

SUBJECT: LIMITED PERSONAL USE OF GOVERNMENT OFFICE EQUIPMENT
INCLUDING INFORMATION TECHNOLOGY

1. OBJECTIVES.

- a. To establish requirements and assign responsibilities for employees' limited personal use of Government resources (office equipment and other resources including information technology) within the Department of Energy (DOE), including the National Nuclear Security Administration (NNSA).
- b. To provide guidance on appropriate and inappropriate uses of Government resources.
- c. To create a more supportive work environment for DOE employees.

2. CANCELLATIONS. None.

3. APPLICABILITY.

- a. Primary DOE Organizations, Including National Nuclear Security Administration (NNSA) Organizations. Except for the exclusions in paragraph 3c, this Order applies to all DOE primary organizations, including NNSA primary organizations (see Attachment 1 for a complete list of Primary DOE (organizations)). This Order automatically applies to Primary DOE organizations created after it is issued.

The Administrator of NNSA shall assure that NNSA employees and contractors comply with their respective responsibilities under this Order.

- b. Site/Facility Management Contractors.

- (1) This Order does not contain a Contractor's Requirement Document. Contractors are required, however, to prepare Property Management System plans under the Government Property clause and must submit them to DOE for approval.
- (2) This Order specifically tasks officials designated as Heads of Primary DOE Organizations (see Attachment 1) with ensuring that unauthorized use of Government equipment and resources is addressed in the contractor's property management plan. (See paragraph 5c of this Order.) Additionally, the Government Property clause requires the contractor to control the use of Government property in its possession.

- c. Exclusions. In accordance with the responsibilities and authorities assigned by Executive Order (E.O.) 12344 as set forth in the Defense Authorization Act for

Fiscal Year 2000 [Public Law (P.L.) 106-65, Title 50 United States Code (U.S.C.) Section 2406], and to ensure consistency throughout the joint Navy/DOE organization of the Naval Nuclear Propulsion Program, the Director, Naval Nuclear Propulsion Program will implement and oversee all requirements and practices pertaining to this DOE Order for activities under the Director's cognizance.

4. REQUIREMENTS.

- a. Limited Personal Use. This Order authorizes employees to make limited use of Government resources for personal purposes, in accordance with the provisions herein. This Order does not modify the requirements of the Standards of Ethical Conduct for Employees of the Executive Branch [Title 5 Code of Federal Regulations (CFR), 2635], including the employee's responsibility to protect and conserve Government property using it for authorized purposes only and use official time in an honest effort to perform official duties [5 CFR 2635.704(a) and (b)]. Nothing herein pertains to or restricts use of Government property by an employee to carry out his or her official duties and responsibilities in furtherance of the mission of the Department.
- (1) Employees may use Government resources for personal purposes, but only where such use—
 - (a) involves de minimis additional expense to the Government,
 - (b) does not interfere in anyway with the mission or operations of the Department, and
 - (c) is otherwise permissible under DOE Orders and applicable State and Federal laws and regulations.
 - (2) This Order does not grant to employees or create an inherent right to use Government resources, and one should not be inferred.
 - (3) Use of Government resources in support of or in connection with a private business with which an employee is associated is not considered a personal purpose under this Order and is not authorized by this Order.
 - (4) The privilege to use Government resources for personal purposes may be limited or revoked at any time by an appropriate Department official (e.g., a supervisor in the employee's organizational chain of command).
 - (5) Circumstances that may result in a supervisor's curtailing or halting an employee's personal use of Government resources include uses that—
 - (a) result in a loss of productivity,

- (b) interfere with official duties,
- (c) compromise the mission of the Department or organization,
- (d) exceed de minimis expense to the Government,
- (e) violate Department Policies and Orders or State and Federal laws and regulations, or
- (f) are inconsistent with the guidance contained in this Order.

b. Privacy.

- (1) DOE employees do not have a right to nor should they have an expectation of privacy while using Government resources at any time, including when they are accessing the Internet or using e-mail.

