



Computer Hardware, Enterprise Software and Solutions Software 101

Information Exchange Forum

Session: #5

PEO EIS

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Agenda



★ Background

- History and Regulation
- CHES organization and mission

★ Authority

- Army
- DoD Enterprise Software Initiative (ESI) and GSA SmartBUY
- Current DoD Enterprise Agreements

★ Licensing Considerations

- Terms and Conditions
- Best Practices
- Protecting your software project from going “bump in the night”

★ Contracting Office Concerns

★ Q&A

Legend:

CHES: Computer Hardware, Enterprise Software and Solutions

GSA: General Services Administration

Q & A: Questions and Answers



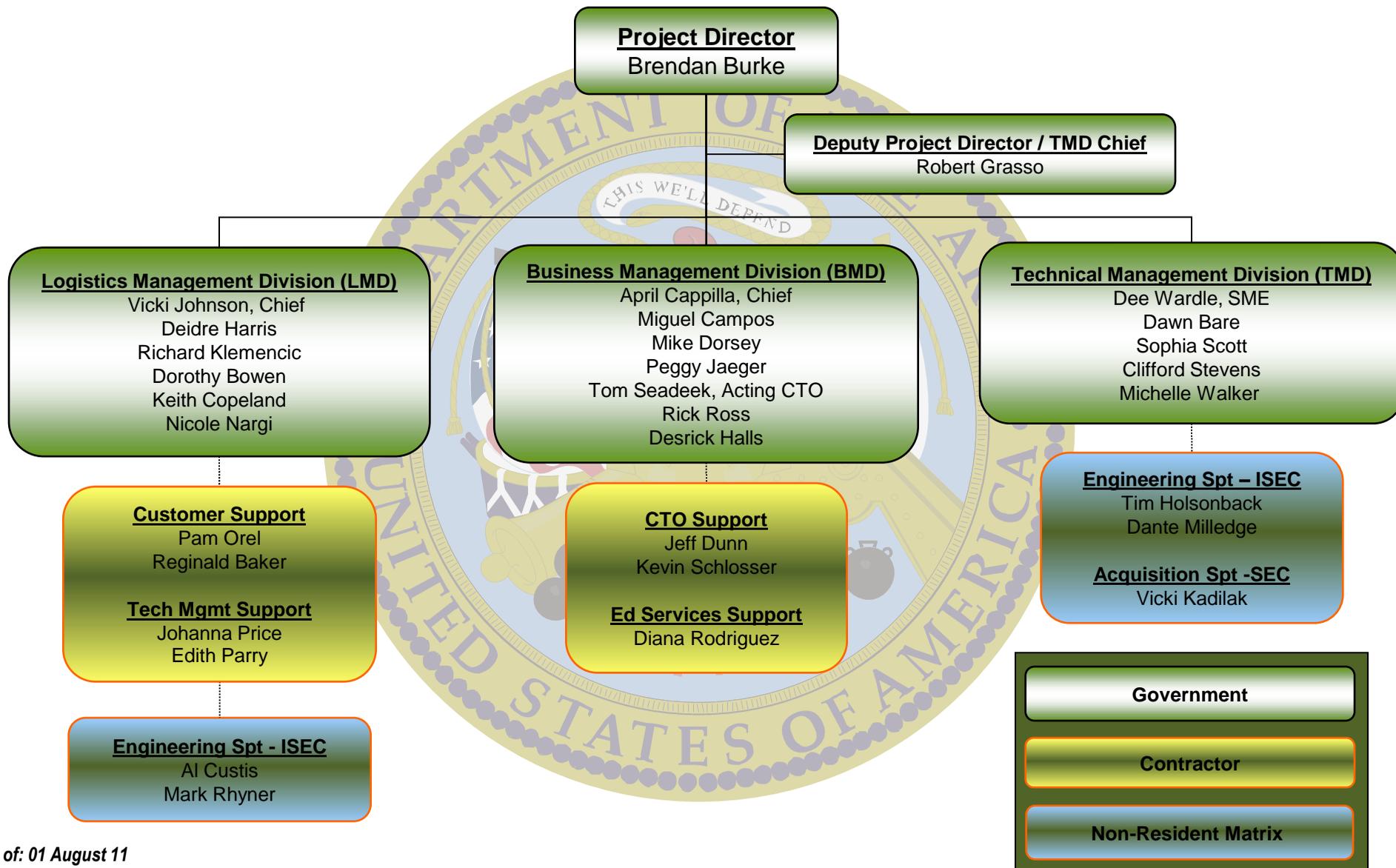
Background



- ★ **\$6B annual DoD spend on commercial-off-the-shelf (COTS) software (2010 Federal Strategic Sourcing Initiative data)**
- ★ **Why the spend keeps growing**
 - Clinger Cohen Act – 1996 federal law to improve IT management
 - reform and improve the way Federal agencies acquire and manage IT
 - required agency Chief Information Officer
 - encouraged procurement of commercial-off-the-shelf technology
 - National Security Systems generally exempt from architecture requirements, but not fiscal and CIO responsibilities
 - Federal Acquisition Regulation (FAR) Part 10: Federal agencies must use COTS item when available to meet requirements
 - Army FAR Supplement (AFARS): Requirement statements must reflect any available commercial solutions
- ★ **CHES is “mandatory source” for COTS IT and the Army’s Software Product Manager (SPM)**



CHES Organizational Structure



As of: 01 August 11



Program Description



Mission Statement:

Be the Army's Primary Source to support the Warfighter's Information Dominance objectives by developing, implementing and managing commercial Information Technology contracts that provide **enterprise-wide** net-centric hardware, software and services.

★ Characteristics / Description:

- Army Desktop and Mobile Computing (ADMC) and Information Technology Enterprise Solutions (ITES), and Information Technology Services – Small Business (ITS-SB) provide commercial IT Hardware & Services
- Enterprise Software Initiative (ESI) agreements generate cost savings and provide asset visibility across the DoD
- Online ordering through CHES's IT e-mart streamlines the IT procurement process

★ Added Value:

CHES business processes provide:

- ITES, ADMC, and ESI enterprise level agreements at significant volume level discounts
