

44 USCS § 3504

§ 3504. Authority and functions of Director

(a) (1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including burden reduction and service delivery to the public. In performing such oversight, the Director shall--

(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

(B) provide direction and oversee--

(i) the review and approval of the collection of information and the reduction of the information collection burden;

(ii) agency dissemination of and public access to information;

(iii) statistical activities;

(iv) records management activities;

(v) privacy, confidentiality, security, disclosure, and sharing of information; and

(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.

(2) The authority of the Director under this subchapter [44 USCS § § 3501 et seq.] shall be exercised consistent with applicable law.

(b) With respect to general information resources management policy, the Director shall--

(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

(2) foster greater sharing, dissemination, and access to public information, including through--

(A) the use of the Government Information Locator Service; and

(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

(4) oversee the development and implementation of best practices in information resources management, including training; and

(5) oversee agency integration of program and management functions with information resources management functions.

(c) With respect to the collection of information and the control of paperwork, the Director shall--

(1) review and approve proposed agency collections of information;

(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement, acquisition and payment, and to reduce information collection burdens on the public;

(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government;

(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information; [and]

(6) publish in the Federal Register and make available on the Internet (in consultation with the Small Business Administration) on an annual basis a list of the compliance assistance resources available to small businesses, with the first such publication occurring not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2002 [enacted June 28, 2002].

(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to--

(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

(2) promote public access to public information and fulfill the purposes of this subchapter [44 USCS § § 3501 et seq.], including through the effective use of information technology.

(e) With respect to statistical policy and coordination, the Director shall--

- (1) coordinate the activities of the Federal statistical system to ensure--
 - (A) the efficiency and effectiveness of the system; and
 - (B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;
- (2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;
- (3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning--
 - (A) statistical collection procedures and methods;
 - (B) statistical data classification;
 - (C) statistical information presentation and dissemination;
 - (D) timely release of statistical data; and
 - (E) such statistical data sources as may be required for the administration of Federal programs;
- (4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;
- (5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;
- (6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;
- (7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;
- (8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall--
 - (A) be headed by the chief statistician; and
 - (B) consist of--
 - (i) the heads of the major statistical programs; and
 - (ii) representatives of other statistical agencies under rotating membership; and
- (9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which--
 - (A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and
 - (B) all costs of the training shall be paid by the agency requesting training.

(f) With respect to records management, the Director shall--

- (1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title [44 USCS § § 2901 et seq., 3101 et seq., 3301 et seq.] with the information resources management policies, principles, standards, and guidelines established under this subchapter [44 USCS § § 3501 et seq.];
- (2) review compliance by agencies with--
 - (A) the requirements of chapters 29, 31, and 33 of this title [44 USCS § § 2901 et seq., 3101 et seq., 3301 et seq.]; and
 - (B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and
- (3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

(g) With respect to privacy and security, the Director shall--

- (1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies; and
- (2) oversee and coordinate compliance with sections 552 and 552a of title 5, sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3 and 278g-4), section 11331 of title 40 and subchapter II of this chapter [44 USCS § § 3531 et seq.], and related information management laws.
- (3) [Deleted]

(h) With respect to Federal information technology, the Director shall--

(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services--

(A) develop and oversee the implementation of policies, principles, standards, and and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

(B) oversee the development and implementation of standards under section 11331 of title 40;

(2) monitor the effectiveness of, and compliance with, directives issued under subtitle III of title 40 [40 USCS § § 11101 et seq.] and directives issued under section 322 of title 40;

(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

(4) ensure, through the review of agency budget proposals, information resources management plans and other means--

(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

HISTORY:

(Added May 22, 1995, P.L. 104-13, § 2, 109 Stat. 167; Feb. 10, 1996, P.L. 104-106, Div E, Title LI, Subtitle D, § 5131(e)(1), Title LVI, § 5605(b), (c), 110 Stat. 688, 700; Nov. 18, 1997, P.L. 105-85, Div A, Title X, Subtitle G, § 1073(h)(5)(B), (C), 111 Stat. 1907; Oct. 21, 1998, P.L. 105-277, Div C, Title XVII, § 1702, 112 Stat. 2681-749; Oct. 30, 2000, P.L. 106-398, § 1, 114 Stat. 1654; June 28, 2002, P.L. 107-198, § 2(a), 116 Stat. 729; Aug. 21, 2002, P.L. 107-217, § 3(1)(5), 116 Stat. 1301; Nov. 25, 2002, P.L. 107-296, Title X, § 1005(c)(1), 116 Stat. 2272; Dec. 17, 2002, P.L. 107-347, Title III, § 305(c)(1), 116 Stat. 2960.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

The word "and" has been added in brackets at the end of subsec. (c)(5) to indicate the probable intent of Congress to include such word.

