

July 26, 2000

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
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CHIEF INFORMATION OFFICERS OF THE DEFENSE AGENCIES  
DIRECTOR, INTELLIGENCE COMMUNITY MANAGEMENT STAFF  
INTELLIGENCE COMMUNITY CHIEF INFORMATION OFFICER

SUBJECT: Department of Defense (DoD) Chief Information Officer (CIO) Guidance and Policy Memorandum No. 12-8430-July 26, 2000 – Acquiring Commercially Available Software

The DoD Enterprise Software Initiative (ESI) and the Enterprise Software Agreements (ESA) entered into by DoD Components are proving that managing the acquisition of commercially available software at the DoD enterprise level reduces the cost of acquiring and maintaining software products. By aggregating requirements and leveraging DoD's buying power, together with the buying power of related communities of interest such as the Intelligence Community, the Department is able to achieve the most favorable terms and pricing for commercially available software and software maintenance.

The ESI was established by the DoD CIO in June 1998, with the following four goals:

- “Obtain buy-in for DoD enterprise-wide software agreements;
- Reduce the acquisition and support costs of software by leveraging DoD buying power;
- Provide the best, most flexible suites of Joint Technical Architecture (JTA)-conforming software to the DoD enterprise; and
- Create a funding mechanism that incentivizes the use of DoD-wide software initiatives.”

Simply stated, the vision of the ESI is “point and click information technology shopping at lowest cost.”

The DoD ESI and associated ESA are managed by a governance structure of three main bodies: the ESI Steering Group, the ESI Working Group, and the DoD CIO Executive Board. The DoD ESI Steering Group provides overall direction for the ESI and reports to the DoD CIO Executive Board. The Steering Group designates DoD Component executive agents for ESI Product Categories, sets priorities, and provides guidelines for funding and fee arrangements. It is comprised of senior level officials from the DoD Components, and is chaired by the DoD Deputy CIO. The ESI Working Group supports the Steering Group by planning, providing guidance and approving business cases for DoD ESA. The ESI Working Group is comprised of members from the major DoD Components, and is chaired by a member of the Office of the Assistant Secretary of Defense for Command, Control, Communications and Intelligence (OASD (C3I)) Information Technology Investment and Acquisition (ITI&A) Directorate. DoD Component executive agents appoint a Software Product Manager (SPM) to consolidate requirements and develop a business case, negotiate best-value deals for DoD ESA in ESI product categories, and administer the resulting agreements.

The ESI’s effectiveness in meeting its objectives lies in its ability to increase the number of DoD organizations using DoD ESA, achieve significant cost reductions from current prices, satisfy DoD organizations’ requirements, and locate funding to support DoD enterprise software agreements. Building on lessons learned from the ESI and Component ESA, this guidance and policy memorandum is issued to ensure the DoD takes maximum advantage of the benefits available from acquiring and managing commercial software as a DoD enterprise asset. As a first step to facilitate this objective, DoD Components must identify their existing software rights (consistent with *Executive Order on Computer Software Piracy, 13103*, dated September 30, 1998 and the ASD(C3I) memorandum, subject: *Combating Software Piracy*, dated March 15, 1999). Requiring officials and software buyers are still responsible for identifying the software needed and following existing acquisition and contracting policies. Designated DoD Component management officials can waive use of DoD ESA where appropriate, unless the software or software maintenance they need is already available from DoD inventory. In this case, the SPM has the authority to match or beat any legitimate commercial pricing.

The Under Secretary of Defense for Acquisition, Technology and Logistics concurs with this memorandum. While the attached policy and guidance is effective immediately, the DoD CIO, in coordination with the Director of Administration and Management, will incorporate it into the DoD Directive System within 180 days. The DoD Federal Acquisition Regulation Supplement will be amended, as appropriate and such amendment will be effective after any required notice and comment period. Please direct any questions to Mr. Rex Bolton in the office of IT Investment and Acquisition. He can be reached at (703) 602-0980 extension 135, or e-mail: [rex.bolton@osd.mil](mailto:rex.bolton@osd.mil).

