



System z Software Compliance

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Being out of compliance

Customer's utilization of IBM SW without proper contractual agreement or not respectful of the Terms and Conditions contracted with IBM.

Why the focus on compliance?

In 2005 it was estimated that the world's S/W companies were losing \$34B to unlicensed installations

In 2007 KPMG's survey results found 35% of installed S/W is unlicensed

In 1Half of 2008, zSeries Americas alone ~\$40M in compliance revenue was collected (170 opportunities)

Interesting Survey Findings on IBM Compliance efforts

- A systematic approach to S/W license compliance efforts produces good financial results with few, if any, negative ramifications.
- No visible impact on subsequent repeat sales
- Escalation to Litigation is very rare
- When Compliance is part of Sales Organization, Customer Satisfaction is much better
- In some cases relationships have improved

4 Things to keep in mind:

- Customers are responsible for managing their own inventory
- Being compliant is not a favor to IBM, it is an obligation to themselves and to IBM
- Only Compliance team has delegation to negotiate settlements
- We must be equitable in treating our customers

From a Legal Perspective, What is Aiding and Abetting

Defined by the SEC General Counsel – Feb 2004:

1. Violation of securities law by one party
2. General Awareness or Knowledge of Fraud or Improper Conduct by the other party
 - **No need for specific knowledge of the entire scheme**
 - **“Knew” or “Should have known” standards**
3. Substantial assistance by the Aider and Abettor
 - **Silence or lack of action can be assistance**
 - **Subjective standard;**
 - Key parties', such as auditors or CFOs, failure to take action may be enough for A&A

Ongoing Projects

■ Audits

- Coordinated through WW Compliance team and uses independent 3rd party Business Partner.
- Can be z only, or distributed only, or both z and distributed.

■ SVP and Inventory Reconciliation

- Sysplex Verification Process
- MLC inventory reconciliation
- IPLA inventory reconciliation
- S&S inventory reconciliation

Role of Compliance Specialist

1. Protect IBM's Assets

- Locate, assess, correct and reconcile System z S/W revenue in accordance to the terms and conditions of customer contracts.

2. Lead

- Determined on a case by case basis. But, mostly advantageous to have Compliance Specialist lead.

