Policies, Standards and Licensing

Knowledge to Protect Against Software “That Goes Bump in the Night”

Adelia Wardle
Software Team Lead
21 April 2009
Purpose

To Provide the Systems and Software Technology Conference (SSTC) attendees information on policies, standards, DoD Enterprise Software Initiative (ESI), SmartBUY and software licensing models that could affect their software implementations.
Agenda

- Introduction
- DoD software policies and authorities
- Software licensing pitfalls
- What do you do to protect your software project from going “bump in the night”
- DoD Enterprise Software Initiative (ESI)
- Questions
Introduction

- Ground Rules – What we will discuss
  - Commercial Off The Shelf (COTS) Software
  - DoD Perspective
  - Licensing Expertise
  - Lessons learned – hopefully not too costly
  - Share, Share, Share
DoD Software Policies and Authorities

- FAR – Rule pending for SmartBUY mandate (72 Fed.Reg. 61603)
- DFARS - 208.7403
- DoDI 5000.2
- AFARS – Army Audit Agency recommended revision pending
- AR 25-1 (6-2)
- DA PAM 25-1-1
- Army Chief Information Officer renewed ESI policy-02 Dec 2002
- Army DISC-4 ESI Policy-01 Jan 2001
- DoD CIO Guidance and Policy Memorandum No. 12-8430-26 July 2000
- OMB Memo M-08-22, Guidance on the Federal Desktop Core Configuration (FDCC)
Software Licensing Pitfalls

- Selecting software by name not licensing model
- Terms and Conditions (T&C’s)
- End User License Agreements (EULA) – License Grants
- Sarbanes-Oxley – Revenue Recognition
- Maintenance escalation
- The “*”
- Re-Use Clause
- Non-Human Devices
- Multi-core processing license
- Software function tied to maintenance
- Virtualization – risk of license non-compliance if not managed
Software Licensing Pitfalls

- **License Type**
  - Named User
  - Device
  - Processor
  - Concurrent
  - Subscription
  - Perpetual
  - Unlimited Use
  - Restrictive, i.e., Program Specific
  - Developer vs. Full use

- **True Up/True Down**

- **Audit Clauses**

- **Cost may not be the Cost**

- **Compliance**
What to do to protect your software project from going “bump in the night”?

- Use the following before selecting your software:
  - Consulting Groups
  - License Experts
  - Network with other service and agencies
  - Software Attorney

- Requiring Technical Team may understand technology but not licensing
  - May not always have Enterprise perspective
What to do to protect your software project from going “bump in the night”?

- Use the following to describe your requirement to contracting:
  - What do you need to do with your system
    - Share in-ward and out-ward
    - Describe your requirement – give examples
    - Definitions
  - Describe your customer base clearly
    - Government, Civilian, military, contractors supporting Gov’t, non-human devices, etc
    - Manipulating data vs. static data (viewing data)
  - How many years will you need to contract
  - Flat lined maintenance
  - Audit Clauses
  - Transferability
  - True up/True down
  - Developer vs. Full use license
Established June 1998 by DoD CIO

Mission
- Lower total cost of ownership across DoD, Coast Guard and Intelligence communities
- Establish and manage enterprise COTS IT agreements, assets and policies

Methodology
- Chaired by an OASD(NII)/CIO staffer
- Co-chaired by Navy, Army or Air Force Working Group rep (currently Navy)
- DoD Components appoint Software Product Manager (SPM) to:
  - Consolidate requirements and develop business case
  - Negotiate best-value deals
  - Administer resulting agreements

Goals
- Reduce acquisition and support costs by leveraging DoD buying power
- Provide best, most flexible JTA-conforming software
- Obtain buy-in for DoD enterprise-wide software agreements
- Create a funding mechanism that incentivizes the use of DoD-wide software initiatives
DoD ESI Authority

- **Authority:** DoD Enterprise Software Initiative (DFARS 208.7402)
  - Procure COTS Software IAW DoD Enterprise Software Initiative (ESI)
  - ESI Order of Precedence
    - DoD Inventory
    - DoD Enterprise Software Agreement (ESA)
    - Other means
  - Designate Agency Software Product Manager (SPM)
    - CHESS designated Army SPM 02 Dec 02
    - CIO/G-6 and Army Acquisition Executive designated PEO EIS Army oversight of ESI and AWCF (2003)
    - Ensure utilization of DoD inventory
    - Establish ESAs as requirements identified/validated
    - Adjust terms and conditions within scope of ESA
    - Issue waivers from ESI requirements IAW AR 25-1 and DA IT Purchasing Guide (Sep 06)
GSA SmartBUY

- Government-wide software licensing initiative managed by OMB
  - To leverage the government’s buying power to achieve lower software licensing costs and equal or better terms and conditions
  - Interagency team led by GSA
  - FAR rule pending would make GSA SmartBUY vehicles mandatory unless alternative contract vehicle approved by AAE
  - DoD SmartBUY Policy – 22 Dec 05
    - Acquire COTS software through existing ESI or SmartBUY when requirements evaluation has led to the designated software product on a SmartBUY agreement
    - “Always” consult with ESI Team prior to negotiating large requirements
    - Permit conversion of new agreements to SmartBUY within 12 months
CHESS CONTACT INFORMATION

COMPUTER HARDWARE, ENTERPRISE SOFTWARE AND SOLUTIONS
SFAE-PS-CH, BUILDING 283, SQUIER HALL
FT. MONMOUTH, NJ 07703-5605

CHESS Hotline: 888.232.4405
Fax: 732.532.5185   DSN: 992.5185

Web Site: https://chess.army.mil

Home of it e-mart —
the Army's IT e-Commerce System