- GNEC enabled systems & migration strategies IAW Common Operating Environment Architecture
- ★ Compliance with DoD and HQDA policies on Standardization and Interoperability

★ Special Features:

- Consolidated Buy: Notebooks and Desktops offered twice per year at rates up to 61% off ADMC-2 contract prices plus an additional 7% off GSA
- ESI: Uses Stock Fund dollars with an approved Business Case Study to fund enterprise volume requirements
- IT e-mart: Establishes IT e-commerce procurement process through AKO channel

Legend:

AKO: Army Knowledge Online
 GNEC: Global Network Enterprise Construct
 GSA: General Services Administration



Authority: AFARS Revision 25 01 April 2010



★ AFARS 5139.101 (S-90)

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- (a) CHES is the **mandatory source** for commercial IT purchases “...*purchasers of commercial **hardware and software** must satisfy their IT requirements by utilizing CHES contracts and DoD Enterprise Software Agreements first regardless of dollar value. Any purchase made outside of CHES contracts requires a waiver.*”
 - (b) IT **services**: Consider small business set aside IAW FAR Part 19.

*“... If no small business capability exists, CHES contract vehicles are the **preferred source** for acquisition of IT.”*

*“... **Waiver not required for IT services.** However, if IT hardware and software are required as part of a non-CHES IT services contract, a waiver for the hardware and software is required.”*



Authority: Army CIO/G-6



★ Army Regulation 25-1: Army Knowledge Management and Information Technology Management (04 Dec 2008)

- CHES is the “primary source” for purchases of COTS software, desktops, and notebook computers **regardless of dollar value.**
- CHES waiver required to use other source(s)

*“... This regulation applies to the Active Army, the Army National Guard /Army National Guard of the United States, and the US Army Reserve unless otherwise stated.”
(Applicability, p.i.)*

*“... It applies to information technology contained in **both business systems and national security systems** (except as noted) developed for or purchased by the Department of Army.”
(Summary, p.i.)*

*“... It applies to IT contained in **command and control (C2) systems, intelligence systems** (except as noted), business systems, and (when identified) national security systems (NSS) developed or purchased by the Department of Army (DA).” (1-1. Purpose)*



CHES Operational Concept



Commodity

Integration

Performance

Network Architecture - NETCOM 9th SC(A)

