

NDIA SYSTEMS ENGINEERING DIVISION PLANNING MEETING

OUSD(A&S) INTELLECTUAL PROPERTY CADRE PERSPECTIVES



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THE DoD INTELLECTUAL PROPERTY CADRE

- **DoDI 5010.44 “IP Acquisition & Licensing”** → implements 10 USC 2322 (FY18 NDAA)
 - **DoD-Wide IP Cadre Structure – supporting and supported elements throughout DoD**
 - The OSD Intellectual Property Cadre Structure
 - OSD IP Cadre – new small, dedicated office/function within the OUSD(A&S) / A / AE / AAM
 - **Cross-Functional:** Includes coordination with all of the other OSD Functional Subject Matter Experts (SMEs)
 - The Rest of the DoD Intellectual Property Cadre -- Military Depts, Defense Agencies, etc.
 - Designated POC/Liaison for “IP Cadre” coordination (e.g., AF Smart IP Cadre)
 - Program Offices – functional SMEs as both customers and service providers
 - Functional SMEs . . . Wherever they may be → Heads-up: IP Credential/Badge
 - **Mission & Operational Model**
 - Policy & Guidance [and Law]: DoD-wide coordination & repository of knowledge
 - Program Support: Service Provider – “Hire an Expert” ... for Free!
 - Sustainment & Technical Data Management – Execute Now! On the long-term life cycle support plan
 - Workforce Training & Community of Practice – across the entire Department
 - **Outreach to mission partners – industry**, academia, Congress & other USG
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DoD INTELLECTUAL PROPERTY IMPLEMENTING POLICY – RELATED TO SYSTEMS ENGINEERING

Policy:

- The Department released its first **policy** on IP to support more effective approaches for acquisition and licensing of IP in October 2019 - **DoDI 5010.44**.

IP Cadre:

- A **cadre of IP experts** was established to facilitate the development of a competent and consistent approach across the Department for IP acquisition, licensing, and management.

Workforce:

- DAU is establishing an IP Community of Practice, doing a top-down review and update of IP coverage in existing curriculum, identifying needs for new IP content, and recently published an IP Credential for multiple career fields

Industry Engagement -- DFARS (Statutory) Revisions:

- Working seven DFARS statutory-revision cases in parallel, including publication of drafts and holding public meetings [to allow industry participation in the rule *drafting* stage](#)

IP Evaluation/Valuation Pilots:

- Coordinating OSD and MILDEP strategic planning for joint pilots to develop and assess mechanisms for IP evaluation, including use of commercial IP valuation models (Sec. 801, FY20 NDAA)



IP CADRE KEY FOCUS AREAS

- **Modular Development & Licensing → Modular Open Systems Approaches (MOSA) . . . And if you don't have a crystal ball:**
 - DoD-Funded Development → Require Delivery Now, unless you have a clear, definitized, reason not to so do (~ business case analysis)
 - Privately-Funded Development → consider priced contract options, escrow, subscriptions or other access-only arrangements (be careful!)
 - **Communicate and Negotiate with Industry**
 - Earlier, more frequently, and more robustly
 - Preferably during competition!!
 - **Evaluate IP Deliverables and Rights during Source Selection → And during all sole source negotiations!**
 - **Theme: Time is of the Essence!** *Government: You snooze, you lose. True story.*
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IP CADRE KEY FOCUS AREAS

■ **Technical Enablers: System Engineering**

- Functional & operational – Architecture & Modularity
- Digital Data Artifacts: Tech Data, Software design



Work Breakdown Structure

■ **Business & Legal Enablers: Intellectual Property**

- Investment in technology development
 - Return on Investment: through exclusive IP rights
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OVERVIEW: SEC. 801 PILOTS ON IP EVALUATION & VALUATION

- **Sec. 801 of the FY 2020 NDAA – within 180 days . . .**
 - **OSD & MILDEPs joint pilot program to assess IP Evaluation techniques & commercial valuation methods' benefits on--**
 - IP Strategies
 - Management of IP costs throughout lifecycle,
 - Use of commercial & nondevelopmental tech, vice new dev't for USG.
 - **Specific activities authorized–**
 - Establish a Team of experts (incl. IP Cadre) to make recommendations
 - Assessment of:
 - commercial valuation methods;
 - agency-level oversight;
 - contracting mechanisms;
 - Acquisition planning for IP/rights for life-cycle (sustainment)
 - **Industry engagement on IP requirements, strategies, valuation methods**
 - **Joint Report to Congress: Annually through 2023**
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HOW CAN WE BENEFIT FROM NDIA SE DIVISION ASSISTANCE?

