



DEPARTMENT OF THE NAVY

CHIEF INFORMATION OFFICER  
1000 NAVY PENTAGON  
WASHINGTON, DC 20350-1000

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MEMORANDUM FOR DISTRIBUTION

Subj: DEPARTMENT OF THE NAVY OPEN SOURCE SOFTWARE GUIDANCE

Encl: (1) Definition of Terms

This memorandum provides guidance for all Navy and Marine Corps commands regarding the use of Open Source Software (OSS) (defined in enclosure (1)). The objective of the Department of Defense (DoD) goal of achieving an interoperable net-centric environment is to improve the warfighter's effectiveness through seamless access to critical information. A key piece in supporting the DoD goal is the ability to utilize OSS as part of the Department of the Navy's (DON) Information Technology (IT) portfolio.

The DON Chief Information Officer (CIO) recognizes the importance of OSS to the warfighter and the need to leverage its benefits throughout the DON. The misconception that OSS is neither a commercial off-the-shelf (COTS) nor government off-the-shelf (GOTS) solution has hindered the DON's ability to leverage the benefits of OSS methodology. Because of this misconception, OSS has not received equal consideration during the software acquisition process.

DON commands will treat OSS as COTS when it meets the definition of a commercial item, per enclosure (1). This will allow the DON to utilize OSS throughout the enterprise when acquiring capabilities to meet DON business and warfighter requirements. As with any COTS solution, the use of OSS must adhere to all Federal, DoD, and DON policies and be based on open standards to support the DoD's goals of net-centricity and interoperability. In addition, DON commands must work with their intellectual property general counsel to ensure compliance with the OSS license agreement.

The DON point of contact for this matter is Mr. Timothy Johnson in the office of the DON CIO, who can be reached at (703) 602-6961 or [timothy.johnson@navy.mil](mailto:timothy.johnson@navy.mil).



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## **DEFINITION OF TERMS**

### **Commercial Item (per Title 41, Chapter 7, Section 403):**

(12) The term "commercial item" means any of the following:

(A) Any item, other than real property, that is of a type customarily used by the general public or by nongovernmental entities for purposes other than governmental purposes, and that -

(i) has been sold, leased, or licensed to the general public; or

(ii) has been offered for sale, lease, or license to the general public.

(B) Any item that evolved from an item described in subparagraph (A) through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Federal Government solicitation.

(C) Any item that, but for -

(i) modifications of a type customarily available in the commercial marketplace, or

(ii) minor modifications made to meet Federal Government requirements, would satisfy the criteria in subparagraph (A) or (B).

(D) Any combination of items meeting the requirements of subparagraph (A), (B), (C), or (E) that are of a type customarily combined and sold in combination to the general public.

(E) Installation services, maintenance services, repair services, training services, and other services if -

(i) the services are procured for support of an item referred to in subparagraph (A), (B), (C), or (D), regardless of whether such services are provided by the same source or at the same time as the item; and

(ii) the source of the services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government.

(F) Services offered and sold competitively, in substantial quantities, in the commercial marketplace based on established catalog or market prices for specific tasks performed and under standard commercial terms and conditions.

(G) Any item, combination of items, or service referred to in subparagraphs (A) through (F) notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

(H) A non-developmental item, if the procuring agency determines, in accordance with conditions set forth in the Federal Acquisition Regulation, that the item was developed exclusively at private expense and has been sold in substantial quantities, on a competitive basis, to multiple State and local governments.

**Commercial Off the Shelf (COTS) (per Title 41, Chapter 7, Section 431):**

(c) "Commercially available off-the-shelf item" defined

(1) As used in this section, the term "commercially available off-the-shelf item" means, except as provided in paragraph (2), an item that -

(A) is a commercial item (as described in section 403 (12)(A) of this title);

(B) is sold in substantial quantities in the commercial marketplace; and

(C) is offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace

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