54-05

THE WHITE HOUSE

WASHINGTON

May 5, 2000

Copied
Sperling
Wartell
Podesta
Joel Johnson
Karen Tramontano

MEMORANDUM FOR THE PRESIDENT

CC: **JOHN PODESTA**

FROM: **GENE B. SPERLING**
SARAH ROSEN WARTELL

RE: **BANKRUPTCY LEGISLATION**

ISSUE PRESENTED:

The NEC Bankruptcy Working Group has prepared a letter to the Congress setting forth our detailed views on the House and Senate bankruptcy reform bills. Both of these bills passed by overwhelming margins, despite our threat to veto the House bill and the important reservations we expressed about the Senate bill. Consumer groups continue to oppose these bills. Many major editorial pages have been critical of both bills, although most are more favorable toward the Senate bill. We expect some will oppose the final product. The letter to Congress would reiterate our previous statements: It again threatens to veto the House bill and says that the Senate bill better meets your principles, although we have some serious concerns. Despite the lengthy criticism of the bills' provisions, the letter effectively signals that you are likely to sign the final legislation unless it contains the most noxious House provisions or drops most of the consumer and debtor protections achieved by Senate Democrats. We seek your reaction to this strategy before the letter is sent.

VIEWS OF YOUR ADVISORS:

All of your advisors support balanced bankruptcy reform. All believe that the final bill will do some good by encouraging personal responsibility and lowering credit card interest rates that are inflated because some debtors are too ready to use and even abuse Chapter 7's bankruptcy discharge. All of your advisors also agree that, due to an expensive lobbying effort by the credit card industry, the final bill will lack the balance we sought and will not demand similar responsibility from the credit card industry.

An important issue is whether or not the new rules, determining who should be required to go into Chapter 13 (which requires repayment of what a formula says you can repay), are flexible enough to deal with specific cases of hardship in unusual circumstances. The provisions we have pushed for – ultimately allowing the bankruptcy trustees and courts greater discretion – have been largely rejected. We have made reasonable progress in the bill in other areas; for example, the bill protects child support and alimony from competition from credit card debt in many cases and includes a safe harbor from the means test for below-median-income debtors.

Assuming that the final bill that comes to your desk is close to the Senate bill, all of your advisors agree that you should sign it, although for somewhat different reasons. Jack Lew, Chuck Brain, and Gene Sperling believe that, while the final bill may be on the whole a net minus, it is a relatively close call, and not worth the political downside of a veto override. Larry Summers believes that a final bill relatively close to the Senate bill is a net plus and should be signed on the merits. Bankruptcy reform, Larry argues, will have an impact similar to that of open trade: a few visible cases of hardship, but a larger less visible benefit of lower interest rates for credit card borrowers.

All of us feel that, while it is unfortunate that we do not have a more balanced bill, if the final bill stays relatively close to the Senate bill, it would be better to sign the bill with some reservations than to risk a veto override. For you to have any chance of sustaining a veto, or even to make a strong public statement through an override, we would need to launch a high profile battle against a "paid-for" bankruptcy bill – a battle that would indirectly put us at odds with friends like Senators Daschle and Torricelli, and allow others to say we were walking away from our individual responsibility message.

BACKGROUND:

Last May, the House bill passed by a veto-proof margin of 313 to 108. A Democratic substitute that we crafted with Congressman Nadler received only 149 votes and had no effect on our effort to give enough Democrats cover to help us achieve a veto-sustaining margin. Key House Democratic leaders, including Representatives Martin Frost, Bob Menendez, and Patrick Kennedy supported the underlying bill and opposed the Nadler substitute. Minority Leader Gephardt opposed the bill, although he announced his position well after other Members' positions in support had settled. When we talked to Senate Democrats, we found few were interested in our substantive concerns and many were eager to see a reform bill enacted. Some were willing to press for changes and modest improvements were achieved as a result. But few Senate Democrats were willing to oppose the legislation despite its imbalances. As a result, an improved but flawed bill passed the Senate by a vote of 83-14. Democrats opposing the bill on bankruptcy grounds were Senators Kennedy, Wellstone, Dodd, Feingold, Harkin, Reed, Sarbanes, Schumer, Lautenberg, and Moynihan. (A few of the 14 opposed the bill for other reasons.)

Although a formal conference committee has not been named, Congress is now working to reconcile the House and Senate bills. Republican and Democratic leadership expect to attach the bankruptcy provisions to a conference report on other legislation (perhaps Digital Signatures or Crop Insurance) in order to avoid procedural roadblocks placed by Senators Wellstone and Kennedy in trying to force another Senate vote on a two-year minimum wage increase.

The NEC working group drafted a letter to the informal conferees setting forth the Administration's detailed views on various provisions of both bills. It reiterates your senior advisors' veto threat that we issued on the House version of the legislation last May. It describes the Senate bill as more balanced and doing a better job of meeting your principles, although it details serious concerns we have about some of the Senate bill's provisions.

In a few cases, the letter explains that the House language is actually better than the Senate approach. (The letter also reiterates the veto threat on a bill including the minimum wage, tax, and school voucher amendments that were attached to the bill by the Senate, but we expect those non-relevant provisions to be dropped.) (Copy of cover letter at Appendix A.)

Your senior advisors believe that the relatively muted tone of this letter signals that you are likely to sign the final legislation, albeit with reservations. The details in the letter provide helpful guidance to the Democratic negotiators attempting to improve the bill in conference. Unless we significantly raise the level of our rhetoric now, your advisors will likely recommend that you sign the final bill, unless it drops the most visible improvement achieved by Senate Democrats or includes the most noxious aspects of the House bill.

Appendix B is a more detailed summary of some of our substantive concerns with the House and Senate Bills.

DECISION:

Proceed with Letter ✓ ***Let's Discuss*** _____

APPENDIX A

[Date]

The Honorable Orrin G. Hatch
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Hatch:

The Administration understands that, although conferees have not yet been named, your staff are discussing ways to reconcile the House and Senate versions of H.R. 833, the Bankruptcy Reform Act. The attachment to this letter outlines the Administration's views on these two versions of the bill. As you and your staff develop an agreement on this bill, your consideration of these views would be appreciated.

