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#### Chapter 4. Federal Government Laws, Regulations, Executive Orders, OMB Directives

#### 1. Federal Requirements

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| Introduction | This topic provides a brief description of most of the Federal Government-Wide laws, regulations, executive orders, and OMB directives that influence the Government websites. Links are provided to source material and guidance. Links to the U.S. Code generally connect to the Cornell Law site because of its superior usability. |

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| Change Date | Initial content load September 2012 |

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| a. Federal Restrictions on Lobbying (Origins: 1919) | All Federal public websites must comply with existing laws that prohibit Federal public websites from being used for direct or indirect lobbying. The law dates to July 11, 1919 (Ch. 6, § 6, 41 Stat. 68).  Reference: [18 USC §1913](http://www.law.cornell.edu/uscode/html/uscode18/usc_sec_18_00001913----000-.html) |

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| b. The Freedom of Information Act (1966) | [The Freedom of Information Act (FOIA)](http://www.justice.gov/oip/foia_updates/Vol_XVII_4/page2.htm), as amended, represents the implementation of freedom of information legislation in the United States. It was signed into law by President Lyndon B. Johnson on September 6, 1966 (Public Law 89-554, 80 Stat. 383; Amended 1996, 2002, 2007), and went into effect the following year. It is codified in 5 USC §552. This act allows for the full or partial disclosure of previously unreleased information and documents controlled by the United States Government. The Act defines agency records subject to disclosure, outlines mandatory disclosure procedures and grants nine exemptions to the statute.  The act explicitly applies only to executive branch government agencies. These agencies are under several mandates to comply with public solicitation of information. |

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1. Federal Requirements, Continued

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| b. The Freedom of Information Act (1966) (continued) | Along with making public and accessible all bureaucratic and technical procedures for applying for documents from that agency, *agencies are also subject to penalties* for hindering the process of a petition for information. If “agency personnel acted arbitrarily or capriciously with respect to the withholding, [a] Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding.” In this way, there is recourse for someone seeking information to go to a Federal court if suspicion of illegal tampering or delayed sending of records exists.  However, there are 9 exemptions, ranging from a withholding “specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy” and “trade secrets” to “clearly unwarranted invasion of personal privacy.”  VA Webmasters are required to post a link in the footer of each page linking to FOIA resources.  References:   |  |  | | --- | --- | | The Code: | [5 USC §552](http://www.law.cornell.edu/uscode/html/uscode05/usc_sec_05_00000552----000-.html) | | Guidance on the Actis available at the Department of Justice’s site**:** | [FOIA.gov - Freedom of Information Act](http://www.foia.gov/) | | FCC’s FOIA pageclearly explains the required steps to complete a FOIA request and spells out the name of the program on the homepage**:** | [How To File A FOIA Request](http://www.fcc.gov/guides/how-file-foia-request) | | Link to the FOIA Pages of Every Agency: | [Other Federal Agencies' FOIA Web Sites](http://www.justice.gov/oip/other_age.htm) | |

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1. Federal Requirements, Continued

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| c. Privacy Act of 1974 | [The Privacy Act of 1974](http://www.justice.gov/opcl/privstat.htm), 5 USC § 552a, Public Law No. 93-579, (Dec. 31, 1974) establishes a code of fair information practice that governs the collection, maintenance, use, and dissemination of Personally Identifiable Information (PII) about individuals that is maintained in systems of records by Federal agencies.  A system of records is a group of records under the control of an agency from which information is retrieved by the name of the individual or by some identifier assigned to the individual. The Privacy Act requires that agencies give the public notice of their systems of records by publication in the Federal Register.  The Privacy Act prohibits the disclosure of information from a system of records absent the written consent of the subject individual, unless the disclosure is pursuant to one of twelve statutory exceptions. The Act also provides individuals with a means by which to seek access to and amend their records and sets forth various agency record-keeping requirements.  VA web pages are required to link to a Privacy statement.  Reference: [5 USC §552a](http://www.law.cornell.edu/uscode/html/uscode05/usc_sec_05_00000552---a000-.html) |

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| d. Code of Federal Regulations, 2 CFR 2600, Subchapter B, Part 1236, Electronic Records Management(Origins: 1976) | The National Archives and Records Administration promulgate regulations on the maintenance and archiving of Federal electronic records. The statutory authority for part 1236 is 44 U.S.C. §2904 (Originating in Public Law 94–575, Oct. 21, 1976), §3101, §3102, and §3105.  OMB Circular A-130, Management of Federal Information Resources, applies to records and information systems containing records.  Reference: [2 CFR Part 2600, Subchapter B, Part 1236](http://www.archives.gov/about/regulations/part-1236.html) — Electronic Records Management |