//signed//  
Arthur L. Money

Attachment

cc: COMMANDERS OF THE UNIFIED COMBATANT COMMANDS

DoD Chief Information Officer (CIO)  
Guidance and Policy Memorandum No. 12-8430, July 26, 2000  
Acquiring Commercially Available Software

References:

- (a) DoD Joint Technical Architecture (JTA) Version 3.0, 29 Nov. 1999 (<http://www-jta.itsi.disa.mil/>).
- (b) Federal Acquisition Regulation (FAR). (<http://www.arnet.gov/far/>)
- (c) DoD Enterprise Software Initiative (ESI) website (<http://www.doncio.navy.mil/esi>).
- (d) ESI Implementation Plan (<http://www.doncio.navy.mil/esi/FinalFinal2-18-00.doc>).
- (e) Section 508 of the Rehabilitation Act Technical Assistance (<http://www.section508.gov>).

1. PURPOSE: The purpose of this guidance and policy memorandum is to maximize Department of Defense (DoD) buying power and take advantage of the significant cost savings and management efficiencies that result from acquiring and managing commercially available software on a DoD-wide basis.

2. APPLICABILITY AND SCOPE: This guidance and policy applies to:

2.1 The Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense (DoD IG), the Defense Agencies, the DoD Field Activities and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components").

2.2 Acquisition of designated commercially available software and software maintenance (including software and software maintenance acquired as part of a system or system upgrade, or other contracted services; contractor acquisitions authorized under FAR 51.101; and acquisitions made through other federal agencies, e.g., interagency agreements). For a list of designated software see the web site at reference (c).

3. DEFINITIONS: Terms used in this issuance are defined in Enclosure 1.

4. POLICY: It is the policy of the DoD to:

4.1 Acquire and manage commercially available software as a DoD-wide asset.

4.2 Aggregate the requirements of DoD Components for acquisition of commercially available software and software maintenance.

4.3 Compare pricing and terms and conditions on DoD Enterprise Software Agreements (ESA) before acquiring commercially available software or software maintenance from other sources or establishing new Component ESA (This is consistent with FAR 8.001(a)(1)(vii). Most ESA are Blanket Purchase Agreements that offer DoD customers additional discounts

from “optional use Federal Supply Schedules”). If a DoD ESA is not the most advantageous source, the software buyer or requiring official will give the Software Product Manager (SPM) an opportunity to improve the DoD ESA before using an alternate acquisition method.

4.4 Purchase software rights and software maintenance from DoD inventory (such as Golden Disks or other aggregated purchases) before using other sources (in accordance with FAR 8.001(a)(1)(i), “Agency Inventories”).

4.5 Allow each SPM to recoup administrative costs.

## 5. RESPONSIBILITIES:

5.1 The DoD CIO shall:

5.1.1 Sponsor the ESI and oversee the ESI Steering Group, which supervises the ESI Working Group.

5.1.2 Identify and remove impediments to effective and efficient operation and use of ESA.

5.1.3 Issue ESI policy and guidance as required.

5.1.4 Perform oversight of the ESI along with the Defense Acquisition Executive (DAE).

5.1.5 Develop a DoD business process for software asset management.

5.1.6 Appoint the Information Technology (IT) Corridor Executive Agent.

5.2 Heads of DoD Components, with support from CIOs, shall:

5.2.1 Provide a representative to the ESI Steering Group, and provide personnel and other support as necessary to accomplish ESI objectives.

5.2.2 Publicize and ensure maximum practicable use of DoD ESA throughout the DoD Component to achieve greatest cost savings.

5.2.3 Ensure coordination with the ESI Working Group before establishing and enterprise software agreement or indefinite delivery / requirements type contract for commercially available software.

5.2.4 Cooperate with ESI Working Group, Steering Group and SPM to consolidate Component software agreements into ESA.

5.2.5 Provide regular ESI Working Group representation or designate a Component ESI representative.

5.2.6 Ensure regular feedback on the usefulness of DoD ESA is provided to the ESI SPM.

5.2.7 Appoint a SPM when the DoD Component is designated as the executive agent for an ESI Product Category.

5.3 The Component Acquisition Executives shall:

5.3.1 Ensure that DoD Component software buyers analyze pricing and terms and conditions on DoD ESA prior to acquiring designated software from other sources or establishing new agreements.

