMPLEMENTATION WITHIN THE
17 CIA.—

18 (1) DELEGATION OF AUTHORITY FOR INDIVID-
19 UAL PROGRAMS AND SYSTEMS.—(A) Subject to sub-
20 paragraph (B), the Director of the Office of Man-
21 agement and Budget shall delegate to the Director
22 of Central Intelligence the authority to perform the
23 responsibilities of the Director of the Office of Man-
24 agement and Budget for supervision of the imple-
25 mentation of the requirements of this Act and the

1 policies, regulations, and procedures prescribed by
2 the Director of the Office of Management and Budg-
3 et under this Act in the case of individual informa-
4 tion technology programs (including acquisition pro-
5 grams) and information systems of the Central In-
6 telligence Agency.

7 (B) The Director of the Office of Management
8 and Budget may revoke, in whole or in part, the del-
9 egation of authority under subparagraph (A) at any
10 time that the Director determines that it is in the
11 interests of the United States to do so. In consider-
12 ing whether to revoke the authority, the Director
13 shall take into consideration the reports received
14 under subsection (d).

15 (2) RESPONSIBILITY OF DIRECTOR OF OMB.—

16 The Director of the Office of Management and
17 Budget shall continue to exercise overall responsibil-
18 ity for compliance by the Central Intelligence Agency
19 with the provisions of this Act and the policies, regu-
20 lations, and procedures prescribed by the Director
21 under this Act.

22 (b) IMPLEMENTATION.—

23 (1) REQUIREMENT.—The Director of Central
24 Intelligence shall implement the provisions of this
25 Act within the Central Intelligence Agency.

1 (2) COVERED PROGRAMS.—The Director of
2 Central Intelligence shall ensure that the provisions
3 of this Act and the policies and regulations pre-
4 scribed by the Director of the Office of Management
5 and Budget are applied to all information technology
6 programs of the Central Intelligence Agency, includ-
7 ing information technology acquisition programs.

8 (c) CHIEF INFORMATION OFFICER.—

9 (1) DESIGNATION.—The Director of Central In-
10 telligence shall—

11 (A) designate the Deputy Director of
12 Central Intelligence as the chief information of-
13 ficer of the Central Intelligence Agency; and

14 (B) delegate to the Deputy Director the
15 duty to perform the responsibilities of the Di-
16 rector of Central Intelligence under this Act.

17 (2) OTHER DUTIES.—Section 143(c)(9) does
18 not apply to the chief information officer of the
19 Central Intelligence Agency.

20 (d) ANNUAL REPORT.—The Director of Central In-
21 telligence shall submit to the Director of the Office of
22 Management and Budget an annual report on the imple-
23 mentation of this Act within the Central Intelligence
24 Agency.

25 (e) PILOT PROGRAMS.—

1 (1) RECOMMENDATIONS BY DIRECTOR OF
2 CENTRAL INTELLIGENCE.—The Director of Central
3 Intelligence may submit to the Chief Information
4 Officer of the United States a recommendation that
5 a specific information technology pilot program be
6 carried out under section 401.

7 (2) OVERSIGHT OF RECOMMENDED PRO-
8 GRAM.—If the Chief Information Officer determines
9 to carry out a pilot program in the Central Intel-
10 ligence Agency under section 401, the Director of
11 the Office of Management and Budget shall super-
12 vise the pilot program without regard to any delega-
13 tion of authority under subsection (a).

14 **Subtitle E—Federal Information** 15 **Council**

16 **SEC. 151. ESTABLISHMENT OF FEDERAL INFORMATION** 17 **COUNCIL.**

18 There is established in the executive branch a “Fed-
19 eral Information Council”.

20 **SEC. 152. MEMBERSHIP.**

21 The members of the Federal Information Council are
22 as follows:

23 (1) The chief information officer of each execu-
24 tive department.

1 (2) The chief information officer or senior in-
2 formation resources management official of each ex-
3 ecutive agency who is designated as a member of the
4 Council by the Director of the Office of Management
5 and Budget.

6 (3) Other officers or employees of the Federal
7 Government designated by the Director.

8 **SEC. 153. CHAIRMAN; EXECUTIVE DIRECTOR.**

9 (a) CHAIRMAN.—The Director of the Office of Man-
10 agement and Budget is the Chairman of the Federal In-
11 formation Council.

12 (b) EXECUTIVE DIRECTOR.—The Chief Information
13 Officer of the United States is the Executive Director of
14 the Council. The Executive Director provides administra-
15 tive and other support for the Council.

16 **SEC. 154. DUTIES.**

17 The duties of the Federal Information Council are
18 as follows:

19 (1) To obtain advice on information resources,
20 information resources management, and information
21 technology from State, local, and tribal governments
22 and from the private sector.

23 (2) To make recommendations to the Director
24 of the Office of Management and Budget regarding

1 Federal policies and practices on information re-
2 sources management.

3 (3) To establish strategic direction and prior-
4 ities for a Governmentwide information infrastruc-
5 ture.

6 (4) To assist the Chief Information Officer of
7 the United States in developing and maintaining the
8 Governmentwide strategic information resources
9 management plan.

10 (5) To coordinate Governmentwide and multi-
11 agency programs and projects for achieving improve-
12 ments in the performance of Federal Government
13 missions, including taking such actions as—

14 (A) identifying program goals and require-
15 ments that are common to several agencies;

16 (B) establishing interagency functional
17 groups under section 161;

18 (C) establishing an interagency group of
19 senior managers of information resources to re-
20 view high-risk information technology programs;

21 (D) identifying opportunities for undertak-
22 ing information technology programs on a
23 shared basis or providing information tech-
24 nology services on a shared basis;

1 (E) providing for the establishment of tem-
2 porary special advisory groups, composed of
3 senior officials from industry and the Federal
4 Government, to review Governmentwide infor-
5 mation technology programs, high-risk informa-
6 tion technology acquisitions, and issues of infor-
7 mation technology policy;

8 (F) coordinating budget estimates and in-
9 formation technology acquisitions in order to
10 develop a coordinated approach for meeting
11 common information technology goals and re-
12 quirements; and

13 (G) reviewing agency programs and proc-
14 esses, to identify opportunities for consolidation
15 of activities or cooperation.

16 (6) To coordinate the provision, planning, and
17 acquisition of common infrastructure services, such
18 as telecommunications, Governmentwide E-mail,
19 electronic benefits transfer, electronic commerce, and
20 Governmentwide data sharing, by—

21 (A) making recommendations to the Direc-
22 tor of the Office of Management and Budget
23 regarding services that can be provided in com-
24 mon;

1 (B) making recommendations to the Direc-
2 tor regarding designation of an executive agent
3 to contract for common infrastructure services
4 on behalf of the Federal Government;

5 (C) approving overhead charges by execu-
6 tive agents;

7 (D) approving a surcharge which may be
8 imposed on selected common infrastructure
9 services and is to be credited to the Common
10 Use Account established by section 331; and

11 (E) monitoring and providing guidance for
12 the administration of the Common Use Account
13 established by section 331 and the Innovation
14 Loan Account established by section 321 for
15 purposes of encouraging innovation by making
16 financing available for high-opportunity infor-
17 mation technology programs, including common
18 infrastructure systems and services.

19 (7) To assess ways to revise and reorganize
20 Federal Government mission-related and administra-
21 tive processes before acquiring information tech-
22 nology in support of agency missions.

23 (8) To monitor and provide guidance for the de-
24 velopment of performance measures for agency in-

1 information resources management activities for Gov-
2 ernmentwide applicability.

3 (9) To submit to the Chief Information Officer
4 of the United States recommendations for conduct-
5 ing pilot projects for the purpose of identifying bet-
6 ter ways for Federal Government agencies to plan
7 for, acquire, and manage information resources.

8 (10) To identify opportunities for sharing infor-
9 mation at the Federal, State, and local levels of gov-
10 ernment and to improve information sharing and
11 communications.

12 (11) To ensure that United States interests in
13 international information-related activities are
14 served, including coordinating United States partici-
15 pation in the activities of international information
16 organizations.

17 **SEC. 155. SOFTWARE REVIEW COUNCIL.**

18 (a) ESTABLISHMENT.—The Federal Information
19 Council shall establish a Federal Software Review Council.

20 (b) MEMBERSHIP.—

21 (1) COMPOSITION.—The Federal Information
22 Council, in consultation with the Chief Information
23 Officer of the United States, shall determine the
24 membership of the Federal Software Council. The

1 number of members of the Council may not exceed
2 10 members.

3 (2) CERTAIN REPRESENTATION REQUIRED.—

4 The Federal Information Council shall provide for
5 the Government, private industry, and college and
6 universities to be represented on the membership of
7 the Software Review Council.

8 (c) CHAIRMAN.—The Chief Information Officer of
9 the United States shall serve as Chairman of the Federal
10 Software Review Council.

11 (d) DUTIES.—

12 (1) CLEARINGHOUSE FUNCTION.—(A) The
13 Federal Software Review Council shall act as a
14 clearinghouse of information on the software that—

15 (i) is commercially available to the Federal
16 Government; and

17 (ii) has been uniquely developed for use by
18 one or more executive agencies.

19 (B) The Federal Software Review Council shall
20 provide advice to heads of executive agencies regard-
21 ing recommended software engineering techniques
22 and commercial software solutions appropriate to
23 the agency's needs.

24 (2) SOFTWARE FOR USE IN DEVELOPMENT OF
25 AGENCY SYSTEMS.—The Federal Software Review

1 Council shall submit to the Federal Information
2 Council proposed guidelines and standards regarding
3 the use of commercial software, nondevelopmental
4 items of software, and uniquely developed software
5 in the development of executive agency information
6 systems.

7 (3) INTEGRATION OF MULTIPLE SOFTWARE.—
8 The Federal Software Review Council shall submit
9 to the Federal Information Council proposed guid-
10 ance regarding integration of multiple software com-
11 ponents into executive agency information systems.

12 (4) REVIEW OF PROPOSALS FOR UNIQUELY DE-
13 VELOPED ITEMS OF SOFTWARE.—(A) In each case
14 in which an executive agency undertakes to acquire
15 a uniquely developed item of software for an infor-
16 mation system used or to be used by the agency,
17 the Federal Software Review Council shall—

18 (i) determine whether it would be more
19 beneficial to the executive agency to use com-
20 mercial items or nondevelopmental items to
21 meet the needs of the executive agency; and

22 (ii) submit the Federal Software Review
23 Council's determination to the head of the exec-
24 utive agency.

1 (B) Subparagraph (A) applies to an informa-
2 tion technology acquisition program in excess of
3 \$1,000,000.

4 **Subtitle F—Interagency Functional** 5 **Groups**

6 **SEC. 161. ESTABLISHMENT.**

7 (a) IN GENERAL.—The heads of executive agencies
8 may jointly establish one or more interagency groups,
9 known as “functional groups”—

10 (1) to examine issues that would benefit from
11 a Governmentwide or multi-agency perspective;

12 (2) to submit to the Federal Information Coun-
13 cil proposed solutions for problems in specific com-
14 mon operational areas; and

15 (3) to promote cooperation among agencies on
16 information technology matters.

17 (b) REQUIREMENT FOR COMMON INTERESTS.—The
18 representatives of the executive agencies participating in
19 a functional group shall have the following common inter-
20 ests:

21 (1) Involvement in the same or similar func-
22 tional areas of agency operations.

23 (2) Mission-related processes or administrative
24 processes that would benefit from common or similar
25 applications of information technology.

- 1 (3) The same or similar requirements for—
2 (A) information technology; or
3 (B) meeting needs of the common recipi-
4 ents of services of the agencies.

5 **SEC. 162. SPECIFIC FUNCTIONS.**

6 The functions of an interagency functional group are
7 as follows:

- 8 (1) To identify common goals and requirements
9 for common agency programs.
- 10 (2) To develop a coordinated approach to meet-
11 ing agency requirements, including coordinated
12 budget estimates and procurement programs.
- 13 (3) To identify opportunities to share informa-
14 tion for improving the quality of the performance of
15 agency functions, for reducing the cost of agency
16 programs, and for reducing burdens of agency activi-
17 ties on the public.
- 18 (4) To coordinate activities and the sharing of
19 information with other functional groups.
- 20 (5) To make recommendations to the heads of
21 executive agencies and to the Director of the Office
22 of Management and Budget regarding the selection
23 of protocols and other standards for information
24 technology, including security standards.

1 (6) To support interoperability among informa-
2 tion systems.

3 (7) To perform other functions, related to the
4 purposes set forth in section 161(a), that are as-
5 signed by the Federal Information Council.

6 **Subtitle G—Congressional**
7 **Oversight**

8 **SEC. 171. ESTABLISHMENT AND ORGANIZATION OF JOINT**
9 **COMMITTEE ON INFORMATION.**

10 (a) ESTABLISHMENT.—There is established in Con-
11 gress a Joint Committee on Information composed of eight
12 members as follows:

13 (1) Four members of the Committee on Govern-
14 mental Affairs of the Senate appointed by the Chair-
15 man of that committee.

16 (2) Four members of the Committee on Govern-
17 ment Reform and Oversight of the House of Rep-
18 resentatives appointed by the Chairman of that com-
19 mittee.

20 (b) TERM OF APPOINTMENT.—The term of service
21 of a member on the joint committee shall expire imme-
22 diately before the convening of the Congress following the
23 Congress during which the member is appointed. A mem-
24 ber may be reappointed to serve on the joint committee.

1 (c) VACANCIES.—A vacancy in the membership of the
2 joint committee does not affect the power of the remaining
3 members to carry out the responsibilities of the joint com-
4 mittee. The vacancy shall be filled in the same manner
5 as the original appointment.

6 (d) CHAIRMAN AND VICE CHAIRMAN.—

7 (1) ELECTION BY COMMITTEE.—The chairman
8 and vice chairman of the joint committee shall be
9 elected by the members of the joint committee from
10 among the members of the joint committee.

11 (2) BICAMERAL COMMITTEE LEADERSHIP.—
12 The chairman and vice chairman may not be mem-
13 bers of the same House of Congress.

14 (3) ROTATION OF LEADERSHIP POSITIONS BE-
15 TWEEN HOUSES.—The eligibility for election as
16 chairman and for election as vice chairmanship shall
17 alternate annually between the members of one
18 house of Congress and the members of the other
19 house of Congress.

20 **SEC. 172. RESPONSIBILITIES OF JOINT COMMITTEE ON IN-**
21 **FORMATION.**

22 (a) IN GENERAL.—The Joint Committee on Informa-
23 tion has the following responsibilities:

24 (1) To review information-related operations of
25 the Federal Government, including the acquisition

1 and management of information technology and
2 other information resources.