The President supports balanced consumer bankruptcy reform that would encourage responsibility and reduce abuses of the bankruptcy system on the part of debtors and creditors alike. To meet the test of balance, the bill that emerges from conference should be consistent with the key principles set forth by the President, as described in the enclosure. The President was disappointed that the House once again failed to produce balanced bankruptcy legislation that he could support. As we stated when H.R. 833 came to the House floor last spring, the President's senior advisors would recommend that he veto the House bill if it were presented to him. The bankruptcy provisions of the Senate bill generally do a better job of meeting the President's principles, although the Administration has serious concerns about some provisions.

The Administration notes that certain non-relevant amendments have been included in the Senate version of the bill. The President has made clear on a number of occasions that he strongly supports an increase in the minimum wage of $1 over the next two years. However, as the Administration has stated previously, if Congress sends him a bill delaying the increase, repealing overtime protections for certain workers, adding costly and unnecessary tax cuts that threaten fiscal discipline and direct benefits away from working families, thwarting ongoing efforts to enforce pension law, and including an objectionable private school voucher provision, he will veto it.

Thank you for your consideration of the Administration's views on these bills. We would be happy to discuss any of these concerns with you or your staff.

Sincerely,

Jacob J. Lew

Enclosure

Identical letters sent to The Honorable Patrick J. Leahy,
The Honorable Henry J. Hyde, and The Honorable John Conyers, Jr.

APPENDIX B

SUBSTANTIVE CONCERNS WITH THE HOUSE AND SENATE BILLS

Homestead Exemption: The Senate bill includes a $100,000 cap on the amount of home equity that states can allow debtors to shield from their creditors. The House bill has a cap of $250,000, but allows a state to opt-out, effectively eviscerating the cap. We have argued that it is fundamentally unfair to ask moderate-income debtors to repay what they can, while wealthy debtors can shield their resources in expensive homes. Most expect that the Senate cap will be dropped in conference, although rhetoric on this issue has the greatest potential to embarrass bill proponents.

Credit Card Protections: Although the provisions in both bills are weak, the Senate is somewhat stronger, providing new disclosures on teaser rates and the impact of making only the minimum payment on the length of time one will be repaying debt. Senate Democrats, including the leading Democratic bill proponent Senator Torrecelli, say they will oppose a conference report that further weakens these provisions, so the Senate provisions are likely to survive intact.

Means Test for Chapter 7 Discharge: Both bills use IRS tax collection guidelines to establish tests to determine whether a debtor has the capacity to repay a portion of their debt under a Chapter 13 repayment plan. If so, filing for a Chapter 7 discharge is deemed abuse. The House test is very rigid; the Senate bill has a bit more flexibility. We have argued unsuccessfully that various changes are needed to build more discretion into the system to determine whether, in the debtor's individual circumstances, they really have the capacity to repay (like the IRS has when it used the guidelines for tax collection). We also sought less stringent thresholds and various technical changes to prevent unfairness in the application of the test. Some provisions from each bill are better, but neither bill would address our fundamental concern. We expect a compromise with some of the better and worse features of each.

Protection of Child Support and Alimony: In the last Congress, the First Lady wrote of her concern with provisions that made additional credit card debt nondischargeable in bankruptcy, thus leaving it to compete with higher societal priorities that also are nondischargeable – especially payment of child support and alimony. In response, the bill's proponents added numerous provisions to clarify that child support and alimony are the highest priority. We believe that these provisions will work in many cases to improve the payment of child support and alimony in bankruptcy; however, in a small portion of cases after bankruptcy discharge, where there is no court supervision of child support and alimony payments or wage garnishment, these credit card debts could crowd out child support or alimony. Our argument is very technical; rhetorically, they have neutralized our criticism.

Debtor Protections Against Coercion: During bankruptcy, too many debtors are misled or tricked into agreeing to repay debts that they cannot afford and have a legal right to discharge. The Senate bill contains provisions that make it significantly more difficult to mislead or deceive debtors who cannot afford to reaffirm their debts, although the provisions could be significantly improved to strengthen the hand of debtors seeking remedies when the bill's requirements are not observed. (Certain consumer groups actually oppose the stronger Senate provisions, even though they would prevent many more abusive reaffirmations, because they also may provide creditors with new legal arguments in defending litigation.)

5-9-00

The House bill has far weaker provisions and, most notably, a ban on class actions when seeking remedy for abuse of these requirements. We expect the class action ban to be dropped and the Senate provisions to be retained largely intact, but without the desired improvements. If the class action ban is retained, newfound opposition to the bill may arise.

Clinic Violence: Recently, anti-abortion protesters have used personal bankruptcy to avoid penalties for violence against family planning clinics, some even strategically sending protestors who are judgment proof. Senator Schumer offered an amendment in the Senate that would make court-ordered and other debts resulting from such violence nondischargeable. We strongly supported the amendment. The Vice President was present in the Senate Chamber when they voted on the amendment to break a tie, if needed. To avoid embarrassment, Republicans urged their members to vote for the amendment and it passed by a vote of 80-17. The House has no comparable provision. In conference, they are expected to modify the amendment so that it covers debts from acts of violence generally, so they can avoid special protection for clinic violence debts. There may be technical flaws in their drafting of the broader amendment, so it will not protect all clinic-related debts. Abortion rights groups are not sure whether they want to fix these flaws, preferring to have the issue. If the Republicans drop the provision, Senate Democrats will likely rally; but if they simply broaden it to cover other violence, those eager to vote for the bill will likely concur.

Pension Benefit Protections: The Senate bill also included a provision that would allow debtors to waive in advance bankruptcy protections for certain retirement assets (IRAs and non-ERISA plans). Senator Grassley had earlier offered a provision that would have capped the pension assets that debtors could shield from creditors in bankruptcy, but facing labor opposition to that he instead opted for this. We fear that those of limited means and sophistication could be compelled (perhaps in the boilerplate of a credit card or loan application) to waive protections for the retirement assets. As awareness of this provision has grown, it has provoked a firestorm. We expect it to be modified or eliminated.

