

DEPARTMENT OF THE ARMY
HEADQUARTERS, FIFTH U.S. ARMY AND FORT SAM HOUSTON
Fort Sam Houston, Texas 78234-5000

FSH Regulation
No. 25-4

20 June 1990

Information Management
CONTROL AND PROTECTION OF COMMERCIAL COMPUTER SOFTWARE

This regulation may not be supplemented by
subordinate activities.

1. Purpose. This regulation establishes policy, assigns responsibilities, and provides guidance relating to the use and protection of commercial computer software, including public domain and shareware, when such software has been acquired to meet internal U.S. Army Garrison, Fort Sam Houston (USAG FSH) information management needs.

2. Applicability. This regulation applies to all USAG FSH personnel who use computer software to process Government work

3. References.

a. AR 25-1, The Army Information Resources Management Program.

b. AR 380-5, Department of the Army Information Security Program, as supplemented.

c. AR 380-380, Automation Security, as supplemented.

d. 17 U.S.C. 117, 504, 506 and 1498, Copyright Law.

e. AR 600-50, Standards of Conduct for Department of the Army Personnel.

f. AR 710-2, Supply Policy Below the Wholesale Level

g. AR 735-5, Policies and Procedures for Property Accountability.

h. FSH Reg 25-1, Information Mission Area Installation Support Regulation.

i. FSH Reg 690-26, Conduct and Discipline.

4. Explanation of Abbreviations and Terms. Explanation of abbreviations and terms are contained in the Glossary.

5. Policy.

a. Only the following types of software can be used on Government computers (mainframe or personal computers), and must be approved by the installation Directorate of Information Management (DOIM) and coordinated with the Directorate of Plans, Training, Mobilization, and Security (DPTMSEC) in accordance with FSH Reg 25-1. Personally owned computer software or other software, not listed, may not be used on government-owned computers.

1 Software produced by U.S. Government personnel.

(2) Commercial licensed software procured by the U.S. Government.

(3) Public domain software which has no fee associated with its use (freeware).

(4) Shareware software when the fee has been paid by the U.S. Government.

b. Federal copyright laws prohibit the copy, modification, or transfer of commercial software, or any copy, modification, or merged portion of commercial software, in whole or in part, except as expressly provided for in the license. If possession of any copy, modification, or merged portion of commercial software is transferred to another party, the license is automatically terminated, unless the other party accepts the terms of the license. All commercial software used at HQ USAG FSH is protected under the copyright laws of the United States. It is the users' responsibility to ensure that copyrights are not violated.

c. Reference books, manuals, and software diskettes are copyrighted. The copyright laws generally prohibit the copying of such materials, unless specific approval is granted by the copyright holder. There is currently a major campaign by publishers to prevent persons and organizations from illegally copying and using software and prosecute those who do so. The primary way these software companies are achieving their goal is by concentrating on major users of software, rather than on individuals. As a major user of computer software, the Army and HQ USAG FSH are subject to action by software publishers if illegal copying is substantiated. The position of this headquarters is clear: Copying of protected/copyrighted software is illegal and no exception or justification will be recognized.

d. When commercial software packages are superseded, the superseded software media must be disposed of properly, or the Software License Agreement will remain in effect and the user will remain responsible. Most software license agreements contain a statement such as: "YOU MAY TERMINATE THIS LICENSE AGREEMENT BY DESTROYING THE SOFTWARE AND USERS MANUAL AND ALL COPIES THEREOF."

e. All commercial computer software will be utilized on one computer. It can be deinstalled and run on another computer, but it cannot be used on more than one computer at the same time. The only exception to this policy is for computer software that has been approved for a site license.

f. In accordance with paragraph 5-3c, AR 25-1 (reference 3a), original copies of copyrighted (commercial) software valued at greater than \$100 are issued and accounted for through normal hand receipt procedures. Working and backup copies will be controlled in accordance with the licensing agreement between the vendor and the government. Blank data media (magnetic tapes, floppy disks, etc.) and copyrighted (commercial) software valued at \$100 or less are managed as expendable items.

g. Control of government-licensed software packages will follow the same procedures as all other issued supplies, equipment, or hardware (i.e., the software packages will be issued from the supply support activity (SSA) to the user property book officer (PBO) or his/her designee).

6. Responsibilities.

a. USAG FSH Property Book Officer (PBO):

(1) The PBO or PBO designee will receipt for the computer software from the SSA.

(2) The PBO will hand receipt the original copyrighted software package (with unit value greater than \$100) to a primary hand receipt holder. Site licensed software will be laterally transferred to the USAISC-FSH PBO.

(3) If software master disks are lost, the PBO will review the circumstances surrounding the loss and take necessary administrative action. If circumstances warrant, the PBO will request a report of survey be conducted in accordance with AR 735-5 (reference 3g).

Excess Software.

The PBO will report excess software to the DOIM.

FSH Reg

(b) The DOIM will advise of appropriate redistribution for approved requirements or advise the PBO to report as excess.

(c) Excess software (not required on the installation) will be reported (using a Standard Form (SF) 120, Report of Excess Personal Property) to the Defense Automation Resources Information Center in accordance with Section B, Computer Software Screening Procedures, dated 18 August 1989.

b. Primary Hand Receipt Holder (PHRH). The PHRH or sub-hand receipt holder will:

Install the software

Retain and store the master diskettes under lock and key.

(3) Maintain backup copies (if authorized by license agreements) of the master diskettes under lock and key.