3 (2) To perform studies of major information re-
4 sources management issues regarding such matters
5 as the following:

6 (A) Compatibility and interoperability of
7 systems.

8 (B) Electronic commerce.

9 (C) Performance measurement.

10 (D) Process improvement.

11 (E) Paperwork and regulatory burdens im-
12 posed on the public.

13 (F) Statistics.

14 (G) Management and disposition of
15 records.

16 (H) Privacy and confidentiality.

17 (I) Security and protection of information
18 resources.

19 (J) Accessibility and dissemination of Gov-
20 ernment information.

21 (K) Information technology, including
22 printing and other media.

23 (L) Information technology procurement
24 policy, training, and personnel.

1 (3) To submit to the Committees on Govern-
2 mental Affairs and on Appropriations of the Senate
3 and the Committees on Government Reform and
4 Oversight and on Appropriations of the House of
5 Representatives recommendations for legislation de-
6 veloped on the basis of the reviews and studies.

7 (4) To carry out the responsibilities of the joint
8 committee under chapter 1 of title 44, United States
9 Code.

10 (5) To carry out responsibilities regarding the
11 Library of Congress as provided by the Senate and
12 the House of Representatives.

13 (b) STUDY REQUIRED.—Upon the organization of the
14 Joint Committee on Information, the joint committee shall
15 consider and develop policies and procedures providing for
16 cooperation among the committees of Congress having ju-
17 risdiction over authorizations of appropriations, appro-
18 priations, and oversight of departments and agencies of
19 the Federal Government in order to provide incentives for
20 such departments and agencies to maximize effectiveness
21 in the administration of this Act and the amendments
22 made by this Act.

23 (c) TRANSFERS.—

24 (1) FUNCTIONS.—The functions of the Joint
25 Committee on Printing and the functions of the

1 Joint Committee of Congress on the Library are
2 transferred to the Joint Committee on Information.

3 (2) RECORDS.—The records of the Joint Com-
4 mittee on Printing and the records of the Joint
5 Committee of Congress on the Library are trans-
6 ferred to the Joint Committee on Information.

7 (d) TERMINATION OF SUPERSEDED JOINT COMMIT-
8 TEES.—The Joint Committee on Printing and the Joint
9 Committee of Congress on the Library are terminated.

10 **SEC. 173. RULEMAKING AUTHORITY OF CONGRESS.**

11 This subtitle is enacted—

12 (1) as an exercise of the rulemaking power of
13 the Senate and House of Representatives, respec-
14 tively, and as such it is deemed a part of the rules
15 of each House, respectively, and it supersedes other
16 rules only to the extent that it is inconsistent with
17 such rules; and

18 (2) with full recognition of the constitutional
19 right of either House to change the rules (so far as
20 the rules relate to that House) at any time, in the
21 same manner, and to the same extent as in the case
22 of any other rule of that House.

1 **Subtitle H—Other Responsibilities**

2 **SEC. 181. RESPONSIBILITIES UNDER THE NATIONAL INSTI-**
3 **TUTE OF STANDARDS AND TECHNOLOGY ACT.**

4 (a) STANDARDS PROGRAM.—

5 (1) MISSION AND DUTIES.—Subsection (a) of
6 section 20 of the National Institute of Standards
7 and Technology Act (15 U.S.C. 278g-3) is
8 amended—

9 (A) by striking out “The Institute—” in
10 the matter preceding paragraph (1) and insert-
11 ing in lieu thereof “To the extent authorized by
12 the Director of the Office of Management and
13 Budget, the Director of the Institute shall—”;

14 (B) in paragraph (3), by striking out
15 “have responsibility within the Federal Govern-
16 ment” and inserting in lieu thereof “carry out
17 the responsibility of the Director of the Office
18 of Management and Budget”; and

19 (C) in paragraph (4), by striking out “to
20 the Secretary of Commerce for promulgation
21 under section 111(d) of the Federal Property
22 and Administrative Services Act of 1949” and
23 inserting in lieu thereof “to the Director of the
24 Office of Management and Budget under sec-

1 tion 124 of the Information Technology Man-
2 agement Reform Act of 1995”

3 (2) AUTHORITY.—Subsection (b) of such sec-
4 tion is amended—

5 (A) by striking out “In fulfilling subsection
6 (a) of this section, the Institute is authorized”
7 in the matter preceding paragraph (1) and in-
8 serting in lieu thereof “In order to carry out
9 duties authorized under subsection (a), the Di-
10 rector of the Institute may, to the extent au-
11 thorized by the Director of the Office of Man-
12 agement and Budget—”;

13 (B) in paragraph (2), by striking out “Ad-
14 ministrators of General Services on policies and
15 regulations proposed pursuant to section 111(d)
16 of the Federal Property and Administrative
17 Services Act of 1949” and inserting in lieu
18 thereof “Director of the Office of Management
19 and Budget on policies and regulations pro-
20 posed pursuant section 124 of the Information
21 Technology Management Reform Act of 1995”;

22 (C) in paragraph (3), by striking out “sec-
23 tion 111(d) of the Federal Property and Ad-
24 ministrative Services Act of 1949” and insert-
25 ing in lieu thereof “section 124 of the Informa-

1 tion Technology Management Reform Act of
2 1995”; and

3 (D) in paragraph (4), by striking out “Of-
4 fice of Personnel Management in developing
5 regulations pertaining to training, as required
6 by” and inserting in lieu thereof “Director of
7 the Office of Management and Budget in carry-
8 ing out the responsibilities regarding training
9 regulations provided under”.

10 (3) AUTHORITY OF DIRECTOR OF OMB.—Such
11 section is amended—

12 (A) by redesignating subsection (d) as sub-
13 section (e); and

14 (B) by inserting after subsection (c) the
15 following new subsection (d):

16 “(d) AUTHORITY OF DIRECTOR OF OMB.—The Di-
17 rector of the Office of Management and Budget may—

18 “(1) authorize the Director of the Institute to
19 perform any of the functions and take any of the ac-
20 tions provided in subsections (a), (b), or (c), or limit,
21 withdraw, or withhold such authority;

22 “(2) perform any of the functions and take any
23 of the actions provided in subsections (a), (b), or (c);
24 and

1 “(3) designate any other officer of the Federal
2 Government in the executive branch to perform any
3 of such functions and exercise any of such authori-
4 ties.”.

5 (4) TERMINOLOGY.—Such section is further
6 amended by striking out “computer system” each
7 place it appears and inserting in lieu thereof “infor-
8 mation system”.

9 (5) DEFINITIONS.—Subsection (e) of such sec-
10 tion, as redesignated by paragraph (3), is
11 amended—

12 (A) in paragraph (1)(B)(v) by striking out
13 “Administrator of General Services pursuant to
14 section 111 of the Federal Property and Ad-
15 ministrative Services Act of 1949” and insert-
16 ing in lieu thereof “Director of the Office of
17 Management and Budget”; and

18 (B) in paragraph (2)(B), by striking out
19 “as that term is defined in section 111(a)(2) of
20 the Federal Property and Administrative Serv-
21 ices Act of 1949”.

22 (b) INFORMATION SYSTEM SECURITY AND PRIVACY
23 ADVISORY BOARD.—

1 (1) ESTABLISHMENT.—Subsection (a) of sec-
2 tion 21 of the National Institute of Standards and
3 Technology Act (15 U.S.C. 278g-4) is amended—

4 (A) by striking out “within the Depart-
5 ment of Commerce” in the first sentence and
6 inserting in lieu thereof “within the Office of
7 the Chief Information Officer of the United
8 States”; and

9 (B) by striking out “Secretary of Com-
10 merce” both places it appears and inserting in
11 lieu thereof “Director of the Office of Manage-
12 ment and Budget”.

13 (2) RECIPIENTS OF ADVICE AND REPORTS
14 FROM BOARD.—Subsection (b) of such section is
15 amended—

16 (A) by striking out “Institute and the Sec-
17 retary of Commerce” in paragraph (2) and in-
18 serting in lieu thereof “Director of the Office of
19 Management and Budget”; and

20 (B) by striking out “the Secretary of Com-
21 merce,” in paragraph (3).

22 (3) TERMINOLOGY.—Such section is further
23 amended by striking out “computer system” each
24 place it appears and inserting in lieu thereof “infor-
25 mation system”.

1 (4) DEFINITIONS.—Subsection (g) of such sec-
2 tion is amended by striking out “section 20(d)” and
3 inserting in lieu thereof “section 20(e)”.

4 **SEC. 182. RESPONSIBILITIES UNDER THE COMPUTER SECU-**
5 **RITY ACT OF 1987.**

6 (a) RESPONSIBILITY FOR TRAINING REGULA-
7 TIONS.—Section 5(c) of the Computer Security Act of
8 1987 (Public Law 100–235; 101 Stat. 1729) is amended
9 by striking out “Within six months after the date of the
10 enactment of this Act, the Director of the Office of Per-
11 sonnel Management” and inserting in lieu thereof “The
12 Director of the Office of Management and Budget”.

13 (b) REPEAL OF EXECUTED PROVISION.—Section
14 5(b) of such Act is amended by striking out “shall be
15 started within 60 days after the issuance of the regula-
16 tions described in subsection (c). Such training”.

17 **TITLE II—PROCESS FOR ACQUI-**
18 **SITIONS OF INFORMATION**
19 **TECHNOLOGY**
20 **Subtitle A—Procedures**

21 **SEC. 201. PROCUREMENT PROCEDURES.**

22 (a) RESPONSIBILITY.—The Director of the Office of
23 Management and Budget of the United States shall pre-
24 scribe in regulations the procedures to be used in conduct-
25 ing information technology acquisitions. The procedures

1 shall be made a part of the Federal Acquisition Regula-
2 tion.

3 (b) STANDARDS FOR PROCEDURES.—The Director
4 shall ensure that the process for acquisition of information
5 technology is, in general, a simplified, clear, and under-
6 standable process that, for higher cost and higher risk ac-
7 quisitions, provides progressively more stringent pre-
8 cautions for ensuring that there is full and open competi-
9 tion in an acquisition and that each acquisition timely and
10 effectively satisfies the needs of the Federal Government.

11 (c) PERFORMANCE MEASUREMENTS.—The regula-
12 tions shall include performance measurements and other
13 performance requirements that the Director determines
14 appropriate.

15 (d) USE OF COMMERCIAL ITEMS.—The regulations
16 shall require the head of each executive agency to use, to
17 the maximum extent practicable, commercial items to
18 meet the information technology requirements of the exec-
19 utive agency.

20 (e) DIFFERENTIATED PROCEDURES AND REQUIRE-
21 MENTS.—Subject to subsection (b), the Director shall pre-
22 scribe different sets of procedures and requirements for
23 acquisitions in each of the following categories of acquisi-
24 tions:

25 (1) Acquisitions not in excess of \$5,000,000.

1 (2) Acquisitions in excess of \$5,000,000 and
2 not in excess of \$25,000,000.

3 (3) Acquisitions in excess of \$25,000,000 and
4 not in excess of \$100,000,000.

5 (4) Acquisitions in excess of \$100,000,000.

6 (5) Acquisitions considered as high-risk acqui-
7 tions.

8 (f) DIFFERENTIATION ON THE BASIS OF OTHER
9 FACTORS.—In prescribing regulations under this title, the
10 Director shall consider whether and, to the extent appro-
11 priate, how to differentiate in the treatment and conduct
12 of acquisitions of information technology on any of the fol-
13 lowing additional bases:

14 (1) The information technology to be acquired,
15 including such considerations as whether the item is
16 a commercial item or an item being developed or
17 modified uniquely for use by one or more executive
18 agencies.

19 (2) The complexity of the information tech-
20 nology acquisition, including such considerations as
21 size and scope.

22 (3) The level of risk (at levels other than high
23 risk covered by procedures and requirements pre-
24 scribed pursuant to subsection (e)), including tech-
25 nical and schedule risks.

1 (4) The level of experience or expertise of the
2 critical personnel in the program office, mission
3 unit, or office of the chief information officer of the
4 executive agency concerned.

5 (5) The extent to which the information tech-
6 nology may be used Government wide or by several
7 agencies.

8 (g) **REQUIRED ACTIONS.**—The regulations shall re-
9 quire the heads of executive agencies, in planning for and
10 undertaking acquisitions of information technology, to
11 apply sound methodologies and approaches that result in
12 realistic and comprehensive advance assessments of risks,
13 reasonable management of the risks, and maximization of
14 the benefit derived by the Federal Government toward
15 meeting the requirements for which the technology is ac-
16 quired.

17 **SEC. 202. AGENCY PROCESS.**

18 (a) **RESPONSIBILITY.**—The head of each executive
19 agency shall, consistent with the regulations prescribed
20 under section 201, design and apply in the executive agen-
21 cy a process for maximizing the value and assessing and
22 managing the risks of the information technology acquisi-
23 tions of the agency.

24 (b) **DESIGN OF PROCESS.**—The process shall—

1 (1) provide for the selection, control, and eval-
2 uation of the results of information technology in-
3 vestments of the agency;

4 (2) be integrated with budget, financial, and
5 program management decisions of the agency; and

6 (3) incorporate the procedures and satisfy the
7 requirements, including procedures and requirements
8 applicable under various threshold criteria, that are
9 prescribed pursuant to section 201.

10 (c) BENEFIT AND RISK MEASUREMENTS.—

11 (1) REQUIREMENT.—The process shall provide
12 for clearly identifying in advance of the acquisition
13 quantifiable measurements for determining the net
14 benefits and risks of each proposed information
15 technology investment.

16 (2) EXAMPLES OF MEASURES.—(A) Measure-
17 ments of net benefits could include such measures as
18 cost reductions, decreases in program cycle time, re-
19 turn on investment, increases in productivity, en-
20 hanced capability, reductions in the paperwork bur-
21 den imposed on the public, and improvements in the
22 level of public satisfaction with services provided.

23 (B) Measures of risk could include such meas-
24 ures as project size and scope, project longevity,
25 technical configurations, unusual security require-

1 ments, special project management skills, software
2 complexity, system integration requirements, and ex-
3 isting technical and management expertise.

4 (d) EVALUATION OF VALUE OF PROPOSED INVEST-
5 MENTS.—The process shall require evaluation of the value
6 of a proposed information technology investment to the
7 performance of agency missions, including the provision
8 of services to the public, on the basis of—

9 (1) the measurements applicable under sub-
10 section (c) as well as other applicable criteria and
11 standards; and

12 (2) a comparison of that investment with other
13 information technology investments proposed to be
14 undertaken by or for the agency.