The amendment made by § 1 of Act Oct. 30, 2000, P.L. 106-398, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (114 Stat. 1654A-275), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3504 (Act Dec. 11, 1980, P.L. 96-511, § 2(a), 94 Stat. 2815; Oct. 19, 1984, P.L. 98-497, Title I, § 107(b)(26), 98 Stat. 2291; Oct. 18, 1986, P.L. 99-500; Oct. 30, 1986, P.L. 99-591, Title I, § 101(m), 100 Stat. 3341-336) was omitted in the general revision of this chapter by Act May 22, 1995, P.L. 104-13, § 2, 109 Stat. 163, effective as provided by § 4 of such Act, which appears as 44 USCS § 3501 note. The prior section provided for the authority and functions of the Director.

Another prior § 3504 (Act Oct. 22, 1968, P.L. 90-620, § 1, 82 Stat. 1303), which provided for the designation of a central collection agency, was omitted in the general revision of this chapter by Act Dec. 11, 1980, P.L. 96-511, § 2(a), 94 Stat. 2812, effective April 1, 1981, as provided by § 5 of such Act.

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, P.L. 104-13, which appears as 44 USCS § 3501 note.

Amendments:

1996. Act Feb. 10, 1996 (effective 180 days after enactment, as provided by § 5701 of such Act), in subsec. (g), in para. (2), substituted "sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3 and 278g-4), section 5131 of the Information Technology Management Reform Act of 1996, and sections 5 and 6 of the

Computer Security Act of 1987 (*40 U.S.C. 759 note*)" for "the Computer Security Act of 1987 (*40 U.S.C. 759 note*)" and, in para. (3), substituted "the standards and guidelines promulgated under section 5131 of the Information Technology Management Reform Act of 1996 and sections 5 and 6 of the Computer Security Act of 1987 (*40 U.S.C. 759 note*)" for "the Computer Security Act of 1987 (*40 U.S.C. 759 note*)"; and, in subsec. (h), in para. (1)(B), substituted "section 5131 of the Information Technology Management Reform Act of 1996" for "section 111(d) of the Federal Property and Administrative Services Act of 1949 (*40 U.S.C. 759(d)*)" and, in para. (2), substituted "the Information Technology Management Reform Act of 1996 and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 (*40 U.S.C. 757*)" for "sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (*40 U.S.C. 757 and 759*)".

1997. Act Nov. 18, 1997 (applicable as provided by § 1073(i) of such Act, which appears as *10 USCS § 101 note*), in subsec. (g), in paras. (2) and (3), substituted "Clinger-Cohen Act of 1996 (*40 U.S.C. 1441*)" for "Information Technology Management Reform Act of 1996"; and, in subsec. (h), in para. (1)(B), substituted "Clinger-Cohen Act of 1996 (*40 U.S.C. 1441*)" for "Information Technology Management Reform Act of 1996" and, in para. (2), substituted "division E of the Clinger-Cohen Act of 1996 (*40 U.S.C. 1401 et seq.*)" for "the Information Technology Management Reform Act of 1996".

1998. Act Oct. 21, 1998, in subsec. (a)(1)(B), substituted cl. (vi) for one which read: "(vi) the acquisition and use of information technology.".

2000. Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as *44 USCS § 3531 note*), substituted "subchapter" for "chapter" wherever occurring.

2002. Act June 28, 2002, in subsec. (c), in para. (4), deleted "and" following the concluding semicolon, in para. (5), substituted the concluding semicolon for a period, and added para. (6).

Act Aug. 21, 2002, in subsec. (g), in paras. (2) and (3), substituted "sections 11331 and 11332(b) and (c) of title 40" for "section 5131 of the Clinger-Cohen Act of 1996 (*40 U.S.C. 1441*), and sections 5 and 6 of the Computer Security Act of 1987 (*40 U.S.C. 759 note*)"; and, in subsec. (h), in para. (1)(B), substituted "section 11331 of title 40" for "section 5131 of the Clinger-Cohen Act of 1996 (*40 U.S.C. 1441*)", and, in para. (2), substituted "subtitle III of title 40" for "division E of the Clinger-Cohen Act of 1996 (*40 U.S.C. 1401 et seq.*)", and substituted "section 322 of title 40" for "section 110 of the Federal Property and Administrative Services Act of 1949 (*40 U.S.C. 757*)".

Act Nov. 25, 2002 (effective 60 days after enactment, as provided by § 4 of such Act, which appears as *6 USCS § 101 note*), purported to make the same amendments to paras. (1) and (3) of subsec. (g) as Act Dec. 17, 2002; however, in order to effectuate the probable intent of Congress, these amendments were not been executed.

Such Act further (effective as above), purported to amend subsec. (g)(2) by substituting "section 11331 of title 40 and subchapter II of this title" for "sections 11331 and 11332(b) and (c) of title 40", and substituting a concluding period for a semicolon; however, because of prior amendments, these amendments could not be executed.

Act Dec. 17, 2002 (effective on enactment, as provided by § 402(b) of such Act, which appears as *44 USCS § 3541 note*), in subsec. (g), in para. (1), added "and" following the concluding semicolon, in para. (2), substituted "section 11331 of title 40 and subchapter II of this chapter" for "sections 11331 and 11332(b) and (c) of title 40", and substituted the concluding period for "; and", and deleted para. (3), which read: "(3) require Federal agencies, consistent with the standards and guidelines promulgated under sections 11331 and 11332(b) and (c) of title 40, to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or or modification of information collected or maintained by or on behalf of an agency.".

