

111TH CONGRESS
2^D SESSION

H. R. 4098

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2010

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

To require the Director of the Office of Management and Budget to issue guidance on the use of peer-to-peer file sharing software to prohibit the personal use of such software by Government employees, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Secure Federal File
3 Sharing Act”.

4 **SEC. 2. REQUIREMENTS.**

5 (a) UPDATED GUIDANCE ON USE OF CERTAIN SOFT-
6 WARE PROGRAMS.—Not later than 90 days after the date
7 of the enactment of this Act, the Director of the Office
8 of Management and Budget, after consultation with the
9 Federal Chief Information Officers Council, shall issue
10 guidance on the use of peer-to-peer file sharing software—

11 (1) to prohibit the download, installation, or use
12 by Government employees and contractors of open-
13 network peer-to-peer file sharing software on all
14 Federal computers, computer systems, and networks,
15 including those operated by contractors on the Gov-
16 ernment’s behalf, unless such software is approved
17 in accordance with procedures under subsection (b);
18 and

19 (2) to address the download, installation, or use
20 by Government employees and contractors of such
21 software on home or personal computers as it relates
22 to telework and remotely accessing Federal com-
23 puters, computer systems, and networks, including
24 those operated by contractors on the Government’s
25 behalf.

1 (b) APPROVAL PROCESS FOR CERTAIN SOFTWARE
2 PROGRAMS.—Not later than 90 days after the date of the
3 enactment of this Act, the Director of the Office of Man-
4 agement and Budget shall develop a procedure by which
5 the Director, in consultation with the Chief Information
6 Officer, may receive requests from heads of agencies or
7 chief information officers of agencies for approval for use
8 by Government employees and contractors of specific
9 open-network peer-to-peer file sharing software programs
10 that are—

11 (1) necessary for the day-to-day business oper-
12 ations of the agency;

13 (2) instrumental in completing a particular task
14 or project that directly supports the agency’s overall
15 mission;

16 (3) necessary for use between, among, or within
17 Federal, State, or local government agencies in order
18 to perform official agency business; or

19 (4) necessary for use during the course of a law
20 enforcement investigation.

21 (c) AGENCY RESPONSIBILITIES.—Not later than 180
22 days after the date of enactment of this Act, the Director
23 of the Office of Management and Budget shall—

1 (1) direct agencies to establish or update per-
2 sonal use policies of the agency to be consistent with
3 the guidance issued pursuant to subsection (a);

4 (2) direct agencies to require any contract
5 awarded by the agency to include a requirement that
6 the contractor comply with the guidance issued pur-
7 suant to subsection (a) in the performance of the
8 contract;

9 (3) direct agencies to update their information
10 technology security or ethics training policies to en-
11 sure that all employees, including those working for
12 contractors on the Government's behalf, are aware
13 of the requirements of the guidance required by sub-
14 section (a) and the consequences of engaging in pro-
15 hibited conduct; and

16 (4) direct agencies to ensure that proper secu-
17 rity controls are in place to prevent, detect, and re-
18 move file sharing software that is prohibited by the
19 guidance issued pursuant to subsection (a) from all
20 Federal computers, computer systems, and networks,
21 including those operated by contractors on the Gov-
22 ernment's behalf.

23 **SEC. 3. ANNUAL REPORT.**

24 Not later than 1 year after the date of the enactment
25 of this Act, and annually thereafter, the Director of the

1 Office of Management and Budget shall submit to the
2 Committee on Oversight and Government Reform of the
3 House of Representatives and the Committee on Home-
4 land Security and Governmental Affairs of the Senate a
5 report on the implementation of this Act, including—

6 (1) a justification for each open-network peer-
7 to-peer file sharing software program that is ap-
8 proved pursuant to subsection (b); and

9 (2) an inventory of the agencies where such
10 programs are being used.

11 **SEC. 4. DEFINITIONS.**

12 In this Act:

13 (1) AGENCY.—The term “agency” has the
14 meaning provided the term “Executive agency” by
15 section 105 of title 5, United States Code.

16 (2) OPEN-NETWORK.—The term “open-net-
17 work”, with respect to software, means a network in
18 which—

19 (A) access is granted freely, without limita-
20 tion or restriction; or

21 (B) there are little or no security measures
22 in place.

23 (3) PEER-TO-PEER FILE SHARING SOFT-
24 WARE.—The term “peer-to-peer file sharing soft-
25 ware”—

1 (A) means a program, application, or soft-
2 ware that is commercially marketed or distrib-
3 uted to the public and that enables—

4 (i) a file or files on the computer on
5 which such program is installed to be des-
6 igned as available for searching and
7 copying to one or more other computers;

8 (ii) the searching of files on the com-
9 puter on which such program is installed
10 and the copying of any such file to another
11 computer—

12 (I) at the initiative of such other
13 computer and without requiring any
14 action by an owner or authorized user
15 of the computer on which such pro-
16 gram is installed; and

17 (II) without requiring an owner
18 or authorized user of the computer on
19 which such program is installed to
20 have selected or designated another
21 computer as the recipient of any such
22 file; and

23 (iii) an owner or authorized user of
24 the computer on which such program is in-
25 stalled to search files on one or more other

1 computers using the same or a compatible
2 program, application, or software, and
3 copy such files to such owner or user's
4 computer; and

5 (B) does not include a program, applica-
6 tion, or software designed primarily—

7 (i) to operate as a server that is ac-
8 cessible over the Internet using the Inter-
9 net Domain Name system;

10 (ii) to transmit or receive email mes-
11 sages, instant messaging, real-time audio
12 or video communications, or real-time voice
13 communications; or

14 (iii) to provide network or computer
15 security (including the detection or preven-
16 tion of fraudulent activities), network man-
17 agement, maintenance, diagnostics, or
18 technical support or repair.

19 (4) CONTRACTOR.—The term “contractor”
20 means a prime contractor or a subcontractor, as de-
21 fined by the Federal Acquisition Regulation.

22 **SEC. 5. BUDGETARY EFFECTS OF PAYGO LEGISLATION FOR**
23 **THIS ACT.**

24 The budgetary effects of this Act, for the purpose of
25 complying with the Statutory Pay-As-You-Go Act of 2010,

1 shall be determined by reference to the latest statement
2 titled “Budgetary Effects of PAYGO Legislation” for this
3 Act, submitted for printing in the Congressional Record
4 by the Chairman of the House Budget Committee, pro-
5 vided that such statement has been submitted prior to the
6 vote on passage.

Passed the House of Representatives March 24,
2010.

Attest: LORRAINE C. MILLER,
Clerk.