ITES-2H
 End to End Solutions
 Servers
 Networking
 6 Primes

ADMC-2
 Handheld
 Desktop
 Notebook
 8 Primes

ITS-SB
 Enterprise IT Services
 Small Business Set Aside
 Fixed Price, T&M, Cost
 16 Primes

ITES-2S
 Enterprise IT Services
 Performance Based
 Fixed Price, T&M, Cost
 16 Primes

ESI

ACC-NCR

AGM

IT e-mart

CB

<p>Legend: ACC-NCR: Army Contracting Command -National Capital Region ADCM: Army Desktop and Mobile Computing AGM: Army Golden Master CB: Consolidated Buy</p>	<p>ESI: Enterprise Software Initiative ITES: Information Technology Enterprise Solutions (2H: Hardware; 2S: Services) ITS-SB: Information Technology Services-Small Business NETCOM 9th SC(A): Network Enterprise Technology Command / 9th Signal Command (Army) T&M: Time and Materials</p>
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DoD Enterprise Software Initiative (ESI)



★ Enterprise Software Initiative (ESI) established June 1998

- Mission
 - Lower total cost of ownership across DoD, Coast Guard and IC
 - Establish and manage enterprise Commercial Off The Shelf IT agreements, assets and policies
- Organization
 - Co-Chaired by Office of Assistant Secretary of Defense/CIO staffer and DoD service rep (currently Navy)
 - DoD Components appoint Software Product Manager (SPM) to:
 - Consolidate requirements and develop business case
 - Negotiate best-value deals
 - Administer resulting agreements
 - CHES is the Army's SPM
- Authority: DFARS 208.7402
 - Fulfill requirements for COTS software IAW DoD ESI via PGI 208.7403
 - Follow ESI Order of Precedence
 - DoD Inventory
 - DoD Enterprise Software Agreement (ESA)
 - "Other means" but Army requires CHES waiver
 - DoD Instruction 5000.2, Encl. 5, para. 6: maximum use and coord. w/DOD ESI



GSA SmartBUY



★ Government-wide Enterprise Software Initiative (ESI) managed by OMB (Office of Management and Budget)

- To leverage the Federal Government's buying power to achieve lower software licensing costs and equal or better "Terms and Conditions"
- Interagency team led by GSA

★ Authority

- Clinger Cohen Act of 1996
- DoD SmartBUY Policy – 22 Dec 2005
 - Acquire COTS software through existing ESI or SmartBuy
 - "Always" consult with ESI Team prior to negotiating large requirements
 - Permit conversion of new agreements to SmartBuy within 12 months

Legend:

COTS: Commercial off-the-shelf
GSA: General Services Administration
ESI: Enterprise Software Initiatives



Software Agreements



Product	Type	Managed By	Special Conditions
Adobe (Desktop)	DoD ESI	Navy	
Adobe (Server)	DoD ESI	Navy	Collaborative Requires CIO/G-6 Approval
Alamo	DoD ESI	Army	
Apple Inc.	DoD ESI	DISA	
Apple Operating System Upgrade License – Army Consolidated Agreement	Army Agreement	Army	Army Inventory
BDNA	SmartBUY	Army	
Belmanage	SmartBUY	Army	
BigFix – Situational Awareness Incident Response (SAIR)	SmartBUY	GSA	
BMC Remedy	DoD ESI	Army	
BMC Remedy	Army Agreement	Army	Army Inventory
BPWIN/ERWIN-CA	DoD ESI	Army	
Computer Associates Unicenter	DoD ESI	Army	Army Inventory
Computer Associates Unicenter	Army Agreement	Army	Spectrum and E-Health software licenses
Data At Rest – (DAR) Products	DoD ESI	Air Force	



Software Agreements (cont'd)



Product	Type	Managed By	Special Conditions
Gartner	DoD ESI	Navy	
Google ESRI Geospatial Line of Business – Products (ESRI/ GeoRover / Google Tools, MapDotNet) Resellers – (ESRI, Onix, Planet Associates, SAIC)	SmartBUY	GSA	
IBM Software - Products (IBM Rational, DB2, Tivoli, Websphere, Telelogic and Lotus Brands)	DoD ESI	Army	Inventory
iGrafx Office System	DoD ESI	Navy	
Infrastructure Relationship Management (IRM) Planet Associates	SmartBUY	Navy	
Ironhawk	DoD ESI	Army	
Meridio Point One	SmartBUY	GSA	
Microsoft Premiere Support	DoD ESI	Army	J&A
Microsoft Products and Software	DoD ESI	Navy	
Microsoft Products and SA – Army Consolidated Agreement	Army Agreement	Army	Army Only Agreement
Minitab Statistical Software	DoD ESI	Navy	
Minitab– Army Consolidated Agreement	Army Agreement	Army	
NetIQ	DoD ESI	Army	
Opware Asset Management	DoD ESI	Army	



Software Agreements (cont'd)



Product	Type	Managed By	Special Conditions
Oracle America, Inc.	SmartBUY	Army	Army SW Exchange Licenses May Be Available
Paradigm	DoD ESI	Army	
Power Steering	DoD ESI	Navy	
Primavera Systems, Inc.	SmartBUY	Army	
Quest Software	SmartBUY	Army	Army Centrally Funded Mail Migration Products
Red Hat Linux – Resellers (DLT Solutions, Carahsoft)	DoD ESI	DISA	
RWD Technologies	DoD ESI	Navy	
SAP (Includes Business Objects and Crystal Reports)	DoD ESI	Navy	
SAP Enterprise Licenses Agreement	Army Agreement	Army	ERP Licenses
SecureFusion	DoD ESI	Air Force	
Securify	DoD ESI	Air Force	
Sun Software	DoD ESI	DISA/Navy	
Sun Support	DoD ESI	DISA/Navy	
Sybase	DoD ESI	Army	DoD Inventory



Software Agreements (cont'd)



Product	Type	Managed By	Special Conditions
Symantec Veritas – Army Consolidated Agreement	Army Agreement	Army	Army Inventory
Telelogic	DoD ESI	Army	
Thursby ADmitMac CAC Middleware for Apple	Army Agreement	Army	Army Inventory
Virtual Corp	DoD ESI	Army	
VMware	SmartBUY	Army	
Webfiltering – Products (BlueCoat, Smartfilter) Army Consolidated Agreement	Army Agreement	Army	
Weblogic	SmartBUY	Army	
Websense	DoD ESI	Army	
Xacta	SmartBUY	Air Force	
ARMY / DoD Funded Software			
Anti-Virus Products Download	DoD ESI	DISA	Centrally Funded For DoD
Lotus Forms Viewer	Army Agreement	Army	Download Only
Symantec Ghost	Army Agreement	Army	Army Centrally Funded



Licensing Considerations



★ Requiring Activity Technical Team may understand technology but not licensing

- May not always have Enterprise perspective



★ Use the following before selecting your software:

- Consulting Groups
- License Experts (SPM) ...
- Network with other services and agencies
- Software Attorney





License Terms and Conditions



- ★ **COTS software procurement generally involves multiple, and often conflicting, sets of Terms and Conditions (Ts and Cs)**
 - GSA schedule forms base for orders
 - ESI/SmartBUY Agreement based on GSA schedule but with negotiated Ts & Cs
 - Every software publisher has unique End User License Agreement (EULA)
 - Vendor (may be publisher's reseller) proposal may add additional Ts and Cs
- ★ **DoD ESI license agreements resolve conflicts among Ts and Cs**
- ★ **Especially when buying outside ESI, check EULA**
 - Check for provisions that conflict with federal procurement laws
 - Check to ensure rights are clearly defined, quantifiable, predictable
- ★ **Examples of EULA “pitfalls”**

Limitation of Vendor Liability	Indemnification
Automatic Renewal	Control of Litigation
Advance Payment For Services	Payment of Taxes
Exorbitant Late Payment Fee	Governing Law

Legend:

COTS: Commercial off-the-shelf
 GSA: General Services Administration
 ESI: Enterprise Software Initiatives



Licensing Best Practices



★ License Type

- Identify how the product is licensed (named user, concurrent user, device, CPU, etc.)
- Specify if ownership is perpetual versus term

★ Use Rights

- Identify the entities that are permitted to use the software
- Fully define terms such as enterprise, program, affiliate and subsidiary
- Check for additional rights such as laptop and home use
- Check for unusual license metrics such as use charges tied to virtual machines or remote access
- Check for specific license restrictions such as to hardware make/model or geographic location



Licensing Best Practices



★ Contractor Use

- Outsourcing may permit the outsourced contractor to purchase and use software in support of the government customer. Specify who owns the licenses; government or contractor.
- Be sure that 3rd parties (contractors) have use rights when working on behalf of government or when providing services to host government owned licenses.