3. Lead in Audits

- Conducted by KPMG or Deloitte

4. Lead in SVP Process

CSI

Compliance, **S**oftware, **I**BM

Blood on the Floor

The investigation starts

Gather all the Facts, Contracts and Pertinent Information

Bring us in Early

Z Compliance 2008 Plan

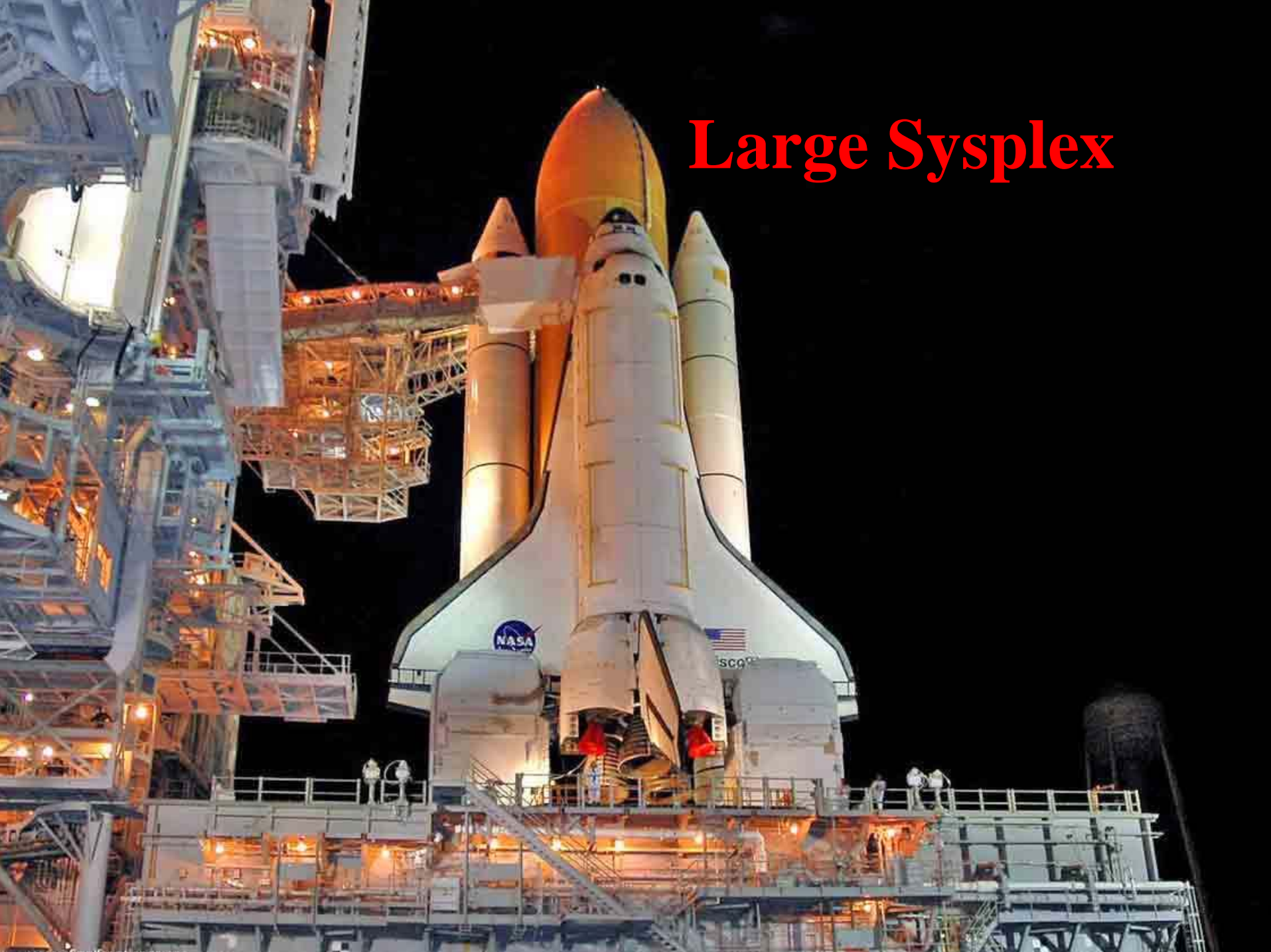
Things to Look For



Z New Workload



Large Sysplex

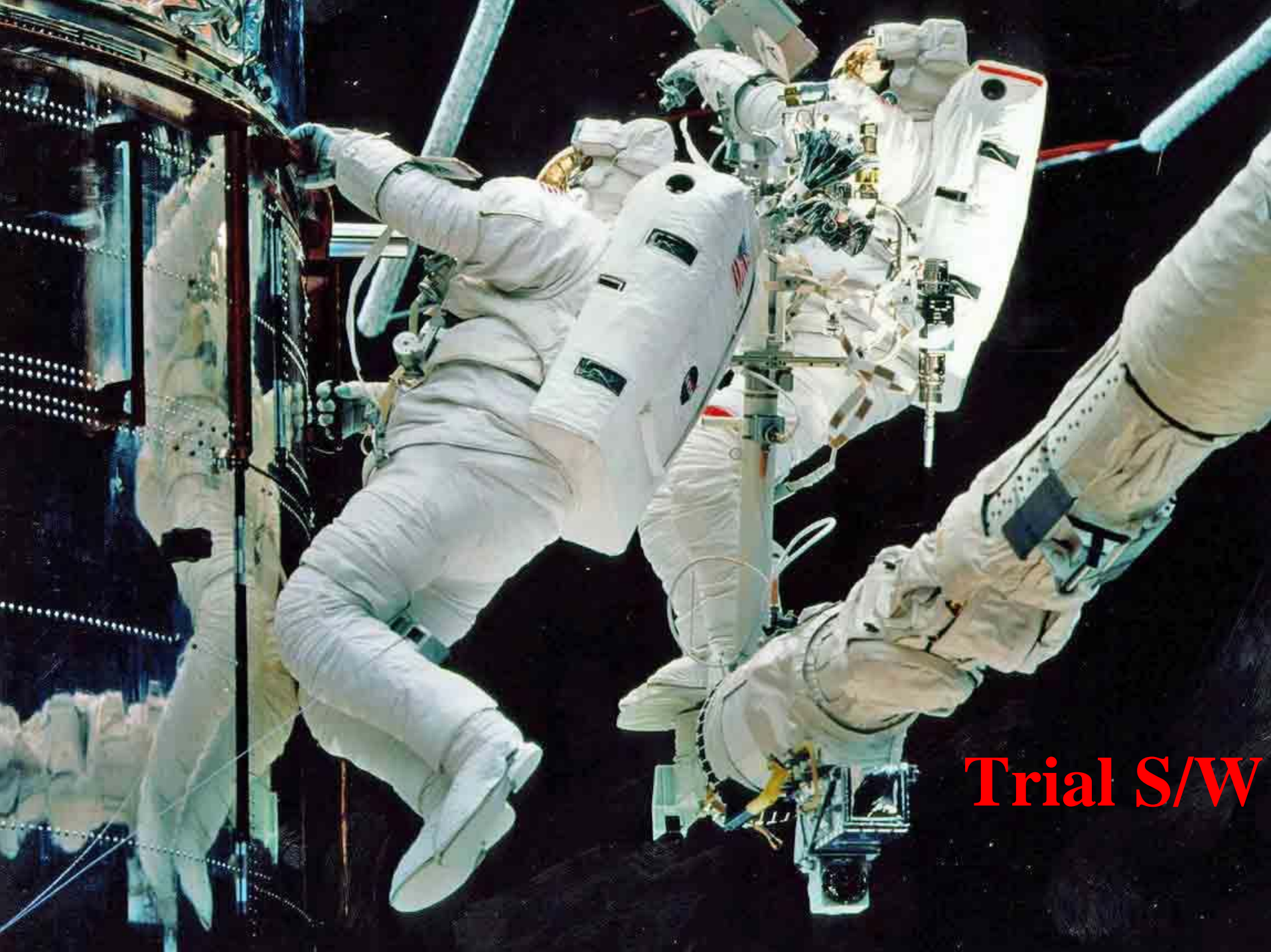


Divestiture Merger



Bob Guidotti's Call Out Compliance





Trial S/W

Just left SO Agreement



PPA to ESW Migration