NOTE: Each employee's use of his or her Government computer is preceded by a security banner, which advises the employee that the user has no expectation of privacy; that all uses and files in the system may be intercepted, monitored, recorded, and disclosed. The employee agrees to these terms and conditions prior to being granted access. Further, the Department has its privacy policy available for persons accessing its website. The policy specifically covers Security, a General Disclaimer, a Privacy Notice, and Comments Sent by E-Mail. Employees who use these resources are deemed to waive any right to privacy pursuant to the published notices therein.

- (2) Employees who wish for their personal activities to be private should not conduct such activities using Government resources.
- (3) Employees who use Government resources implicitly consent to review and disclosure of their Internet, e-mail, or other information technology uses when deemed appropriate by DOE or as mandated by law.
- (4) The content of any files or information maintained in or on Government equipment or transmitted using Government equipment may be disclosed in response to a valid, authorized subpoena, warrant, court order, Freedom of Information Act (5 U.S.C. Section 552) request, or other direction (e.g., employee's supervisor, Inspector General investigator, etc.).
- (5) Using Government resources, including Internet access and e-mail, implies consent to monitoring with or without cause. Any use of Government resources is with the understanding that such use is generally not secure, private, or anonymous (18 U.S.C. Section 2511).

- (6) System managers may employ monitoring tools to detect improper use of electronic communications systems (18 U.S.C. Section 2511).
- c. Security. Personal use of Government resources is not authorized on computer systems or other office equipment that is designated for classified use.
- d. Misrepresentation. The Standards of Ethical Conduct for Employees of the executive branch states that an employee must not “use or permit the use of his Government position or title or any authority associated with his public office in a manner that could reasonably be construed to imply that his agency or the Government sanctions or endorses his personal activities” [5 CFR 2635.702(b)].
- (1) It is the responsibility of each employee to ensure that one’s use of Government resources does not give the impression of acting in an official capacity while using Government resources for personal purposes.
 - (2) If it is likely that an employee’s personal use of Government resources will create an appearance of official Government action, the employee must discontinue the activity or use a disclaimer such as the following:

The contents of this message are mine personally and do not reflect the views or position of the U.S. Department of Energy or the Federal Government.
- e. Appropriate Uses of Government Resources for Personal Purposes. The following is provided for employees and supervisors in determining acceptable personal uses of Government resources.
- (1) Personal use of Government resources is authorized only if it involves de minimis additional expense to the Government and does not interfere in any way with the mission or operations of the Department, and is otherwise permissible under DOE Orders and applicable State and Federal laws and regulations. Examples of appropriate personal uses may include—
 - (a) checking credit union or Thrift Savings Plan accounts using information technology equipment;
 - (b) retaining personal data in electronic files (e.g., C or O drives, LAN) with the understanding that data may be deleted without notice as a result of scheduled archiving;
 - (c) accessing library books and equipment, public reading rooms and materials, and other publicly available data;

- (d) obtaining detailed information or conducting research (e.g., reading newspaper and magazine articles, comparing airline prices and schedules, browsing sales catalogs, or comparing prices of automobiles) on the Internet during non-work hours; and
 - (e) occasional personal use of laptop computers, personal data assistants (PDAs), pagers, and cellular phones (when such use will not incur additional charges) issued by the Department for official business.
 - (2) Personal use of Government-provided long distance telephone service must be consistent with General Services Administration regulations.
 - (3) Other personal use of Government resources is authorized, but only if it results in minimal impact or normal wear and tear of the equipment, requires de minimis workday time for personal pursuits, and requires use of de minimis consumable items (paper, ink, toner, etc.), as determined by a reasonable person with knowledge of all the relevant facts.
- f. Inappropriate Uses of Government Resources. Employees are expected to conduct themselves professionally in the workplace and to refrain from using Government resources inappropriately. Examples of misuse of Government resources include, but are not limited to, the following:
 - (1) modification of Government equipment, particularly information technology, by loading application software or making configuration changes not approved for use in the site's operating environment;
 - (2) seeking help from Government employees or contractor personnel (e.g., librarians, computer support staff, administrative assistants, or paralegals) in pursuit of personal projects;
 - (3) any frequent personal use that may cause congestion, delay, or disruption of service to any Government system or equipment, including greeting cards and streaming video and audio, etc.;
 - (4) any personal use (including e-mail and Internet service) that may impair the performance of the Department's entire network or of a unit, including—
 - (a) opening a program with large file attachments (e.g., music or graphic files) or
 - (b) extensive use of a program or Internet site that provides continuous data streams, e.g., continuous stock quotes, or headline news updates, etc.;