15 (e) PERIODIC REVIEW BY SENIOR MANAGERS.—

16 (1) IN GENERAL.—The process shall provide for
17 senior managers of the executive agency—

18 (A) to review on a periodic basis the devel-
19 opment, implementation, and operation of infor-
20 mation technology investments undertaken or to
21 be undertaken by the agency and the informa-
22 tion technology acquired under such invest-
23 ments; and

24 (B) in the case of each investment, to
25 make recommendations to the head of the exec-

1 utive agency regarding actions that should be
2 taken in order to ensure that suitable progress
3 is made toward achieving the goals established
4 for the investment or that the investment, if not
5 making suitable progress, is terminated in a
6 timely manner.

7 (2) **REVIEWS AFTER IMPLEMENTATION.**—The
8 implementation and operation reviews provided for
9 under paragraph (1) shall include provisions for sen-
10 ior managers of the executive agency—

11 (A) upon the implementation of the invest-
12 ment, to evaluate the results of the investment
13 in order to determine whether the benefits pro-
14 jected for the investment were achieved; and

15 (B) after operation of information systems
16 under the investment begins, to conduct peri-
17 odic reviews of the systems in order—

18 (i) to determine whether the benefits
19 to mission performance resulting from the
20 use of such systems are satisfactory; and

21 (ii) to identify opportunities for addi-
22 tional improvement in mission performance
23 that can be derived from use of such sys-
24 tems.

1 (f) SPECIFIC ACQUISITION PROCEDURES.—In the
2 awarding of contracts for the acquisition of information
3 technology, the head of an executive agency shall consider
4 the information on the past performance of offerors that
5 is available from the Director of the Office of Management
6 and Budget.

7 **SEC. 203. INCREMENTAL ACQUISITION OF INFORMATION**
8 **TECHNOLOGY.**

9 (a) IN GENERAL.—The regulations prescribed under
10 section 201 shall require that, to the maximum extent
11 practicable, an executive agency's needs for information
12 technology be satisfied in successive, incremental acqui-
13 sitions of interoperable systems the characteristics of which
14 comply with readily available standards and, therefore,
15 can be connected to other systems that comply with such
16 standards.

17 (b) DIVISION OF ACQUISITIONS INTO INCRE-
18 MENTS.—Under the successive, incremental acquisition
19 process, an extensive acquisition of information technology
20 shall be divided into several smaller acquisition increments
21 that—

22 (1) are easier to manage individually than
23 would be one extensive acquisition;

24 (2) address complex information technology
25 problems incrementally in order to enhance the like-

1 likelihood of achieving workable solutions for those
2 problems;

3 (3) provide for delivery, implementation, and
4 testing of workable systems or solutions in discrete
5 increments each of which comprises a system or so-
6 lution that is not dependent on any other increment
7 in order to be workable for the purposes for which
8 acquired; and

9 (4) provide an opportunity for later increments
10 of the acquisition to take advantage of any evolution
11 in technology or needs that occurs during conduct of
12 the earlier increments.

13 (c) TIMELY ACQUISITIONS.—

14 (1) AWARD OF CONTRACT.—If a contract for an
15 increment of an information technology acquisition
16 is not awarded within 180 days after the date on
17 which the solicitation is issued, that increment of the
18 acquisition shall be canceled. A subsequent sollicita-
19 tion for that increment of the solicitation, or for a
20 revision of that increment, may be issued. A contract
21 may be awarded on the basis of offers received in re-
22 sponse to a subsequent solicitation.

23 (2) DELIVERY.—(A) The information tech-
24 nology provided for in a contract for acquisition of
25 information technology shall be delivered within 18

1 months after the date on which the solicitation re-
2 sulting in award of the contract was issued.

3 (B) The Chief Information Officer of the
4 United States may waive the requirement under sub-
5 paragraph (A) in the case of a particular contract.
6 The Chief Information Officer shall notify Congress
7 in writing of each waiver granted under this sub-
8 paragraph.

9 (C) If the information technology to be acquired
10 under a contract is not timely delivered as provided
11 in subparagraph (A) and a waiver is not granted in
12 such case, the contract shall be terminated and the
13 contracting official concerned may issue a new solici-
14 tation that—

15 (i) provides for taking advantage of ad-
16 vances in information technology that have oc-
17 curred during the 18-month period described in
18 subparagraph (A) and advances in information
19 technology that are anticipated to occur within
20 the period necessary for completion of the ac-
21 quisition; and

22 (ii) adjusts for any changes in identified
23 mission requirements to be satisfied by the in-
24 formation technology.

1 (d) FULL-INCREMENT FUNDING FOR MAJOR AND
2 HIGH-RISK ACQUISITIONS.—

3 (1) SUBMISSION OF PROGRAM INCREMENT DE-
4 TAILS TO CONGRESS.—Before initial funding is
5 made available for an information technology acqui-
6 sition program that is in excess of \$100,000,000,
7 the head of the executive agency for which the pro-
8 gram is carried out shall submit to Congress infor-
9 mation about the objectives and plans for the con-
10 duct of that acquisition program and the funding re-
11 quirements for each increment of the acquisition
12 program. The information shall identify the intended
13 user of the information technology items to be ac-
14 quired under the program and each increment and
15 shall include objective, quantifiable criteria for as-
16 sassing the extent to which the objectives and goals
17 established for the program are achieved.

18 (2) REQUIREMENT FOR FULL INCREMENT
19 FUNDING.—(A) In authorizing appropriations for an
20 increment of an information technology acquisition
21 program, Congress shall provide an authorization of
22 appropriations for the program increment in a single
23 amount that is sufficient for carrying out that incre-
24 ment of the program. Each such authorization of ap-

1 appropriations shall be stated in the authorization law
2 as a specific item.

3 (B) In each law making appropriations for an
4 increment of information technology acquisition pro-
5 gram, Congress shall specify the program increment
6 for which an appropriation is made and the amount
7 appropriated for that program increment.

8 (e) COMMERCIAL ITEMS.—

9 (1) SOURCE.—Except as provided in paragraph
10 (2), a commercial item used in the development of
11 an information system or otherwise being acquired
12 for an executive agency shall be acquired through
13 any of the following means available for the agency
14 that can supply an item satisfying the needs of the
15 agency for the acquisition:

16 (A) A multiple award schedule contract.

17 (B) A task or delivery order contract.

18 (C) A Federal Government on-line pur-
19 chasing network established by the Chief Infor-
20 mation Officer of the United States.

21 (2) EXCEPTION.—A commercial item need not
22 be acquired from a source referred to in paragraph
23 (1) if an item satisfying such needs is available at
24 a lower cost from another source.

1 **SEC. 204. AUTHORITY TO LIMIT NUMBER OF OFFERORS.**

2 (a) CIVILIAN AGENCY ACQUISITIONS.—Section
3 303B(d) of the Federal Property and Administrative Serv-
4 ices Act of 1949 (41 U.S.C. 253b(d)) is amended by add-
5 ing at the end the following:

6 “(3) Under regulations prescribed by the Director of
7 the Office of Management and Budget, a contracting offi-
8 cer of an executive agency receiving more than three com-
9 petitive proposals for a proposed contract for acquisition
10 of information technology may solicit best and final offers
11 from the three offerors who submitted the best offers with-
12 in the competitive range, as determined on the basis of
13 the evaluation factors established for the procurement.
14 Notwithstanding paragraph (1)(A), the contracting officer
15 should first conduct discussions with all of the responsible
16 parties that submit offers within the competitive range.”.

17 (b) ARMED SERVICES ACQUISITIONS.—Section
18 2305(b) of title 10, United States Code, is amended by
19 adding at the end the following:

20 “(5) Under regulations prescribed by the Director of
21 the Office of Management and Budget, a contracting offi-
22 cer of an agency receiving more than three competitive
23 proposals for a proposed contract for acquisition of infor-
24 mation technology may solicit best and final offers from
25 the three offerors who submitted the best offers within the
26 competitive range. Notwithstanding paragraph (4)(A)(i),

1 the contracting officer should first conduct discussions
2 with all of the responsible parties that submit offers within
3 the competitive range.”.

4 **SEC. 205. EXCEPTION FROM TRUTH IN NEGOTIATION RE-**
5 **QUIREMENTS.**

6 (a) CIVILIAN AGENCY ACQUISITIONS.—Section 304A
7 of the Federal Property and Administrative Services Act
8 of 1949 is amended—

9 (1) by redesignating subsection (i) as subsection
10 (j) and, as so redesignated, is amended by adding at
11 the end the following:

12 “(4) The term ‘information technology’ has the
13 meaning given that term in section 4 of the Infor-
14 mation Technology Management Reform Act of
15 1995.”; and

16 (2) by inserting after subsection (h) the follow-
17 ing new subsection (i):

18 “(i) ADDITIONAL EXCEPTION FOR INFORMATION
19 TECHNOLOGY COMMERCIAL ITEMS.—The head of an ex-
20 ecutive agency may not require the submission of cost or
21 pricing data in a procurement of any information tech-
22 nology that is a commercial item. However, the head of
23 the executive agency shall seek to obtain from each offeror
24 or contractor the information described in subsection
25 (d)(2)(A)(ii) for the procurement.”.

1 (b) ARMED SERVICES ACQUISITIONS.—Section
2 2306a of title 10, United States Code, is amended—

3 (1) by redesignating subsection (i) as subsection
4 (j) and, as so redesignated, is amended by adding at
5 the end the following:

6 “(4) The term ‘information technology’ has the
7 meaning given that term in section 4 of the Infor-
8 mation Technology Management Reform Act of
9 1995.”; and

10 (2) by inserting after subsection (h) the follow-
11 ing new subsection (i):

12 “(i) ADDITIONAL EXCEPTION FOR INFORMATION
13 TECHNOLOGY COMMERCIAL ITEMS.—The head of an
14 agency may not require the submission of cost or pricing
15 data in a procurement of any information technology that
16 is a commercial item. However, the head of an agency
17 shall seek to obtain from each offeror or contractor the
18 information described in subsection (d)(2)(A)(ii) for the
19 procurement”.

20 **SEC. 206. UNRESTRICTED COMPETITIVE PROCUREMENT OF**
21 **COMMERCIAL OFF-THE-SHELF ITEMS OF IN-**
22 **FORMATION TECHNOLOGY.**

23 (a) FULL AND OPEN COMPETITION REQUIRED.—
24 Full and open competition shall be used for each procure-

1 ment of commercial off-the-shelf items of information
2 technology by or for an executive agency.

3 (b) INAPPLICABILITY OF CERTAIN PROCUREMENT
4 LAWS.—

5 (1) FAR LIST.—The Federal Acquisition Regu-
6 lation shall include a list of provisions of law that
7 are inapplicable to contracts for the procurement of
8 commercial, off-the-shelf items of information tech-
9 nology. A provision of law that is properly included
10 on the list pursuant to paragraph (2) may not be
11 construed as being applicable to such contracts.
12 Nothing in this section shall be construed to render
13 inapplicable to such contracts any provision of law
14 that is not included on such list.

15 (2) PROVISIONS TO BE INCLUDED.—A provision
16 of law described in subsection (c) shall be included
17 on the list of inapplicable provisions of law required
18 by paragraph (1) unless the Chief Information Offi-
19 cer of the United States, in consultation with the
20 Federal Information Council, makes a written deter-
21 mination that it would not be in the best interest of
22 the United States to exempt such contracts from the
23 applicability of that provision of law.

24 (c) COVERED LAW.—The list referred to in sub-
25 section (b)(1) shall include each provision of law that, as

1 determined by the Chief Information Officer, sets forth
2 policies, procedures, requirements, or restrictions for the
3 procurement of property or services by the Federal Gov-
4 ernment, except the following:

5 (1) A provision of this Act.

6 (2) A provision of law that is amended by this
7 Act.

8 (3) A provision of law that is made applicable
9 to procurements of commercial, off-the-shelf items of
10 information technology by this Act.

11 (4) A provision of law that prohibits or limits
12 the use of appropriated funds.

13 (5) A provision of law that specifically refers to
14 this section and provides that, notwithstanding this
15 section, such provision of law shall be applicable to
16 contracts for the procurement of commercial off-the-
17 shelf items of information technology.

18 (d) PETITION TO INCLUDE OMITTED PROVISION.—

19 (1) PETITION AUTHORIZED.—Any person may
20 submit to the Chief Information Officer a petition to
21 include on the list referred to in subsection (b)(1) a
22 provision of law not included on that list.

23 (2) ACTION ON PETITION.—The Federal Acqui-
24 sition Regulatory Council shall amend the Federal
25 Acquisition Regulation to include the item on the list

1 unless the Chief Information Officer, in consultation
2 with the Federal Information Council—

3 (A) has made a written determination de-
4 scribed in subsection (b)(2) with respect to that
5 provision of law before receiving the request; or

6 (B) within 60 days after the date of re-
7 ceipt of the request, makes such written deter-
8 mination regarding the provision of law.

9 (e) DEFINITION.—In this subsection, the term “com-
10 mercial, off-the-shelf item of information technology”
11 means an item of information technology that—

12 (A) is a commercial item described in section
13 4(12)(A) of the Office of Federal Procurement Pol-
14 icy Act (41 U.S.C. 403);

15 (B) is sold in substantial quantities in the com-
16 mercial marketplace; and

17 (C) is offered to the Government, without modi-
18 fication, in the same form in which it is sold in the
19 commercial marketplace.

20 **SEC. 207. TASK AND DELIVERY ORDER CONTRACTS.**

21 (a) CIVILIAN AGENCY ACQUISITIONS.—

22 (1) REQUIREMENT FOR MULTIPLE AWARDS.—
23 Section 303H(d) of the Federal Property and Ad-
24 ministrative Services Act of 1949 (41 U.S.C.

1 253h(d)) is amended by adding at the end the fol-
2 lowing new paragraph:

3 “(4) In exercising the authority under this section for
4 procurement of information technology, the head of an ex-
5 ecutive agency shall award at least two task or delivery
6 order contracts for the same or similar information tech-
7 nology services or property unless the Chief Information
8 Officer of the United States determines that, because of
9 unusual circumstances, it is not in the best interests of
10 the United States to award two such contracts.”.

11 (2) DEFINITION.—Section 303K of such Act
12 (41 U.S.C. 253k) is amended by adding at the end
13 the following new paragraph:

14 “(3) The term ‘information technology’ has the
15 meaning given that term in section 4 of the Information
16 Technology Management Reform Act of 1995.”.