SCRT Violations



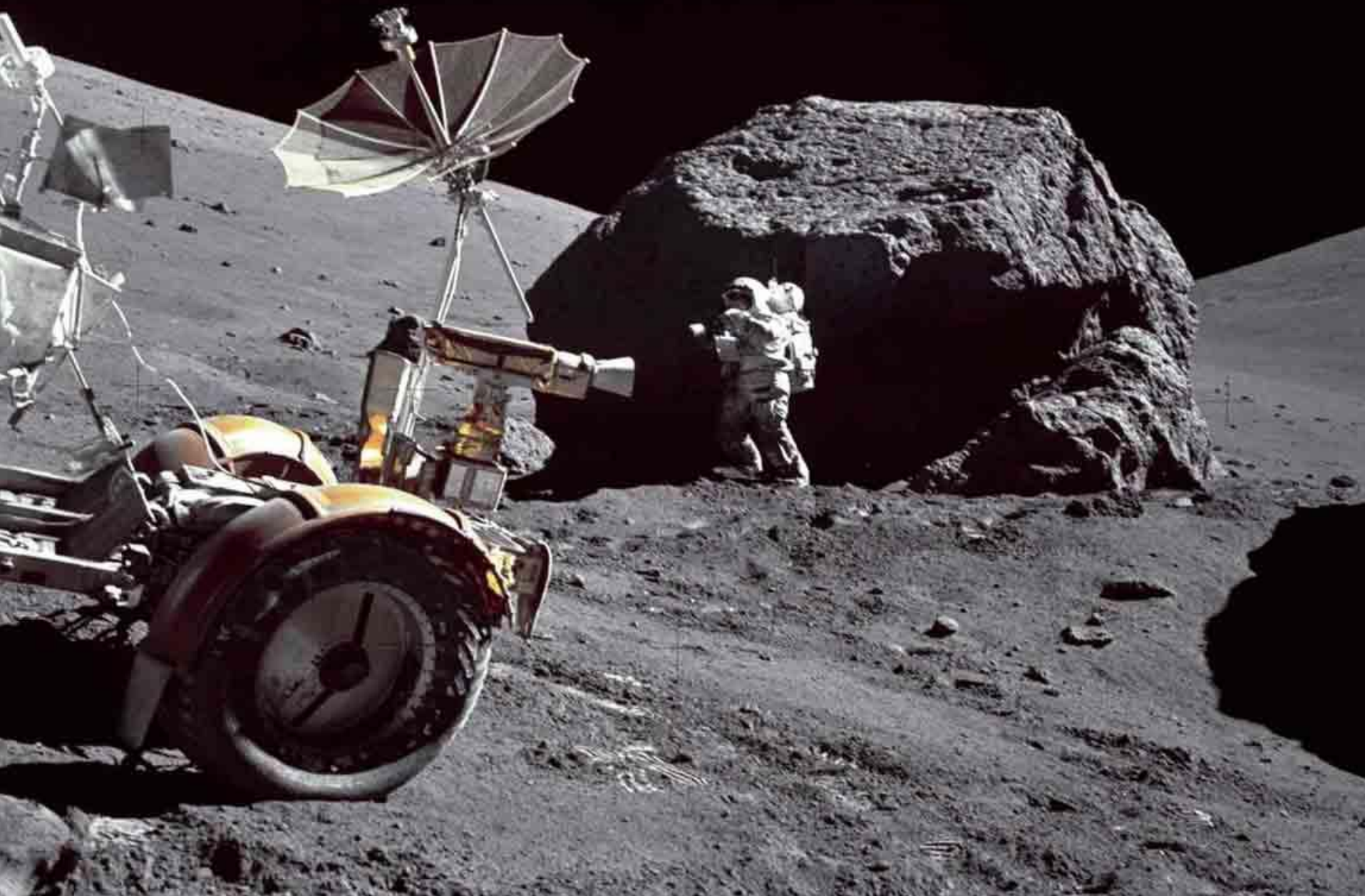
Large Portfolio of IPLA



IPLA S&S Mismatch



Audits



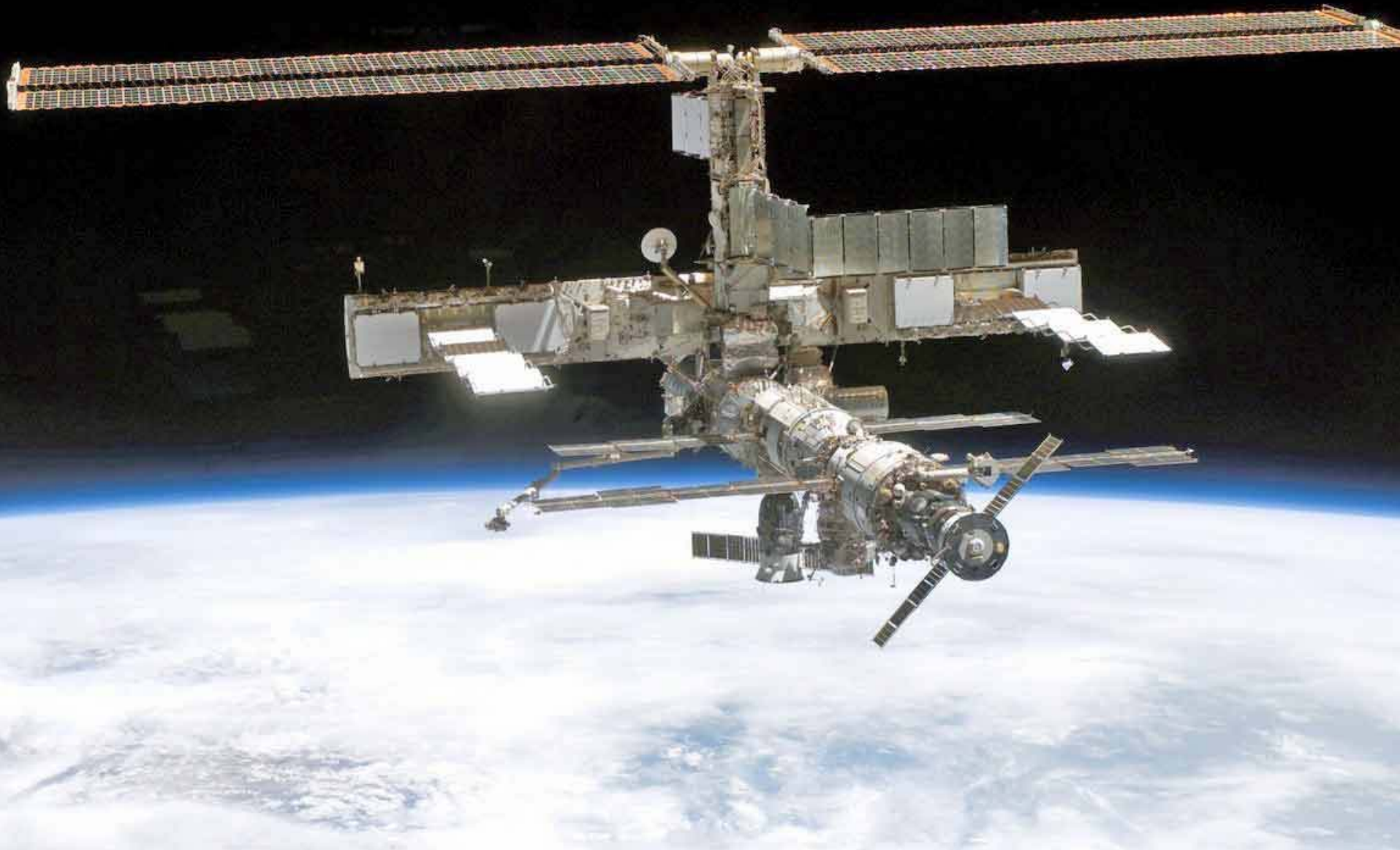
Sysplex Verification Package





Coming off ELA

Coming off OIO



No S/W Asset Management