5.3.2 Ensure that DoD Components purchase designated software from DoD inventory (such as Golden Disks or other aggregated purchases) before using other sources.

5.3.3 Develop organizational incentives at all appropriate levels to encourage and ensure use of DoD ESA.

5.3.4 Inform DoD direct buying organizations and program officers that DoD contractors should be authorized, in accordance with FAR 51.101, to use DoD ESA as a source of software supply and services in DoD contract work. Contracting officers should include FAR 52.251-1 in new contracts.

5.4 The DAE, in addition to the responsibilities in 5.3 above, shall:

5.4.1 Issue ESI acquisition policy and guidance as required.

5.4.2 Perform oversight of the ESI along with the DoD CIO

5.5 Component SPM shall:

5.5.1 Serve as DoD ESA manager for specific software products, as described in Paragraph 6, Procedures.

5.5.2 Implement or facilitate Component asset management procedures to track and manage acquired software rights.

5.5.3 Compare existing agreements against industry and Government best practices and prices to ensure DoD agreements represent the most favored customer relationship.

5.5.4 Work with DoD customers and CIO staff to identify requirements.

5.5.5 Share best practices and terms and conditions with other SPMs, and the ESI Working Group.

5.5.6 Implement internal controls to assure that use of Defense Working Capital Funds (DWCF) to purchase DoD software inventory is properly authorized and managed. Act as a virtual “item manager” for DoD software inventory purchased under their ESA, similar to the role of item managers of other commodities funded by the DWCF.

5.5.7 Obtain vendor documentation of the sections in the JTA that are supported by the vendor’s individual product offerings, and make it available to buyers.

5.6 The IT Corridor Executive Agent shall:

5.6.1 Advise and assist the DoD Electronic Mall (EMALL) program manager in accelerating the integration of ESI techniques related to acquiring IT products and services into DoD EMALL operations.

5.6.2 Promote expanded use of ESI techniques in IT Corridor electronic business practices and associated information technologies to improve the IT acquisition process and life-cycle management.

5.6.3 Oversee development of ESI-related DoD EMALL policies, plans, programs, publications, and procedures to achieve “point and click IT shopping at lowest cost,” consistent with the ESI Vision and guiding principles.

5.6.4 Recommend strategy for developing and maintaining an IT Corridor architecture and Concept of Operations (CONOPS) to provide the ESI vision of “virtual software store capability.”

5.6.5 Develop metrics and conduct analysis into the effectiveness and efficiency of the IT Corridor in meeting ESI goals and objectives.

5.6.6 Develop and maintain a training and outreach program to improve IT Corridor user awareness and acceptance of ESI. Encourage improved communication and coordination among DoD IT Corridor activities toward achieving ESI goals and objectives.

5.6.7 Conduct market analyses and forecast block-buy ESA opportunities for near-term execution.

5.6.8 Develop and maintain an inventory of ESA for use in auditing the IT Corridor catalog database.

5.6.9 Manage development and maintenance of the ESI web site and maintain the link from the IT Corridor to the ESI web site.

#### 5.7 ESI Steering Group shall:

5.7.1 Provide direction, guidance and oversight for the ESI. Establish and maintain ESI guiding principles.

5.7.2 Define ESI product categories.

5.7.3 Designate executive agents for ESI product categories.

5.7.4 Develop guidelines for ESI funding sources and fee arrangements.

5.7.5 Resolve issues when the ESI Working Group has been unable to reach a consensus.

#### 5.8 ESI Working Group shall:

5.8.1 Plan and track the progress of the ESI. Consolidate asset data and measure the performance of the ESI.

5.8.2 Identify and propose ESI product categories for the ESI Steering Group.

5.8.3 Provide guidance in accordance with ESI guiding principles to the SPM. Provide other guidance as appropriate, such as guidance to include Accessibility requirements from reference (e) in ESA.