17 (b) ARMED SERVICES ACQUISITIONS.—

18 (1) REQUIREMENT FOR MULTIPLE AWARDS.—
19 Section 2304a(d) of title 10, United States Code, is
20 amended by adding at the end the following new
21 paragraph:

22 “(4) In exercising the authority under this section for
23 procurement of information technology, the head of an ex-
24 ecutive agency shall award at least two task or delivery
25 order contracts for the same or similar information tech-

1 nology services or property unless the Chief Information
2 Officer of the United States determines that, because of
3 unusual circumstances, it is not in the best interests of
4 the United States to award two such contracts.”.

5 (2) DEFINITION.—Section 2304d of title 10,
6 United States Code, is amended by adding at the
7 end the following new paragraph:

8 “(3) The term ‘information technology’ has the
9 meaning given that term in section 4 of the Information
10 Technology Management Reform Act of 1995.”.

11 **SEC. 208. TWO-PHASE SELECTION PROCEDURES.**

12 (a) CIVILIAN AGENCIES.—

13 (1) PROCEDURES AUTHORIZED.—Title III of
14 the Federal Property and Administrative Services
15 Act of 1949 (41 U.S.C. 251 et seq.) is amended by
16 inserting after section 303H the following new sec-
17 tion:

18 “TWO-PHASE SELECTION PROCEDURES

19 “SEC. 303I. (a) PROCEDURES AUTHORIZED.—The
20 head of an executive agency may use two-phase selection
21 procedures for entering into a contract for the acquisition
22 of information technology when the agency head deter-
23 mines that three or more offers will be received for such
24 contract, substantial design work must be performed be-
25 fore an offeror can develop a reliable price or cost proposal

1 for such contract, and the offerors will incur a substantial
2 amount of expenses in preparing the offers.

3 “(b) PROCEDURES DESCRIBED.—Two-phase selec-
4 tion procedures consist of the following:

5 “(1) The agency head solicits proposals that—

6 “(A) include information on the offerors’—

7 “(i) technical approach; and

8 “(ii) technical and management quali-
9 fications; and

10 “(B) do not include—

11 “(i) detailed design information; or

12 “(ii) cost or price information.

13 “(2) The agency head evaluates the proposals
14 on the basis of evaluation criteria set forth in the so-
15 licitation, except that the agency head does not con-
16 sider cost-related or price-related evaluation factors.

17 “(3) The agency head selects at least three
18 offerors as the most highly qualified to provide the
19 property or services under the contract and requests
20 the selected offerors to submit competitive proposals
21 that include cost and price information.

22 “(4) The agency head awards the contract in
23 accordance with section 303B(d).

24 “(c) RESOURCE COMPARISON CRITERIA RE-
25 QUIRED.—In using two-phase selection procedures for en-

1 tering into a contract, the agency head shall establish re-
2 source criteria and financial criteria applicable to the con-
3 tract in order to provide a consistent basis for comparing
4 the offerors and their proposals.

5 “(d) TWO-PHASE SELECTION PROCEDURES DE-
6 FINED.—In this section, the term ‘two-phase selection pro-
7 cedures’ means procedures described in subsection (b) that
8 are used for the selection of a contractor on the basis of
9 cost and price and other evaluation criteria to provide
10 property or services in accordance with the provisions of
11 a contract which requires the contractor to design the
12 property to be acquired under the contract and produce
13 or construct such property.

14 “(e) DEFINITION.—In this section, the term ‘infor-
15 mation technology’ has the meaning given the term in sec-
16 tion 4 of the Information Technology Management Reform
17 Act of 1995.”.

18 (2) CLERICAL AMENDMENT.—The table of con-
19 tents in the first section of such Act is amended by
20 inserting after the item relating to section 303H the
21 following new item:

“Sec. 303I. Two-phase selection procedures.”.

22 (b) DEPARTMENT OF DEFENSE.—

23 (1) PROCEDURES AUTHORIZED.—Chapter 137
24 of title 10, United States Code, is amended by in-
25 serting after section 2305 the following new section:

1 **“§ 2305a. Two-phase selection procedures**

2 “(a) PROCEDURES AUTHORIZED.—The head of an
3 agency may use two-phase selection procedures for enter-
4 ing into a contract for the acquisition of information tech-
5 nology when the head of the agency determines that three
6 or more offers will be received for such contract, substan-
7 tial design work must be performed before an offeror can
8 develop a reliable price or cost proposal for such contract,
9 and the offerors will incur a substantial amount of ex-
10 penses in preparing the offers.

11 “(b) PROCEDURES DESCRIBED.—Two-phase selec-
12 tion procedures consist of the following:

13 “(1) The head of the agency solicits proposals
14 that—

15 “(A) include information on the offerors’—

16 “(i) technical approach; and

17 “(ii) technical and management quali-
18 fications; and

19 “(B) do not include—

20 “(i) detailed design information; and

21 “(ii) cost or price information.

22 “(2) The head of the agency evaluates the pro-
23 posals on the basis of evaluation criteria set forth in
24 the solicitation, except that the head of the agency
25 does not consider cost-related or price-related eval-
26 uation factors.

1 “(3) The head of the agency selects at least
2 three offerors as the most highly qualified to provide
3 the property or services under the contract and re-
4 quests the selected offerors to submit competitive
5 proposals that include cost and price information.

6 “(4) The head of the agency awards the con-
7 tract in accordance with section 2305(b)(4) of this
8 title.

9 “(c) RESOURCE COMPARISON CRITERIA RE-
10 QUIRED.—In using two-phase selection procedures for en-
11 tering into a contract, the head of the agency shall estab-
12 lish resource criteria and financial criteria applicable to
13 the contract in order to provide a consistent basis for com-
14 paring the offerors and their proposals.

15 “(d) TWO-PHASE SELECTION PROCEDURES DE-
16 FINED.—In this section, the term ‘two-phase selection pro-
17 cedures’ means procedures described in subsection (b) that
18 are used for the selection of a contractor on the basis of
19 cost and price and other evaluation criteria to provide
20 property or services in accordance with the provisions of
21 a contract which requires the contractor to design the
22 property to be acquired under the contract and produce
23 or construct such property.

24 “(e) DEFINITION.—In this section, the term ‘infor-
25 mation technology’ has the meaning given the term in sec-

1 tion 4 of the Information Technology Management Reform
2 Act of 1995.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions at the beginning of such chapter is amended
5 by inserting after the item relating to section 2305
6 the following:

“2305a. Two-phase selection procedures.”.

7 **SEC. 209. CONTRACTOR SHARE OF GAINS AND LOSSES**
8 **FROM COST, SCHEDULE, AND PERFORMANCE**
9 **EXPERIENCE.**

10 The Director of the Office of Management and Budg-
11 et shall prescribe in regulations a clause, to be included
12 in each cost-type or incentive-type contract for procure-
13 ment of information technology for an executive agency,
14 that provides a system for the contractor—

15 (1) to be rewarded for contract performance ex-
16 ceeding the contract cost, schedule, or performance
17 goals to the benefit of the United States; and

18 (2) to be penalized for failing—

19 (A) to adhere to cost, schedule, or per-
20 formance goals to the detriment of the United
21 States; or

22 (B) to provide an operationally effective so-
23 lution for the information technology problem
24 covered by the contract.

1 **Subtitle B—Acquisition**
2 **Management**

3 **SEC. 221. ACQUISITION MANAGEMENT TEAM.**

4 (a) IN GENERAL.—

5 (1) USE OF AGENCY PERSONNEL.—The head of
6 each executive agency planning an acquisition of in-
7 formation technology shall determine whether agency
8 personnel satisfying the requirements of subsection
9 (b) are available and are to be used for carrying out
10 the acquisition.

11 (2) USE OF OUTSIDE ACQUISITION TEAM.—If
12 the head of the executive agency determines that
13 such personnel are not available for carrying out the
14 acquisition, the head of that agency shall consider
15 designating a capable executive agent to carry out
16 the acquisition.

17 (b) CAPABILITIES OF AGENCY PERSONNEL.—

18 (1) IN GENERAL.—The head of each executive
19 agency shall ensure that the agency personnel in-
20 volved in an acquisition of information technology
21 have the experience, and have demonstrated the
22 skills and knowledge, necessary to carry out the ac-
23 quisition competently.

1 (2) HIGH-RISK INFORMATION TECHNOLOGY
2 PROGRAM ACQUISITIONS.—For an acquisition under
3 a high-risk information technology program—

4 (A) each of the members of the acquisition
5 program management team (including the man-
6 agement, technical, program, procurement, and
7 legal personnel) shall have experience and dem-
8 onstrated competence in the team member's
9 area of responsibility; and

10 (B) the team manager, deputy team man-
11 ager, and each procurement official on the ac-
12 quisition management team shall have dem-
13 onstrated competence in participating in other
14 major information system acquisitions or have
15 other comparable experience.

16 (c) ACQUISITION WORKFORCE TRAINING.—The head
17 of each executive agency shall ensure that agency person-
18 nel used for information technology acquisitions of the
19 agency receive continuing training in management of in-
20 formation resources and the acquisition of information
21 technology in order to maintain the competence of such
22 personnel in the skills and knowledge necessary for carry-
23 ing out such acquisitions successfully.

1 **SEC. 222. OVERSIGHT OF ACQUISITIONS.**

2 It is the sense of Congress that the Director of the
3 Office of Management and Budget, the Chief Information
4 Officer of the United States, the heads of executive agen-
5 cies, and the inspectors general of executive agencies, in
6 performing responsibilities for oversight of information
7 technology acquisitions, should emphasize reviews of the
8 operational justifications for the acquisitions, the results
9 of the acquisition programs, and the performance meas-
10 urements established for the information technology rath-
11 er than reviews of the acquisition process.

12 **TITLE III—SPECIAL FISCAL SUP-**
13 **PORT FOR INFORMATION IN-**
14 **NOVATION**

15 **Subtitle A—Information**
16 **Technology Fund**

17 **SEC. 301. ESTABLISHMENT.**

18 There is established on the books of the Treasury a
19 fund to be known as the “Information Technology Fund”.

20 **SEC. 302. ACCOUNTS.**

21 The Information Technology Fund shall have two ac-
22 counts as follows:

23 (1) The Innovation Loan Account.

24 (2) The Common Use Account.

1 **Subtitle B—Innovation Loan**
2 **Account**

3 **SEC. 321. AVAILABILITY OF FUND FOR LOANS IN SUPPORT**
4 **OF INFORMATION INNOVATION.**

5 Amounts in the Innovation Loan Account shall be
6 available to the Director of the Office of Management and
7 Budget, without fiscal year limitation, for lending to an
8 executive agency for carrying out an information innova-
9 tion program to improve the productivity of the agency.

10 **SEC. 322. REPAYMENT OF LOANS.**

11 (a) **REPAYMENT REQUIRED.**—The head of an execu-
12 tive agency shall repay the Innovation Loan Account the
13 amount loaned to the executive agency.

14 (b) **TERMS AND CONDITIONS.**—The Director of the
15 Office of Management and Budget shall prescribe the
16 terms and conditions for repayment of the loan.

17 (c) **REPAYMENT OUT OF SAVINGS.**—The funds to be
18 used by the head of an executive agency for repaying a
19 loan shall be derived as provided in section 323 from sav-
20 ings realized by the agency through increases in the pro-
21 ductivity of the agency that result from the information
22 innovation funded (in whole or in part) by the loan. The
23 Director shall prescribe guidelines for computing the
24 amount of the savings.

1 **SEC. 323. SAVINGS FROM INFORMATION INNOVATIONS.**

2 (a) DISPOSITION OF SAVINGS.—Of the total amount
3 saved by an executive agency in a fiscal year through in-
4 creases in the productivity of the agency that result from
5 information innovations funded (in whole or in part) by
6 loans from the Innovation Loan Account 50 percent shall
7 be credited to the Innovation Loan Account in repayment
8 of loans to the agency from the Fund.

9 (b) EMPLOYEE INCENTIVES.—The head of an execu-
10 tive agency is authorized to pay monetary incentives to
11 agency personnel who made significant contributions to
12 the achievement of increases in agency productivity that
13 resulted in the savings.

14 (c) COMPUTATION OF SAVINGS.—For purposes of
15 this section, the amount saved by an executive agency in
16 a fiscal year as a result of increases in the productivity
17 of the agency that are attributable to information innova-
18 tions funded (in whole or in part) by loans from the Inno-
19 vation Loan Account shall be computed by the head of
20 the agency in consultation with the chief information offi-
21 cer and chief financial officer of the agency and in accord-
22 ance with the guidelines prescribed pursuant to section
23 322(c).

24 **SEC. 324. FUNDING.**

25 (a) INITIAL CAPITALIZATION.—The head of each ex-
26 ecutive agency shall transfer to the Innovation Loan Ac-

1 count at the beginning of each fiscal year for fiscal years
2 1996 through 2000 the amount equal to 5 percent of the
3 total amount available to that executive agency for such
4 fiscal year for information resources, as determined by the
5 Chief Information Officer of the United States.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
7 authorized to be appropriated to the Innovation Loan Ac-
8 count, to be available without fiscal year limitation, such
9 sums as may be necessary for making loans authorized
10 by section 321.

11 **Subtitle C—Common Use Account**

12 **SEC. 331. SUPPORT OF MULTIAGENCY ACQUISITIONS OF IN-** 13 **FORMATION TECHNOLOGY.**

14 (a) IN GENERAL.—Amounts in the Common Use Ac-
15 count shall be available to the Director of the Office of
16 Management and Budget, without fiscal year limitation
17 for the following purposes:

18 (1) Acquisitions of information technology to be
19 used by two or more executive agencies.

20 (2) Expenses, including cost of personal serv-
21 ices, incurred for developing and implementing infor-
22 mation technology for support of two or more execu-
23 tive agencies.

24 (b) PROJECTS FUNDED.—The Director of the Office
25 of Management and Budget shall select for funding out

1 of the Common Use Account projects that are projected
2 to meet the following requirements:

3 (1) Demonstrate the innovative use of informa-
4 tion technology to reorganize and improve work
5 processes or to integrate programs and link the in-
6 formation systems of executive agencies.

7 (2) Provide substantial benefits to the public,
8 such as improved dissemination of information, in-
9 creased timeliness in delivery of services, and in-
10 creased quality of services.

11 (3) Substantially lower the operating costs of
12 two or more executive agencies or programs.

13 (c) LIMITATION OF FUNDING.—Funding for a par-
14 ticular project shall ordinarily be limited to two fiscal
15 years.

16 (d) ADDITIONAL REQUIREMENT FOR SELECTION.—
17 In addition to meeting the requirements in subsection (b),
18 the proposal for a project shall include a transition plan
19 for proceeding from a pilot program or the initial stage
20 of the project into operation of the information technology.
21 The transition plan shall identify funding sources for the
22 transition and for the sustainment of operations.

