

M-XX-XX

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

**FROM: Anne E. Rung, United States Chief Acquisition Officer
Tony Scott, United States Chief Information Officer**

SUBJECT: Category Management Policy 16-1: Improving the Acquisition and Management of Common Information Technology: Software Licensing

Each year, the Federal Government spends more than \$9 billion on software¹ through more than 50,000 transactions, which results in a fragmented and inefficient marketplace. A recent report by the Government Accountability Office (GAO)² indicates that agencies buy and manage software licenses in a decentralized manner, struggle to create accurate inventories, often purchase unneeded capabilities, and generally do not share pricing, terms, and conditions across Government to facilitate better purchasing. Furthermore, most agencies do not have a designated central oversight authority to manage software agreements, and agency personnel often lack sufficient experience and expertise to effectively negotiate and manage large software agreements. This memorandum addresses these and other challenges in information technology (IT) commodity management, specifically software licensing, in order to help agencies improve the acquisition and management of common IT goods and services. This memorandum follows recent Office of Management and Budget (OMB) guidance regarding new requirements for purchasing desktops and laptops³.

¹ For the purposes of this Memorandum, IT software includes the costs of commercial software licenses, subscriptions (including Software-as-a-Service, as defined in NIST Special Publication 800-145) and maintenance (upgrades, patches, limited helpdesk support). This memo only applies to commercial software, not custom services or the development/coding of new software. However, Agencies shall develop agency processes and guidelines to manage software consistent with OMB policies and guidance, to include OMB circular A-130 and the Federal Acquisition Regulation. These processes and guidelines must embrace a total lifecycle approach in accounting for IT software, which would include methods of acquisition, professional services, consulting services, integration services and other administrative tasks necessary for effective software implementation. The processes and guidelines must also include alternatives analyses in a technology neutral manner that is merit-based, and considers such factors as performance, total cost of ownership, security, interoperability, ability to share or re-use, and availability of quality support. In the context of developing requirements for software, this means alternatives should include proprietary, open source, and mixed source technologies that allow the agency to pursue the best strategy to meeting mission needs.

² GAO-14-413 Federal Software Licenses, Better Management Needed to Achieve Significant Savings Governmentwide

³ M-16-02; <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-02.pdf>

The Federal Information Technology Acquisition Reform Act (FITARA)⁴ and the Office of Management and Budget's category management initiative⁵ address a number of IT management challenges by directing agencies to buy and manage common commodities – like commercial software – in a more coordinated way. To fully leverage the Government's vast buying power, improvements must be made at both the agency and the governmentwide level. Agencies need to move to a more centralized management structure so they can reduce underutilization and maximize the use of best-in-class solutions⁶. In parallel, governmentwide strategies, such as increasing the number and use of enterprise software agreements and developing better inventory tools, are needed to reduce duplication of efforts. The success of these governmentwide steps depends on the improvements that agencies make in their own license management programs.

As explained below, the Enterprise Software Category Team (ESCT)⁷, co-managed by the General Services Administration (GSA), the Department of Defense (DOD), and OMB, will develop governmentwide software license agreements for mandatory agency use, and OMB will encourage or direct use of best-in-class existing software licensing agreements. The memorandum further requires agencies to develop transition plans in accordance with ESCT guidance to address how agencies will transition their existing agreements to those that are mandated by the ESCT. Agencies must also justify and obtain high-level agency approval for pursuit of new agreements that overlap with the ESCT mandated agreements.

Agency Strategies – Centralizing and Improving Software Management

FITARA provides new authorities and responsibilities that Chief Information Officers (CIOs) can use to improve their IT management. To improve agencies' software management programs, CIOs, in coordination with Chief Acquisition Officers (CAOs), shall:

1) Appoint a software manager, with a supporting team, reporting to the agency CIO, to manage all agency contracts and licenses for commercial software. At a minimum, the software manager shall:

- Develop and implement a plan for moving to more centralized management of software licenses that addresses life-cycle phases, funding aggregation, and other considerations, such as cloud-based licensing models (e.g., Software-as-a-Service (SaaS) and mobile device application management.
- Increase use of governmentwide software license agreements and strategies and reduce duplication. This policy establishes business rules that apply after a determination has been made that a product meets a validated need, based on technical requirements consistent with the procurement regulations. In cases where