IT HAS SEEN
5-9-00

Copied
Podesta

THE WHITE HOUSE

WASHINGTON

May 5, 2000

This is very good
Nicely done

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN PODESTA
CHIEF OF STAFF

SUBJECT: SUMMARY OF ACTION TAKEN BY FEDERAL DEPARTMENTS AND AGENCIES TO SAFEGUARD AGAINST INTERNET ATTACKS

In light of the recent computer virus, I am forwarding you a summary of our efforts to protect the federal government from cyber-attacks. This memorandum summarizes the response to your March 3, 2000 directive to coordinate a review of the Federal Government's vulnerability to denial-of-service Internet attacks. Cabinet Secretaries and agency heads were instructed to assess the information technology protection efforts of their respective departments and agencies and implement measures to protect their computer systems against denial-of-service Internet attacks.

I am pleased to report that, of the 48 departments and agencies responding to the directive, no department or agency systems were found to be compromised. We are following up with all departments and agencies to ensure that they are taking appropriate measures to strengthen safeguards against denial-of-service attacks.

The actions taken by Federal departments and agencies in response to your directive are only the initial steps in an ongoing process to protect Federal computer and information systems. By continuing to work together to enhance incident response capabilities, develop security performance measures, create a systematic method for identifying and sharing security best practices, and identifying and protecting critical programs and infrastructures, Federal departments and agencies will safeguard their systems against denial-of-service Internet attacks and help to establish the Federal government as a model for information systems security.

Background

As you know, in early February, a series of denial-of-service attacks disrupted several prominent commercial websites and focused attention on the vulnerabilities of the Internet and computer technology. A denial-of-service attack overwhelms a website by bombarding

it, usually with messages or multiple requests for information. The target website is disrupted because it cannot handle the flood of messages. As a result, legitimate users are prevented from accessing the website. On February 15, you met with Internet experts and industry leaders to discuss these denial-of-service attacks and ways to improve cyber-security in the public and private sectors.

Your meeting with Internet experts and industry leaders is only one example of this Administration's long-standing commitment to cyber-security. In May of 1998, you issued Presidential Decision Directive 63, *Protecting America's Critical Infrastructures*, which called for a national strategy to protect our increasingly vulnerable and interconnected information systems; the first National Plan for Information Systems Protection was released in January 2000. In addition, your Fiscal Year 2001 Budget requests additional resources for new initiatives to protect critical information assets and support cyber-security.

Following your March 3, 2000 directive, both Office of Management and Budget (OMB) Director Jack Lew and I issued cyber-security guidance to the Federal departments and agencies (see attached memoranda). These actions are components of a long-term Federal strategy to establish the Federal government as a cyber-security model.

Implementing the March 3, 2000 Directive

On March 9, 2000, OMB, the National Security Council, and the Office of Cabinet Affairs asked Federal departments and agencies to take the following actions to implement your directive:

1) Implement FedCIRC Guidance: Departments and agencies were instructed to review and take all necessary action set forth in the applicable security advisories from the General Service Administration's (GSA) Federal Computer Incident Response Capability (FedCIRC) recently issued guidance on how to protect against and respond to denial-of-service attacks. In addition, they were told to report to GSA by March 24, 2000 to confirm that they had taken steps to raise the awareness of the denial-of-service issue within their respective organizations.

2) Acquire and apply software tools for detection of denial-of-service agents: FedCIRC and the National Infrastructure Protection Center (NIPC) developed software tools to detect whether systems were infected with malicious denial-of-service software code. Departments and agencies were instructed to acquire, free-of-charge, and use the available detection software to test their systems.

3) Establish incident response procedures: Departments and agencies were instructed to establish formal incident response or handling procedures and disseminate them widely within their respective department or agency consistent with existing OMB policy.

Results to Date

Forty-eight agencies responded, including Cabinet offices, all of which have implemented the FedCIRC Guidance and acquired and applied the software tools for detecting malicious denial-of-service codes. These two steps are the most critical to determining whether Federal computer systems have been compromised and could be used to surreptitiously promote denial-of-service attacks against other systems. No department or agency systems were reported as compromised. A memorandum from FedCIRC evaluating the department and agency responses is attached.

OMB and GSA have followed up with the nine agencies from which reports are outstanding to ensure that they have taken appropriate immediate action to address the denial-of-service issue.

While the departments and agencies have taken action to implement the FedCIRC Guidance and acquire and apply software tools for detection of denial-of-service code, the action taken to establish and implement incident response procedures is far less complete. OMB and GSA will follow up with the departments and agencies to pursue these issues during program reviews and as part of future actions described below.

Next Steps

We have identified six additional steps for the departments and agencies to take in the next several months:

1) Enhancing Incident Response Capabilities: OMB has established a Chief Information Officer (CIO) Council that is working with the departments and agencies to create better and more effective incident response procedures and capabilities.

2) Creating Standards for Cyber-Security: OMB, the CIO Council, and the National Institute of Standards and Technology (NIST) have developed draft security performance standards to assess department and agency security programs. These performance standards are based upon requirements already found in OMB's security policy, GAO's financial systems audit manual, and NIST's technical security guidance to the departments and agencies. The standards will be circulated for agency comment and then issued by either NIST or the CIO Council.

3) Implementing Security Best Practices: OMB, the CIO Council, and NIST have created a systematic method for identifying, assessing, and sharing security best practices. To assist the departments and agencies, NIST and the CIO Council are collecting models of best practices from government and industry. This information is currently available to Federal departments and agencies on the CIO Council website.

4) Protecting High Impact Programs. OMB plans to review the security posture of department and agency systems that support the 43 "High Impact" programs identified during the Y2K remediation process as critical Federal Government programs, e.g., social security, unemployment insurance, child welfare, air traffic control, and disaster relief. OMB and the CIO Council have developed a questionnaire to facilitate this review which they anticipate sending this month. The results of the review will be used to assist agencies in meeting the requirements detailed in OMB Director Lew's memorandum (see attached memorandum) on incorporating and funding security in information systems investments.

5) Identifying Key Interdependencies: The OMB, NSC, and the Critical Infrastructure Assurance Office (CIAO) are working together to identify critical infrastructures and system interconnections and interdependencies so that appropriate security measures may be implemented. A series of pilot programs have been completed or are underway with selected agencies.

6) Protecting Contractor Systems: Where appropriate and feasible, OMB will work with agencies to extend testing and evaluation to include contractor systems.

Conclusion

The actions taken by Federal departments and agencies in response to your directive are important initial steps toward protecting Federal computer and information systems from denial-of-service attacks. I am pleased to report that, under this review, no department or agency systems were found to be compromised.