Licensing Best Practices



★ Audit provisions – Software vendor generally has right to audit use

- Retain right to self audit or, at least, protect government rights
 - Require appropriate security clearances
 - Require advance notice of audit
 - Remove any payment obligations
 - Include confidentiality clause to preclude sharing results
- Know how to count actual use in your organization

★ Termination and rights of survival clauses

- Understand impact to software use and maintenance rights if order is terminated without completion of expected payments
- Address retention of rights when vendors are bought by other companies or when products are repackaged
- Beware of clauses giving vendor the right to terminate or to limit the Government's termination rights.



Licensing Best Practices



★ Transfer rights

- Check for limitations on movement or transfer within or between components, organizations, programs, etc.
- Consider notice requirements
- Address software rights in the event of merger or divestiture

★ Distribution – address delivery options

- Hard copy media
- Duplication rights
- Electronic distribution – central distribution, user access, etc.



Licensing Best Practices



★ Additional terms for consideration as appropriate

- Disaster recovery
- Test and development
- Terms for Times of Conflict
- Escrow agreement

★ Document negotiated changes in resultant contract

- Use definitions
- Use examples to eliminate ambiguity
- Clearly define additional license rights and specify the addendum changes that are at no additional cost
- Check that a right granted in one area is not changed or removed by another provision



Software Pricing Considerations



★ Get the best pricing

- Conduct and consider market research findings
- Ensure discounts are appropriate for the size of the order
 - Obtain ESI/SmartBUY discounts
 - Additional discounts should be applied to large orders? Spot discounting from ESI/SmartBUY/GSA price is expected when buying large quantities
- Contact the Software Pricing Manager if ESI/SmartBUY is not the best value
- Ensure media is included with the license
- Consider options to fix-price future requirements
- Ensure price terms are protected under changed conditions

Legend:

GSA: General Services Administration
ESI: Enterprise Software Initiatives



Software Maintenance



★ Don't forget maintenance

- Also called “Software Assurance” or “SA”
- Understand what “maintenance” includes
 - Right to future versions/releases/upgrades and patches?
 - Technical support?
 - Other benefits such as training?
- Determine if maintenance is considered product or service
 - GSA schedule definitions have changed
 - Portions of software maintenance may be considered “product”
 - Could impact coverage period and funding type



Software Maintenance



- Clearly define coverage period
 - Fixed Term (1 year, 3 years) varies by publisher
 - Term may be based on date of order or stated end date. Price should be prorated if not full term.
 - Crossing fiscal years may produce funding gap (CRA)
- Avoid “all or none” provision in event some licensees drop out
- Ensure maintenance discount is percentage off negotiated contract price vice list or GSA price
- Check the maintenance ratio to license purchase price and measure against current market conditions
- Request maintenance escalation be “capped” for a number of years
- Fielded Systems
 - Ensure program integrator coordinated with PD CHES
 - Define responsible party for providing software assurance/maintenance



Protect your Software Project from Going "Bump in the Night"



★ Describe your requirement to contracting activity:

- Define need to manipulate data vs. static data (viewing only)
- State if inward/outward sharing requirement (Netcentricity)
- Address scope of project: test and development versus full use license
- Address transferability rights
- Specify how many years will you need to contract
- Obtain price estimate based on market research
- Request flat-lined maintenance
- Specify audit clause conditions
- Plan for asset management or "True up/True down" counting system
- Consider escrow agreement
- Software distribution



Protect your Software Project from Going “Bump in the Night”



★ Describe your user base clearly

- Government, civilian, military, contractors supporting government, non-human devices, etc.
- How will the product or vendor be determined?
 - Competitive - provide technical evaluation criteria
 - Limited or sole source – provide brand name justification

★ Use definitions and examples to reduce ambiguity

★ Obtain Legal review of EULAs and Ts and Cs

★ Use SPM and other Subject Matter Experts

★ Document negotiated changes in resultant contract !!!

