

M-04-16, Software Acquisition

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MEMORANDUM FOR: SENIOR PROCUREMENT EXECUTIVES

CHIEF INFORMATION OFFICERS FROM: Karen S. Evans

Administrator, IT and E-Gov

Robert A. Burton

Associate Administrator,

Office of Federal Procurement Policy SUBJECT: Software Acquisition

This memorandum reminds agencies of policies and procedures covering acquisition of software to support agency operations.

The Office of Management and Budget (OMB) Circulars A-11 and A-130 and the Federal Acquisition Regulation (FAR), guide agency information technology (IT) investment decisions. These policies are intentionally technology and vendor neutral, and to the maximum extent practicable, agency implementation should be similarly neutral. As this guidance states, all agency IT investment decisions, including software, must be made consistent with the agency's enterprise architecture and the Federal Enterprise Architecture. Additionally, agencies must consider the total cost of ownership including lifecycle maintenance costs, the costs associated with risk issues, including security and privacy of data, and the costs of ensuring security of the IT system itself. Furthermore, software acquisitions must comply with OMB Memorandum M-04-08, *Maximizing Use of SmartBuy and Avoiding Duplication of Agency Activities with the President's 24 E-Gov Initiatives* (February 25, 2004), and where required, be coordinated with the SmartBuy program.

This reminder applies to acquisitions of all software, whether it is proprietary or Open Source Software. Open Source Software's source code is widely available so it may be used, copied, modified, and redistributed. It is licensed with certain common restrictions, which generally differ from proprietary software. Frequently, the licenses require users who distribute Open Source Software, whether in its original form or as modified, to make the source code widely available. Subsequent licenses usually include the terms of the original license, thereby requiring wide availability. These differences in licensing may affect the use, the security, and the total cost of ownership of the software and must be considered when an agency is planning a software acquisition.

Because software licensing requirements can be legally complex and can directly impact agency operations, procurement executives and program managers should consult with their General Counsel's Office to ensure the requirements are understood before procuring and using the software. In addition, it is essential for procurement executives and program managers to make sure employees are aware of the licensing restrictions of the software they are using. This is particularly important when the licensing restrictions require changes to routine employee operations.

If you have any questions regarding this memorandum, please contact Jeanette Thornton, Policy Analyst, Information Policy and Technology Branch, Office of Management and Budget, phone (202) 395-3562, fax (202) 395-5167, e-mail: jthornto@omb.eop.gov.