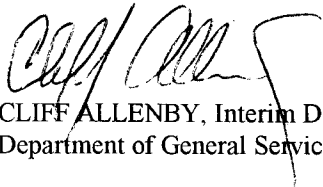


MANAGEMENT MEMO

SUBJECT: COMPUTER SOFTWARE CONTRACT LANGUAGE	NUMBER: 00-02
	DATE ISSUED: 03/17/00
REFERENCES: EXECUTIVE ORDER D-10-99	EXPIRES: WHEN RESCINDED
	ISSUING AGENCY: DEPARTMENT OF GENERAL SERVICES

Pursuant to Executive Order D-10-99, issued by Governor Gray Davis, the importance to California's technology based economy of preventing computer software piracy requires state government to ensure that its own practices as a purchaser and user of computer software conform to copyright laws and software licenses. Therefore, pursuant to the Executive Order, to promote responsible practices by state agencies and departments to assure that state funds are not being used for the acquisition, operation or maintenance of computer software in violation of copyright laws, each agency, department, board, commission and office of the executive branch shall use the following language in all contracts involving the purchase or utilization of computer software in the performance of such contract:

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.


 CLIFF ALLENBY, Interim Director
 Department of General Services

Attachment

EXECUTIVE ORDER D-10-99
by the
Governor of the State of California

WHEREAS, the State of California is a significant purchaser of computer-related services and equipment, purchasing more than \$2 billion annually; and

WHEREAS, the importance to California's technology based economy of combating piracy of computer software and other intellectual property makes it incumbent on the State of California to ensure that its own practices as a purchaser and user of computer software are beyond reproach;

NOW, THEREFORE, I, GRAY DAVIS, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this order to become effective immediately:

1. Each agency, department, board, commission and office of the executive branch (hereinafter referred to as "agency" or "agencies") 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 both Federal and State law, including the Federal Copyright Act.

A) Each agency shall establish procedures to ensure that the agency only uses computer software in a manner compliant with applicable copyright laws.

B) State contractors and recipients of State grants and State loan guarantee assistance, shall have appropriate systems and controls in place to ensure State funds are not used to acquire, operate, or maintain computer software in violation of applicable copyright laws. Each agency shall require its contractors and bidders to certify that they have appropriate systems and controls in place to ensure that State funds are not used to acquire, operate or maintain computer software in a manner that does not comply with applicable copyrights. If agencies become aware that contractors, grantees or recipients are using State funds to acquire, operate or maintain computer software in violation of copyright laws, agencies shall take such measures as the agency head deems appropriate and consistent with the requirements of law.

C) The Department of General Services shall develop appropriate language for inclusion in State contracts to prohibit the use of state funds for the acquisition, operation or maintenance of computer software in violation of copyright laws. Such language shall be required in all state contracts involving the purchase or utilization of computer software in the performance of such contracts.

Executive agencies shall cooperate fully in implementing this order and shall share information with other government agencies as appropriate that may be useful in combating the use of computer software in violation of applicable copyright laws.

Executive agencies shall ensure that budget proposals relating to computer data processing needs include adequate resources for the purpose of acquiring adequate computer software and licenses to meet those needs.

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

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

Utilize performance measures as recommended by the Department of Information Technology pursuant to section 3 of this order to assess the agency's compliance with this order;

Educate appropriate agency personnel regarding copyrights protecting computer software and the policies and procedures adopted by the agency to honor them;

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.

3. The Department of Information Technology ("Department") established by Chapter 508, Statutes of 1995, shall be the principal government department responsible for improving executive agency practices regarding the acquisition and use of computer software, and monitoring and eliminating the use of unauthorized computer software. The Department, through the Chief Information Officer of the State of California, shall provide advice and issue standards, policies, and guidelines to executive agencies regarding appropriate measures to carry out this order. The Department shall issue its initial guidance within six months of this order.

4. The Department of Finance shall utilize appropriate oversight mechanisms to monitor and audit expenditures by agencies to foster agency compliance with the policies set forth in this order and with the standards, policies and guidelines established by the Department of Information Technology pursuant to this order.

5. 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 State of California, its agencies or instrumentalities, its officers or employees, or any other person.

IN WITNESS WHEREOF I have hereunto
set my hand and caused the Great Seal of
the State of California to be affixed this
15th day of October 1999.

Governor of California

ATTEST:

Secretary of State