23 **SEC. 332. FUNDING.**

24 (a) INITIAL CAPITALIZATION.—

1 (1) TRANSFER OF FUNDS.—The initial capital-
2 ization of the Common Use Account shall be accom-
3 plished by transfer of funds under paragraph (2).

4 (2) AMOUNT AND SOURCE.—For purposes of
5 paragraph (1), the Administrator of General Serv-
6 ices shall transfer, out of the Information Tech-
7 nology Fund established by section 110 of the Fed-
8 eral Property and Administrative Services Act of
9 1949 (40 U.S.C. 757), the amount equal to the ex-
10 cess of—

11 (A) the amount of the unobligated balance
12 in that Fund, over

13 (B) the portion of that unobligated balance
14 that the Administrator, with the approval of the
15 Director of the Office of Management and
16 Budget, determines is necessary to retain for
17 meeting the requirements of the fund for the
18 remainder of the fiscal year in which this Act
19 takes effect under section 1001(a) and the next
20 fiscal year.

21 (3) TERMINATION OF INFORMATION TECH-
22 NOLOGY FUND.—Effective at the end of the fiscal
23 year immediately following the fiscal year in which
24 this Act takes effect under section 1001(a)—

1 (A) section 110 of the Federal Property
2 and Administrative Services Act (40 U.S.C.
3 757) is repealed; and

4 (B) the Information Technology Fund es-
5 tablished by that section is terminated.

6 (b) CHARGES FOR COMMON INFRASTRUCTURE SERV-
7 ICES.—The Director of the Office of Management and
8 Budget may impose on executive agencies a charge for
9 common infrastructure services to fund the Common Use
10 Account.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated to the Common Use Ac-
13 count, to be available without fiscal year limitation, such
14 sums as may be necessary to fund multiagency acquisi-
15 tions of information technology.

16 **Subtitle D—Other Fiscal Policies**

17 **SEC. 341. LIMITATION ON USE OF FUNDS.**

18 Funds available to an executive agency for informa-
19 tion technology may not be expended for a proposed infor-
20 mation technology acquisition until the head of the agency
21 certifies in writing in the agency records of that acquisi-
22 tion that the head of the agency has completed a review
23 of the agency's mission-related processes and administra-
24 tive processes to be supported by the proposed investment
25 in information technology and has established perform-

1 ance measurements for determining improvements in
2 agency performance.

3 **SEC. 342. SENSE OF CONGRESS.**

4 It is the sense of Congress that executive agencies
5 should achieve a 5 percent per year decrease in the cost
6 incurred by the agency for operating and maintaining in-
7 formation technology, and a 5 percent per year increase
8 in the efficiency of the agency operations, by reason of
9 improvements in information resources management by
10 the agency.

11 **SEC. 343. REVIEW BY GAO AND INSPECTORS GENERAL.**

12 (a) REVIEW REQUIRED.—During fiscal year 1996
13 and each of the first four fiscal years following that fiscal
14 year, the Comptroller General of the United States and
15 the Inspector General of each executive agency or (in the
16 case of an executive agency that does not have an Inspec-
17 tor General) an appropriate audit agency shall, in coordi-
18 nation with each other, review the plans of the executive
19 agency for acquisitions of information technology, the in-
20 formation technology acquisition programs being carried
21 out by the executive agency, and the information resources
22 management of the executive agency.

23 (b) PURPOSE OF REVIEWS.—The purpose of each of
24 the reviews of an executive agency is to determine, for

1 each of the agency's functional areas supported by infor-
2 mation technology, the following:

3 (1) Whether the cost of operating and main-
4 taining information technology for the agency has
5 decreased below the cost incurred by the agency for
6 operating and maintaining information technology
7 for the agency for fiscal year 1995 by at least 5 per-
8 cent (in constant fiscal year 1995 dollars) for each
9 of five fiscal years.

10 (2) Whether, in terms of the applicable per-
11 formance measurements established by the head of
12 the executive agency, the efficiency of the operations
13 of the agency has increased over the efficiency of the
14 operations of the agency in fiscal year 1995 by at
15 least 5 percent by reason of improvements in infor-
16 mation resources management by the agency for
17 each of five fiscal years.

18 **TITLE IV—INFORMATION TECH-**
19 **NOLOGY ACQUISITION PILOT**
20 **PROGRAMS**

21 **Subtitle A—Conduct of Pilot**
22 **Programs**

23 **SEC. 401. REQUIREMENT TO CONDUCT PILOT PROGRAMS.**

24 (a) IN GENERAL.—

1 (1) PURPOSE.—The Chief Information Officer
2 of the United States shall conduct pilot programs in
3 order to test alternative approaches for acquisition
4 of information technology and other information re-
5 sources by executive agencies.

6 (2) MULTIAGENCY, MULTIACTIVITY CONDUCT
7 OF EACH PROGRAM.—Except as otherwise provided
8 in this title, each pilot program conducted under this
9 title shall be carried out in not more than two pro-
10 curing activities in each of two executive agencies
11 designated by the Chief Information Officer. The
12 head of each designated executive agency shall, with
13 the approval of the Chief Information Officer, select
14 the procuring activities of the agency to participate
15 in the test and shall designate a procurement testing
16 official who shall be responsible for the conduct and
17 evaluation of the pilot program within the agency.

18 (b) LIMITATIONS.—

19 (1) NUMBER.—Not more than five pilot pro-
20 grams shall be conducted under the authority of this
21 title, including one pilot program each pursuant to
22 the requirements of sections 421, 422, and 423, and
23 two pilot programs pursuant to section 424.

24 (2) AMOUNT.—The total amount obligated for
25 contracts entered into under the pilot programs con-

1 ducted under the authority of this title may not ex-
2 ceed \$1,500,000,000. The Chief Information Officer
3 shall monitor such contracts and ensure that con-
4 tracts are not entered into in violation of the limita-
5 tion in the preceding sentence.

6 (c) INVOLVEMENT OF FEDERAL INFORMATION
7 COUNCIL.—The Chief Information Officer may—

8 (1) conduct pilot programs recommended by the
9 Federal Information Council; and

10 (2) consult with the Federal Information Coun-
11 cil regarding development of pilot programs to be
12 conducted under this section.

13 (d) PERIOD OF PROGRAMS.—

14 (1) IN GENERAL.—Subject to paragraph (2),
15 the Chief Information Officer shall conduct a pilot
16 program for the period, not in excess of five years,
17 that is determined by the Chief Information Officer
18 to be sufficient to establish reliable results.

19 (2) CONTINUING VALIDITY OF CONTRACTS.—A
20 contract entered into under the pilot program before
21 the expiration of that program shall remain in effect
22 according to the terms of the contract after the expi-
23 ration of the program.

1 **SEC. 402. TESTS OF INNOVATIVE PROCUREMENT METHODS**
2 **AND PROCEDURES.**

3 (a) IN GENERAL.—The Chief Information Officer of
4 the United States shall exercise the authority of the Ad-
5 ministrator for Federal Procurement Policy under section
6 15 of the Office of Federal Procurement Policy Act (41
7 U.S.C. 413) with regard to the acquisition of information
8 technology and other information resources by executive
9 agencies.

10 (b) RELATIONSHIP TO PILOT PROGRAM AUTHOR-
11 ITY.—The authority under paragraph (1) is in addition
12 to the authority provided in this title to conduct pilot pro-
13 grams. A test program conducted under subsection (a),
14 and each contract awarded under such test program, are
15 not subject to the limitations on pilot programs provided
16 in this title.

17 **SEC. 403. EVALUATION CRITERIA AND PLANS.**

18 (a) MEASURABLE TEST CRITERIA.—The Chief Infor-
19 mation Officer of the United States shall require the head
20 of each executive agency conducting a pilot program under
21 section 401 or a test program under section 402 to estab-
22 lish, to the maximum extent practicable, measurable cri-
23 teria for evaluating the effects of the procedures or tech-
24 niques to be tested under the program.

25 (b) TEST PLAN.—Before a pilot program or a test
26 program may be conducted under section 401 or 402, re-

1 spectively, the Chief Information Officer shall submit to
2 the Committee on Governmental Affairs of the Senate and
3 the Committee on Government Reform and Oversight of
4 the House of Representatives a detailed test plan for the
5 program, including a detailed description of the proce-
6 dures to be used and a list of any regulations that are
7 to be waived.

8 **SEC. 404. REPORT.**

9 (a) REQUIREMENT.—Not later than 180 days after
10 the completion of a pilot program conducted under this
11 title or a test program conducted under section 402, the
12 Chief Information Officer of the United States shall—

13 (1) submit to the Director of the Office of Man-
14 agement and Budget a report on the results and
15 findings under the program; and

16 (2) provide a copy of the report to the Commit-
17 tee on Governmental Affairs of the Senate and the
18 Committee on Government Reform and Oversight of
19 the House of Representatives.

20 (b) CONTENT.—The report shall include the follow-
21 ing:

22 (1) A detailed description of the results of the
23 program, as measured by the criteria established for
24 the program.

1 (2) A discussion of any legislation that the
2 Chief Information Officer recommends, or changes
3 in regulations that the Chief Information Officer
4 considers necessary, in order to improve overall in-
5 formation resources management within the Federal
6 Government.

7 **SEC. 405. RECOMMENDED LEGISLATION.**

8 If the Director of the Office of Management and
9 Budget determines that the results and findings under a
10 pilot program under this title indicate that legislation is
11 necessary or desirable in order to improve the process for
12 acquisition of information technology, the Director shall
13 transmit the Director's recommendations for such legisla-
14 tion to the Committee on Governmental Affairs of the Sen-
15 ate and the Committee on Government Reform and Over-
16 sight of the House of Representatives.

17 **SEC. 406. RULE OF CONSTRUCTION.**

18 Nothing in this title shall be construed as authorizing
19 the appropriation or obligation of funds for the pilot pro-
20 grams or test programs conducted pursuant to this title.

1 **Subtitle B—Specific Pilot**
2 **Programs**

3 **SEC. 421. SHARE-IN-SAVINGS PILOT PROGRAM.**

4 (a) **REQUIREMENT.**—The Chief Information Officer
5 of the United States shall carry out a pilot program to
6 test the feasibility of—

7 (1) contracting on a competitive basis with a
8 private sector source to provide the Federal Govern-
9 ment with an information technology solution for im-
10 proving mission-related or administrative processes
11 of the Federal Government; and

12 (2) paying the private sector source an amount
13 equal to a portion of the savings derived by the Fed-
14 eral Government from any improvements in mission-
15 related processes and administrative processes that
16 result from implementation of the solution, as deter-
17 mined by the Chief Information Officer.

18 (b) **PROGRAM CONTRACTS.**—Up to five contracts for
19 one project each may be entered into under the pilot pro-
20 gram.

21 (c) **SELECTION OF PROJECTS.**—The projects shall be
22 selected by the Chief Information Officer from among
23 projects recommended by the Federal Information
24 Council.

1 **SEC. 422. SOLUTIONS-BASED CONTRACTING PILOT PRO-**
2 **GRAM.**

3 (a) IN GENERAL.—The Chief Information Officer
4 shall carry out a pilot program to test the feasibility of
5 the use of solutions-based contracting for acquisition of
6 information technology.

7 (b) SOLUTIONS-BASED CONTRACTING DEFINED.—
8 For purposes of this section, solutions-based contracting
9 is an acquisition method under which the Federal Govern-
10 ment user of the technology to be acquired defines the ac-
11 quisition objectives, uses a streamlined contractor selec-
12 tion process, and allows industry sources to provide solu-
13 tions that attain the objectives effectively. The emphasis
14 of the method is on obtaining from industry an optimal
15 solution.

16 (c) PROCESS.—The Chief Information Officer shall
17 require use of the following process for acquisitions under
18 the pilot program:

19 (1) ACQUISITION PLAN EMPHASIZING DESIRED
20 RESULT.—Preparation of an acquisition plan that
21 defines the functional requirements of the intended
22 users of the information technology to be acquired,
23 identifies the operational improvement results to be
24 achieved, and defines the performance measurements
25 to be applied in determining whether the information

1 technology acquired satisfies the defined require-
2 ments and attains the identified results.

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

7 (3) SMALL ACQUISITION ORGANIZATION.—As-
8 sembly of small acquisition organization consisting
9 of the following:

10 (A) An acquisition management team, the
11 members of which are to be evaluated and re-
12 warded under the pilot program for contribu-
13 tions toward attainment of the desired results
14 identified in the acquisition plan.

15 (B) A small source selection team com-
16 posed of representatives in the specific mission
17 or administrative area to be supported by the
18 information technology to be acquired, a con-
19 tracting officer, and persons with relevant ex-
20 pertise.

21 (4) USE OF SOURCE SELECTION FACTORS EM-
22 PHASIZING SOURCE QUALIFICATIONS.—Use of
23 source selection factors that are limited to determin-
24 ing the qualifications of the offeror, including such
25 factors as personnel skills, previous experience in

1 providing other private or public sector organizations
2 with solutions for attaining objectives similar to the
3 objectives to be attained in the acquisition, past con-
4 tract performance, qualifications of the proposed
5 program manager, and the proposed management
6 plan.

7 (5) OPEN COMMUNICATIONS WITH CONTRACTOR
8 COMMUNITY.—Open availability of the following in-
9 formation to potential offerors:

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

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

14 (C) The process improvements to be at-
15 tained.

16 (6) SIMPLE SOLICITATION.—Use of a simple so-
17 licitation that sets forth only the functional work de-
18 scription, source selection factors, the required terms
19 and conditions, instructions regarding submission of
20 offers, and the estimate of the Federal Government's
21 budget for the desired work.

22 (7) SIMPLE PROPOSALS.—Submission of oral
23 proposals and acceptance of written supplemental
24 submissions that are limited in size and scope and
25 contain information on the offeror's qualifications to

1 perform the desired work together with information
2 of past contract performance.

3 (8) SIMPLE EVALUATION.—Use of a simple
4 evaluation process, to be completed within 45 days
5 after receipt of proposals, which consists of the fol-
6 lowing:

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

10 (B) Issuance of invitations for at least
11 three and not more than five of the identified
12 offerors to make oral presentations to, and en-
13 gage in discussions with, the evaluating person-
14 nel regarding the qualifications of the offerors,
15 including how the qualifications of each offeror
16 relate to the approaches proposed to be taken
17 by the offeror in the acquisition.

18 (C) Evaluation of the qualifications of the
19 identified offerors on the basis of submissions
20 required under the process and any oral presen-
21 tations made by, and any discussions with, the
22 offerors.