5.8.4 Approve business cases for all ESI software agreements.

5.8.5 Direct the development of the ESI web page and define the requirements for the ESI portion of the IT Corridor.

6. PROCEDURES:

6.1 SPM. The ESI Steering Group will appoint an executive agent for each designated ESI product category. The DoD Component executive agents will appoint a SPM to negotiate and manage their DoD ESA. The SPM shall:

6.1.1 Establish DoD ESA consistent with guidance and direction provided by the ESI Steering Group and Working Group.

6.1.2 Make recommendations and propose a business case for new agreements to the ESI Working Group. The business case should focus on requirements, acquisition strategy and the likelihood and timing of “payback” for any proposed investment.

6.1.3 Manage, advertise and promote the ESA assigned by the DoD Steering Group.

6.1.4 Conduct ESI goal performance measurement using approved measures: compare agreements against industry and other Government agreements to ensure the DoD is achieving the best possible terms; track product demand, sales, etc.; and document JTA (ref. a) compliance, and any available customer feedback and test results.

6.1.5 Support and maintain customer and supplier relationships with software companies. Identify and remove impediments to effective and efficient use of the agreements.

6.1.6 Provide customer assistance.

6.1.7 Facilitate aggregation of small orders to maximize DoD discounts on applicable ESA.

6.1.8 Work with the DoD Executive Agent for the IT Corridor on the DoD EMALL to help assure that the ESI vision of “Point and Click IT Shopping at Lowest Cost” is achieved.

6.1.9 Implement or facilitate Component asset management and inventory tracking. In the case of software acquired by DoD Contractors, following initial purchase, asset management and inventory tracking are not required unless or until the rights to use the software are transferred to the Government.

6.1.10 Implement internal controls to assure that use of Defense Working Capital Funds (DWCF) to purchase DoD software inventory is properly authorized and managed. The SPM shall:

6.1.10.1 Ensure that software requirements forwarded to a contracting office to purchase software rights for DoD inventory comply with inventory restrictions whenever DoD stock funds are used.

6.1.10.2 Control DoD software inventory until DoD customers purchase and pay for it. Issue licenses to DoD customers only upon receipt of properly funded obligation documents. Customers must comply with applicable laws regarding their appropriated funds. Use of the DWCF to purchase DoD inventory does not relieve them of this responsibility.

6.1.10.3 Read the *Implementation Plan for Software Product Managers for the Department of Defense Execution of Enterprise Software Agreements* posted on the ESI web site. Follow these guidelines whenever Army DWCF funding is used to purchase software inventory and resell it to DoD customers. Refer Contracting Officers and Fund Certifying Officers to their responsibilities, outlined in this plan, as appropriate. This plan may be augmented or updated after other DWCF funding is used to purchase software.

6.2 Software Buyers and Requiring Officials must follow these steps:

6.2.1 Check reference (c) to determine if software rights or maintenance have already been purchased and are available from DoD inventory. If they are available, the buyer or requiring official must purchase designated software from DoD inventory and reimburse the SPM.

6.2.2 If the required software rights or maintenance are not available from inventory or from a ESA, the buyer or requiring official may use an alternate method of acquisition, subject to laws and policy.

6.2.3 If the required software rights or maintenance are not available from inventory but are available from a ESA, the buyer or requiring official must satisfy FAR Part 6 requirements for competition (see FAR 6.102(d)(3) and FAR 8.4) and then use the following procedure:

6.2.3.1 If the pricing and terms and conditions on the ESA are satisfactory, the buyer or requiring official will purchase software rights or maintenance via the ESA (in most cases, this will involve ordering from a GSA Federal Supply Schedule contract and referencing the ESA - a Blanket Purchase Agreement - that provides additional DoD discounts and benefits).

6.2.3.2 If the pricing or terms and conditions are not satisfactory, the buyer or requiring official will notify the SPM about specific, preferred pricing or terms and conditions via the ESA secure Web page. The SPM will use this feedback to take appropriate action to ensure the DoD ESA reflects a most-favored customer position and meets buyer or requiring official requirements. The SPM will provide the preferred pricing and/or terms and conditions to the buyer or requiring official within three working days, or notify them within three working days of the actual or estimated date they can obtain these changes. When the SPM estimates more than 90 days are required to provide preferred pricing or terms or conditions, the buyer or requiring official may continue with an alternate method of acquisition and will notify the SPM of this intention.

