Time to Step Up Work on Mid-Year Microsoft EA Renewals

Many organizations have signed an Enterprise Agreement (EA) with Microsoft that coincides with its June financial year end. If you are one of these and 2019 is the end of your current EA, now is the time to ramp up your preparation efforts. Even if your renewal is due later in 2019 there may still be benefits to renewing early. Starting work in early January will let you complete the ground work to ensure a smooth renewal in the summer. You will have the time to secure funding for any true-up obligations as well as be able to figure out the best options to negotiate for future licensing models and volumes, and any specific terms and concessions important to the specific circumstances of your organization.

Before negotiating your new or renewal EA you will need to assess your current position and true-up, and you will need to understand how your future licensing needs over the next three years will be affected by existing plans, organizational IT strategy, and by changes in the way Microsoft licenses software and bundles product suites.

Current State and True-up

The first step involves calculating your current effective license position (ELP). The result will tell you whether you have a true-up obligation or a surplus of licenses and subscriptions. One of the key benefits of an EA is that medium to large organizations can deploy software whenever it is needed during the term of the EA provided they true-up annually. The true-up is at pre-agreed prices which include both the license and a pro-rated fee for software assurance for the remaining term of the EA. In case of subscriptions the acquiring organization “reserves” additional subscriptions for immediate use, but defers payment until the annual true-up event.

So, what do you need to do?

- Identify the deployed software and cloud subscriptions being used.
- Determine which of these in-use software deployments, based on license terms and use rights, consume licenses or subscriptions. Many factors need to be considered: some products are included as a part of a larger suite while others need stand-alone licenses; coverage via downgrade rights; multiple installations of a product edition on a single device; “free” editions like SQLServer Express; per-user vs per-device licensing; rights of second use; development vs production environments.
- Adjust the inventory after having confirmed devices that have no login activity for more than 90 days have been retired, and employees that have left the organization have no subscriptions assigned to them.
- Gather all licenses and subscriptions (and locate any required evidence). Include not just those acquired under volume licensing (which will be reported via the VLSC volume licensing portal or on your Microsoft Licensing Statement (MLS)), but pre-existing perpetual licenses, FPP (Fully Packaged Product) and OEM license proofs, grants arising from Microsoft retiring a product edition or changing from a per-processor to a per-core licensing model, step-up licenses, CALs and SCCM SMLs and CMLs.
- Use licensing rules to apply licenses (entitlements) to the deployed inventory and create a draft ELP.
- Review user and system access of server products to determine CAL needs; review total managed end-points to understand SML and CML needs; and update the ELP.
- Calculate net true-up needs and optimize using different scenarios: suites, standard vs data center editions, conversion to higher editions using step-up licenses, etc.
- Calculate true-up costs using the applicable EA customer price list for the current term year.

At this point you will know whether your true-up is within budget, additional funding is needed, or you have unproductive licenses.

Decide What Needs to Change

In addition to any corporate growth over the term of the EA, and any products that are surplus or no longer needed, the organization’s needs are likely to evolve over the next three years. You will want to understand which changes are likely and accommodate their impacts into your plans for the EA renewal or renegotiation.

Questions to explore are: What is your organization’s IT infrastructure and business strategy? How are these likely to affect the future use of Microsoft products? Is the organization expected to grow organically or by acquisition or will divestitures result in a smaller core organization? What projects are on the drawing board and what is the likely impact?

Understanding Microsoft’s product and services vision and where it is going in the immediate future may also influence how the organization chooses to use Microsoft technologies. Intelligence on Microsoft can be built through internet searches, industry media, research services, briefings from your

Microsoft LAR, and not least by scheduling sessions between Microsoft and key stakeholders. Indeed, in finding out what needs to change the organization may require substantial briefings on Microsoft plans and products.