Other provisions:

Government Paperwork Elimination Act. Act Oct. 21, 1998, P.L. 105-277, Div C, Title XVII, 112 Stat. 2681-749, provides:

"Sec. 1701. Short title. This title may be cited as the 'Government Paperwork Elimination Act'.

"Sec. 1702. [Omitted--This section amended *44 USCS § 3504(a)(1)(B)(vi)*.]

"Sec. 1703. Procedures for use and acceptance of electronic signatures by executive agencies.

"(a) In general. In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code [*44 USCS § § 3501 et seq.*], the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act [for full classification, consult USCS Tables volumes], and the provisions of this title, the Director of the Office of Management and Budget shall, in consultation with the National Telecommunications and Information Administration and not later than 18 months after the date of enactment of this Act, develop procedures for the use and acceptance of electronic signatures by Executive agencies.

"(b) Requirements for procedures.

(1) The procedures developed under subsection (a)--

"(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

"(B) may not inappropriately favor one industry or technology;

"(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

"(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

"(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

"(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies and State government entities that set standards for the use and acceptance of electronic signatures.

"Sec. 1704. Deadline for implementation by executive agencies of procedures for use and acceptance of electronic signatures.

"In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code [44 USCS § § 3501 et seq.], the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act [for full classification, consult USCS Tables volumes], and the provisions of this title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide--

"(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

"(2) for the use and acceptance of electronic signatures, when practicable.

"Sec. 1705. Electronic storage and filing of employment forms.

"In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code [44 USCS § § 3501 et seq.], the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act [for full classification, consult USCS Tables volumes], and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

"Sec. 1706. Study on use of electronic signatures.

"(a) Ongoing Study Required. In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code [44 USCS § § 3501 et seq.], the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act [for full classification, consult USCS Tables volumes], and the provisions of this title, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this title on--

"(1) paperwork reduction and electronic commerce;

"(2) individual privacy; and

"(3) the security and authenticity of transactions.

"(b) Reports. The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

"Sec. 1707. Enforceability and legal effect of electronic records.

"Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

"Sec. 1708. Disclosure of information.

"Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

"Sec. 1709. Application with internal revenue laws.

"No provision of this title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision--

"(1) involves the administration of the internal revenue laws; or

"(2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 [Act July 22, 1998, P.L. 105-206; for full classification, consult USCS Tables volumes] or the Internal Revenue Code of 1986 [26 USCS § § 1 et seq.].

"Sec. 1710. Definitions.

"For purposes of this title:

"(1) Electronic signature. The term 'electronic signature' means a method of signing an electronic message that--

"(A) identifies and authenticates a particular person as the source of the electronic message; and

"(B) indicates such person's approval of the information contained in the electronic message.

"(2) Executive agency. The term 'Executive agency' has the meaning given that term in *section 105 of title 5, United States Code*."

NOTES:

Code of Federal Regulations:

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--"Tied-house", 27 CFR Part 6.

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--Commercial bribery, 27 CFR Part 10.

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--Consignment sales, 27 CFR Part 11.

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--Production of volatile fruit-flavor concentrate, 27 CFR Part 18.

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--Exportation of alcohol, 27 CFR Part 28.

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--Removal of tobacco products and cigarette papers and tubes, without payment of tax, for use of the United States, 27 CFR Part 45.

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--Miscellaneous regulations relating to tobacco products and cigarette papers and tubes, 27 CFR Part 46.

Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice--Commerce in firearms and ammunition, 27 CFR Part 478.

Environmental Protection Agency--Cross-media electronic reporting, 40 CFR Part 3.

Related Statutes & Rules:

This section is referred to in *41 USCS § 421*; *42 USCS § 13271*; *44 USCS § § 3507, 3514*.

Research Guide:

Federal Procedure:

2 Fed Proc L Ed, Administrative Procedure § 2:66.

Am Jur:

45B Am Jur 2d, Job Discrimination § 1641.

Interpretive Notes and Decisions:

Regulations regarding work place hazard communication standards promulgated by OSHA were insulated from authority and approval of Office of Management and Budget, due to limitations imposed on that authority under *44 USCS § § 3504 and 3518*, where regulations do not require collection of information and do not embody substantive policy decision-making entrusted to OSHA. *United Steelworkers of America, etc. v Pendergrass (1988, CA3) 855 F2d 108, 13 BNA OSHC 1825, 1988 CCH OSHD P 28284, 18 ELR 21294, affd (1990) 494 US 26, 108 L Ed 2d 23, 110 S Ct 929, 14 BNA OSHC 1425, 1990 CCH OSHD P 28820, 20 ELR 20447 and cert den (1990) 494 US 1003, 108 L Ed 2d 472, 110 S Ct 1295, 14 BNA OSHC 1480*.