6.2.3.3 If the buyer or requiring official wishes to obtain the software or software maintenance outside the DoD ESA, despite the SPM's ability or intention to provide the price or terms and conditions requested within 90 days or less, the buyer or requiring official may seek a waiver from a management official designated by their DoD Component. The waiver request shall document the rationale for using an alternate source for software or software maintenance. The management official will be responsible for documenting the reasons for approving waiver requests and providing these reasons to the SPM and ESI



Working Group member (or Component ESI representative, if there is no Working Group member).

6.2.3.4 If the SPM cannot obtain needed improvements in time to support the DoD customer or contractor's needs, or decides not to make the changes because they will not benefit most DoD customers, the SPM will so notify the requester within three working days of receipt of the buyer's or requiring official's request, via the ESA secure Web page. If the requester does not have a reply on the Web page within three working days, they may continue with an alternate method of acquisition. The buyer or requiring official need not request a waiver from their designated management official if the SPM does not intend to provide their requested changes to terms and conditions.

## Enclosure 1: DEFINITIONS

- E-1.1 **Accessibility:** Information technology that allows individuals with disabilities to access and use information systems and data in a manner comparable to individuals without disabilities.
- E-1.2 **Commercially Available:** Either a commercial item, as defined in the Federal Acquisition Regulation 2.101(b), or related services (such as software maintenance and technical support).
- E-1.3 **Component ESI Representative:** Individual who is responsible for communications between a DoD Component and the ESI Working Group if the Component has no member on the group.
- E-1.4 **Designated Software:** Software or software maintenance available from an ESA, managed under the ESI and listed on the ESI web site, reference (c).
- E-1.5 **DoD Component:** The Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense (DoD IG), the Defense Agencies, the DoD Field Activities and all other organizational entities within the Department of Defense.
- E-1.6 **DoD Contractor:** Companies and/or organizations (for profit, nonprofit, Federally Funded Research and Development Center, academic institutions) that have a contract, agreement, or otherwise do business with a DoD Component.
- E-1.7 **DoD Electronic Mall (EMALL):** The Internet-based, electronic catalog of commodities and services available for acquisition by DoD Components and authorized DoD contractors. <https://www.emallmom01.dla.mil>.
- E-1.8 **DoD Enterprise:** All DoD Components (collectively).
- E-1.9 **DoD Enterprise Software Initiative (ESI):** A DoD Initiative, led by the Chief Information Officer (CIO) of DoD, that is negotiating DoD ESA and will develop a business process for software asset management.
- E-1.10 **Enterprise Software:** Common-use, standards-compliant software.
- E-1.11 **Enterprise Software Agreements (ESA):** Agreements, such as contracts or blanket purchase agreements, by which DoD acquires software or software maintenance under specified terms and conditions.
- E-1.12 **ESI Product Category:** Type of software designated under ESI; e.g., database, office automation, communications, enterprise management, information assurance tools.
- E-1.13 **Golden Disk:** A DoD purchased entitlement to distribute and use an unlimited or bulk number of copies of software DoD-wide.
- E-1.14 **Information Technology (IT):** As defined in Division E of the Clinger-Cohen Act of 1996 (Public Law 104-106), as amended.
- E-1.15 **IT Corridor:** A section of the DoD EMALL that is dedicated to IT products and services.

- E-1.16 **Requiring Official:** A person other than a buyer who makes decision(s) about DoD requirements or the source (acquisition method) to be used for a purchase of software rights or software maintenance.
- E-1.17 **Software Asset Management:** The process of proactively managing the software technology assets of the organization. It covers management of all processes, procedures, policies, technology, people and partners/suppliers involved in the acquisition, delivery, deployment, maintenance, administration, management, and final disposition of a software asset.
- E-1.18 **Software Maintenance:** Services normally provided by a software company as standard services at established catalog or market prices. *Examples:* The right to receive and use upgraded versions of software, updates and revisions.
- E-1.19 **Software Product Manager (SPM):** The manager of a DoD ESA.
- E-1.20 **Software Rights:** The specific rights to use commercially available software granted by the product owner.