- (5) creating, copying, transmitting, or retransmitting chain letters or other mass mailings, regardless of the subject matter;
- (6) using Government resources for activities that are illegal, inappropriate, or offensive to a reasonable person with knowledge of all the relevant facts, including hate speech; material that ridicules others on the basis of race, creed, religion, color, sex, disability, national origin, or sexual orientation; and harassing or threatening activities;
- (7) creating, downloading, viewing, storing, copying, or transmitting sexually explicit or sexually oriented materials;
- (8) creating, downloading, viewing, storing, copying, or transmitting materials in the conduct or furtherance of any type of illegal activity;
- (9) unauthorized acquisition, use, reproduction, transmission, or distribution of controlled information (e.g., computer software and data; classified, business sensitive, or other nonpublic data; proprietary data; export controlled software or data; or any information in violation of the Privacy Act, copyright, trademark, or other intellectual property rights beyond fair use);
- (10) gaining unauthorized access to internal or external systems or networks using DOE or personal computer systems and technology;
- (11) fundraising other than the Combined Federal Campaign;
- (12) participating in any lobbying activity;
- (13) engaging in any prohibited political activity under the Hatch Act (See 5 CFR 734);
- (14) any personal use of Government resources that is misleading in that it creates the impression that the employee is acting in an official capacity;¹
- (15) using Government resources for commercial pursuits, to support for-profit activities, or to benefit one's outside employment or business activities (e.g., receiving personal business calls on the office telephone, sending or receiving e-mail messages related to a part-time real estate or other business venture, or selling or trading business merchandise over the Internet);

¹This may occur when using the Internet to access a chat room or to obtain information. Many Web sites require registration prior to disclosing information or allowing access. Employees must be diligent to ensure that they do not appear to be acting in an official capacity. Employees should also check a Web site's privacy policy when supplying information over the Internet to determine whether a misrepresentation or other abuse may occur.

- (16) using Government resources (e.g., copying, printing, etc) for any non-official activity that results in greater than de minimis expense; and
 - (17) communicating Agency information to external news groups, bulletin boards, or other public forums without authority.
- g. Official Union Business. The privileges and limitations enumerated in this Order do not supersede the negotiated rights of exclusive representatives of bargaining unit employees in the conduct of their official business.
- h. Sanctions for Misuse. Unauthorized or improper use of Government resources may result in losing or having limitations placed on use of Government resources, disciplinary or adverse actions (up to and including separation from Federal service), criminal penalties, and/or financial liability for the cost of improper use.

5. RESPONSIBILITIES.

- a. DOE Employees.
- (1) Ensure that they are not giving the impression that they are acting in an official capacity when using Government resources for personal purposes.
 - (2) Use Government resources for personal purposes only as allowed in this Order and to the extent consistent with law.
 - (3) Consult their supervisors or other appropriate person if they have any questions concerning this Order or other related matters (paragraph 8, Contacts).
 - (4) Report instances of fraud, waste, and abuse of Government resources (including information technology) to the Office of Inspector General (OIG) in accordance with DOE O 221.1, *Reporting Fraud, Waste and Abuse to the Office of Inspector General*, dated 3-22-01.
- b. Supervisors.
- (1) Ensure that their employees are aware of this Order.
 - (2) Initiate appropriate action when employees disregard requirements set forth in this Order.
- c. Program Secretarial Officers. Verify that each site/facility management contractor's DOE-approved property management system provides some manner of guidance and limitations on personal use of Government resources.

- d. Director, Naval Nuclear Propulsion Program. Ensures consistent implementation of the requirements of this Order throughout the joint Navy/DOE Naval Nuclear Propulsion Program.