23 (9) SELECTION OF MOST QUALIFIED
24 OFFEROR.—A selection process consisting of the fol-
25 lowing:

1 (A) Identification of the most qualified
2 source, and ranking of alternative sources, pri-
3 marily on the basis of the oral proposals, pres-
4 entations, and discussions, but taking into con-
5 sideration supplemental written submissions.

6 (B) Conduct for 30 to 60 days of a pro-
7 gram definition phase, funded by the Federal
8 Government—

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

15 (ii) after which a contract for per-
16 formance of the work may be awarded to
17 that source on the basis of cost, the re-
18 sponsiveness, reasonableness, and quality
19 of the proposed performance, and a shar-
20 ing of risk and benefits between the source
21 and the Government.

22 (C) Conduct of as many successive pro-
23 gram definition phases with the alternative
24 sources (in the order ranked) as is necessary in

1 order to award a contract in accordance with
2 subparagraph (B).

3 (10) SYSTEM IMPLEMENTATION PHASING.—
4 System implementation to be executed in phases
5 that are tailored to the solution, with various con-
6 tract arrangements being used, as appropriate, for
7 various phases and activities.

8 (11) MUTUAL AUTHORITY TO TERMINATE.—
9 Authority for the Federal Government or the con-
10 tractor to terminate the contract without penalty at
11 the end of any phase defined for the project.

12 (12) TIME MANAGEMENT DISCIPLINE.—Appli-
13 cation of a standard for awarding a contract within
14 60 to 90 days after issuance of the solicitation.

15 (d) PILOT PROGRAM DESIGN.—

16 (1) JOINT PUBLIC-PRIVATE WORKING GROUP.—
17 The Chief Information Officer shall establish a joint
18 working group of Federal Government personnel and
19 representatives of the information technology indus-
20 try to design a plan for conduct of the pilot pro-
21 gram.

22 (2) CONTENT OF PLAN.—The plan shall provide
23 for use of solutions-based contracting in the Depart-
24 ment of Defense and not more than two other execu-
25 tive agencies for a total of—

1 (A) 10 projects, each of which has an esti-
2 mated cost of between \$25,000,000 and
3 \$100,000,000; and

4 (B) 10 projects, each of which has an esti-
5 mated cost of between \$1,000,000 and
6 \$5,000,000, to be set aside for small business
7 concerns.

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

14 (B) In order for an acquisition project to sat-
15 isfy the requirement in subparagraph (A)—

16 (i) the solution for attainment of the exec-
17 utive agency's objectives under the project
18 should not be obvious, but rather shall involve
19 a need for some innovative development; and

20 (ii) the project shall incorporate all ele-
21 ments of system integration.

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

1 (e) USE OF EXPERIENCED FEDERAL PERSONNEL.—
2 Only Federal Government personnel who are experienced,
3 and have demonstrated success, in managing or otherwise
4 performing significant functions in complex acquisitions
5 shall be used for evaluating offers, selecting sources, and
6 carrying out the performance phases in an acquisition
7 under the pilot program.

8 (f) MONITORING BY GAO.—

9 (1) REQUIREMENT.—The Comptroller General
10 of the United States shall—

11 (A) monitor the conduct, and review the
12 results, of acquisitions under the pilot program;
13 and

14 (B) submit to Congress periodic reports
15 containing the views of the Comptroller General
16 on the activities, results, and findings under the
17 pilot program.

18 (2) EXPIRATION OF REQUIREMENT.—The re-
19 quirement under paragraph (1)(B) shall terminate
20 after submission of the report that contains the final
21 views of the Comptroller General on the last of the
22 acquisition projects completed under the pilot pro-
23 gram.

1 **SEC. 423. PILOT PROGRAM FOR CONTRACTING FOR PER-**
2 **FORMANCE OF ACQUISITION FUNCTIONS.**

3 (a) REQUIREMENT.—The Chief Information Officer
4 of the United States shall carry out a pilot program which
5 provides for the head of an executive agency, or an execu-
6 tive agent acting for the head of an executive agency, to
7 contract for the performance of the contracting and pro-
8 gram management functions for an information tech-
9 nology acquisition for the agency.

10 (b) PARTICIPATING AGENCIES.—The Chief Informa-
11 tion Officer shall select five executive agencies to partici-
12 pate, with the consent of the head of the agency, in the
13 pilot program.

14 (c) OBLIGATION OF FUNDS TO BE BY FEDERAL OF-
15 FICIALS.—Funds of the United States may not be obli-
16 gated by a contractor in the performance of contracting
17 or program management functions of an executive agency
18 under the pilot program.

19 (d) GAO REVIEW AND ANALYSIS.—The Comptroller
20 General of the United States shall—

21 (1) monitor and review the results of the pilot
22 program;

23 (2) compare the use of contract personnel for
24 performance of the contracting and program man-
25 agement functions for an information technology ac-

1 quisition under the pilot program with the use of
2 agency personnel to perform such functions; and

3 (3) submit to the Committee on Governmental
4 Affairs of the Senate and the Committee on Govern-
5 ment Reform and Oversight a report on the com-
6 parison, including any conclusions of the Comptrol-
7 ler General.

8 **SEC. 424. MAJOR ACQUISITIONS PILOT PROGRAMS.**

9 (a) FLEXIBLE ACQUISITIONS PILOT PROGRAMS.—

10 The Chief Information Officer of the United States shall
11 carry out two pilot programs, one in the Department of
12 Defense and one in another executive agency, to test and
13 demonstrate for use in major information technology ac-
14 quisition programs flexible acquisition procedures that ac-
15 commodate the following during the conduct of the acqui-
16 sition:

17 (1) Continuous refinement of—

18 (A) the agency information architecture for
19 which the information technology is being pro-
20 cured; and

21 (B) the requirements to be satisfied by
22 such technology within that information archi-
23 tecture.

24 (2) Incremental development of system capabili-
25 ties.

1 (3) Integration of new technology as it becomes
2 available.

3 (4) Rapid fielding of effective systems.

4 (5) Completion of the operational increments of
5 the acquisition within 18 months (subject to
6 supplementation or further evolution of the agency
7 information system through follow-on procurements).

8 (b) COVERED ACQUISITION PROGRAMS.—Each pilot
9 program shall involve one acquisition of information tech-
10 nology that satisfies the following requirements:

11 (1) The acquisition is in an amount greater
12 than \$100,000,000, but the amount of the incre-
13 ments of the acquisition covered by the pilot pro-
14 gram does not exceed \$300,000,000.

15 (2) The information technology is to be pro-
16 cured for support of one or more agency processes
17 or missions that have been, or are being, reevaluated
18 and substantially revised to improve the efficiency
19 with which the agency performs agency missions or
20 delivers services.

21 (3) The acquisition is to be conducted as part
22 of a sustained effort of the executive agency con-
23 cerned to attain a planned overall information archi-
24 tecture for the agency that is designed to support

1 improved performance of the agency missions and
2 improved delivery of services.

3 (4) The acquisition program provides for an
4 evolution of an information system that is guided by
5 the overall information architecture planned for the
6 agency.

7 (5) The acquisition is being conducted with a
8 goal of completing two or more major increments in
9 the evolution of the agency's information system
10 within a 3-year period.

11 (c) WAIVER OF PROCUREMENT LAWS.—

12 (1) WAIVER AUTHORITY.—The head of an execu-
13 tive agency carrying out a pilot program under this
14 section may, with the approval of the Chief Informa-
15 tion Officer of the United States, waive any provi-
16 sion of procurement law referred to in paragraph (2)
17 to the extent that the head of the agency considers
18 necessary to carry out the pilot program in accord-
19 ance with this section.

20 (2) COVERED PROCUREMENT LAWS.—The waiv-
21 er authority under paragraph (1) applies to the fol-
22 lowing procurement laws:

23 (A) Title III of the Federal Property and
24 Administrative Services Act of 1949 (41 U.S.C.
25 251 et seq.).

1 (B) Chapter 137 of title 10, United States
2 Code.

3 (C) The Office of Federal Procurement
4 Policy Act (41 U.S.C. 401 et seq.).

5 (D) Sections 8, 9, and 15 of the Small
6 Business Act (15 U.S.C. 637, 638, and 644).

7 (E) Any provision of law that, pursuant to
8 section 34 of the Office of Federal Procurement
9 Policy Act (41 U.S.C. 430), is listed in the Fed-
10 eral Acquisition Regulation as being inapplica-
11 ble—

12 (i) to contracts for the procurement of
13 commercial items; or

14 (ii) in the case of a subcontract under
15 the pilot program, to subcontracts for the
16 procurement of commercial items.

17 (F) Any other provision of law that im-
18 poses requirements, restrictions, limitations, or
19 conditions on Federal Government contracting
20 (other than a limitation on use of appropriated
21 funds), as determined by the Chief Information
22 Officer of the United States.

23 (d) OMB INVOLVEMENT.—

24 (1) IN GENERAL.—The Chief Information Offi-
25 cer of the United States shall closely and continu-

1 ously monitor the conduct of the pilot programs car-
2 ried out under this section.

3 (2) ASSIGNMENT OF OMB PERSONNEL TO PRO-
4 GRAM TEAM.—In order to carry out paragraph (1)
5 effectively, the Chief Information Officer of the
6 United States shall assign one or more representa-
7 tives to the acquisition program management team
8 for each pilot program.

9 (e) TERMINATION OF PILOT PROGRAM FOR UNSATIS-
10 FACTORY PERFORMANCE.—The Chief Information Officer
11 of the United States shall terminate a pilot program under
12 this section at any time that the Chief Information Officer
13 determines that the acquisition under the program has
14 failed to a significant extent to satisfy cost, schedule, and
15 performance requirements established for the acquisition.

16 (f) REPORTS TO CONGRESS.—

17 (1) REQUIREMENT.—The Director of the Office
18 of Management and Budget shall submit to Con-
19 gress reports on each pilot program carried out
20 under this section as follows:

21 (A) An interim report upon the completion
22 of each increment of the acquisition under the
23 pilot program.

24 (B) A final report upon completion of the
25 pilot program.

1 (2) CONTENT OF FINAL REPORT.—The final re-
2 port on a pilot program shall include any rec-
3 ommendations for waiver of the applicability of pro-
4 curement laws to further evolution of information
5 systems acquired under the pilot program.

6 **TITLE V—OTHER INFORMATION**
7 **RESOURCES MANAGEMENT**
8 **REFORMS**

9 **SEC. 501. TRANSFER OF RESPONSIBILITY FOR FACNET.**

10 Section 30 of the Office of Federal Procurement Pol-
11 icy Act (41 U.S.C. 426) is amended—

12 (1) in subsection (a), by striking out “Adminis-
13 trator” the first place it appears and inserting in
14 lieu thereof “Chief Information Officer of the United
15 States”; and

16 (2) by striking out “Administrator” each place
17 it appears and inserting in lieu thereof “Chief Infor-
18 mation Officer”.

19 **SEC. 502. ON-LINE MULTIPLE AWARD SCHEDULE ORDER-**
20 **ING.**

21 (a) DEVELOPMENT AND IMPLEMENTATION OF SYS-
22 TEM DESIGNS.—In order to provide for the economic and
23 efficient procurement of commercial information tech-
24 nology, the Chief Information Officer of the United States
25 shall establish competing programs for the development

1 and testing of up to three system designs for providing
2 for Governmentwide, on-line computer purchasing of com-
3 mercial items of information technology.

4 (b) REQUIRED SYSTEM CAPABILITIES.—Each of the
5 system designs shall be established as an element of the
6 Federal acquisition computer network (FACNET) archi-
7 tecture and shall, at a minimum—

8 (1) provide basic information on the prices, fea-
9 tures, and performance of all commercial items of
10 information technology available for purchasing;

11 (2) provide for updating that information to re-
12 flect changes in prices, features, and performance as
13 soon as information on the changes becomes avail-
14 able;

15 (3) enable users to make on-line computer com-
16 parisons of the prices, features, and performance of
17 similar products and services offered by various ven-
18 dors;

19 (4) enable users to place, and vendors to re-
20 ceive, on-line computer orders for products and serv-
21 ices available for purchasing;

22 (5) enable ordering users to make payments to
23 vendors by bank card, electronic funds transfer, or
24 other automated methods in cases in which it is

1 practicable and in the interest of the Federal Gov-
2 ernment to do so; and

3 (6) archive data relating to each order placed
4 against multiple award schedule contracts using
5 such system, including, at a minimum, data on—

6 (A) the agency or office placing the order;

7 (B) the vendor receiving the order;

8 (C) the products or services ordered; and

9 (D) the total price of the order.

10 (c) USE OF SYSTEMS.—Under guidelines and proce-
11 dures prescribed pursuant to subsection (d), the head of
12 an executive agency may use a system developed and test-
13 ed under this section to make purchases in a total amount
14 of not more than \$5,000,000 for each order.

15 (d) GUIDELINES AND PROCEDURES.—The Chief In-
16 formation Officer shall prescribe guidelines and proce-
17 dures for making purchases authorized by subsection (c).
18 The guidelines and procedures shall ensure that orders
19 placed on the system referred to in that subsection do not
20 place any requirements on vendors that are not customary
21 for transactions involving sales of the purchased commod-
22 ities to private sector purchasers.

23 (e) REPORT TO CONGRESS.—Not later than one year
24 after the date of the enactment of this Act, the Chief In-
25 formation Officer shall submit to Congress a report on the

1 Chief Information Officer's decision on implementation of
2 an electronic marketplace for information technology. The
3 report shall contain a description of the results of the pro-
4 grams established under subsection (a).

5 **SEC. 503. UPGRADING INFORMATION EQUIPMENT IN AGEN-**
6 **CY FIELD OFFICES.**

7 (a) **AUTHORITY TO USE MICRO-PURCHASE PROCE-**
8 **DURES.**—Under the authority, direction, and control of
9 the head of an executive agency and subject to subsection
10 (b), the head of a field office of that agency may use
11 micro-purchase procedures to procure up to \$20,000 of
12 upgrades for the computer equipment of that office each
13 year in increments not exceeding \$2,500 each. Procure-
14 ments within that limitation shall not be counted against
15 the \$20,000 annual limitation provided under section
16 32(c)(2) of the Office of Federal Procurement Policy Act
17 (41 U.S.C. 428(c)(2)).

18 (b) **CERTIFICATION REQUIREMENT.**—The head of a
19 field office may procure an upgrade for computer equip-
20 ment in accordance with subsection (a) only if the head
21 of the field office determines in writing that the cost of
22 the upgrade does not exceed 50 percent of the cost of pur-
23 chasing replacement equipment for the equipment to be
24 upgraded. The head of the field office shall include a writ-

1 ten record of the determination in the agency records of
2 the procurement.

