Duplicating and Using Software

OVERVIEW

Faculty, staff, and students using the University's computer equipment or placing software on University computer systems must adhere to federal and state laws governing software duplication and use. Likewise, University faculty, staff, and students are to observe all contractual and licensing agreements between the University and software vendors or developers.

University personnel are not to receive, sell, loan, duplicate, download, or distribute copyrighted software unless authorized to do so under a licensing agreement.

University employees are to use University software in conformance with *BPPM* 20.37.

FEDERAL PROTECTION

Unless software has been expressly placed in the public domain, software is intellectual property protected by federal copyright and trademark law. As such, unauthorized duplication, downloading, distribution, or use of copyrighted software constitutes a violation of federal law. Circumventing copy protection measures is strictly forbidden and is a federal crime.

Civil damages for unauthorized software copying can be $100,000 or more per program and criminal penalties include fines and imprisonment. Penalties for trademark infringement can be as much as $100,000 per violation.

LICENSE AGREEMENTS

Buying and using software subjects both the University and the individual to legal restrictions and obligations. Commercial software is usually protected by license agreements. These license agreements can be contracts packaged with the software or agreements residing on the website where the software is obtained. Software companies generally require that the purchaser somehow indicate acceptance of the agreement before the purchaser may legally use the software. These agreements are binding contracts and the individual accepting the terms must have the appropriate authority.

If the software license agreement requires that agreement acceptance be indicated by a signature of an authorized University official, the department sends the software license agreement to Purchasing Services, mail code 1020. Purchasing Services secures the appropriate signature and returns the agreement to the software company. For assistance in determining whether or not such signature and approval is required, contact Purchasing Services; telephone 509-335-3541.

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LEGAL DUPLICATION /USE

Software users are to adhere to the software license when using or copying software. Generally, licensed and/or copyrighted software may not be duplicated, with the following exceptions:

- When copying is required for archival or backup purposes.

- When specifically permitted by the software vendor, e.g., in a license agreement or an authorizing letter.

Some license agreements have restrictions regarding the type of use, the number of users that can use the software, the number of installations, or the number of computers or stations that may access the software.

ACQUIRING ADDITIONAL COPIES

If additional copies or licenses of a licensed and/or copyrighted computer program are required for University-related purposes (other than backup), University personnel may take one of the following actions.

Purchase

Purchase the rights to the additional copies through regular purchasing channels (see *BPPM* 70.24).

Request Permission

Request permission from the software developer to duplicate the program.

The request should include all the following information:

- Title of the program
- Date of first use by the purchasing unit
- Period of intended use
- Proposed use of the copies
- Number of individual users of the software
- Number of copies required

Complete three copies of the request. Retain one copy in departmental files. Send two copies to the software developer.

Retain in departmental files a copy of the signed authorization received from the software company.

Telephone Approval

If immediate permission is required, it may be possible to secure verbal approval over the telephone. If verbal approval is granted, immediately confirm the permission with a follow-up letter to the software developer. Retain one copy of the letter in departmental files.