

111TH CONGRESS  
1ST SESSION

# H. R. 4098

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

---

## 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”.

1 **SEC. 2. REQUIREMENTS.**

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

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

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

23 (b) APPROVAL PROCESS FOR CERTAIN SOFTWARE  
24 PROGRAMS.—Not later than 90 days after the date of the  
25 enactment of this Act, the Director of the Office of Man-  
26 agement and Budget shall develop a procedure by which

1 the Director, in consultation with the Chief Information  
2 Officer, may receive requests from heads of agencies or  
3 chief information officers of agencies for approval for use  
4 by Government employees and contractors of specific  
5 open-network peer-to-peer file sharing software programs  
6 that are—

7           (1) necessary for the day-to-day business oper-  
8           ations of the agency;

9           (2) instrumental in completing a particular task  
10          or project that directly supports the agency's overall  
11          mission;

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

15          (4) necessary for use during the course of a law  
16          enforcement investigation.

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

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

23               (2) direct agencies to require any contract  
24               awarded by the agency to include a requirement that  
25               the contractor comply with the guidance issued pur-

1       suant to subsection (a) in the performance of the  
2       contract;

3               (3) direct agencies to update their information  
4       technology security or ethics training policies to en-  
5       sure that all employees, including those working for  
6       contractors on the Government’s behalf, are aware  
7       of the requirements of the guidance required by sub-  
8       section (a) and the consequences of engaging in pro-  
9       hibited conduct; and

10              (4) direct agencies to ensure that proper secu-  
11       rity controls are in place to prevent, detect, and re-  
12       move file sharing software that is prohibited by the  
13       guidance issued pursuant to subsection (a) from all  
14       Federal computers, computer systems, and networks,  
15       including those operated by contractors on the Gov-  
16       ernment’s behalf.

17 **SEC. 3. ANNUAL REPORT.**

18       Not later than one year after the date of the enact-  
19       ment of this Act, and annually thereafter, the Director  
20       of the Office of Management and Budget shall submit to  
21       the Committee on Oversight and Government Reform of  
22       the House of Representatives and the Committee on  
23       Homeland Security and Governmental Affairs of the Sen-  
24       ate a report on the implementation of this Act, includ-  
25       ing—

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

4           (2) an inventory of the agencies where such  
5           programs are being used.

6 **SEC. 4. DEFINITIONS.**

7           In this Act:

8           (1) **AGENCY.**—The term “agency” has the  
9           meaning provided the term “Executive agency” by  
10          section 105 of title 5, United States Code.

11          (2) **OPEN-NETWORK.**—The term “open-net-  
12          work”, with respect to software, means a network in  
13          which—

14                 (A) access is granted freely, without limita-  
15                 tion or restriction; or

16                 (B) there are little or no security measures  
17                 in place.

18          (3) **PEER-TO-PEER FILE SHARING SOFT-**  
19          **WARE.**—The term “peer-to-peer file sharing soft-  
20          ware”—

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

24                         (i) a file or files on the computer on  
25                         which such program is installed to be des-

1           ignated as available for searching and  
2           copying to one or more other computers;

3           (ii) the searching of files on the com-  
4           puter on which such program is installed  
5           and the copying of any such file to another  
6           computer—

7           (I) at the initiative of such other  
8           computer and without requiring any  
9           action by an owner or authorized user  
10          of the computer on which such pro-  
11          gram is installed; and

12          (II) without requiring an owner  
13          or authorized user of the computer on  
14          which such program is installed to  
15          have selected or designated another  
16          computer as the recipient of any such  
17          file; and

18          (iii) an owner or authorized user of  
19          the computer on which such program is in-  
20          stalled to search files on one or more other  
21          computers using the same or a compatible  
22          program, application, or software, and  
23          copy such files to such owner or user's  
24          computer; and

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

3 (i) to operate as a server that is ac-  
4 cessible over the Internet using the Inter-  
5 net Domain Name system;

6 (ii) to transmit or receive email mes-  
7 sages, instant messaging, real-time audio  
8 or video communications, or real-time voice  
9 communications; or

10 (iii) to provide network or computer  
11 security (including the detection or preven-  
12 tion of fraudulent activities), network man-  
13 agement, maintenance, diagnostics, or  
14 technical support or repair.

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

○