3 (c) MICRO-PURCHASE PROCEDURES DEFINED.—In
4 this section, the term “micro-purchase procedures” means
5 the procedures prescribed under section 32 of the Office
6 of Federal Procurement Policy Act (41 U.S.C. 428) for
7 purchases not in excess of the micro-purchase threshold
8 (as defined in that section).

9 **SEC. 504. DISPOSAL OF EXCESS COMPUTER EQUIPMENT.**

10 (a) AUTHORITY TO DONATE.—The head of an execu-
11 tive agency may, without regard to the procedures other-
12 wise applicable under title II of the Federal Property and
13 Administrative Services Act of 1949 (40 U.S.C. 481 et
14 seq.), convey without consideration all right, title, and in-
15 terest of the United States in any computer equipment
16 under the control of such official that is determined under
17 title II of such Act as being excess property or surplus
18 property to a recipient in the following order of priority:

19 (1) Elementary and secondary schools under
20 the jurisdiction of a local educational agency and
21 schools funded by the Bureau of Indian Affairs.

22 (2) Public libraries.

23 (3) Public colleges and universities.

24 (b) INVENTORY REQUIRED.—Upon the enactment of
25 this Act, the head of an executive agency shall inventory

1 all computer equipment under the control of that official
2 and identify in accordance with title II of the Federal
3 Property and Administrative Services Act of 1949 (40
4 U.S.C. 481 et seq.) the equipment, if any, that is excess
5 property or surplus property.

6 (c) DEFINITIONS.—In this section:

7 (1) The terms “excess property” and “surplus
8 property” have the meanings given such terms in
9 section 3 of the Federal Property and Administra-
10 tive Services Act of 1949 (40 U.S.C. 472).

11 (2) The terms “local educational agency”, “ele-
12 mentary school”, and “secondary school” have the
13 meanings given such terms in section 14101 of the
14 Elementary and Secondary Education Act of 1965
15 (20 U.S.C. 8801).

16 **SEC. 505. LEASING INFORMATION TECHNOLOGY.**

17 (a) ANALYSIS BY GAO.—The Comptroller General of
18 the United States shall perform a comparative analysis
19 of—

20 (1) the costs and benefits of purchasing new in-
21 formation technology for executive agencies;

22 (2) the costs and benefits of leasing new infor-
23 mation technology for executive agencies;

24 (3) the costs and benefits of leasing used infor-
25 mation technology for executive agencies; and

1 (4) the costs and benefits of purchasing used
2 information technology.

3 (b) LEASING GUIDELINES.—Based on the analysis,
4 the Comptroller General shall develop recommended guide-
5 lines for leasing information technology for executive
6 agencies.

7 **SEC. 506. CONTINUATION OF ELIGIBILITY OF CONTRACTOR**
8 **FOR AWARD OF INFORMATION TECHNOLOGY**
9 **CONTRACT AFTER PROVIDING DESIGN AND**
10 **ENGINEERING SERVICES.**

11 Notwithstanding any other provision of law, a con-
12 tractor that provides architectural design and engineering
13 services for an information system under an information
14 technology program of an executive agency is not, solely
15 by reason of having provided such services, ineligible for
16 award of a contract for procurement of information tech-
17 nology under that program or for a subcontract under
18 such a contract.

19 **SEC. 507. ENHANCED PERFORMANCE INCENTIVES FOR IN-**
20 **FORMATION TECHNOLOGY ACQUISITION**
21 **WORKFORCE.**

22 (a) ARMED SERVICES ACQUISITIONS.—

23 (1) CLARIFICATION OF REQUIREMENTS FOR
24 SYSTEM OF INCENTIVES.—Subsection (b) of section
25 5001 of the Federal Acquisition Streamlining Act of

1 1994 (Public Law 103–355; 108 Stat. 3350; 10
2 U.S.C. 2220 note) is amended—

3 (A) by redesignating paragraphs (1) and
4 (2) as subparagraphs (A) and (B), respectively;

5 (B) by designating the second sentence as
6 paragraph (2);

7 (C) by inserting “(1)” after “(b) EN-
8 HANCED SYSTEM OF PERFORMANCE INCEN-
9 TIVES.—”; and

10 (D) by adding at the end the following:

11 “(3) The Secretary shall include in the enhanced sys-
12 tem of incentives, to the extent that the system applies
13 with respect to programs for the acquisition of information
14 technology (as defined in section 4 of the Information
15 Technology Management Reform Act of 1995), the follow-
16 ing:

17 “(A) Pay bands.

18 “(B) Significant and material pay and perform-
19 ance incentives to be awarded, and significant and
20 material unfavorable personnel actions to be im-
21 posed, under the system exclusively, or primarily, on
22 the basis of the contributions of personnel to the
23 performance of the information technology acquisi-
24 tion program in relation to cost goals, performance
25 goals, and schedule goals.

1 “(C) Provisions for pay incentives and perform-
2 ance incentives to be awarded under the system only
3 if—

4 “(i) the cost of the information technology
5 acquisition program is less than 90 percent of
6 the baseline established for the cost of the pro-
7 gram;

8 “(ii) the period for completion of the infor-
9 mation technology program is less than 90 per-
10 cent of the period provided under the baseline
11 established for the program schedule; and

12 “(iii) the results of the phase of the infor-
13 mation technology program being executed ex-
14 ceed the performance baselines established for
15 the system by more than 10 percent.

16 “(D) Provisions for unfavorable personnel ac-
17 tions to be taken under the system only if the infor-
18 mation technology acquisition program performance
19 for the phase being executed exceeds by more than
20 10 percent the cost and schedule parameters estab-
21 lished for the program phase and the performance of
22 the system acquired or to be acquired under the pro-
23 gram fails to achieve at least 90 percent of the base-
24 line goals established for performance of the pro-
25 gram.”.

1 (2) RECOMMENDED LEGISLATION.—Subsection
2 (c) of such section is amended by adding at the end
3 the following: “The Secretary shall include in the
4 recommendations provisions necessary to implement
5 the requirements of subsection (b)(3).”.

6 (3) IMPLEMENTATION OF INCENTIVES SYS-
7 TEM.—Section 5001 of the Federal Acquisition
8 Streamlining Act of 1994 is further amended by
9 adding at the end the following:

10 “(d) IMPLEMENTATION OF INCENTIVES SYSTEM.—
11 (1) The Secretary shall complete the review required by
12 subsection (b) and take such actions as are necessary to
13 provide an enhanced system of incentives in accordance
14 with such subsection not later than October 1, 1997.

15 “(2) Not later than October 1, 1996, the Secretary
16 shall submit to the Committees on Armed Services and
17 on Governmental Affairs of the Senate and the Commit-
18 tees on National Security and on Government Reform and
19 Oversight of the House of Representatives a report on the
20 actions taken to satisfy the requirements of paragraph
21 (1).”.

22 (b) CIVILIAN AGENCY ACQUISITIONS.—

23 (1) CLARIFICATION OF REQUIREMENTS FOR
24 SYSTEM OF INCENTIVES.—Subsection (b) of section
25 5051 of the Federal Acquisition Streamlining Act of

1 1994 (Public Law 103–355; 108 Stat. 3351; 41
2 U.S.C. 263 note) is amended—

3 (A) by redesignating paragraphs (1) and
4 (2) as subparagraphs (A) and (B), respectively;

5 (B) by designating the second sentence as
6 paragraph (2);

7 (C) by inserting “(1)” after “(b) EN-
8 HANCED SYSTEM OF PERFORMANCE INCEN-
9 TIVES.—”; and

10 (D) by adding at the end the following:

11 “(3) The Deputy Director shall include in the en-
12 hanced system of incentives, to the extent that the system
13 applies with respect to programs for the acquisition of in-
14 formation technology (as defined in section 4 of the Infor-
15 mation Technology Management Act of 1995), the follow-
16 ing:

17 “(A) Pay bands.

18 “(B) Significant and material pay and perform-
19 ance incentives to be awarded, and significant and
20 material unfavorable personnel actions to be im-
21 posed, under the system exclusively, or primarily, on
22 the basis of the contributions of personnel to the
23 performance of the information technology acquisi-
24 tion program in relation to cost goals, performance
25 goals, and schedule goals.

1 “(C) Provisions for pay incentives and perform-
2 ance incentives to be awarded under the system only
3 if—

4 “(i) the cost of the information technology
5 acquisition program is less than 90 percent of
6 the amount established as the cost goal for the
7 program under section 313 of the Federal
8 Property and Administrative Services Act of
9 1949 (41 U.S.C. 263);

10 “(ii) the period for completion of the pro-
11 gram is less than 90 percent of the period es-
12 tablished as the schedule goal for the program
13 under such section; and

14 “(iii) the results of the phase of the pro-
15 gram being executed exceed the performance
16 goal established for the program under such
17 section by more than 10 percent.

18 “(D) Provisions for unfavorable personnel ac-
19 tions to be taken under the system only if the infor-
20 mation technology acquisition program performance
21 for the phase being executed exceeds by more than
22 10 percent the cost and schedule goals established
23 for the program phase under section 313 of the Fed-
24 eral Property and Administrative Services Act of
25 1949 (41 U.S.C. 263) and the performance of the

1 system acquired or to be acquired under the pro-
2 gram fails to achieve at least 90 percent of the per-
3 formance goal established for the program under
4 such section.”.

5 (2) RECOMMENDED LEGISLATION.—Subsection
6 (c) of such section is amended by adding at the end
7 the following: “The Deputy Director shall include in
8 the recommendations provisions necessary to imple-
9 ment the requirements of subsection (b)(3).”.

10 (3) IMPLEMENTATION OF INCENTIVES SYS-
11 TEM.—Section 5051 of the Federal Acquisition
12 Streamlining Act of 1994 is further amended by
13 adding at the end the following:

14 “(d) IMPLEMENTATION OF INCENTIVES SYSTEM.—
15 (1) The Deputy Director shall complete the review re-
16 quired by subsection (b) and take such actions as are nec-
17 essary to provide an enhanced system of incentives in ac-
18 cordance with such subsection not later than October 1,
19 1997.

20 “(2) Not later than October 1, 1996, the Deputy Di-
21 rector shall submit to the Committee on Governmental Af-
22 fairs of the Senate and the Committee on Government Re-
23 form and Oversight of the House of Representatives a re-
24 port on the actions taken to satisfy the requirements of
25 paragraph (1).”.

1 **TITLE VI—ACTIONS REGARDING**
2 **CURRENT INFORMATION**
3 **TECHNOLOGY PROGRAMS**

4 **SEC. 601. PERFORMANCE MEASUREMENTS.**

5 (a) IMPLEMENTATION OF REQUIREMENT FOR PER-
6 FORMANCE MEASUREMENTS.—The chief information offi-
7 cer of an executive agency shall ensure that performance
8 measurements are prescribed for each significant current
9 information technology acquisition program of the agency.

10 (b) QUALITY OF MEASUREMENTS.—The performance
11 measurements shall be sufficient to provide—

12 (1) the head of the executive agency with ade-
13 quate information for making determinations for
14 purposes of subsections (b)(2) and (c)(2) of section
15 146; and

16 (2) the Director of the Office of Management
17 and Budget with adequate information for making
18 determinations for purposes of paragraphs (1)(B)
19 and (2)(B) of section 123(g).

20 **SEC. 602. INDEPENDENT ASSESSMENT OF PROGRAMS.**

21 (a) ASSESSMENT REQUIRED.—The head of each ex-
22 ecutive agency shall provide for an assessment to be made
23 of each of the current information technology acquisition
24 programs of the agency that exceed \$100,000,000.

1 (b) INDEPENDENCE OF ASSESSMENT.—The head of
2 the executive agency shall provide for the assessment to
3 be carried out by the Inspector General of the agency (in
4 the case of an agency having an Inspector General), a con-
5 tractor, or another entity who is independent of the head
6 of the executive agency.

7 (c) PURPOSES.—The purposes of the assessment of
8 a program are to determine the following:

9 (1) To determine the status of the program in
10 terms of performance objectives and cost and sched-
11 ule baselines.

12 (2) To identify any need or opportunity for im-
13 proving the process to be supported by the program.

14 (3) To determine the potential for use of the in-
15 formation technology by other executive agencies on
16 a shared basis or otherwise.

17 (4) To determine the adequacy of the program
18 plan, the architecture of the information technology
19 being acquired, and the program management.

20 **SEC. 603. CURRENT INFORMATION TECHNOLOGY ACQUI-**
21 **SITION PROGRAM DEFINED.**

22 For purposes of this title, a current information tech-
23 nology acquisition program is—

1 (1) an information technology acquisition pro-
2 gram being carried out on the date of the enactment
3 of this Act; and

4 (2) any other information technology acquisi-
5 tion program that is carried out through any con-
6 tract entered into on the basis of offers received in
7 response to a solicitation of offers issued before such
8 date.

9 **TITLE VII—PROCUREMENT PRO-**
10 **TEST AUTHORITY OF THE**
11 **COMPTROLLER GENERAL**

12 **SEC. 701. REMEDIES.**

13 Section 3554(b) of title 31, United States Code, is
14 amended by adding at the end the following:

15 “(4) If the Comptroller General makes a determina-
16 tion described in paragraph (1) in the case of a protest
17 in a procurement of information technology, the Comptrol-
18 ler General may submit to the Chief Information Officer
19 of the United States a recommendation to suspend the
20 procurement authority of a Federal agency for the pro-
21 tested procurement.”.

22 **SEC. 702. PERIOD FOR PROCESSING PROTESTS.**

23 Section 3554(a) of title 31, United States Code, is
24 amended—

1 (1) in paragraph (1), by striking out “para-
2 graph (2)” in the second sentence and inserting in
3 lieu thereof “paragraphs (2) and (5)”; and

4 (2) by adding at the end the following:

5 “(5)(A) The requirements and restrictions set forth
6 in this paragraph apply in the case of a protest in a pro-
7 curement of information technology.

8 “(B) The Comptroller General shall issue a final deci-
9 sion concerning a protest referred to in subparagraph (A)
10 within 45 days after the date the protest is submitted to
11 the Comptroller General.

12 “(C) The disposition under this subchapter of a pro-
13 test in a procurement referred to in subparagraph (A)
14 bars any further protest under this subchapter by the
15 same interested party on the same procurement.”.

16 **SEC. 703. DEFINITION.**

17 Section 3551 of title 31, United States Code, is
18 amended by adding at the end the following:

19 “(4) The term ‘information technology’ has the
20 meaning given that term in section 4 of the Infor-
21 mation Technology Management Reform Act of
22 1995.”.

1 **TITLE VIII—RELATED TERMI-**
2 **NATIONS, CONFORMING**
3 **AMENDMENTS, AND CLERI-**
4 **CAL AMENDMENTS**

5 **Subtitle A—Related Terminations**

6 **SEC. 801. OFFICE OF INFORMATION AND REGULATORY**
7 **AFFAIRS.**

8 The Office of Information and Regulatory Affairs in
9 the Office of Management and Budget is terminated.

10 **SEC. 802. SENIOR INFORMATION RESOURCES MANAGE-**
11 **MENT OFFICIALS.**

12 In each executive agency for which a chief informa-
13 tion officer is designated under section 143(a), the des-
14 ignation of a senior information resources management of-
15 ficial under section 3506(a)(2) of title 44, United States
16 Code, is terminated.

17 **Subtitle B—Conforming**
18 **Amendments**

19 **SEC. 811. AMENDMENTS TO TITLE 10, UNITED STATES**
20 **CODE.**

21 (a) **MULTIYEAR CONTRACTS.**—Section 2306b(k) of
22 title 10, United States Code, is amended by striking out
23 “property to which section 111 of the Federal Property
24 and Administrative Services Act of 1949 (40 U.S.C. 759)
25 applies” and inserting in lieu thereof “information tech-

1 nology (as defined in section 4 of the Information Tech-
2 nology Management Reform Act of 1995”).

3 (b) SENSITIVE DEFENSE ACTIVITIES.—Section 2315
4 of such title is repealed.

5 **SEC. 812. AMENDMENTS TO TITLE 28, UNITED STATES**
6 **CODE.**

7 Section 612 of title 28, United States Code, is
8 amended—

9 (1) in subsection (f), by striking out “section
10 111 of the Federal Property and Administrative
11 Services Act of 1949 (40 U.S.C. 759)” and inserting
12 in lieu thereof “the provisions of law, policies, and
13 regulations applicable to executive agencies under
14 the Information Technology Management Reform
15 Act of 1995”;

16 (2) in subsection (g), by striking out “sections
17 111 and 201 of the Federal Property and Adminis-
18 trative Services Act of 1949 (40 U.S.C. 481 and
19 759)” and inserting in lieu thereof “section 201 of
20 the Federal Property and Administrative Services
21 Act of 1949 (40 U.S.C. 481)”;

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

23 (4) by redesignating subsection (m) as sub-
24 section (l).

1 **SEC. 813. AMENDMENTS TO TITLE 31, UNITED STATES**

2 **CODE.**

3 (a) AVAILABILITY OF FUNDS FOLLOWING RESOLU-
4 TION OF A PROTEST.—Section 1558(b) of title 31, United
5 States Code, is amended by striking out “or under section
6 111(f) of the Federal Property and Administrative Serv-
7 ices Act of 1949 (40 U.S.C. 759(f))”.

8 (b) GAO PROCUREMENT PROTEST SYSTEM.—Sec-
9 tion 3552 of such title is amended by striking out the sec-
10 ond sentence.

11 **SEC. 814. AMENDMENTS TO TITLE 38, UNITED STATES**

12 **CODE.**

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

15 **“§ 310. Chief information officer**

16 “(a) The Secretary shall designate a chief informa-
17 tion officer for the Department in accordance with section
18 143(a) of the Information Technology Management Re-
19 form Act of 1995.

20 “(b) The chief information officer shall perform the
21 duties provided for chief information officers of executive
22 agencies under the Information Technology Management
23 Reform Act of 1995.”.

1 **SEC. 815. PROVISIONS OF TITLE 44, UNITED STATES CODE,**
 2 **AND OTHER LAWS RELATING TO CERTAIN**
 3 **JOINT COMMITTEES OF CONGRESS.**

4 (a) JOINT COMMITTEE ON INFORMATION.—

5 (1) REPLACEMENT OF JOINT COMMITTEE ON
 6 PRINTING.—Chapter 1 of title 44, United States
 7 Code, is amended by striking out the chapter head-
 8 ing and all that follows through the heading for sec-
 9 tion 103 and inserting in lieu thereof the following:
 10 **“CHAPTER 1—JOINT COMMITTEE ON**
 11 **INFORMATION**

“Sec.

“101. Joint Committee on Information.

“102. Remedial powers.

12 **“§ 101. Joint Committee on Information**

13 “There is a Joint Committee on Information estab-
 14 lished by section 101 of the Information Technology Man-
 15 agement Reform Act of 1995.

16 **“§ 102. Remedial powers”.**

17 (2) REFERENCES TO JOINT COMMITTEE.—The
 18 provisions of title 44, United States Code, are
 19 amended by striking out “Joint Committee on Print-
 20 ing” each place it appears and inserting in lieu
 21 thereof “Joint Committee on Information”.

22 (b) REFERENCES TO JOINT COMMITTEE OF CON-
 23 GRESS ON THE LIBRARY.—

1 (1) MISCELLANEOUS REFERENCES.—Section 82
2 of the Revised Statutes (2 U.S.C. 132a), section
3 203(i) of the Legislative Reorganization Act of 1946
4 (2 U.S.C. 166(i)), section 1831 of the Revised Stat-
5 utes (40 U.S.C. 188), and section 801(b)(2) of Pub-
6 lic Law 100–696 (102 Stat. 4608; 40 U.S.C.
7 188a(b)(2)) are amended by striking out “Joint
8 Committee of Congress on the Library” and insert-
9 ing in lieu thereof “Joint Committee on Informa-
10 tion”.

11 (2) SUPERSEDED PROVISION.—Section 223 of
12 the Legislative Reorganization Act of 1946 (2
13 U.S.C. 132b) is repealed.

14 (3) CONTINUATION OF AUTHORITY.—Section 2
15 of the Act of March 3, 1883 (22 Stat. 587) is
16 amended under the heading “SENATE.” by striking
17 out the undesignated paragraph relating to the exer-
18 cise of powers and discharge of duties of the Joint
19 Committee of Congress on the Library by the Senate
20 members of the joint committee during the recess of
21 Congress (22 Stat. 592; 2 U.S.C. 133).

22 (c) OTHER REFERENCES.—A reference to a joint
23 committee of Congress terminated by section 102(d) in
24 any law or in any document of the Federal Government

1 shall be deemed to refer to the Joint Committee on Infor-
2 mation established by section 101.

3 **SEC. 816. PROVISIONS OF TITLE 44, UNITED STATES CODE,**
4 **RELATING TO PAPERWORK REDUCTION.**

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

8 “(9) the term ‘information technology’ has the
9 meaning given that term in section 4 of the Infor-
10 mation Technology Management Reform Act of
11 1995;”.

12 (b) OFFICE OF INFORMATION AND REGULATORY AF-
13 FAIRS.—Chapter 35 of such title is amended—

14 (1) by striking out section 3503 and inserting
15 in lieu thereof the following:

16 **“§3503. Chief Information Officer of the United**
17 **States**

18 “The Director of the Office of Management and
19 Budget shall delegate to the Chief Information Officer of
20 the United States the authority to administer all functions
21 under this chapter, except that any such delegation shall
22 not relieve the Director of responsibility for the adminis-
23 tration of such functions.”; and

24 (2) by striking out section 3520.

1 (c) DEVELOPMENT OF STANDARDS AND GUIDELINES
2 BY NIST.—Section 3504(h)(1)(B) of such title is amend-
3 ed by striking out “section 111(d) of the Federal Property
4 and Administrative Services Act of 1949 (40 U.S.C.
5 759(d))” and inserting in lieu thereof “paragraphs (2) and
6 (3) of section 20(a) of the National Institute of Standards
7 and Technology Act (20 U.S.C. 278g–3(a))”.

8 (d) COMPLIANCE WITH DIRECTIVES.—Section
9 3504(h)(2) of such title is amended by striking out “sec-
10 tions 110 and 111 of the Federal Property and Adminis-
11 trative Services Act of 1949 (40 U.S.C. 757 and 759)”
12 and inserting in lieu thereof “the Information Technology
13 Management Reform Act of 1995 and directives issued
14 under section 110 of the Federal Property and Adminis-
15 trative Services Act of 1949 (40 U.S.C. 757)”.

16 (e) SENIOR INFORMATION RESOURCES MANAGE-
17 MENT OFFICIALS.—Section 3506(a)(2) of such title is
18 amended—

19 (1) in subparagraph (A), by striking out “sub-
20 paragraph (B)” and inserting in lieu thereof “sub-
21 paragraphs (B) and (C)”; and

22 (2) by adding at the end the following:

23 “(C) An agency for which a chief information officer
24 is designated under section 143(a) of the Information

1 Technology Management Reform Act of 1995 may not
2 designate a senior official under this paragraph.”.

3 **SEC. 817. AMENDMENT TO TITLE 49, UNITED STATES CODE.**

4 Section 40112(a) of title 49, United States Code, is
5 amended by striking out “or a contract to purchase prop-
6 erty to which section 111 of the Federal Property and Ad-
7 ministrative Services Act of 1949 (40 U.S.C. 759) ap-
8 plies”.

9 **SEC. 818. OTHER LAWS.**

10 (a) **COMPUTER SECURITY ACT OF 1987.**—Section
11 2(b)(2) of the Computer Security Act of 1987 (Public Law
12 100–235; 101 Stat. 1724) is amended by striking out “by
13 amending section 111(d) of the Federal Property and Ad-
14 ministrative Services Act of 1949 (40 U.S.C. 759(d))”.

15 (b) **PUBLIC LAW 101–520.**—Section 306(b) of Public
16 Law 101–520 (40 U.S.C. 166 note) is amended by strik-
17 ing out paragraph (1) and inserting in lieu thereof the
18 following:

19 “(1) the Information Technology Management
20 Reform Act of 1995; and”.

21 (c) **NATIONAL ENERGY CONSERVATION POLICY**
22 **ACT.**—Section 801(b)(3) of the National Energy Con-
23 servation Policy Act (42 U.S.C. 8287(b)(3)) is amended
24 by striking out the second sentence.

1 (d) NATIONAL SECURITY ACT OF 1947.—Section 3
 2 of the National Security Act of 1947 (50 U.S.C. 403c)
 3 is amended by striking out subsection (e).

4 **Subtitle B—Clerical Amendments**

5 **SEC. 821. AMENDMENT TO TITLE 10, UNITED STATES CODE.**

6 The table of sections at the beginning of chapter 137
 7 of title 10, United States Code, is amended by striking
 8 out the item relating to section 2315.

9 **SEC. 822. AMENDMENT TO TITLE 38, UNITED STATES CODE.**

10 The table of sections at the beginning of chapter 3
 11 of title 38, United States Code, is amended by striking
 12 out the item relating to section 310 and inserting in lieu
 13 thereof the following:

“310. Chief information officer.”.

14 **SEC. 823. AMENDMENTS TO TITLE 44, UNITED STATES** 15 **CODE.**

16 (a) CHAPTER 1.—The item relating to chapter 1 in
 17 the table of chapters at the beginning of title 44, United
 18 States Code, is amended to read as follows:

“1. Joint Committee on Information 101”.

19 (b) CHAPTER 35.—The table of sections at the begin-
 20 ning of chapter 35 of such title is amended—

21 (1) by striking out the item relating to section
 22 3503 and inserting in lieu thereof the following:

“3503. Chief Information Officer of the United States.”;

23 and

1 (2) by striking out the item relating to section
2 3520.

3 **TITLE IX—SAVINGS PROVISIONS**

4 **SEC. 901. SAVINGS PROVISIONS.**

5 (a) REGULATIONS, INSTRUMENTS, RIGHTS, AND
6 PRIVILEGES.—All rules, regulations, contracts, orders, de-
7 terminations, permits, certificates, licenses, grants, and
8 privileges—

9 (1) which have been issued, made, granted, or
10 allowed to become effective by the Administrator of
11 General Services or the General Services Adminis-
12 tration Board of Contract Appeals, or by a court of
13 competent jurisdiction, in connection with an acqui-
14 sition activity carried out under the section 111 of
15 the Federal Property and Administrative Services
16 Act of 1949 (40 U.S.C. 759), and

17 (2) which are in effect on the effective date of
18 this title,

19 shall continue in effect according to their terms until
20 modified, terminated, superseded, set aside, or revoked in
21 accordance with law by the Director of the Office of Man-
22 agement and Budget, the Chief Information Officer of the
23 United States, any other authorized official, by a court
24 of competent jurisdiction, or by operation of law.

25 (b) PROCEEDINGS AND APPLICATIONS.—

1 (1) TRANSFERS OF FUNCTIONS NOT TO AFFECT
2 PROCEEDINGS.—This Act and the amendments
3 made by this Act shall not affect any proceeding, in-
4 cluding any proceeding involving a claim or applica-
5 tion, in connection with an acquisition activity car-
6 ried out under section 111 of the Federal Property
7 and Administrative Services Act of 1949 (40 U.S.C.
8 759) that is pending before the Administrator of
9 General Services or the General Services Adminis-
10 tration Board of Contract Appeals on the effective
11 date of this Act.

12 (2) ORDERS IN PROCEEDINGS.—Orders may be
13 issued in any such proceeding, appeals may be taken
14 therefrom, and payments may be made pursuant to
15 such orders, as if this Act had not been enacted. An
16 order issued in any such proceeding shall continue in
17 effect until modified, terminated, superseded, or re-
18 voked by the Director of the Office of Management
19 and Budget, the Chief Information Officer of the
20 United States, or any other authorized official, by a
21 court of competent jurisdiction, or by operation of
22 law.

23 (3) DISCONTINUANCE OR MODIFICATION OF
24 PROCEEDINGS NOT PROHIBITED.—Nothing in this
25 subsection prohibits the discontinuance or modifica-

1 tion of any such proceeding under the same terms
 2 and conditions and to the same extent that such pro-
 3 ceeding could have been discontinued or modified if
 4 this Act had not been enacted.

5 (4) REGULATIONS FOR TRANSFER OF PRO-
 6 CEEDINGS.—The Director of the Office of Manage-
 7 ment and Budget may prescribe regulations provid-
 8 ing for the orderly transfer of proceedings continued
 9 under paragraph (1).

10 **TITLE X—EFFECTIVE DATES**

11 **SEC. 1001. EFFECTIVE DATES.**

12 (a) IN GENERAL.—Except as provided in subsection
 13 (b), this Act and the amendments made by this Act shall
 14 take effect one year after the date of the enactment of
 15 this Act.

16 (b) TITLE VI.—Title VI shall take effect on the date
 17 of the enactment of this Act.

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