6. REFERENCES.

- a. Executive Order 13011, Federal Information Technology, dated 7-16-96, which integrates provisions of the Clinger-Cohen Act of 1996, the Paperwork Reduction Act of 1995, and the Government Performance and Results Act of 1993.
- b. Department of Energy Organization Act (P.L. 95-91), as amended, Sec. 644 (42 U.S.C. 7101 note).
- c. Standards of Conduct for Employees of the Executive Branch (5 CFR 2635).
- d. Office of Management and Budget Circular No. A-130, Appendix III, Security of Federal Automated Information Resources.
- e. Electronic Communications Privacy Act of 1986 (P.L. 99-508, 18 U.S.C. 2511).
- f. 5 CFR 734.102 (Regulations implementing the Hatch Act provisions on political activity).
- g. 10 CFR 1010.103 and DOE O 221.1 (Employee duty to report fraud, waste, and abuse to the Office of Inspector General).

7. DEFINITIONS.

- a. Government Resources. Personal computers and related peripheral equipment and software, library resources, paper, telephones, facsimile machines, photocopiers, and information technology. As used in this Order, the term Government resources does not include an employee's scheduled work time or the time of Department contractors.
- b. Information Technology. Equipment or interconnected systems or subsystems of equipment used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including the Internet.
- c. Limited Personal Use of Government Resources. Use of Government resources for purposes other than performance of official duties. The personal uses allowed in this Order are authorized uses of DOE Government resources.
- d. De minimis Additional Expense. That cost which results when small amounts of electricity, ink, toner, or paper supplies are used for purposes other than performance of official duties. For example, the cost from a relatively small number of brief telephone calls, electronic mail messages, or internet sessions,

result in de minimis, if any, additional expense to the Government. In contrast, the cost associated with large copying or printing projects, downloading large files, such as a motion picture video, or the contents of an entire compact disc, or other files with large space requirements, would exceed de minimis additional expense.

- e. Non-work Hours. Limited to those periods for which an employee is not being compensated—lunch break, time before or after regular duty hours, and weekends or holidays—when the space is normally available and requires no special arrangements for entry, utilities (such as heat or air conditioning), or other services not usually provided at such times.
- f. Systems Manager. The designated person(s) responsible for operating and maintaining DOE's information technology systems in an enterprise architecture; ensures that the system and information/data processes are consistent with the system's purpose; and maintains security measures, appropriately applied for the protection of the information. The system manager monitors the system and the information in the system to ensure that it is appropriately used.

8. CONTACTS.

- a. Questions concerning this Order should be referred to the Office of the Chief Information Officer 202-586-0166.
- b. For Standards of Conduct or legal questions, Headquarters employees should contact the Office of the Assistant General Counsel for General Law on 202-586-1522, or at standardsofconduct@hq.doe.gov. Field employees should contact the Office of Chief Counsel that services their location.
- c. For questions on personal, labor relations, or management and administration issues, contact the local human resources office assigned to your office.
- d. To report fraud, waste, or abuse of Government resources or misuse of Government property, contact the Office of Inspector General, 202-586-2730.

BY ORDER OF THE SECRETARY OF ENERGY:



KYLE E. McSLARROW
Deputy Secretary

**PRIMARY DOE ORGANIZATIONS TO WHICH DOE O 203.1,
Limited Personal Use of Government Office Equipment Including Information Technology,
IS APPLICABLE**

Office of the Secretary
Departmental Representative to the Defense Nuclear Facilities Safety Board
Energy Information Administration
National Nuclear Security Administration
Office of the Chief Information Officer
Office of Civilian Radioactive Waste Management
Office of Congressional and Intergovernmental Affairs
Office of Counterintelligence
Office of Economic Impact and Diversity
Office of Electric Transmission and Distribution
Office of Energy Assurance
Office of Energy Efficiency and Renewable Energy
Office of Environment, Safety and Health
Office of Environmental Management
Office of Fossil Energy
Office of General Counsel
Office of Hearings and Appeals
Office of Independent Oversight and Performance Assurance
Office of Inspector General
Office of Intelligence
Office of Legacy Management
Office of Management, Budget and Evaluation/Chief Financial Officer
Office of Nuclear Energy, Science and Technology
Office of Policy and International Affairs
Office of Public Affairs
Office of Science
Office of Security
Office of Security and Safety Performance Assurance
Secretary of Energy Advisory Board
Bonneville Power Administration
Southeastern Power Administration
Southwestern Power Administration
Western Area Power Administration