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1. Federal Requirements, Continued

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| e. The Government Performance and Results Act (GPRA) of 1993 | [The Government Performance and Results Act (GPRA) (P.L. 103-62)](http://www.whitehouse.gov/omb/mgmt-gpra/gplaw2m) is one of a series of laws designed to improve government project management. The GPRA requires agencies to engage in project management tasks such as setting goals, measuring results, and reporting their progress. In order to comply with GPRA, agencies produce strategic plans and performance plans, and conduct gap analysis on projects.  The foundation of GPRA is based on the following three elements: First, agencies are required to develop five-year strategic plans that must contain a mission statement for the agency, and long term results-oriented goals covering each of its major functions. Second, agencies are required to prepare annual performance plans that establish the performance goals for the applicable fiscal year, a brief description of how these goals are to be met, and a description of how these performance goals can be verified. And third, agencies must prepare annual performance reports that review the agency’s success or failure in meeting its targeted performance goals.  *All Federal public websites* must comply with Government Performance and Results Act of 1993, which requires organizations to make their annual performance plans readily available to the public.  References:   |  |  | | --- | --- | | The Code: | The Act introduced new segments into  [5 USC Chapter 3](http://www.law.cornell.edu/uscode/html/uscode05/usc_sup_01_5_10_I_30_3.html)  [31 USC Chapters 11](http://www.law.cornell.edu/uscode/html/uscode31/usc_sup_01_31_08_II_10_11.html)  [31 USC Chapter 97](http://www.law.cornell.edu/uscode/html/uscode31/usc_sup_01_31_08_VI_10_97.html)  [39 USC Chapter 28](http://www.law.cornell.edu/uscode/html/uscode39/usc_sup_01_39_10_III_20_28.html)  (This last chapter was added by the law) | | Text of the Law: | at OMB:  [Government Performance Results Act of 1993 | The White House](http://www.whitehouse.gov/omb/mgmt-gpra/gplaw2m) | |

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1. Federal Requirements, Continued

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| f. Paperwork Reduction Act of 1995 | The Paperwork Reduction Act of 1980, Public Law No. 96-511, is codified in part in Subchapter I of Chapter 35 of Title 44 of the United States Code, 44 USC § 3501 through 44 USC § 3521.  It ensures that information collected from the public minimizes burden and maximizes public utility. One of the principal requirements of the PRA is that organizations must have OMB approval before collecting information from the public (such as forms, general questionnaires, surveys, instructions, and other types of collections), and they must display the current OMB control number on the collection. Organizations should review the PRA and implementation guidance to ensure their public websites meet the full range of requirements.  References:   |  |  | | --- | --- | | The Code: | [44 USC Chapter 35](http://www.law.cornell.edu/uscode/html/uscode44/usc_sup_01_44_10_35_20_I.html) | | Text of the Act: | <http://www.archives.gov/federal-register/laws/paperwork-reduction/> | |

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| g. The Clinger-Cohen Act (1996) | The Clinger-Cohen Act (CCA), formerly the Information Technology Management Reform Act of 1996 (ITMRA), was codified at 40 USC §11315(c) (3). It was designed to improve the way the Federal government acquires uses and disposes information technology (IT).  The Clinger-Cohen Act supplements existing information resources management policies by establishing a comprehensive approach for executive agencies to improve the acquisition and management of their information resources, by:   * Focusing information resource planning to support their strategic missions; * Implementing a capital planning and investment control process that links to budget formulation and execution; and * Rethinking and restructuring the way they do their work before investing in information systems. |

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1. Federal Requirements, Continued

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| g. The Clinger-Cohen Act (1996) (continued) | The Clinger-Cohen Act of 1996 directed the development and maintenance of Information Technology Architectures (ITAs) by Federal agencies to maximize the benefits of Information Technology (IT) within the Government.    In subsequent guidance on implementing the Clinger-Cohen Act, the Office of Management and Budget stipulated that agency ITA's "...should be consistent with Federal, agency, and bureau information architectures." In keeping with OMB's mandate for consistency between both Federal and agency ITA's, in 1999 the Federal CIO Council initiated the Federal Enterprise Architecture, essentially a Federal-wide ITA that would "... develop, maintain, and facilitate the implementation of the top-level enterprise architecture for the Federal Enterprise."  References: [40 USC §11315(c)(3)](http://www.law.cornell.edu/uscode/html/uscode40/usc_sec_40_00011315----000-.html) |

