

## Union Calendar No. 247

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> 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

11<sup>TH</sup> CONGRESS  
2<sup>D</sup> 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