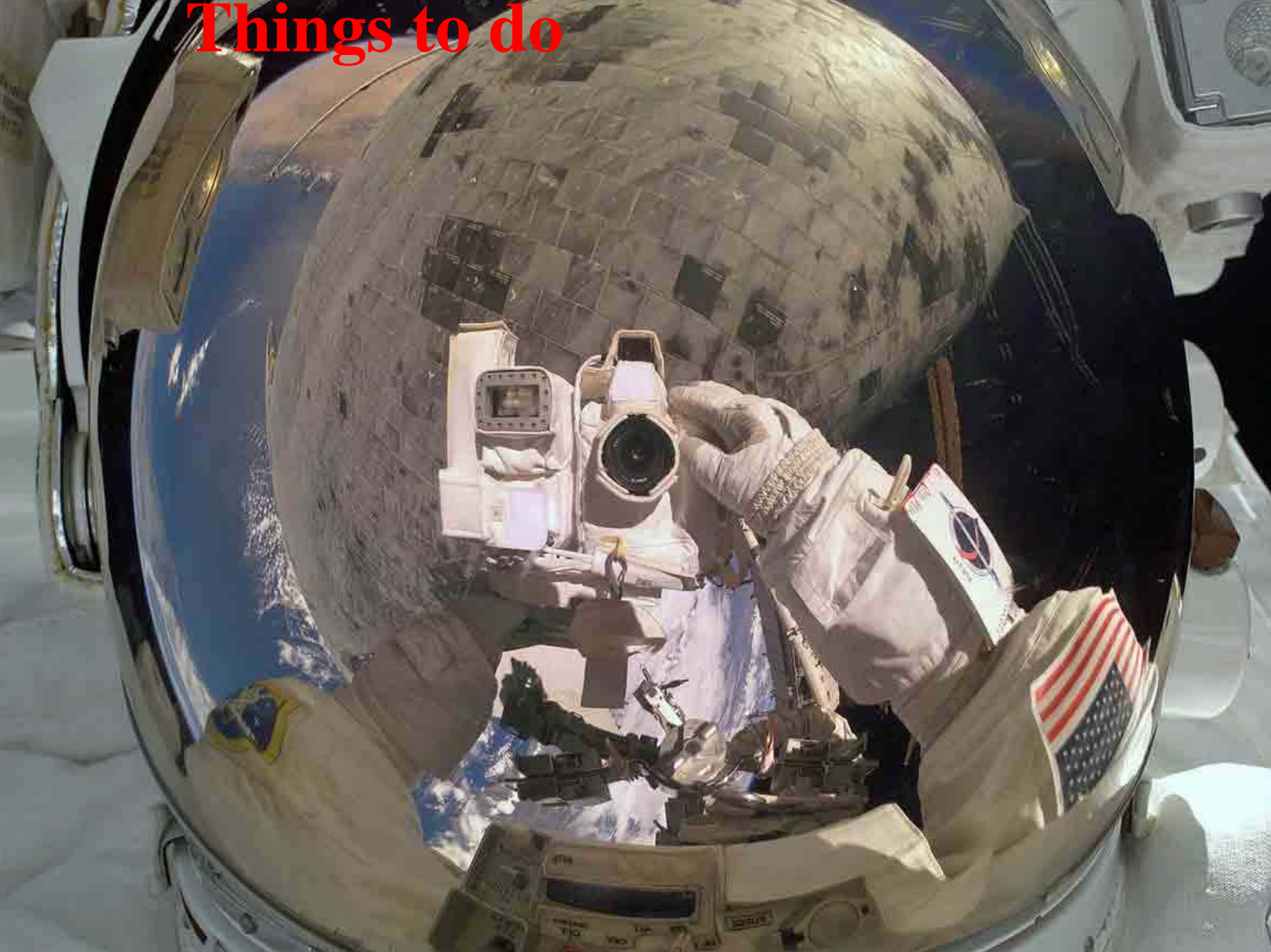
Cognos Contract



Candle Contract



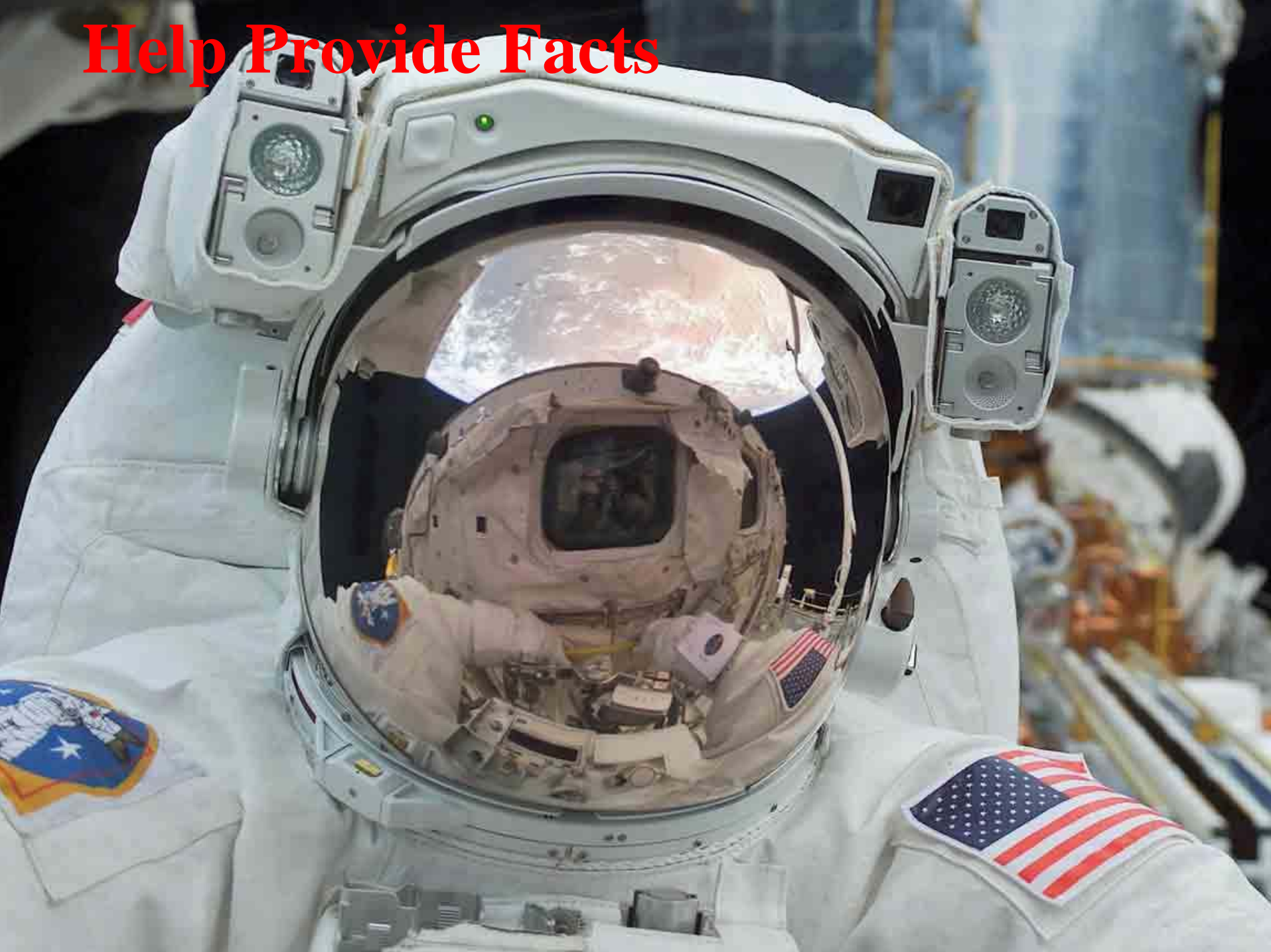
Things to do



**Get
Compliance
Team
Involved
Early**



Help Provide Facts



Let Compliance Team Lead



Beware of Aiding and Abetting



Customer is Responsible for Inventory



Any Delegation = Compliance Team



Who to Contact

zS/W Compliance

Eduardo Capeluto

Larry Schofield

Babette Wells

Robert Casey

Jim Gorham

Shelley Beavers

Karen Pennington

Kevin Banghart

Steve Barlow



Thank You

