Monday, October 5, 1998

Vol. 34, No. 40

Executive Order 13103--Computer software piracy

William J Clinton

September 30,

The United States Government is the world's largest purchaser of computer-related services and equipment, purchasing more than $20 billion annually. At a time when a critical component in discussions with our international trading partners concerns their efforts to combat piracy of computer software and other intellectual property, it is incumbent on the United States to ensure that its own practices as a purchaser and user of computer software are beyond reproach. Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It shall be the policy of the United States Government that each executive agency shall work diligently to prevent and combat computer software piracy in order to give effect to copyrights associated with computer software by observing the relevant provisions of international agreements in effect in the United States, including applicable provisions of the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights, the Berne Convention for the Protection of Literary and Artistic Works, and relevant provisions of Federal law, including the Copyright Act.

(a) Each agency shall adopt procedures to ensure that the agency does not acquire, reproduce, distribute, or transmit computer software in violation of applicable copyright laws.

(b) Each agency shall establish procedures to ensure that the agency has present on its computers and uses only computer software not in violation of applicable copyright laws. These procedures may include:

(1) preparing agency inventories of the software present on its computers; (2) determining what computer software the agency has the authorization to use; and

(3) developing and maintaining adequate recordkeeping systems.

(c) Contractors and recipients of Federal financial assistance, including recipients of grants and loan guarantee assistance, should have appropriate systems and controls in place to ensure that Federal

funds are not used to acquire, operate, or maintain computer software in violation of applicable copyright la,vs. If agencies become aware that contractors or recipients are using Federal funds to acquire, operate, or maintain computer software in violation of copyright laws and determine that such actions of the contractors or recipients may affect the integrity of the agency's contracting and Federal financial assistance processes, agencies shall take such measures, including the use of certifications or written assurances, as the agency head deems appropriate and consistent with the requirements of law.

(d) Executive agencies shall cooperate fully in implementing this order and shall share information as appropriate that may be useful in combating the use of compute software in violation of applicable copyright laws.

Sec. 2. Responsibilities of Agency Heads. In connection with the acquisition and use of computer software, the head of each executive agency shall:

(a) ensure agency compliance with copyright laws protecting computer software and with the provisions of this order to ensure that only authorized computer software is acquired for and used on the agency's computers;

(b) utilize performance measures as recommended by the Chief Information Officers Council pursuant to section 3 of this order to assess the agency's compliance with this order; (c) educate appropriate agency personnel regarding copyrights protecting computer software and the policies and procedures adopted by the agency to honor them; and

(d) ensure that the policies, procedures, and practices of the agency related to copyrights protecting computer software are adequate and fully implement the policies set forth in this order.

Sec. 3. Chief Information Officers Council. The Chief Information Officers Council ("Council") established bv section 3 of Executive Order No. 13011 of July 16, 1996, shall be the principal interagency forum to improve executive agency practices regarding the acquisition and use of computer software, and monitoring and combating the use of unauthorized computer software. The Council shall provide advice and make recommendations to executive agencies and to the Office of Management and Budget regarding appropriate government-wide measures to carry out this order. The Council shall issue its initial recommendations within 6 months of the date of this order.

Sec. 4. Office of Management and Budget. The Director of the Office of Management and Budget, in carrying out responsibilities under the Clinger-Cohen Act, shall utilize appropriate oversight

mechanisms to foster agency compliance with the policies set forth on this order. In carrying out these responsibilities, the Director shall consider any recommendations made by the Council under section 3 of this order regarding practices and policies to be instituted on a government-wide basis to carry out this order.

Sec. 5. Definition. "Executive agency" and "agency" have the meaning given to that term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

Sec. 6. National Security. In the interest of national security, nothing in this order shall be construed to require the disclosure of intelligence sources or methods or to otherwise impair the authority, of those agencies listed at 50 U.S. 401a(4) to carry out intelligence activities.

Sec. 7. Law Enforcement Activities. Nothing in this order shall be construed to require the disclosure of law enforcement investigative sources or methods or to prohibit or otherwise impair any lawful investigative or protective activity undertaken for or by any officer, agent, or employee of the United States or any person acting pursuant to a contract or other agreement with such entities.

Sec. 8. Scope. Nothing in this order shall be construed to limit or other vise affect the interpretation, application, or operation of 28 U.S.C. 1498.

Sec. 9. Judicial Review. This Executive order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

William J. Clinton

The White House, September 30, 1998.

[Filed with the Office of the Federal Register, 8:45 a.m., October 2, 1998]

NOTE: This Executive order was released by the Office of the Press Secretary on October 1, and it was published in the Federal Register on October 5.