Potential changes to ponder include:

- Cloud-first strategies and greater adoption of SaaS back-office applications.
- Digitalization of the business involving a switch from selling tangible products to cloud services and SaaS offerings. Is your company planning to change how it delivers services?
- Divestiture of non-core business units.
- Emergence and growth of data-driven services.
- Increased use of the Azure ecosystem with or without a reduction in the use of competing services and products.
- New and changed Microsoft products and services that could allow replacement and retirement of a third-party supplementary product or service.

In surveying stakeholder organizations to gain insight into these drivers and influencing factors you can get a sense of how well stakeholders feel Microsoft is serving their needs, what they like and anything that causes friction – these sentiments should inform negotiations.

In addition to the organizations that use Microsoft products and those that are responsible for installing, maintaining and supporting them operationally, Procurement, Finance, Legal and Contract Management are also likely to have input. For example, Legal may identify contractual clauses in the existing agreement that should be preserved and risky ones to ameliorate. They will likely have strong positions on liability, damages, privacy, and can advise on regulatory compliance concerns, such as geographical constraints on the storage of cloud data driven by regulatory changes in Europe.

Negotiate Your Enterprise Agreement

The first question to ask is whether an EA is still appropriate for your organization. Assuming the organization has sufficient size to qualify (600+ end users for example), although EAs offer significant flexibility and other benefits, they are not for everyone. There are many discussions in the literature or published by research services to help you decide whether to proceed or to seek an alternative arrangement to serve your Microsoft volume purchasing needs.

Having made the first decision you will want to compile a list of commercial, legal and technical positions you wish to negotiate into a future EA. With list in hand you can work with stakeholders to prioritize the items and decide your desired outcome and minimum acceptable position. It is important not to overlook soft needs, such as additional training credits and professional services to support the implementation and roll-out of new products, and include them as priorities in your list.

Before opening the negotiation you can review where you might have leverage: for example, Microsoft may wish to increase consumption of Azure services or increase the sales of certain products, and therefore be motivated to give better discounts or grant additional concessions, there or elsewhere, to organizations that increase volumes in those areas. Leverage can also be gained by completing renewal early, or for those organizations with a renewal in the second half of 2019, by bringing the effective date of the new EA into the current financial year.

After completing preparations you now know:

- What your current situation and obligations are.
- Whether an EA is appropriate for your needs, and if so…
- What you need to include in the agreement to meet your future needs, and
- What you want in a new EA, what minimum outcomes you can tolerate, and where you have negotiating strength.

You have many ways to conduct your negotiation but you will need to be careful that neither you nor anyone else in your organization volunteers information unnecessarily (some organizations place a moratorium on communications between the negotiating parties by anyone in the organization other than the negotiating team) and you will need to avoid becoming confused by bundling options and alternatives. In particular, you should be wary of the "thrown-in-for-free" trap. Many offers will include additional products and services that you don't need and new software features with no-cost introductory license grants. The temptation is to say, "might as well…" and accept the products – if governance is insufficient, at best, use of the products will increase the complexity of your environment, and at worst, you can create additional dependencies and may be on the hook if Microsoft decides to start charging for those introductory licenses.

The negotiations themselves are outside the scope of a simple blog post, and besides, every organization has its own preferred negotiating strategy and tactics. Whether you decide to go it alone or to engage a third party to guide the process is up to you and the resources you have available. However, if you have invested the time and resources to get the true-up sized and perhaps out of the way, and have developed a good understanding of the products and contractual terms you will need in the future, you will be in a far stronger negotiating position than you would had you not done so.

Marcus Hand is Principal at Handmarc LLC which he started to assist companies to meet challenges in IT vendor management and software licensing such as negotiating enterprise license agreements, managing true-ups, and responding to software compliance audits. Marcus is a Microsoft Certified Professional in the area of Software Asset Management (SAM - Core) and a Certified ScrumMaster. Before starting Handmarc, Marcus was Director of the IT Vendor Management where he negotiated a Microsoft Enterprise Agreement, two mid-term contract modifications, and several true-ups. He also negotiated an enterprise agreement with Adobe and similar agreements with other software publishers, managed several true-ups, negotiated a large IT managed services (ITSM) agreement, and managed the company's response to a number of license compliance audits.