(4) Maintain documentation which contains the name of the user, the serial number of the personal computer on which the software has been installed, and the name and serial number of the installed software.

c. USAG FSH Staff Chiefs:

(1) Responsible for monitoring the actions of their subordinates and taking appropriate action if illegal copies of software are discovered. The following common-sense rule can be applied: If a program is being run on a specific machine, the operator must be able to show the original disk with the publishers label, the original (not copies) of the instruction manual, and the backup disk, to be obtained from the PHRH or sub-hand receipt holder, if one was supplied by the publisher.

(2) Conduct an inventory of all commercial software and its documentation in accordance with AR 753-5 and as established by this directive. This inventory will be performed by the direction of the staff chief. An authorization document/form showing the inventory of all software packages authorized for use on the user's Government-owned equipment will be provided to each user by the PHRH. All inventory discrepancies will be reported to the PBO. All unauthorized or undocumented software found during the inventory will be removed from the equipment and erased from the hard disk. Repeated occurrences of unauthorized software will be reported to the appropriate management level for disciplinary action against the offending user in accordance with reference 3i. An initial and annual requirement is established

for all users to read this directive and to read and sign a statement of understanding on the copyright and proprietary issues involved in copying and distributing copies of the software. A sample format of a statement of understanding is at Appendix A. The most current statements will be retained by the staff office chiefs for potential review during internal reviews, external audits, or other reviews to be conducted by the DOIM.

(3) Obtain approval of the DOIM, in accordance with chapter 11, paragraph 11-2, FSH Reg 25-1, before using any software. Approval of CAPR by the DOIM constitutes approval for use of software upon receipt.

d. User. The user of commercial software will:

(1) Abide by the provisions of commercial software license agreements and/or copyright laws relative to commercial software.

(2) Practice the procedures necessary to ensure that neither the user nor the Government becomes liable for infringement of commercial software copyright laws.

(3) Obtain approval of the DOIM, through the appropriate USAG FSH staff chief, before using any software. Requests are to be submitted in accordance with reference 3h.

(4) Obtain review by the Security Division, DPTMSEC, in accordance with chapter 11, FSH Reg 25-1, to ensure software meets requirements of AR 380-380.

e. DOIM. The DOIM will:

(1) Monitor and approve all commercial software and its documentation in accordance with AR 25-1.

(2) Approve or disapprove requests to use non-Government licensed software packages on Government-owned equipment.

f. DPTMSEC. The DPTMSEC will:

(1) Review compliance with policies set forth in this regulation during the Automatic Data Processing Systems Security Manager's security inspections and assistance visits.

(2) Ensure that all master copies of computer software are being afforded the necessary degree of protection as specified in paragraph 12-5c, AR 380-380.

APPENDIX A

STATEMENT OF UNDERSTANDING
FOR
USAG FSH USERS OF COMMERCIAL SOFTWARE

1. I recognize that computer software for Government-operated information systems may be licensed from a variety of outside companies. The Army does not own this software or its related documentation. Unless specific permission has been granted by the software licensor, no user has the right to (a) copy or reproduce software (this does not apply to authorized backup copies), (b) copy or reproduce the software package's related documentation.

2. I understand that software will only be used in accordance with the software licensing agreement.

3. I understand that if I knowingly make, acquire, or use unauthorized copies of computer software, I may be subject to discipline and liability for resulting damages according to the circumstances.

4. I understand that, pursuant to Federal law, illegal reproduction of commercial software may subject me to civil damages up to \$50,000 per incident, and criminal penalties to include fines and imprisonment in accordance with 17 U.S.C. 504 and 506.

5. I have read and understand Fifth U.S. Army and Fort Sam Houston Regulation 25-4 which governs the control and protection of software packages residing on Government-owned equipment and will abide by it.

6. I have read and understand the software protection policies of Fifth U.S. Army and FSH Regulation 25-4 and will abide by them.

(Signature/Date)

(Name/Grade/Rank)

(Organization/Phone Number)

FSH Reg 25-4

7. A software inventory program has been developed by DPTMSEC Security Division to assist managers/supervisors in maintaining an inventory of their software. Interested parties may contact the Security Division to acquire a copy of this software.

GLOSSARY

1. Abbreviations

DOIM - Director of Information Management.

DPTMSEC - Directorate of Plans, Training, Mobilization, and
Security

PHRH - Primary Hand Receipt Holder

Property Book Officer

SA - Systems Administrator.

Supply Support Activity

USAG FSH - U.S. Army Garrison, Fort Sam Houston.

2. Terms.

Commercial Software. Software that has been developed and copyrighted and allows the licensor to collect royalty fees for its use.

Copyright. The exclusive right granted by law for a certain number of years to make and dispose of copies of computer software and associated documentation.

Excess Software. Software that is not being used and is not planned for use by the individual or organization currently accountable for it.

Licensor. Anyone who has proprietary rights to computer software. Generally, this is the developer of the software

Media. Disks, diskettes, tapes, cassettes, or other storage devices (magnetic cards, scan page, bar codes, etc) that contain software.

Public domain software - Software that has been made available for use without the requirement of licensing and no registration fee is requested.

Shareware. Software for which a registration/use fee is required for continued use.

FSH Reg 25-4

Software. Computer programs (whether it be on disk, diskette, tape, or cassette), procedures, rules, and associated documentation, concerned with the operation of a data processing system.

Superseded software. Software that has been replaced with an update or software that has expired.

The proponent of this regulation is the Directorate of Information Management. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to the Commander, Fifth U.S. Army and Fort Sam Houston, ATTN: AFZG-IM-OR, Fort Sam Houston, Texas 78234-5000

FOR THE COMMANDER:



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DISTRIBUTION:

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