PGI 208.7403 Acquisition procedures.

(1) After requirements are determined, the requiring official shall review the information at the ESI website to determine if the required commercial software or related services are available from DoD inventory (e.g., Golden Disks and DoD-wide software maintenance agreements). If the software or services are available, the requiring official shall fulfill the requirement from the DoD inventory.

(2) If the required commercial software or related services are not in the DoD inventory, and not on an ESA, the contracting officer or requiring official may fulfill the requirement by other means. Existing ESAs are listed on the ESI website.

(3) If the commercial software or related services are on an ESA, the contracting officer or requiring official shall review the terms and conditions and prices in accordance with otherwise applicable source selection requirements.

(4) If an ESA's terms and conditions and prices represent the best value to the Government, the contracting officer or requiring official shall fulfill the requirement for software or services through the ESA.

(5) If existing ESAs do not represent the best value to the Government, the software product manager (SPM) shall be given an opportunity to provide the same or a better value to the Government under the ESAs before the contracting officer or requiring official may continue with alternate acquisition methods.

(i) The contracting officer or requiring official shall notify the SPM of specific concerns about existing ESA terms and conditions or prices through the ESI webpage.

(ii) The SPM shall consider adjusting, within the scope of the ESA, terms and conditions or prices to provide the best value to the customer.

(A) Within 3 working days, the SPM shall—

(*1*) Update the ESA;

(*2*) Provide an estimated date by which the update will be accomplished; or

(*3*) Inform the contracting officer or requiring official that no change will be made to the ESA.

(B) If the SPM informs the contracting officer or requiring official that no change will be made to the ESA terms and conditions or prices, the contracting officer or requiring official may fulfill the requirement by other means.

(C) If the SPM does not respond within 3 working days or does not plan to adjust the ESA within 90 days, the contracting officer or requiring official may fulfill the requirement by other means.

(iii) A management official designated by the department or agency may waive the requirement to obtain commercial software or related services through an ESA after the steps in paragraphs (5)(i) and (5)(ii)(A) of this section are complete. The rationale for use of an alternate source shall be included in the waiver request and shall be provided to the SPM.

Parent topic: PGI 208.74 -ENTERPRISE SOFTWARE AGREEMENTS