- Utilize NDIA to help engage with Industry partners earlier, more frequently, and more robustly. Establish open lines of communication between DoD and Industry to better understand:

- DoD's and Industry's greatest IP issues and challenges
- If joint resolution and/or technical solutions, esp WRT MOSA exist
- Common ground – i.e., Shared IP goals and objectives

And address:

- MOSA implementation WRT IP/Data rights
 - Industry perspective – innovation in Technical Data Delivery/access in a commercial Digital Engineering environment
- Possible “Workshop” in 2021 to identify and discuss these issues?
 - Consider a panel, coincidental workshop, or other form of piggyback or teaming with the annual “**AIA/NDIA Technical Data Rights Forum**”
 - Consider an IP/[MB]SE/DE/MOSA-focused panel or similar at any (all?) of your “usual suspect” SE forums/events
 - Bring to NDIA new SE-related IP Acquisition guidance for comment and perspective
 - Note: This includes the ongoing DFARS data rights update cases!

EARLY & consistent effort to identify IP problems + working together to resolve → a mutually beneficial IP environment, allowing for robust competition and business opportunities

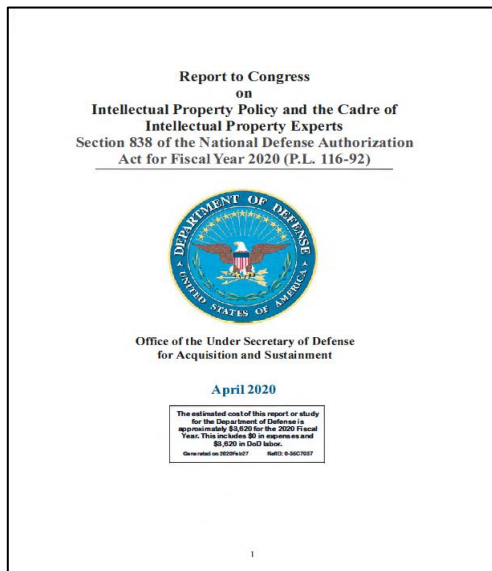


BACKUP



BACKGROUND

THE SECTION 838 REPORT TO CONGRESS --



- “Intellectual Property Policy and the Cadre of IP Experts”
- Required by Sec. 838 of the NDAA for FY 2020
- Available at the DAU IP & Data Rights Community of Practice (CoP) site
 - Check out the IP Cadre sub-page!



THE SECTION 838 REPORT TO CONGRESS

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1. Introduction

2. The IP Policy Required by 10 U.S.C. 2322(a)

3. Intellectual Property Cadre--Membership

4. Intellectual Property Cadre--Leadership Structure and Management

5. Activities Performed in the Previous Year

5.1 DoD-level Policy, Guidance, and Education

5.2 Revision of the IP Coverage in Acquisition Regulations With Enhanced Industry Engagement.

5.3 Specific Actions within the Military Departments

6. On the Horizon: The Sec. 801 Pilots on IP Evaluation & Valuation Methods

7. Enclosures. . . [cont'd → next slide]



THE SECTION 838 REPORT TO CONGRESS

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7. Enclosures

- (1) Section 838 of the NDAA for FY 2020**
- (2) 10 U.S.C. § 2322, Management of [IP] matters within the Department of Defense**
- (3) DoDI 5010.44, “Intellectual Property (IP) Acquisition and Licensing,” October 16, 2019**
- (4) DoD Intellectual Property Cadre Leadership and Contacts**
- (5) USD(A&S) letter providing DoD recommendations based on the reports of the Section 813 Government-Industry Panel and Section 875 Independent Review, February 3, 2019**
- (6) DFARS Data Rights Cases Early Engagement Expanded Time Line**
- (7) Summary of Defense Federal Acquisition Regulation Supplement (DFARS) Case Activities**
- (8) Section 801 of the NDAA for FY 2020**