Much more work remains to be done and we will follow up to ensure that all departments and agencies implement the next steps. These actions are an essential part of the Administration's ongoing strategy to improve the security posture of Federal government systems and establish the Federal government as a model of information systems security.

THE WHITE HOUSE

WASHINGTON

February 22, 2000

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

FROM: John Podesta
Chief of Staff

SUBJECT: Security of Federal Information Systems

In light of recent events regarding the security of government web sites, I want to remind you that each agency is required to maintain adequate security of all information systems -- especially those that are publicly accessible. The importance of this cannot be overstated.

The Chief Information Officers Council, the National Institute of Standards and Technology (NIST) and the General Services Administration (GSA) are working together to assist you in improving computer security and critical infrastructure protection. They are developing performance measures to assess computer security programs, compiling sample policies and best practices to share across government, and developing ways to facilitate the timely installation of security patches for known vulnerabilities.

Technical and operational security guidance is available to protect your web sites and computer systems. Please ensure that your staff is following the guidance from NIST and GSA's *Federal Computer Incident Response Capability* which may be found on their respective websites -- http://csrc.nist.gov and http://www.fedcirc.gov.

All agency security practices should be consistent with NIST/GSA guidance and with the security policies issued by the Office of Management and Budget. In addition, the security practices for your national security systems should comport with applicable guidance for those systems. Thank you.

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

February 28, 2000

THE DIRECTOR

M-00-07

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

From: Jacob J. Lew
Director

Subject: Incorporating and Funding Security in Information Systems Investments

This memorandum reminds agencies of the Office of Management and Budget's (OMB) principles for incorporating and funding security as part of agency information technology systems and architectures and of the decision criteria that will be used to evaluate security for information systems investments. The principles and decision criteria are designed to highlight our existing policy and thereby foster improved compliance with existing security obligations; this memorandum does not constitute new security policy. OMB plans to use the principles as part of the FY 2002 budget process to determine whether an agency's information systems investments include adequate security plans.

Protecting the information and systems that the Federal government depends on is important as agencies increasingly rely on new technology. Agencies are working to preserve the integrity, reliability, availability, and confidentiality of important information while maintaining their information systems. The most effective way to protect information and systems is to incorporate security into the architecture of each. This approach ensures that security supports agency business operations, thus facilitating those operations, and that plans to fund and manage security are built into life-cycle budgets for information systems.

This memorandum is written pursuant to the Information Technology Management Reform Act (the Clinger-Cohen Act) which directs OMB to develop, as part of the budget process, a mechanism to analyze, track, and evaluate the risks and results of major capital investments made by an executive agency for information systems. Additionally, the Clinger-Cohen Act calls for OMB to issue clear and concise direction to ensure that the information security policies, processes, and practices of the agencies are adequate. These criteria will be incorporated into future revisions of OMB Circular A-130 ("Management of Federal Information Resources") and should be used in conjunction with previous OMB guidance on sound capital planning and investment control in OMB Memorandum 97-02, "Funding Information Systems Investments"; OMB Memorandum 97-16, "Information Technology Architectures"; and subsequent updates.

Security programs and controls implemented under this memorandum should be consistent with the Computer Security Act, the Paperwork Reduction Act, the Clinger-Cohen Act, and OMB Circular A-130. They should also be consistent with security guidance issued by the National Institute of Standards and Technology (NIST). Security controls for national security telecommunications and information systems should be implemented in accordance with appropriate national security directives.

Principles

The principles outlined below will support more effective agency implementation of both agency computer security and critical information infrastructure protection programs. In terms of Federal information systems, critical infrastructure protection starts with an effort to prioritize key systems (e.g., those that are most critical to agency operations). Once systems are prioritized, agencies apply OMB policies and, for non-national security applications, NIST guidance to achieve adequate security commensurate with the level of risk and magnitude of likely harm.

Agencies should develop security programs and incorporate security and privacy into information systems with attention to the following principles:

- Effective security is an essential element of all information systems.

- Effective privacy protections are essential to all information systems, especially those that contain substantial amounts of personally identifiable information. The use of new information technologies should sustain, and not erode, the privacy protections provided in all statutes and policies relating to the collection, use, and disclosure of personal information.

- The increase in efficiency and effectiveness that flows from the use of interconnected computers and networks has been accompanied by increased risks and potential magnitude of loss. The protection of Federal computer resources must be commensurate with the risk of harm resulting from any misuse or unauthorized access to such systems and the information flowing through them.

- Security risks and incidents must be managed in a way that complements and does not unnecessarily impede agency business operations. By understanding risks and implementing an appropriate level of cost-effective controls, agencies can reduce risk and potential loss significantly.

- A strategy to manage security is essential. Such a strategy should be based on an ongoing cycle of risk management and should be developed in coordination with and implemented by agency program officials. It should identify significant risks, clearly establish responsibility for reducing them, and ensure that risk management remains effective over time.

- Agency program officials must understand the risk to systems under their control and determine the acceptable level of risk, ensure that adequate security is maintained to support and assist the programs under their control, and ensure that security controls comport with program needs and appropriately accommodate operational necessities. In addition, program officials should work in conjunction with Chief Information Officers and other appropriate agency officials so that security measures support agency information architectures.

Policy

Security should be built into and funded as part of the system architecture. Agencies should make security's role explicit in information technology investments and capital programming. These actions are entirely consistent with and build upon the principles outlined in OMB Memorandum 97-02. Accordingly, investments in the development of new or the continued operation of existing information systems, both general support systems and major applications, proposed for funding in the President's budget must:

1. Be tied to the agency's information architecture. Proposals should demonstrate that the security controls for components, applications, and systems are consistent with and an integral part of the information technology architecture of the agency.

2. Be well-planned, by:

a) Demonstrating that the costs of security controls are understood and are explicitly incorporated in the life-cycle planning of the overall system in a manner consistent with OMB guidance for capital programming.

b) Incorporating a security plan that discusses:
   - the rules of behavior for the system and the consequences for violating those rules;
   - personnel and technical controls for the system;
   - methods for identifying, appropriately limiting, and controlling interconnections with other systems and specific ways such limits will be monitored and managed;
   - procedures for the on-going training of individuals that are permitted access to the system;
   - procedures for the on-going monitoring of the effectiveness of security controls;
   - procedures for reporting and sharing with appropriate agency and government authorities indications of attempted and successful intrusions into agency systems;
   - provisions for the continuity of support in the event of system disruption or failure.

3. Manage risks, by:

a) Demonstrating specific methods used to ensure that risks and the potential for loss are understood and continually assessed, that steps are taken to maintain risk at an acceptable level, and that procedures are in place to ensure that controls are implemented effectively and remain effective over time.

b) Demonstrating specific methods used to ensure that the security controls are commensurate with the risk and magnitude of harm that may result from the loss, misuse, or unauthorized access to or modification of the system itself or the information it manages.

c) Identifying additional security controls that are necessary to minimize risks to and potential loss from those systems that promote or permit public access, other externally accessible systems, and those systems that are interconnected with systems over which program officials have little or no control.

4. Protect privacy and confidentiality, by:

a) Deploying effective security controls and authentication tools consistent with the protection of privacy, such as public-key based digital signatures, for those systems that promote or permit public access.

b) Ensuring that the handling of personal information is consistent with relevant government-wide and agency policies, such as privacy statements on the agency's web sites.

5. Account for departures from NIST Guidance. For non-national security applications, to ensure the use of risk-based cost-effective security controls, describe each occasion when employing standards and guidance that are more stringent than those promulgated by the National Institute for Standards and Technology.

In general, OMB will consider new or continued funding only for those system investments that satisfy these criteria and will consider funding information technology investments only upon demonstration that existing agency systems meet these criteria. Agencies should begin now to identify any existing systems that do not meet these decision criteria. They should then work with their OMB representatives to arrive at a reasonable process and timetable to bring such systems into compliance. Agencies should begin with externally accessible systems and those interconnected systems that are critical to agency operations. OMB staff are available to work with you if you or your staff have questions or need further assistance in meeting these requirements.

Federal Computer Incident Response Capability

March 28, 2000

MEMORANDUM FOR GLENN SCHLARMAN
OFFICE OF MANAGEMENT AND BUDGET

FROM: DAVID L. JARRELL
DIRECTOR, FedCIRC

SUBJECT: SECURITY AGAINST DENIAL OF SERVICE ATTACKS, AGENCY RESPONSE SUMMARY

In response to the request made by the White House Chief of Staff, the Federal Computer Incident Response issued a data call memorandum to all Federal agencies and departments to profile specific information technology protection efforts.

Each of the agencies or departments addresses herein responded to a common request for information pertaining to *Distributed Denial of Service (DDoS)* and *Cross-site Scripting* attacks and associated activities within their respective organization. Specifically:

1) Has the agency/department viewed FedCIRC Advisories associated with Denial of Service and Cross-site Scripting Attacks?

2) Has the agency/department downloaded and applied the detection tools for the denial of service agents available on the FedCIRC web site?

3) Has the agency/department taken steps to raise awareness of these issues within their respective organization?

4) Does the agency/department have a formal incident response or handling capability established?

5) Are agency/department's incident response and handling procedures documented and widely disseminated within their respective organization?

6) Are the appropriate points of contact for the agency/department registered with the FedCIRC to insure timely receipt of future security and vulnerability bulletins?

Agency and departmental responses were generally good and indicated a move toward responsible network management.

In order to profile agency and departmental responses, FedCIRC generated an evaluation metric based on the critical nature of each of the above questions. Each question carries a "weight" commensurate with its importance to the DDoS issue. The six questions carry a numeric value of 50.8, 12.7, 25.4, 6.3, 3.2 and 1.6 respectively with a possible score of 100 if all questions are answered in the affirmative.

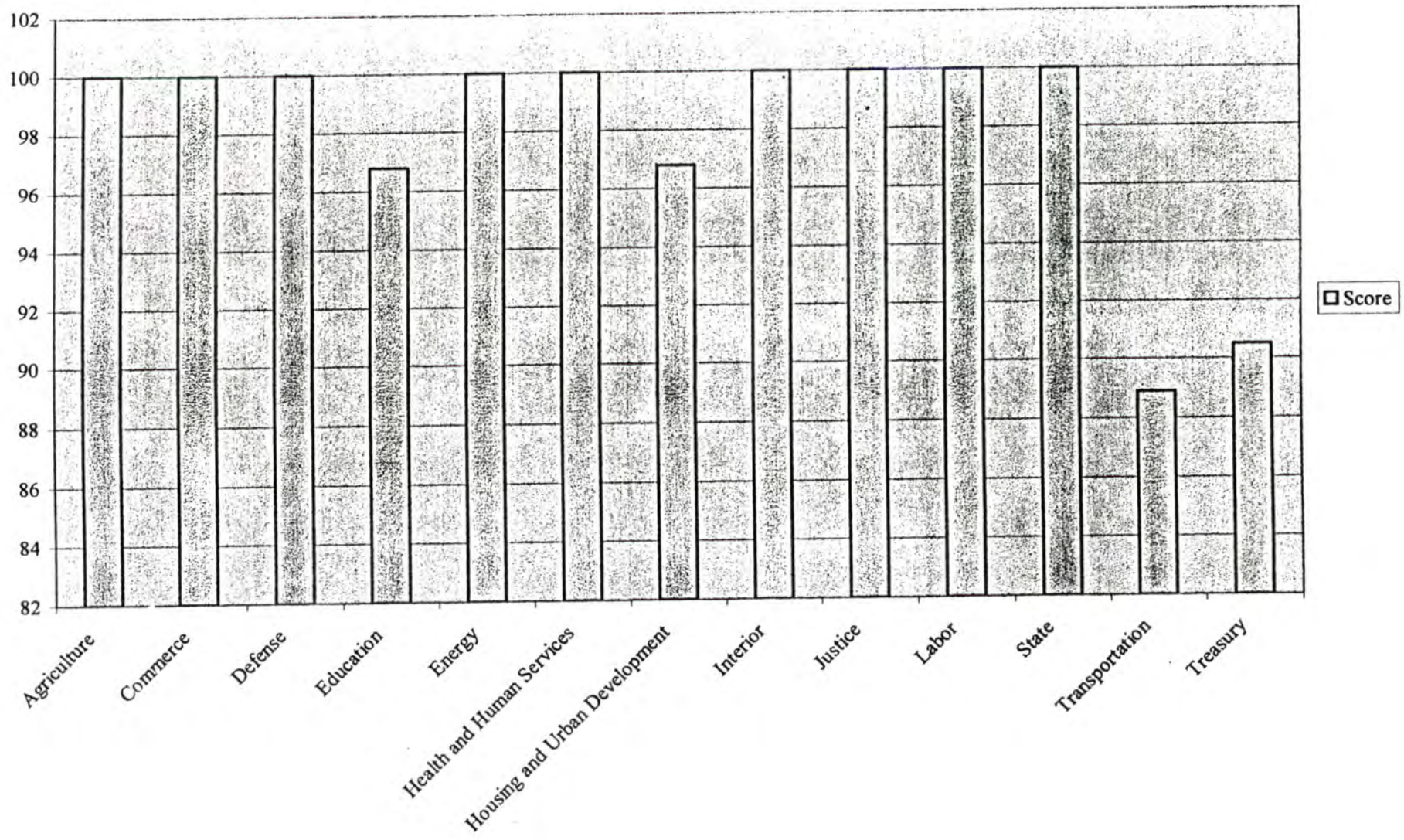
Enclosures show the responses in both raw and graphical formats and are broken down to differentiate between statutory cabinet departments and other federal agencies.

Questions pertaining to this information should be addressed to David Jarrell at (202) 708-5608 or by e-mail to djarrell@fedcirc.gov.

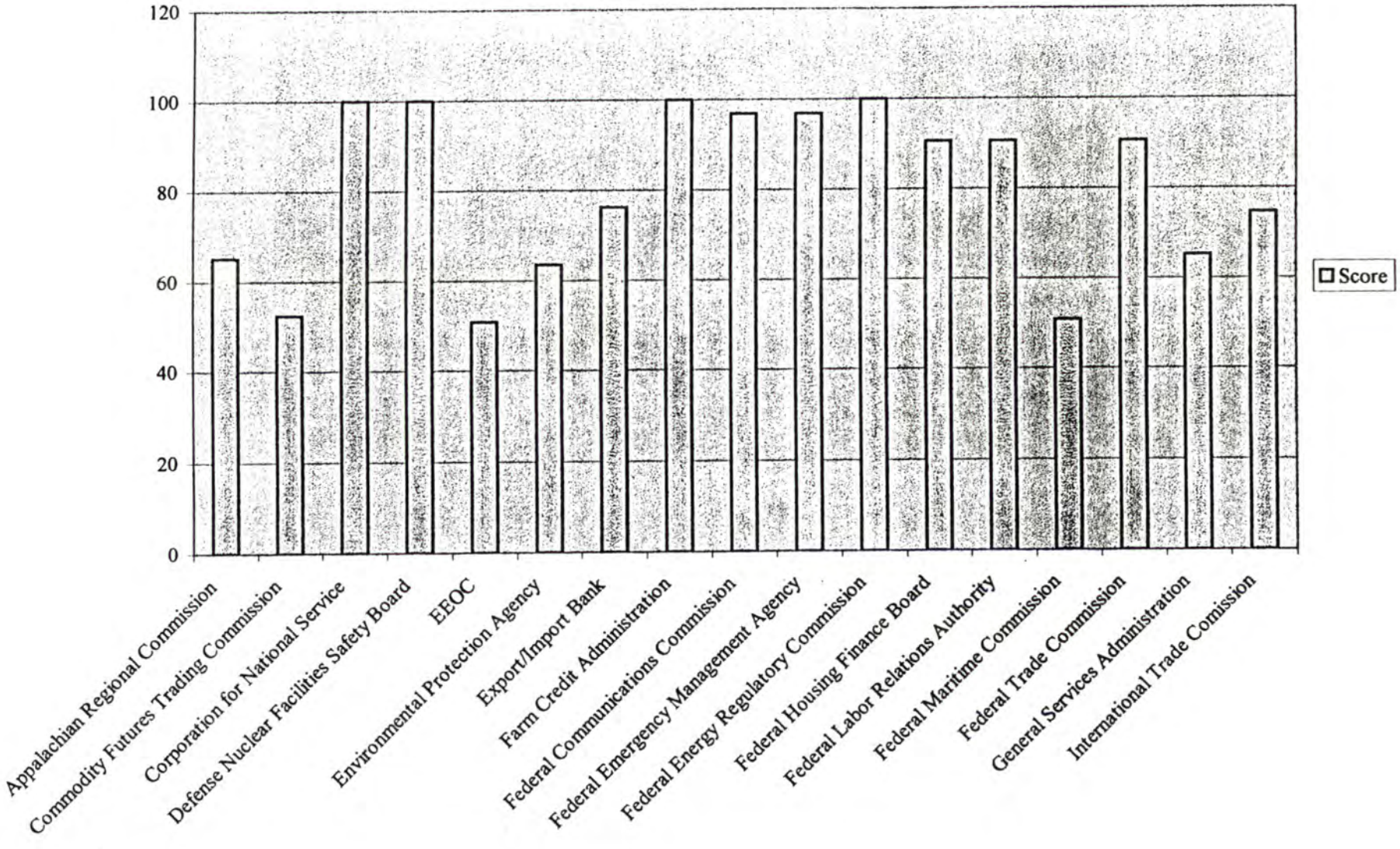
Agency DDOS Grade Raw Data

Agency	Receive and Review FedCIRC Advisories	Downloaded & Applied DDoS Tools	Formal Security Awareness Training	Formal Comp. Incident Response & Handling Program	CIRH Procedures distributed to all	POC's Registered with FedCIRC
Agriculture	Yes	Yes	Yes	Yes	Yes	Yes
Appalachian Regional Commission	Yes	Yes	No	No	No	Yes
Commerce	Yes	Yes	Yes	Yes	Yes	Yes
Commodity Futures Trading Commission	Yes	No	No	No	No	Yes
Corporation for National Service	Yes	Yes	Yes	Yes	Yes	Yes
Defense	Yes	Yes	Yes	Yes	Yes	Yes
Defense Nuclear Facilities Safety Board	Yes	Yes	Yes	Yes	Yes	Yes
Education	Yes	Yes	Yes	Yes	No	Yes
EEOC	Yes	No	No	No	No	No
Energy	Yes	Yes	Yes	Yes	Yes	Yes
Environmental Protection Agency	Yes	Yes	No	No	No	No
Export Import Bank	Yes	No	Yes	No	No	Yes
Farm Credit Administration	Yes	Yes	Yes	Yes	Yes	Yes
Federal Communications Commission	Yes	Yes	Yes	Yes	No	Yes
Federal Emergency Management Agency	Yes	Yes	Yes	Yes	No	Yes
Federal Energy Regulatory Commission	Yes	Yes	Yes	Yes	Yes	Yes
Federal Housing Finance Board	Yes	Yes	Yes	No	No	Yes
Federal Labor Relations Authority	Yes	Yes	Yes	No	No	Yes
Federal Maritime Commission	Yes	No	No	No	No	No
Federal Trade Commission	Yes	Yes	Yes	No	No	Yes
General Services Administration	Yes	Yes	No	No	No	Yes
Health and Human Services	Yes	Yes	Yes	Yes	Yes	Yes
Housing and Urban Development	Yes	Yes	Yes	Yes	No	Yes
Interior	Yes	Yes	Yes	Yes	Yes	Yes
International Trade Comission	Yes	Yes	No	Yes	Yes	Yes
Justice	Yes	Yes	Yes	Yes	Yes	Yes
Labor	Yes	Yes	Yes	Yes	Yes	Yes
National Aeronautics and Space Administration	Yes	Yes	Yes	Yes	Yes	Yes
National Archives and Records Administration	Yes	Yes	Yes	Yes	No	Yes
National Endowment for the Humanities	Yes	Yes	No	No	No	No
National Labor Relations Board	Yes	Yes	Yes	Yes	Yes	Yes
National Mediation Board	Yes	Yes	No	No	No	Yes
National Science Foundation	Yes	Yes	Yes	Yes	Yes	Yes
Office of Government Ethics	Yes	No	No	No	No	Yes
Office of Personnel Management	Yes	Yes	Yes	No	No	No
Office of Special Counsel	Yes	Yes	Yes	No	No	Yes
Peace Corps	Yes	Yes	No	No	No	No
Pension Benefit Guarantee Corporation	Yes	Yes	Yes	No	No	No
Selective Service System	Yes	Yes	No	Yes	No	Yes
Small Business Administration	Yes	Yes	Yes	Yes	Yes	Yes
Social Security Administration	Yes	Yes	Yes	Yes	Yes	Yes
State	Yes	Yes	Yes	Yes	Yes	Yes
Transportation	Yes	Yes	Yes	No	No	No
Treasury	Yes	Yes	Yes	No	No	Yes
US Chemical Safety and Hazard Investigation Board	Yes	Yes	Yes	No	No	Yes
US Consumer Product Safety Commission	Yes	Yes	Yes	Yes	Yes	Yes
US Nuclear Regulatory Commission	Yes	Yes	Yes	Yes	No	Yes
US Railroad Retirement Board	Yes	No	No	Yes	Yes	Yes
Veteran Affairs	Yes	Yes	Yes	Yes	No	Yes

Note: Organizations annotated as not having downloaded and applied the DDoS detection tools are in receipt of the tools but have not taken action to employ them as of this time.


Cabinet Level Department DDoS Action Profile
102
100
98
96
94
92
90
88
86
84
82
Agriculture
Commerce
Defense
Education
Energy
Health and Human Services
Housing and Urban Development
Interior
Justice
Labor
State
Transportation
Treasury
Score

Non-Cabinet Level Agencies (A-M) DDoS Action Profile

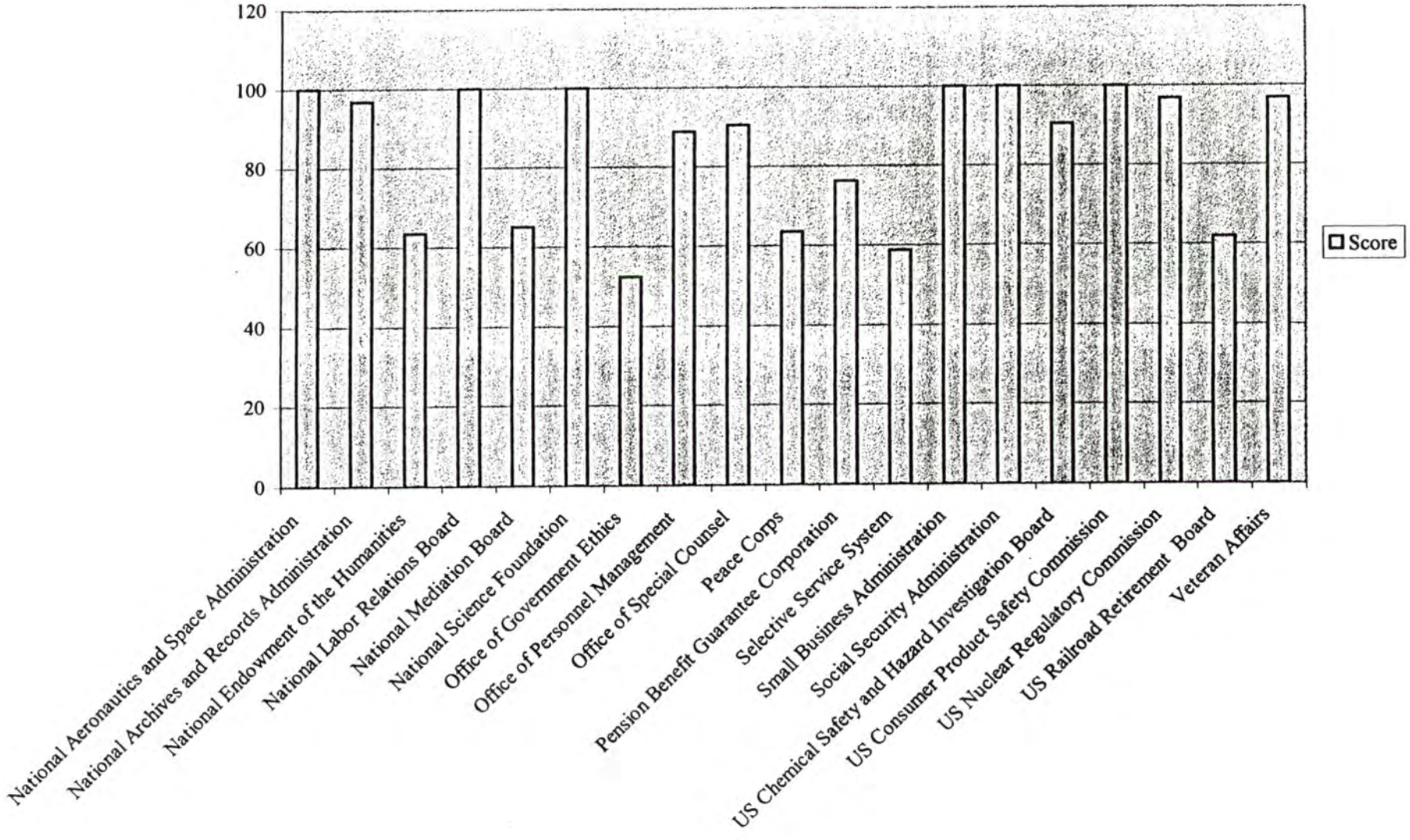


Grading of Government Agencies for IS Security Preparedness

Agency	Score
Agriculture	100
Appalachian Regional Commission	65.1
Commerce	100
Commodity Futures Trading Commission	52.4
Corporation for National Service	100
Defense	100
Defense Nuclear Facilities Safety Board	100
Education	96.8
EEOC	50.8
Energy	100
Environmental Protection Agency	63.5
Export Import Bank	77.8
Farm Credit Administration	100
Federal Communications Commission	96.8
Federal Emergency Management Agency	96.8
Federal Energy Regulatory Commission	100
Federal Housing Finance Board	90.5
Federal Labor Relations Authority	90.5
Federal Maritime Commission	50.8
Federal Trade Commission	90.5
General Services Administration	65.1
Health and Human Services	100
Housing and Urban Development	96.8
Interior	100
International Trade Comission	74.6
Justice	100
Labor	100
National Aeronautics and Space Administration	100

Thursday, March 30, 2000

Non-Cabinet Level (N-Z) DDoS Action Profile



Agency	Score
National Archives and Records Administration	96.8
National Endowment for the Humanities	63.5
National Labor Relations Board	100
National Mediation Board	65.1
National Science Foundation	100
Office of Government Ethics	52.4
Office of Personnel Management	88.9
Office of Special Counsel	90.5
Peace Corps	63.5
Pension Benefit Guarantee Corporation	76.2
Selective Service System	58.7
Small Business Administration	100
Social Security Administration	100
State	100
Transportation	88.9
Treasury	90.5
US Chemical Safety and Hazard Investigation Board	90.5
US Consumer Product Safety Commission	100
US Nuclear Regulatory Commission	96.8
US Railroad Retirement Board	61.9
Veteran Affairs	96.8

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Fax: 610-896-6885

7 May 2000

William Jefferson Clinton
President of the United States
The White House
Washington, DC 20005

Dear Mr. President:

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In a political climate dominated by the kind of selfishness that masquerades as concern for private industry, the "right" of local self determination, and near loathing for Federal "interference" in the everyday lives of the people, a modern WPA cannot be mounted as a pure governmental initiative. Yet if we ask American industry to partner with its government to mount giant programs that might not be profitable at the level taken for granted today but that might be guaranteed in some way acceptable to both, an immense labor force might be mobilized toward the national good. The availability of honest pay for honest work will not bring an immediate stop to the traffic in drugs, the epidemic of incivility, or the loss of normal family structure. But over the first few years of the project, men and women alike will learn that they can trust their income enough to form solid family structures, do not have to support themselves and their families by illegal means, can stop killing each other, and can earn health benefits far better than any now provided by demeaning public programs. The dangers of life will yield slowly to the safety associated with stability, but they will yield.

In addition to the expected repairs, many new programs might be entertained. Rather than build something analogous to our now archaic system of hard wired communication devices, China has started to install the most modern form of radiotelephones possible. Maybe every American city needs massive conduits for computational interconnection, pipes for which no room

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The modern epidemic of incivility, violence, drug abuse, and civic unrest bears significant relation to the poverty associated with loss of the industrial jobs that once provided income, stability, and dignity to America's inner cities. This noxious effect on large segments of our population was an unexpected result of normal business logic that required steady reduction of labor costs and increased use of information technology, just at a time when the peace dividend reduced significantly the Armed Forces that once employed millions of citizens. Just as the Industrial Revolution created the environmental movement, deindustrialization calls for remedies that might return our nation at least to a safer holding position and optimally make ready large numbers of presently disadvantaged people for a leap forward.

I suggest that now, when our nation is the richest in its history, we update a strategy utilized in the time of our worst economic woes. It was the WPA that built America's roads, reservoirs, bridges, public buildings, water and sewage pipes, and most other elements of its infrastructure at a time when a huge fraction of the American public could not get a job. Two thirds of a century later, this same infrastructure is crumbling; the nation fears the inconvenience and dreads the expense associated with its repair. Why not call for public/private cooperation at the greatest level in our history, cooperation to rebuild America by bringing honorable work to the inner city, to the poorest rural regions – anywhere men and women want to work.

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exists in the crowded space beneath our streets. In an era when civic water resources are dwindling, leaky pipes squander half of what we try to deliver. If we rebuild the streets from depth to surface, we can outfit America to be ready for a new century when both clean data and pure water must flow. Such a program would find favor with the leaders of organized labor, religion, business, and most local municipalities.

What do you think? Is something like this already under consideration? Is so grand a vision of a repaired and rebuilt nation too large an undertaking in an era when every pundit suggests that downsized is a synonym for efficient? The end of the drug epidemic, the return of stable family life, reduction in all of the diseases associated with staggering poverty, a welcome to the tax rolls for a immense segment of our population – is all this worth the agony of public debate with short sighted critics afraid of change but themselves protected from what most needs our attention?

Thank you for your attention to this letter, and for your permission to contact you with such material. I remain proud to assist in any way that might prove useful to my President.

Sincerely,

Donald L. Nathanson

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Executive Director
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Jefferson Medical College

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5-9-00

To Burkhardt for reply?

Yes ✓ No —

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