

111TH CONGRESS
2^D SESSION

S. 3484

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 SENATE OF THE UNITED STATES

JUNE 14, 2010

Mrs. MCCASKILL (for herself and Mr. BENNETT) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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 of the Gov-
13 ernment, unless such software is approved in accord-
14 ance with procedures under subsection (b); and

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

21 (b) APPROVAL PROCESS FOR CERTAIN SOFTWARE
22 PROGRAMS.—Not later than 90 days after the date of the
23 enactment of this Act, the Director of the Office of Man-
24 agement and Budget shall develop a procedure by which
25 the Director, in consultation with the Chief Information
26 Officer, may receive requests from heads of agencies or

1 chief information officers of agencies for approval for use
2 by Government employees and contractors of specific
3 open-network peer-to-peer file sharing software programs
4 that are—

5 (1) necessary for the day-to-day business oper-
6 ations of the agency;

7 (2) instrumental in completing a particular task
8 or project that directly supports the agency’s overall
9 mission;

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

13 (4) necessary for use during the course of a law
14 enforcement investigation.

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

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

21 (2) direct agencies to require any contract
22 awarded by the agency to include a requirement that
23 the contractor comply with the guidance issued pur-
24 suant to subsection (a) in the performance of the
25 contract;

1 (3) direct agencies to update their information
2 technology security or ethics training policies to en-
3 sure that all employees, including those working for
4 contractors of the Government, are aware of the re-
5 quirements of the guidance required by subsection
6 (a) and the consequences of engaging in prohibited
7 conduct; and

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

15 **SEC. 3. ANNUAL REPORT.**

16 (a) IN GENERAL.—Not later than 1 year after the
17 date of enactment of this Act, and annually thereafter,
18 the Director of the Office of Management and Budget
19 shall submit to the Committee on Oversight and Govern-
20 ment Reform of the House of Representatives and the
21 Committee on Homeland Security and Governmental Af-
22 fairs of the Senate a report on the implementation of this
23 Act, including—

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

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

6 (b) **RULE OF CONSTRUCTION.**—Nothing in this sec-
7 tion shall be construed to require the disclosure of any
8 information relating to any confidential Government oper-
9 ation or investigation, including any law enforcement, na-
10 tional security, or terrorism investigation.

11 **SEC. 4. DEFINITIONS.**

12 In this Act:

13 (1) **AGENCY.**—The term “agency”—

14 (A) means any executive department, mili-
15 tary department, Government corporation, Gov-
16 ernment-controlled corporation, or other estab-
17 lishment in the executive branch of the Govern-
18 ment (including the Executive Office of the
19 President), or any independent regulatory agen-
20 cy, the governments of the District of Columbia
21 and of the territories and possessions of the
22 United States, and their various subdivisions;
23 and

24 (B) includes Government-owned con-
25 tractor-operated facilities, including laboratories

1 engaged in national defense research and pro-
2 duction activities.

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

6 (A) access is granted freely, without limita-
7 tion or restriction; or

8 (B) there are little or no security measures
9 in place.

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

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

16 (i) a file or files on the computer on
17 which such program is installed to be des-
18 ignated as available for searching and
19 copying to one or more other computers;

20 (ii) the searching of files on the com-
21 puter on which such program is installed
22 and the copying of any such file to another
23 computer—

24 (I) at the initiative of such other
25 computer and without requiring any

1 action by an owner or authorized user
2 of the computer on which such pro-
3 gram is installed; and

4 (II) without requiring an owner
5 or authorized user of the computer on
6 which such program is installed to
7 have selected or designated another
8 computer as the recipient of any such
9 file; and

10 (iii) an owner or authorized user of
11 the computer on which such program is in-
12 stalled to search files on one or more other
13 computers using the same or a compatible
14 program, application, or software, and
15 copy such files to such owner or user's
16 computer; and

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

19 (i) to operate as a server that is ac-
20 cessible over the Internet using the Inter-
21 net Domain Name system;

22 (ii) to transmit or receive email mes-
23 sages, instant messaging, real-time audio
24 or video communications, or real-time voice
25 communications; or

1 (iii) to provide network or computer
2 security (including the detection or preven-
3 tion of fraudulent activities), network man-
4 agement, maintenance, diagnostics, or
5 technical support or repair.

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

○