⁴ Section 837 of the National Defense Authorization Act (NDAA) for Fiscal Year 2015; <https://www.congress.gov/113/plaws/publ291/PLAW-113publ291.pdf#page=148>

⁵ <https://www.whitehouse.gov/sites/default/files/omb/procurement/memo/simplifying-federal-procurement-to-improve-performance-drive-innovation-increase-savings.pdf>

⁶ https://hallways.cap.gsa.gov/Gov-wide_CM_Guidance_V1.pdf

⁷ The ESCT is a subgroup of the Category Management Leadership Council, formerly known as the Strategic Sourcing Leadership Council (SSLC). The SSLC was established under M-13-02, Improving Acquisition through Strategic Sourcing; https://www.whitehouse.gov/sites/default/files/omb/memoranda/2013/m-13-02_0.pdf.

there is an endorsed governmentwide or multi-agency agreement available, the software manager is responsible for utilizing the agreement.

Agencies may continue the use of mandatory agency-wide software license agreements through the end of the current base or option period, as applicable. When a governmentwide solution is available, the agency shall analyze terms, conditions, pricing, performance, fees, and savings under the agency agreement relative to the approved agreements, document findings, and provide this information to the ESCT for approval no less than 6 months prior to the exercise of each option. Eighteen (18) months prior to any recompetition of these solutions, the agency must submit a transition plan to the ESCT that outlines how the agency will transition to the governmentwide agreement. Specific instructions for the strategy will be posted on MAX at the following URL:

- Develop a vendor management strategy and implement processes to improve relationships with suppliers, better understand the marketplace, and support development of IT sourcing strategies within 120 days. Specific instructions for the strategy will be posted on MAX at the following URL:
- Ensure that the personnel involved in software license management (e.g., legal, acquisition, system administration, technical support, and users as appropriate) are trained in IT relevant software management topics, such as intellectual property and software contracts and license negotiations, laws, regulations, acquisitions, license compliance, software audit, security planning, configuration management, etc. OMB will work with the Federal Acquisition Institute and the Defense Acquisition University to identify and/or develop appropriate training to facilitate this requirement.
- Develop and implement an assessment and approval process to determine the cost and benefit of purchasing software maintenance programs, which also considers operational impacts and cybersecurity risks.

All CFO Act Agencies shall provide to OMB the name and contact number of the agency's software manager within 45 days of the issuance of this memo, and the agency centralized software license management plan is due to OMB on May 31, 2016 via OMB's Integrated Data Collection (IDC),⁸ which is part of the Office of the Federal CIO's PortfolioStat initiative.

2) Maintain comprehensive annual inventories of software license and subscription spending and enterprise licenses, including license count and usage. Consistent with Section 4 of Executive Order 13589⁹, agencies must better understand the true usage of certain types of software.

- No later than September 30, 2016, agencies shall, to the extent practicable, leverage Continuous Diagnostics and Mitigation (CDM) tools and Continuous Monitoring as a Service (CMaaS) to report on software inventory and usage. The agency's centralization plan shall explain how this capability will be implemented.

⁸ <https://community.max.gov/x/LhtGJw>.

⁹ <http://www.whitehouse.gov/the-press-office/2011/11/09/executive-order-promoting-efficient-spending>

- Beginning August 31, 2016, and each year thereafter, all departments and agencies shall provide to OMB an annual report of their software license inventory, including maintenance agreements and cloud-based licenses, subscriptions and enrollments. Specific reporting instructions will be available on MAX at this URL: XXX

3) Aggregate Agency Requirements and Funding. Agencies shall develop repeatable processes to aggregate software requirements and associated funding, as appropriate, for commercial enterprise software acquisitions. Agency CIOs must use their authority under FITARA¹⁰ to align all components with a centralized acquisition strategy that defines common software requirements across the enterprise. This work should consider a review of the installed software against the agency-approved list of software. When software is discovered that is not on the agency-approved software list, agencies must consider whether to include it on the list or identify an approved software to replace it.

