

Union Calendar No. 247

111TH CONGRESS
2^D SESSION

H. R. 4098

[Report No. 111–431]

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.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2009

Mr. TOWNS introduced the following bill; which was referred to the Committee on Oversight and Government Reform

MARCH 11, 2010

Additional sponsors: Mr. WELCH, Ms. BORDALLO, Mr. MELANCON, Mrs. BLACKBURN, Ms. WATSON, Mr. BARROW, Mr. QUIGLEY, Mr. FOSTER, Mr. DAVIS of Illinois, Ms. CHU, and Ms. NORTON

MARCH 11, 2010

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Secure Federal File
5 Sharing Act”.

6 **SEC. 2. REQUIREMENTS.**

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

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

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

1 those operated by contractors on the Government's
2 behalf.

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

13 (1) necessary for the day-to-day business oper-
14 ations of the agency;

15 (2) instrumental in completing a particular task
16 or project that directly supports the agency's overall
17 mission;

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

21 (4) necessary for use during the course of a law
22 enforcement investigation.

23 (c) AGENCY RESPONSIBILITIES.—Not later than 180
24 days after the date of enactment of this Act, the Director
25 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 one year after the date of the enact-
25 ment of this Act, and annually thereafter, the Director

1 of the Office of Management and Budget shall submit to
2 the Committee on Oversight and Government Reform of
3 the House of Representatives and the Committee on
4 Homeland Security and Governmental Affairs of the Sen-
5 ate a report on the implementation of this Act, includ-
6 ing—

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

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

12 **SEC. 4. DEFINITIONS.**

13 In this Act:

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

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

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

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

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

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

7 (i) a file or files on the computer on
8 which such program is installed to be des-
9 ignated as available for searching and
10 copying to one or more other computers;

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

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

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

1 (iii) an owner or authorized user of
2 the computer on which such program is in-
3 stalled to search files on one or more other
4 computers using the same or a compatible
5 program, application, or software, and
6 copy such files to such owner or user's
7 computer; and

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

10 (i) to operate as a server that is ac-
11 cessible over the Internet using the Inter-
12 net Domain Name system;

13 (ii) to transmit or receive email mes-
14 sages, instant messaging, real-time audio
15 or video communications, or real-time voice
16 communications; or

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

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

Union Calendar No. 247

11TH CONGRESS
2^D Session

H. R. 4098

[Report No. 111-431]

A BILL

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.

MARCH 11, 2010

Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed