



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

Date:

**MEMORANDUM FOR BUREAU CHIEF INFORMATION OFFICERS AND  
BUREAU CHIEF PROCUREMENT OFFICERS**

**FROM:** SONNY BHAGOWALIA,  
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AND

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**SUBJECT:** Treasury's policy in support of OMB's Category management Policy Federal Source Code Policy: Achieving Efficiency, Transparency, and Innovation through Reusable and Open Source Software

**A. PURPOSE:** This memorandum establishes Treasury's policy in support of Federal Source Code Policy as prescribed by Office Management and Budget (OMB) memorandum M-16-21<sup>1</sup>. The Office of Chief Information Officer (OCIO) and the Office of the Procurement Executive (OPE) will prescribe additional requirements, as deemed necessary, in support of this policy.

**B. EFFECTIVE DATE:** Immediately

**C. EXPIRATION DATE:** Until otherwise cancelled or superseded.

**D. APPLICABILITY:** This policy is applicable to all personnel, especially personnel<sup>2</sup> involved in the purchase of custom-developed source code for Federal government use<sup>3</sup>, subject to the limited exceptions outlined in section G of this memorandum.

**E. BACKGROUND:** Federal Information Technology Acquisition Reform Act (FITARA)<sup>4</sup> provides new authorities and responsibilities that agency CIOs can use to improve their agencies'

<sup>1</sup> OMB memorandum M-16-21 dated August 8, 2016, entitled "Federal Source Code Policy: Achieving Efficiency, Transparency, and Innovation through Reusable and Open Source Software"

<sup>2</sup> This includes but not limited to program managers, contracting officer representatives, contracting officers, purchase cardholders, other individuals with procurement authority

<sup>3</sup> Source code developed for National Security Systems (NSS), as defined in 40 U.S.C. § 11103, is exempt from the requirements of this policy

<sup>4</sup> See Section 837 of the National Defense Authorization Act for FY15 available at



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Information Technology (IT) management policies and practices. In parallel, the OMB category management initiative<sup>5</sup>, which is a separate initiative, addresses a number of IT management challenges by directing agencies to buy and manage common commodities, including IT, in a more coordinated way. On August 8, 2016, OMB issued memorandum M-16-21 which establishes a Federal policy for custom software developed for the Federal government as well as establishes a pilot program that requires agencies, when commissioning new custom software, to release at least 20 percent of new custom-developed code as Open Source Software (OSS) for three years, and collect additional data concerning new custom software to inform metrics to gauge the performance of the pilot. Progress on the implementation of OMB Policy M-16-21 will be primarily assessed by OMB through an analysis of Treasury's internal Government repositories, public OSS repositories, and code inventories on Code.gov, as well as data obtained through the quarterly Integrated Data Collection (IDC), quarterly PortfolioStat sessions, the IT Dashboard, and additional mechanisms to be provided via Code.gov. Therefore, OCIO has coordinated with the OPE to develop this policy in support of the OMB memorandum.

**F. POLICY:** In coordination with the CAO and CFO, the Treasury CIO will use its authority under FITARA to align all components with a centralized policy for the acquisition of new custom-developed source code across the agency and compliance with all requirements of OMB memorandum M-16-21<sup>6</sup>. As directed by OMB memorandum M-16-21, the Treasury CIO will, directly or through its designees such as the IT Software Category Manager:

1. Post the policy publically in accordance with OMB guidance<sup>7</sup>;
2. Correct or amend any policies that are inconsistent with the requirements of this policy, including the correction of policies that automatically treat OSS as noncommercial software (e.g. policies that prohibit buying OSS under FAR part 12).
3. Create and maintain an enterprise inventory of all custom code and related information subject to limited exceptions outlined in Section G of this memorandum.
4. Make Treasury custom-developed code available for Government-wide reuse and the code inventory discoverable at <https://www.code.gov> ("Code.gov"), pursuant to the limited exceptions outlined in Section G of this memorandum.
  - a. The inventory will indicate whether the code is available for Federal reuse, is available publicly as OSS, or cannot be made available due to a specific exception listed in section G of this memorandum.
  - b. The inventory information shall be filled out based on the metadata schema as provided by OMB at Code.gov.

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<https://www.congress.gov/113/plaws/publ291/PLAW-113publ291.pdf#page=148>. OMB Circular No. A-130, revised as of July 28, 2016 entitled "Managing Federal Information as a Strategic Resource" captures the CIO's authorities established under FITARA as well as category management practices.

<sup>5</sup> See <https://www.whitehouse.gov/sites/default/files/omb/procurement/memo/simplifying-federal-procurement-to-improve-performance-drive-innovation-increase-savings.pdf> and [https://www.acquisition.gov/?q=Category\\_Management](https://www.acquisition.gov/?q=Category_Management)

<sup>6</sup> New acquisitions are defined as awards made subsequent to the issuance of OMB M-16-21 on August 8, 2016.

<sup>7</sup> See *M-15-14: Management and Oversight of Federal Information Technology*, Office of Mgmt. & Budget, Exec. Office of the President, June 10, 2015. <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2015/m-15-14.pdf>. This requires that IT policies be posted publicly at [https://\[agency\].gov/digitalstrategy](https://[agency].gov/digitalstrategy), and included as a downloadable dataset in the agency's Public Data Listing.



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**G. EXCEPTIONS:** The exceptions provided below may be applied, in specific instances, to exempt Treasury from sharing custom-developed source code with other Government agencies. These exceptions do not apply to the OSS pilot program. Exceptions must be approved and documented according to the procedures set forth in the Department of Treasury Acquisition Procedure (DTAP). Applicable exceptions are as follows:

1. The sharing of the source code is restricted by law or regulation, including—but not limited to—patent or intellectual property law, the Export Asset Regulations, the International Traffic in Arms Regulation, and the Federal laws and regulations governing classified information;
2. The sharing of the source code would create an identifiable risk to the detriment of national security, confidentiality of Government information, or individual privacy;
3. The sharing of the source code would create an identifiable risk to the stability, security, or integrity of the agency's systems or personnel;
4. The sharing of the source code would create an identifiable risk to agency mission, programs, or operations; or
5. The CIO believes it is in the national interest to exempt sharing the source code.

**H. REQUIRED ACTIONS FOR BUREAU CHIEF INFORMATION OFFICERS (CIOs):**

Bureau CIOs shall -

1. In meeting software needs, conduct an analysis, as defined by OCIO, to determine whether a custom solution is necessary. The intent of the analysis is to leverage existing solutions consistent with the principles of category management and shared services and suitable commercial solutions, while mitigating duplicative spending on custom-developed software solutions<sup>8</sup>. Moreover, consistent with OMB's memorandum on Technology Neutrality<sup>9</sup>, consider open source, mixed source, and proprietary software solutions equally and on a level playing field, and free of preconceived preferences based on how the technology is developed, licensed, or distributed;
2. Provide personnel and other resources to support the IT Software Category Manager and this policy.
3. Require use of best practices to ensure delivery of the custom-developed code, documentation, and other associated materials from contractors throughout the development process. This includes including within requirement documents language addressing deliverables, milestones/due dates, format, and other such areas to support contract administration;
4. Require appropriate contract administration and use of best practices to secure the full scope of the Government's rights, including—but not limited to—sharing and using the code with other Federal agencies; and
5. Assist the IT Software Category Manager in effectively managing Treasury's software development needs. This includes providing data and information concerning

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<sup>8</sup> See Appendix A of OMB memorandum M-16-21 for definitions of key technical terms used in this policy document.

<sup>9</sup> Technology Neutrality, dated January 7, 2011

[https://www.whitehouse.gov/sites/default/files/omb/assets/egov\\_docs/memotociostechnologyneutrality.pdf](https://www.whitehouse.gov/sites/default/files/omb/assets/egov_docs/memotociostechnologyneutrality.pdf).



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requirements for custom-develop code, which can be used to support Treasury's enterprise code inventory.

**I. REQUIRED ACTIONS FOR BUREAU CHIEF PROCUREMENT OFFICERS**

**(BCPOs):** BCPOs shall—

1. Update and establish, as necessary, Bureau acquisition policies and procedures for purposes of compliance with this policy;
2. Require new procurement vehicles for the custom-development of code include at a minimum sufficient rights to enable Government-wide reuse of the custom-developed code as well as include terms and conditions (e.g. delivery of the custom-developed code, documentation, and other associated materials from the contractor throughout the development process) to secure the scope of the Government's rights;
3. Require that when releasing custom-developed code as OSS, appropriate OSS licenses are appended to the source code; and
4. Assist the IT Software Category Manager, Bureau Category Manager and OPE in monitoring compliance with this policy. This may include, but be not limited to: responding to data calls and requests for information and taking corrective action when instances of non-compliance are identified; and

**J. ADDITIONAL INFORMATION.** CIO questions concerning this memorandum may be directed to Linda Rines in the OCIO at [Linda.Rines@treasury.gov](mailto:Linda.Rines@treasury.gov). Acquisition questions concerning this memorandum may be directed to Alan Monico in the OPE at [Alan.Monico@treasury.gov](mailto:Alan.Monico@treasury.gov).