As a reminder, agencies shall not agree to terms and conditions that prohibit the sharing of all prices, terms, and conditions with other Government entities (including posting said information to the Acquisition Gateway¹¹). When terms or conditions are identified that seem to preclude an agency from sharing the prices paid with other federal agencies, the agency shall ensure removal of these terms and conditions during the negotiation process for the contract, or the option period renewal.¹²

Governmentwide Strategies – New Solutions for Common Software Acquisition and Management

Section 837 of FITARA requires the General Services Administration (GSA)¹³ to establish an enterprise software program, on behalf of the agencies, to reduce life cycle cost and improve asset management practices. In support of this important requirement, the Category Management Leadership Council, formerly known as the Strategic Sourcing Leadership Council, established the Enterprise Software Category Team (ESCT), led by OMB, the Department of Defense (DoD) and GSA, to serve as the category management lead for the IT software subcategory. The ESCT, a team of senior IT and acquisition executives, is charged with supporting the development and implementation of a governmentwide strategic software management plan to increase the number of enterprise software agreements¹⁴, recommending policy changes to improve the acquisition and management of software, and monitoring agency progress (see Attachment A for roles and responsibilities). Specifically, the ESCT will:

¹⁰ Section 831 of the National Defense Authorization Act (NDAA) for Fiscal Year 2015

¹¹ <https://hallways.cap.gsa.gov/>

¹² For additional detail see question 6 in the Myth-Busting 2 memorandum, http://www.gsa.gov/graphics/staffoffices/OFPP_Myth-Busting2.pdf

¹³ Under Section 837 of the National Defense Authorization Act (NDAA) for Fiscal Year 2015, the Administrator of GSA “shall identify and develop a strategic sourcing initiative to enhance Governmentwide acquisition, shared use, and dissemination of software, as well as compliance with end user license agreements.”; <https://www.congress.gov/113/plaws/publ291/PLAW-113publ291.pdf#page=148>

¹⁴ For the purposes of this Memorandum, enterprise software agreements include governmentwide enterprise software licenses and governmentwide blanket purchase agreements.

1) Identify and promote existing best-in-class agreements. In order to better leverage existing agreements that reflect best-in-class practices, the ESCT shall evaluate, for approval and endorsement for governmentwide use, the software agreements maintained by GSA's Software Center of Excellence program, DoD's Enterprise Software Initiative, and any other agency agreements identified by the ESCT. Where obstacles to accomplishing this aggregation are beyond the agency's control, these should be reported to the CIO Council for review. Where management guidance or other action is seen as needed to facilitate the desired aggregation, the CIO Council will recommend these to the ESCT for action.

- Within 90 days of issuance of this policy, executive agents of governmentwide software agreements shall post and maintain pricing and terms and conditions on the Acquisition Gateway.¹⁵
- Within 120 days, the ESCT shall publish initial guidance on the Acquisition Gateway identifying best-in-class software licensing agreements and best practices, including standard terms and conditions to improve the government's negotiation posture with respect to pricing and/or other quality considerations, for use in agency-level agreements, and OMB will encourage or direct use of best-in-class existing software agreements. The guidance should be evaluated annually and revised as necessary.

2) Develop new governmentwide Enterprise Software Agreements and reduce redundancy. The ESCT shall support GSA and OMB to establish and mandate new governmentwide enterprise software agreements. At least two new enterprise software agreements will be in place by the end of calendar years 2016 and 2017; the ESCT will establish bi-annual targets thereafter. To move agencies away from issuing redundant contracts, within 90 days, the ESCT shall post on the Acquisition Gateway a new business case review process that agencies will be required to use when acquiring software that would overlap with software covered by any of these enterprise software agreements.

As a result of these efforts, beginning in fiscal year 2017, the Government will gain visibility into the agency-reported governmentwide spend on software licenses, which shall be posted to the Acquisition Gateway to further assist in the creation of new enterprise software agreements and other tools.

Improving our IT commodity acquisition and management practices is a critical step in the implementation of FITARA and improving the value to the taxpayers. The actions described above will reduce duplication, improve pricing and better leverage the Government's vast buying power. Beginning in fiscal year 2016, OMB will establish metrics and targets to monitor savings and the reduction in duplication over time, and agencies will be held accountable for accurate reporting through the established Capital Planning and Investment Control and PortfolioStat processes.