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| h. Section 508 of the Rehabilitation Act (1998) | In 1998, Congress amended the Rehabilitation Act of 1973 (in 29 USC Chapter 16, Subchapter V) to require Federal agencies to make their electronic and information technology accessible to people with disabilities.  Inaccessible technology interferes with an individual's ability to obtain and use information quickly and easily. Section 508 was enacted to eliminate barriers in information technology, to make available new opportunities for people with disabilities, and to encourage development of technologies that will help achieve these goals. The law applies to all Federal agencies when they develop, procure, maintain, or use electronic and information technology.  Under Section 508 (29 USC §794d), agencies must give disabled employees and members of the public access to information that is comparable to the access available to others. We recommend that you review the laws and regulations listed below to further your understanding about Section 508 and how you can support implementation. |

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1. Federal Requirements, Continued

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| h. Section 508 of the Rehabilitation Act (1998) (continued) | All Federal public websites must continue to comply with the requirements of Section 508 of the Rehabilitation Act (29 USC §794d), designed to make online information and services fully available to individuals with disabilities.  References:   |  |  | | --- | --- | | The Code: | [29 USC §794d](http://www.law.cornell.edu/uscode/html/uscode29/usc_sec_29_00000794---d000-.html) | | Resources from ***The Access Board,*** an independent Federal agency established by section 502 of the Rehabilitation Act (29 USC 792): | [Section 508 Standards Related to the Web and Applications](http://www.section508.gov/index.cfm?FuseAction=Content&ID=12#Web) | | A September 2008 report  co-sponsored by the National Cancer Institute. | ["Guidelines for Accessible and Usable Websites: Observing Users Who Work With Screen Readers"](http://redish.net/content/papers/interactions.html) | | From Usability.gov: | [Usability Resources on Accessibility](http://www.usability.gov/pdfs/chapter3.pdf) (PDF, 2.38 MB, 7 pgs, August 2006, requires [Adobe Acrobat Reader](http://get.adobe.com/reader/)) –provides numerous resources on accessibility and usability. | | World Wide Web Consortium (WC3) | [World Wide Web Consortium (WC3)](http://www.w3.org/WAI) – W3C provides tips and instructions for making websites accessible for those with disabilities. | |

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| i. Executive Order 13166: Improving Access to Services for Persons With Limited English Proficiency (August 11, 2000) | VA must comply with existing requirements of Executive Order 13166, "Improving Access to Services for People with Limited English Proficiency," based on Title VI of the Civil Rights Act of 1964, which bans discrimination on the basis of national origin. VA Web content managers must follow this guidance by determining if any documents on their VA websites require translation by basing this determination on a discernable pattern of recurring, specific requests from the public to provide a translated version of a specific document or documents posted to their respective VA websites. |

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1. Federal Requirements, Continued

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| i. Executive Order 13166: Improving Access to Services for Persons With Limited English Proficiency (August 11, 2000) (continued) | When high demand indicates that a document requires translation and its translation will serve VA’s mission, the Web content manager should take the necessary steps to provide and post a translated version of the document(s) on the website.  Reference: [Executive Order on Limited English Proficiency](http://www.justice.gov/crt/about/cor/Pubs/eolep.php) |

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| j. Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Organizations (December 2000) | Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106–554, is entitled, "Guidelines for Ensuring and Maximizing the Quality Objectivity, Utility, and Integrity of Information Disseminated by Federal Organizations."  This law requires Federal organizations to issue guidelines for "ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal organizations." It called on the Office of Management and Budget to create guidelines for Federal agencies. |

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| j. Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Organizations (December 2000) (continued) | References:   |  |  | | --- | --- | | The Code: | Section 515 was not incorporated into the United States Code. | | OMB Guidelines: | [OMB Guidelines](http://www.whitehouse.gov/sites/default/files/omb/fedreg/reproducible2.pdf) | | VA Directive 6361, Ensuring Quality of Information Disseminated by VA: | [VA Directive 6361](http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=47&amp;FType=2). (VA Directive 6361 implements the Section 515 guidelines created by OMB. This directive is in turn incorporated by reference into the 6102 rules at Ch. 2, Par. 1, Checklist #14, of the 6102 Handbook.) | |

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| k. Small Business Paperwork Relief Act of 2002 | Enacted as Public Law 107-198, the [Small Business Paperwork Relief Act](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/sbpra-hr327.pdf) requires organizations to designate a single point of contact for small businesses, and to post the contact information on the organization's website.  References:   |  |  | | --- | --- | | The Code: | The Act inserted various changes into  44 USC [Chapter 35](http://www.law.cornell.edu/uscode/html/uscode44/usc_sup_01_44_10_35.html) | | Text of the Act: | [Small Business Paperwork Relief Act](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/sbpra-hr327.pdf) | |