Legend:

EULA: End User License Agreement
Ts and Cs: Terms and Conditions
SPM: Software Product Manager



Contracting Office Concerns



★ Requirements Determination

- Market research
- Certificate of Networthiness
- Competitive or sole source
 - Technical evaluation
 - Brand name justification

★ Follow the order of precedence

- FAR 8.002 & DFARS 208.002 specify use of Government supply sources
- Considerations most pertinent to COTS software acquisition
 - Inventory – Check for “Inventory Box” at www.esi.mil
 - ESI/SmartBUY
 - ESI specifically cited in DFARS 208.74
 - DoD SmartBUY policy memo of 22 Dec 2005
 - DoD Instruction 5000.2, Encl. 5, para. 1.c.6
 - General Services Administration schedule
 - Other existing contracts
 - Open market

Legend:

COTS: Commercial off-the-shelf
FAR: Federal Acquisition Regulation
ESI: Enterprise Software Initiatives



Brand Name, Documentation Requirement



★ Document and Approve IAW FAR 8.405-6

- Orders Simplified Acquisition Threshold-\$650K –KO Approval
- Orders \$650K-\$12.5M –Competition Advocate or official described in FAR 6.304(a)(3) or (a)(4)
- Orders \$12.5-85.5M –Head of Contracting Activity or an official described in FAR 6.304(a)(3)(i) or (ii)
- Orders >\$85.5M –Army Acquisition Executive

★ Post on e-buy

Legend:

IAW FAR: In accordance with Federal Acquisition Regulation

KO: Contracting Officer



Ordering From BPAs



Software (no Statement of Work required)

- ★ **FAR 8.405-3(b), actions >\$3,000**
- ★ **Single BPA, FAR 8.405-3(b)(1)**
 - Orders may be placed directly, if BPA was established in compliance with FAR 8.405-1 and 8.405-3(a)
- ★ **Multiple BPAs, FAR 8.405-3(b)(2)**
 - Provide requirement and evaluation criteria to all BPA holders
 - Evaluate and make best value decision (FAR 8.404(d))
 - Place order with best value BPA holder
- ★ **Must justify when restricting consideration unless awarded in compliance with FAR 8.405-1 and 8.405-3(a)**
 - To an item peculiar to one manufacturer/publisher (*e.g., a particular brand name, product, or a feature of a product, peculiar to one manufacturer*).
 - A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer. Brand name specifications shall not be used unless the particular brand name, product, or feature is essential to the Government's requirements, and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet, the agency's need.

Legend:

BPA: Blanket Purchase Agreements

FAR: Federal Acquisition Regulation



CHESS and ESI Web Sites





Summary



- ★ CHES contracts and License Agreements leverage the Army's Enterprise purchasing power and protect the LandWarNet.



Are you part of the Enterprise?



Contact us



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Acronyms



■ ACC-NCR	Army Contracting Command-National Capital Region
■ ADMC	Army Desktop and Mobile Computing
■ AGM	Army Golden Master (NETCOM)
■ AKO	Army Knowledge Online
■ AWCF	Army Working Capital Fund
■ B2Bi	Business to Business Integration
■ C2	Command and Control (Systems)
■ CA	Cost Avoidance
■ CB	Consolidated Buy
■ CHES	Computer Hardware, Enterprise Software and Solutions
■ CON	Certificate of Networthiness
■ DISR	DoD IT Standards Registry
■ ESI/ELA	Enterprise Software Initiative/Enterprise License Agreement
■ GSA	General Services Administration
■ IDIQ	Indefinite Delivery – Indefinite Quantity

■ IPv6	Internet Protocol, version 6
■ ITAM	Information Technology Asset Management
■ IT e-mart	Information Technology – Enterprise Mart
■ ITES	Information Technology Enterprise Solutions
■ MIPR	Military Interdepartmental Purchase Request
■ MS ELA	Microsoft Enterprise License Agreement
■ NETCOM	Networks Command (Army)
■ NEC	Network Enterprise Center
■ OEM	Original Equipment Manufacturer
■ PEO EIS	Program Executive Office – Enterprise Information Systems
■ PKI	Public Key Infrastructure
■ RFID	Radio Frequency Identification
■ RFP	Request for Proposal
■ RFQ	Request For Quote
■ SmartBUY	Federal Program to leverage the Software Buying Power of all Federal Agencies
■ SLMS	Software License Management Systems
■ SPM	Software Product Manager (DoD)
■ UID	Unique (Item) Identification