If you have further questions, please contact Meredith Romley in OMB's Office of Federal Procurement Policy (OFPP) on (202) 395-4644 or mromley@omb.eop.gov, or Paul

¹⁵ URL: <https://hallways.cap.gsa.gov/>

Oliver in OMB's Office of the Federal Chief Information Officer (OFCIO)¹⁶ on (202) 395-0372
poliver@omb.eop.gov.

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¹⁶ OMB's Office of E-Government & Information Technology (E-Gov) was established in accordance with Section 101 of the E-government Act of 2002, now codified at 44 U.S.C. § 3602, and is headed by the Federal government Chief Information Officer. This office will henceforth also be referred to as OMB's Office of the Federal Chief Information Officer (OFCIO).

Enterprise Software Category Team
Roles and Responsibilities

- A. Develop, implement, and maintain a governmentwide strategic plan for software license acquisition that reduces the total cost of ownership, minimizes risks, improves supplier and operational performance, boosts innovation, and increases software license spend under management. At a minimum, the plan will:
 - i. establish the best-in-class criteria standards for populating content in the software category hallways on the Acquisition Gateway;
 - ii. standardize data collection efforts to help establish and track category performance metrics;
 - iii. for software not yet under an enterprise software agreement, the ESCT will determine which existing solutions are best-in-class and encourage or mandate use; and
 - iv. develop a new business case process for agencies to request agreements outside of the enterprise software agreements established under this effort.

- B. Develop, prioritize, and manage the opportunities for pursuing enterprise software agreements, including, but not limited to the following actions:
 - i. The ESCT will appoint executive agents to develop and manage enterprise software agreements and other solutions, with a preference for using select existing software license acquisition vehicles if and when they meet best-in-class criteria.
 - ii. The ESCT will evaluate success of software solutions based on established key performance metrics.
 - iii. The ESCT has the authority to approve/deny agency requests for establishing agreements outside of enterprise software agreements developed under this effort.

- C. Recommend acquisition and demand management strategies to OFCIO and OFPP for dissemination through OMB guidance.

- D. Serve as key liaison between the software industry partners and the Federal Government.

- E. Advocate in the CIO, Chief Acquisition Officer, and Chief Financial Officer communities for the adoption of enterprise software agreements and other best-in-class software license acquisition solutions.

Appendix B

Summary of Deadlines and Requirements

		Deadline				
		Immediately	30 Days	90 - 120 Days	Feb. 28, 2016	180 Days and Beyond
Responsible Party	CFO Act Agencies	- Forbid terms and conditions that prohibit the sharing of all prices, terms, and conditions with other government entities.	- Provide to OMB the name and contact number of the agency's software manager.		- Submit agency centralization plans to OMB.	- Leverage CDM and CMaaS to manage inventory and usage (within 6 months). - Beginning May 31, 2016, and each year thereafter, provide an annual report of software license inventory. - CFO Act Agencies: Identify obstacles to software asset management that are beyond an agency's control to the CIO council. CIOC will review obstacles reported by agency CIOs and recommend corrective action to the ESCT.
	ESCT			- Executive agents of governmentwide software agreements post and maintain pricing and terms and conditions on the Acquisition Gateway (90 days).	- By August 31, 2016, Publish software inventory reporting requirements and template to max.omb.gov	- By the end of FY 2016, pilot new funding mechanisms and license aggregation tools.

				<ul style="list-style-type: none"> - Post on the Acquisition Gateway a new business case review process (90 days). - Publish guidance on the Acquisition Gateway identifying best-in-class software licensing agreements and best practices, including terms and conditions, for use in agency-level agreements (120 days). 	
GSA	<ul style="list-style-type: none"> - Begin work to create a capability that provides asset inventory/ management services and software license management tools. 	<ul style="list-style-type: none"> - Provide guidance on posting and maintaining pricing and terms and conditions on the Acquisition Gateway. 			<ul style="list-style-type: none"> - By the end of 2016 and 2017, put in place two new enterprise software agreements, and additional agreements thereafter as identified by the ESCT.
OMB	<ul style="list-style-type: none"> - Establish metrics and targets to increase savings and reduce duplication. 	<ul style="list-style-type: none"> - Collect the list of agency software managers. 			<ul style="list-style-type: none"> -Beginning in fiscal year 2017, the government will gain visibility into the agency-reported governmentwide spend on software licenses, which shall be posted to the Acquisition Gateway