

03

SECTION

OTHER IT AUTHORITIES

3. Other Authorities

3.1 Executive Orders (EOs)

An EO is a declaration by the president which has the force of law, usually based on existing statutory powers, and requiring no action by the Congress. They are numbered consecutively, so executive orders may be referenced by their assigned number, or their topic. A sitting U.S. President may overturn an existing executive order²⁰² by issuing another executive order to that effect.²⁰³

Recent relevant EOs:

- Executive Order 13800 (EO 13800)²⁰⁴

3.2 OMB Circulars

An OMB Circular provides instructions or information issued to Federal agencies which are expected to have a continuing effect of two years or more.²⁰⁵ Circulars are one of the primary ways OMB provides detailed instructions and information to Federal agencies. Importantly, Circulars standardize implementation guidance for Federal agencies across an array of policy areas and topics that are central to the Federal Government's management and budget processes.

Circular A-130:²⁰⁶

- In July 2016, [OMB] revised Circular A-130, Managing Information as a Strategic Resource²⁰⁷, to reflect changes in law and advances in technology. The revisions also ensure consistency with executive orders, presidential directives, recent OMB policy, and National Institute of Standards and Technology standards and guidelines.
- The Circular establishes general policy for information governance, acquisitions, records management, open data, workforce, security, and privacy. It also emphasizes the role of both privacy and security in the Federal information life cycle. Importantly, it represents a shift from viewing security and privacy requirements as compliance exercises to understanding security and privacy as crucial elements of a comprehensive, strategic, and continuous risk-based program at Federal agencies.

²⁰² Federal Register. Executive Orders. All Executive Orders Since 1994.

<https://www.federalregister.gov/presidential-documents/executive-orders>

²⁰³ American Bar Association. What Is an Executive Order? 10/9/2020.

https://www.americanbar.org/groups/public_education/publications/teaching-legal-docs/what-is-an-executive-order/

²⁰⁴ Executive Order 13800. Presidential Executive Order on Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure. 5/11/2017. <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-strengthening-cybersecurity-federal-networks-critical-infrastructure/>

²⁰⁵ OMB. Circulars. <https://www.whitehouse.gov/omb/information-for-agencies/circulars/>

²⁰⁶ CIO. Circular A-130 Managing Information As a Strategic Resource. <https://www.cio.gov/policies-and-priorities/circular-a-130/>

²⁰⁷ Ibid.

Circular A-11:²⁰⁸

- The OMB Circular A-11 is a United States government document issued by the Office of Management and Budget in the form of a written advisory that provides information related to the preparation of the various budgets of agencies of the Federal Government. It is the primary document instructing these agencies in methods, requirements, and terminology for submissions to be reviewed for approval.

3.3 OMB Memoranda

The OMB memoranda provides Federal agencies with instructions and implementation guidance for specific management priorities or legislative requirements. They provide annual updates, such as for FISMA reporting requirements, or have longer term guidance for agency implementation. While some memoranda have built in expiration dates, there have been some examples of previous memoranda being rescinded, such as in M-17-15²⁰⁹ and M-17-26.²¹⁰

See list of relevant OMB memorandums at <https://www.whitehouse.gov/omb/information-for-agencies/memoranda/>.

3.4 DHS Binding Operational Directive (BOD)

A BOD is a compulsory direction to executive branch departments and agencies for purposes of safeguarding federal information and information systems.²¹¹ Federal agencies are required to comply with these DHS-developed directives. The Department of Homeland Security (DHS) has the statutory responsibility, in consultation with OMB, to administer the implementation of agency information security policies and practices for information systems, which includes assisting agencies and providing certain government-wide protections. A BOD is a compulsory direction to an agency for purposes of safeguarding Federal information and information systems from a known or reasonably suspected information security threat, vulnerability, or risk in accordance with policies, principles, standards, and guidelines issued by the Director of OMB.²¹² As part of that responsibility, DHS is authorized to develop and oversee the implementation of binding operational directives to agencies to implement the policies, principles, standards, and guidance developed by the Director of OMB and requirements of FISMA.

See list of DHS BODs at <https://cyber.dhs.gov/directives/>.²¹³

²⁰⁸ GSA. 2019 Revision to OMB Circular A-11, Part 6: Strengthening the Policy Framework for Improving Program and Service Delivery. 8/14/2019. <https://www.performance.gov/a-11-revision/>

²⁰⁹ OMB M-17-15. Rescission of Memoranda Relating to Identity Management. 1/19/2017. <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/m-17-15.pdf>

²¹⁰ OMB M-17-26. Reducing Burden for Federal Agencies by Rescinding and Modifying OMB Memoranda. 6/15/2017. <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-26.pdf>

²¹¹ 44 U.S.C. § 3552(b)(I). Title 44 Public Printing and Documents. <https://www.govinfo.gov/content/pkg/USCODE-2014-title44/pdf/USCODE-2014-title44-chap35-subchapII-sec3552.pdf>

²¹² DHS. Binding Operational Directive 18-01. Enhance Email and Web Security. 10/16/2017. <https://cyber.dhs.gov/assets/report/bod-18-01.pdf>

²¹³ DHS. Binding Operational Directives. <https://cyber.dhs.gov/directives/>