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1. Federal Requirements, Continued

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| l. The President’s management Agenda for E-Government (2002) | [The President’s Management Agenda for E-Government](http://www.whitehouse.gov/sites/default/files/omb/memoranda/m03-18.pdf), February, 2002, was published February 27, 2002 by the Office of Management and Budget, largely as a roadmap to implement a task force report from September 2001.  It mandated:   * The use of Internet-based technology to provide government services to the public * Improvement of performance requirements * Management of risk (vulnerable data and transactions) * Integration of IT asset planning/management into the budget decision-making process   Reference: [E-Government Strategy: Simplified Delivery of Services to Citizens](http://www.cio.gov/documents/EgovStrategy.html) |

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| m. Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (The No FEAR Act) | All Federal public websites must comply with the No Fear Act, formally known as the Notification and Federal Employee Anti–discrimination and Retaliation Act of 2002. It was passed as Public Law No. 107–174 on May 15, 2002.  No Fear Act information must be published on every agency’s website. For VA’s page, visit the [No FEAR Act Library](http://www.va.gov/orm/NOFEAR_Select.asp). |

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1. Federal Requirements, Continued

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| m. Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (The No FEAR Act) (continued) | References:   |  |  | | --- | --- | | The Code: | This Act was not codified and is not mentioned in any of the notes to the U.S. Code | | The CFRs: | [29 CFR Part 1614, Subpart G](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&amp;sid=6435f58ee39c58df6503df8b22f907dc&amp;rgn=div5&amp;view=text&amp;node=29:4.1.4.1.13&amp;idno=29) | | Text of the Act: | [Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002](http://www.hhs.gov/eeo/no_fear_act_of_2001.html) | | Final Rule, Equal Employment Opportunity Commission: | [FR Doc E6-12432](http://edocket.access.gpo.gov/2006/E6-12432.htm) | |

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| n. E-Government Act of 2002 | The [E-Government Act of 2002 (Public Law 107-347)](http://www.gpo.gov/fdsys/pkg/PLAW-107publ347/pdf/PLAW-107publ347.pdf), was enacted on December 17, 2002, with an effective date for most provisions of April 17, 2003.  The Act’s stated purpose is to improve the management and promotion of electronic government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a framework of measures that require using Internet-based information technology to improve citizen access to government information and services, and for other purposes. |

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1. Federal Requirements, Continued

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| n. E-Government Act of 2002 (continued) | The Act:   * Established Office of E-Government and IT in OMB (Administrator) to coordinate IT policy and ensure leadership of Federal IT activities; * Established a Chief Information Officers (CIO) Council; * Codified aspects of the “Expanding E-Government Initiative,” eliminating redundant resources and setting up performance goals for government business processes; * Permanently reauthorized and amended agency information security requirements through the Federal Information Security Management Act (FISMA); and * Directed a more citizen-focused orientation in conduct of e-government.   References:   |  |  | | --- | --- | | The Code: | Public Law 107-347 added to 44 USC Chapter 35, [subchapter III](http://www.law.cornell.edu/uscode/html/uscode44/usc_sup_01_44_10_35_20_III.html), and [Chapter 36](http://www.law.cornell.edu/uscode/html/uscode44/usc_sup_01_44_10_36.html) | | Text of the Act (Section 207): | [E-Government Act of 2002](http://www.archives.gov/about/laws/egov-act-section-207.html) | | The entirety of Public Law 107-347: | [Public Law 107-347 (Title 44 USC 3501)](http://www.law.cornell.edu/uscode/search/display.html?terms=security%20protocols%20to%20protect%20information&url=/uscode/html/uscode44/usc_sec_44_00003501----000-notes.html) | |

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| o. Privacy Provisions of the E-Government Act of 2002 | Privacy Provisions of the E–Government Act of 2002 (Section 207(f)(1)(B)) include requirements for:   * Conducting privacy impact assessments; * Posting privacy policies on each website; * Posting a "Privacy Act Statement" that tells visitors the organization's legal authority for collecting personal data and how the data will be used; and * Translating privacy policies into a standardized machine–readable format. |

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1. Federal Requirements, Continued

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| o. Privacy Provisions of the E-Government Act of 2002 (continued) | Section 208 of the Act imposed new privacy mandates on agencies as follows:   * Enhanced agency attention to personally identifying information not covered under the Privacy Act; and * Increased transparency regarding the agencies’ information handling practices (web privacy policy) which in turn enhanced element of choice   References:   |  |  | | --- | --- | | The Code: | The entirety of Public Law 107-347 is entered as a [Note to 44 USC §3501](http://www.law.cornell.edu/uscode/search/display.html?terms=security%20protocols%20to%20protect%20information&url=/uscode/html/uscode44/usc_sec_44_00003501----000-notes.html) | | OMB Memorandum: | [M-03-22, OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002](http://www.whitehouse.gov/omb/memoranda_m03-22) | | Text of Title II of the E-Government Act of 2002: | [E-Government Act of 2002](http://www.archives.gov/about/laws/egov-act-section-207.html) | | Clarification of OMB’s “Cookies” Policy: | [M-03-22, OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002](http://www.whitehouse.gov/omb/memoranda_m03-22) | |

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| p. Security Protocols to Protect Information Under the E-Government Act of 2002 | All Federal public websites must comply with Section 207(f)(1)(b)(iv) of the E–Gov Act of 2002, which requires organizations to have security protocols to protect information.  References:   |  |  | | --- | --- | | The Code: | The entirety of Public Law 107-347 is entered as a [Note to 44 USC §3501](http://www.law.cornell.edu/uscode/search/display.html?terms=security%20protocols%20to%20protect%20information&url=/uscode/html/uscode44/usc_sec_44_00003501----000-notes.html) | | Text of the Law: | [E-Government Act of 2002](http://www.archives.gov/about/laws/egov-act-section-207.html)  Note: Search for “(f)(1)(B)(iv)” | |

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1. Federal Requirements, Continued

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| q. OMB Memorandum 07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information (2007) | Promulgated May 22, 2007, this directive renewed emphasis on fair information principles of data minimization, data quality and transparency.  As part of the work of the Identity Theft Task Force, this memorandum requires agencies to develop and implement a breach-notification policy within 120 days. Breaches subject to notification requirements include both electronic systems as well as paper documents. In short, agencies are required to report on the security of information systems in any formant (e.g., paper, electronic, etc.)  Agencies were also required to:   * Review holdings of identifying information for accuracy, relevance, timeliness and completeness; * Reduce the collection and use of social security numbers (SSNs), developing a plan to eliminate unnecessary SSNs in collections; * Participate in government-wide efforts to explore alternatives to agency use of Social Security Numbers as a personal identifier for both Federal employees and in Federal programs (e.g., surveys, data calls, etc.); * Adhere to five requirements derived from existing security policy and NIST guidance: * *Encryption*. Encrypt, using only NIST certified cryptographic modules, all data on mobile computers/devices carrying agency data unless the data is determined not to be sensitive, in writing, by your Deputy Secretary or a senior-level individual he/she may designate in writing; * *Control Remote Access*. Allow remote access only with two-factor authentication where one of the factors is provided by a device separate from the computer gaining access; * *Time-Out Function*. Use a “time-out” function for remote access and mobile devices requiring user re-authentication after thirty minutes of inactivity; * *Log and Verify*. Log all computer-readable data extracts from databases holding sensitive information and verify each extract, including whether sensitive data has been erased within 90 days or its use is still required; and |

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1. Federal Requirements, Continued

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| q. OMB Memorandum 07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information (2007) (continued) | * *Ensure Understanding of Responsibilities.* Ensure all individuals with authorized access to personally identifiable information and their supervisors sign at least annually a document clearly describing their responsibilities; * Implement a correction process for problematic holdings; * Reduce data in systems to minimum necessary for proper performance of the documented agency function ; and * Develop policy to ascertain data quality at point of decision-making   Reference: [Text of the Memorandum](http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf) |

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| r. Open Government Directive: Guidance for Agency Web and New Media Teams (2009) | The Office of Management and Budget (OMB) issued the Open Government Directive (OGD) on December 8, 2009.  Each agency is required to create a webpage at http://www.[agency].gov/open to serve as a gateway to activities related to the Directive. This document serves as a guideline for the content, format and function of those web pages, thereby ensuring a consistent user experience across agency sites.  Agencies were required to publish their Open Government Plans on their gov/open web pages.  References:   |  |  | | --- | --- | | The Text of the Directive: Memorandum M-10-06: | [OMB Open Government Directive](http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-06.pdf) | | Recommendations for “Agency / Open” Pages: | [Recommendations for Agency/Open Pages](http://www.usa.gov/webcontent/reqs_bestpractices/open/contentrecs.shtml) | | Wireframe Version of Sample “Agency / Open” Page: | [Sample "Agency/Open" Page](http://www.usa.gov/webcontent/documents/OGI_Wireframe.pdf) | |