



OFFICE OF THE SECRETARY OF DEFENSE
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950



July 13, 2000

ADMINISTRATION &
MANAGEMENT

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Privacy Policies and Data Collection on DoD Public
Web Sites

The Office of Management and Budget (OMB) has reaffirmed (attachment 1) that it is Federal policy that each Federal agency operating a public web site, or contractors operating such sites on behalf of an agency, must post clear privacy policies at their principal web sites, at known, major entry points to the sites, and at those sites where the agency or the contractor collects substantial personal information from the public. The OMB emphasizes that it also is Federal policy that web technology, such as "cookies," should not be used at Federal web sites to identify and track the activities of web users unless a compelling need exists to collect such information, appropriate publicized procedures are established to safeguard the information, and collection has been personally approved by the head of the agency. Finally, OMB points out that it is Federal policy that agencies, and contractors, who operate web sites directed at children must comply with the standards set forth in the Children's Online Privacy Protection Act of 1998 (Pub. L. 105-277, section 1301, et seq, as implemented by, 64 *Federal Register* 59888-59915 (November 3, 1999)) if personal information is being collected.

This memorandum is to remind each Component that Department of Defense (DoD) policy (Attachment 2) prohibits the use of web technology which collects user-identifying information such as extensive lists of previously visited sites, e-mail addresses, or other information to identify or build profiles on individual visitors to DoD publicly accessible web sites. DoD policy, however, does permit the use of "cookies" or other web technology to collect or store non-user identifying information but only if

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users are advised of what information is collected or stored, why it is being done, and how it is to be used. This policy will be clarified to make clear that "persistent cookies" (i.e., those that can be used to track users over time and across different web sites) are authorized only when there is a compelling need to gather the data on the site; appropriate technical procedures have been established to safeguard the data; and the Secretary of Defense has personally approved use of the cookie.

Each DoD Component must review its web privacy practices to ensure that they are in compliance with the OMB memorandum and DoD policy. Components will provide written confirmation NLT October 2, 2000 that the required review has been conducted and necessary corrective action, if necessary, taken.

My point of contact is Mr. Vahan Moushegian, Jr., Director, the Defense Privacy Office. He may be reached at (703) 607-2943.


D.O. Cooke
Director

Attachments:

1. OMB Memo, dated June 22, 2000
2. Extracts of DEPSECDEF Memo, dated December 7, 1998



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503


2000 JUN 23 AM 9:55

THE DIRECTOR

June 22, 2000

M-00-13

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Jacob J. Lew
Director 

SUBJECT: Privacy Policies and Data Collection on Federal Web Sites

The purpose of this memorandum is to remind you that each agency is required by law and policy to establish clear privacy policies for its web activities and to comply with those policies. Agency contractors should also comply with those policies when operating web sites on behalf of agencies.

As described in my memorandum of June 2, 1999, on "Privacy Policies on Federal Web Sites," agencies are to post clear privacy policies on agency principal web sites, as well as at any other known, major entry points to sites, and at any web page where substantial amounts of personal information are posted. Privacy policies must be clearly labeled and easily accessed when someone visits a web site.

Agencies must take care to ensure full adherence with stated privacy policies. For example, if an agency web site states that the information provided will not be available to any other entities, it is the responsibility of the agency to assure that no such sharing takes place. To ensure such adherence, each agency should immediately review its compliance with its stated web privacy policies.

Particular privacy concerns may be raised when uses of web technology can track the activities of users over time and across different web sites. These concerns are especially great where individuals who have come to government web sites do not have clear and conspicuous notice of any such tracking activities. "Cookies" -- small bits of software that are placed on a web user's hard drive -- are a principal example of current web technology that can be used in this way. The guidance issued on June 2, 1999, provided that agencies could only use "cookies" or other automatic means of collecting information if they gave clear notice of those activities.

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Attachment (1)

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Because of the unique laws and traditions about government access to citizens' personal information, the presumption should be that "cookies" will not be used at Federal web sites. Under this new Federal policy, "cookies" should not be used at Federal web sites, or by contractors when operating web sites on behalf of agencies, unless, in addition to clear and conspicuous notice, the following conditions are met: a compelling need to gather the data on the site; appropriate and publicly disclosed privacy safeguards for handling of information derived from "cookies"; and personal approval by the head of the agency. In addition, it is federal policy that all Federal web sites and contractors when operating on behalf of agencies shall comply with the standards set forth in the Children's Online Privacy Protection Act of 1998 with respect to the collection of personal information online at web sites directed to children.

A description of your privacy practices and the steps taken to ensure compliance with this memorandum should be included as part of the submission on information technology that is incorporated into the agency budget submission this fall.



DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

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DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Web Site Administration

This memorandum provides the DoD policy, assigns responsibility, and describes the procedures for establishing, operating and maintaining DoD unclassified Web sites. DoD is committed to maximizing the availability of timely and accurate Defense information to the public as well as maintaining a secure framework for our use of Internet-based technologies. At the same time, we must be continually mindful of our responsibility to protect our most precious resource—our men and women who serve this Nation, and their families.

To accomplish the above, all DoD Components have the responsibility to ensure sound information assurance practices are in place and operating for Web sites. Heads of Components shall be responsible for managing the use and content of the information placed on the Web consistent with the guidance and processes contained in the attached. This memorandum cancels the joint ASD (PA) and ASD (C3I) memorandum entitled "Establishing and Maintaining a Publicly Accessible Department of Defense Web Information Service," and dated July 18, 1997 (as amended).

In view of the changing environment and the impact of information technology on the sensitivity of information, I further direct that within the next 120 days:

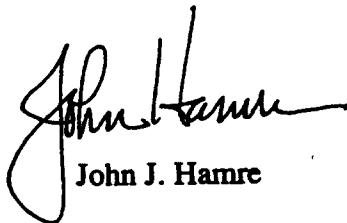
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Attachment (2)

- The DoD General Counsel lead a review of statutes as they relate to our ability to safeguard sensitive, unclassified information and advise me of any recommended changes;
- The Director Administration and Management lead a review of "privacy-related" policies, and release of information to ensure that we are maintaining the proper balance with respect to individuals' privacy;
- The USD (A&T) lead a review of the Department's ability to safeguard sensitive, unclassified information in our electronic commerce systems.

I further direct that the Senior Civilian Official OASD(C3I), working with the ASD (PA) and the Director of Administration and Management ensure that the web site administration policy and procedures are codified in the DoD Publication System within 120 days.

Comments, suggestions and recommendations for changes to the attached policy and guidance should be directed to OASD(C3I). An electronic copy of this guidance is available at <http://www.defenselink.mil/admin/about.html#WebPolicies>.



John J. Hamre

Attachment