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Administration and Finance

Open Source Software Licenses - A Brief Introduction

Both information technologists and lawyers who work for the Commonwealth are familiar with proprietary software licenses. Such licenses typically require that the end user pay a licensing fee, receive only object code, and refrain from reverse engineering operating code in order to arrive at the source code. In the rare instances in which end users receive source code under such licenses, they are required to refrain from modifying or enhancing it, or sharing it with others.

In recent years, an increasing amount of high quality software has been developed by the "open source" software community. Open source software is built upon the principle that end users should be given source code and should be free to use, share, modify and enhance software products, with the goal of widespread interoperability and permissive incorporation into new technology.

Generally, open source products are made available royalty-free although the precise rights and restrictions imposed on open source software depend upon the specific terms of the open source license under which it is distributed. Like proprietary software licenses, open source licenses pose their own set of legal, business and technical issues for users.

The Commonwealth has adopted a policy requiring state agencies to consider all potential solutions including proprietary, open source, and public sector code sharing solutions when acquiring software.

The purpose of this toolkit is to provide the Commonwealth's information technology and legal community with information about open source licensing from a practical, public sector legal perspective. It includes:

1. A chart outlining and comparing the elements of over 40 open source licenses, including those approved by the Open Source Initiative(OSI).

2. A Powerpoint presentation explaining the fundamentals of open source licensing in the context of state agencies' "best value" procurement processes.

Agency IT staff and counsel who have questions about open source software licenses should first review the material contained in this toolkit and then, if they still have questions, contact ITD's General Counsel, Linda Hamel, Information Technology Division, (617) 626-4404.

The Information Technology Division gratefully acknowledges the assistance of Alba Bozo, HLS '04 and Thomas Carey, Esq., Bromberg & Sunstein, LLP in the preparation of the materials made available on this webpage.

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